

JOINT REGIONAL PLANNING PANEL (East)

JRPP No	2014SYE126
DA Number	DA-2013/309/B
Local Government Area	Willoughby
Proposed Development	S96 (2) Application to modify the approved proposal to include changes to internal layout, number of apartments, reduction in height, layout of external communal areas and associated works
Street Address	28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, Chatswood
Applicant/Owner	Toga Building Company Pty Ltd in conjunction with Reyhoda Pty Ltd
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	General Development over \$20million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> List all of the relevant environmental planning instruments: s79C(1)(a)(i) Willoughby Local Environmental Plan (WLEP) 2012 SEPP 55 Remediation of Land SEPP 65 Design Quality of Residential Flat development SEPP (Building Sustainability Index: BASIX) 2004 SREP/SEPP (Sydney Harbour Catchment) 2005 List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii) Draft SEPP 65 List any relevant development control plan: s79C(1)(a)(iii) Willoughby Development Control Plan List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv) Nil List any coastal zone management plan: s79C(1)(a)(v) Nil List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 Nil
List all documents	1. Officers Report

submitted with this report for the panel's consideration	2. Statement of Environmental Effects (SEE) 3. Notification Plan 4. Plans
Recommendation	APPROVAL
Report by	Noni De Carvalho (Chatswood CBD Place Manager)

Assessment Report and Recommendation Cover Sheet

JRPP REPORT

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067

JRPP NO: 2014SYE126

DA NO: DA-2013/309/B

COUNCIL: WILLOUGHBY CITY COUNCIL

DATE: 22-DEC-2014

RECOMMENDATION: APPROVAL

LOCATION: 28, 32, 36 ANDERSON STREET, 1 HELP STREET & 2A MCINTOSH STREET, CHATSWOOD NSW 2067

APPLICANT: TOGA BUILDING COMPANY PTY LTD IN CONJUNCTION WITH REYHODA PTY LTD

OWNER: LESTER WU HOLDINGS PTY LTD AND REYHODA PTY LIMITED AND OWNERS CORP STRATA PLAN 211 AND OWNERS CORP STRATA PLAN 57732 AND MR A YORTIS AND MRS A A YORTIS

PROPOSAL: S96 (2) APPLICATION TO MODIFY THE APPROVED PROPOSAL TO INCLUDE CHANGES TO INTERNAL LAYOUT, NUMBER OF APARTMENTS, REDUCTION IN HEIGHT, LAYOUT OF EXTERNAL COMMUNAL AREAS AND ASSOCIATED WORKS.

DATE OF LODGEMENT: 13-OCT-2014

VALID APPLICATION DATE: 14-NOV-2014

REPORTING OFFICER: NONI DE CARVALHO (CHATSWOOD CBD PLACE MANAGER)

DESCRIPTION OF PROPOSAL

The Modification 2013/309/B (JRPP Ref: 2014/SYE126) to Development Consent 2013/309 is the second modification of the mixed use development originally approved on 12 December 2013 by the Sydney East Joint Regional Planning Panel. The first modification was approved on 23 July 2014 in 2013/309/A by Sydney East Joint Regional Planning Panel (JRPP Ref: 2014SYE049). This further modification proposes additional changes to the development following the involvement of the Toga Group in the development.

No change is proposed to the overall approved floor space ratio or the floor space ratio component proposed in the shop top housing part of the development.

Within the approved shop top housing floor space it is proposed to increase the number of dwellings from the original 136 units to 156 units. It is noted that the previous modification approved an increase to 145 units within the floor space. The increase in the number of units is a consequence of adjustment to the unit mix reducing the number of large units and increasing the number of 1 bedroom and 1 bedroom plus study units. The retail/restaurant/business floor space and layout is similar to the current approved layout with minor adjustments.

There is proposed a varying degree of reduction in the height of the development compared with the approved development. The most noticeable reduction in height is the McIntosh Street elevation where in some locations the reduction is 6 metres compared with the approved height. The consequence is that the McIntosh Street elevation no longer provides a section of reduced height towards the eastern side of the elevation separating the above upper part of the Anderson Street elevation from the McIntosh Street elevation.

The height of the approved development was and continues to peak in the location of the lift overruns. The heights across the site were subject to a clause 4.6 objection to vary the maximum height control in WLEP 2012 of 20 metres on the southern side and 25 metres on the northern side of the site.

The proposed external design changes to the development are summarised from the application as follows:

1. The feature screen framing on the Help Street façade has been reworked to adjust the open and screen elements relative to the vision from balconies.
2. The curved façade around the feature *Angophora costata* to be retained at the intersection of Help Street and Anderson Street has been reworked to a stepped rectangular shape. Additional openings in the shop top housing enable resident views of the tree. Vertical feature screens are still incorporated into the façade and contribute to the architectural backdrop for the tree.
3. Pedestrian permeability has sought to be increased by relocation of the southern residential entry and provision of a pathway access from Help Street integrated with the landscaping around the base of the tree. The pathway also provides access to the proposed restaurant facing Help Street.
4. Changes are proposed to the modulation of the external facades as a result of the changed unit mix and adjustment to window and balcony positions without change to the general form of the architectural articulation of the building.
5. Provision of additional balconies is proposed in units adjacent to the tree and overlooking the tree. Increased overhang of larger balconies above the internal courtyard is also proposed.
6. The irregular side setbacks to 5 Help Street have been adjusted to 3 to 4 metres above the podium for the shop top housing levels.
7. The break at Level 5 between the Anderson Street section of the shop top housing and the McIntosh Street section of the shop-top housing is proposed to be removed as noted above. This enables a reduction in the overall height of the building fronting McIntosh Street as noted above.
8. Reconfiguration of the ground floor is proposed to enable greater clarity of the pedestrian access into the internal courtyard from Anderson Street on the southern and northern sides of the ground floor. The landscape treatment of the internal courtyard has been redesigned to provide a raised turfed area and timber deck with a water feature.

