

PPSSNH-101- 14 ARTARMON ROAD, WILLOUGHBY NSW 2068.

Panel Reference	PPSSNH-101
DA Number	2020/136
LGA	Willoughby
Proposed Development	Construction of five buildings containing 228 dwellings, retail/commercial space, basement carparking, landscaping and public domain works, extension of Scott street and other associated works
Street Address	14 Artarmon Road, Willoughby NSW 2068
Applicant/Owner	Mirvac Residential (NSW) Developments Pty Ltd
Date of DA lodgement	10-JUN-2020
Number of Submissions	4
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Capital investment value (CIV) of over \$30 million
List of all relevant s4.15(1)(a) matters	i.e. any: • State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development • Concept Approval MP 10 0198 MOD 4 • Willoughby LEP 2012 • Willoughby DCP • Planning Agreement dated 10 March 2021 between the Applicant and Council
List all documents submitted with this report for the Panel's consideration	i.e. any: • plans • essential documentation
Report prepared by	Mark Bolduan - Senior Development Assessment Officer
Report date	21/06/2021

Summary of s4.15 matters

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

Yes

Legislative clauses requiring consent authority satisfaction

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

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

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

Not Applicable

Special Infrastructure Contributions

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

No

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

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

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

COUNCIL: WILLOUGHBY CITY COUNCIL

ADDRESS: 14 ARTARMON ROAD, WILLOUGHBY NSW 2068.

DA NO: DA-2020/136

PROPOSAL: CONSTRUCTION OF FIVE BUILDINGS CONTAINING 228 DWELLINGS, RETAIL/COMMERCIAL SPACE, BASEMENT CARPARKING, LANDSCAPING AND PUBLIC DOMAIN WORKS, EXTENSION OF SCOTT STREET AND OTHER ASSOCIATED WORKS (SNPP).

RECOMMENDATION: APPROVAL

ATTACHMENTS:

1. SITE DESCRIPTION AND AERIAL PHOTO
2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
3. SUBMISSIONS TABLE
4. SECTION 4.15 ASSESSMENT
5. SCHEDULE OF CONDITIONS
6. NOTIFICATION MAP

RESPONSIBLE OFFICER: RITU SHANKAR - TEAM LEADER

AUTHOR: MARK BOLDUAN - SENIOR DEVELOPMENT ASSESSMENT OFFICER

DATE: 21-JUN-2021

OWNER: MIRVAC RESIDENTIAL (NSW) DEVELOPMENTS PTY LTD

APPLICANT: MIRVAC RESIDENTIAL (NSW) DEVELOPMENTS PTY LTD

DATE OF LODGEMENT: 10-JUN-2020

1. PURPOSE OF REPORT

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

2. OFFICER'S RECOMMENDATION

THAT the Sydney North Planning Panel (SNPP) approve the development subject to the attached conditions and issue consent for the application DA-2020/136 for construction of five buildings containing 228 dwellings, retail/commercial space, basement carparking, landscaping and public domain works, extension of Scott street and other associated works at 14 Artarmon Road, Willoughby NSW 2068.

3. BACKGROUND

Concept Approval

Nine Network Australia (Nine) commenced television broadcasting from the Channel 9 site in 1956. Changes in the broadcasting industry have resulted in Nine moving its operations to a new facility in North Sydney CBD.

In anticipation of this relocation, Nine has for some years investigated and obtained approvals for the redevelopment of the subject site, as set out in the following table.

Application No	Status	Determination body	Date	Details
Part 3A Concept Plan (MP 10 0198)	Approved	Planning Assessment Commission (PAC)	23 December 2014	Residential development of up to 400 residences, and some non-residential uses.
Concept Plan (MP 10 0198 MOD 1)	Withdrawn	-	-	-
Concept Plan (MP 10 0198 MOD 2)	Approved	Independent Planning Commission (IPC)	31 January 2019	460 dwellings, totalling 43,907m ² of floor space and up to 300m ² for non-residential uses.
Concept Plan (MP 10 0198 MOD 3)	Withdrawn	-	-	-
Concept Plan (MP 10 0198 MOD 4)	Approved	Department of Planning	17 August 2020	Included TX site (Lot 11 DP 1162507) in the Concept Approval area (Lot 12 DP 1162507 was included as part of the initial Concept Approval area).

Table 1: Concept Approval History

The layout approved by the Concept Approval is set out in Figure 1 below. The Concept Approval prescribes the maximum RLs for each building. The number of storeys of corresponding to those RLs is also indicated. In some cases, these storeys are staggered to follow the fall of finished ground level.

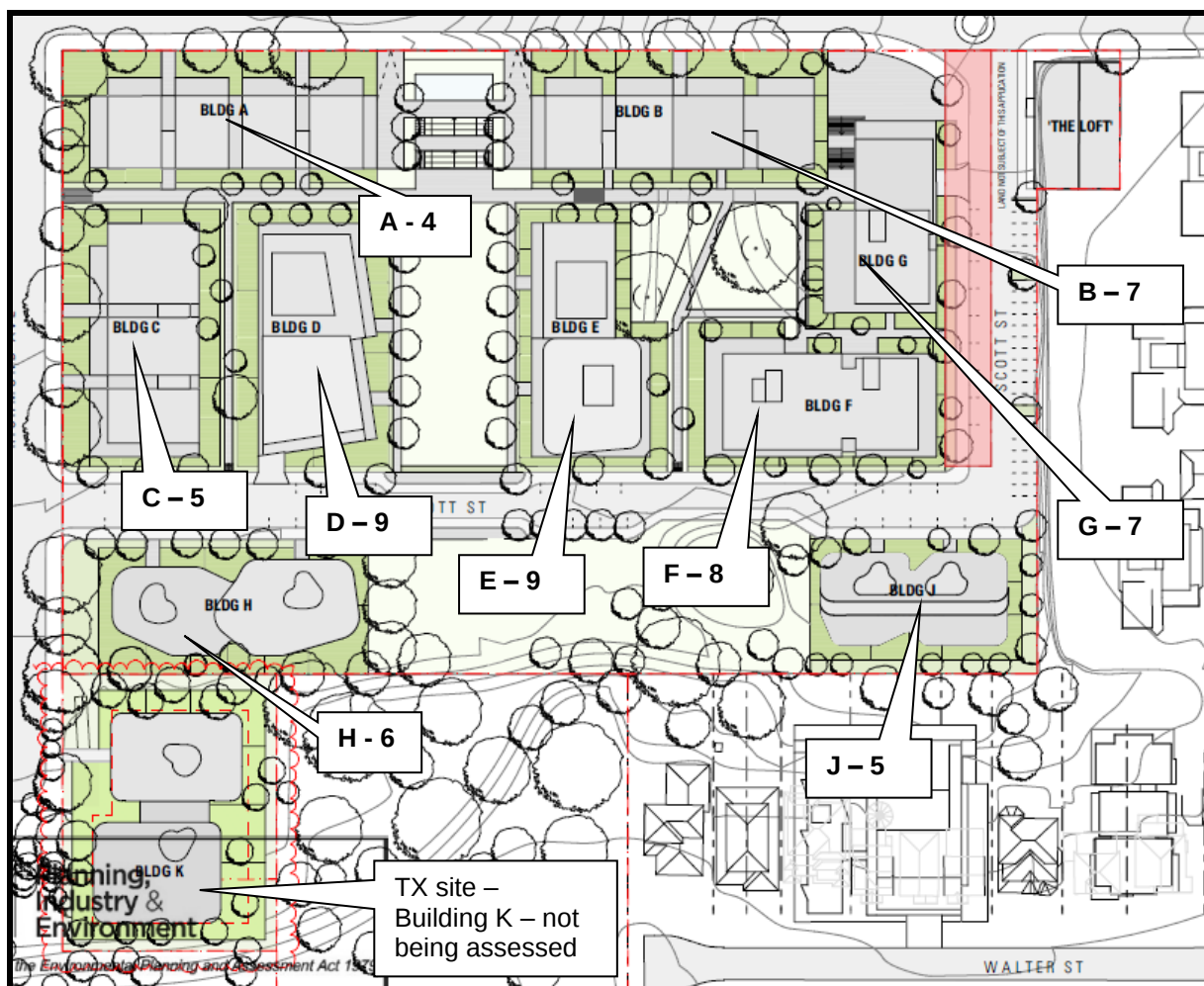


Figure 1: Approved layout and number of storeys - extract from approved site plan (MP 10 0198 MOD 4)

The Concept Plan (MP 10 0198 MOD 4) approval contains the staging plan indicated in Figure 2 below. It should be noted that Stages 1 and 2 have been reversed in the DAs lodged with Council. The current application DA 2020/136 corresponds to the new Stage 1 (formerly the Stage 2 shown on the extract below).

As discussed further below, the applicant has also lodged DA 2020/137, which corresponds to the new Stage 2 (formerly the Stage 1 shown on the extract below) and DA 2020/271 for Stage 3, now known as the TX stage. DA 202/137 is also before SNPP and DA 2020/271 will go before the Willoughby Local Planning Panel.

