

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-526
DA Number	DA-2024/159
LGA	Willoughby City Council
Proposed Development	Amendment to an approved development construction of 5 residential flat buildings comprising a total of 180 units (154 units previously approved) over basement car parking, landscaping, road widening, new footpath and street planting.
Street Address	1 Walter Street WILLOUGHBY NSW 2068
Applicant/Owner	Applicant: Mo Chehelnabi (Architecture Urbaneia) Owners: Walter Projects Pty Ltd
Date of DA lodgement	25/07/2024
Number of Submissions	Ninety-two (92) submitters
Recommendation	Consent subject to conditions
Regional Development Criteria (Schedule 6 of the SEPP (Planning Systems) 2021	Estimated development cost over \$5 million that relates to affordable housing
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979 • Environmental Planning & Assessment Regulation 2021 • State Environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Sustainable Buildings) 2022 • Willoughby Local Environmental Plan 2012 • Willoughby Development Control Plan
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Assessment Report • Schedule of Conditions • Site Description and Aerial Photo • Controls, Referrals & Development Statistics • Clause 4.6 Statements and Clause 4.6 Assessments • Submissions Table • Section 4.15 (79c) Assessment • Plans • Notification Map
Clause 4.6 requests	Willoughby LEP 2012 Cl 18 Housing SEPP (cl 4.3 WLEP)
Report prepared by	Peter Wells
Report date	2 December 2024

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive

Yes

Summary of the assessment report?

Legislative clauses requiring consent authority satisfaction

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

Yes

e.g. Clause 4.6 of SEPP Resilience and Hazards

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)?

N/A

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

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

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

SNPP NO: PPSSNH-526

COUNCIL WILLOUGHBY CITY COUNCIL

ADDRESS: 1 WALTER STREET, WILLOUGHBY NSW 2068.

DA NO: DA-2024/159

PROPOSAL: AMENDING DA RELATING TO CONSTRUCTION OF FIVE RESIDENTIAL FLAT BUILDINGS FOR 180 UNITS (154 UNITS APPROVED) BASEMENT CARPARKING COMPRISING 193 SPACES (219 SPACES APPROVED), LANDSCAPING, ROAD WIDENING, NEW FOOTPATH AND STREET PLANTING

RECOMMENDATION: APPROVAL SUBJECT TO CONDITIONS

ATTACHMENTS :

1. SITE DESCRIPTION AND AERIAL PHOTO
2. NOTIFICATION, CONTROLS, DEVELOPER CONTRIBUTIONS AND REFERRAL ASSESSMENT COMMENTS, ENVIRONMENTAL PLANNING & ASSESSMENT REGULATIONS 2021
3. ASSESSMENT OF SEPP (HOUSING) 2021
 - CHAPTER 2, PART 2,, DIVISION 1 - IN-FILL AFFORDABLE HOUSING
 - CHAPTER 4 - DESIGN OF RESIDENTIAL APARTMENT DEVELOPMENT
4. ASSESSMENT OF STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007
5. ASSESSMENT UNDER WLEP AND WDCP
6. VIEW ASSESSMENT
7. OFFICER'S CLAUSE 4.6 ASSESSMENT – BUILDING HEIGHT
8. SUBMISSIONS TABLE
9. SECTION 4.15 ASSESSMENT
10. NOTIFICATION MAP
11. SCHEDULE OF CONDITIONS
12. AMENDED ARCHITECTURAL PLANS
13. VIEW IMPACT ASSESSMENTS BY APPLICANT
14. APPLICANT RESPONSE TO DESIGN EXCELLENCE REVIEW PANEL JURORS REPORT
15. APPLICANT'S CLAUSE 4.6 REQUEST – BUILDING HEIGHT

RESPONSIBLE OFFICER: RITU SHANKAR – TEAM LEADER

AUTHOR: PETER WELLS – CONSULTANT

REPORT DATE: 2 DECEMBER 2024

MEETING DATE: 16 DECEMBER 2024

1. PURPOSE OF REPORT

The proposal is regionally significant development as identified in Schedule 6 of the *State Environmental Planning Policy* (Planning Systems 2021). It comprises affordable housing that exceeds \$5 million pursuant to Schedule 6 (5) of the SEPP.

2. OFFICER'S RECOMMENDATION

THAT the Sydney North Planning Panel (SNPP):

2.1 Supports the submitted Clause 4.6 variation to the building height development standard contained in clause 18(2) SEPP (Housing) 2021 and clause 4.3 *Willoughby Local Environmental Plan (WLEP) 2012* for the following reasons:

- a) It has been demonstrated that it is unreasonable and unnecessary in the circumstances of the case to comply with the standard in that the objectives of the standard have been satisfied notwithstanding numerical departure from the standard;
- b) Sufficient environmental planning grounds for the departure have been established.

2.2 GRANT Development Consent for DA-2024/159 that amends DA-2021/300 as modified (pursuant to section 67 Environmental Planning & Assessment Regulations 2021) for:

CONSTRUCTION OF 5 RESIDENTIAL FLAT BUILDINGS COMPRISING A TOTAL OF 180 UNITS OVER BASEMENT CAR PARKING (193 SPACES) AS A TWO STAGED DEVELOPMENT at 1 Walter Street WILLOUGHBY NSW 2068.

Because the proposed development:

- a) Satisfies all relevant SEPP, LEP and DCP objectives and contain sufficient elements to achieve design excellence .
- b) Clause 4.6 building height is well founded.
- c) Causes acceptable impacts to surrounding residences and the surrounding locality whilst achieving state-led aims to increase the housing supply in NSW.
- d) Satisfies cl 4.15 of the Environmental Planning & Assessment Act 1979 including site suitability and public interest.

3. DESCRIPTION OF PROPOSAL

3.1 Proposed Development

The development application proposes the following as an amendment to DA-2021/300 (as modified), with the following scope:

- a) Construction of five (5) Residential Flat Buildings comprising 180 units in total (26 more than DA-2021/300 as modified) and ranging from 5 to 11 storeys, adopting the following mix:

	DA-2021/300/D	DA-2024/159
1 bedroom	13 units	13 units
2 bedroom	81 units	81 units
3+ bedroom	60 units	86 units
	154 units (including 9 affordable housing units dedicated pursuant to clause 6.8 WLEP)	180 units (including 27 affordable housing units to be managed by a registered community housing provider for at least 15 years pursuant to Chapter 2, Part 2, Division 1, clause 21 SEPP (Housing) 2021.

	DA-2021/300/D	DA-2024/159
		Note: These 27 affordable housing units are separate to, and in addition to, the dedicated 9 affordable housing units.

- b) Basement parking (2 to 3 levels) comprising 193 car spaces (167 residential spaces and 26 visitor spaces).
- c) Landscaping and road widening and footpath works.

The application is not Integrated Development (Roads Act 1993).



Image 1: Height control blanket (source: Drawing A.061 Rev C)

3.1.1 Demolition

All existing buildings and outbuildings have been demolished. Development consent DA-2021/300 contains conditions to minimise impacts associated with demolition and ongoing construction works.

4. BACKGROUND

4.1 Planning Proposal and LEP amendment

On 24 April 2017 DA-2016/263 (PPS-2017SNH035) for a Child Care Centre at 1-1A Walter Street and 452-460 Willoughby Road was refused.

On 1 February 2017 DA-2016/210 was approved on 5-9 Walter Street for demolition of dwellings and construction of a residential flat building, landscaping, basement carparking and associated works. This consent lapses on 2 February 2022.

On 7 April 2017 DA-2016/452 was approved on 21-27 Walter Street for demolition of existing dwellings and construction of 2 buildings consisting of 28 residential units over 3-5 levels, landscaping and associated works. This consent lapses on 8 April 2022.

On 23 March 2017 DA-2016/303 was approved on 11, 11A, 13 and 13A Walter Street for demolition of structures and construction of a four-storey residential flat building, carparking, landscaping and associated works. This consent lapses on 24 March 2022.

At its meeting of 8 April 2019 Council resolved not to support Planning Proposals for two sites (1-1A Walter Street, 452-462 Willoughby Road) and 3-31 Walter Street which sought to amend the (then) R3 Medium Density Residential zoning to R4 High Density Residential. Following the Council decision the proponent applied to the Department of Planning, Industry and Environment (DPIE) for a Gateway Review which was subsequently issued on 14 February 2020.

On 22 July 2019, Council resolved to advise the Planning Panel Secretariat that if a gateway was issued it wished to be the Planning Proposal Authority (PPA) for a Planning Proposal at 1-31 Walter Street and 452-462 Willoughby Road as this would allow Council to continue to be involved in developing controls, oversee the public exhibition and negotiate a Voluntary Planning Agreement (VPA) for the site.

Council resolved on 20 April 2020 to support and execute a VPA subject to the outcome of its public exhibition. The VPA documents proposed community benefit by a monetary contribution towards a new pedestrian and cycle connection along Walter Street as well as upgrading of the Willoughby Leisure Centre. The VPA was executed on 30 November 2020 and the full amount of monetary contributions under the VPA was paid at LEP gazettal stage, in advance of the obligated timing of instalments specified under the VPA.

On 3 March 2020 the following amendments to Willoughby Local Environmental Plan 2012 were made:

- Rezone the land from R3 Medium Density Residential to R4 High Density Residential;
- Increase the FSR from 0.9:1 to 1.5:1;
- Increase the maximum height of buildings from 12m to part 17m, 24m and 27m;

To introduce a Design Excellence clause;

To amend the Special Provisions Area Map;

To amend Clause 6.10(g) regarding minimum lot sizes; and

To amend Clause 6.8(2) and (7) regarding affordable housing.

The Willoughby Design Excellence Review Panel assessed the proposal (on 31 August 2021) and made recommendations for the implementation of design quality improvements that it said would permit its endorsement as a project that has the potential to achieve design excellence.

The subject application excludes 462 Willoughby Road (1,682m²) from the overall development site, which in the Planning Proposal supported Building A. The subject application also excludes 29, 29A and 31 Walter Street (total 1,640m²) which supported Building G in the Planning Proposal. The applicant has submitted Clause 4.6 requests in response to variances to the LEP.

The original Development Application DA-2021/300 excluded 462 Willoughby Road (1,682m²) from the overall development site, where the Planning Proposal had included it. This is where Building A was positioned in the Planning Proposal. It also excluded 29, 29A and 31 Walter Street (total 1,640m²) which contained Building G in the Planning Proposal. The Clause 4.6 requests pertaining to allotment size were supported and DA-2021/300 was approved on 2 February 2022.

On 12 May 2022 DA-2021/300/A was lodged to modify conditions 17 and 180A which deal with a right of carriageway over the subject land to prevent the isolation of 462 Willoughby Road. Following the filing of the Statement of Facts and Contentions and the without prejudice meeting the applicant discontinued the proceedings (on 27 February 2023).

On 20 July 2022 Modification Application DA-2021/300/B was approved to modify conditions 40 and 41, which deal with Design of Works in Public Road (Roads Act Approval) – Stage 1 (condition 40) and Design of Works in Public Road (Roads Act Approval) – Stage 2 (condition 41).

On 27 October 2023 Modification Application DA-2021/300/C was approved for various modifications including alterations to apartment layouts, basement parking, OSD tanks services plant rooms, street and footpath level changes, re-nomination of affordable housing units and height increase to rooftop surrounds and lift overruns, podium, and parapets levels.

On 31 May 2024 Modification Application DA-2021/300/D was approved for amalgamation of 20 units to 10 units in Block B and Block C resulting in a total of 154 units (reduction from 164 units) within five separate buildings over basement car parking, and associated modifications to units and changes to conditions.

On 25 July 2024 the subject application was lodged with Council. It was notified from 19 Aug 2024 to 16 September 2024. Ninety-two submissions have been received.

On 16 October 2024 a Kick-Off Briefing was held, where issues at that time were identify as view loss, SEPP numerics, visual impacts arising from building height, waste collection, maintenance of DCP objectives and public submissions.

On 18, 19, 20, 21 and 28 November 2024 amended plans and updated documentation was received. Changes include a loss of a level and subsequent reduction in height of Buildings D, E and F. Comprehensive view impact assessments have been undertaken by the applicant to assist in the assessment of the application.

5. DISCUSSION

The application is an amending DA to the previous consent DA-2021/300 (parent consent). The applicant seeks to modify the parent consent using section 67 Environmental Planning & Assessment Regulation 2021.

The application uses the incentive mechanism in SEPP (Housing) 2021 to seek eligibility for uplift to FSR and building height. Buildings D, E and F are proposed to be increased in height. In general terms, the proposal responds satisfactorily to the site and there are acceptable impacts on surrounding land (views, privacy and overshadowing).

6. CONCLUSION

The Development Application DA-2024/159 has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, *SEPP (Housing) 2021*, *Willoughby Local Environmental Plan 2012*, *Willoughby Development Control Plan*, and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to Schedule of Conditions outlined in **Attachment 11**.

ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO

Description of the Subject Site

The subject site is 1 Walter Street, legally known as Lot 1 in Deposited Plan 1284971. It has a total site area of 1.126 ha (11,247.4m²).



Image 2: Aerial view of the site (source: Council's GIS Exponare). North is to the top of page.



Image 3: The references to buildings in this proposal (source: Coversheet Drawing A.010 Rev G by Architecture Urbaneia)

North

To the north of the site is 2 Artarmon Road (16,330m²) which comprises high density RFBs, and 14 Artarmon Road (previous Channel 9 site).

South

To the south of the site are dwelling houses fronting Walter Street, located upon SP2 zoned land. Some of these parcels are privately owned, the balance by Transport for NSW. Bushland is located on the southern side of Walter Street at its western end. The Gore Hill Freeway is located to the south of the existing dwellings and bushland.

East

To the east of the site (across Willoughby Road) is Hallstrom Park.

West

To the west of the site is a pair of semi-detached dwellings (29 and 29A Walter Street) and a dwelling house (31 Walter Street) which formed part of the Planning Proposal to accommodate Building G (no longer the case due to the applicant's inability to acquire the sites). To the west of these sites is the Richmond Avenue Reserve.

ATTACHMENT 2: NOTIFICATION, CONTROLS, DEVELOPER CONTRIBUTIONS AND REFERRAL ASSESSMENT COMMENTS, ENVIRONMENTAL PLANNING & ASSESSMENT REGULATION 2021

Neighbour Notification

The development application was notified in accordance with the Willoughby Community Participation Plan for a period of twenty-eight (28) days from 19 Aug 2024 to 16 September 2024. A total of ninety-two (92) submissions were received by Council. The issues detailed within the submissions are addressed in **Attachment 8** of this report.

Controls and Classification

WLEP 2012 Zoning:	R4 High Density Residential
Conservation Area	No
Heritage Item	No
Vicinity of Heritage Items	Heritage item I232 "Bridge - Willoughby Road over Flat Rock Creek" is located approximately 22 metres south of the junction of Walter Street and Willoughby Road. This item is not impacted by the proposed development.
Bushfire Prone Area	No
Flood Prone Lot	Yes – minimum flood level set for Building B.

Developer's Contribution Plans:

In accordance with clauses 2.8 of the *WLIC Plan*, s7.11 contribution applies and is calculated in the following manner:

S7.11 Calculation			
Proposed Development	Qty	Proposed Calc	
1-bed dwelling	-	x \$11,045.36	-
2-bed dwelling	-	x \$15,544.09	-
3 or more-bed dwelling	26	x \$20,000	\$520,000
Subtotal	26		\$520,000
Credit of existing structures		not needed to be given under this DA as credits were already given under DA2021/300	
S7.11 yielding amount based on above statistics:	Total		\$520,000

As demonstrated above and in accordance with CI 2.9.1 of *WLIC Plan*, **\$520,000** of **s7.11 contribution applies** to this development.

Internal Council Referrals	
Urban Design Specialist	The attached document provides an acceptable response to Urban Design/Design Excellence WLEP Clause 6.23 requirements. See Attachment 14 .
Engineering	<p>Council's Development Control Team Leader has issued conditions of consent and commented as follows:</p> <p>We have reviewed the above application with regards elements relevant to development engineering.</p> <p>As this is an amended DA, we have compared the plans with those submitted for DA 2021/300.</p> <p>With regards basement access, the only change from the layout approved under DA 2021/300/C is that some additional parking spaces have been added in both basement levels. These spaces are compliant.</p> <p>Revised stormwater plans were not submitted with this application, with a letter provided detailing that stormwater drainage is to be in accordance with the design submitted in DA-2021/300/C.</p> <p>Engineering conditions are to generally remain as per those provided for DA-2021/300, as amended by Modification C.</p> <p>Conditions 36 and 36A have been amended to reflect the Mod C drawings and to include an item that was required in the original consent but was not reflected in the Mod C drawings</p> <p>Conditions 44 and 165 (Traffic engineer's Certification) have been amended to require that visitor parking spaces comply with Class 2 medium term parking requirements.</p> <p>We have not amended the damage deposit, as it was based on possible damage to the road reserve, which has not changed.</p> <p>The conditions required are detailed below. These have not been entered in Pathway, as this application will not be approved until the new system is operational, and the conditions will need to be entered into the new system. The condition numbers are those used in DA-2021/300 (original DA and Mode C).</p>
Traffic Management	<p>Council's Traffic & Transport Team Leader has issued conditions of consent and commented as follows:</p> <ul style="list-style-type: none"> No further comments based on the latest traffic report that indicates compliance to parking rates. The following conditions are important to be carried out by the applicant, especially the conditions at the intersection of Willoughby Rd/ Walter St.

Environmental Health	Council's Environmental Health Officer has issued conditions of consent and commented as follows:		
	Issue	Considered	Conditions Applied (Y/N)
	Contamination	Y	N
	HAZMAT/Asbestos	Y	N
	Air/Odour	Y	N
	Water	Y	N
	Noise	Y	Y
	Electro/Radio Fields	Y	N
	Ventilation	Y	N
	Demo/Excav/Construction	Y	N
	Food/Beauty/Skin Pen	Y	N
	Cooling Tower	Y	N
Building	<p>Council's Certification Officer has issued conditions of consent and commented as follows:</p> <p>No objection to the proposed altered/amended development. It is noted that development construction has commenced under the original DA(s) and CC(s) issued on the property. This does impact upon the conditions prepared for the new development. In this regard, I have included all conditions that would be applicable if starting from the ground up and as discussed conditions can be negotiated prior to the issuing of the approval document as required.</p> <p>NOTE: If possible, a condition should also be included that refers back to the original conditions of consent.</p>		
Waste Management	<p>Council's Waste Consultant has issued conditions of consent for the proposal.</p> <p>In the latest DCP (2023), Willoughby City Council has formally adopted the Waste Management Technical Guide and Development Controls by North Sydney Regional Organisation of Councils for multi-dwelling housing, residential flat buildings and mixed-use developments.</p> <ul style="list-style-type: none"> The technical guide provides comprehensive information to achieve best practice design and construction of waste management and recycling systems. 		

	<ul style="list-style-type: none"> The development controls provide specific requirements for internal waste storage facilities, individual bin storage areas, communal bin storage areas, bin carting routes, and access for collection vehicles. All major residential developments must comply with the technical guide and the specific controls for multi dwelling housing, residential flat buildings, and mixed-use buildings.
External Referrals	
Transport for New South Wales (TfNSW)	<p>TfNSW has reviewed the submitted application and raises no objection as the proposed development is unlikely to have a significant impacts on the classified road network.</p> <p>With respect to a referral for Integrated Development (s138 Roads Act 1993), which the previous application DA-2021/300 was and which the applicant nominated this application, received the following response from TfNSW:</p> <p>“The DA is not Integrated”.</p> <p>Notwithstanding, the ‘parent DA’ DA-2021/300 contains TfNSW requirements (condition 3) that apply to the whole development and will continue via section 67 Environmental Planning & Assessment Regulation 2012 and s4.17 EPAA.</p>
AUSGRID	<p>I refer to Willoughby City Council development application DA-2024/159.</p> <p>This letter is Ausgrid’s response under section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021.</p> <p>The assessment and evaluation of environmental impacts for a new development consent (or where a development consent is modified) is undertaken in accordance with requirements of Section 79C of the Environmental Planning and Assessment Act 1979. One of the obligations upon consent authorities, such as local councils, is to consider the suitability of the site for the development which can include a consideration of whether the proposal is compatible with the surrounding land uses and the existing environment.</p> <p>In this regard, Ausgrid requires that due consideration be given to the compatibility of proposed development with existing Ausgrid infrastructure, particularly in relation to risks of electrocution, fire risks, Electric & Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development.</p> <p>With Regard to: The DA seeks consent to ,alter the approved DA to provide for 5 residential flat buildings ranging from 5– 11 storeys, increase units from 154 to 186, including 9 affordable housing units previously provided to council in accordance with</p>

	<p>the Willoughby Affordable Housing Principles within Clause 6.8 of the WLP2012 & will offer an additional 27 units for rental, facilitated through increasing height & GFA of blocks D,E+F inline with NSW government's Affordable housing Infill Sepp incentives. at 452 WILLOUGHBY ROAD WILLOUGHBY</p> <ul style="list-style-type: none">• Architectural Set-Amending DA-1-27A Walter Street & 452-460 Willoughby Road Willoughby stamped.pdf• PLAN - SITE 1 GR FLOOR-A.103_ST1-Rev D-2024-07-08.pdf• PLAN - SITE PLAN-A.100-Rev F-2024 07 08.pdf <p>Ausgrid consents to the above mentioned development subject to the following conditions:- [conditions included in draft consent, should be Panel be of a mind to approve the application].</p>
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ENVIRONMENTAL PLANNING & ASSESSMENT REGULATIONS 2021

The Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) requires that consent conditions be imposed for in-fill affordable housing development as follows:

a) registration of a restriction against the title of the property in accordance with section 88E of the Conveyancing Act 1919 to ensure the affordable housing component is:

- used for affordable housing, and
- managed by a registered CHP.

b) evidence of an agreement with a registered CHP for the management of the affordable housing component to be given to the Registrar of Community Housing, including the name of the registered CHP, and

c) evidence that the requirements of a) and b) above have been satisfied provided to the consent authority.

The registered CHP who manages the affordable housing component must also apply the NSW Affordable Housing Ministerial Guidelines.

The above conditions have been applied to the draft consent, should the Panel be of a mind to approve the application.

ATTACHMENT 3: ASSESSMENT OF SEPP (HOUSING) 2021

CHAPTER 2, PART 2, DIVISION 1 - IN-FILL AFFORDABLE HOUSING

What is affordable housing?

Affordable housing means housing for very low income households, low income households or moderate income households. The Housing SEPP establishes the following income eligibility limits for very low, low and moderate income households: i) households that have a gross income within the following ranges of percentages of the median household income for Greater Sydney or the rest of NSW: a. very low income household—less than 50%, b. low income household—50—less than 80%, c. moderate income household—80—120%, and pays no more than 30% of the gross income in rent, or, ii) households that are eligible to occupy rental accommodation under the National Rental Affordability Scheme and pays no more rent than that would be charged if the household were to occupy rental accommodation under the Scheme.

In-fill affordable housing

Chapter 2, Part 2, Division 1 of the Housing SEPP includes floor space ratio (FSR) and height of building incentives for developments that include at least 10-15% of gross floor area (GFA) as affordable housing. These provisions apply to land that meets the accessibility requirements under the Housing SEPP.

Clause 15C (1) identifies that this Division applies to development that:

- (a) Is permitted with consent

Assessment Officer response: RFB's are permissible in the zone;

- (b) The affordable housing component is at least 10%

Assessment Officer response: Satisfied, discussed later.

- (c) All or part of the development is carried out—

- (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven or Port Stephens local government area—in an accessible area

Assessment Officer response: The site satisfies the definition of “accessible area” pursuant to SEPP (Housing) 2021 Schedule 10 Dictionary because it is land within 400m walking distance of a bus stop used by a regular bus service, within the meaning of the Passenger Transport Act 1990, that has at least 1 bus per hour servicing the bus stop between—

- (i) 6am and 9pm each day from Monday to Friday, both days inclusive, and
 - (ii) 8am and 6pm on each Saturday and Sunday.

Bus Service 115 connecting North Sydney to Chatswood stops near Garland Road Naremburn at a distance of 180m from the site. Building F is also under 400m from the stop. The frequency of the service satisfies the minimum requirements stated above.