JRPP REPORT

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067 (Cont.)

9. The width of massed planting along the western side of the courtyard abutting 5 Help Street is proposed to be increased. A feature tree in a planter is proposed in the courtyard.
10. The setback of the levels above Level 5 on the Help Street façade has been modified to retain the alignment with the levels below for the residential units closest to the tree. This it is understood is intended to complete the “framing” of the tree by the building.
11. Rationalisation and consolidation of communal recreational space for the shop top housing is proposed such that the communal spaces are now consolidated into two larger more usable roof top areas located respectively above the Help Street section of building and the McIntosh Street section of building. It is noted that some of the open space areas in the previously approved development provided landscaping but were only available for use by the abutting units.

The proposed internal changes are summarised in the following:

1. The most significant internal layout change to the shop top housing is the reduction from four foyers and lift cores each with a single lift to two foyers and lift cores each with two lifts. Lobby A near the north-eastern corner of the site services the McIntosh Street and Anderson Street sections of shop top housing and Lobby B near the south-eastern corner services the Help Street section of shop top housing.
2. Change to the internal layout is proposed to reflect the increased number of smaller residential units. 50% of the units have been designed to be adaptable for people with disabilities.
3. The lower ground and basement levels have been reconfigured to remove the mezzanine level and rationalise the circulation, loading dock space and waste handling area. Two residential garbage rooms with compactors rather than four as currently approved are now proposed. The change to the layout and circulation of the car park levels has enabled removal of the encroaching area of basement into the setback for the root system of the tree. The number of car spaces has been increased from 193 in the original application to 204 in the first modification and 211 car spaces are proposed in the current modification. The business/restaurant car spaces and 12 of the 39 residential visitor spaces are proposed on the Lower Ground level outside the secured part of the car park.

The changes to the apartment yield from the original development approved are summarised in the table below:

Apartment Yield:-

Floor Level	Original Approval	Approval s.96 2013/309/A	Proposed s.96 2013/309/B
Lower ground	0	0	0
Upper ground	0	0	0
Level 1	20	21	24
Level 2	21	22	24
Level 3	21	22	24
Level 4	21	22	24
Level 5	15	15	19
Level 6	15	16	19
Level 7	9	10	5
Level 8	6	7	5
Level 9	3	4	5
Level 10	3	4	5
Level 11	2	2	2

JRPP REPORT

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067 (Cont.)

Floor Level	Original Approval	Approval s.96 2013/309/A	Proposed s.96 2013/309/B
Total	136	145	156
% 1-bed/1-bed+st	52%	60%	68%
% 2-bed/2-bed+st	41%	35%	29%
% 3-bed/3-bed+st	7%	5%	3%

The application also provides a report seeking to justify that there is no change from the currently approved arrangements for meeting the requirements for affordable housing pursuant to WLEP 2012. The original application was approved allowing for the obligation to be met by way of a monetary contribution rather than dedication to Council of 4% of residential GFA in residential units. The decision in the original application to accept the contribution, although not the preferred approach by Council, was based on the design of the development, the multiple lift cores, courtyard and roof top landscaping and the like that were considered would generate higher maintenance costs and strata fees so making the cost to maintain any units in the complex unlikely to be within an affordable range for Council to pass on to Link Housing to manage on its behalf.

A final matter in the requested modifications is a point of clarification in the requirements of Condition 16 concerning the design of the vehicle access. The request is that the condition be amended to clarify that the head room minimum of 4.5 metres applies only to those areas accessed by service vehicles.

Neighbour Notification

Surrounding owners including previous correspondents in the Regency and 5 Help Street were notified of the proposed modification and no submissions were received. Correspondents from the Regency and 5 Help Street had concerns generally relating to traffic generation and height.

Correspondents from The Cambridge had issues regarding the height of the development that are generally lowered in the modification. Concerns regarding use of McIntosh Street for were addressed in the original approval and are unchanged in the current application.

Existing Building, Relevant History and Site Context

The site characteristics and area of 3,356m² are unchanged by the modification. The Sydney East Joint Regional Planning Panel approved the original development at its meeting on 12 December 2013. The approval was by way of "Deferred Commencement" consent as there were matters relating to stormwater management and flooding around the site that required further investigation. These matters were resolved and a final consent was issued on 3 July 2014. The resolution of the stormwater and flooding issues has established the design of the driveway from Help Street and the levels for the lower ground floor business tenancy to ensure there is no water penetration in a major storm event. The design resolution has been retained in the subsequent modification and the current proposed modification.

Controls and Classification

- i) Willoughby LEP 2012: Yes
- i) Conservation Area: No
- ii) Zoning: B4 Mixed Use

JRPP REPORT

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067 (Cont.)