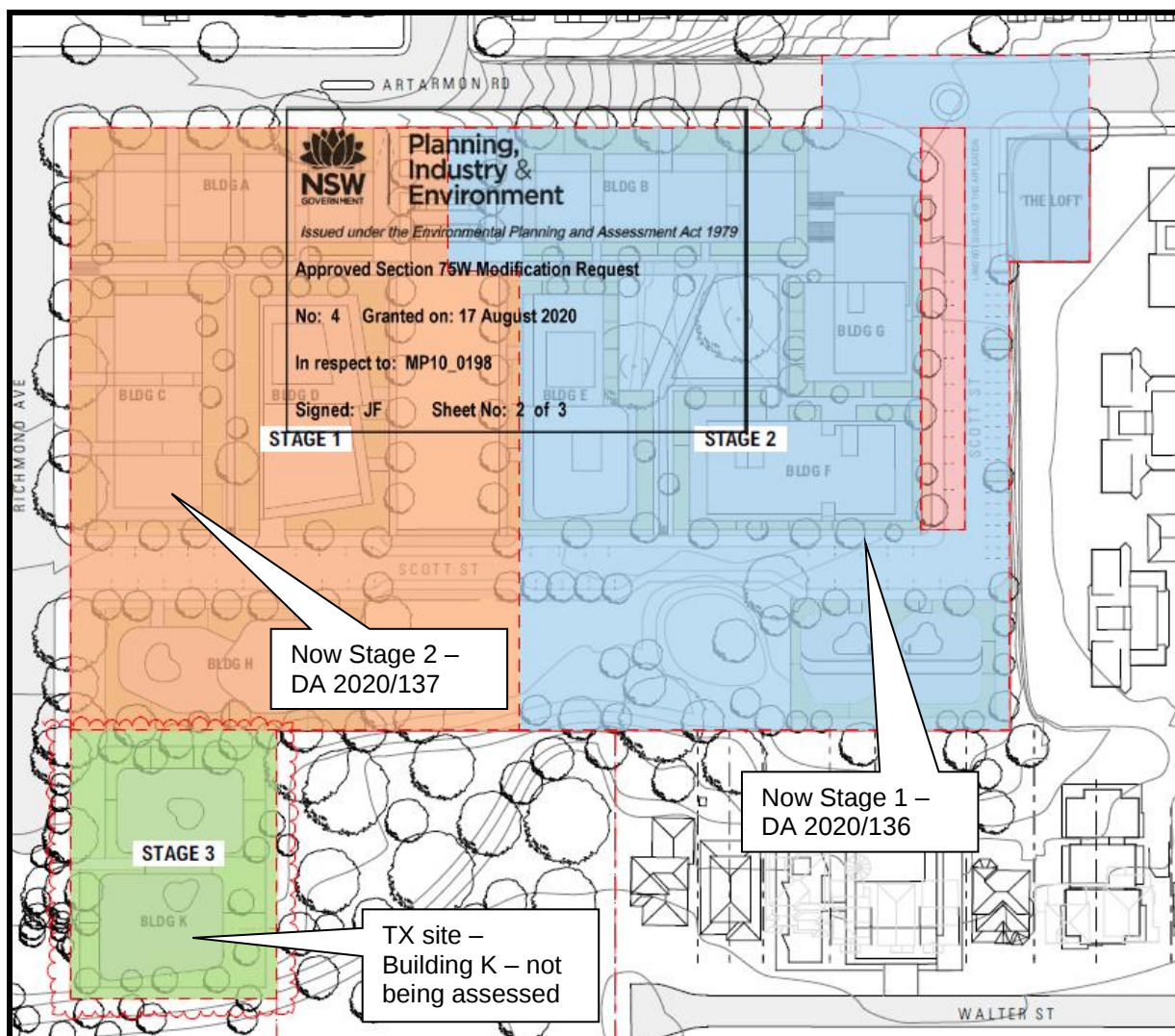


Figure 2: Approved staging plan - (MP 10 0198 MOD 4)

Legal status of Concept Plan

The Concept Plan Approval (MP 10_0198) for the site was issued in accordance with Part 3A of the *Environmental Planning and Assessment Act 1979* (EP & Act), which has since been repealed. Notwithstanding the repeal of Part 3A, Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (Transitional Regulation) includes transitional provisions for Concept Plans approved under Part 3A to continue in effect as though Part 3A had not been repealed.

An assessment of the compliance of the current proposal with Concept Plan MP 10 0198 MOD 4 is included in **Attachment 2**.

Development Applications lodged

Mirvac acquired the subject site in early 2020 and is now proceeding with seeking approvals consistent with the modified Concept Plan. The development is being divided into the following separate development applications:

- DA 2020/87 for demolition of the existing structures on the Channel 9 site. This was approved by the Willoughby Local Planning Panel on 16 June 2020;
- DA 2020/127 for demolition of the existing structures on the TX site. This was approved by Council on 22 September 2020;

- DA 2020/128 for civil and remedial works. This was approved by Willoughby Local Planning panel on 18 March 2021;
- DA 2020/135 for public domain works (pending);
- **DA 2020/136 for construction of the residential development (Stage 1) (current application);**
- DA 2020/137 for construction of the residential development (Stage 2) (to be considered concurrently with the current application);
- DA 2020/197 for adaptive reuse of The Loft building (6 Artarmon Road). This was approved by Willoughby Local Planning Panel on 8 December 2020;
- DA 2020/271 for construction of the residential development (TX site) (pending determination by Willoughby Local Planning Panel).

It should be noted that demolition work is well underway across the Channel 9 site.

Purchase of Scott Street and Licence Agreement

The Concept Approval excludes Scott Street, and the DA also excludes it (although seeking to include visitor parking on Scott Street). As a separate issue, because Scott Street will only benefit Mirvac, Council has entered into negotiations with Mirvac to:

- Sell Scott Street to Mirvac; and
- Provide a licence to Mirvac to carry out any activities within Scott Street necessary to facilitate the development of the subject site including storage of materials and upgrade works.

These negotiations have not yet concluded and neither the sale agreement nor the licence agreement have been signed by Council, as some questions regarding the sale price are still being resolved.

None of the above affects the current DA, or even DA 2020/135 for public domain works (which includes road works in Scott Street) because Mirvac has landowner consent from Council for that DA.

Design Excellence Review

The current DA was lodged with Council on 11 June 2020. In August 2020, Council engaged Brendan Randles Architect to provide an urban design / design excellence review of the proposal (the Randles Review). The Randles Review was given in September 2020 and made a number of suggestions, including addressing shortfalls in the Apartment Design Guidelines (ADG) standards for solar access and cross ventilation in some of the buildings; and the location of a commercial 'amenity' building within the central open space spine.

A subsequent exchange of correspondence and documentation with the applicant did not lead to a satisfactory response to the Randles Review. Given the requirement in the Concept Approval for the proposal to demonstrate design excellence, the proposal was referred by Council to a Design Excellence Integrity Review Panel (DEIRP), in line with Council's Design Excellence Policy. The DEIRP was briefed to consider whether the proposal provided design excellence in accordance with the abovementioned Concept Approval requirement.

On 4 May 2021, the DEIRP heard submissions from both Council and the applicant. On 7 May 2021, the DEIRP delivered its assessment of the proposal and made a number of recommendations including:

- Increase solar access and cross ventilation by adjusting apartment layouts.
- The community building at the Artarmon Road frontage to be retained but equitable access to be addressed.

The applicant subsequently lodged an amended set of plans and Council's urban design officer has advised:

The proponent has made earnest effort in addressing the concerns of the DEIRP by improving areas of the development outcome including solar access and cross ventilation. In this regard it is considered that the development adequately maintains its capacity to exhibit Design Excellence.

Voluntary Planning Agreement

Council has entered into a Planning Agreement dated 10 March 2021 with the applicant (the VPA). The terms of the VPA can be summarised as follows:

Purpose of Development Contribution	Development Contribution	Time for making Development Contribution
Future intersection upgrade works to Willoughby Road, Artarmon Road, Small Street intersection	\$500,000	Within 14 days of a Final OC
Future public access and regeneration works to Walter Street Reserve	\$1,000,000	Within 14 days of a Final OC
Affordable Housing Units	Residential GFA of 1,435m ² ; and 5% of any residential GFA 35,886m ² – 42,557m ² ; and 17 affordable housing units	Units to be transferred within two months of the registration of subdivision of the development creating the affordable housing units and within 6 months of Final OC being issued.

Table 2: Terms of VPA

Conditions giving effect to the VPA are proposed.

4. PROPOSAL

As discussed above, the proposed development is comprised of 10 separate buildings in the following three separate stages:

Stage	Buildings	DA
1	B, E, F, G and J	DA 2020/136 (current application)
2	A, C, D and H	DA 2020/137
TX	K	DA 2020/271

Table 3: Staging of development

A summary of the key features of Stage 1 is set out in the following table.

Total number of apartments:	228
Apartment mix:	2 x studios; 43 x 1 bedroom; 101 x 2 bedroom; 82 x 3 bedroom
Car spaces	249 residential spaces 45 visitor spaces 10 retail spaces (Total 304)
Motorcycle spaces	29
Bicycle spaces	29
Landscaped area	4,472m ²
Deep soil area	3,380m ²

Table 4 – Stage 1 Development Summary

For context, a summary of the key features of Stage 2 is set out in the following table.