Clause 15C (2) clarifies that affordable housing provided as part of another environmental planning instrument or a planning agreement is not counted towards the affordable housing component under this division. In this case 4% affordable housing was dedicated to Council via an Affordable Housing Transfer Deed for the following units:

Building B

G02 (92m2), 101 (86m2), 105 (55m2), 106 (61m2), 205 (55m2), 304 (82m2)

Building C

102 (90m²), 205 (90m²)

Building F

G02 (65m²)

Total = 676m² affordable housing contribution (dedication).

Under the National Housing Accord, New South Wales is tasked with delivering approximately 377,000 new well-located dwellings by 30 June 2029. The affordable housing changes in SEPP (Housing) 2021 align with the Accord to help unlock affordable housing supply over the medium term. The changes incentivise the delivery of additional dwellings and affordable dwellings.

Clause 16 of the Housing SEPP provides that the maximum FSR for a development is the maximum permissible FSR permitted on the land (in this case 1.5:1 under WLEP 2012) plus an additional FSR of 20% to 30%, which is proportionate to the minimum affordable housing component.

Clause 16 states that the minimum affordable housing component is:

$$\text{affordable housing component} = \frac{\text{additional floor space ratio}}{(\text{as a percentage})} \div 2$$

The uplift is double the affordable housing nomination, i.e. 10% affordable housing component makes a development eligible for 20% additional floor space ratio.

Development that is eligible for 20% additional floor space ratio because the development includes a 10% affordable housing component, as calculated under subsection clause 16 (2) Housing SEPP, is also eligible for 20% additional building height if the development involves residential flat buildings or shop top housing [Housing SEPP clause 126 (3)]. The affordable housing under the SEPP must be separate and

In this case, the applicant seeks an uplift of 24.6% on the basis that it offers 12.3% affordable housing. The numerics are discussed later in this report.

Non-discretionary development standards

The object of this section is to identify development standards for particular matters relating to residential development under this division that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

The parameters of landscaped area, deep soil, solar access, parking spaces and minimum internal area are not issues which Council seeks more onerous standards.

Pursuant to s20(3) development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—

- (a) the desirable elements of the character of the local area, or
- (b) for precincts undergoing transition—the desired future character of the precinct.

As discussed throughout this report, the proposal is considered to be reasonably absorbed into the existing built fabric of its surrounds, and does not compete against the high density residential environment in which it is located.

Pursuant to s21 the development must be used for affordable housing for at least 15 years. Conditions of consent are proposed to ensure this is achieved.

CHAPTER 4 - DESIGN OF RESIDENTIAL APARTMENT DEVELOPMENT ASSESSMENT OF SEPP 65 (DESIGN OF RESIDENTIAL APARTMENT DEVELOPMENT)

Assessment under SEPP (Housing) 2021

Design Quality Principles (Schedule 9 SEPP (Housing) 2021)

The applicant has addressed, and Council's response is provided, to the 9 design quality principles in Schedule 9 SEPP (Housing) 2021.

Principle 1: Context and Neighbourhood Character

This principle identifies that good design responds and contributes to its context where context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. The principle says that responding to context involves identifying the desirable elements of an area's existing or future character and that well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Finally, it emphasises that consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

The applicant says the site is located in the well serviced area of Willoughby with direct connections to Warringah Freeway, Willoughby Road and Artarmon Road, is located close to public transportation including Willoughby Road bus services, Artarmon train and St Leonards stations and Crows Nest Metro Station – and is also in close proximity to major employment and shopping areas including Chatswood, Artarmon, North Sydney, Crows Nest.

The applicant also says the site and its proximity to major service areas is consistent with the NSW Department of Planning, Housing and Industry policy initiative to increase the delivery of housing and affordable housing under the Housing SEPP.

Council assessment officer response

The subject site, Castle Vale and the Channel 9 site are all zoned R4 high density residential:



Image 4: The zoning of the subject site and surrounds.

The R4 zone objectives are:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To allow for increased residential density in accessible locations, while minimising the potential for adverse impacts of such increased density on the efficiency and safety of the road network.
- To encourage innovative design in providing a comfortable and sustainable living environment that also has regard to solar access, privacy, noise, views, vehicular access, parking and landscaping.

The proposal utilises the existing footprint to respond to the Housing SEPP, such that the communal open space is retained intact (and numerically complies), and the scheme reasonably responds to, and does not detrimentally impact on, the character created when combined with its surrounds.

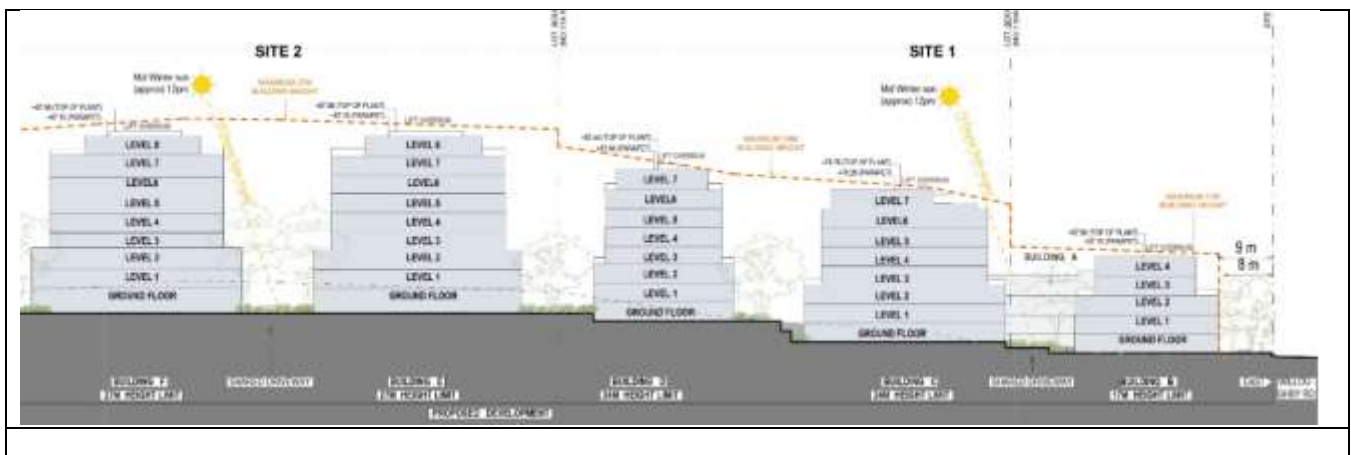
Principle 2: Built form and scale

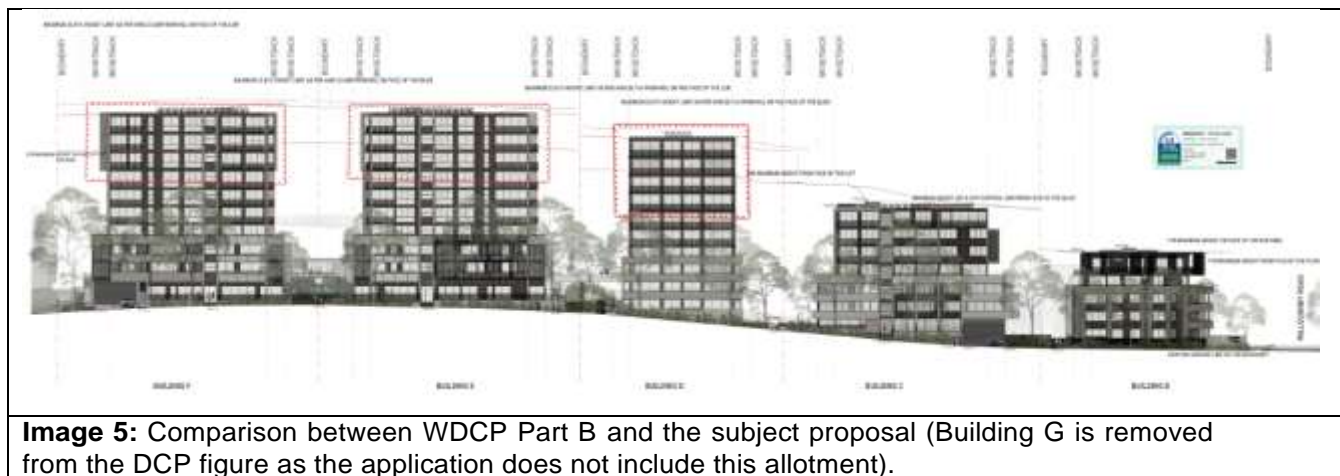
SEPP 65 identifies that good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings, and achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

The applicant states that the additional floors within Building D, E and F while increasing the building height and built form, are in generally accordance with the approved Planning Proposal and meets the objectives of the Housing SEPP and planning vision for the area. The applicant says the proposal's new transition from 5-storey form on the corner of Willoughby Road and Walter Street, then 10-11 storeys on Walter Street is in keeping with the original approved transition of additional height as the viewer moves along Walter Street.

Council assessment officer response

The WDCP Part B 7.6.1 Figure 5 indicative building envelope shows the following:





WDCP 2012 at that time envisaged in terms of number of storeys:

	Number of storeys		
	WDCP Part B	DA-2021/300 (as modified)	DA-2024/159
Building B	5	5	5
Building C	8	7	7
Building D	8	8 (including rooftop terrace)	10
Building E	9	8	10
Building F	9	8	10

For finer grain comparison, WDCP 2012 envisaged in terms of RLs. For ease of reference, the parapet is used in the net increase column.

	Post-developed RLs			Net increase	
	WDCP Part B	DA-2021/300 (as modified)	DA- 2024/159	Above DA- 2021/300 (as modified)	Above WDCP Part B
Building B	67.15 parapet 67.96 (plant)	67.50 parapet 68.22 (plant)	67.50 parapet 68.22 (plant)	No change	
Building C	78.76 parapet 78.26 (plant)	75.25 parapet 76.40 (plant)	75.25 parapet 76.40 (plant)	No change	
Building D	81.64 parapet 82.44 (plant)	77.97 parapet 80.97 (roof top terrace) 82.37 (plant)	87.65 parapet 88.90 (lift overun)	6.68m (parapet)	6.01m (parapet)
Building E	87.15 parapet 87.96 (plant)	85.40 parapet 86.60 (plant)	92.20 parapet 93.20 (plant)	6.8m (parapet)	5.05m (parapet)
Building F	87.15 parapet 87.96 (plant)	85.40 parapet 86.60 (plant)	92.20 parapet 93.20 (plant)	6.8m (parapet)	5.05m (parapet)

The height of the proposal is not considered to be inappropriate as regards the desired future character. 5 and 7 Scott Street presents to the south as 9 storeys. 3 Scott Street presents to the south as 8 storeys. The proposed number of storeys is not considered to cause the buildings to be jarring in the streetscape or the built surrounds. In this regard the proposal is considered to be reasonably absorbed into the existing fabric of the built surrounds.

Principle 3: Density

This principles states that good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. It also says that appropriate densities are consistent with the area's existing or projected population, and can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

The applicant says the portion of 3 beds and 4 beds is representative of an increase in demand for housing that is more flexible to cater for family and downsizers who wish to welcome visitors and family and entertain. It complies with the ADG requirements and its objectives. Accordingly, the density of the additional floors is satisfactory.

Council assessment officer response

The unit breakdown in the proposal:

- 13 x 1 bed & 1 bed + study (7%)
- 81 x 2 bed & 2 bed + study (46%)
- 76 x 3 bed & 3 bed + study (42%)
- 10 x 4 bed (5%)

Satisfies density considerations and where infrastructure and public transport is considered sufficient for the purposes of this SEPP. Consideration around the environment are considered elsewhere in this report.

Principle 4: Sustainability

This principle says that good design combines positive environmental, social and economic outcomes and includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.

The applicant says the updated BASIX Certificate shows an appropriate and sufficient commitments energy efficiency, water efficiency and thermal comfort.

Council assessment officer response

A BASIX Certificate has been submitted. Conditions of consent will ensure that the minimum requirements are satisfied.

Principle 5: Landscape

This principle says that good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. It says that good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.

Council assessment officer response

Council's Landscape Designer has assessed the proposal as satisfactory.

Principle 6: Amenity

This principle says that good design positively influences internal and external amenity for residents and neighbours and that achieving good amenity contributes to positive living environments and resident well being.

It acknowledges that good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.

Council assessment officer response

The gaps in the building enhance the amenity for occupants (for solar and ventilation) and opportunity for cross views for occupants and retention of views from surrounding properties. Impacts on the amenity of surrounding properties is considered acceptable in the circumstances of the case.

Principle 7: Safety

This principle says that good design optimises safety and security within the development and the public domain and that a positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Council assessment officer response

The proposal clearly distinguishes between public and private spaces to ensure that the front yards along Walter Street are discernible as such, notwithstanding the manner in which these yards are incorporated into the overall landscaping theme.

There are no changes in the proposal that alters this outcome.

Principle 8: Housing diversity and social interaction

This principle says good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. It states that well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix, and involve practical and flexible features including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.

Council assessment officer response

The size of apartments are well in excess of the minimum size requirements to enhance the enjoyment and practicality for occupants as they move through different stages of their life. The unit mix cater for singles, couples, downsizers and 50% of the units have been designed as adaptable to cater for an aging population, people with a disability and generally those in need of more options around accessibility.

Principle 9: Aesthetics


This principle says that good design achieves a built form that has good proportions and a balanced composition of elements and uses a variety of materials, colours and textures. The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.


Council assessment officer response

The proposal has satisfied the requirements of design excellence which considers, inter alia, streetscape and aesthetics.

Assessment under the Apartment Design Guidelines (ADG)

The following is an assessment of the proposal pursuant to the Apartment Design Guide.

PART 3 – SITING THE DEVELOPMENT				
	OBJECTIVE AND DESIGN CRITERIA	ASSESSMENT	COMPLIANT	SUMMARY
Site Analysis	<p>Objective 3A-1 Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context</p>	<p>The applicant says that the site and its proximity to major service areas is consistent with the NSW Department of Planning, Housing and Industry policy initiative to increase the delivery of housing and affordable housing under the Housing SEPP.</p> <p>The applicant also says the proposal's design enhances pedestrian movement around the site with new footpaths along Walter Street and connection to the bike and walking path from Walter Street under the Gore Hill Freeway, Hallstrom Park, Bicentennial Reserve Oval and Willoughby Leisure Centre.</p> <p>Accordingly, the applicant concludes the density is appropriate due to the site's location and will enhance the quality and identity of the area, with the proposal continuing to enhance pedestrian activity and vibrancy in the area and improved connection with the nearby shopping, recreational and employment areas.</p> <p><u>Assessment planner's response</u></p> <p>The sensitivity of the site relates to its position between the Channel 9 and Castle Vale site and views to the City CBD. The proposal has taken adequate stock of the constraints and on balance, the proposal is an acceptable one that satisfies the objectives of SEPP (Housing) 2021 and WLEP 2012.</p>		Satisfactory

	<p>Objective 3B-1 <i>Building types and layouts respond to the streetscape site while optimising solar access within the development</i></p>	<p>The solar access to the proposal satisfies the ADG. The streetscape is not detrimentally impacts by the proposed additional height. The site benefits from a direct northern aspect and makes use of this without detrimentally compromising the solar access of low density property on Walter Street. .</p> <p><u>Assessment planner's response</u></p> <p>The sensitivity of the site relates The space between buildings allows the sun to strike living rooms and balconies of southern-oriented units (via the eastern and</p>		Satisfactory
	<p>Objective 3B-2 <i>Overshadowing of neighbouring properties is minimised during mid-winter</i></p>	<p>western facades). In conjunction with the excellent opportunities for natural ventilation throughout the development, this solar access results in optimum residential amenity.</p> <p><u>Assessment planner's response</u></p> <p>Assessment of Objective 3B-2 is assisted by view from the sun diagrams and Drawing A.856 Rev F, which shows overshadowing impacts to properties on Walter Street. WDCP 2023 Part B 7.6 [at g, control 1] requires that “new development is to minimise further overshadowing of main private opens space or living rooms of residential properties during the mid-winter period where the shadows would reduce sunlight to less than 3 hours a day from 9am to 3pm on 21 June”.</p> <p></p> <p>Image 6: Dwellings and semis on the southern</p>	✓	Satisfactory

		<p>side of Walter Street.</p> <p>Analysis of the drawings confirms that 2A, 4 and 6/8 Walter Street receives 3 hours in mid-winter. 10 Walter receives sunlight at 9am, 10am, compromised at 11am, receives sunlight again at 12pm and again at 1pm, satisfying the 3 hour requirement in mid-winter.</p> <p>12 Walter receives mid-winter sun at 9am, limited at 10am, sun at 11am, 12pm, 1pm and 2pm.</p> <p>14 Walter Street receives compromised sun at 9am, sun at 10am, 11am, no sun at 12pm, sun at 1pm to side windows,.</p> <p>16 Walter Street receives no sun at 9am, sun at 10am, no sun at 11am, sun to rear side windows at 12pm, sun at 1pm (front window).</p> <p>18 Walter Street receives mid-winter sun at 9am, however not at 10am, sun at 11am and 12pm.</p> <p>The proposal satisfactorily protects mid-winter sun to the residential properties on the southern side of Walter Street. This is achieved by the retention of building heights (as approved) for Buildings B and C, and otherwise by the gaps between buildings and in one circumstances (at 1pm) over the top of Building D. The objectives of the DCP as regards overshadowing are preserved notwithstanding the increase in FSR and building height brought by SEP (Housing) 2021.</p>		
Public Domain Interface	<p>Objective 3C-1</p> <p><i>Transition between private and public domain is achieved without compromising safety and security</i></p>	<p>The interface between the proposal and the public domain remains as approved and is satisfactory.</p>		<p>The proposed development provides a satisfactory transition between the private and public domain.</p>

			✓	
	Objective 3C-2 <i>Amenity of the public domain is retained and enhanced</i>			<p>The public domain will be vastly improved with road widening, parking bays, street trees and 1.5m wide footpath. Deep soil planting within the development site complements this enhanced public domain space and provides visual softening of the built form and a pleasant and attractive residential environment.</p>
	Objective 3D-1 <i>An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping</i> <i>1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3).</i> <i>Developments achieve a</i>	<p>The ADG requires a minimum of 2,811.85m² of communal open space, which is 25% of the site. A total of 3,030m² is provided, which equates to 26.94% of the site area and complies. See Drawing A.050 Rev J.</p>	✓	<p>There is sufficient communal open provided within the development.</p> <p>The principal useable part of the communal open space achieves the minimum sun required in</p>
Communal and Public Open Space	<i>minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</i>	<p>The principal useable part of the communal open space is the provided to the north of Building C. This space receives all day sun in mid-winter (except at 3pm).</p>		<p>mid-winter (almost for the entire day in mid-winter).</p>

	Objective 3D-2 <i>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</i>	A large communal garden is provided to the north of Buildings E and F, where a number of separate spaces are proposed for resident use. Another children’s adventure playground is located north of Building F, and another common room north of Building E. Multiple water pots flank the entry path for visual interest and the soft sounds of water can brighten the arrival experience and provide a sense of calm and tranquility.	✓	The proposed communal spaces are adequately designed to allow for a range of activities, responds to the site conditions (topography and solar access) and is suitably attractive and inviting.												
	Objective 3D-3 <i>Communal open space is designed to maximise safety</i>	The proposed communal open spaces are located to be readily visible from habitable rooms and private open spaces.	✓	The communal open spaces are attractive for future residents and are designed to improve passive surveillance.												
Deep Soil Zones	Objective 3E-1 <i>Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality</i>	<p>The site has a total area of 11,247.40m².</p> <p>The ADG seeks a minimum 15% (minimum 6m width) of deep soil for sites greater than 1,500m². This proposal achieves a deep soil provision of 34.9%. See Drawing A.050 Rev J.</p>	✓	The proposed development complies with this control. The deep soil zones are appropriately located around the boundaries of the site to provide privacy, separation, and improve public amenity.												
	OBJECTIVE AND DESIGN CRITERIA	ASSESSMENT	COMPLIANT	SUMMARY												
	Objective 3F-1 <i>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy</i> <i>Note: Separation distances between buildings on the same site should combine require</i>	<p>The following setbacks are identified in Part 3F:</p> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	Partial	The proposed Buildings E and F complies with the separation requirements of the ADG. Building D is 9m where Part 3F seeks 12m.
Building height	Habitable rooms and balconies	Non-habitable rooms														
up to 12m (4 storeys)	6m	3m														
up to 25m (5-8 storeys)	9m	4.5m														
over 25m (9+ storeys)	12m	6m														


	<i>building separations depending on the type of room</i>	<p>The setbacks from boundaries and between buildings on 1 Walter Street remain the same as approved DA-2021/300 (as modified). The assessment considers whether the approved setbacks satisfy the increased height of Buildings D, E and F (Buildings B and C remain the same).</p> <p>The changes (upper 3 storeys of Buildings D, and upper 2 storeys of Buildings E and F) take the setback requirement under Part 3F from the 9m to 12m setback requirement (9m is maintained for these upper levels to the northern boundary and western boundary for Building F). The separation between buildings is 18m and satisfies the ADG.</p>		
Visual Privacy	<p>Objective 3F-2 <i>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space</i></p>	<p>Façade articulation has enabled all units to have privacy from each other whilst still maintaining adequate solar access and cross ventilation. A combination of spatial separation and screening devices are used to achieve privacy objectives.</p>	✓	Unit and balconies achieve adequate privacy, solar access and cross ventilation.
Pedestrian Access and Entries	<p>Objective 3G-1 <i>Building entries and pedestrian access connects to and addresses the public domain</i></p> <p>Objective 3G-2 <i>Access, entries and pathways are accessible and easy to identify</i></p> <p>Objective 3G-3 <i>Large sites provide pedestrian links for access to streets and connection to destinations</i></p>	<p>The main pedestrian entries face Walter Street and retain clear sight lines. Pedestrian entries to Building B are from Willoughby Road, enhancing the pedestrian connection both physically and visually to this main road.</p> <p>Achieved, the entry ways into the development are clearly visible from the public domain and communal spaces.</p> <p>Pedestrian access within the site facilitate direct connections to open space, assisted by the spatial separation between RFBs on the site which serve to enhance visibility and principles of universal design. Updated access report received confirming compliance achieved.</p>	✓	The proposal satisfies pedestrian access objectives.

Vehicle Access	Objective 3H-1 <i>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</i>	The two vehicular access points (at Building C and Building F) remain in place and are designed to minimise the potential for traffic and pedestrian conflict, being their entries being set within the site and good sightlines and wide footpaths.	✓	The proposal satisfies the objectives for vehicular access.
	OBJECTIVE AND DESIGN CRITERIA	ASSESSMENT	COMPLIANT	SUMMARY
Bicycle and Car Parking	Objective 3J-1 <i>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas</i>	Car parking has been provided in accordance with the Council DCP as required.		The proposed development complies with providing the required amount of car spaces.
	<p><i>For development in the following locations:</i></p> <ul style="list-style-type: none"> <i>On sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</i> <i>On land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</i> <p><i>The car parking needs for a development must be provided off street.</i></p>		✓	

	Objective 3J-2 <i>Parking and facilities are provided for other modes of transport</i>	Motor cycle and bicycle parking has been provided within the development.		The proposed development provides adequate bicycle and motorcycle parking.
	Objective 3J-3 <i>Car park design and access is safe and secure</i>	Achieved, access to the residential levels will require remote access.		Council's Engineer has reviewed the proposed basement car park plans and concludes the proposal is adequate in this regard.
	Objective 3J-4 <i>Visual and environmental impacts of underground car parking are minimised</i>	Achieved.		There is some protrusion of the carpark above the natural ground level at Buildings C, D, and E, however these elements are suitably interrogated into the landscape scheme.




