

# Attachment 3

**SSDA 849, 853, 859 Pacific Highway and 2-8 Wilson Street,  
Chatswood**

## **Recommended affordable housing, contributions, engineering and landscaping conditions**

Note 1: Other conditions are recommended in Attachment 1 – Council submission.

Note 2: These conditions are not final and will be subject to change or additions in further Council submissions to this SSDA.

### **Affordable Housing**

#### **1. Affordable Housing Conditions pursuant to clause 6.8 of the Willoughby Local Environmental Plan**

In accordance with clause 6.8 of the Willoughby Local Environmental Plan (WLEP) 4% of the residential gross floor area in the development is to provide for affordable housing. Such provision of affordable housing in accordance with clause 6.8 of the WLEP is satisfied by either (or a combination) of the following:

##### Monetary Contribution

- (a) The applicant shall pay to Council a monetary contribution for the purpose of providing affordable housing that is calculated at 4% of the residential gross floor area of the development. The amount of the monetary contribution is determined by reference to the market value of dwellings of a similar size to the dwellings in the proposed development, and as set out below:
  - (i) The applicant is to submit to Council a valuation report (prepared by a registered valuer) identifying the market value of dwellings of a similar size to dwellings in the development by reference to the recent sales prices of such new dwellings of similar size and, in the absence of recent sales prices at the subject development, recent sales price of similar sized dwelling(s) in comparable development(s) within the Willoughby local government area.
  - (ii) Council will consider the valuation report and, acting reasonably, determine the amount of the contribution to be paid.
  - (iii) If it considers it desirable to do so, Council may appoint an independent registered valuer to undertake a separate valuation. The applicant / developer is to pay Council all reasonable costs associated with the service provided by Council's appointed valuer for this valuation.
  - (iv) The applicant is to submit to Council's Director of Planning & Infrastructure the valuation report and documentation to demonstrate how the applicant has calculated the contribution, including identifying the residential gross floor areas used in the calculation. The evidence

is to be provided prior to any application being made for an Occupation Certificate, and before any payment of contribution is made. If this valuation report option is taken, payment shall be **made within three (3) months of Council's written acceptance of the valuation report and prior to the issue of the Occupation Certificate.**

- (v) Alternatively to (i) to (iv) inclusive above, a figure (mean) for the market value of dwelling sales in Willoughby is obtained from the most recent (recent at the time of payment) Rent and Sales Report issued by the Department of Communities and Justice. In the event this option is chosen, a date stamped screenshot of the relevant figure within the Rent and Sales Report must be provided, and the payment made within three (3) months of the date displayed in the screenshot and prior to the issue of the Occupation Certificate. A unit size of 100m<sup>2</sup> may be assumed for the purpose of the calculation.

Evidence of payment of the monetary contribution (by electronic transfer pursuant to s210 Environmental Planning and Assessment Regulation 2021) is to accompany the application for any Occupation Certificate.

#### Dedication of Affordable Housing units to Council

- (b) The dedication of complete residential dwelling units within the development each having a gross floor area of at least 50m<sup>2</sup>, and equivalent to the mapped percentage of 4% of the residential component of the development related to this consent. Each affordable dwelling must have an appurtenant car space. The affordable housing unit(s) and appurtenant car spaces to be dedicated to Council must be clearly shown on the Construction Certificate plans. A **Housing Transfer Deed** that identifies all affordable housing units for dedication to Council **must be executed prior to issue of the first Occupation Certificate.**

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

(Reason: Increase affordable housing supply, ensure compliance)

## **2. NSW Affordable Housing Ministerial Guidelines 2023/24**

The NSW Affordable Housing Ministerial Guidelines 2023/24 (or subsequent updates) must be complied with. The Community Housing Provider must be notified to Council, and must provide Council on an annual basis occupancy levels for affordable housing and tenant sector employment data.