Total number of apartments:	178
Apartment mix:	38 x 1 bedroom; 97 x 2 bedroom; 43 x 3 bedroom
Car spaces	189 residential spaces 38 visitor spaces (total 227)
Motorcycle spaces	20
Bicycle spaces	40
Landscaped area	3518m ²
Deep soil area	3040m ²

Table 5 – Stage 2 Development Summary

A summary of the key features of combined Stages 1 and 2 is set out in the following table.

Total number of apartments:	406
Apartment mix:	2 x studios; 81 x 1 bedroom; 198 x 2 bedroom; 125 x 3 bedroom
Car spaces	438 residential spaces 83 visitor spaces 10 retail spaces (total 531)
Motorcycle spaces	49
Bicycle spaces	69
Landscaped area	3518m ² (27% site area)
Deep soil area	6420m ² (16.3% site area)

Table 6 – Stages 1 and 2 Development Summary

Landscaping and communal open space

The proposal includes a number of separate areas of landscaping and communal open space.

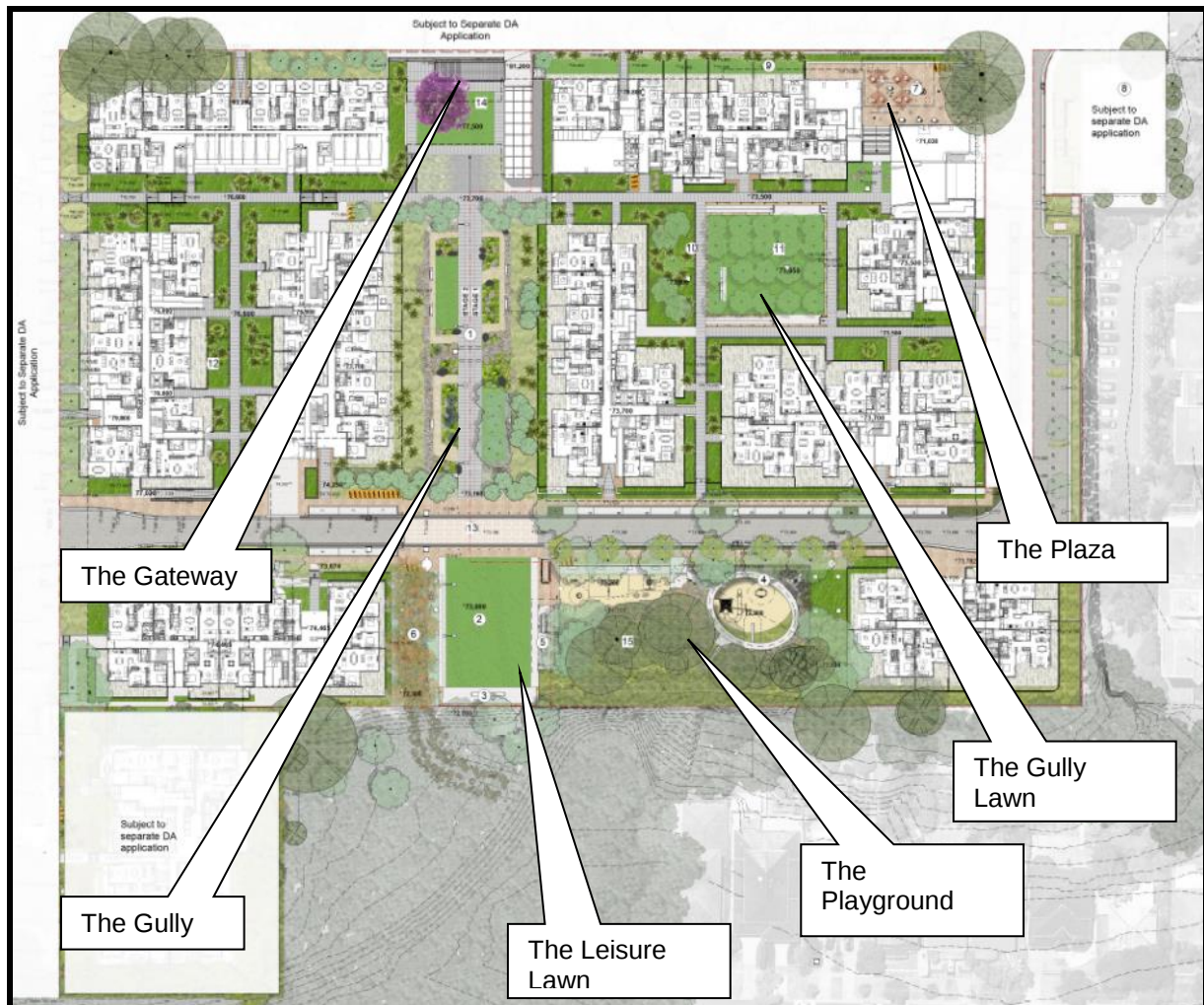


Figure 3: Landscaped and communal open spaces – extract from Landscape Masterplan

The Gateway, Gorge, Leisure Lawn, Playground and Plaza are all proposed to be open to residents and the general public. Conditions are proposed to give effect to this requirement. The Gully Lawn will not be open to the general public.

Deep soil areas are concentrated in the Gorge, the Leisure lawn and Playground, as indicated in Figure 4 below:



Figure 4: Deep soil areas – extract from Landscape plans

A description of the site and surrounding area, including an aerial photograph is contained in **Attachment 1**.

The controls and development statistics that apply to the subject land are provided in **Attachment 2**.

A table of the issues raised in the submissions objecting to the proposal and the assessing officer's response is contained in **Attachment 3**.

5. CONCLUSION

The Development Application DA-2020/136 has been assessed in accordance with Concept Plan Approval (MP 10_0198), Section 4.15 of the *Environmental Planning and Assessment Act 1979*, *WLEP 2012*, *WDCP*, and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in Attachment 5.

ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO

The site is the Channel 9 redevelopment project site located on the southern side of Artarmon Road, Willoughby. The Channel 9 redevelopment site has a frontage at Artarmon Road of approximately 231m, a depth of approximately 138m and a total area of 28,981m². An aerial view of the site and immediate locality is indicated in Figure 1 below.

Demolition of the former Channel 9 buildings has already commenced pursuant to the approved DAs 2020/87 and 2020/127.



Figure 1: Site aerial view of subject site (Six Maps)

To the south is the Council reserve running along Scott Creek, through which runs the Warringah Freeway. The site also abuts the rear of a row of detached houses along Walter Street.

The property to the east at 2 Artarmon Road contains the Castle Vale development, a large medium/high density residential complex. This development includes seven residential flat buildings and 160 apartments. These buildings range in height from three to eight storeys.

To the north and west of the subject site is a significant area of low density residential development in a landscaped setting. Much of this residential area is part of the Artarmon Heritage Conservation Area. The streets in this area carry mainly local traffic. In particular, the dwellings on the northern side of Artarmon Road (opposite the subject site) and on the western side of Richmond Avenue (opposite the subject site) predominantly consist of single storey dwelling houses in landscaped suburban blocks.

Artarmon Railway station is located 1km to the west.



Figure 2: Looking south along Richmond Avenue (Google Streetview)



Figure 3: Looking west along Artarmon Road (Google Streetview)

6 Artarmon Road (The Loft)

The site has a frontage to Scott Street to the west and Artarmon Road to the north. The site contains 'The Loft', which is a two storey building approved for adaptive reuse under the modified Concept Plan. The Loft is a two storey office building with basement car parking. The building has historically been used as offices to support the operation of channel 9.

The south slopes up to the south western corner on Scott Street.

ATTACHMENT 2: CONTROLS, REFERRALS & DEVELOPMENT STATISTICS

Controls and Classification

Willoughby Local Environmental Plan 2012 Zoning:	
Existing Use Rights	No
Conservation area	No
Heritage Item	No
Vicinity of Heritage Item	No
Bushfire Prone Area	No
Foreshore Protection Area	No
Flood related planning control	No
Adjacent to classified road	No
Road/lane widening	No
Applicable DCP	WDCP
Applicable SEPPs	N/A
Relevant policies and resolutions	N/A

Concept Plan MP 10 0198 MOD 4

Legal status of Concept Plan

As stated above, the Concept Plan Approval (MP 10_0198) for the site was issued in accordance with Part 3A of the *Environmental Planning and Assessment Act 1979* (EP & Act), which has since been repealed. Notwithstanding the repeal of Part 3A, Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (Transitional Regulation) includes transitional provisions for Concept Plans approved under Part 3A to continue in effect as though Part 3A had not been repealed.

Under Clause 3B(2)(f) of Schedule 2 of the Transitional Regulation, the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the Concept Plan (as modified in accordance with Schedule 2). This means that the Concept Plan MP 10 0198 MOD 4 overrides the Willoughby LEP 2012 and the Willoughby DCP to the extent of any inconsistency.