PART 4 – DESIGNING THE BUILDING				
	OBJECTIVE AND DESIGN CRITERIA	PROPOSED	COMPLIANT	COUNCIL'S REVIEW
	Objective 4A-1 <i>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space</i>			<p>The scheme has comprehensively detailed solar access to the building, delineating:</p> <ul style="list-style-type: none"> • Minimum 2 hours to living room and private open space • Minimum 2 hours to living room only

				<ul style="list-style-type: none">• Minimum 1 hour to living room• No sunlight
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Solar and Daylight Access	<p>1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</p> <p>2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter</p> <p>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>(</p> <p>Across the development 137 units (76%) receive at least 2 hours direct sunlight between 9 am and 3 pm at mid-winter to living rooms and private open space.</p> <p>Living rooms and private open spaces have been designed and orientated to maximise solar access.</p> <p>16 of the 180 units receive no direct sunlight between 9 am and 3 pm at mid-winter, which equates to 9% and satisfies the maximum of 15%.</p>		
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	OBJECTIVE AND DESIGN CRITERIA	PROPOSED	COMPLIANT	COUNCIL'S REVIEW
Solar and Daylight Access	Objective 4A-2 <i>Daylight access is maximised where sunlight is limited</i>	These objectives have been achieved. The building orientation provides optimum solar access to apartments through spatial separation between the RFBs, spatial arrangement of RFBs, the use of articulation of built form, responsive layout of internal spaces, privacy screens and glazing.	✓	Good northern aspect to capture sun. also, east and west-oriented units capture sun as a result of spatial separation and arrangement of RFBs and units within them.
	Objective 4A-3 <i>Design incorporates shading and glare control, particularly for warmer months</i>	Balconies and sun shading devices can be incorporated have been incorporated to east and west facing ends of balconies to offer relief in conjunction with shadowing afforded by slab above.		There are good opportunities for screening balconies.
Natural Ventilation	Objective 4B-1 <i>All habitable rooms are naturally ventilated</i> Objective 4B-2 <i>The layout and design of single aspect apartments maximises natural ventilation</i> Objective 4B-3 <i>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents</i>	151 units of 180 units achieves cross ventilation, which equates to 84% and satisfies the ADG.	✓	Satisfied. The mechanical requirements identified in the acoustic report by Acoustic Logic (Ref: 20240287.1, dated 19.11.2024) (Section 3.1.4 and Appendix 3) are noted.

	OBJECTIVE AND DESIGN CRITERIA	PROPOSED	COMPLIANT	COUNCIL'S REVIEW
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Ceiling Heights	<p>Objective 4C-1 <i>Ceiling height achieves sufficient natural ventilation and daylight access</i></p> <p>Objective 4C-2 <i>Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms</i></p> <p>Objective 4C-3 <i>Ceiling heights contribute to the flexibility of building use over the life of the building</i></p>	<p>A floor to floor height of 3.1m has been provided for almost the entirety of the development, excepting three levels in Building D. Ceiling heights of 2.7m are still achieved.</p> <p>Ceiling heights of 2.7m are achieved throughout the proposed development.</p>		<p>The ceiling heights provided for habitable rooms are adequate to provide a high quality of amenity.</p>
Apartment Size and Layout	<p>Objective 4D-1 <i>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity</i></p>	<p>Achieved. All units are larger than ADG requirements.</p> <p>Every habitable room contains a window in an external wall with a minimum glass area that is greater than 10%.</p>		<p>Compliance contributes to the internal residential amenity of the units.</p>
Apartment Size and Layout	<p>Objective 4D-2 <i>Environmental performance of the apartment is maximised</i></p>	<p>Achieved. All habitable rooms are set to a height of 2.7m and depths do not exceed the 2.7 x 2.5m.</p> <p>All open plan layouts are designed to ensure that the maximum habitable room depth does not exceed 8m.</p>		<p>Compliance contributes to the internal residential amenity of the units.</p>

	Objective 4D-3 <i>Apartment layouts are designed to accommodate a variety of household activities and needs</i>	<p>All master bedrooms are greater than 10m2 and have a minimum dimension of at least 3m.</p> <p>All bedrooms have a minimum dimension of 3m excluding wardrobes.</p>	✓	Satisfied.
Private Open Space and Balconies	Objective 4E-1 <i>Apartments provide appropriately sized private open spaces and balconies to enhance residential amenity</i> Objective 4E-2 <i>Primary private open space and balconies are appropriately located to enhance liveability for residents</i>	<p>Complies. Balconies comply with or exceed the minimum areas. Ground floor units achieve the objectives of the ADG.</p> <p>Many units have for than one balcony for increased options and thus amenity for residents.</p>	✓	<p>Complies with the requirements of Part 4E ADG. A review of the floor plans provided by the applicant found the balconies to comply with the minimum size requirements stipulated within objective 4E-1.</p> <p>Balconies are appropriately located adjacent to living rooms or dining rooms. Additional balconies add considerably to eh amenity of the units.</p>
	Objective 4E-3 <i>Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building</i> Objective 4E-4 <i>Private open space and balcony design maximises safety</i>	<p>All balconies are incorporated successfully into the built form, contributing to horizontality that complements elements that vertically emphasise the building.</p> <p>All ground floor units are capable of providing usable and high amenity outdoor spaces.</p>		<p>Proposed balconies respond appropriately to the surrounding development and for solar access.</p> <p>Material Schedules are provided on the elevations of the drawings, adopting face brick, concrete, precast concrete, metal cladding, stone and vertical louvres and bifold screens.</p>



Common Circulation and Spaces	<p>Objective 4F-1 <i>Common circulation spaces achieve good amenity and properly service the number of apartments</i></p> <p>Objective 4F-2 <i>Common circulation spaces promote safety and provide for social interaction between residents</i></p>	<p>No more than 8 units are served from each circulation core.</p> <p>The proposal's common circulation spaces adequately promote safety and interaction.</p>		<p>All residential buildings were found to contain 8 units or less for each circulation core.</p> <p>Circulation spaces to be well lit at night.</p>
Storage	<p>Objective 4G-1 <i>Adequate, well designed storage is provided in each apartment</i></p> <p>Objective 4G-2 <i>Additional storage is conveniently located, accessible and nominated for individual apartments</i></p>	<p>Achieved. All units have adequate storage spaces located within the apartments.</p> <p>Additional storage has also been provided on basement levels (at least 50% of required storage is in the basement). These spaces are secure and have convenient access.</p>		<p>There is a basement storage area for residents which can also secure bikes.</p>
Acoustic Privacy	<p>Objective 4H-1 <i>Noise transfer is minimised through the siting of buildings and building layout</i></p> <p>Objective 4H-2 <i>Noise impacts are mitigated within apartments through layout and acoustic treatments</i></p>	<p>The developments garbage, removalist and delivery areas are located within the basement.</p> <p>Recommendations for construction are made in Acoustic Logic's Report.</p>		<p>Complies subject to compliance with the recommendations within the Acoustic Report by Acoustic Logic.</p>

<p>Noise and Pollution</p>	<p>Objective 4J-1 <i>In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings</i></p> <p>Objective 4J-2 <i>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission</i></p>	<p>The living spaces of units are located north and south of the site.</p> <p>The Acoustic Report provides recommendations for mitigating and attenuating noise impacts.</p>	<p>✓</p>	<p>The site lends itself to solar and quiet to the north, and views and streetscape to the south. The proposal achieves a good balance between capturing the positive attributes of the site and mitigating negative factors such as road noise, all whilst conjuring the floorplates to capture sun to primary internal and external living spaces.</p> <p>The recommendations identified in the acoustic report by Acoustic Logic (Ref: 20240287.1, dated 19.11.2024) are required to be adhered to.</p>
<p>Apartment Mix</p>	<p>Objective 4K-1 <i>A range of apartment types and sizes is provided to cater for different household types now and into the future</i></p> <p>Objective 4K-2 <i>The apartment mix is distributed to suitable locations within the building</i></p>	<p>13 x 1 bedroom units (7%) 81 x 2 bedroom units (46%) 86 x 3+ bedroom unit (47%)</p> <p>Total = 180 units</p> <p>56% of the development (104 units) are adaptable.</p>	<p>✓</p>	<p>The proposal is appropriate given current market demands and projected future demographic trends.</p> <p>Flexible apartment configurations are provided to support diverse household types and stages of life.</p>
<p>Ground Floor Apartments</p>	<p>Objective 4L-1 <i>Street frontage activity is maximised where ground floor apartments are located</i></p> <p>Objective 4L-2 <i>Design of ground floor apartments delivers amenity and safety for residents</i></p>	<p>Unchanged. Ground floor apartments fronting Willoughby Road have their own designated access gates and pathways, which serves to 'pedestrianise' its frontage to this main road.</p> <p>Maisonette units (Building C) and ground floor units in Buildings E and F fronting Walter Street have private open space with good connectivity to the street. Building D utilises an alternative pedestrian access model, via a communal path between Buildings C and D that swings into a communal lift arrangement in Building D (as well as a side entry to Building C) which enhances opportunities for social interaction and outdoor amenity.</p>	<p>✓</p>	<p>Complies and enhances street frontage activity and resident amenity.</p>

<p>Facades</p>	<p>Objective 4M-1 <i>Building facades provide visual interest along the street while respecting the character of the local area</i></p> <p>Objective 4M-2 <i>Building functions are expressed by the façade</i></p>	<p>Facades are satisfactorily articulated to provide visual interest, using various means to visually modulate the building in both the vertical and horizontal planes.</p> <p>East elevation of Building D provides a welcoming and attractive entry from the communal open space that invites entry to the common room and central lift core of Building D.</p>	<p>✓</p>	<p>The objectives of Part 4M are satisfied.</p>
<p>Roof Design</p>	<p>Objective 4N-1 <i>Roof treatments are integrated into the building design and positively respond to the street</i></p> <p>Objective 4N-2 <i>Opportunities to use roof space for residential accommodation and open space are maximised</i></p> <p>Objective 4N-3 <i>Roof design incorporates sustainability features</i></p>	<p>A rooftop garden approved for Building D is deleted in the Amending DA scheme. It was originally proposed to be retained on the roof at the new higher level, but has since been deleted. Whilst this space added to amenity, the communal open space does not rely on it. A landscape plan still shows the rooftop terrace but it is deleted.</p>	<p>✓</p>	<p>Solar panels are to be laid flush to the roof surface, as shown in the elevations. Plant is reference in the View Impact Assessments and discussed later in this report.</p>
<p>Landscape Design</p>	<p>Objective 4O-1 <i>Landscape design is viable and sustainable</i></p>	<p>The landscaping scheme provides for a high level of restful and active enjoyment of the space, and contributes to the visual quality and amenity of the public domain.</p>	<p>✓</p>	<p>Deep soil planting at the frontage with Walter Street provides good opportunities for meaningful landscaping to thrive and complement street planting to achieve a buffer between the street and residential levels. At ground level the landscape promotes a good balance between privacy and social interaction.</p>

Planting on Structures	<p>Objective 4P-1 <i>Appropriate soil profiles are provided</i></p> <p>Objective 4P-2 <i>Plant growth is optimised with appropriate selection and maintenance</i></p> <p>Objective 4P-3 <i>Planting on structures contributes to the quality and amenity of communal and public open spaces</i></p>	A variety of planting is proposed above basement levels (majority in deep soil). The planting incorporates different species suitable for its location.	✓	Council's Landscape Officer accepts the proposed subject to conditions.
Universal Design	<p>Objective 4Q-1 <i>Universal design features are included in apartment design to promote flexible housing for all community members</i></p> <p>Objective 4Q-2 <i>A variety of apartments with adaptable designs are provided</i></p> <p>Objective 4Q-3 <i>Apartment layouts are flexible and accommodate a range of lifestyle needs</i></p>	An Access Report provided by BCA Access demonstrates options and flexibility of use in the development.	✓	Satisfactory subject to conditions.
Adaptive Reuse	Objective 4R-1 and 4R-2	Not applicable	Not applicable	N/A
Mixed Use	Objective 4S-1 and Objective 4S-2	Not applicable	Not applicable	N/A

Awnings and Signage	<p>Objective 4T-1 <i>Awnings are well located and complement and integrate with the building design</i></p> <p>Objective 4T-2 <i>Signage responds to the context and desired streetscape character</i></p>	<p>Not applicable</p> <p>Signage indicated on the main perspective "Lawson Rise". There are no specific details otherwise of any signage and accordingly this signage is not formally assessed as part of this application.</p>	<p>Not applicable</p>	<p>N/A</p>
Energy Efficiency	<p>Objective 4U-1 <i>Development incorporates passive environmental design</i></p> <p>Objective 4U-2 <i>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer</i></p> <p>Objective 4U-3 <i>Adequate natural ventilation minimises the need for mechanical ventilation</i></p>	<p>The BASIX assessment prepared for this Development Application demonstrates that the proposed buildings have been designed for optimal energy efficiency.</p> <p>Further, landscaping provides effective and efficient natural solutions to reduce heat and provide relaxed amenities for all visitors and residents.</p>	<p>✓</p>	<p>The applicant has provided a BASIX and NatHERs Assessment Report which demonstrates the proposed development satisfies the required energy ratings.</p>
Water Management & Conservation	<p>Objective 4V-1 <i>Potable water use is minimised</i></p> <p>Objective 4V-2 <i>Urban stormwater is treated on site before being discharged to receiving waters</i></p> <p>Objective 4V-3 <i>Flood management systems are integrated into site design</i></p>	<p>This proposal is accompanied by a drainage design.</p>	<p>✓</p>	<p>Council's Engineering Department has reviewed the proposed stormwater system and finds the proposal satisfactory.</p>

Waste Management	<p>Objective 4W-1 <i>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents</i></p> <p>Objective 4W-2 <i>Domestic waste is minimised by providing safe and convenient source separation and recycling</i></p>	<p>Achieved.</p>		<p>Council's Waste Management Officer has reviewed the Waste Management Plan and basement plans and confirms the proposal is satisfactory.</p>
Building Maintenance	<p>Objective 4X-1 <i>Building design detail provides protection from weathering</i></p> <p>Objective 4X-2 <i>Systems and access enable ease of maintenance</i></p> <p>Objective 4X-3 <i>Material selection reduces ongoing maintenance costs</i></p>	<p>Achieved.</p>		<p>Complies.</p>

**ATTACHMENT 4: ASSESSMENT OF STATE ENVIRONMENTAL PLANNING POLICY
(INFRASTRUCTURE) 2007**

Assessment under Infrastructure SEPP

Development with frontage to classified road – CI 2.119

CI 2.119 Infrastructure SEPP requires that the development is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

An Air Quality Assessment (Ref: 20E-21-0427-TRP-25910-1), dated 2 December 2021 prepared by Vipac Engineers and Scientists Limited was lodged with DA-2021/300. Vipac found that the development did trigger consideration of air quality in design on the basis that the development is within 20m of a main road where there are more than 500 vehicles per hour (2,600 veh/hr in 2019 on Willoughby Road) under the 'Development Near Rail Corridors and Busy Roads – Interim Guideline (the Roads Guideline)'. Vipac flagged the benefits of landscaping throughout the development and its ability to reduce indoor and outdoor temperatures and absorb air pollutants including carbon dioxide and particulates. In summary Vipac concluded at that time that the proposal was satisfactory with respect to (then) cl 101 Infrastructure SEPP. No additional information accompanies this amending proposal – however on the basis of the initial findings by VIPAC, and using the updated acoustic report (by Acoustic Logic dated 19 November 2024) as regards mechanical ventilation, on balance this issue is considered satisfactory.

Impact of road noise or vibration on non-road development – CI 12.120

An acoustic report (by Acoustic Logic dated 19 November 2024), makes recommendations for attenuating traffic noise through thickness of windows and acoustic seals (Appendix 2). The report clearly indicates which units can receive natural ventilation and which units are to rely on mechanical ventilation (Appendix 3 of Acoustic Logic's report). On the basis of the recommendations this aspect is satisfactory.

Traffic Generating Development – CI 2.122 Schedule 3

The proposal constitutes Traffic Generating Development as it has 50 or more car parking spaces with access to a road that connects to classified road within 90m of that connection, and also on the basis that it contains more than 75 or more dwellings within 90m of a classified road. Transport for New South Wales (TfNSW) confirmed in writing on 23 August 2024 it has no objection to the proposal "... as the proposed development is unlikely to have a significant impact on the classified road network".

ATTACHMENT 5: ASSESSMENT UNDER WLEP AND WDCP**Assessment under Willoughby Local Environmental Plan 2012 (WLEP)**

This table below address the relevant clauses of the WLEP applicable to the assessment of the proposed development.

Land Use Table – R4 High Density Residential	The proposed development satisfies the objectives of the R4 High Density Residential zone.	Permissible		
R4 zone objectives <ul style="list-style-type: none">To provide for the housing needs of the community within a high density residential environment.To provide a variety of housing types within a high density residential environment.To enable other land uses that provide facilities or services to meet the day to day needs of residents.To allow for increased residential density in accessible locations, while minimising the potential for adverse impacts of such increased density on the efficiency and safety of the road network.To encourage innovative design in providing a comfortable and sustainable living environment that also has regard to solar access, privacy, noise, views, vehicular access, parking and landscaping.		The zone objectives are considered to be satisfied in this case as it provides for the housing needs of the community with increased housing whilst retaining a reasonable level of amenity. A variety of housing types is achieved. The road network is retained intact, and the amenity parameters including solar, views, landscaping and noise are considered to be retained for the enjoyment of occupants of the development and surrounding land.		
	Standard	Proposed		Complies
CI 4.3 Building Height	Described by applicant as	Building	Height standard	SEPP (Housing) 2021 (uplift by 23.8%)
	Site 1	Building B	17m	No change sought
		Building C	24m	No change sought
		Building D		(+5.7m) 29.71m
	Site 2	Building E	27m	(+6.42) 33.42m
		Building F	27m	(+6..42) 33.42m
	CI 4.4 FSR	1.5:1 (16,871.1) x 23.8% = 4015m2 16,871.1 + 4015 = 20,886.42 (= 1.86:1)	1.84:1 (20802m2)	
CI 6.8 Affordable housing	4% of GFA to be dedicated as affordable housing. Located within Area 9.	Deed of Transfer for 4% GFA executed. Note: The SEPP (Housing) 2021 offering is in additional and separate to this		Complies

		provision.	
CI 6.23 Design Excellence	<p>The subject site is land identified as “Area 5” on the Special Provisions Area Map and is accordingly subject to a design excellence clause.</p> <p>(3) Development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.</p>	<p>The development exhibits design excellence as confirmed by Council’s Urban Design Specialist.</p>	Yes

Assessment under Willoughby Development Control Plan (WDCP)

The below table provides a list of the relevant controls within the WDCP applicable to the site and proposed development. The following is a summary of some relevant DCP items.

Part B

Design – Part B 2.1.4 The proposal has been subjected to an assessment of design excellence.

Landscaping Part B 2.1.5 Landscaping has been assessed as satisfactory.

Private open space Part B 2.1.6 is subject to ADG via cl 149 SEPP Housing 2021.

Privacy Part B 2.1.8 is subject to ADG via cl 149 SEPP Housing 2021.

Solar access Part B 2.1.9 is subject to ADG via cl 149 SEPP Housing 2021.

View sharing Part B 2.1.12 is discussed later in this report.

Adaptable Housing Part B 4.3.3 at least 50% provided (56%)

Safety be Design Part B 4.3.9 is satisfied.

Site coverage 4.4.1 remains unchanged.

General Provisions at Part B 7.6.1 (b) ensure that development is complementary to the scale and character of development in the area. The proposal is eligible for uplift on the basis of affordable housing provision, resulting in higher than the LEP standard. Notwithstanding, solar access to Walter Street properties, and views to city skyline, is satisfactorily retained.

The objectives for height at 7.6.2 (a) are satisfied in that the proposal continues to achieve an appropriate height transition across the site and maintains reasonable solar access to sites in Walter Street.

Setbacks - Part B 7.6 (d) the proposal retains existing approved setbacks. Building D attracts an ADG departure above 9 storeys (12m required, 9m provided)

Open Space and landscaping - Part B 7.6 (e) is satisfied.

Open Space and landscaping - Part B 7.6 (f) is generally satisfied. Figures are provided below.

Car Parking Calculations (AH = affordable housing, NAH = non-affordable housing))				
Proposed Use	Parking Rate Requirements			
Car spaces	<p>SEPP (Housing) 2021</p> <p>AH 1-bed = 0.4 space 2-bed = 0.5 space 3-bed+ = 1 space</p> <p>Non AH 1-bed = 0.5 space 2-bed = 1 space 3-bed+ = 1.5 spaces</p> <p>DCP 2023 1-bed = 0.5 space 2-bed = 1 space 3-bed = 1 space 1 visitor per 7 dwellings</p>			
Calculations				
<u>Building B</u>	<u>Building C</u>	<u>Building D</u>	<u>Building E</u>	<u>Building F</u>
DCP 2006 = 23.5 spaces DCP 2023 = 19 spaces SEPP Housing = 17.2 spaces Visitors 21/7 = 3 spaces	DCP 2006 = 35.75 spaces DCP 2023 = 28 spaces SEPP Housing = 29 spaces Visitors 33/7 = 4.7 spaces	DCP 2006 = 50 spaces DCP 2023 = 40 spaces SEPP Housing = 40 spaces Visitors 40/7 = 5.7 spaces	DCP 2006 = 45 spaces DCP 2023 = 42.5 spaces SEPP Housing = 34.9 spaces Visitors 43/7 = 6 spaces	DCP 2006 = 46 spaces DCP 2023 = 42 spaces SEPP Housing = 35.8 spaces Visitors 43/7 = 6 spaces

Proposed spaces				
19	33	40	35	36

Part F

Figures are provided above.
104 adaptable units requires minimum 26 accessible spaces - 69 adaptable spaces are provided which is satisfactory.

Motorcycle rates are 1 space per 20 car parking spaces; 1 visitor space per 10 motorcycle spaces, so 8 are required (11 provided) and one visitor space (2 provided), which is satisfactory..

Bicycle requirements are:
1 Class A or B parking spaces per 20 units 1 Class C (rails/racks) per 20 apartments for visitors. 26 bicycle spaces are provided, which is satisfactory.

Part J

Requires compliance with NCC and 5-star rating for development over \$30 million.
A BASIX Certificate has been supplied.

ATTACHMENT 6: VIEW IMPACT ASSESSMENTS BY APPLICANT AND COUNCIL RESPONSE

Urbaine Design Group has undertaken visual Impact Assessments. It shows impacts from the increase in building heights for Buildings D, E and F. The methodology, and visual context, is outlined Urbaine's report.
Figure 3 in the report, shown below, depicts a height blanket which indicates numerical compliance (incorporating the height uplift of SEPP Housing 2021). View impacts are undertaken from 19 viewpoint locations from 2 and 3 Scott Street. The planning consultant representing these properties, in tandem with a Mirvac representative, identified these properties for inspections and photographs to represents view impacts.



Figure 3 – Height Control Plane of the proposed design by Architecture Urbaneia.



Images 7 and 8: Height blanket and Building D departures

LEC Principle

The LEC Principle Tenacity (Tenacity Consulting v Warringah [2004] NSWLEC 140) is used to

analyse impacts from these properties:

Step One – Assessment of the views to be affected.

“Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.”

Step Two – Consideration from what part of the property the views are obtained.

“For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.”

Step Three – Assessment of the extent of the impact.

“This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.”

Step Four – Assessment of the reasonableness of the proposal that is causing the impact.

“A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable”


WDCP 2012

Willoughby DCP Part B 2.1.12 seeks that development, as far as reasonably possible:

- a. Maintain existing views from adjoining and neighbouring properties
- b. Have particular regard to water views which are more highly regarded than land views
- c. Prioritise consideration of potential view loss from living areas
- d. Consider alternative design options to maintain significant and iconic views.