(Reason: Compliance, Housing affordability)

## **3. 88E Restriction – Affordable Housing**

Pursuant to s 82 Environmental Planning and Assessment Regulation 2021, a restriction must be registered, in accordance with the *Conveyancing Act 1919*,

section 88E, against the title of the property relating to the development, which will ensure the affordable housing component must be used for affordable housing, and the affordable housing component must be managed by a registered community housing provider. Further, that evidence of an agreement with a registered community housing provider for the management of the affordable housing component is given to the Registrar of Community Housing, including the name of the registered community housing provider.

(Reason: Compliance)

#### 4. 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)

### Contributions

#### 5. 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 \$ [insert amount] for the purposes of the Local Infrastructure identified in the *Willoughby Local Infrastructure Contributions Plan*.

Active transport and public domain facilities	\$ [insert amount]
Open space and recreation facilities	\$ [insert amount]
Plan administration	\$ [insert amount]
Recoupment - community facilities	\$ [insert amount]
Recoupment - open space and recreation	\$ [insert amount]
<b>Total</b>	<b>\$ [insert amount]</b>

#### 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:

$$\frac{\$C_o \times CPI_P}{CPI_C}$$

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](http://www.willoughby.nsw.gov.au)  
(Reason: Statutory requirement)

## 6. S7.12 Contribution

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

This contribution is based on X% of the estimated cost of development, being \$ [insert amount] at XX/XX/20XX and the adopted *Willoughby Local Infrastructure Contributions Plan*.

### Indexation

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

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

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

Where:

- |                    |   |
|--------------------|---|
| \$C <sub>o</sub> = | the original development contribution determined by the Council based on a percentage of the cost of development as set out in the Contributions Plan   |
| Current CPI =      | the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter immediately prior to the date of payment  |
| Base CPI =         | the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter ending immediately prior to the date of imposition of the condition requiring payment of a contribution |

Deferred payments of contributions will not be accepted.

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](http://www.willoughby.nsw.gov.au)  
(Reason: Statutory requirement)

## Planning Agreement obligations to meet prior to issue of CONSTRUCTION CERTIFICATE

### **7. Planning Agreement**

Prior to the issue of first Construction Certificate, the obligations under the Planning Agreement executed on **10 May 2023** relating to this development, that is, the 2<sup>nd</sup> instalment are to be satisfied at the timing and contribution amount required under Schedule 2 of the Planning Agreement. Contact Council for an indexation (CPI) adjustment at the time of payment.

(Reason: Ensure compliance)

## Planning Agreement obligations to meet prior to issue of OCCUPATION CERTIFICATE

### **8. Planning Agreement**

Prior to the issue of first Occupation Certificate or registration of a Strata Plan (whichever is earlier), ensure the obligations under the Planning Agreement executed on **10 May 2023** relating to this development, that is, the 2<sup>nd</sup> and 3<sup>rd</sup> instalments have been satisfied at the timing and contribution amount required under Schedule 2 of the Planning Agreement. Contact Council for an indexation (CPI) adjustment at the time of payment.

(Reason: Ensure compliance)

## **Engineering**

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

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

### **9. Damage Deposit**

Prior to the issue of the Construction Certificate, the applicant shall lodge a Damage Deposit of **\$390,000** (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 the proposed development and the issue of a Final / Whole Occupation Certificate. For the purpose of inspections carried out by Council Engineers, an inspection fee as per Council's current Fees and Charges is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

**Total Payable = \$390,000 + Damage Deposit Release Inspection Fee**

(Reason: Protection of public asset)

### **10. Dedication of Land – Road Widening**

The applicant is required to dedicate, at no cost to Council a strip of land at the end of O'Brien Street, to include the end of the revised cul-de-sac and a minimum of 600mm behind the new kerb line.

The Plan of Dedication is to be lodged with Council prior to the issue of the Construction Certificate and registered with the NSW Land Registry Services prior to issue of the Occupation Certificate. Council's costs, including legal fees associated with reviewing, approving and executing the Plan of Dedication together with associated PEXA fees must be paid by the Applicant. The Applicant is responsible for

any stamp duty payable in respect of the dealing. A copy of the registered document shall be submitted to Council for record purposes.