Compliance with Concept plan conditions

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
A1	10 residential RFBs	9 residential RFBs in Stages 1 and 2 (Building K on TX site is subject of separate DA 2020/271 to be determined by WLPP)	Yes
	Max 460 dwellings	406 dwellings	Yes
	Max 46,853m ² of residential GFA (including Stage 1, Stage 2 and Stage TX)	42,549m ² of residential GFA (Stage 1 and 2 only)	Yes

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
	300m ² of non-residential GFA to support the development (incorporating neighbourhood shops; food and drink premises, centre based child care facilities, indoor recreation facilities or community facilities)	300m ² for retail (adjacent to the Plaza)	Yes
	Retention and adaptive reuse of 6 Artarmon Road (The Loft) for retail / commercial uses (within existing GFA of 1050m ²)	Retention and adaptive reuse of 6 Artarmon Road (The Loft) for retail / commercial uses has been approved in DA 2020/197 – not subject of the current DAs	Yes
	New internal roadways and other infrastructure works to support the development	Scott Street will be extended to the west to connect with Richmond Avenue, as indicated in DA 2020/137 plans and in approved DA 2020/129 conditions	Yes
	Publicly accessible open space and through site link	The public will be able to access The Gateway, Gorge, Leisure Lawn, Playground and Plaza. The Gully Lawn will not be publicly accessible.	Yes
	temporary exhibition homes and / or exhibition villages	Approved DA 2020/197 enables the Loft building at 6 Artarmon Road to be used as an interim marketing suite and project office.	Yes (although not part of the current DAs)
A2 Development in Accordance with the Plans and Documentation	The development shall be undertaken generally in accordance with: the Environmental Assessment dated 26 March 2013 prepared by JBA Urban Planning Consultants, except where amended by the Preferred Project Report dated 3 October 2013, including all associated documents and reports, as amended by the Section 75W Modification Application by Ethos Urban dated 27 October 2017,	The proposed development is generally in accordance with these documents.	Yes

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
	Response to Submissions dated March 2018 and Amended Proposal provided on 29 August 2018 (MOD 2); and the Section 75W Modification Application by Ethos Urban dated 8 April 2020, Response to Submissions dated 2 June 2020 and Supplementary Response to Submissions dated 17 July 2020 and additional information (MOD 4).		
	The development shall be undertaken generally in accordance with: A-S75W-101 Site Plan 8 10.07.2020 A-S75W-401 Staging Plan 7 02.04.2020 A-S75W-402 Roof Plan-Building Envelope Plan 8 10.07.2020 A-S75W-408 Draft Plan of Subdivision 5 13.08.2018 The above plans indicate the building footprint and maximum building height of the development.	The proposal complies with the building footprints and maximum building heights of the development (as amended by MOD 4)	Yes
	The development shall be undertaken generally in accordance with the Statement of Commitments at Schedule 4	The proposal complies with the Statement of Commitments at Schedule 4 (see assessment below)	Yes
A3a Limits of Consent	This consent does not approve: (a) The Artarmon Road/ Scott Street roundabout (unless approved by the consent authority as an alternative to a roundabout at Artarmon Road / Richmond Avenue) (b) The removal of any trees located outside the boundaries of the site (within adjoining properties or Council's verge).	(a) Proposed conditions require approval by Council's Local Traffic Committee prior to construction of the roundabout. (b) Removal of trees has been approved by Council's landscape officer.	Yes
A5	The maximum GFA for the	The current proposal	Yes

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
Maximum Gross Floor Area (GFA)	development shall not exceed 48,203m ² which may include: • up to 46,853m ² new residential GFA (including affordable housing); • up to 300m ² of non-residential GFA to support the residential use (incorporating neighbourhood shops; food and drink premises, centre based child care facilities, indoor recreation facilities or community facilities); • 1050m ² adaptive retail/commercial reuse of No 6 Artarmon Road.	(Stages 1 and 2 only) complies with these maximum GFA figures	
A7 Stormwater Concept Plan	Prior to the submission of the first Development Application or issue of the subdivision certificate for the superlot subdivision (whichever occurs first), a Stormwater Concept Plan is to be submitted to and approved by Council to address Council's requirements for stormwater management across the site. The stormwater concept plan shall incorporate measures to harvest stormwater and reuse for irrigation of landscape gardens and open space. Any necessary sign off and approval is to occur prior to the approval of the first residential application. Where necessary, any subdivision plan is to incorporate appropriate easements to allow for stormwater management in accordance the approved plan. The approved plan is to be updated to the satisfaction of Council to take into account the changes made in Modification 4 prior to the submission of a development application for Building K.	The applicant lodged a Stormwater Concept Plan with DA 2020/128 (civil and remedial works). That DA has been approved by Council subject to standard conditions requiring preparation and approval by Council of detailed Stormwater Management Plan in accordance with Stormwater Concept Plan.	Yes
A8 Lapsing of	Approval of the Concept Plan shall lapse 5 years after the	DAs have been lodged pursuant to MP 10_00198	Yes

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
Approval	determination date shown on this Instrument of Modification of Minister's Approval MP 10_00198 MOD 2 (ie 31 January 2024), unless an application is submitted to carry out a project or development for which concept approval has been given.	MOD 2 and MP 10_00198 MOD 4	
Schedule 3 Clause 1 Design Excellence	Future Development Applications shall demonstrate that the development achieves design excellence, incorporating a high level of modulation and articulation to the buildings, in particular to the facades of the residential flat buildings, and the incorporation of a variety of high quality materials and finishes.	Council's Urban Design officer has confirmed that the applicant has satisfactorily responded to the recommendations of the Design Integrity Review Panel (see discussion in this report).	Yes
Schedule 3 Clause 2 Design Excellence	Future Development Applications shall demonstrate variety in the presentation between each of the residential flat buildings, including incorporation of a different palette of materials and finishes for each building.	The street buildings (A, B and C) feature more brick and respond more to the grain and scale of Artarmon Road and Richmond Avenue). The mid rise towers (D, E, F and G) have a more glazed presentation. Building J is lower rise to respond to the bush context. The Buildings have a variety of brick work types, different screening and differently coloured masonry.	Yes
Schedule 3 Clause 3 Design Excellence	Future Development Application/s for Buildings A, B and C must be supported by architectural design analysis demonstrating that courtyard and ground-level apartments which face Artarmon Road and Richmond Avenue achieve an appropriate level of amenity and are compatible with the existing and future character of the streetscape. In particular, the following matters are to be	(a) Building B steps down from west to east to follow the downward slope of Artarmon Road. On the western side ground level corresponds to Level 2 (RL 76.6). The finished ground level of private terraces abutting Artarmon Road will be at RL 76.8. The retaining	Yes, subject to conditions

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
	addressed: (a) Appropriateness of any level changes adjacent to the public domain (b) Solar access to internal living areas (c) Landscaping treatments and fence construction to balance the need for casual surveillance of the street and visual privacy (d) Measures to ensure that visual privacy measures are incorporated in dwelling design (e) Provision of direct access to dwellings from the street, internal accessways or from open space (f) Lowered courtyards provide a minimum unobstructed setback of six metres from the boundary to the front facade	wall abutting Artarmon Road will rise about 4m (TOW 80.95). Further to the east, ground level corresponds to Level 1 (RL 73.7). The finished ground level of private terraces abutting Artarmon Road will be at RL 73.5. This is a 3.3m drop in the terrace levels and this corresponds to the drop of Artarmon Road. In order to provide privacy for the private open spaces from overlooking from pedestrians on Artarmon Road, it is proposed to impose a condition requiring that the part of the front boundary fence on the Artarmon Road frontage, between the eastern edge of the pedestrian entrance to a point 65m to the west, shall be solid and attain a height of 1.6m above ground level. Subject to the above condition, the level changes of Building B adjacent to the public domain are considered to be acceptable. (b) Given that overall solar compliance is acceptable, this aspect of the performance of	

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
		Building B is considered acceptable. (c) Given the inability to landscape along the Artarmon Road frontage, the privacy of Building B must be protected by the imposition of the abovementioned condition regarding the front fence. (d) Visual privacy will be incorporated in the dwelling design by means of the abovementioned condition regarding the front fence. (e) Very few units across the whole development have direct access from the street and this is considered acceptable. Access via internal accessways or from open space is equivalent to other units in the development. (f) Lowered courtyards provide a minimum unobstructed setback of six metres from the boundary to the front facade	
Schedule 3 Clause 3a Design Excellence	Future Development Application/s for Buildings A, B and C must demonstrate that the top floor of each building is setback so not to be readily visible from the adjacent public domain.	Top floor of Building B is setback so not to be readily visible from the adjacent public domain.	Yes
Schedule 3 Clause 3b Design	Future Development Application/s for Buildings D and E must consider the	Buildings D and E have not included non-residential uses at ground	Acceptable

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
Excellence	provision of non-residential ground floor uses adjacent to the Village Green to encourage activation of the public domain. The ground floor design of Buildings D and E must contribute to the Village Green being perceived as a public space.	floor level. However the perception of the Gorge as being a public space will be addressed by signage at the Gateway on Artarmon Road stating that it is public space.	
Schedule 3 Clause 4 Built Form	Future Development Applications shall ensure that basement parking levels are designed to be below existing and finished ground levels.	Basement parking levels are designed to be below existing and finished ground levels.	Yes
Schedule 3 Clause 5 Built Form	Future Development Applications shall demonstrate an appropriate interface with new and existing streets and public domain areas at pedestrian level, and shall include main pedestrian entrances facing towards the adjoining streets to ensure each building has a clear street address.	Each building has a main pedestrian entrance facing towards the adjoining streets	Yes
Schedule 3 Clause 6 Built Form	Future Development Applications shall provide for utility infrastructure, including substations, within the building footprint, wherever possible. If this is not possible, infrastructure shall be located outside of the public domain and appropriately screened and not on any external site boundary. All services, where possible, are to be located underground.	Infrastructure was addressed in DA 2020/128 (approved).	N/A
Schedule 3 Clause 6A Building K height	Future Development Applications for Building K shall demonstrate that any part of the building, within the approved envelope, which extends beyond the top of the embankment in the southern part of that site is designed to respond to the topography of the site so it does not create	Not relevant to the current DA (which is for Stage 1 only).	N/A