Tenacity

Step One	Address	Taken from	Summary of views to be affected.
Viewpoint 01	3 Scott Street	Unit F501 balcony	Partial highrise skyline which included Sydney Tower, Gore Hill Freeway

			
Viewpoint 02	3 Scott Street	Unit F501 living room	No views affected (looks east)
Viewpoint 03	3 Scott Street	Unit F502 living room	Partial highrise skyline, Sydney Tower.
Viewpoint 04	3 Scott Street	Unit F502 balcony (centre)	Partial highrise skyline, Sydney Tower.
Viewpoint 05	3 Scott Street	Unit F502 balcony (east)	Partial highrise skyline. Sydney Tower retained.
Viewpoint 06	3 Scott Street	Unit F503 balcony (centre)	Highrise skyline. Sydney Tower.
Viewpoint 07	3 Scott Street	Unit F504 balcony (centre)	Highrise skyline including Sydney Tower, retention of St Leonards high rise.
Viewpoint 08	3 Scott Street	Unit F501 living room	Foreground to city skyline highrise, highrise building retained, retention of St Leonards high rise.
Viewpoint 10	3 Scott Street	Unit F602 balcony (centre)	Foreground to Highrise skyline highrise, highrise building retained, retention of St Leonards high rise.
Viewpoint 11	3 Scott Street	Unit F603 balcony (centre)	Highrise skyline including Sydney Tower, retention of St Leonards high rise.
Viewpoint 12	3 Scott Street	Unit F604 balcony (centre)	Highrise skyline including Sydney Tower, retention of St Leonards high rise.
Viewpoint 13	3 Scott Street	Unit F703 balcony (centre)	Foreground to highrise skyline, buildings and Sydney Tower retained.
Viewpoint 14	3 Scott Street	Unit F704 balcony (centre)	Foreground to highrise skyline, buildings and Sydney Tower retained.
Viewpoint 15	3 Scott Street	Unit F803 balcony (centre)	Lower foreground to highrise skyline, upper foreground buildings and Sydney Tower retained.
Viewpoint 16	3 Scott Street	Unit F804 balcony (centre)	Lower foreground to highrise skyline, upper foreground buildings and Sydney Tower retained.
Viewpoint 17	2 Scott Street	Unit J001 outdoor living area (Block J Lungara)	Loss of sky
Viewpoint 18	2 Scott Street	Unit J302 balcony (Block J Lungara)	Loss of sky



Viewpoint 19	2 Scott Street	Unit J302 balcony (Block J Lungara)	Loss of sky
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Step Two – Consideration from what part of the property the views are obtained.

The table above gives a summary of the locations where photos are taken. The views are available primarily over the rear boundary (and part side boundary) of 2 and 3 Scott Street.

Step Three – Assessment of the extent of the impact.

Summary of extent of impact –photographs (Cyan shows transparent proposed building envelope to gauge extent and composition of views, as prepared by the applicant's Urbaine Design Group). The imagery is accepted as accurate.

Viewpoint 01	
Viewpoint 02	Nil
Viewpoint 03	
Viewpoint 04	

	
Viewpoint 05	
Viewpoint 06	

	
Viewpoint 07	

Viewpoint 08



Viewpoint 09





Viewpoint 10





Viewpoint 11


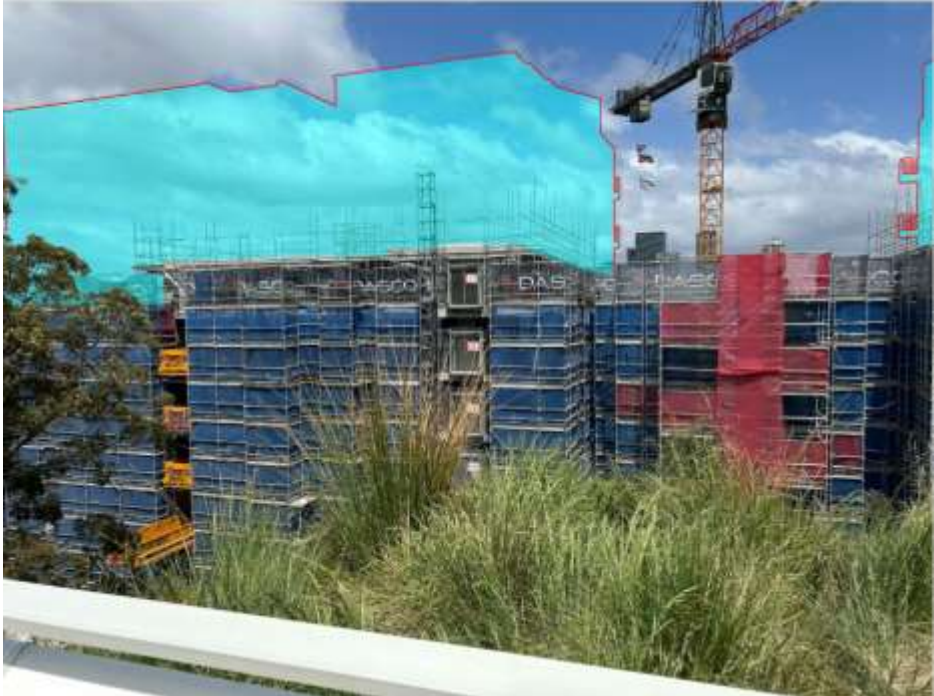


Viewpoint 12

	
Viewpoint 13	
Viewpoint 14	

	
Viewpoint 15	
Viewpoint 16	

	
Viewpoint 17	
Viewpoint 18	

	
Viewpoint 19	

Step Four – Assessment of the reasonableness of the proposal that is causing the impact.

Development that is eligible for 20% additional floor space ratio because the development includes a 10% affordable housing component, as calculated under subsection clause 16 (2) Housing SEPP, is also eligible for 20% additional building height if the development involves residential flat buildings or shop top housing [Housing SEPP clause 126 (3)].

The proposal is eligible for and mostly satisfies the SEPP (Housing) 2024 height incentives. Those sections of the proposal that are shown to exceed the standard do not contribute detrimentally to the loss of views from Scott Street. Gaps (as approved under DA-2021/300) between the buildings, and the retention of heights to Buildings B and C assist to retain more views.

On balance the degree of impact and the limited effect of the part shown as exceeding does not warrant refusal of the application. In the circumstances of the case where the incentive mechanism of the Housing SEPP is being used, utilisation of the existing floor plates is a more appropriate means of achieving the uplift, retaining the landscaping and deep soil intact to contribute to the enjoyment of the subject site and the surrounds.

ATTACHMENT 7: OFFICER'S CLAUSE 4.6 ASSESSMENT – BUILDING HEIGHT

Variation to CI 18 (2) State Environmental Planning Policy (Housing) 2021.

The applicant prepared a Clause 4.6 variation (July 2024 and revised November 2024) for building height. The submission has been prepared to address the provisions within Section 35B of the Environmental Planning and Assessment Regulation 2021.

The height standards imposed by WLEP 2012 across the site are:

Former addresses (now consolidated and known as 1 Walter Street)	Described by applicant as	Building	Height standard
1-1A Walter Street and 452-460* Willoughby Road	Site 1	Building B	17m
3-13A Walter Street		Building C	24m
		Building D	
15-27* Walter Street	Site 2	Building E	27m
		Building F	

The original scheme DA-2021/300 satisfied the height standard with the exception of Building B, where 18.02m was approved with a well-founded clause 4.6 request. Buildings C and D were increased to 24.2 and Buildings E and F to 27.4m and 26.6m respectively under DA-2021/300/C.

Recent amendments to State Environmental Planning Policy (Housing) 2021 aim to incentivise the supply of housing and in particular the delivery of affordable housing.

The applicant's Clause 4.6 correctly identifies that Clause 18 SEPP (Housing) 2021 states the following:

(2) The maximum building height ratio for the building used for residential flat buildings or shop top housing is the **maximum permissible building height for the land plus an additional building height of up to 30%**, based on the minimum affordable housing component calculated in accordance with subsection (3), which reads:

The minimum affordable housing component, which must be at least 10%, is calculated as follows—

$$\text{affordable housing component} = \frac{\text{additional building height}}{(\text{as a percentage})} \div 2$$

The applicant's Clause 4.6 correctly identifies an eligibility for a 23.81% uplift in FSR and building height by virtue of the affordable housing component (*in addition and separate from* the existing dedicated affordable housing component which was 9 units totalling 676m²) which is 2,477m², where:

Calculations

Affordable housing component = x / 2

where x = additional building height

Now, reconfiguring the equation:

x = Affordable housing component x 2

Where the Affordable housing component as a percentage of the total GFA is $2,477\text{m}^2 / 20,802 = 11.9\%$

Therefore, $x = 11.9\% \times 2 = 23.8\%$

This proposal seeks by providing for a 23.81% increase in height and floor space ratio in exchange for 11.907% of the floor space of the development being offered as additional infill affordable housing.

The development standard

The applicant clause 4.6 request states that the relevant maximum building height for development at the subject site is 24m and 27m, with the Housing SEPP maximum height being 29.71m and 33.42m.

The updated building height table is:

Described by applicant as	Building	Height standard	SEPP (Housing) 2021
Site 1	Building B	17m	No change sought
	Building C	24m	No change sought
	Building D		(+5.7m) 29.71m
Site 2	Building E	27m	(+6..42) 33.42m
	Building F	27m	(+6..42) 33.42m

Extent of variation

The height of the proposal is identified in the clause 4.6 as:

Described by applicant as	Building	Height standard	SEPP (Housing) 2021	Proposed height (Merman)	Proposed height
Site 1	Building B	17m	No change sought	-	
	Building C	24m	No change sought	-	
	Building D		(+5.7m) 29.71m	[Merman] 41.65m (11.94m, 40.18% departure)	[Bettar] 30.95m (1.24m, 4.17% departure)

Site 2	Building E	27m	(+6..42) 33.42m	[Merman] 40.20m (6.78m, 20.28% departure)	[Bettar] 33.42m Complies
	Building F	27m	(+6..42) 33.42m	[Merman] 40.20m (6.78m, 20.28% departure)	[Bettar] 33.86m (0.449m, 1.3% departure)

Note 1: Merman relates to Merman Investments Pty Ltd v Woollahra Municipal Council [2021].

Note 2: Bettar relates to Bettar v Council of the City of Sydney [2014] NSWLEC 1070

The clause 4.6 relies identifies outcome for each case law.

Unreasonable and unnecessary

Clause 4.3(2) is not excluded from the operation of clause 4.6 by clause 4.6(8) or any other clause of the LEP.

The applicant's clause 4.6 states that there are no stated objectives associated with the control or Clause 18 in general; however, there is an objective for the entire Division at Clause 15A which is as follows:

The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

The applicant's clause 4.6 states that, as there are no objectives listed in the SEPP Housing 2021, the objectives can be inferred from the Willoughby Local Environment Plan. For the purposes of assessing whether the objectives are satisfied notwithstanding the departure, these objectives are discussed below:

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

Summary of applicant's position:

The built form compromises of a 5 storey built form at the corner frontage increasing to a 10 storey tower form as you move along Walter Street to minimise bulk and differentiate between the built form components.

The five built forms continue to use architectural modulation and a varied external material palette to create appropriate building articulation and setbacks. The elevations of all 5 built forms provide the same consistent building setbacks as the original approval, and generous separation between buildings allows for appropriate access to natural light, and ventilation.

The height variations of buildings D, E and F when considered in the context of the entire site, and the multiple examples of multi-level residential development in the immediate area means the development is not visually dominating, nor is the additional height identifiable from the surrounding public view. Accordingly, it is considered the development is visually consistent with surrounding existing and future development.

The integrated landscape design integrates the built form with the public space and neighbouring sites to create greater harmony in the locality by including native vegetation of all sizes and heights (including large canopy trees) which allows for increased amenity and the provision of higher density living in a bushland setting for future residents and surrounding neighbours.

It is important to note that while the height variations presented when the existing ground level being the excavated basement garage level is utilised for the measurement, the proposal presents variations of 40.18% for Building D and 20.28% for Buildings D and F respectively.

When however the natural undistorted level of the land is taken as a reference point for the calculation of the height control, the variations are significantly less as Building D is 4.17%, Building E will fully comply with the control and Building F has a variation of 1.3%.

The overall height is in harmony with the surrounding residential area and will provide a positive contribution to the streetscape via a modernised and contemporary design consistent with the strategic planning outcomes.

Assessment planner response:

The site is located within, and surrounded by, are a high density residential environment as identified by its R4 high density residential zone. In practical terms the height of the building resulting from Bettar is more representative of the height that is read from surrounding properties. If this interpretation is taken the departure is 1.24m (Building D) and 0.449m (Building F).

The extent of departure and the locations of the departures, do not create a disharmony 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,*

Summary of applicant's position:

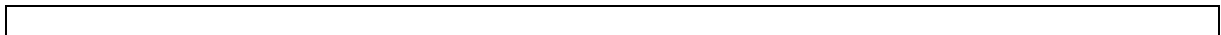
There are no unreasonable additional solar access impacts caused by the height variation. The neighbouring and future occupants will have direct access and sufficient exposure to direct sunlight, natural air flow while maintaining a landscaped outlook.

The proposal continues to protect the privacy of the occupants unit dwellings and the surrounding neighbouring dwellings through the provision of sufficient building separation, unit layouts, privacy screen, orientation of windows and the provision of high windows. Additionally, extensive tree canopy is provided on the ground level and to further minimise overlooking.

While the proposal demonstrates a non-compliance with the height control, it is considered the development minimizes impacts on the surrounding area where appropriate, and continues to revitalise the site by delivering considerable benefits, including affordable housing, while improving the pedestrian linkages, and improved large landscaped areas.

Assessment planner response:

The views impacts are considered reasonable following an assessment pursuant to Tenacity. The extent of variation (in practical terms) - see areas shown below, do not themselves create a detrimental impact on views.



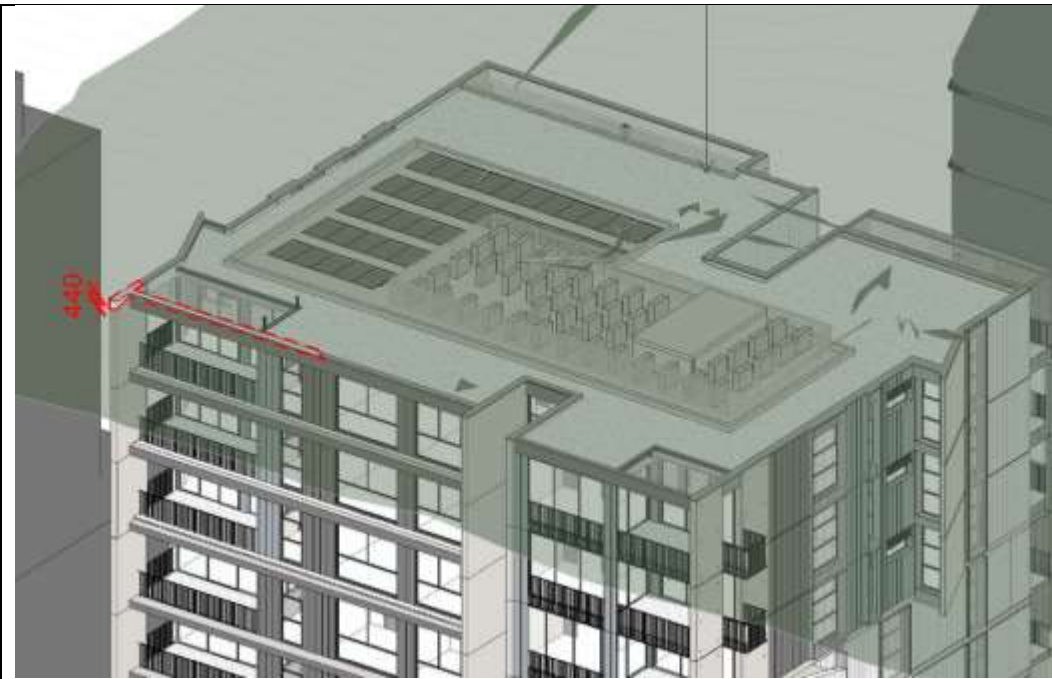


Image 9: Departure at Building F

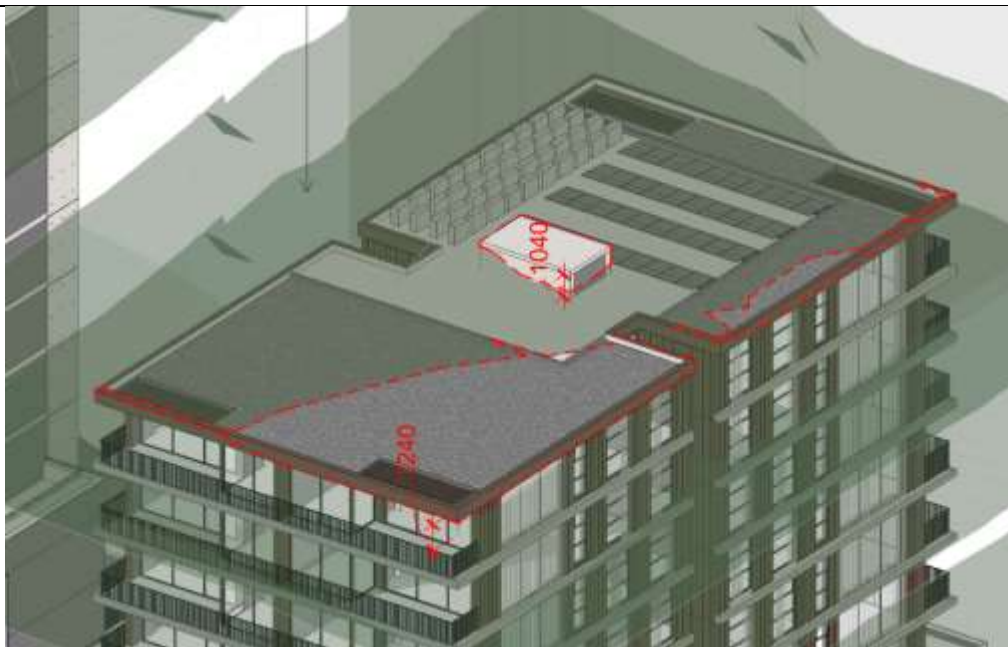


Image 10: Departure at Building D

Privacy is attained by spatial separation. Building F is separated from the rear boundary by 21.6m and 23m where the ADG seeks (for 9+ storeys) 12m. Building E is separated from the rear boundary by 23.2m and 21.7m.



Image 11: View to sites to north from Building F



Image 12: View to sites to north from Building E

Building D has a setback of 9m, where ADG Part 3F requires 12m for the upper two levels. The relationship of the proposal to the buildings to the north is such that there a greater degree of visual relief looking north from Building D than E and F (which has Building J in closer proximity). This is evident from the photos taken from Building E looking north-east (photo at right above). Further discussion is made under the ADG commentary.



Image 13: The relationship of Building D to the properties to the north.

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

The applicant says the scale, bulk and height is appropriate and achieve an appropriate built form for the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Further, that the visual impact of the development is to be softened by extensive landscaping, particularly within all boundaries which will further assist in mitigating any adverse impacts upon the amenity of neighbouring dwellings.

The applicant says the design, coupled with a sensitivity to the site's topography and surrounding context, ensures that the development will blend harmoniously with its surroundings without causing any visual disruption to the locality. This approach reflects a balance between functional considerations and aesthetic principles, ultimately contributing to the enhancement of the urban environment.

Assessment planner response:

The proposal has satisfied the design excellence requirements of WLEP 2012.

- 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,*

a view analysis is undertaken separately in this report. It is noted that the extent of departure using the Bettar case does not cause an unreasonable net increase in view impact.

- 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,*

The applicant says the proposed development provides for the most appropriate distribution of floor space on the site, noting that the development is compliant with the maximum FSR and minimum landscaped area calculations prescribed.

The area of building height non-compliance is a direct response to the NSW State Government drive to provide additional delivery of affordable and residential housing while remaining consistent with expected building height and scale context.

Assessment planner response:

The distribution of bulk mostly within a compliant SEPP (Housing) 2021 envelope, complaint landscaping and FSR and acceptable impacts places the proposal in a favourable light.

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

The applicant says the SEPP Housing 2021 incentivise an increase in height, and that, accordingly, the desired future character of the Willoughby area will include high density developments of similar building height to the proposed building.

Applying the SEPP Housing layer over height limits for RFBs and shop top housing does affect the future character of affected areas. In this case the height is reasonably absorbed into the existing built fabric.

Sufficient environmental planning grounds

The applicant says the proposed development achieves the objects in Section 1.3 of the EP&A Act, and provided commentary around maintaining architectural consistency with the prevailing development pattern which promotes the orderly and economic use of the land (cl 1.3(c)), will provide for a high level of amenity within a built form which is compatible with the character of the locality, will promote good design and enhances the residential amenity of the buildings' occupants and the immediate area, which is consistent with the Objective 1.3 (g).

Commentary is provided with regards to *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582, that the prior excavation of the site within the footprint of the existing building, which distorts the height of buildings development standard plane overlaid above the site when compared to the topography of the hill, can properly be described as an environmental planning ground within the meaning of cl 4.6(3)(b) of LEP 2014.

The applicant also says the proposal has a height and scale that generally reflects the controls that apply and that the non-compliance with the height control ultimately improves the overall functionality and amenity of the development, as well as facilitating the supply of affordable housing (noting that the proposed housing is still well below the maximum combined FSR for the site) such that they will achieve a better outcome than a complying development

Also, the applicant talks to non-compliance being attributed to the slope of the land and required excavation to meet the existing street level of Walter Street and that the non-compliance associated with the roof line within is not readily perceivable as the minor variation only affects a limited volume of the roof element with the remaining building height complying at all other areas along the street frontage.

Also, that the non-compliance also sufficiently setback from the northern boundary so to not adversely impact upon the adjoining property to the north and the non-compliance does not detract from consistency with the objectives of the height of buildings development standard. Finally, on amenity - the building height non-compliance will have no adverse effect to direct sunlight, natural air flow or outlook for the future occupants, their guests or neighbouring sites – and that the proposal has been designed to sit comfortably within the R4 context, with particular care taken to ensure that the multi-level development provides appropriate transitions to neighbouring developments in terms of setbacks and scale.

The applicant says strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public. The applicant say the visual presentation of the proposed development is not offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.

The applicant concludes by stating that, consistent with the findings of Commissioner Walsh in *Eather v Randwick City Council* [2021] NSW LEC 1075 and Commissioner Grey in *Petrovic v Randwick City Council* [2021] NSW LEC 1242, the particularly minor departure from the SEEP Housing 2021 building heights and absence of impacts consequential of the departure constitute environmental planning grounds, as it promotes the good design and amenity of the development in accordance with the objects of the EP&A Act.

Assessment officer commentary

On balance, it is considered that the clause 4.6 variation has demonstrated sufficient environmental planning grounds. It is agreed that, if *Merman* is taken as the existing ground level (this position is more aligned with the definition of existing ground level in WLEP 2012) the departure arising from this technicality should be viewed as circumstantial and a product of the substantially commenced development where the height emanating from the basement is not perceived from properties to the north or to Walter Street.

If one were to observe the outcome from Better, it is evident that the departures to the height standard (uplifted by the affordable housing mechanism in SEPP Housing 2021) are minor and on the south side of the building which does not contribute detrimentally to the view impacts from properties to the north, nor to overshadowing to properties in Walter Street.

ATTACHMENT 8: SUBMISSIONS TABLE

Council was in receipt of 92 unique submissions from the following properties. In some instances no address was provided in the submission.