- iii) **Applicable DCP (SEPPs, REPs):** SEPP 55 Remediation of Land, SEPP 65 Design Quality of Residential Flat development, SEPP (Building Sustainability Index 2004, SREP/SEPP (Sydney Harbour Catchment) 2005, Willoughby Development Control Plan
- iv) **Other Relevant Policies (Council Resolutions, Draft DCPs):** Draft SEPP 65
- v) **BCA Classification:** 2, 5, 6, 7.
- vi) **Developer's Contribution Plans:**
 - a. **S94A:** Yes
 - b. **Applicable rate (%):** 3%
 - c. **The cost of development:** \$38,497,870.00 (amended)
 - d. **Date of accepted cost of development:** 16.10.2014
 - e. **The total contribution payable (subject to Building Price Indexing (Enterprise Bargaining Agreement)):** \$1,154,936.10

Development Statistics

	Approved in first modification	Proposed	Standard	Variation
a) Site Area (m ²)	3,356	3,356		No change
b) Gross Floor Area (m ²)	13,439	13,439	13,424	No change
c) Floor Space Ratio	4:1	4:1	4:1	No change
d) FSR Business	0.4:1	0.4:1	2:1	No change
e) FSR Shop-top housing	3.6:1	3.6:1	2:1	No change
f) Max. height Help Street side	30 (lift overrun)	29 (lift overrun)	20	Reduced
g) Max. height McIntosh Street side	40 (lift overrun)	37.8 (lift overrun)	25	Reduced
h) Car Spaces	204	211	212	Increased to comply* ¹
i) Adaptable housing	50% (73)	50% (78)	50%	Increased to comply
j) Public and resident communal open space (m ²)	1,247.7	1,283.4		N.A
k) Resident communal open space (m ²)	836.7	821.4 (Total 2,104.8* ³)	1,560	Total overall increase of communal open space* ²

Compliance with Plans or Policies

Note*¹ Total number of car spaces provided is less by one space the required provision. This is acceptable given the site's proximity to Chatswood Interchange.

Note*² The calculations for communal open space provided in the original approval and first modification have been found to include landscaped spaces that were not accessible and available for use by all residents.

Note*³ The total of the roof-top communal space and the internal courtyard communal space is provided as it is all available for resident recreational use even though the internal

JRPP REPORT

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067 (Cont.)

courtyard space is also available to visitors to the restaurants/business premises on the ground floor.

It is noted that a recent Land and Environment Court case has established that shop top housing must be above retail or business premises strictly in accordance with the definition of shop top housing. Retail premises by definition include food and drink premises. The application plans identify an office suite (commercial) on the McIntosh Street frontage and the car parking calculation is based on office premises use. This must be adjusted by a condition in a modified consent. See later discussion in the assessment section of this report.

Referrals

The Traffic Group reviewed the redesigned basement car parking and loading levels and advised that the changes for the car parking layout were acceptable. However, the Traffic Group noted the change to the loading/delivery arrangements and the reduced capacity in the loading bay to accommodate instead of a medium and a 9.9 metre rigid truck to a small rigid truck and a 9.9 metre rigid truck. Traffic Group also required provision of a parking space for a courier van. The adjustment to car parking allocation noted above as a consequence of the permissible uses can be addressed by condition.

Engineering Services has no additional requirements

Building Services noted the changes acknowledging that changes such as travel distances to exits have been increased. Building Services noted that alternate solutions will be required that will have to be determined at Construction Certificate stage.

Landscape Services has no additional conditions after noting that tree planting is proposed in planters with a minimum depth of 800mm.

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

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	• State Environmental Planning Policies (SEPP)	✓
	• Regional Environmental Plans (REP)	N/A
	• Local Environmental Plans (LEP)	✓
	• Comment: See Assessment	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	• Draft State Environmental Planning Policies (SEPP)	✓
	• Draft Regional Environmental Plans (REP)	N/A
	• Draft Local Environmental Plans (LEP)	N/A
	Comment: See Assessment	
(a)(iii)	Any development control plans	
	• Development control plans (DCPs)	✓
	Comment: See Assessment	
(a)(iv)	Any matters prescribed by the regulations	
	• Clause 92 EP&A Regulation-Demolition	N/A
	• Clause 93 EP&A Regulation-Fire Safety Considerations	N/A
	• Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings	N/A
	Comment: No additional requirements with S.96 matters. Regulation clauses for consideration with a Construction Certificate	
(b)	The likely impacts of the development	
	• Context & setting	✓

JRPP REPORT

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067 (Cont.)

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

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

	• Access, transport & traffic, parking	✓
	• Servicing, loading/unloading	✓
	• Public domain	✓
	• Utilities	✓
	• Heritage	N/A
	• Privacy	✓
	• Views	✓
	• Solar Access	✓
	• Water and draining	✓
	• Soils	✓
	• Air & microclimate	N/A
	• Flora & fauna	✓
	• Waste	✓
	• Energy	✓
	• Noise & vibration	✓
	• Natural hazards	N/A
	• Safety, security crime prevention	✓
	• Social impact in the locality	✓
	• Economic impact in the locality	✓
	• Site design and internal design	✓
	• Construction	N/A
	• Cumulative impacts	✓
	Comment: See Assessment	
(c)	The suitability of the site for the development	
	• Does the proposal fit in the locality?	✓
	• Are the site attributes conducive to this development?	✓
(d)	Any submissions made in accordance with this Act or the regulations	
	• Public submissions	N/A
	• Submissions from public authorities	N/A
	Comment: There were no submissions	
(e)	The public interest	
	• Federal, State and Local Government interests and Community interests	✓

Assessment

SEPP 55

No change is proposed to the general form of the development and the site layout. The removal of the mezzanine level in the basement has reduced the depth of basement excavation required. The modified proposal remains consistent with the requirements of SEPP 55.

SEPP (Basix) and Sustainability

An amended Basix report has been provided by Windtech (dated 9 October 2014) and a new Basix Certificate 492897M_04 has been submitted with the modification. This indicates

JRPP REPORT

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067 (Cont.)

retention of the sustainability undertakings in the originally approved development. The report on the modified design indicates the project will achieve the Basix targets for water usage, thermal comfort and energy efficiency. The weighted maximum average heating and cooling loads are indicated to have a 22% and 54% reduction respectively on the Basix maximums. Furthermore the report advises that there has been an improvement in the weighted average energy consumption compared with the approved design yielding a 0.2 MJ/m²/year reduction in the weighted average heating load and a 0.6 MJ/m²/year reduction in the weighted average cooling load.