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
	any overbearing visual impacts on the adjacent reserve.		
Schedule 3 Clause 7 Internal Streets and Public Access	Future Development Applications shall incorporate a consistent street design throughout the entire development. All streets shall include visitor kerbside parking and / or drop-off bays, a pedestrian footpath, bicycle racks and appropriate street tree planting and landscaping generally in accordance with plan no. A-S75W-402 Roof Plan-Building Envelope Plan (Rev 6) and Landscape Master Plan prepared by McGregor Coxall (as amended to reflect A-S75W-402 Roof Plan-Building Envelope Plan).	Scott Street includes visitor kerbside parking, a pedestrian footpath, bicycle racks and appropriate street tree planting and landscaping generally in accordance with plan no. A-S75W-402 Roof Plan-Building Envelope Plan (Rev 6) and Landscape Master Plan prepared by McGregor Coxall (as amended to reflect A-S75W-402 Roof Plan-Building Envelope Plan).	Yes
Schedule 3 Clause 9 Internal Streets and Public Access	Future Development Applications are to make all internal roadways, the pedestrian through site link, and all on-street parking in the vicinity of the publicly accessible park, publicly accessible. Future Development Applications are to incorporate an appropriate legal mechanism for creating a right of public access to the roadways, footpaths and parking areas, with the relevant instrument/s to be executed prior to occupation of the relevant stage. The future Development Applications are also to incorporate appropriate measures to ensure the roadways are managed and maintained to a high standard by the future body corporate.	Internal roadways, the pedestrian through site link, and all on-street parking in the vicinity of the publicly accessible park are publicly accessible.	
Schedule 3 Clause 11 Internal Streets and Public Access	Future Development Application/s for Stage 1 shall incorporate the provision of a roundabout at the intersection of Artarmon Road and Richmond	Application has been made for construction of the roundabout at the intersection of Artarmon Road and Richmond	Yes

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
	Avenue (or alternatively at the intersection of Artarmon Road and Scott Street if agreed by Willoughby City Council). The roundabout is to be constructed by the proponent to the requirement of Council.	Avenue. Conditions to the current DA are proposed to ensure construction of the roundabout prior to issue of an OC for Stage 1 works.	
Schedule 3 Clause 12 Open Space	Future Development Applications shall include detailed landscape plans for the embellishment of open space areas. These areas shall include high quality landscaping and paved areas and a variety of recreation facilities which may include BBQs, seating, water features, grassed areas, paths, shade trees, bicycle racks and exercise equipment/games.	Landscape plans include a variety of recreation facilities such as BBQs, seating, grassed areas, paths, shade trees, bicycle racks and exercise equipment/games.	Yes
Schedule 3 Clause 13 Open Space	The Village Green (2,933 m ²), Village Lawn (3,104 m ²) and Village Square (348 m ²) are to be publicly accessible and designed in accordance with plan no. A-S75W-402 Roof Plan-Building Envelope Plan (Rev 6) and generally in accordance with the Landscape Master Plan prepared by McGregor Coxall and CHROFI (CHROFI Master Plan report). The publicly accessible open space is to be delivered in accordance with plan no. AS75W-401 Staging Plan, or an alternative staging plan agreed between the proponent and Willoughby City Council and completed prior to the issuing of any Occupation Certificate for the applicable development stage. The future Development Applications for these spaces are to incorporate an appropriate legal mechanism for creating a right of public access to the open space, with the	Village Green (In Concept Approval) = The Gateway and The Gorge (in current DAs) -2560m ² Village Lawn (In Concept Approval) = The Lawn and Playground combined (in current DAs) - 3221m ² Village Square (In Concept Approval) = The Plaza (in current DAs) – 359m ² It is proposed to impose the following conditions: ▪ The Gateway and The Gorge, The Lawn and Playground and The Plaza areas are to be publicly accessible. ▪ The publicly accessible open space is to be delivered in accordance with the Staging indicated on the architectural plans.	Yes, subject to conditions

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
	relevant instrument/s to be executed prior to occupation of the relevant stage. The future Development Applications are also to incorporate appropriate measures to ensure these spaces are managed and maintained to a design standard equivalent to that shown on the approved plans for each application by the future owners corporation.		
Schedule 3 Clause 16 Adjoining Public Domain	Future Development Applications shall provide the detailed design for the upgrade of road reserves adjacent to the development to the centre line of the carriageway, including landscaping, street trees, accessible pedestrian pathways and street lighting, and any other necessary infrastructure. The road reserve works on Richmond Avenue and Artarmon Road (adjoining Stage 1) are to be completed by the proponent prior to occupation of Stage 1. The road reserve works on Artarmon Road (adjoining Stage 2) and Scott Street are to be completed by the proponent prior to occupation of Stage 2 and the road reserve works on Richmond Avenue adjoining Stage 3 are to be completed by the proponent prior to occupation of Stage 3.	Detailed design of upgrade of road reserves adjacent to the development prior to issue of a Construction Certificate for the building structure is required by proposed conditions. Note - Stages 1 and 2 have now been reversed in the current DAs (compared to the Concept Approval). The road reserve works on Richmond Avenue and Artarmon Road are part of Stage 2. The road reserve works on Artarmon Road (adjoining Stage 1) and Scott Street are to be completed by the proponent prior to issue of the OC for the building structure in Stage 1. Stage 3 corresponds to the TX site and this is not part of the current DAs.	Yes, subject to conditions
Schedule 3 Clause 16a Public Domain	Future Development Application/s for Stage 1 shall provide appropriate treatment on the western side of Richmond Avenue, opposite the new site vehicle egress, to	DA 2020/135 for public domain works includes an additional planting to the existing green nature strip and an additional landscaped area at street	N/A to current DA

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
	mitigate against vehicle headlights impacting on adjacent residences, such as through landscaping. The cost of the work is to be borne by the proponent and designed and constructed to the satisfaction of Council and in consultation with nearby affected residents.	level in front of the nature strip directly opposite the Scott Street exit on to Richmond Avenue. This DA is still pending	
Schedule 3 Clause 17 Public Domain	Future Development Application/s for Stage 2 shall incorporate the provision of a raised pedestrian crossing on Artarmon Road, to council requirements unless it is demonstrated that warrants are not met for a pedestrian crossing, in which case a speed hump is to be provided. The delivery of the crossing/speed hump is to be negotiated with council and may either be provided as works-in-kind by the proponent, or constructed by council and funded by the proponent.	DA 2020/135 for public domain works includes a traffic calming measure on Artarmon Road. This DA is still pending.	N/A to current DA
Schedule 3 Clause 19 Landscaping	Future Development Applications shall include detailed landscape plans for public and private open space areas, street setbacks areas and for the landscape treatment of all internal roadways as well as existing adjoining public road reserves.	The current DAs include detailed landscape plans for public and private open space areas, street setbacks areas and for the landscape treatment of all internal roadways. Landscaping of public land is included in DA 2020/135, which is still pending.	Yes
Schedule 3 Clause 20 Landscaping	Landscape plans are to incorporate high quality landscaping to all boundary setbacks to improve the visual impacts of the development. In particular, landscape plans are to incorporate measures, including tree retention or significant new tree plantings, within the southern setback to Buildings H, K and J to screen	The landscape plans incorporate good quality landscaping to all boundary setbacks to improve the visual impacts of the development. In the case of the southern setback to Building H, there is a large existing tree in Council's reserve which	Satisfactory

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
	the lower levels of the buildings as viewed from Naremburn to the south. Landscape plans for Building K are to demonstrate an improvement to the provision of native vegetation on that site.	will contribute to screening of Building H. The remainder of Building H will be screened by the proposed Building K to the south. In the case of Building J, no substantial landscaping has been proposed on the southern setback. Given that Building J follows the footprint approved in The Concept Approval, and the minimal southern setback this allows (6m to building face, 4m to edge of terrace), cope for substantial landscaping is very limited. Building K is not part of the current DAs.	
Schedule 3 Clause 21 Landscaping	The landscape plans shall include details of a commemorative feature/s to be sited within the open space area which acknowledges Channel Nine's contribution to the locality and to telecommunications in general. Where feasible or appropriate, this should include adaptive reuse of elements of the transmission tower. Further investigations will be conducted to determine whether this may include the repurposing of materials from the demolished transmission tower. This will be subject to confirmation of their suitability for reuse within the future public domain as an interpretive or artistic element.	This is proposed to be required by the following condition: <i>Prior to the issue of the relevant Construction Certificate, a commemorative feature/s to be sited within the open space area which acknowledges Channel Nine's contribution to the locality and to telecommunications in general. Where feasible or appropriate, this should include adaptive reuse of elements of the transmission tower.</i>	Yes, subject to conditions.
Schedule 3 Clause 22 Landscaping	Landscape Plans are to incorporate best practice water sensitive urban design measures.	Landscape plans include satisfactory water sensitive urban design measures.	Yes
Schedule 3	Future Development	Removal of existing trees	