(Reason: Public safety)

**11. Temporary Ground Anchors**

Obtain written permission from all private property owners affected by any encroachment either below ground or the air space above as a result of any proposed temporary ground anchors prior to issue of the Construction Certificate. Permits are to be obtained from Council for any temporary ground anchors to be installed within the road reserve. Copies of the permission shall be sent to Council. A Temporary Ground Anchor Permit is to be obtained from Council for any ground anchors proposed to be installed in Council's Road Reserve. All works associated with the drilling and stressing of the ground anchors shall be installed in accordance with approved drawings.

(Reason: Encroachment of works)

**12. Stormwater to Street Drainage**

Stormwater runoff from the site shall be collected and conveyed to the underground drainage system in O'Brien Street via a 375 mm Class 4 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. Kerb inlet pits shall be provided at all changes of direction for the pipe. 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)

**13. Analysis of Outlet Condition**

The capacity of the outlet pipe to the Council system shall be hydraulically evaluated using the Hydraulic Grade Line method to ensure that the outlet from each OSD system is above the downstream water level for the 1%AEP storm event. Full engineering details of the hydraulic evaluations prepared and signed by a practising Civil Engineer shall be submitted to Council for approval prior to the issue of the Construction Certificate.

(Reason: Prevent property damage)

**14. Detailed Stormwater Management Plan (SWMP)**

Prior to the issue of the Construction Certificate, 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 in accordance with Xavier Knight drawings 230812 C100/A, C101/A, C102/A, C105/A, C200/B, C201/B, C202/A and C307/A. The plans shall be amended to show that the outlet from secondary basin and the basin itself is above the downstream 1%AEP water level. All drawings shall comply with Part I of Council's Development Control Plan and Technical Standard 1, AS/NSZ3500.3 – *Plumbing and Drainage Code* and National Construction Code.

(Reason: Ensure compliance)

## **15. 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 equivalent to the runoff volume generated from of the area draining into the tank for the 1% Annual Exceedance Probability storm event for 2-hours duration.

All drawings shall be prepared by a suitably qualified and experienced civil engineer and shall comply with Part I of Council's Development Control Plan, Technical Standard 1, AS/NZS 3500.3 – *Plumbing and Drainage Code* and the National Construction Code.

(Reason: Prevent nuisance flooding)

## **16. Overland Flow/Flood Level**

A suitably qualified and experienced civil engineer must certify that the crest for the access to the basement parking area is at or above a level of the 1%AEP event water level plus 230mm or the PMF water level, whichever is higher, in O'Brien Street. The engineer must undertake an assessment of the critical flows as determined necessary to satisfy this condition.

(Reason: Prevent property damage)

## **17. 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)

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

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

- (a) Construction of 1.5 metres wide footpath (max. 2.5% crossfall) towards the kerb for the full frontage of the development site in Wilson 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 frontage of the development site in O'Brien 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) Construction of 1.5 metres wide footpath (max. 2.5% crossfall) towards the kerb for the full frontage of the development site in Railway 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) Construction of a shared path (max. 2.5% crossfall) towards the kerb for the full frontage of the development site in Pacific Highway 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.
- (e) Reconstruction of existing kerb and gutter for the full frontage of the development site in Wilson Street in accordance with Council's specifications and Standard Drawing SD105.
- (f) Reconstruction of existing kerb and gutter for the full frontage of the development site in O'Brien Street and Railway Street in accordance with Council's specifications and Standard Drawing SD105.
- (g) Reconstruction of existing kerb and gutter to replace redundant vehicle crossings in Pacific Highway in accordance with TfNSW specifications and drawings.
- (h) Reconstruction of the existing road pavement for half roadway width for the full frontage of the development site in O'Brien Street in accordance with Council's specifications.
- (i) Reconstruction of the existing road pavement for half roadway width for the full frontage of the development site in Wilson Street in accordance with Council's specifications.
- (j) Construction of a new cul-de-sac head at the end of O'Brien Street in accordance with Council's specifications.
- (k) Construction of a 7.0 metres wide vehicular crossing in O'Brien Street in accordance with Council's specification and Standard Drawings SD105.
- (l) Construction of stormwater pipe in O'Brien Street, to link the site drainage to the Council drainage system. The pipe is to be a minimum 375mm Class 4 RCP.