There is a slight increase in the assessed average NatHERS star rating for the units from 5.1 stars in the first modification to 5.3 stars in this modification.

The modified proposal retains the provision for rainwater re-use (2,000L tank) on site and use of water efficient fittings in the development.

The analysis of solar access to the units indicates that 70.5% (110 units out of the total of 156) will have at least 2 hours of direct sunlight access to the glass line of living areas between 9am and 3pm. This represents a 5.2% reduction from the original development where 75.7% achieved 2 hours sunlight access. It still just exceeds the acceptable level 70% indicated in the RFDC. The reduction is a consequence of the increase from 4 in the original approval to 22 units being single aspect units.

The amended design has also been reviewed by WSP Built Technology to consider natural ventilation performance. The assessment considers the adaptive thermal comfort of each unit and the indoor air quality. The rule of thumb in the RFDC is 60% of units should be naturally cross ventilated and 25% of kitchens should have access to natural ventilation. The assessment carried out is particularly relevant and required for the modification because of the proposed 3% to 14% increase in the number of single aspect units. The development is assessed separately for each level of shop top housing. Overall the assessment has found that the development still complies notwithstanding the increased number of single aspect units. The range for cross ventilation is 63% (Level 5) to 100% (Level 11). The access of kitchens to natural ventilation ranges from 29% (Levels 1 – 4) to 50% (Level 11).

Architectural Form and SEPP 65

The changes arising from the removal of splay walls internally and splayed lines to balconies have not diminished the interest and individual style of the architectural form of the development. The external finishes and façade features of architectural mesh to the southern elevation and the modulation between the lower architectural elements of the development and the upper architectural elements of the development on the eastern and northern elevations are retained. The development still addresses the intersection of Anderson Street and McIntosh Street providing a contribution to one of the northern gateways into Chatswood CBD.

The changes to the development proposal result in an increase in the number of single aspect south facing units as noted previously but only 8 of the units do not provide the ability for cross ventilation. Penetrations into the façade to provide natural light to main access corridors enables louvered windows to be provided facing into the recessed spaces for cross ventilation in the adjacent single aspect units.

The privacy relationship between units in the internal U-shaped configuration of the development layout required review and the application provided additional documentation on the privacy implications between the units. This noted that the separation between balconies above the internal courtyard is 18 metres which is acceptable based on the principles in the RFDC. The combination of protruding and recessed balconies also

JRPP REPORT

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067 (Cont.)

addressed privacy considerations between units at the corners in the development. Privacy to bedrooms has been considered by altered window positions in bedrooms to address privacy considerations for bedrooms.

No change is proposed to floor to ceiling heights.

The layout of the mixed use complex retains the U-shaped approved form but reduces the four residential lift lobbies to two with two foyer entry points to the shop top housing units. This means an increase in corridor length and an increase in the number of units sharing use of a lift lobby on each floor. The benefit of the change is that the two lobbies are serviced by two lifts rather than one lift as in the approved development. Thus if a lift is out of service one lift is still available. Mitigation for the length of corridor is the provision of recesses in the building elevations to the corridors that will allow penetration of natural light into the corridors. Matters relating to fire safety and extended travel distances will have to be addressed at the construction certificate stage. This issue and a number of other Building Code of Australia matters will require alternate solutions to meet BCA requirements. A letter accompanying the modification by the building certifier Steve Watson and Partners indicates that these matters will be capable of being addressed at CC stage to meet the relevant performance requirements of the BCA.

A separate lift and lobby is provided for the upper level business/restaurant space.

The ground floor layout retains the internal public open space courtyard around which residential units over-look and business/restaurant suites are connected to. The private residential communal spaces are still provided on the roof levels incorporating recreational and outdoor space for residents.

Draft SEPP 65 and the Draft Apartment Design Code

The amendments proposed to SEPP 65 and the Draft Apartment Design Guide were exhibited late last year. The Draft Apartment design Code provides objectives and acceptable solutions for apartment design and allows for alternative solutions where the objectives are addressed. As a modification the subject application is established by the original approval so the consideration of the Draft SEPP 65 and the Draft Apartment Design Code focuses on the proposed changes to the approved development.

The modification maintains a minimum separation between the units opposite each other within the internal courtyard of 18 metres which is acceptable. Visual privacy between units along the Anderson Street side of the development that close the u-shape within the internal courtyard have been adjusted to address privacy relationships by adjustment to window positions and balcony design.

Floor to floor heights proposed are 3.05 metres which will ensure that the minimum ceiling height in the units will be 2.7 metres and apartment sizes generally exceed the minimums.

The reduction in number of residential lobbies introduces a non-compliance with the draft standard of a maximum of eight units sharing a circulation core. On levels 2 to 4 the northern core provides access to 15 units and 9 units for the southern core. Levels 5 and 6 are respectively 12 and 7. From Level 7 only the northern core provides access to 5 or less units. The recommended number to share a circulation core is 8 units. In the positive the modification introduces deep recesses that provide windows to corridors and introduce natural light and ventilation to the circulating corridors as well as windows at corridor ends. On balance the modified design is considered acceptable and satisfies the design objectives for common circulation spaces especially in the context of the approved U-shaped layout of the built form in the mixed use development.

JRPP REPORT

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067 (Cont.)

All habitable rooms have windows and the main living areas are adjacent to private open space balconies. Five apartments are proposed with L-shaped living spaces on level 5 and 6 where the kitchen does not have a direct external window but the depth of the living/dining space from an external window is acceptable. Reference is also made to the earlier detail provided on the natural ventilation performance of the modified development.

Willoughby Local Environmental Plan 2012

The modifications proposed to the approved development in DA 2013/309/B increase the number of units within the overall floor space while maintaining compliance with the overall permissible FSR.