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
Clause 23 Tree Protection	Applications are to demonstrate retention of trees and incorporation of measures in accordance with the recommendations of the Arboricultural Assessment by Redgum Horticultural dated 15 January 2018 except as amended by this approval. In this regard, trees numbered 18, 19, 20 and 96 are to be retained and protected. Notwithstanding the approved building envelopes, future applications are to include arborist assessments to demonstrate that the remaining trees recommended for retention can be retained with appropriate tree protection and construction measures and where necessary, building footprints and public domain are to be amended to ensure the protection and longevity of those trees. Future Development Applications for Building K (including alignment of any pedestrian paths) are to demonstrate that removal of native trees has been minimised by the design and offset by improved plantings of native species on the site. Note: Any trees located within adjoining properties and Council's verge (Artarmon Road and Scott Street) are to be retained and protected, unless their removal is approved by Council in future Development Applications.	was approved by Council in DA 2020/87 and DA 2020/128.	
Schedule 3 Clause 24 Non-residential use	Future Development Application/s may incorporate non-residential floor space to support the needs of the	The DAs include a communal facility next to the Gateway and a retail space adjacent to the	Yes

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
	residents and local community.	Plaza which are open to both residents and local community.	
Schedule 3 Clause 25 GFA	Future Development Applications shall demonstrate the proportionate achievement of the cumulative maximum GFA and dwelling yield across the Concept Plan area.	The DAs include information setting out both cumulative maximum GFA and dwelling yield across the Concept Plan area.	Yes
Schedule 3 Clause 26 Residential Amenity	Future Development Applications shall demonstrate consistency with the provisions of the State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65) and the accompanying Apartment Design Guide (ADG).	The proposal is consistent with SEPP 65 and the ADG (see assessment in this report).	Yes
Schedule 3 Clause 27 Unit Mix	Future Development Applications for Stages 1 and 2 shall provide a variety of apartment types and sizes including studio, 1 bedroom, 2 bedroom, 3 bedroom and 3+ bedroom units. The proposed apartment mix is to be justified by consideration of population trends and market demands.	The DAs include a variety of apartment types and sizes including studio, 1 bedroom, 2 bedroom and 3 bedroom units (see breakdown in this report). The proposed apartment mix has been justified by consideration of population trends and market demands.	Yes
Schedule 3 Clause 28 ESD	Future Development Applications are to incorporate an ESD plan to demonstrate the incorporation of best practice ESD principles in the design, construction and ongoing operation phases of the development.	The DAs include an ESD plan.	Yes
Schedule 3 Clause 29 Car Parking	Future Development Applications shall provide on-site car parking at the following rates: (a) 0.5 space per studio apartment (b) 1 space per 1 bedroom or 2 bedroom apartment (c) 1.25 spaces per 3 bedroom apartment (d) 1 visitor space per 4 apartments	See assessment below. Visitor parking is non-compliant and it is therefore proposed to impose the following Condition: <i>Visitor parking is to be provided at the rates prescribed by the Concept Approval.</i>	Yes subject to conditions.

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
	(e) retail/recreation and bicycle parking are to be provided in accordance with the Willoughby Development Control Plan.		
Schedule 3 Clause 30 Car Parking	Visitor parking required by condition 29 shall be provided where possible as kerbside parking at street level. In this regard all streets are to incorporate visitor kerbside parking.	Kerbside visitor parking provided at street level on Scott Street.	Yes
Schedule 3 Clause 31 Car Parking	Future Development Applications shall incorporate the provision of a Car Share Scheme on the site.	Four car share places are provided.	Yes
Schedule 3 Clause 32 Transport for NSW Requirements	Future Development Applications shall include an assessment of any potential impacts to bus services (including school bus services) and pedestrian access to public transport infrastructure as a result of construction vehicles and construction works. Should any impacts be identified, the duration of the impacts and the measures proposed to mitigate these impacts must be clearly explained.	The Construction Traffic Management Plan (Ref: 1192r05v4 dated 2 July 2020) (CTMP) assesses impacts on the road network in general. Mitigation impacts included in the CTMP are considered satisfactory and are required to be implemented by proposed conditions.	Yes
Schedule 3 Clause 33 Traffic	Any future Development Application/s for each stage of development a child care facility shall include a traffic study which includes figures on the current number of vehicles movements through the Artarmon Road / Willoughby Road / Small Street intersection. The traffic study is to be carried out to the RMS's requirements and industry standard methodology for traffic studies and council's satisfaction and shall model the impact of the anticipated increase in vehicle traffic generated by the proposed childcare facility	N/A	N/A
Schedule 3 Clause 34	Future Development Applications shall be required to	Developer contributions are included in proposed	Yes

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
Developer Contributions	pay developer contributions to the council towards the provision or improvement of public amenities and services. The amount of the contribution shall be determined by council in accordance with the requirements of the Contributions Plan current at the time of approval.	conditions.	
Schedule 3 Clause 34a Developer Contributions	If accepted by Willoughby City Council in writing within 6 months of the determination of MP 10_0198 MOD 2, the public benefit offer contained within modification request MP 10_0198 MOD 2 (submitted with the response to submissions dated 28 March 2018) shall form a Voluntary Planning Agreement (VPA) between the Proponent (or its nominated entity) and Willoughby City Council. The VPA shall be prepared, publicly exhibited, and executed prior to the approval of the first residential development application for Stage 1 or as otherwise agreed with Willoughby City Council. A copy of the executed VPA shall be submitted to the Secretary.	VPA has been signed.	Yes
Schedule 3 Clause 35 Adaptable Housing	Future Development Applications shall provide a percentage of adaptable housing consistent with the Willoughby Development Control Plan (Clause C6 – 50% of dwellings to be adaptable).	50% of dwellings to be adaptable. It is proposed to impose condition giving effect to this.	Yes
Schedule 3 Clause 37 Crime Prevention and Safety	Future Development Applications shall demonstrate compliance with principles of 'crime prevention through environmental design' (CPTED).	CPTED report lodged.	Yes
Schedule 3 Clause 38 Sydney Water Requirements	Future Development Applications shall address Sydney Water's requirements in relation to: (a) required amplification works	These issues were satisfactorily addressed in DA 2020/18 (civil and remedial works).	N/A

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
	to existing drinking water mains; (b) potential required amplification works to the wastewater system; (c) approval for discharge of trade wastewater (where necessary); and (d) application for Section 73 certificates as necessary.		
Schedule 3 Clause 39 Contamination	Future Development Applications shall demonstrate compliance with the requirements of SEPP 55 and are to include a detailed contamination assessment including detailed remedial action strategy, and incorporation of any necessary remediation as part of future Development Applications.	These issues were satisfactorily addressed in DA 2020/18 (civil and remedial works).	N/A
Schedule 3 Clause 40 Photographic Survey	Prior to commencement of demolition of the transmission tower (subject to separate approval) the Proponent shall undertake a photographic survey of the tower including: (a) A front cover marked with the name / location of the survey, date of the survey name of the company or persons responsible for the survey (b) A layout plan of the existing tower and any building on the site, identifying the features of the tower shown in the photographs (c) Photographs of the tower, ground and a streetscape view of the tower, labelled to indicate their location in relation to the layout plan. Photographic records of each elevation and distant views of the tower are to be included.	These issues were satisfactorily addressed in DA 2020/127 (demolition of the TX tower).	N/A
Schedule 3 Clause 41	A communication plan shall be prepared and implemented to	A communication plan is in place.	Yes

MP 10 0198 Mod 2 as amended by MP 10 0198 Mod 4 Clause	Requirement	Proposal	Complies
Ongoing community consultation	establish ongoing consultation with the community during demolition and construction phases, including: • The methods of consultation to communicate information about the progress of the development status to the community • Providing contact details for enquiries and matters related to the site's development • Providing details regarding development applications and construction management, especially truck movements, construction vehicle access and measures to minimise disturbance to local residents		

Parking (for Stages 1 and 2 combined)

Apartment size	Number	Parking spaces Required	Parking spaces proposed	Compliance
Studio	2	0.5 (1)		
1 bedroom	81	1 (81)		
2 bedroom	198	1 198)		
3 bedroom	125	1.25 (156)		
Total Residential		436	438	Acceptable – exceeds control
Visitor		1 visitor space per 4 apartments (101.5)	83	No (18.5 shortfall)
Commercial (WDCP rate)		Unknown (no precise use specified)	10	Acceptable (but may restrict the kind of commercial activity which will be permissible).
Motorcycle		1 per 25 car spaces (21)	49	Acceptable – exceeds control
Bicycles		1 per 10 units (53)	69	Acceptable – exceeds control

State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development (SEPP 65)

Clause 28 of SEPP 65 requires the consent authority to take into consideration the Apartment Design Guide (ADG) when determining an application to which SEPP 65 applies.

The following table assesses the performance of the proposal against the ADG.