- (m) Construction of any other works in the road reserve required for the development, including any works required by conditions of this consent.

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

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. Concurrence from TfNSW is required for any works to the kerb and gutter or road pavement on the Pacific Highway frontage.

(Reason: Ensure compliance)

#### **19. Driveway Long section**

Prior to issue of the Construction Certificate 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 a minimum of 10m within the site, 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 the B99 vehicle template from AS/NZS 0890.1. All driveway grades and transitions shall comply with AS/NZS 2890.1 -2004 and Council's specifications.

The new crossing is to be 7.0 metres wide with no splays and be constructed at right angle to street kerb. The footpath/footpath zone 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 – As required to provide fall of 1 to 2.5% downwards toward the back of layback.

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)

#### **20. 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)

**21. Vehicle Access and Manoeuvring – Engineer's Certification**

Prior to the issue of the Construction Certificate, 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 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 2890.2 and AS 2890.6 in terms of minimum dimensions provided and grades on parking spaces.
- (d) That accessible and adaptable parking spaces comply with the requirements of AS 2890.6, including the size of shared zones and provision of bollards.
- (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 2.7 of AS 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 2.7 of AS 2890.6.
- (g) That the headroom clearance of minimum 4.5m required in AS 2890.2 for the largest vehicle using the site has been provided for the loading area and the path to and from the loading area.
- (h) Simultaneous manoeuvring of B99 and B85 vehicles including the clearance lines for each vehicle in accordance with AS2890.1, is provided from the frontage road and around all circulation aisles and ramps
- (i) Simultaneous manoeuvrability of the largest vehicle using the site (as a minimum Council's 10.5m waste vehicle) and a passenger vehicle including clearance in accordance with AS2890.1 and AS2890.2, is provided between the frontage road and the loading bay.

(Reason: Ensure compliance)

**22. 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 finish 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)

### **23. Visitor Bicycle Parking**

Prior to the issue of a Construction Certificate, architectural plans shall be submitted to the Certifying Authority for approval that show the location of visitor bicycle parking spaces at ground level. The spaces shall be provided near the entry to each building, with 2-3 spaces at each location. A minimum of 15 rails are to be provided at ground level.

(Reason: Ensure compliance)

### **PRIOR TO COMMENCEMENT**

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

### **24. Dilapidation Report of Council's Property**

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

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

This dilapidation report shall be submitted to Council and the Certifier advised of the submission prior to commencement of work.

(Reason: Protection of Council's infrastructure)

### **25. 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. 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. (Minimum one (1) weeks' notice required.)

- (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.
- (h) Permit to install ground anchors beneath the road reserve.

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)

## **26. Application for Vehicle Crossing**

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

(Reason: Protection of public asset)

## **27. 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 on all frontage streets, as required for the development. Such street lighting shall also conform to Council's standard specifications.

(Reason: Public amenity)

## **28. 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)

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

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

## **29. 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)

**30. 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)

**31. 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)

**32. 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)

**PRIOR TO OCCUPATION OF THE DEVELOPMENT**

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

**33. State Survey Marks**

Prior to the issue of a Whole Occupation Certificate, the Applicant shall reinstate any existing State/Permanent Survey Marks damaged by the works to the specification of the Land and Property Management Authority. A copy of the Location Sketch Plan of PM/SSM including reduced level (AHD) shall be submitted by a registered Surveyor. The degree of horizontal and vertical accuracy shall be acceptable to the NSW Land Registry Services.

(Reason: Public amenity)

**34. 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)

**35. CCTV Report of Council Pipe System After Work**

Prior to the issue of any Occupation Certificate, 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 Council drainage pipeline constructed in O'Brien Street after the completion of all works. No person is to enter any Council stormwater conduit without written approval from Council. The camera and its operation shall comply with the following:

- (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.
- (f) Recorded CCTV footage & reports are to use Council asset pit numbers to identify the start and finish location of the CCTV. A plan can be obtained from Council with these asset numbers at request.