The original development approval considered variations pursuant to Clause 4.6 of WLEP 2012 to the height control and the proportion of floor space in business/retail compared with shop top housing. The variations were accepted having regard to the location, site context, constraints of the site and the design solution. No change is proposed to the proportion of the floor space in business/restaurant use versus shop top housing. The overall height of the development is proposed to be decreased from the approved heights but remains non-complying with the development controls for height as noted in the development statistics table earlier in this report.

The lower ground and ground floor non-residential business/restaurant floor space has been identified in the amended plans for café/restaurant use and office use with no longer general retail or business premises use proposed. The office use cannot be approved as the use is inconsistent with the definition of shop top housing. The use of the non-residential floor space facing McIntosh Street will be required to be used for business or retail premises. This can be conditioned.

Willoughby Development Control Plan – car parking provision, traffic, loading and adaptable housing considerations

The consequent changes to car parking requirements, bicycle provision, visitor parking, provision of residential storage spaces and number of adaptable units maintain general compliance with WDCP requirements having regard to the increase in the number of residential units and change to the unit mix. The total car parking provision has increased to 211 spaces where 212 spaces are required but the reduction by one space is not of concern noting the subject site is located within walking distance to Chatswood Interchange.

The number of adaptable residential units requires provision of 15 car spaces for people with disabilities and 20 are proposed to be allocated to the adaptable units. All shop top housing units are provided with a car space and 39 visitor spaces are provided including 1 accessible space for a visitor with disabilities. Twelve (12) of the residential visitor spaces and all the non-residential business/restaurant spaces are outside the secure residential parking area. Access to the balance of the residential visitor spaces requires entry into the secure parking levels and will require an intercom entry at the security gate which is acceptable.

The required change to the ground floor use proposed for an office suite increases the car parking requirement for the non-residential uses to 26.32 spaces from 16.39 spaces. The consequence is that the 12 residential visitor spaces identified on the lower ground floor will need to be available for either residential visitors or business purposes. This arrangement is acceptable and there are examples of shared use of spaces on other sites within easy walking distance of Chatswood Interchange.

The provision of bicycle lockers and racks is acceptable.

The additional 20 car spaces for the 20 additional residential units from the original approval plus 5 additional visitor spaces required as a consequence of the increase in unit numbers generates an additional 4 vehicle trips per hour in peak hour in traffic generation. This change is negligible and as previously assessed by Council's Traffic Group, the Help Street intersection with Anderson Street will continue to have an average operation of Level B in business peak hours which is an acceptable level of service by reference to intersection rating tools where Level A is very good and Level F is an intersection that fails in level of service and operation. Until the northern by-pass of Chatswood CBD is achieved and other changes to the network recommended for Chatswood CBD in recent traffic studies are in place, there will continue to be occasional times of congestion especially at weekends but on average the Level B operation of the intersection in weekly business peak hours is acceptable.

The congestion in weekend traffic varies but generally peaks during the middle of the day on Saturday and Sunday. The modification proposes no change to the overall business or restaurant floor space but proposes an increase in the proportion of the floor space in restaurant/café uses with a reduction in general retail use. The trip generation for the restaurants that are proposed to be the primary non-residential use was expected to generally occur outside business peak hours but will coincide with the weekend peak retail trading hours. However, having regard to the reduced general retail use the traffic generation for the non-residential uses is considered to have minimal change to impact on the road network with the modification.

The loading and delivery arrangements are still proposed to be located on the lower ground floor adjacent to the waste handling storage areas but are proposed to be modified in layout and manoeuvring. Access to the truck docks proposes to use the car park circulating aisles to manoeuvre on-site to the docks. The truck manoeuvring diagrams provided in the traffic report accompanying the modification indicates the proposed access arrangements to the docks are feasible and acceptable.

The capacity of the docks provides for a 9.9 metre rigid and a small rigid vehicle to operate from the docks at the same time. This is less capacity compared with the original approval that provided for a 9.9 metre rigid truck and a medium rigid truck to occupy the docks at the same time. Given the scale of the shop top housing development and the intention to provide business and food premises in the non-residential uses, the change in truck size is considered acceptable. However, Traffic Group requires provision of a courier space within the car park as a consequence of the change to the loading capacity and this can be conditioned.

Impacts on Shadowing

There is decreased shadowing impact in some locations and increased shadowing impacts as a consequence of the proposed modifications. The location of the increase in shadowing impact is a result of the change to the upper levels of the Help Street elevation (Levels 5 and 6) where the units above level 4 that frame the tree are no longer provided with a set back to the levels below. This increases the shadowing impact on the north east corner of The Regency from about 1pm to after 2pm. At other times and overall the shadowing is marginally reduced. The change to the shadowing impact conditions is considered to be acceptable.

Other Impacts

There is minimal change to the massing and bulk of the development or the U-shaped layout of the built form with the business/restaurant uses at the lower levels and internal public open

JRPP REPORT

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067 (Cont.)

space connecting to the public domain with shop top housing above. As a result there is minimal change to the impacts of visual bulk and scale, view lines and view sharing principles that were considered in the assessment leading to the original approval.

There will be minimal change to the visual and aural privacy impacts compared with the approved development facing the external streets but there will be some improvement to the relationship of shop top housing units surrounding the internal courtyard.

Principles of active street frontages and passive surveillance are retained in the proposed modified development.

The modified proposal retains the undertaking to provide the value of 4% of residential gross floor space as an affordable housing contribution that was agreed to in the original approval. See later discussion.