503/1 Scott St WILLOUGHBY 2068
C/- Real Estate Services By Mirvac,
Locked Bag 5599, CAMPERDOWN
NSW 1450
PO Box 393, ST LEONARDS NSW
1590
201/7 Scott St WILLOUGHBY 2068
501/3 Scott St WILLOUGHBY 2068
PO Box 809, WILLOUGHBY 2068
C/- Di Jones Lower North Shore,
Suite 5/15 Grosvenor St, NEUTRAL
BAY NSW 2089
PO Box 954, EDGECLIFF NSW 2027
510/16 Artarmon Rd, WILLOUGHBY
NSW 2068
NO ADDRESS GIVEN
403/3 Scott St, WILLOUGHBY NSW
2068
LEVEL 28, 200 George St, SYDNEY
NSW 2000
503/5 Scott St, WILLOUGHBY NSW
2068
21 Gorman St, WILLOUGHBY NSW
2068
2 Scott St, WILLOUGHBY NSW 2068
7 Scott St, WILLOUGHBY NSW 2068
705/3 Scott St, WILLOUGHBY NSW
2068
4 Olympia Rd, NAREMBURN NSW
2065
306/17 Richmond Ave,
WILLOUGHBY NSW 2068
5 Scott Street, WILLOUGHBY NSW
2068
29 Artarmon Rd, WILLOUGHBY
NSW 2068
7 Scott St, WILLOUGHBY NSW 2068
No Address Given
2 Scott Cres, ROSEVILLE NSW 2069
505/7 Scott St, WILLOUGHBY NSW
2068
20 Lord St, ROSEVILLE NSW 2069
607/16 Artarmon Rd, WILLOUGHBY
NSW 2068
103/7 Scott St, WILLOUGHBY NSW
2068

103/7 Scott St, WILLOUGHBY NSW
2068
303 Claire St, NAREMBURN NSW
2065
C/- Belle Property Lane Cove, Shop
3/52-56 Gladesville Rd, HUNTERS
HILL NSW 2110
208/2 Scott St, WILLOUGHBY NSW
2068
203/16 Artarmon Rd, WILLOUGHBY
NSW 2068
20 Richmond Ave, WILLOUGHBY
NSW 2068
NO ADDRESS GIVEN
NO ADDRESS GIVEN
594 Willoughby Rd, WILLOUGHBY
NSW 2068
23/512 David Low Way,
CASTAWAYS BEACH QLD 4567
3 Linkmead Ave, CLONTARF NSW
2093
PO Box 644, LINDFIELD NSW 2070
802/3 Scott St, WILLOUGHBY NSW
2068
75 Garland Rd, NAREMBURN NSW
2065
702/5 Scott St, WILLOUGHBY NSW
2068
501/16 Artarmon Rd, WILLOUGHBY
NSW 2068
6/23-25 Park Rd, NAREMBURN
NSW 2065
206/17 Richmond Ave,
WILLOUGHBY NSW 2068
702/1 Scott St, WILLOUGHBY NSW
2068
302/1 Scott St, WILLOUGHBY NSW
2068
210/16 Artarmon Rd, WILLOUGHBY
NSW 2068
709/7 Scott St, WILLOUGHBY NSW
2068
702/5 Scott St, WILLOUGHBY NSW
2068
210/16 Artarmon Rd, WILLOUGHBY
NSW 2068
No Address Given
G04/ 2 Scott St, WILLOUGHBY NSW
2068
3/23-25 Park Rd, NAREMBURN
NSW 2065

157/2 Artarmon Rd, WILLOUGHBY
NSW 2068
GO2/ 2 Scott St, WILLOUGHBY
NSW 2068
609/24 Artarmon Rd, WILLOUGHBY
NSW 2068
308/7 Scott St, WILLOUGHBY NSW
2068
406/3 Scott St, WILLOUGHBY NSW
2068
No Address Given
207/2 Scott St, WILLOUGHBY NSW
2068
302/2 Scott St, WILLOUGHBY NSW
2068
701/5 Scott St, WILLOUGHBY NSW
2068
408/7 Scott St, WILLOUGHBY NSW
2068
808/7 Scott St, WILLOUGHBY NSW
2068
206/17 Richmond Ave,
WILLOUGHBY NSW 2068
C/- Res By Mirvac, Locked Bag
5599, CAMPERDOWN NSW 1450
102/2 Scott St, WILLOUGHBY NSW
2068
102/2 Scott St, WILLOUGHBY NSW
2068
406/17 Richmond Ave,
WILLOUGHBY NSW 2068
410/17 Richmond Ave,
WILLOUGHBY NSW 2068
98/2 Artarmon Rd, WILLOUGHBY
NSW 2068
29/51-55 Garland Rd, NAREMBURN
NSW 2065
605/1 Scott St, WILLOUGHBY NSW
2068
302/2 Scott St, WILLOUGHBY NSW
2068
4/13 Olympia Rd, NAREMBURN
NSW 2065
29 Olympia Rd, NAREMBURN NSW
2065
1 Scott Street, NAREMBURN
6 Artarmon Road, WILLOUGHBY
NSW 2068
3 Scott Street, WILLOUGHBY NSW
2068

5 Scott Street, WILLOUGHBY NSW
2068
5 Scott Street, WILLOUGHBY NSW
2068
69 Garland Road, NAREMBURN
NSW 2065
1 Scott Street, WILLOUGHBY NSW
2068
408/7 Scott St, WILLOUGHBY NSW
2068
5/1 Snell St, MOSMAN NSW 2088
5 Scott Street, WILLOUGHBY NSW
2068

This table contains the issues raised by the objectors and Council's response.

Views	<p>Concerns are raised that the proposal impacts unreasonably on views currently enjoyed from properties to the north of the development.</p> <p><u>Assessment planner Response:</u> A relevant extract from Tenacity is at the fourth step which states "... to assist the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them where impact on views arises as a result of non compliance with one or more planning controls, even a moderate impact may be considered unreasonable".</p> <p>An assessment of views has been undertaken. It is considered that, due to the extent of compliance (particularly if Better interpretation is used, which is a more practical approach to existing ground level).</p> <p>The In-fill affordable housing Practice Note (December 2023 by Department of Planning, Housing and Infrastructure) attempts to provide clarity on existing ground level, stating:</p> <p>"When calculating the additional building height available under section 16 or 18 of the Housing SEPP on a site subject to a height of buildings control measured as a RL, the additional building height is to be calculated based on the vertical distance from the RL that represents ground level (existing) to the RL that represents the height of buildings control under the EPI".</p> <p>It does not specifically answer the question about, once the figure of increase is obtained, from where it is taken.</p>
Building Height	<p>Concerns are raised that the increased building heights are not compliant. With the local and state planning controls. And that there has been "... no clear justification for why the proposal should not be expected to comply with these controls".</p> <p><u>Assessment planner Response:</u></p>

<p>Clause 4.6 Request</p>	<p>Concerns are raised that the clause 4.6 request fails to consider non compliance of the proposal against the LEP clause 4.3 building height. This ambition says that the amending DA cannot be approved in its current form as it fails to consider clause 4.3 LEP in the context of clause 4.6 of the LEP.</p> <p>The submitter states that the clause 4.6 request fails to demonstrate compliance with the objectives of clause 4.3 WLEP 2012. The objectors says that:</p> <ul style="list-style-type: none"> • Building D, E and F cannot be said to be in harmony with surrounding buildings or the streetscape; • Will impact views, particularly from 2, 3 and 5 Scott Street • Fails to increase separation distances with increasing height • The proposal is visually intrusive in the context of surrounding and adjacent building forms • The exceedance of maximum height is antipathetic to the current and desired future character of the locality • <p><u>Assessment planner Response:</u> The assessment of the clause 4.6 request finds it is acceptable and does its necessary work under clause 4.6 3 (a) and (b). Some concerns were also raised that the lifts to Building D provide access to the rooftop terrace and that this does not warrant a height departure. The rooftop terrace to Building D has since been deleted and the height of this building reduced. In summary, the height is satisfactory as discussed throughout this report.</p>
<p>Need for housing versus relevant planning controls</p>	<p>Concerns are raised that the need for housing is being given higher priority than community certainty for development expected under the adopted controls. The submitter States that the proposal is not in the public interest pursuant to s4.15 (e) of the EPAA.</p> <p><u>Assessment planner Response:</u> A state policy is being utilised for more affordable housing, making the development eligible for height and FSR increase – where the development retains its satisfaction of the objectives of the WLEP, the standard and the SEPP. The proposal is considered in the public interest.</p>
<p>Visual impacts / Bulk, scale setbacks</p>	<p>Concerns are raised that the proximity of buildings E and F will “... create the impression of a single large visual ‘mass’ or block from our apartment”. The submission raises concerns that “... the buildings both exceed the allowable height controls and do not have the required minimum distances or setbacks between the buildings in the upper floors”.</p> <p><u>Assessment planner Response:</u> The utilisation of the existing floor plates allows the gaps between buildings to continue to offer visual relief and also views between buildings. Screening on the sides of the proposed buildings protects from privacy impacts, satisfying Part 3F ADG.</p>

No public benefit	<p>Concerns are raised that there is no social benefit provided to the community as a result of the proposal, that is that there are no parks or publicly accessible spaces.</p> <p><u>Assessment planner Response:</u> There is social benefit in the provision of affordable housing for 15 years. The site has good access to parks and also contains its own attractive and inviting communal open space. In addition, a VPA has already been paid relating to this proposal:</p> <ol style="list-style-type: none"> 1. \$1,000,000 towards works for existing or new active transport network; 2. \$1,000,000 towards works for upgrading Willoughby Leisure Centre; and 3. \$520,660 towards works for public purpose determined by Council (within the meaning of the EP&A Act) The Agreement sets out how and when the facilities are to be provided.
Social impacts	<p>Concerns. Are raised that the increase in height of buildings causes it to be a higher rise of building, and states that social behaviour is generally lower in areas comprising high rise buildings.</p> <p><u>Assessment planner Response:</u> The proposal is considered a good response to the housing challenge and to ensure integration of affordable housing.</p>
Visual privacy and noise intrusion from use of units	<ul style="list-style-type: none"> • Concerns are raised that privacy to properties in Scott St will be impacted and that owners in Scott Street made purchases and renters signed rental agreements under the impression that the site would not be of an increased height from the original DA. • One submission states that the increase in building height, especially for Building F, with its increased new floors will impact the indoor and outdoor living areas of their apartment. <p><u>Assessment planner Response</u> The spatial separation of the proposal is considered a good measure for reducing acoustic related impacts.</p>
Traffic	<p>Concerns are raised regarding local traffic congestion. Concerns include that Willoughby Rd. is already overly congested and that the intersection of Willoughby Road and Walter St at present is marked as keep clear (where no right turn for south bound vehicles is required).</p> <p><u>Assessment planner Response:</u></p> <p>Condition 3 B requires</p> <p>B. Right turn movements from Willoughby Road into Walter Street shall be prohibited in the AM (0600-1000) and PM (1500-1900) peak periods through the provision of regulatory signage.</p> <p>Regarding traffic congestion a Traffic and parking. Assessment Report. By MLA transport planning (Ref: 2033r04b-241127, dated 27 November 2024)</p>

	<p>concludes that there is sufficient. off street parking in the development and that. The development is estimated to generate 34 vehicle trips per peak hour during the busiest peak and that this level of development traffic is considered to be low and will not create any noticeable traffic impacts to the local road network.</p>
<p>Bus service underserved and load on infrastructure generally</p>	<p>Concerns are raised that the. Bus service. Along Willoughby Rd is “routinely underserved and ill-equipped at present to facilitate increased development in the area”.</p> <p>The Naremburn Progress Association. Raises concerns that the Willoughby Rd. bus service is already under strain and that parks and sporting services are unable to serve the current population growth. And also that the sewage systems are at capacity. Concerns are also raised that with increased density population may overwhelm the capacity of schools.</p> <p><u>Assessment planner Response:</u> The subject site is an “accessible area” under SEPP Housing 2021. With regular bus service, satisfying the frequency that that step requires. The development is considered. To be satisfactorily serviced by public transport.</p>
<p>Affordable Housing</p>	<p>Concerns are raised that this development does not represent an affordable purchase point for very low to moderate income earners, particularly first home buyers. The submission notes that affordable housing technically refers to rentals, but states that it is “... imperative that the council remains committed to community wellbeing by similarly supporting access for property purchasers”.</p> <p><u>Assessment planner Response:</u> The proposal satisfies the requirements of the SEPP.</p>
<p>Construction concerns</p>	<p>Concerns have been raised that. The existing building as constructed cannot withstand the structural weight of the newly proposed upper floors.</p> <p><u>Assessment planner Response:</u> Structural engineers will be required to complete structural drawings for the Construction Certificate. Council’s building certification officer has also viewed the proposal and offered conditions.</p>
<p>Noise pollution and construction delays</p>	<p>Concerns are raised that there may be project completion delays and this may impact surrounding properties in terms of ongoing construction and noise pollution and traffic congestion associated with that prolonged construction. Concerns are also raised that there has been night works as well as jackhammering, and impacts on on-street parking which has resulted in ongoing disruption for many months.</p> <p><u>Assessment planner Response:</u> There are conditions in this and the parent consent to reduce impacts associated with the construction.</p>

<p>Air flows and cross ventilation.</p>	<p>Concerns are raised that the scale and bulk of the proposed buildings will limit the effectiveness of natural winds and cross. Ventilation between buildings specially during the time of prevailing southerly winds in the summer months.</p> <p><u>Assessment planner Response:</u> The spatial separation between buildings is considered adequate and suitable so as not to detrimentally impact wind flows.</p>
<p>Non compliance with clause 18 of the housing SEPP</p>	<p>Concerns are raised that the proposal does not satisfy SEPP (Housing) 2021, clause 18 (1) (b) because</p> <p><u>Assessment planner Response:</u> Clause 16 (3) SEPP (Housing) 2021 states as follows:</p> <p>(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).</p> <p>Example—</p> <p>Development that is eligible for 20% additional floor space ratio because the development includes a 10% affordable housing component, as calculated under subsection (2), is also eligible for 20% additional building height if the development involves residential flat buildings or shop top housing.</p>
<p>Overshadowing to Henderson Park.</p>	<p><u>Assessment planner Response:</u> By virtue of the relationship. Of the proposal to Henderson Park and also Parabol Playground. There are no shadow impacts of the proposal on these spaces.</p>
<p>Desired future character / incompatibility with surrounds</p>	<p>The objective states that the objectives of the R4 high density residential zone are compromised by the increase in building height , and states that the approved heights adequately satisfy the objectives of the zone.</p> <p>Concerns are raised that the proposal does not satisfy Willoughby Development Control Plan 2023, Part B. Which requires [at WDCP 2023 7.6.1 (b)] that development is complementary to the scaling character of development in the area.</p> <p>The objector states that section 4.15 (a) (iii) requires a consent. authority to consider a development control plan in its assessment of an application, and points to SEPP (Housing) 2021 s20 (3) design requirements says:</p> <p>(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—</p> <p>(a) the desirable elements of the character of the local area, or</p> <p>(b) for precincts undergoing transition—the desired future character of the precinct.</p> <p>The objector says that regardless of the height increases</p>

	<p>Contemplated by the housing SEPP, this provision is not as-of-right And must be considered in the context of the desired future character of the precinct.</p> <p><u>Assessment planner Response:</u></p> <p>The test, of course, is whether the subject proposal satisfies the zone objectives. Notwithstanding, the existing approved development may have also satisfied those objectives.</p> <p>The proposal Is not considered to detrimentally compete against the character of the existing development in the area.</p> <p>Consideration of character is undertaken under s20 SEPP (Housing) 2021, which requires that the consent authority to consider whether the proposal is compatible with the desirable elements of the character of the local area, or for precincts undergoing transition – the desired future charter of the precinct.</p>
Damage to the integrity of the DA process.	<p>Concerns are raised that the manner with which this increase in height and force base ratio is being sought undermines the whole data process which involved extensive consultation and negotiation (Planning Proposal process included).</p> <p><u>Assessment planner Response:</u></p> <p>The approval pathway is informed by SEP Housing 2021 and is a legitimate one.</p>
Flood impacts	<p>Concerns are raised that “half the development site” is a flood area and that this may impact the ability for emergency vehicles in the event of flood.</p> <p><u>Assessment planner Response:</u></p> <p>Councils. Engineers have assessed the proposal as satisfactory and issued conditions accordingly.</p>
Sustainability	<p>Concerns are raised that the proposal achieves 6 stars in lieu of the minimum required 7 stars.</p> <p><u>Assessment planner Response:</u></p> <p>The proposal satisfies Part J WDCP 2023.</p>
Danger to users of Parabol playground with overhanging cranes	<p>Concerns are raised. About construction risks to people. Using the adjacent playground. Due to the operation of overhanging crane arms.</p> <p><u>Assessment planner Response:</u></p> <p>Any cranes must satisfy the relevant Codes and practices and work safety regulations to ensure the safety of all workers as well as members of the public on surrounding land.</p>
Dust from construction	<p>Concerns are raised about dust impacts from the development.</p> <p><u>Assessment planner Response:</u></p>

	Conditions of consent relating to DA-2021/300 deal with dust control measures (including condition 55, 77, 79, and 112).
Design excellence	<p>Concerns are raised that. The proposal does not consider design excellence.</p> <p><u>Assessment planner Response:</u></p> <p>The applicant has responded to the Jury's previous commentary on the proposal and has satisfied c6.23 WLEP 2012. Council's Urban Design Specialist has considered the proposal and finds it satisfactory.</p>
An amended planning agreement should be considered	<p>Commentary from an objector suggests that Council should consider an amended planning agreement to ensure adequate contributions are appropriate given the increased stress on infrastructure.</p> <p><u>Assessment planner Response:</u></p> <p>This proposal is considered against, inter alia, EPAA, SEPP (Housing) 2021, WLEP 2012 and WDCP. The amending DA attracts additional contributions pursuant to s7.11 EPAA. The uplift is sought via a legitimate state-led pathway that differs from a rezoning pathway that would otherwise attract a Community Infrastructure Contribution with a Voluntary Planning Agreement. Note: A previous VPA relating to PP-2018/7 and PP2018/8 involved 3 payments all of which have been paid (as described earlier in this section). It is noted that this proposal is exempt from a Housing Productivity Contribution (HPC) because, notwithstanding additional dwellings are proposed, as per Sch 2 of the Ministerial Order, it is excluded because it is affordable housing that is required to be managed by a registered community housing provider as a condition of development consent.</p>
Alterations from existing consent not clearly shown.	<p>Concerns arise that the drawings submitted do not show. Changes from the existing approved scheme.</p> <p><u>Assessment planner Response</u></p> <p>The amended drawings. That are the subject of this report. Indicate the changes between the subject proposal and the previous consent DA-2021/3-00 (as modified). Note that the elevations indicate with a red dashed line the approved top of building and associated plant, for reference.</p>
Site has been denuded of trees / Impact on native birds and animals.	<p><u>Assessment planner Response</u></p> <p>Councils in landscape designer has considered the proposal as satisfactory given the proposed comprehensive landscape scheme. Associated with the development.</p>
Potential use of 462 Willoughby Rd not identified	<p>And objector states that the potential use of the triangular site at 462 Willoughby Rd needs to be articulated to provide an overview of the entirety of the development plan.</p>

	<p><u>Assessment planner Response</u></p> <p>This adjoining site was incorporated into the planning proposal for this scheme but was not acquired. It does not form part of the original DA-2021/300 (as modified) or this Amending DA. The development consent DA-2021/300 does incorporate requirements for a right of way benefitting 462 Willoughby Road.</p>
Impact on property values	<p>Concerns are raised that the proposal will impact on property values in the surrounds.</p> <p><u>Assessment planner Response</u></p> <p>Whilst the consideration of the development application does not include property value considerations, retention of reasonable amenity should be afforded to surrounding properties using all the Codes, Policies and Plans that apply to the subject site.</p>

ATTACHMENT 9: SECTION 4.15 ASSESSMENT

Matters for Consideration under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Considered and Unsatisfactory ✗ and 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"> Local Environmental Plans (LEP) 	✓
	Comment: The proposal satisfies the objectives of the SEPP and WLEP and make a case for departure pursuant to clause 4.6 WLEP. Importantly, the proposal satisfies the R4 zone objectives.	
(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 Local Environmental Plans (LEP) 	N/A
	Comment: There are no draft SEPPs or EPIs. .	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> Development control plans (DCPs) 	✓
	Comment: The proposed development has been assessed against the relevant requirements of the WDCP including Part B 7.6 1 and is considered satisfactory.	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> Clause 61 EP&A Regulation-Demolition 	✓
	<ul style="list-style-type: none"> Clause 62 EP&A Regulation-Fire Safety Considerations 	✓
	<ul style="list-style-type: none"> Clause 64 EP&A Regulation-Fire Upgrade of Existing Buildings 	N/A
	Comment: Considered as satisfactory and conditions applied.	
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"> Context & setting 	✓
	<ul style="list-style-type: none"> Access, transport & traffic, parking 	✓
	<ul style="list-style-type: none"> Servicing, loading/unloading 	✓
	<ul style="list-style-type: none"> Public domain 	✓
	<ul style="list-style-type: none"> Utilities 	✓
	<ul style="list-style-type: none"> Heritage 	N/A
	<ul style="list-style-type: none"> Privacy 	✓
	<ul style="list-style-type: none"> Views 	✓
	<ul style="list-style-type: none"> Solar Access 	✓
	<ul style="list-style-type: none"> Water and draining 	✓
	<ul style="list-style-type: none"> Soils 	✓
	<ul style="list-style-type: none"> Air & microclimate 	✓
	<ul style="list-style-type: none"> Flora & fauna 	✓
	<ul style="list-style-type: none"> Waste 	✓
	<ul style="list-style-type: none"> Energy 	✓
	<ul style="list-style-type: none"> Noise & vibration 	✓
	<ul style="list-style-type: none"> Natural hazards 	✓
	<ul style="list-style-type: none"> Safety, security crime prevention 	✓
	<ul style="list-style-type: none"> Social impact in the locality 	✓
	<ul style="list-style-type: none"> Economic impact in the locality 	✓
	<ul style="list-style-type: none"> Site design and internal design 	✓
	<ul style="list-style-type: none"> Construction 	✓
	<ul style="list-style-type: none"> Cumulative impacts 	✓
	Comment: The proposed development is considered to have acceptable; impacts on the residential amenity of surrounding residents subject to conditions of consent	

(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: The proposal is reasonably absorbed into the existing built environment and satisfies the objectives of WLEP and relevant DCPs.	
(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: Ninety (92) submissions were received and the issues raised are addressed in Attachment 8 of this report.	
(e)	The public interest	
	<ul style="list-style-type: none"> Federal, State and Local Government interests and Community interests 	✓
	Comment: The proposed development is assessed to satisfy relevant controls, and to have acceptable impacts, and therefore is considered to be in the public interest. The affordable housing component and its social implications and benefits has been considered as part of s4.15 assessment.	