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

**36. 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 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)

**37. 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 to Council's drainage system in O'Brien Street via a water quality improvement system and an approved OSD system that limits peak flow from the site to 73L/s in the 1%AEP storm event and which has a minimum volume of 160m<sup>3</sup>. The system shall be in accordance with Sydney Water's requirements AS/NZS3500.3, Part 1 of Council's DCP and Technical Standards 1 and 2. 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).  
(Reason: Prevent nuisance flooding)

**38. Sign for On-site Stormwater Detention System**

Prior to the issue of any Occupation Certificate pertaining to any works requiring an On-Site Detention System (OSD), 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 or basin.

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)

**39. 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)

**40. Certification of OSD**

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

**41. Certification of the Basement Pumpout Drainage System**

Prior to the issue of any Occupation Certificate 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 I of Council's DCP Technical Standard 1, 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)

**42. Works-As-Executed Plans - OSD**

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

**43. 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 and stormwater treatment 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 and stormwater treatment 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. Council's costs, including legal fees associated with reviewing, approving and executing the Positive Covenant and Restriction of Use together with associated PEXA fees must be paid by the Applicant. The Applicant is responsible for any stamp duty payable in respect of the dealing.

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)

**44. 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)



**45. Construction of Kerb & Gutter**

Prior to the issue of any Occupation Certificate, construct a new kerb and gutter together with any necessary associated pavement restoration in accordance with Council's specification for the full frontage of the development site in Wilson Street and O'Brien Street.

(Reason: Public amenity)

**46. Reconstruct Pavement**

Prior to the issue of any Occupation Certificate, the following road pavements shall be reconstructed in accordance with Council's approved drawings, conditions and specification (AUS-SPEC).

- Half roadway width for the full frontage of the development site in Wilson Street
  - Half roadway width for the full frontage of the development site in O'Brien Street
- Council's standard design traffic for this pavement is 1x10<sup>6</sup> ESA.

In lieu of reconstruction, Council may approve mill and resheet (minimum 50mm thick AC10) subject to:

- provision of a geotechnical report detailing that the existing pavement is able to meet the design traffic loading
- proof rolling demonstrating there are no soft spots or spots requiring further works.
- there is no evidence that construction works have resulted in damage to the pavement

(Reason: Ensure compliance)

**47. Concrete Footpath**

Prior to the issue of any Occupation Certificate, construct a:

- (a) 1.5m wide concrete footpath for the full frontage of the development site in Wilson Street.
- (b) 1.5m wide concrete footpath for the full frontage of the development site in O'Brien Street.
- (c) Concrete shared path for the full frontage of the development site in Pacific Highway / Railway Street.

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

(Reason: Public amenity)

**48. Stormwater Drainage System in O'Brien Street**

Prior to the issue of any Occupation Certificate, construct the extension of the stormwater system in O'Brien Street in accordance with the approved public domain plans. The works shall be in accordance with Council's specification.

(Reason: Public amenity)

#### **49. Street Lighting**

Prior to the issue of any Occupation Certificate, provide approved street lighting as required for the development in accordance with Australian Standard AS/NZ 1158.(2005).

Reason: Public amenity)

#### **50. Vehicular Crossing**

Construct a new vehicular crossing 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 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 required to provide 1 to 2.5% fall downwards to the back of layback.

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

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

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

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

(Reason: Public amenity)

#### **51. 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 and TfNSW requirements for works located along Pacific Highway.