Clause	Requirement	Proposal	Compliance
3A Site Analysis	Site analysis to be provided with DA	Site analysis provided with DA	Yes
	A written statement explaining how the design has responded to the site analysis	DA was accompanied by Architectural Design Report	Yes
3B Orientation	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street	Living areas and balconies address Scott Street and Artarmon Road. Each building contains pedestrian access from street.	Yes
	Where the street frontage is to the east or west, rear buildings should be orientated to the north	The development has been configured so as to provide adequate solar access (see solar access analysis)	Yes
	Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west (see figure 3B.2)	The development has been configured so as to provide adequate solar access (see solar access analysis)	Yes
	Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access	The development has been configured so as to provide adequate solar access (see solar access analysis)	Yes
	Solar access to living rooms, balconies and private open spaces of neighbours should be considered	The development has been configured so as to provide adequate solar access (see solar access analysis)	Yes
	Where an adjoining property does not currently receive the required hours of solar	The location and building envelope of the development has been determined by the Concept	Satisfactory

Clause	Requirement	Proposal	Compliance
	access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%	Approval and is not a subject for assessment or determination.	
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy	The location and building envelope of the development has been determined by the Concept Approval and is not a subject for assessment or determination in the current DAs.	Satisfactory
	Overshadowing should be minimised to the south or down hill by increased upper level setbacks	The location and building envelope of the development has been determined by the Concept Approval and is not a subject for assessment or determination in the current DAs.	Satisfactory
	It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development	The location and building envelope of the development has been determined by the Concept Approval and is not a subject for assessment or determination in the current DAs.	Satisfactory
	A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings	The location and building envelope of the development has been determined by the Concept Approval and is not a subject for assessment or determination in the current DAs.	Satisfactory
3C Public Domain Interface	Terraces, balconies and courtyard apartments should have direct street entry, where appropriate	Direct street entry to all individual courtyards/terraces not provided	Satisfactory
	Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground	Ground floor units facing the street are at approximately ground level. Changes in ground level make full compliance impossible. Areas between those units and the street	Yes

Clause	Requirement	Proposal	Compliance
	level dwellings (see figure 3C.1)	are predominantly landscaped.	
	Upper level balconies and windows should overlook the public domain	Upper level balconies and windows overlook the public domain	Yes
	Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m.	Street frontage fencing is palisade fencing to a height of 1.6m.	Yes
	Length of solid walls should be limited along street frontages	Length of solid walls along street frontages is limited. It is proposed to increase the solid fencing in order to increase privacy from pedestrian traffic on Artarmon Road.	Yes
	Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets.	The Gateway The Gorge, The Plaza, The Leisure lawn and the children's playground will be open to the public and will provide significant opportunity for casual interaction between residents and the public domain.	Yes
	Pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents	Individual buildings across the site vary considerably in size, shape and design and this creates strong legibility.	Yes
	Planting softens the edges of any raised terraces to the street, for example above sub-basement car parking.	Landscaping treatment is satisfactory	Yes
	Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided.	It is proposed to impose a condition requiring that mail boxes are to be located in lobbies.	Yes, subject to conditions.
	Substations, pump rooms, garbage storage areas and other service requirements should be	Substations, pump rooms, garbage storage areas and other service requirements to be located in basement	Yes

Clause	Requirement	Proposal	Compliance
	located in basement car parks or out of view.	car parks or out of view.	
	Where development adjoins public parks, open space or bushland, the design positively addresses this interface and uses a number of the following design solutions: • street access, pedestrian paths and building entries which are clearly defined • paths, low fences and planting that clearly delineate between communal/private open space and the adjoining public open space • minimal use of blank walls, fences and ground level parking.	Development adjoins Walter Street Reserve to the south. It is proposed to impose a condition which requires a low fence to separate the Playground from the Reserve.	Yes
3D Communal and public open space	Communal open space has a minimum area equal to 25% of the site.	>25% site area (16,437m ²)	Yes
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)	50% direct sunlight to the Gorge for 4 hours between 9 am and 3 pm on 21 June (mid winter)	Yes
	Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions	Principal common open space areas (The Gorge, The Gully, The Plaza, the Leisure Lawn and the children's playground all have greater dimensions than 3m.	Yes
	Communal open space should be co-located with deep soil areas	Communal open space are generally co-located with deep soil areas	Yes
	Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies	Direct, equitable access is provided to communal open space areas from common circulation areas, entries and lobbies	Yes
	Facilities are provided within communal open spaces and common spaces for a range of age	Communal open spaces are varied – paved café, children's playground, lawn and The Gorge	Yes

Clause	Requirement	Proposal	Compliance
	groups		
	The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down draft	No shading provided	Acceptable due to shading provided by trees.
	Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy	Communal open space and the public domain will be readily visible from habitable rooms. A landscaped buffer from private open spaces is included in the landscaped plan.	Yes
	Communal open space should be well lit	It is proposed to impose a condition requiring that lighting be provided in accordance with CPTED principles.	Yes
	The public open space should be well connected with public streets along at least one edge	All public open spaces except the Gully connected with public streets along at least one edge. This is satisfactory given the size of the site.	Yes
	Public open space should be connected with nearby parks and other landscape elements	The Lawn and the playground are connected with Walter Street Reserve.	Yes
	Public open space should be linked through view lines, pedestrian desire paths, termination points and the wider street grid	The central Gorge establishes a strong visual line down the centre of the site, continuing the north south view line from Edward Street to the north.	Yes
	Boundaries should be clearly defined between public open space and private areas	Balustrades will separate private open space from public areas.	Yes
3E Deep Soil Zones	7% deep soil zone (min dimension 6m)	16.3% site area (6,420m ²)	Yes
3F Visual Privacy	Building separation from boundaries (combined on single site): Up to 12m height -6m (H)/ 3m (NH) Up to 25m height - 9m (H) / 4.5m (NH) Over 25m height – 12m (H) / 6m (NH)	The location and building envelope of the development has been determined by the Concept Approval and is not a subject for assessment or determination in the current DAs.	Already prescribed by Concept Approval

Clause	Requirement	Proposal	Compliance
	Additional 3m separation distance when adjacent to a different zone	The location and building envelope of the development has been determined by the Concept Approval and is not a subject for assessment or determination in the current DAs.	Already prescribed by Concept Approval
	Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows	Communal open space, common areas and access paths are adequately separated from private open space and windows to apartments by landscaping and balustrades	Yes
	Windows should be offset from the windows of adjacent buildings	Windows face windows in adjacent buildings. However visual privacy provided by building separation.	Satisfactory.
	Recessed balconies and/or vertical fins should be used between adjacent balconies	vertical fins between adjacent balconies	Yes
3G Pedestrian access and entries	Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge	Separate entries for each building but not for each apartment at ground level.	Satisfactory (allows for more intensive landscaping along street frontages)
	Entry locations relate to the street and subdivision pattern and the existing pedestrian network	The Gateway on Artarmon Road and Gorge relate strongly to the existing street pattern of Edward Street to the north. Access from street level will be provided by both stairs and accessible lift.	Yes
	Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries	Building entries will be clearly identifiable as a result of the access pathways leading from the street or communal areas to those entries in each building.	Yes
	For large developments 'way finding' maps should be provided to assist visitors and residents (see figure 4T.3)	It is proposed to impose a condition requiring 'way finding' maps	Yes
	For large developments electronic access and audio/video intercom	It is proposed to impose a condition requiring electronic access and	Yes

Clause	Requirement	Proposal	Compliance
	should be provided to manage access	audio/video intercom	
	Pedestrian links through sites facilitate direct connections to open space, main streets, centres and public transport	There will be strong pedestrian links through the site in the Gorge, the extended Scott Street and other pedestrian paths.	Yes
	Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate	Pedestrian links will have direct, straight sight lines, will be overlooked by habitable rooms or private open spaces of dwellings and (subject to conditions) be well lit.	Yes
3H Vehicle access	Car park access should be integrated with the building's overall facade	Car park access will be integrated with and subservient to facades of Buildings D and G.	yes
	Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout	Vehicle ramps have been minimised and have an acceptable impact on the building form.	Yes
	Garbage collection, loading and servicing areas are screened	Garbage collection, loading and servicing areas are located in basement car parks.	Yes
	Pedestrian and vehicle access should be separated and distinguishable	Pedestrian and vehicle access are separated and distinguishable	Yes
	Natural ventilation should be provided to basement and sub basement car parking areas	Mechanical ventilation provided	satisfactory
	Car parking layout should be well organised, using a logical, efficient structural grid and double loaded aisles	Car parking in grid format	Yes
	On-grade car parking should be avoided	On grade parking has been minimised and predominantly restricted to car share spaces along Scott Street.	Yes
4A Solar and sunlight access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours	A – 80% (24) B – 87% (34) C – 63% (22) D – 71% (48) E – 81% (56)	Acceptable (given south sloping site)