Amended s94A Levy

The value of the development quoted in the original application was based on the originally lodged plans. The original plans proposed excessive floor space and were subsequently modified before approval of the final development but the reduced value of the development was not provided. The current s.96(2) application provides the cost of works having regard to the reduced development scale from that which was originally lodged as well as allowing for the variations requested in this application. The adjustment is appropriately considered in the modification and the contribution is just under \$1.155 million as noted earlier in this report.

Affordable Housing

The site is located in Special Area 3 in WLEP 2012 that is subject to the provisions of the Clause 6.8 for provision of affordable housing on the site. The original approval provided that the affordable housing requirement in development could be met by a monetary contribution in lieu of providing the residential units. As previously noted in this report the acceptance of the arrangement in the original approval was based on the complex nature of the design and as a result the ongoing building maintenance matters as well as the intention of Council to undertake an affordable housing development in Artarmon.

The submission of the current modification with the changes to the development form (removal of basement mezzanine, reduction in lift locations, waste handling areas and extent of roof landscaping) suggested Council should review its acceptance of a monetary contribution for affordable housing rather than provision of units.

The applicant provided with the subject application a submission in support of continuing with the provision of a monetary contribution to meet the affordable housing requirement. The submission provided an alternative scheme that allowed for the additional 4% residential floor space that would be in the affordable housing units (excluded for the calculation of FSR). Although options exist as to how the additional floor space could be accommodated in the development, it is accepted that it would likely require an increase in height non-compliance and hence mass, bulk and shadowing impacts. This consideration assumes the continuation of the U-shaped design of the development that has the benefit of managing the impacts and relationship to 5 Help Street.

As a consequence it has been accepted that the condition to meet the affordable housing requirement by way of a monetary contribution should be unchanged notwithstanding the proposed changes to the development in this modification.

JRPP REPORT

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067 (Cont.)

The modification application also initially requested that the affordable housing condition be amended to fix the amount of the contribution to an amount for 6 months. The basis of calculation of the amount is not detailed but is noted to be based on out of date sales reports for the Chatswood area and is unacceptable. The request was subsequently withdrawn by the applicant by letter dated 11 November 2014. The amount of the affordable housing contribution must be assessed at the time of payment. The rate in the March Quarter 2014 from the Rent and Sales Report for Willoughby published by the Department of Community and Family Services was \$751,000 per dwelling. This will require review at the time of payment. 4% of the residential GFA is 484m² and the average dwelling size is 77.5 to 80 m² requiring thus a contribution for 6.05 – 6.26 dwellings. For the March Quarter in 2014 the amount of the contribution would have been more than \$4.54 million.

Whether the Proposal is substantially the Same Development?

The proposed modification is considered to be substantially the same development as that which was originally approved. The changes although affecting the whole development are considered to have minimal change in the impacts of the development and the development still provides an acceptable architectural solution for the site. The extent of change has minimal impact on the approved development statistics and does not result in any increase in non-compliance from that which was accepted in the original approval. The modified proposal is not considered to vary the intent of the development approved by Sydney East Joint Regional Planning Panel.

CONCLUSION

Modification 2013/309/B (2014SYE126) proposes internal and external changes to the approved mixed use development at 28 – 36 Anderson Street, 1 Help Street and 2 A McIntosh Street Chatswood. The modifications have been considered having regard to the relevant s.79C matters and the modified development is considered substantially the same as that which was originally approved. The modifications with the exception of the proposed change to the affordable housing condition as discussed above are considered acceptable.

OFFICER'S RECOMMENDATION

That modification application 2013/309/B (JRPP 2014SYE126) be approved and delegated authority be granted to the General Manager of Willoughby City Council to issue the consent notice subject to the attached amended conditions.

SCHEDULE

Amended Conditions of Consent: (including reasons for such conditions)

A Condition 1 is amended as follows:

1. Approved Plan/Details

The development must be in accordance with the following plans:

Type	Plan No.	Revision / Issue No	Plan Date (as Amended)	Date Stamped by Council	Prepared by
Architectural	6322	DA00/E	12.11.2014	14.11.2014	KannFinch
Architectural	6322	DA01/A	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA10/C	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA11/C	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA12/C	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA13/C	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA14/C	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA15/C	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA16/E	12.11.2014	14.11.2014	KannFinch
Architectural	6322	DA17/E	12.11.2014	14.11.2014	KannFinch
Architectural	6322	DA18/C	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA19/C	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA20/E	12.11.2014	14.11.2014	KannFinch
Architectural	6322	DA21/A	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA30/C	12.11.2014	14.11.2014	KannFinch
Architectural	6322	DA31/E	12.11.2014	14.11.2014	KannFinch
Architectural	6322	DA32/B	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA33/B	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA34/B	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA35/B	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA36/B	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA37/B	13.10.2014	13.10.2014	KannFinch

JRPP REPORT

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067 (Cont.)

Type	Plan No.	Revision / Issue No	Plan Date (as Amended)	Date Stamped by Council	Prepared by
Architectural	6322	DA38/B	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA40/A	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA50/B	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA51/B	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA52/B	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA53/B	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA54/B	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA55/B	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA56/B	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA57/B	13.10.2014	13.10.2014	KannFinch
Architectural	6322	DA58/B	13.10.2014	13.10.2014	KannFinch
Shadow	6322	Sheet 1	9.10.2014	13.10.2014	KannFinch
Architectural	6322	Sheet 2	9.10.2014	13.10.2014	KannFinch
Architectural	6322	Sheet 3	9.10.2014	13.10.2014	KannFinch
Photomontage	6322	DA50/A	13.10.2014	17.10.2014	KannFinch
Photomontage	6322	DA52/A	13.10.2014	17.10.2014	KannFinch
Landscape	14-231	000/A	9.10.2014	23.10.2014	Arcadia
Landscape	14-231	101/A	9.10.2014	23.10.2014	Arcadia
Landscape	14-231	102/A	9.10.2014	23.10.2014	Arcadia
Landscape	14-231	103/A	9.10.2014	23.10.2014	Arcadia
Landscape	14-231	104/A	9.10.2014	23.10.2014	Arcadia
Landscape	14-231	501/A	9.10.2014	23.10.2014	Arcadia
Stormwater	25402-SYD	C01-00/C	30.7/2013	31.7.2013	Wood&Grieve
Stormwater	25402-SYD	C02-00/C	30.7/2013	31.7.2013	Wood&Grieve
Stormwater	25402-SYD	C03-00/C	30.7/2013	31.7.2013	Wood&Grieve
Stormwater	25402-SYD	C04-00/C	30.7/2013	31.7.2013	Wood&Grieve
Stormwater	25402-SYD	C05-10/B	30.7/2013	31.7.2013	Wood&Grieve