A Civil Completion Certificate 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)

**52. 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. The Work-as-Executed drawings shall be based on the Council approved drawings with all changes marked in red. 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.  
(Reason: Ensure compliance)

**53. Performance Bond**

Prior to the issue of any Occupation Certificate, the Applicant shall lodge with the Council a performance bond of \$190,000 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)

**54. 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)

**55. Public Infrastructure Restoration**

Prior to the release of the Damage Deposit, any damaged public infrastructure caused as a result of the construction and development 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)

## **56. Vehicle Access and Manoeuvring – Construction & Certification**

Prior to the issue of any Occupation Certificate, 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 2890.2 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) Aisle widths throughout basements comply with AS/NZS 2890.1.
- (e) That the constructed vehicular path and parking arrangements comply in full with AS/NZS 2890.1, AS 2890.2 and AS 2890.6 in terms of minimum dimensions provided and grades on parking spaces.
- (f) That accessible and adaptable parking spaces comply with the requirements of AS 2890.6, including the size of shared zones and provision of bollards.
- (g) 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 2.7 of AS 2890.6.
- (h) That headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities for compliance with Section 2.7 of AS 2890.6.
- (i) That the headroom clearance of 4.5m required in AS 2890.2 for the largest vehicle using the site has been provided for the loading area and the path to and from the loading area.
- (j) Simultaneous manoeuvring of B99 and B85 vehicles including the clearance lines for each vehicle in accordance with AS2890.1, is achieved from the frontage road and around all circulation aisles and ramps
- (k) Simultaneous manoeuvrability of the largest vehicle using the site (minimum Council's 10.5m waste vehicle) and a passenger vehicle including clearance in accordance with AS2890.1 and AS2890.2, is achieved between the frontage road and the loading bay.

(Reason: Ensure compliance)

## **57. Stormwater Maintenance Plan**

Prior to the issue of an Occupation Certificate, 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)

## **58. Certification of Water Quality Improvement System**

Prior to the issue of an Occupation Certificate, 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: Ensure compliance)

**59. Vehicle Management Plan**

Prior to the issue of an Occupation Certificate, submit to the Certifying Authority for approval a Vehicle Management Plan for the site. The plan shall cover management of vehicle movements, with specific reference to the loading bays and service vehicle access. It shall include any measures required to minimise vehicle conflict.

(Reason: Vehicle Management and Safety)

**PRIOR TO THE RELEASE OF LINEN PLANS/SUBDIVISION CERTIFICATE/STRATA APPROVAL**

The following are to be complied with prior to the issue of the Subdivision Certificate / Strata Approval and the release of the Linen Plans for registration at the Land and Property Information Office.

**60. 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. Access to the system, including access points to any underground tank, shall be located in common areas.

(Reason: Ensure compliance)

**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.

**61. Analysis of Outlet Condition**

All storage outlet pipes from the OSD tank shall be above the 1% Annual Exceedance Probability (AEP) event water level.

(Reason: Maintain designed discharge)

**62. Road Closure**

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

(Reason: Public protection)

**63. 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)

**64. Maintenance of structures on public land**

The owner of the premises is to maintain the awning approved by this consent and located over Council's road reserve, directly adjacent to the property. This awning must be maintained at all times to a structurally sound condition in order to provide an acceptable level of public safety. Any approval granted for the awning under section 138 of the *Roads Act 1993* must include provision for an appropriate indemnity in favour of Council regarding the awning.

(Reason: To ensure pedestrian and public safety and to ensure that structures located on public land for private benefit are maintained to an acceptable standard.)

**65. Vehicle Access**

All vehicles are to enter and exit the site in a forward direction. No vehicle shall reverse over the site boundary.

(Reason: Pedestrian and vehicle safety)

**Landscaping**

**66. Tree Offset Planting Scheme**

Prior to the commencement of any works and **before** any trees are removed, the Applicant is required to enter a Deed of Agreement with Council and pay a fee for the off-site planting of XXX trees in accordance with Willoughby Development Control Plan Part G Vegetation Management clause 6 Replacement Trees and Part 7.3 Tree Offset Scheme of the Vegetation Management Guidelines.

The applicable fee shall be based on the 'Offset fee for replacement planting' schedule as published in the Willoughby Council Fees and Charges at the time of execution of the deed of agreement.

'Offset Planting Deed of Agreement' attached. Please contact Council's Customer Service Centre on 9777 1000 to organise your payment prior to commencement of any works.

(Reason: Canopy Cover and landscaping)