ATTACHMENT 10: NOTIFICATION MAP



ATTACHMENT 11: SCHEDULE OF DRAFT CONDITIONS

SCHEDULE 1**Conditions of Consent:** (Including reasons for such conditions)**CONSENT IDENTIFICATION****The following condition provides information on what forms part of the Consent.****1. Approved Plan/Details**

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

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Architectural Drawings	A.010	G	27/11/2024	Architecture Urbaneia
	A.011			
	A.0004	H	18/11/2024	
	A.0005			
	A.0006	I	18/11/2024	
	A.0007			
	A.0008			
	A.023	F		
	A.100	H		
	A.101/ST1	E		
	A.102/ST1			
	A.103/ST1	F		
	A.104/ST1	E		
	A.105/ST1	F		
	A.106/ST1			
	A.107/ST1	E		
	A.108/ST1			
	A.109/ST1			
	A.110/ST1			
	A.111/ST1	D		
	A.111a/ST1	C		
	A.111b/ST1			
	A.111c/ST1			
	A.112/ST2	N	27/11/2024	
	A.113/ST2	L	18/11/2024	
	A.114/ST2	N	27/11/2024	
	A.115/ST2	K	18/11/2024	
	A.116/ST2	I		
	A.117/ST2			
	A.118/ST2			
A.119/ST2				
A.120/ST2				
A.121/ST2				
A.122/ST2				
A.123/ST2	I	18/11/2024		

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
	A.124/ST2	A	8/7/2024	
	A.125/ST2	C	18/11/2024	Architecture Urbaneia
Architectural Drawings	A.151/1	G	8/7/2024	
	A.151/2			
	A.153/1	J	27/11/2024	
	A.154/1	I		
	A.155/1			
	A.156/1	H	18/11/2024	
	A.160			
	A.160A			
	A.161	I	27/11/2024	
	A.162	C	18/11/2024	
	A.163			
	A.164			
	A.166			
	A.167			
	A.168			
	A.169			
	A.170	J	27/11/2024	
	A.171			
	A.172			
	A.173			
	A.174			
	A.175			
	A.176			
	A.177			
	A.178			
	A.179			
	A.179a			
	A.179b			
	A.401	F		
	A.402	B	8/7/2024	
	A.403		27/11/2024	
	A.404		8/7//2024	
	A.405			
	A.406			
	A.407			
	A.407A		A	
	A.407B			
	A.407C			
	A.407D			
	A.408	B	8/7/2024	
	A.409			
	A.410			
	A.411			
	A.411A	A	18/11/2024	
	A.411B			
	A.411D	A	18/11/2024	

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
	A.411C			Architecture Urbaneia
	A.413	B	18/11/2024	
Architectural Drawings	A.414	B	8/7/2024	
	A.414A			
	A.414B			
	A.414C			
	A.414D			
	A.414E	A		
	A.414F			
	A.414G			
	A.415	G		
	A.417	E		
	A.418			
	A.421	G	18/11/2024	
	A.422	A	8/7/2024	
	A.423	E	18/11/2024	
	A.424	B		

- It is a requirement of this condition that a new condition 1A is to be inserted into development consent DA-2021/300 as follows:
- Despite any provision of this development consent DA-2021/300, this consent does not authorise or require anything that is inconsistent with the work approved (as shown clouded in red) in accordance with development consent DA-2024/159 and to the extent of any inconsistency the latter consent applies. The terms of development consent DA-2024/159 must be satisfied when carrying out development under this consent.
- It is a requirement of this condition that a new condition 1B is to be inserted into development consent DA-2021/300 (as modified) as follows:

Despite condition 1A, the development must be implemented in accordance with the following approved plans and documents as amended by conditions of this consent:

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Architectural Drawings	A.010	G	27/11/2024	Architecture Urbaneia
	A.011			
	A.0004	H	18/11/2024	
	A.0005			
	A.0006	I	18/11/2024	
	A.0007			
	A.0008			
	A.023	F		
	A.100	H		
	A.101/ST1	E		
	A.102/ST1			
	A.103/ST1	F		
	A.104/ST1	E		

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by		
	A.105/ST1	F				
	A.106/ST1					
	A.107/ST1	E				
	A.108/ST1					
	A.109/ST1					
	A.110/ST1					
	A.111/ST1	D				
	A.111a/ST1	C				
	A.111b/ST1					
	A.111c/ST1					
	A.112/ST2	N	27/11/2024			
	A.113/ST2	L	18/11/2024			
	A.114/ST2	N	27/11/2024			
	A.115/ST2	K	18/11/2024			
	A.116/ST2	I				
	A.117/ST2					
	A.118/ST2					
	A.119/ST2					
	A.120/ST2					
	A.121/ST2					
	A.122/ST2					
	A.123/ST2	I	18/11/2024			
	A.124/ST2	A	8/7/2024			
		A.125/ST2	C		18/11/2024	Architecture Urbaneia
Architectural Drawings	A.151/1	G	8/7/2024			
	A.151/2					
	A.153/1	J	27/11/2024			
	A.154/1	I				
	A.155/1					
	A.156/1	H	18/11/2024			
	A.160					
	A.160A					
	A.161	I	27/11/2024			
	A.162	C	18/11/2024			
	A.163					
	A.164					
	A.166					
	A.167					
	A.168					
	A.169					
	A.170	J	27/11/2024			
	A.171					
	A.172					
	A.173					
	A.174					
	A.175					
	A.176					
	A.177					

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
	A.178			
	A.179			
	A.179a			
	A.179b			
	A.401	F		
	A.402	B	8/7/2024	
	A.403		27/11/2024	
	A.404		8/7//2024	
	A.405			
	A.406			
	A.407			
	A.407A	A	18/11/2024	
	A.407B			
	A.407C			
	A.407D			
	A.408	B	8/7/2024	
	A.409			
	A.410			
	A.411			
	A.411A	A	18/11/2024	
	A.411B			
	A.411D	A	18/11/2024	
	A.411C			
	A.413	B	18/11/2024	
Architectural Drawings	A.414	B	8/7/2024	Architecture Urbaneia
	A.414A			
	A.414B			
	A.414C			
	A.414D			
	A.414E	A		
	A.414F			
	A.414G			
	A.415	G		
	A.417	E		
	A.418			
	A.421	G	18/11/2024	
	A.422	A	8/7/2024	
	A.423	E	18/11/2024	
	A.424	B		

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. Ausgrid

Ausgrid consents to the above mentioned development subject to the following conditions:-

A	<p>Method of Electricity Connection The method of connection will be in line with Ausgrid's Electrical Standard (ES)1 – 'Premise Connection Requirements.</p>
B	<p>Supply of Electricity It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:</p> <ul style="list-style-type: none"> - The existing network can support the expected electrical load of the development - A substation may be required on-site, either a pad mount kiosk or chamber style and; - site conditions or other issues that may impact on the method of supply. <p>Please direct the developer to Ausgrid's website, www.ausgrid.com.au about how to connect to Ausgrid's network.</p>
C	<p>Streetlighting The developer is to consider the impact that existing streetlighting and any future replacement streetlighting and maintenance may have on the development. Should the developer determine that any existing streetlighting may impact the development, the developer should either review the development design, particular the placement of windows, or discuss with Ausgrid the options for relocating the streetlighting. The relocating of any streetlighting will generally be at the developers cost. In many cases is not possible to relocate streetlighting due to its strategic positioning.</p>
D	<p>Service Mains It appears the existing overhead electricity service mains, that supply the subject property, may not have sufficient clearance to the proposed construction as per the requirements of "The Installation and Service Rules of NSW". It is recommended that the developer engage a Level 2 Accredited Service Provider (ASP) Electrician to ensure that the installation will comply with the Service Rules.</p>
E	<p><u>Proximity to Existing Network Assets</u> Overhead Powerlines There are existing overhead electricity poles and cables along WILLOUGHBY ROAD & WALTER STREET .</p> <p>Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.</p> <p>The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au</p> <p>Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is</p>

	<p>generally at the developers cost.</p> <p>It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.</p>
F	<p>Substation</p> <p>There are 2 proposed substations within the development site along WALTER STREET.</p> <p>The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.</p> <p>In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.</p> <p>Any portion of a building other than a BCA class 10a structure constructed from non combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120. Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a nonignitable blast resisting barrier.</p> <p>The development must comply with both the Reference Levels and the precautionary requirements of the ICNIRP Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields (1 HZ – 100 kHz) (ICNIRP 2010).</p> <p>For further details on fire segregation requirements refer to Ausgrid's Network Standard 141.</p> <p>Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid.</p> <p>For further details refer to Ausgrid's Network Standard 143.</p>
G	<p><u>For Activities Within or Near to the Electricity Easement:</u></p> <p>Purpose Of Easement</p> <p>This easement was acquired for the 11,000 volt distribution assets currently owned and operated by Ausgrid. The purpose of the easement is to protect the distribution assets and to provide adequate working space along the route of the cables for construction and maintenance work. The easement also assists Ausgrid in controlling works or other activities under or near the distribution cables which could either by accident or otherwise create an unsafe situation for workers or the public, or reduce the security and reliability of Ausgrid's network.</p> <p>The Following Conditions Apply for any Activities Within the Electricity Easement:</p> <ol style="list-style-type: none"> 1. All construction works on or near the easement and/or powerlines must adhere to the Safework NSW – Work Near Overhead Powerlines: Code of Practice, 2006 2. Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

	<ol style="list-style-type: none"> 3. Ausgrid is not responsible for the reinstatement of any finished surface within the easement site. 4. Ausgrid requires 24 hour access along the easement for plant and personnel. For the purpose of exercising its rights under the easement, Ausgrid may cut fences and/or walls and install gates in them. Where the easements on a site do not provide practical access to all of Ausgrid's infrastructure, a suitable right of access at least 5m wide must be provided to each asset. 5. Access driveways shall withstand the weight of a heavy rigid truck when fully laden weighing 30 tonne. 6. Access gates, minimum 4.5 metres wide, may be required in all fences crossing the transmission line easement. 7. No vehicles, plant or equipment having a height exceeding 4.6 metres are to be brought into the easement site without written approval from Ausgrid. 8. Vehicles brought into the easement, with a height less than 4.6m but having an extension capable of extending greater than 4.6m above ground, must not have that extension operated at all whilst within the easement. 9. Adequate removable protection must be installed to prevent vehicles inadvertently colliding with the transmission tower. This proposed form of protection must be forwarded to Ausgrid for review and consent. 10. Driveways and other vehicle access must be capable of supporting the heaviest vehicle likely to traverse the driveway without damaging Ausgrid's assets. 11. All metal work within the easement site including metallic fencing, are to be locally earthed by a qualified electrician via a 50 sq. mm stranded copper, insulated earthwire bonded to a copper-clad earthstake driven at least 1.6 metres into the ground. 12. Metallic fencing is generally not permitted to extend away from the easement site unless an insulating section is installed, at least 3 metres wide. This requirement maybe relaxed upon assessment of a supplied fencing design. 13. No buildings/structures or parts thereof constructed may encroach the easement. 14. No machine excavation is permitted within the easement without Ausgrid's express permission. 15. During building construction, adequate controls must be put in place to prevent vehicles and machinery from damaging the Ausgrid assets. 16. Bulk solids (e.g sand and gravels) are not to be stored within the easement area. 17. The storage of non-flammable materials is allowable provided access is maintained along the easement and subject to height limitations of 2.5 metres if climbable or 4.6 metres if not climbable. Lifting of materials within the easement area must consider the clearance requirements given in Safework NSW Code of Practice. 18. The erection of minor structures such as clothes hoists, barbecues, and the like are permitted within the easement site provided they do not exceed a height of 2.5 metres if climbable or 4.6m if not climbable, and the metallic components are earthed. The positioning of such structures should allow a 5m wide vehicular access along the full length of the subject easement area. Ausgrid reserves the right to remove such structures where required for safety, access and maintenance. 19. The flying of kites, model aircraft etc. is not permitted within the easement site.
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	<p>20. The proposed finished ground levels within the easement must provide a minimum of 600mm cover to the 11kV Distribution Cables.</p> <p>21. No fill material or retaining walls are to be placed within the easement without Ausgrid's written approval.</p> <p>22. Any excavation adjacent to the easement must utilise adequate shoring to prevent destabilisation or subsidence of the ground around the LV cable.</p> <p>23. Trees, shrubs, or plants which have root systems likely to grow greater than 250mm below ground level are not permitted within the easement or close to the cable infrastructure. The planting of other vegetation is to ensure Ausgrid's access and maintenance requirements are maintained.</p> <p>24. Trees, shrubs, or plants which have a mature height of greater than 3.0m, or climbable portions greater than 2.5m above ground, are not permitted within the easement. The planting of other vegetation is to ensure Ausgrid's access and maintenance requirements are maintained.</p> <p>25. Electric power should not be connected to the easement site without permission from Ausgrid.</p> <p>26. Electric power should not be connected to the easement site without permission from Ausgrid, however electric power may be run through the easement under the conditions in the following point.</p> <p>27. Any electrical services and metallic telecoms and metallic piping, whilst installed within easement are not to be run parallel with the overhead electricity mains for a combined total distance greater than 50m per service. Any parallel length greater than this will require additional Ausgrid consent when the services design is determined. Fibre communications cable does and plastic or concrete piping does not need to meet this requirement.</p>
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PRIOR TO MAKING AN APPLICATION FOR A CONSTRUCTION CERTIFICATE

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

3. Amendments

Prior to the issue of any relevant Construction Certificate, the following must be shown on the Construction Certificate plans:

- a. Building D – Levels 9 and 10 (units 903, 904, 1003 and 1004) shall be provided with a landscape bed or some other measure along its north-facing balcony to provide an adequate level of privacy to northern neighbours.

Plans detailing these amendments are required to be shown on the relevant Construction Certificate plans.

(Reason: To maintain privacy and amenity to neighbouring properties)

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

4. S7.11 Contribution

Prior to the issue of the Construction Certificate, a monetary contribution is to be paid to in accordance with section 7.11 of *Environmental Planning and Assessment Act, 1979* in the amount of **\$520,000.00** for the purposes of the Local Infrastructure identified in the *Willoughby Local Infrastructure Contributions Plan*.

Active transport and public domain facilities	\$22,176.70
Open space and recreation facilities	\$407,585.10
Plan administration	\$7,684.82
Recoupment - community facilities	\$78,385.84
Recoupment - open space and recreation	\$4,167.54
Total	\$520,000.00

Indexation

The monetary contribution must be indexed between the date of this Development Consent and the date of payment in accordance with the following formula:

$$\frac{5. \quad \$C_o \times CPI_P}{6. \quad CPI_C}$$

Where:

$\$C_o$ = the contribution amount shown in this Development Consent expressed in dollars

CPI_P = the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics (ABS) at the quarter immediately prior to the date of payment

CPI_C = the Consumer Price Index (All Groups Index) for 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.

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)

5. Damage Deposit – Stage 1

Prior to the issue of the Construction Certificate for Stage 1, the applicant shall lodge a Damage Deposit of **\$230,000** (GST Exempt) to Council against possible damage to Council's assets and any infrastructure within the road reserve/footway during the course of the building works. The deposit will be refundable subject to inspection by Council after the completion of all works relating to Stage 1 of the proposed development. For the purpose of inspections carried out by Council Engineers, an inspection fee of **\$176** (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

Total Payable = \$230,000 + \$176 = \$230,176

(Reason: Protection of public asset)

6. Damage Deposit – Stage 2

Prior to the issue of the Construction Certificate for Stage 2, the applicant shall lodge a Damage Deposit of **\$150,000** (GST Exempt) to Council against possible damage to Council's assets and any infrastructure within the road reserve/footway during the course of the building works. The deposit will be refundable subject to inspection by Council after the completion of all works relating to Stage 2 of the proposed development. For the purpose of inspections carried out by Council Engineers, an inspection fee of **\$176** (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

Total Payable = \$150,000 + \$176 = \$150,176

(Reason: Protection of public asset)

7. Temporary Ground Anchors

Obtain written permission from all private property owners affected by any encroachment either below ground or the air space above as a result of any proposed temporary ground anchors prior to issue of the Construction Certificate. Copies of the permission shall be sent to Council. All works associated with the drilling and stressing of the ground anchors shall be installed in accordance with approved drawings. Any temporary ground anchors proposed for the road reserve must be a minimum of 1.5m below the ground level and be distressed and removed on completion of the works. Temporary ground anchors will not be approved in the road reserve adjacent to Willoughby Road.

(Reason: Encroachment of works)

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

Stormwater runoff from the site shall be collected and conveyed to the underground drainage system in Walter Street and Willoughby Road via a 375 mm RCP in accordance with Council's specification. A grated drainage pit (min. 600mm x 600mm) shall be provided within the property and adjacent to the boundary prior to discharging to the Council's drainage system. In this regard, full design and construction details showing the method of disposal of surface and roof water from the site are to be submitted to Council for approval prior to the issue of the Construction Certificate.

(Reason: Prevent nuisance flooding)

9. Analysis of Outlet Condition

A hydraulic grade line analysis shall be undertaken to ensure that the outlet from each OSD tank is above 1%AEP downstream water level. Full engineering details of the hydraulic evaluations prepared and signed by a practising Civil Engineer shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate for each stage.

(Reason: Prevent property damage)

10. Detailed Stormwater Management Plan (SWMP)

Prior to the issue of the Construction Certificate for each Stage, submit to the Certifier for approval, detailed stormwater management plans in relation to the on-site stormwater management and disposal system for the development. The construction drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and generally be in accordance with the concept stormwater management plans, prepared by Calibre – C1-2-00/H, C1-2-01/H, C1-2-02/H, C1-2-03/H, C1-4-20/G, C1-4-21/G, C1-4-30/I, C1-4-60/F all dated 14/10/2022, C2-2-00/I, C2-2-01/I, C2-2-02/I, C2-2-03/I, C2-4-20/H, C2-4-30/J, C2-4-60/H all dated 14/10/2022. All drawings shall comply with Part C.5 of Council's Development Control Plan, Technical Standard 1, AS/NSZ3500.3 – *Plumbing and Drainage Code and National Construction Code*. The pipe network draining to the OSD tank/s shall be designed for the 1%AEP storm event, unless the overland flow path for the system drains to the tank/s. The overflow from the tanks is to be in a visible location and be either through the

access grate in the top of the tank or an overflow weir through the site of the tank. The plans shall incorporate the following:

- For the Stage 1 tank, in addition to the access covers provided on the north side of the tank, an access grate shall be provided in a common area as close to the north side of the tank as possible.
- For the eastern Stage 2 OSD tank (Site 2 Tank 2), access points are to be provided in all four corners of the tank.
- Runoff draining to rainwater tanks is to be from roof areas only, to minimise contamination of stored water.
- The invert level of the orifice is to be flush with the base of the outlet sump / tank floor.
- Minimum of 300mm freeboard between the overflow water level from the OSD tanks and the adjacent floor level.

(Reason: Ensure compliance)

11. Amended Stormwater Plans

Amended stormwater plans must be submitted for approval with the Construction Certificate that demonstrate the following:

- (a) That a maximum of 5% of the impervious area is allowed to bypass the Stage 1 eastern detention tank (OSD1), with the discharge to be confirmed that in the 1%AEP storm event the peak flow leaving the site does not exceed the permitted site discharge (PSD) as detailed in Technical Standard 1.
- (b) To ensure adequate safety and maintenance, OSD Tank 2 must show access points into the tank at the outlet and at the opposite corner of the tank.
- (c) To meet water quality targets in line with DCP Part I, stormwater runoff from all parking areas, driveways or access way are to drain to a treatment train which may include raingardens and/or bioretention basins or equivalent.
- (d) That 300mm freeboard is provided between the overflow grate level in the Stage 1 OSD tank and the adjacent floor level in the building.

The Construction Certificate must not be issued until (a), (b), (c) and (d) above is clearly shown on the drawings. No approved floor levels or post-developed levels are to be altered to achieve these requirements.

12. Basement Pumpout Drainage System

Prior to the issue of the Construction Certificate, the applicant shall submit, for approval by the Certifier, detailed stormwater management plans in relation to the pump-out drainage system. The construction drawings and specifications shall be generally in accordance with the approved stormwater management plans with the following requirements:

- (a) The pumpout drainage system shall comprise with two (2) submersible type pumps. The two pumps shall be designed to work on an alternative basis to ensure both pumps receive equal use and neither remains continuously idle.
- (b) Each pump shall have a minimum capacity of 10L/s or shall be based on the flow rate generated from the 1% Annual Exceedance Probability storm event 5-minutes duration of the area draining into the system, whichever is greater.
- (c) An alarm warning device (including signage and flashing strobe light) shall be provided for the pump-out system to advise the occupant of pump failure. The location of the signage and flashing strobe light shall be shown on the stormwater management plans.
- (d) The volume of the pump-out tank shall be designed with a minimum storage capacity as required by AS/NZS2500.3.

All drawings shall be prepared by a suitably qualified and experienced civil engineer and shall comply with Part C.5 of Council's Development Control Plan, AS/NZS 3500.3 – *Plumbing and Drainage Code* and the National Construction Code.

(Reason: Prevent nuisance flooding)

13. Flood Level

A suitably qualified and experienced civil engineer must certify that the finished floor levels of the proposed development comply with the minimum freeboard requirements of Technical Standard 3 and are in accordance with the recommendations of the Hydrology and Hydraulic Analysis report dated 30 July 2021 prepared by Calibre.

(Reason: Prevent property damage)

14. Construction Management Plan (CMP)

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

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

(Reason: Compliance)

15. Design of Works in Public Road (Roads Act Approval) – Stage 1

Prior to issue of any Construction Certificate for Stage 1 works, the applicant must submit, for approval by Council as a road authority, full design engineering plans and specifications prepared by a suitably qualified and experienced civil engineer for the following infrastructure works:

- (a) Construction of 3.0 metres wide shared path, or narrower width as agreed with Council's Engineers, (max. 2.5% crossfall) towards the kerb for the full Stage 1 frontage of the development site on the north side of Walter Street in accordance with Council's specification and Standard Drawings SD105 and SD100. All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to the applicant. Detailed long section and cross sections at 5 metres interval shall be provided.
- (b) Construction of 1.5 metres wide footpath (max. 2.5% crossfall) towards the kerb for the full Stage 1 frontage of the development site on the south side of Walter Street in accordance with Council's specification and Standard Drawings SD105 and SD100. All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to the applicant. Detailed long section and cross sections at 5 metres interval shall be provided.
- (c) Reconstruction of existing kerb and gutter on both sides of the roadway for the full Stage 1 frontage of the development site in Walter Street in accordance with Council's specifications and Standard Drawing SD105.
- (d) Reconstruction of the full width of the existing road pavement for the full Stage 1 frontage of the development site in Walter Street in accordance with

Council's specifications. The width of the road pavement between kerbs shall be as agreed with Council's Engineering Design Team.

- (e) Construction of a 6.6 metres wide vehicular crossing in Walter Street in accordance with Council's specification and Standard Drawings SD105
- (f) Construction of up to 2 new raised threshold speed humps, in accordance with Council's requirements and any recommendations from the Traffic Committee. The location and number are to be as agreed with Council's Traffic Engineers and Design Engineers
- (g) Construction of new landscape bays / blisters in Walter Street, in accordance with the requirements of Council's Engineering Design Team. The final locations are to be determined in consultation with the Design Team, with the maximum number to be as detailed on the DA approved drawings. The bays are to be constructed with kerb line running around the outer edge, and not as an island with the gutter separating the landscape bay from the nature strip.
- (h) Construction of new stormwater pits and pipes along the northern side of Walter Street, generally in accordance with the stormwater drawings approved in this consent. Final layout of the connection to the Council system at the intersection of Willoughby Road and Walter Street, including possible removal of pits and replacement of pipes, shall be as agreed with Council's Engineering Design and Asset Team and TfNSW requirements. Minimum pipe size is to be 375mm diameter RCP. Detailed longitudinal sections are to be provided for all new pipes.
- (i) Construction of 1.5 metres wide footpath (max. 2.5% crossfall) towards the kerb for the full frontage of the development site in Willoughby Road in accordance with Council's specification and Standard Drawings SD105 and SD100. All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to the applicant. Detailed long section and cross sections at 5 metres interval shall be provided.
- (j) Construction of any kerb ramps required to replace existing or connect new crossings to the new paths. Kerb ramps in Walter Street are to be in accordance with Council standard drawing SD100 and at the intersection with Willoughby Road in accordance with TfNSW requirements.
- (k) Construction of works to prevent vehicles turning right out of Walter Street into Willoughby Road. The extent of any such works are to be agreed with Council's Traffic Engineers and may require a median to direct vehicles to the left.
- (l) Construction of up to 2 pedestrian refuges along Walter Street. The number and location are to be as agreed with Council's Traffic Engineers.
- (m) Any adjustments required to street lighting to suit the new development, including lighting required for the pedestrian refuges to meet current lighting standards for crossings.
- (n) Removal of redundant vehicle crossings in Willoughby Road and construction of new kerb and gutter in accordance with TfNSW requirements
- (o) Any signage and linemarking required by Council's Traffic Engineers or statutory requirements.

The required plans must be designed in accordance with Council's specifications (AUS-SPEC). A minimum of three (3) weeks will be required for Council to assess the *Roads Act* submissions. Following assessment by Council Officers and agreement that the plans are acceptable, approval will be required from the Traffic Committee, which only meets every 1-2 months.

Early submission is recommended to avoid delays in obtaining a Construction Certificate. For the purpose of inspections carried out by Council Engineers, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council prior to issue of the approved plans. Separate approval / concurrence is to be obtained from TfNSW for the removal of laybacks and construction of new kerb and gutter for the redundant vehicle crossings in Willoughby Road and for any works located at the intersection of Willoughby Road and Walter St, including changes to the stormwater drainage system. Final approval from Council will not be obtained until concurrence is obtained from TfNSW.

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

(Reason: Ensure compliance)

16. Design of Works in Public Road (Roads Act Approval) – Stage 2

Prior to issue of any Construction Certificate for Stage 2, the applicant must submit, for approval by Council as a road authority, full design engineering plans and specifications prepared by a suitably qualified and experienced civil engineer for the following infrastructure works:

- (a) Construction of 3.0metres wide shared path (or narrower width as agreed with Council's Engineers) (max. 2.5% crossfall) towards the kerb the north side of Walter Street from the junction with the Stage 1 works to the connection point with the future link to the Gore Hill Freeway shared path, just to the west of 18 Walter Street in accordance with Council's specification and Standard Drawings SD105 and SD100. All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to the applicant. Detailed long section and cross sections at 5 metres interval shall be provided.
- (b) Construction of 1.5 metres wide footpath (max. 2.5% crossfall) towards the kerb on the south side of Walter Street from the junction with the Stage 1 works to the connection point with the future link to the Gore Hill Freeway shared path in accordance with Council's specification and Standard Drawings SD105 and SD100. All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to the applicant. Detailed long section and cross sections at 5 metres interval shall be provided.
- (c) Construction of 1.5 metres wide footpath (max. 2.5% crossfall) towards the kerb on the northern side of Walter Street from the shared path to the western end Walter Street in accordance with Council's specification and Standard Drawings SD105 and SD100. All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to the applicant. Detailed long section and cross sections at 5 metres interval shall be provided.
- (d) Reconstruction of existing kerb and gutter on both sides of the roadway for the full frontage of the development site in Walter Street in accordance with Council's specifications and Standard Drawing SD105. The reconstruction shall include the turning circle at the end of the street, with the adopted radius to be in accordance with the requirements of Council's Traffic Engineers
- (e) Reconstruction of the full width of the existing road pavement for the full frontage of the development site in Walter Street in accordance with Council's specifications. The width of the road pavement between kerbs shall be as agreed with Council's Engineering Design Team.