JRPP REPORT

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067 (Cont.)

Type	Plan No.	Revision / Issue No	Plan Date (as Amended)	Date Stamped by Council	Prepared by
Driveways	25402-SY	R00/2	13.05.2014	12.06.2014	Wood&Grieve
Driveways	25402-SY	R01/2	13.05.2014	12.06.2014	Wood&Grieve
Driveways	25402-SY	R02/1	09.05.2014	12.06.2014	Wood&Grieve
Driveways	25402-SY	R03/1	09.05.2014	12.06.2014	Wood&Grieve
Driveways	25402-SY	R04/1	09.05.2014	12.06.2014	Wood&Grieve
Driveways	25402-SY	R05/1	09.05.2014	12.06.2014	Wood&Grieve
Driveways	25402-SY	R06/3	29.05.2014	12.06.2014	Wood&Grieve
Driveways	25402-SY	R07/4	29.05.2014	12.06.2014	Wood&Grieve
Driveways	25402-SY	R08/4	29.05.2014	12.06.2014	Wood&Grieve
Driveways	25402-SY	R09/1	09.05.2014	12.06.2014	Wood&Grieve
Driveways	25402-SY	R10/1	09.05.2014	12.06.2014	Wood&Grieve
Driveways	25402-SY	R11/1	09.05.2014	12.06.2014	Wood&Grieve
Driveways	25402-SY	R12/4	29.05.2014	12.06.2014	Wood&Grieve
Driveways	25402-SY	R13/1	09.05.2014	12.06.2014	Wood&Grieve
Driveways	25402-SY	R14/1	09.05.2014	12.06.2014	Wood&Grieve

the application form and any other supporting documentation including but not limited to the Statement of Environmental Effects (as amended), traffic report (as amended), Basix and sustainability reports (as amended) including Section J and WSP Built Technology, Shadow Analysis Design Statement, Arboricultural Impact and Specification, Landscape, Stormwater, and Waste Management Report submitted as part of the application, except for:

- a) Any modifications which are "Exempt Development" as defined under S76(2) of the Environmental Planning and Assessment Act 1979;
- b) The use of the lower ground and ground floor suites shall be for business premises and/or retail premises including food and drink premises.
- c) Otherwise provided by the conditions of this consent.
(Reason: Information and ensure compliance)

B Condition 3 is amended as follows:

3. Section 94A Contributions

A monetary contribution of \$1,154,936.10 (subject to indexing as outlined below) is to be paid in accordance with Section 94A of the Environmental Planning and Assessment Act, 1979.

This contribution is based on 3% of the estimated development cost of \$38,497,870.00 at (16 October 2014) and the adopted Section 94A Contributions Plan.

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

To calculate the indexed levy, the formula used to determine the cash contribution is set out below.

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

Where:

NL is the new section 94A levy

Lo is the original levy

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

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

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

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

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

C Condition 16 is amended as follows:

16. Vehicle Access – Engineer’s Certification

Prior to issue of any Construction Certificate, the Applicant shall submit, for approval by the Accredited Certifier, certification from a suitably qualified and experienced traffic engineer. This certification must be based on the architectural drawings and the structural drawings, and must make specific reference to the following:

- a) That driveways and vehicular access ramps have been designed to provide adequate ground clearance to the underside of B99 vehicles.
- b) That all driveway gradients and transitions will not result in the scraping of the underside of cars.

- c) That a maximum gradient of 5% is provided for the first 6.5 metres for the driveway from the property boundary to the loading dock in Help Street.
- d) That the proposed vehicular path and parking arrangements comply in full with AS2890 in terms of minimum dimensions provided,
- e) That the headroom clearance of minimum 4.5 metres between the basement floor and any overhead obstruction is provided in all areas accessed by service vehicles complying with AS2890.2
- f) That the headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities which complies with Section 2.4 of AS2890.6.

(Reason: Ensure Compliance)

D Condition 58 is amended as follows:

58. Visitor Parking Spaces

The 39 residential visitor and 15 business car parking spaces plus one (1) courier space are to be physically identified on site and maintained free of obstruction for the exclusive use of residential and business visitors to the premises at all times. NOTE: Twelve (12) of the residential visitor spaces located on the Lower Ground Floor shall be available also for business use.

(Reason: Amenity)

E Condition 59 is amended as follows:

59. Identification of Car Parking Spaces

The 211 car parking spaces are to be physically identified on site and maintained free of obstruction. Under no circumstances are these spaces to be used for the storage of goods or waste products.

(Reason: Amenity)

F Condition 99 is amended as follows:

99. On-site Car Parking

The on-site car parking provision shall be arranged as follows:

156 residential spaces

27 residential visitor spaces

12 shared business and residential visitor spaces

15 business spaces

1 courier space

Motor cycle and bicycle as identified on the approved plans.

The 12 residential visitor spaces, 15 business spaces and courier space are to be outside the residential secure parking area and be accessible to tenants/visitors at all times. Shared use of the residential visitor and business spaces during operating hours of the business uses is required by this consent.

The 27 residential visitor spaces within the secured car park levels shall be accessible for use by residential visitors at all times. Intercom connection to all units shall be provided to enable access.

(Reason: Ensure compliance)

JRPP REPORT

28, 32, 36 Anderson Street, 1 Help Street & 2A McIntosh Street, CHATSWOOD NSW 2067 (Cont.)

G Condition 100 is amended as follows:

100. Security Controlled Car Parking

Should any security controlled car parking arrangement be considered for the residential visitor and business car parking a visitor voucher or intercom system is to be used to enable free access and parking for the tenants/visitors.

(Reason: Amenity)

H Condition 101 is amended as follows:

101. Motor Cycle Parking

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

(Reason: Amenity)

I Condition 102 is amended as follows:

102. Cycle Racks

A minimum of 20 bicycle lockers and 21 rails are to be provided for the use of residents/visitors to the premises. Where more than three bicycle lockers are provided for business/retail/restaurant uses, showers and change facilities must be provided.

(Reason: Amenity)

J Condition 103 is amended as follows:

103. Visitor Car Parking Bays

Any visitor parking bays required in accordance with Willoughby Development Control Plan Part C.4, are to be grouped together and physically identified by suitable signs and/or pavement and being permanently accessible and reserved for the exclusive use of visitors to the premises.

(Reason: Ensure compliance)

K Condition 105 is amended as follows:

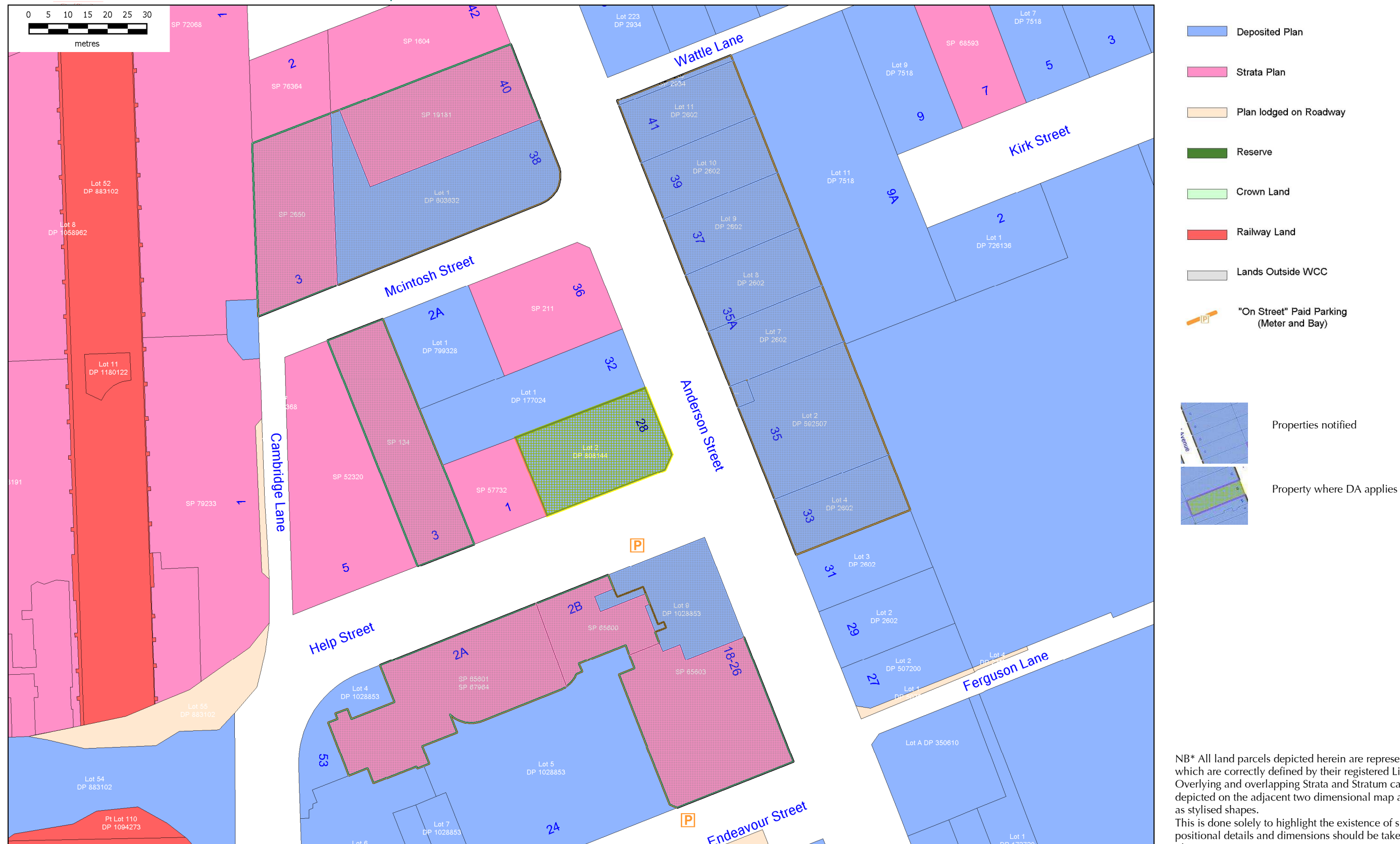
105. Hours of Operation

The hours of operation of the uses are to be restricted as determined in the future applications for use and fit-out of the non-residential floor space (business, café, retail, restaurant).

Any variation to those hours, when determined, will be subject to further consent of Council.

(Reason: Amenity)

L Comply with all other conditions of the original development consent.



1

Created by : DR

Map Width : 289 m

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

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