- (f) Construction of a 7.0 metres wide vehicular crossing in Walter Street in accordance with Council's specification and Standard Drawings SD105
- (g) Reconstruction of the existing vehicle crossings on the south side of Walter Street, to suit the new works.
- (g) Construction of new landscape bays in Walter Street, in accordance with the requirements of Council's Engineering Assets Team. The final locations are to be determined in consultation with the Assets Team, with the maximum number to be as detailed on the DA approved drawings. The bays are to be constructed with kerb line running around the outer edge, and not as an island with the gutter separating the landscape bay from the nature strip.
- (i) Construction of new stormwater pits and pipes along the northern side of Walter Street, generally in accordance with the stormwater drawings approved in this consent. Minimum pipe size is to be 375mm diameter RCP. Detailed longitudinal sections are to be provided for all new pipes.
- (j) If required by Council's Traffic Engineers, construction of 1 new raised threshold speed hump, in accordance with Council's requirements and any recommendations from the Traffic Committee. The location and need are to be as agreed with Council's Traffic Engineers and Design Engineers
- (k) Construction of 1 pedestrian refuges along Walter Street. The location is to be as agreed with Council's Traffic Engineers, but will be in line with the connection point for the future shared path link to the Gore Hill Freeway shared path.
- (l) Construction of new kerb ramps as required to suit new pedestrian refuges and path links. Kerb ramps are to be in accordance with Council standard drawing SD100
- (m) Any signage and linemarking required by Council's Traffic Engineers or statutory requirements.
- (n) Any adjustments required to street lighting to suit the new development, including for an new pedestrian refuges.

The required plans must be designed in accordance with Council's specifications (AUS-SPEC). A minimum of three (3) weeks will be required for Council to assess the *Roads Act* submissions. Following assessment by Council Officers and agreement that the plans are acceptable, approval will be required from the Traffic Committee, which only meets every 1-2 months. Early submission is recommended to avoid delays in obtaining a Construction Certificate. For the purpose of inspections carried out by Council Engineers, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council prior to issue of the approved plans.

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

(Reason: Ensure compliance)

17. Driveway Longsection

Prior to issue of the Construction Certificate for each Stage and in order to assess the susceptibility of vehicles to scraping as they pass over the proposed access driveway the applicant shall submit longitudinal sections for approval by the certifying authority along each side of the proposed vehicular access path drawn at 1:20 Scale. The longitudinal sections shall include the following: -

- (a) Horizontal distance from the centreline of the road to the proposed parking slab, including provision of Council's standard layback as per Council's standard drawing SD105 which is available from Council's website. Council's standard layback is 500mm wide and back of layback is 100mm above the gutter invert.
- (b) Both existing and proposed levels (in AHD) and gradients represented in percentage (%) of the vehicular crossing and driveway.
- (c) Crossfall on road pavement shall be shown on long sections.

The design shall be prepared by a suitably qualified civil engineer using Council's standard vehicle profile (SD100). All driveway grades and transitions shall comply with AS/NZS 2890.1-2004 and Council's specifications.

The new crossing for Stage 1 is to be 6.6 metres wide with no splays and be constructed at right angle to street kerb and the new crossing for Stage 2 is to be 7.0m wide and be constructed at right angle to street kerb. The footpath which forms part of the proposed crossing shall have a maximum crossfall of 2.5% towards the kerb. For the design levels of the vehicular crossing at the property boundary, the following shall be complied with, unless written approval is gained from Council for alternate levels:

- (a) At back of layback – 100 mm above and parallel to the gutter invert.
- (b) At property boundary – 150mm minimum above and parallel to the gutter invert
- (c) Crest of driveway – At or above the PMF level

The suitability of the grade of driveway inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.
(Reason: Safe vehicular access)

18. OSD/Rainwater Tank Design

The design of all rainwater/OSD tanks shall comply with the requirements of the NSW Work Health and Safety Regulation 2017, to minimise risks associated with confined spaces. The design shall also consider "Safety in Design" requirements. Prior to issue of a Construction Certificate, a suitably qualified person shall certify that the design meets these requirements.
(Reason: Safe access to tanks)

19. Vehicle Access and Manoeuvring – Engineer's Certification

Prior to the issue of the Construction Certificate for each stage, the Applicant shall submit, for approval by the Principal Certifier, certification from a suitably qualified and experienced Traffic Engineer relating to the design of vehicular access and manoeuvring for the stage of the development. This certification must be based on the architectural drawings and the structural drawings, and must make specific reference to the following:

- (a) That finished driveway gradients and transitions comply with AS/NZS 2890.1 and AS 2890.2 and will not result in scraping to 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. All driveway grades shall comply AS/NZS 2890.1 and AS 2890.2.
- (c) That the proposed vehicular path and parking arrangements comply in full with AS/NZS 2890.1, AS 890.2 and AS/NZS 2890.6 in terms of minimum dimensions provided, aisle and circulation road widths and grades on parking spaces.
- (d) That visitor parking spaces comply with the requirements of Class 2 Medium

Term Parking in AS/NZS 2890.1.

- (e) That the headroom clearance of minimum 2.2 metres between the basement floor and any overhead obstruction (including overhead services) is provided for compliance with Section 5.3.1 of AS/NZS 2890.1 and Section 2.4 of AS/NZS 2890.6.
- (f) That the headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities for compliance with Section 2.4 of AS/NZS 2890.6.
- (g) That shared areas are provided for all disabled and accessible parking spaces in compliance with AS/NZS 2890.6. A bollard shall be located in the shared zone in accordance with AS/NZS 2890.6.
- (h) That the headroom clearance of 4.1m has been provided for the loading area and the path to and from the loading area.
- (i) Simultaneous manoeuvring of B99 and B85 vehicles at all ramps and ramp ends including the clearance lines 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 clearance in accordance with AS2890.1 and AS2890.2, is provided.
- (k) That the sight lines to pedestrians required by Clause 3.2.4(b) of AS/NZS2890.1 are provided

(Reason: Ensure compliance)

20. Finish Surface Levels Along the Street Boundary

Prior to the issue of a Construction Certificate, finished surface levels for all internal works along the street boundary, including floor levels, driveways, car spaces, landscaping, drainage structures etc., must be shown on the plans issued for construction. The development's internal surface levels along the street boundary must be consistent with the public domain civil works plans approved by Council under the *Roads Act (1993)*. Any changes required to the finish floor levels approved under this development consent may require an application under S4.55 of the EP&A Act.

(Reason: Ensure compliance)

21. Internal Noise Levels Residential

To minimise the noise intrusion from any external noise source, all new building work shall be designed and constructed to comply with recommendations expressed in the Noise Impact Assessment (Addendum Noise Impact Assessment, Report No. 20240287.1/0507A/R1/SW, 5 July 2024), in addition to the following criteria with windows and doors closed:

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

Note:

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

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

(Reason: Amenity, environmental compliance and health)

22. Construction Traffic and Transport Management Plan

Prior to issue of the Construction Certificate, a detailed Construction Traffic and Transport Management Plan (CTMP) shall be prepared to ensure safe and efficient movement to/ from the construction site (site) and the closest State Road by motor vehicles including buses, cars, motor bikes, emergency vehicles, trucks and heavy vehicles; and for pedestrians and bicycles moving to/ from and past the site (collectively referred to as traffic). The CTMP must be approved by the Principal Certifier and submitted to Council for registration. The CTMP shall:

- (a) Be prepared by a suitably qualified and experienced traffic engineering consultancy. The traffic consultancy should hold, or contract a traffic control company with, a valid *Prepare Work Zone Traffic Management Plans* (PWZTMP) traffic control qualification in TfNSW's Traffic Control at Work Site Technical Manual. The personnel used must have undertaken refresher training in PWZTMP competency in the preceding two years from the date of qualification.
- (b) Be prepared in accordance with the current version of Austroads Guide to Traffic Management, Austroads Guide to Road Safety, Austroads Guide to Temporary Traffic Management, Australian Standard AS1742 Manual of Uniform Traffic Control Devices, TfNSW's Supplement to Australian Standard, TfNSW's Traffic Control at Work Site Technical Manual and TfNSW Traffic Modelling Guideline.
- (c) Identify and demonstrate that the pedestrian, bicycle and motor vehicle ingress and egress locations at the site are designed / managed/ operated in accordance with relevant standards, policies and guidelines and eliminate and minimise hazards and risks to maximise safety, amenity and mobility to site users and those moving past the site on the adjacent road and pathways.
- (d) Identify and describe the Council and TfNSW managed road network (road network) to be used by motor vehicles and pathway network to be used by pedestrians and bicycles generated by the site. Document and explain the administrative and functional classifications, interchanges i.e. bus stops, rail stations etc, types of user and management of the existing road and pathway networks.
- (e) Provide information on the existing operational performance of the road network including level of service, delays, queues for weekday morning and afternoon peak periods and, when requested by Council, other times of high traffic demand. The performance information should be sourced using industry standard and accepted data collection techniques and systems and traffic modelling tools such as SIDRA.
- (f) Identify and explain all construction methodology with a focus on site operation, generation and distribution of traffic on the road and pathway network. In situations where the construction methodology involves a subdivision of the site, this arrangement should be explained. The start/ end dates for each stage should be provided. Staging of each location and overlap of works across locations including duration and traffic demands should be explained. In circumstances where additional operational arrangements are also occurring on the site, this situation should also be explained and the pedestrian, bicycle and motor vehicle generation and movement determined.

- (g) Identify and explain all construction related motor vehicle generation, type, times of movement and routes to/ from the site for all construction phases including spoil removal, materials delivery and suppliers/ workers visiting and working on the site. The route chosen for heavy vehicle movement between the site and the State Road network should be the safest, least impact on the amenity of residents and most direct to the nearest intersection with a State Road.
- (h) Provide information on the forecast operational performance of the road network including level of service, delays, queues for weekday morning and afternoon peak periods and, where necessary, other times of high traffic demand during the construction period based on the construction methodology. The performance information should be sourced using industry standard and accepted data collection techniques and traffic modelling tools such as SIDRA.
- (i) Analyse, compare and assess the existing and forecast operational performance during the construction period. Identify and explain the change in operational performance including those intersections that have a worsening in operational performance during the construction period and stages therein.
- (j) Demonstrate that all heavy vehicles generated by the site will travel on the road network safely and in compliance with the NSW road rules.
- (k) Identify and explain management arrangements so that all construction related motor vehicles park on the site or in designated approved locations on the public roads adjacent to the site i.e. approved Work Zone. Identify and explain operational and mitigation measures to be implemented so that no or minimal construction related vehicles such as worker motor cars park or queue on the public road network.
- (l) Detail and explain all proposed changes to the public road network that will be in place for the duration, or for a significant period of time, during the construction period to support the construction methodology including, if desired, Work Zone provision, and to maintain a safe road and pathway network with an acceptable operational performance. Short term changes involving implementation and removal of a temporary change for one day only are addressed elsewhere in the CTMP. All regulatory parking, traffic control and traffic management changes to the road and pathways will require Council approval.
- (m) Detail and explain all construction related impacts to pathways including pedestrian footpaths and bicycle facilities such as bicycle lanes and shared paths. Identify and explain mitigation measures to maintain a safe and continuous connection for these vulnerable road users. All regulatory parking, traffic control and traffic management changes to the road and pathways will require Council approval.
- (n) Provide a schedule of short term temporary traffic changes (changes typically implemented and removed in one day only), relevant Council permit, times and dates of changes and accompanying *Work Zone Traffic Management Plan*. Road closures shall be the subject of approval from Council.
- (o) Public information and campaigns to be used to inform road users, residents, businesses, emergency services, public transport operators of any long term changes or temporary full road closures on the local road network well in advance of each change.
- (p) Nominate a contact person who is the owner of the CTMP and has authority without reference to other persons to change the CTMP to comply with instructions issued by Council's Safe City or the NSW Police.

(Reason: Public safety and amenity)

23. Road, Safety, Traffic and Active Transport Works

Prior to issue of the Construction Certificate, any proposed road safety, traffic management, intelligent transport system and road infrastructure changes to the carriageway and footways on a public road such as road widening, a new roundabout, pedestrian refuge, footpaths shall be referred to the Traffic Committee for consideration and Council for approval.

Traffic control signal designs and construction will be referred to Transport for New South Wales (TfNSW) for approval.

All work shall be designed in accordance with Council policies and guidelines, Austroads guidelines, Australian Standards, TfNSW policies, Technical Directives and Guidelines.

(Reason: Public safety and amenity)

24. Safety Road Works at the intersection of Willoughby Road and Walter Street

Prior to the issue of the Construction Certificate, detailed design plans and associated technical reports for the intersection of Willoughby Road and Walter Street outlining road safety, traffic management and road infrastructure changes such as concrete islands, refuge islands, regulatory signs and pavement markings to ensure the following traffic and pedestrian operations is self-enforcing is provided to Council:

- All motor vehicles that enter Walter Street from Willoughby Road and exit Walter Street to Willoughby Road do so in left turn movement only at all times.
- Right turn movements from Willoughby Road, southbound, into Walter Street and Walter Street, eastbound, into Willoughby Road are denied at all times.
- Pedestrians walking and bicyclists riding along Willoughby Road are able to safely wait within the carriageway of Walter Street and walk and ride across Walter Street in 2 stages.

The detailed design plans shall be referred to the Traffic Committee for consideration and Council for approval.

The detailed design plans shall be referred to Transport for NSW for consideration and approval should the road works impact on the design and operation of Willoughby Road.

The detailed design plans must integrate and seamlessly connect to the detailed design plans for Walter Street to ensure safe and effective pedestrian and traffic movement at all times.

All work shall be designed in accordance with Council policies and guidelines, Austroads guidelines, Australian Standards, TfNSW policies, Technical Directives and Guidelines.

Construction of all road works must be completed prior to occupation of the development to the satisfaction of Council. Operation of the road works must be to the satisfaction of Council.

(Reason: Public safety and traffic management)

25. Road and Traffic Management Works in Walter Street

Prior to the issue of the Construction Certificate, detailed design plans and associated technical reports for the road widening, traffic and pedestrian management of Walter Street between, and including, the intersection of Willoughby Road and Walter Street and the cul-

de-sac at the western end of Walter Street outlining road safety, traffic management and road infrastructure changes such as road widening, traffic lanes, shared path, footpath, refuge islands, regulatory signs and pavement markings etc to ensure the following traffic and pedestrian operations is self-enforcing is provided to Council:

- Two trafficable lanes are available at all times, separate from parking lanes, comprising one eastbound and one westbound traffic lane.
- Parking lanes are provided on both sides of the road.
- Pedestrian refuge islands are located away from driveways and provide safe crossing points to cross Walter Street.
- Shared path and nature strip is provided on the northern side of the road.
- Footpaths and nature strip is provided on the southern side of the road.

The detailed design plans must integrate and seamlessly connect to the detailed design plans for the intersection of Willoughby Road and Walter Street to ensure safe and effective pedestrian and traffic movement at all times.

The detailed design plans shall be referred to the Traffic Committee for consideration and Council for approval.

All work shall be designed in accordance with Council policies and guidelines, Austroads guidelines, Australian Standards, TfNSW policies, Technical Directives and Guidelines.

Construction of all road and traffic management works must be completed prior to occupation of the development to the satisfaction of Council. Operation of the road and traffic management works must be to the satisfaction of Council.

(Reason: Public safety and traffic management)

26. Sydney Water ‘Tap In’

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

An approval receipt will need to be obtained prior to release of the Construction Certificate.

(Reason: Ensure compliance)

27. Adaptable Units

A total of 104 adaptable unit (which equates to 56% of the total number of units) shall be provided, and sixty-nine (69) accessible spaces compliant with AS 2890.6 shall be made appurtenant to these adaptable units, in accordance with Drawing A.011 Rev G, plot dated 27.11.2024 by Architecture Urbaneia.

(Reason: Compliance, versatile building design)

28. Affordable Housing Fittings and Finishes

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

(Reason: Amenity)

29. Fibre-Ready Facilities and Telecoms Infrastructure

Prior to the issue of a Construction Certificate, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifier that arrangements have been made for:

- a. The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.
and
- b. The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note: *Real estate development project* has the meanings given in section 372Q of the *Telecommunications Act*).

(Reason: Compliance)

30. Acoustic Report

Prior to the issue of a Construction Certificate, the applicant must notate on the Construction Certificate plans that the Acoustic Report (Ref 20240287.1 dated 19.11.2024) prepared by Acoustics Logic, will be fully complied with.

(Reason: Compliance)

31. BCA Report

Prior to the issue of a Construction Certificate, the applicant must notate on the Construction Certificate plans that the BCA Report (Ref 230359 Statement dated 28 November 2024) prepared by Credwell, will be fully complied with. The Performance Solutions identified in Performance based Consulting (Ref: SYD000866-LTR01-D, dated 27.11.2024) must be provided with the Construction Certificate.

(Reason: Compliance)

PRIOR TO COMMENCEMENT OF WORK PERTAINING TO DA-2024/159

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.

32. Site Management

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

- (a) Details and contact telephone numbers of the owner, builder and developer;
- (b) Location and construction details of protective fencing to the perimeter of the site;
- (c) Location of site storage areas, sheds and equipment;

- (d) Location of stored building materials for construction;
- (e) Provisions for public safety;
- (f) Dust control measures;
- (g) Site access location and construction;
- (h) Details of methods of disposal of demolition materials;
- (i) Protective measures for tree preservation;
- (j) Provisions for temporary sanitary facilities;
- (k) Location and size of waste containers and bulk bins;
- (l) Soil and Water Management Plans (SWMP); comprising a site plan indicating the slope of land, access controls, location and type of sediment controls and storage/control methods for material stockpiles;
- (m) Construction noise and vibration management.

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

(Reason: Environment protection, public health and safety)

33. Permits and Approvals Required

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

- (a) Permit to erect Builder's hoarding where buildings are to be erected or demolished within 3.50m of the street alignment. Applications are to include current fees and are to be received at least 21 days before commencement of the construction.
- (b) Permit to stand mobile cranes and/or other major plant on public roads. Applications are to include current fees and security deposits and are to be received at least seven days before the proposed use. It should be noted that the issue of such permits may also involve approval from the NSW Police Force and TfNSW (RMS). A separate written application to work outside normal hours must be submitted for approval.
It should also be noted that, in some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.
- (c) Permit to open public roads, including footpaths, nature strip, vehicular crossing or for any purpose whatsoever. All applications are to include current fees.
- (d) Permit to place skip/waste bin on footpath and/or nature strip. (Maximum three (3) days).
- (e) Permit to work and/or place building materials on footpath and/or nature strip. (Maximum two (2) weeks).
- (f) Permit to establish Works Zone on Public Roads adjacent to the Development including use of footpath area. Applications must be received by Council at least twenty-one days prior to the zone being required. The application will then

be referred to the Council's Local Traffic Committee for approval, which may include special conditions.

- (g) Permit to construct vehicular crossings over Council's footpath, road or nature strip.

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

(Reason: Legal requirements)

34. Application for Vehicle Crossing

Submit an application with fees to Council for the construction of a plain concrete vehicular crossing for each stage.

(Reason: Protection of public asset)

35. Adjustment to Street Lighting

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

(Reason: Public amenity)

36. Underground Utility Services

Where excavation is proposed, locate and establish the size and levels of all utility services in the footpath and road reserve. Contact "Dial Before You Dig" Service" prior to commencement of any works.

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

(Reason: Protection of utilities)

37. Licensee Details

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

(Reason: Information)

DURING DEMOLITION, EXCAVATION AND CONSTRUCTION

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

38. Hours of Work

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

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

If a variation to these approved hours for multiple or extended periods is sought, an application under Section 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)

39. Building Site Fencing

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

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

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

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

40. Provide Erosion and Sediment Control

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

(Reason: Environmental protection)

41. Suitable Screens

In the event of likely emission of dust, noise, waste water or other matter, suitable screens shall be erected during demolition and building work to prevent their emission from the site.
(Reason: Maintain amenity to adjoining properties)

42. Suitable Barricades

Suitable barricades shall be erected during building works on Councils footpath and where directed by the Certifier and/or Council to protect pedestrians using the footpath.

(Reason: Public safety)

43. Demolition Work AS 2601-2001

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

(Reason: Safety)

44. Silencing Devices

Sound attenuating devices shall be provided and maintained in respect of all power-operated plant used during demolition, excavation, earth works and the erection of the structure.

(Reason: Maintain amenity to adjoining properties)

45. Suitable Footpath Crossing Provided

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

(Reason: Protection of public safety)

46. Access to Site

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

(Reason: Environmental protection)

47. Wash Down and Shaker Areas

During Demolition, Excavation and Construction, wash down and shaker areas are to be provided with facilities for the collection and treatment of waste water.

(Reason: Environmental protection)

48. Rock Hammering/Sawing

Having regard to the residential nature of surrounding area rock sawing is to be used in preference to rock hammering during the excavation/construction phase of the development.

(Reason: Amenity)

49. Survey Certificate

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

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

(Reason: Ensure compliance)

50. Road and Footpath

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

(Reason: Maintain public safety)

51. No Storage or Parking on Footway/Nature Strip

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

Further, the parking of motor vehicles on footpaths, nature strips and cross overs and unloading vehicles while double parked or otherwise unsafely parked is not permitted. All vehicles are required to be parked legally and safely

(Reason: Safety)

52. Skips and Bins

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

(Reason: Safety)

53. Excavations and Backfilling

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

(Reason: Safety)

54. Excess or Waste Concrete

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

(Reason: Environmental protection)

55. Temporary Toilet Facilities

Temporary toilet facilities shall be provided to the satisfaction of the Certifier.

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

(Reason: Health and amenity)

56. Erection Wholly within the Boundaries

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

(Reason: Ensure compliance)

57. Temporary Ground Anchors – Supervision

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

58. Sweep & Clean Pavement

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

(Reason: Legal requirement)

59. Street Signs

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

(Reason: Protection of public assets)

60. Maintenance of Nature Strip

Where a nature strip and/or footpath is located directly adjacent to the property, the nature strip must be maintained during the construction period to ensure the turf/ vegetation is no higher than 75mm in height and the public footpath is kept free of all rubbish, weeds and debris to ensure safe public access.

(Reason: Public amenity and safety)

61. Inspection of Drainage Connection to Council's Drainage Line

The connection of the site stormwater drainage system to the Council drainage system shall be inspected by Council's Engineer when the pipes are exposed, prior to backfill, and it is possible to confirm that the connection complies with Council's requirements. The inspection must be booked via telephone with Council's Engineer and a minimum of 48hours notice provided. For the purpose of inspections carried out by Council Engineer, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council.

(Reason: Ensure compliance)

62. Survey Certificate

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

- a. At each level indicating the level of that floor to Australian Height Datum;
- b. Upon completion of the roof framing, before the roofing is laid, indicating the ridge height to Australian Height Datum;
- c. At roof slab level indicating the level of that slab to Australian Height Datum;
- d. At completion indicating the relation of the building and any projections to the boundaries, and that the building has been erected to the levels approved in the Development Application.

(Reason: Ensure compliance)

63. Loading and Unloading During Construction

The following requirements apply:

All loading and unloading associated with construction must be accommodated on site.

The structural design of the building must permit the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.

If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.

In addition to any approved Works Zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.

If a Works Zone is warranted an application must be made to Council prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need of the site for such facility at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

Application for a Works Zone must be submitted to Council a minimum 8 weeks prior to being required. Works application form is available on the City's Website.

(Reason: Public safety and amenity)

PRIOR TO OCCUPATION OF THE DEVELOPMENT

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

64. Surface Water Runoff

Prior to the issue of the Occupation Certificate and in perpetuity, surface water runoff from new paved areas shall be directed away from neighbouring properties and disposed of to the satisfaction of the Certifier.

(Reason: Health and amenity)

65. BASIX Certificate

Prior to the issue of the relevant Occupation Certificate, a completion certificate is to be submitted to the Certifier demonstrating the manner in which the measures committed to in the latest BASIX Certificate have been satisfied.

(Reason: Environmental sustainability)

66. Sustainable Development - Multi-unit Dwellings

Prior to the issue of the Whole Occupation Certificate for the multi occupancy, a Sustainability manual is to be prepared which details all the environmental incentives outlined in the scorecard and ongoing provision and maintenance of these measures. The manual shall be provided to each unit in the development.

(Reason: Environmental sustainability)

67. Access for the Disabled - Disability Discrimination Act

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

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

(Reason: Access and egress)

68. Fire Safety Certificate Forwarded to NSW Fire and Rescue

Prior to the issue of any Occupation Certificate and upon completion of the building work, a Fire Safety Certificate shall be furnished by the owner to Council, and the owner must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be forwarded to the Commissioner of New South Wales Fire and Rescue, and must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building in accordance with *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* in respect to each essential fire safety measure included in the Schedule attached to the Construction Certificate.

(Reason: Safety)

69. State Survey Marks

Prior to the issue of a Whole Occupation Certificate for each Stage, the Applicant shall reinstate any State/Permanent Survey Marks disturbed by works to the specification of the Land and Property Management Authority, including the following marks:

- PM22119 on Walter Street
- SS36598 on Walter Street
- PM22116 on Walter Street

A copy of the Location Sketch Plan of PM/SSM including reduced level (AHD) shall be submitted by a registered Surveyor. The degree of horizontal and vertical accuracy shall be acceptable to the NSW Land Registry Services.

(Reason: Public amenity)

70. Temporary Ground Anchors – Destressing

Prior to the issue of any 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)

71. Stormwater Runoff from Upstream Lots

Prior to the issue of any Occupation Certificate, if necessary to divert upstream flows around the site, provide an interceptor drainage system to capture and convey all stormwater runoff from the upstream neighbouring property to the Council or public drainage system. The drainage system is to comprise suitable inlet pits, grated drains, pipes and channels and is to be designed in accordance with Part C.5 of the Council's WDCP. This drainage system is to be designed for storm events up to and including the 1%AEP storm event.

(Reason: Prevent nuisance flooding)

72. CCTV Report of Council Pipe System After Work

Prior to the issue of an Occupation Certificate for Stage 1 and Stage 2 works, a qualified practitioner, with qualifications/training in accordance with Water Services Association of Australia WSA05-2013 Conduit Inspection Reporting Code of Australia Version 3.1, shall undertake a closed circuit television (CCTV) inspection and then report on the condition of the new stormwater drainage pipes constructed in the road reserve, including along the north side of Walter Street. No person is to enter any Council stormwater conduit without written approval from Council. The camera and its operation shall comply with the following: -

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

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council. Any damage that has occurred to the section of the pipeline since the commencement of any works on the site or any works that do not meet Council's requirements shall be repaired in full to the satisfaction of Council at no cost to Council, which may include full reconstruction. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier.
(Reason: Ensure compliance and protection of public asset)

73. Inspection of Drainage Connection to Council's Drainage Line

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

74. On-site Water Management System

Prior to the issue of any Occupation Certificate, the stormwater runoff from the site shall be collected and disposed of via an approved OSD and water quality improvement system in accordance with Sydney Water's requirements AS/NZS3500.3, Council's DCP and Technical Standards. The construction of the stormwater drainage system of the proposed development shall be in accordance with the approved detailed stormwater drawings required under this development consent and Council's specification (AUS-SPEC). The system shall include an OSD system for all impervious areas in accordance with the requirements of Technical Standard 1. The drainage system is to ensure that existing sub-catchment drainage areas are to be maintained and no additional areas diverted away from their existing sub-catchments.
(Reason: Prevent nuisance flooding)

75. Sign for OSD System

Prior to the issue of any Occupation Certificate pertaining to any works requiring an On-Site

Detention System, an aluminium plaque measuring no less than 400mm x 200mm is to be permanently attached and displayed within the immediate vicinity of the OSD Tank/s.

The wording for the plaque shall state *“This is the on-site stormwater detention system required by Willoughby City Council. It is an offence to alter any part of the system without written consent from Council. The registered proprietor shall keep the system in good working order by regular maintenance including removal of debris”*.

(Reason: Prevent unlawful alteration)

76. Confined Space Sign

Prior to the issue of any Occupation Certificate, securely install standard confined space danger signs in a prominent location within the immediate vicinity of access points to on site stormwater detention systems, rainwater tanks and confined spaces in accordance with the requirements of NSW Work Health and Safety Regulation 2017.

(Reason: Safe access to tank)

77. Certification of OSD

Prior to the issue of an Occupation Certificate for Stage 1 and Stage 2 works, a suitably qualified and experienced civil engineer (generally CP Eng. Qualification) shall certify on Council's standard certification form that the as-built OSD system is in accordance with the approved plans and complies with Council's DCP and Technical Standards. Council's standard certification form is available in the appendix of Council's Technical Standard No. 1.

(Reason: Legal requirement)

78. Certification of the Basement Pumpout Drainage System

Prior to the issue of an Occupation Certificate for Stage 1 and Stage 2 and upon completion of the pump-out system, the following shall be submitted to the Certifier.

- (a) A suitably qualified and experienced civil engineer (generally CP Eng. Qualification) shall certify that the as-built pumpout system complies with Part C5 of Council's DCP, all relevant codes and standards and the approved stormwater management plans.
- (b) Work-as-executed plans based on the approved pump-out system plans from a registered surveyor to verify that the volume of storage and pump capacity are in accordance with design requirements. Any minor changes or variations to the approved plans should be highlighted in red on the approved pump-out system plans.
- (c) Certification from a licensed plumber to ensure that the constructed pump-out system complies with the current plumbing requirements of Sydney Water and AS/NZS3500.3.

(Reason: Ensure compliance)

79. Works-As-Executed Plans - OSD

Prior to the issue of an Occupation Certificate for Stage 1 and Stage 2 works and upon completion of the OSD System, the following shall be submitted to the Certifier:

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

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

(Reason: Record of works)

80. S88B/S88E(3) Instrument

Create Positive Covenant and Restriction on the Use of Land on the Title in favour of Council as the benefiting authority for the as-built on-site stormwater detention (OSD) system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council's Technical Standards.

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

Documentary evidence of registration of these instruments with the NSW Land Registry Services shall be submitted to the Certifier and Council prior to issue of any Occupation Certificate.

(Reason: Maintenance requirement)

81. Documentary Evidence of Positive Covenant, Engineers Certificate

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

- (a) Registered Positive Covenant and Restriction on the Use of Land by way of the Title Deed.
- (b) Certification from a suitably qualified and experienced civil engineer (generally CP Eng. Qualification) for the as-built OSD system.
- (c) Work-as-Executed plans highlighting in red any variations based on the approved stormwater management plans from a registered surveyor for the as-built OSD system.

(Reason: Public record)

82. Construction of Kerb & Gutter – Stage 1

Prior to the issue of an Occupation Certificate for Stage 1 works, construct new kerb and gutter on both sides of Walter Street in accordance with Council's specification for the full frontage of the development site in Walter Street.

(Reason: Public amenity)

83. Construction of Kerb & Gutter – Stage 2

Prior to the issue of an Occupation Certificate for Stage 2 works, construct new kerb and gutter on both sides of Walter Street in accordance with Council's specification for the full frontage of the development site in Walter Street.

(Reason: Public amenity)

84. Reconstruct Pavement – Stage 1

Prior to the issue of an Occupation Certificate for Stage 1, reconstruct the full width of road pavement in Walter Street for the full frontage of the development site. The width between kerbs shall be as agreed with Council's Traffic Engineers. The works shall be reconstructed in accordance with Council's approved drawings, conditions and specification (AUS-SPEC). Council's standard design traffic for this pavement is 6×10^4 ESA.

(Reason: Ensure compliance)

85. Reconstruct Pavement – Stage 2

Prior to the issue of an Occupation Certificate for Stage 2 works, reconstruct the full width of road pavement in Walter Street for the full frontage of the development site. The width between kerbs shall be as agreed with Council's Traffic Engineers. The works shall be reconstructed in accordance with Council's approved drawings, conditions and specification (AUS-SPEC). Council's standard design traffic for this pavement is 6×10^4 ESA.

(Reason: Ensure compliance)

86. Concrete Footpath – Stage 1

Prior to the issue of an Occupation Certificate for Stage 1, construct:

- (a) A 1.5m wide concrete footpath for the full frontage of the development site in Willoughby Road .
- (b) A 3.0m wide concrete shared path (or narrower width if agreed with Council's Engineers) on the northern side of the street for the full frontage of the development site in Walter Street .
- (c) A 1.5m wide concrete footpath on the southern side of the street for the full frontage of the development site in Walter Street .

All works shall be carried out in accordance with Council's standard specifications and drawings.

(Reason: Public amenity)

87. Concrete Footpath –Stage 2

Prior to the issue of an Occupation Certificate for Stage 2, construct:

- (a) A 3.0m wide concrete shared path (or narrower width if agreed with Council's Engineers) on the northern side of Walter Street from the Stage 1 shared path to the connection point to the future link to the Gore Hill Freeway shared path .
- (b) A 1.8m wide concrete footpath on the northern side of Walter Street from the shared path to the western end of the street .
- (c) A 1.5m wide concrete footpath on the southern side of Walter Street from the Stage 1 path to the connection point to the future link to the Gore Hill Freeway shared path.

All works shall be carried out in accordance with Council's standard specifications and drawings.

(Reason: Public amenity)

88. Street Lighting and Furniture

Prior to the issue of an Occupation Certificate for Stage 1 and 2, upgrade the street lighting in

Walter Street as required to suit the works constructed. For any new pedestrian refuges, lighting requirements are to be in accordance with the relevant standards.
Reason: Public amenity and safety)

89. Vehicular Crossing

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

The crossing for Stage 1 is to be 6.6 metres wide with no splays and is to be constructed at right angles to the street kerb in plain concrete. The new crossing shall be located no closer than 1 metre from any power pole and 2 metres from any street tree unless otherwise approved by Council.

The crossing for Stage 2 is to be 7.0 metres wide with no splays and is to be constructed at right angles to the street kerb in plain concrete. The new crossing shall be located no closer than 1 metre from any power pole and 2 metres from any street tree unless otherwise approved by Council.

For the design levels of the vehicular crossing at the property boundary, the following shall be complied with unless written approval is gained from Council for alternate levels:

- (a) At back of layback – 100 mm above and parallel to the gutter invert.
- (b) At property boundary – As per approved public domain drawings and 150 mm minimum above and parallel to the gutter invert.

The footpath which forms part of the proposed crossing shall have a maximum crossfall of 2.5% towards the kerb.

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

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

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

(Reason: Public amenity)

90. Removal of Redundant Crossings

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

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier prior to issue of any

Occupation Certificate.
(Reason: Public amenity)

91. Inspection of Civil Works on Road Reserves

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

Pursuant to Section 138 of the *Roads Act 1993*, all works carried out on the road reserve shall be inspected and approved by Council's Engineer. Upon completion, Work-as-Executed drawings prepared by a registered surveyor shall be submitted to Council for record purposes. A completion certificate shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier prior to the issue of any Occupation Certificate. Where TfNSW has provided concurrence for works, evidence will be required to be supplied to Council to confirm that TfNSW has approved the constructed works prior to the issue of any Completion Certificate.

(Reason: Ensure compliance)

92. Performance Bond – Stage 1

Prior to the issue of an Occupation Certificate for Stage 1, the Applicant shall lodge with the Council a performance bond of \$140,000 against defective public civil works undertaken by the main Contractor for a period of twelve (12) months from the date of the completion certificate issued by Council as the road authority under the *Roads Act 1993*. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee which will be refundable subject to the approval of Council's Engineers at the end of the maintenance period. In this period, the Applicant is liable for any part of the work which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.

(Reason: Ensure compliance and specification)

93. Performance Bond – Stage 2

Prior to the issue of any Occupation Certificate, the Applicant shall lodge with the Council a performance bond of \$90,000 against defective public civil works undertaken by the main Contractor for a period of twelve (12) months from the date of the completion certificate issued by Council as the road authority under the *Roads Act 1993*. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee which will be refundable subject to the approval of Council's Engineers at the end of the maintenance period. In this period, the Applicant is liable for any part of the work which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.

(Reason: Ensure compliance and specification)

94. Turfing of Nature Strip

Prior to the issue of a Whole Occupation Certificate and in the event of damages to the grass verge during works, trim the strip of land between the property boundary and the road, spread topsoil on top of the trimmed surface and lay approved turfing on the prepared surfaces. The turf shall be protected from vehicular traffic and kept watered until established.

(Reason: Public amenity)

95. Public Infrastructure Restoration

Prior to the release of the Damage Deposit, any damaged public infrastructure caused as a

result of the construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) must be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

(Reason: Protection of public assets)

96. Vehicle Access and Manoeuvring – Construction & Certification

Prior to the issue of an Occupation Certificate for each stage, the Applicant shall submit, for approval by the Principal Certifier, certification from a suitably qualified and experienced Traffic Engineer relating to the construction of vehicular access and manoeuvring for the development. This certification must be based on a site inspection of the constructed vehicle access, manoeuvring and vehicle accommodation areas, with dimensions and measurements as necessary, and must make specific reference to the following:

- (a) That the as-constructed carpark complies with the approved Construction Certificate plans.
- (b) That finished driveway gradients and transitions comply with AS/NZS 2890.1 and AS 890.2 and will not result in scraping to the underside of cars.
- (c) That a maximum gradient of 5% is provided for the first 6 metres from the property's front boundary to the basement. All driveway grades shall comply AS/NZS 2890.1 and AS 2890.2.
- (d) All parking spaces are open type with no partitions.
- (e) Aisle widths and circulation road and ramp widths throughout basements comply with AS/NZS 2890.1.
- (f) That the constructed vehicular path and parking arrangements comply in full with AS/NZS 2890.1, AS 890.2 and AS/NZS 2890.6 in terms of minimum dimensions provided and grades on parking spaces.
- (g) Visitor parking spaces comply with the requirement of AS/NZS 2890.1 for Class 2 Medium Term Parking spaces
- (h) That headroom clearance of minimum 2.2 metres between the basement floor and any overhead obstruction (including overhead services) is provided for compliance with Section 5.3.1 of AS/NZS 2890.1 and Section 2.4 of AS/NZS 2890.6.
- (i) That headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities for compliance with Section 2.4 of AS/NZS 2890.6.
- (j) That the headroom clearance of minimum 4.1m is provided for the loading area and the path to and from the loading area.
- (k) That shared areas are provided for all disabled / accessible parking spaces in accordance with the requirements of AS/NZS 2890.6, and that a bollard is located in accordance with AS/NZS 2890.6.
- (l) Simultaneous manoeuvring of B99 and B85 at all ramps and ramp ends including clearances for each vehicle as per AS/NZS 2890.1 is achieved.
- (m) Access and manoeuvrability of the largest vehicle accessing the site and simultaneous manoeuvrability of the largest vehicle using the site and a passenger vehicle including clearances in accordance with AS/NZS 2890.1 and AS 2890.2 is achieved.
- (n) That the sight lines to pedestrians required by Clause 3.2.4(b) of AS/NZS2890.1 are provided.
- (o) That bicycle parking, including rails and cages, comply with the requirements of AS 2890.3.
- (p) The access is freely available to the loading bay and visitor parking.

(Reason: Ensure compliance)

97. Stormwater Maintenance Plan

Prior to the issue of an Occupation Certificate for Stage 1 and 2 works, submit to the certifying authority approval a Maintenance Plan for the stormwater management system. The plan is to be in accordance with recommendations of “Guidelines for the Maintenance of Stormwater Treatment Measures” published by Stormwater NSW or other relevant guidelines or publications.

(Reason: Ensure operation of system complies)

98. Certification of Water Quality Improvement System

Prior to the issue of an Occupation Certificate for Stage 1 and Stage 2 works, a suitably qualified and experienced civil engineer (generally CP Eng. Qualification) shall certify that the as built water quality improvement system is in accordance with the approved plans and complies with the requirements of Technical Standard 1.

(Reason: Legal requirement)

99. Public Domain Works – Stage 1

Prior to the issue of any Occupation Certificate for Stage 1, construct the following works in the public domain:

- a) New raised thresholds as detailed on the Section 138 approved drawings
- b) New kerb ramps as detailed on the Section 138 approved drawings
- c) New landscape blisters as detailed on the Section 138 approved drawings
- d) New pedestrian refuges as detailed on the Section 138 approved drawings
- e) Replacement of existing vehicle crossings on the southern side of Walter Street.
- f) Signage and linemarking required to comply with Council, TfNSW and regulatory requirements.
- g) Paths, kerb and gutter and pavement reconstruction as required elsewhere in these conditions.
- h) Construction of all road and traffic management works as outlined in conditions 52 and 53 must be completed to the satisfaction of Council. Operation of the road and traffic management works must be to the satisfaction of Council.

(Reason: Ensure Compliance)

100. Public Domain Works – Stage 2

Prior to the issue of any Occupation Certificate for Stage 2, construct the following works in the public domain:

- i) New kerb ramps as detailed on the Section 138 approved drawings
- j) New landscape blisters as detailed on the Section 138 approved drawings
- k) Replacement of vehicle crossings on the southern site of Walter Street as detailed on the Section 138 approved drawings.
- l) Signage and linemarking required to comply with Council, TfNSW and regulatory requirements.
- m) Paths, kerb and gutter and pavement reconstruction as required elsewhere in these conditions.

(Reason: Ensure Compliance)

101. Construct Street Stormwater Drainage

Prior to the issue of an Occupation Certificate for Stage 1 and Stage 2, construct a new stormwater drainage system on the northern side of Walter Street in accordance with the approved Section 138 drawings.

(Reason: Stormwater management)

102. Flood Certification

Prior to the issue of an Occupation Certificate for Stage 1 and Stage 2, submit to Council written certification, prepared by a suitably qualified and experienced civil engineer (generally CPEng), that the as-constructed works comply with the recommendations of Calibre's Hydrology and Hydraulic Analysis for the site dated 30 July 2021 and that:

- The as-constructed finished floor levels have 500mm freeboard to the 1%AEP flood level.
- That the access ramp to the basement is at or above the adjacent PMF flood level.

(Reason: Ensure compliance and prevent flood damage)

103. 88E Restriction – Affordable Housing

Pursuant to the Environmental Planning and Assessment Regulation 2021 the following must be complied with:

a) registration of a restriction against the title of the property in accordance with section 88E of the Conveyancing Act 1919 to ensure the affordable housing component is:

- used for affordable housing, and
- managed by a registered CHP.

b) evidence of an agreement with a registered CHP for the management of the affordable housing component to be given to the Registrar of Community Housing, including the name of the registered CHP, and

c) evidence that the requirements of a) and b) above have been satisfied provided to the consent authority.

PRIOR TO THE RELEASE OF LINEN PLANS/SUBDIVISION CERTIFICATE

The following conditions are to be complied with prior to the issue of the Subdivision Certificate and the release of the Linen Plans for registration at the Land Registry Services.

104. Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained prior to the issue of the subdivision certification. An application must be made either directly to Sydney Water or through a Sydney Water accredited Water Service Coordinator. For details go to www.sydneywater.com.au/section73 or call 1300 082 746.

The Section 73 Certificate must be submitted in conjunction with the application for Subdivision Certificate/Strata Approval.

(Reason: Statutory requirement)

105. General Easement/ROW Provision and Certification

The creation of drainage easements, service easements and/or rights-of carriageway shall be carried out as required. A registered surveyor is to certify prior to the release of the subdivision certificate that all interallotment drainage lines, services or driveways are fully contained within the proposed allotment and/or that future provisions of such are fully covered by the proposed

burdens. Alternatively if the surveyor is of the opinion that no easements and/or rights-of-carriageway are required then certification to this effect from the surveyor is to be submitted.
(Reason: Ensure compliance)

106. Location of On-Site Detention System

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

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

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

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

(Reason: Public record)

108. Section 88B Instrument

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

109. Positive Covenant – Access to OSD tanks

For all access grates / covers to OSD tanks that are not located in common property and are located in private open space, a positive covenant is to be provided on the Strata and Subdivision Plans to allow access at all times to the access points by the Body Corporate and Council for inspection and maintenance of the OSD tank, including emergency access.
(Reason: Ensure access to tank for maintenance)

110. 88E Restriction – Affordable Housing

Pursuant to the Environmental Planning and Assessment Regulation 2021 the following must be complied with:

a) registration of a restriction against the title of the property in accordance with section 88E of the Conveyancing Act 1919 to ensure the affordable housing component is:

- used for affordable housing, and
- managed by a registered CHP.

b) evidence of an agreement with a registered CHP for the management of the affordable housing component to be given to the Registrar of Community Housing, including the name of the registered CHP, and

c) evidence that the requirements of a) and b) above have been satisfied provided to the consent authority.

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.

111. Retaining Walls and Drainage

If the soil conditions require it:

- (a) retaining walls, complying with the National Construction Code and associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
 - (b) **112. adequate** provision must be made for drainage.
- (Reason: Safety)

112. Annual Fire Safety Statement

Attention is directed to the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* regarding the submission of an Annual Fire Safety Statement in relation to each essential fire safety measure implemented in the building or on the land on which the building is situated.

(Reason: Safety)

113. Fire Safety Measures

The existing fire safety measures are to be retained and maintained within the tenancies/tenancy during and after demolition.

(Reason: Fire safety)

114. Exposed Timbers

All exposed timbers shall be painted or treated to the satisfaction of the Certifier.

(Reason: Visual amenity/structural integrity)

115. Analysis of Outlet Condition

All storage outlet pipes from the OSD tank shall be above the 1% AEP event water level.

(Reason: Maintain designed discharge)

116. Road Closure

Any closure (full or partial) of a public road is strictly prohibited without the approval of Council.

(Reason: Public protection)

117. Overland Flow

The applicant's attention is drawn to potential overland flow from the upstream catchment. Appropriate measures where required shall be implemented to ensure overland flow does not enter the building and no additional flow is directed onto adjoining property.

(Reason: Protection of building)

118. Stormwater Treatment System – Ongoing Maintenance

The registered proprietor of the land shall take full responsibility for the ongoing maintenance

of the Stormwater Treatment System constructed on the land. The maintenance of the system is to be undertaken in accordance with the recommendations of “Guidelines for the Maintenance of Stormwater Treatment Measures” published by Stormwater NSW or other relevant guidelines or publications.

(Reason: Ensure compliance)

119. Access to Visitor Parking and Loading Bay

Access to visitor parking and the loading bay shall be freely available at all times. All loading and unloading of goods shall occur within the site.

(Reason: Ensure access)

PRESCRIBED CONDITIONS

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

120. Compliance with National Construction Code

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

(Reason: Compliance)

121. Support for Neighbouring Buildings

- (a) If development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on an adjoining property, the person having the benefit of the development consent must, at the person’s own expense:
 - (i) protect and support the building, structure or work from possible damage from the excavation, and
 - (ii) if necessary, underpin and support the building, structure or work to prevent any such damage, and
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (b) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- (c) In this clause, “allotment of land” includes a public road and any other public place.

(Reason: Safety)

122. Construction Information Sign

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

- (a) that unauthorised entry to the work site is prohibited;
- (b) the excavator’s and / or the demolisher’s and / or the builder’s name;
- (c) contact phone number / after hours emergency number;

- (d) licence number;
- (e) approved hours of site work; and
- (f) name, address and contact phone number of the Certifier (if other than Council)

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

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

123. Prescribed conditions

Any consent involving building work is issued subject to compliance with the prescribed conditions specified in Division 8A of the Environmental Planning and Assessment Regulation.
(Reason: Legislative requirements)

STATUTORY REQUIREMENTS

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

124. Construction Certificate

This consent IS NOT an approval to carry out any building works. A Construction Certificate may be required PRIOR TO ANY WORKS BEING COMMENCED.

Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 9777 1000.
(Reason: Ensure compliance and statutory requirement)

125. Notify Council of Intention to Commence Works

In accordance with the provisions of Section 6.6 of the *Environmental Planning and Assessment Act 1979* the person having the benefit of the development consent shall appoint a Certifier and give at least 2 days' notice to Council, in writing, of the person's intention to commence the erection of the building.
(Reason: Information and ensure compliance)

126. Occupation Certificate

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