Clause	Requirement	Proposal	Compliance
	direct sunlight between 9 am and 3 pm at mid winter	F – 62% (43) G – 71% (24) H – 80% (36) J – 59% (16) Total – 75% (303)	
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	<15% no sunlight	Yes
4B Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	A – 53% (16) B – 64% (25) C – 63% (22) D – 66% (45) E – 64% (44) F – 52% (36) G – 73% (25) H – 60% (27) J – 59% (16) Total – 63% (256)	Acceptable
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	Max depth 18m	Yes
4C Ceiling Heights	Habitable rooms 2.7m	All floor to floor heights are a minimum of 3.1m. The proposal is therefore capable of complying with 2.7m floor to ceiling heights in all apartments.	Yes
	Non-habitable rooms 2.4m	All floor to floor heights are a minimum of 3.1m. The proposal is therefore capable of complying with 2.4m floor to ceiling heights in all apartments.	Yes
4D Apartment size and layout	Studio – 35m ² 1 bedroom – 50m ² 2 bedroom – 70m ² 3 bedroom - 90m ² 4 bedroom – 102m ²	Complies	Yes
	More than 1 bathroom – additional 5m ²		
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height (6.75m)	Complies	
	In open plan layouts	Some non-compliances of	Satisfactory

Clause	Requirement	Proposal	Compliance
	(where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	1-2m	
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	Complies	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Complies	Yes
	Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments	Complies	Yes
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Complies	Yes
	Access to bedrooms, bathrooms and laundries is separated from living areas minimising direct openings between living and service areas	Complies	Yes
	All bedrooms allow a minimum length of 1.5m for robes	Complies	Yes
	The main bedroom of an apartment or a studio apartment should be provided with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high	Complies	Yes
4E Private open space and balconies	Studio – 4m ² 1 bedroom – 8m ² (min depth 2m) 2 bedroom – 10m ² (min depth 2m) 3 bedroom - 12m ² (min depth 2.4m) GFL – 15m ² (min depth 3m)	Complies (with minor exception of one studio at ground level (Level) 1 in Building G, which is 14m ² , a non-compliance of 1m ²)	satisfactory

Clause	Requirement	Proposal	Compliance
4F Common circulation and spaces	The maximum number of apartments off a circulation core on a single level is eight	Buildings E and F have 9 unit per plate coming off one core.	Satisfactory (each core contains 2 lift wells and the non-compliance is only by one unit)
	In larger developments, community rooms for activities such as owners corporation meetings or resident use should be provided and are ideally co-located with communal open space	Community room is provided near Gateway	Yes
4G Storage	Studio – 4m ³ 1 bedroom – 6m ² 2 bedroom – 8m ² 3+ bedroom - 10m ²	Complies	Yes
	At least 50% of the required storage is to be located within the apartment	Complies	Yes

WLEP 2012 Zoning:	SP2 Telecommunications facility (see discussion below)
Existing Use Rights	NO
Additional Permitted Use	NO
Conservation area	NO
Aboriginal Heritage	NO
Heritage Item	NO
Vicinity of Heritage Item	NO
Natural Heritage Register	NO
Bushfire Prone Area	NO
Flood related planning control	NO
Foreshore Building Line	NO
Adjacent to classified road	NO
Road/lane widening	NO
BASIX SEPP	YES
Infrastructure SEPP - Rail	N)
Infrastructure SEPP - Road	NO
Coastal Management SEPP	NO
Acid Sulphate Soil Category	5
Development near Lane Cove Tunnel	NO
Contaminated Land	NO
Adjacent / above Metro	NO
Other relevant SEPPS	SEPP 55 Remediation of Land. SEPP 65 Design Quality of Residential Apartment Development SEPP Building Sustainability Index: BASIX) 2004
Other relevant REPS	Sydney Regional Environmental Plan (Sydney Regional Harbour catchment)
Relevant DCPs policies and resolutions	WDCCP

Willoughby Local Environmental Plan 2012

Permissibility

The site is zoned SP2 Telecommunications Facility under the *Willoughby Local Environmental Plan 2012* (WLEP 2012). The land use table in the WLEP 2012 states that within the SP2 zone, the following uses are permissible.

Aquaculture; Roads; The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose

The permissibility of the proposed works arises out of the Concept Approval which prevails over the zoning provisions of the WLEP 2012 (see discussion under *Legal status of Concept*

Plan above). The Concept Approval allows for the proposed uses and they are therefore permissible.

Developer's Contribution Plans

Council's infrastructure officer advises as follows:

Proposed Development (Stage 1) involves:

1. Demolishing existing structures on the eastern side of site
2. Construction of **residential flat building** (RFB) and **shop-top housing** development (Buildings B, E, F, G and J) containing 228 dwellings comprising:

Break-down by building blocks			Break-down by dwelling mix	
Building	# of dwellings	retail area (m ²)	Residential	# of dwellings
B (Shop-top)	39	183	Studio	2
E (RFB)	69		1-bedroom	43
F (RFB)	59		2-bedroom	101
G (Shop-top)	34	114	3-bedroom	82
J (RFB)	27			
Total (Resi / Retail)	228	297	Total Residential (Incl 9 AFH Units under VPA)	228

3. Basement car park;
4. Public domain, landscaping and associated infrastructure works;
5. The extension of Scott Street from the existing road through the interior of the site; and
6. Additional ancillary works required to facilitate the above

In accordance with clause 2.8 and Table 1 of *Willoughby Local Infrastructure Contributions Plan 2019* ('WLIC Plan'), given the proposal is RFB & shop-top housing development, s7.11 applies to the development as demonstrated below:

S7.11 Calculation	Qty	Proposal - Calculation	
Dwellings / Residents Proposed		dwelling rate	Contributions (\$)
Bedsit / studio or 1-bed dwelling	2 + 43	x \$11,045.36	\$497,041.20
2-bed dwelling	101	x \$15,544.09	\$1,569,953.09
3 or more-bed dwelling	82	x \$20,000	\$1,640,000.00
Affordable Housing Units (AFH) – not to be calculated	9	x \$0	N/A
	Subtotal		\$3,706,994.29
Note: In accordance with CI 2.9.1 & Table 5 of WLIC Plan, the following credits are calculated and given on the basis of the development is demolishing existing retail/office building.			
Credit for demolishing existing structures		Credit - Calculation	

2 to 3 storey commercial/retail building (area provided by Applicant) Assumptions: (CI 2.9.1 & Table 5 of WLIC Plan)	7046.3m ²	Per person rate	# of workers based on occupancy rate
assumed occupancy rate: 1 worker / 25m ²			281.85
5 workers generate demand as 1 resident (i.e. 5 workers = 1 resident)		\$7333.75	x 56.37 residents (ie. 281.85 / 5 workers)
	Less		\$413,406.42
s7.11 yield amount (with credits given): (i.e. \$ \$3,706,994.29 minus \$413,406.42)	TOTAL		\$3,293,587.87

As demonstrated above and in accordance with CI 2.9.1 of *WLIC Plan*, **\$3,293,587.87** of **s7.11 contributions applies** to this development.

My assessment also considered the subject development with an estimated cost of works over \$10 million (i.e. \$122,270,351.50), being eligible for the deferral of development contributions payment before the issue of first Occupation Certificate (OC).

This deferral is permitted as a result of a [Ministerial direction](#) gazetted on 8 July 2020 with a new legislative [clause 154F](#) under the *EP&A Regulation 2000*, made to temporarily defer the payment of contribution levy until the issuing of an OC for certain types of development.

The subject DA meets the criteria of this deferred payment Direction.

Willoughby Development Control Plan (WDCP)

As discussed above, the WDCP is overridden by the Concept Approval. Pursuant to Clause 6A of SEPP 65 the ADG overrides the WDCP to the extent of any inconsistency in respect to:

- visual privacy,
- solar and daylight access,
- common circulation and spaces,
- apartment size and layout,
- ceiling heights,
- private open space and balconies,
- natural ventilation,
- storage.

An assessment of the relevant provisions of the WDCP is set out in the following table.

Willoughby DCP

The following table assesses the proposal against the relevant portions of the WDCP, given that the Concept Approval is the effective controlling instrument and overrides the WDCP to the extent of any inconsistency.

WDCP Clause	Control	Proposed	Compliance
C3.2.3 Energy – Thermal Mass	- Select high density materials to assist thermal performance because they absorb and store heat during the day and release it at night such as concrete floors, masonry walls, stone, ceramic surfaces etc. - Concrete slabs can be additionally finished with ceramic, quarry or slate tiles.	The DA includes a BASIX certificate and a Sustainability Scorecard regarding atmosphere, energy and water conservation, biodiversity, building materials, waste and noise. The BASIX certificate and Sustainability Scorecard satisfactorily address these issues.	Yes
C3.2.3 Energy – Insulation	Buildings must include the provision of roof and ceiling insulation with minimum R 2.5-3.0 rating; and wall insulation of minimum R1.5 rating, to reduce the amount of energy needed to heat and cool a building.	The BASIX certificate and a Sustainability Scorecard indicate adequate performance in relation to energy conservation.	Yes
C3.2.3 Energy – Thermal Mass	Select high density materials to assist thermal performance because they absorb and store heat during the day and release it at night such as concrete floors, masonry walls, stone, ceramic surfaces etc.	The BASIX certificate and a Sustainability Scorecard indicate adequate performance in relation to energy conservation.	Yes
C3.2.3 Energy – Ventilation	- Orientate the building and locate windows and other openings to capitalise on cool prevailing breezes to facilitate cross ventilation; - Underground car parks should provide for natural ventilation, where possible; - Cross ventilation is more easily achieved in apartments with shallow floor plans. The design of each level of the building should maximize the efficiency of the floor plan with minimal corridor length; - Apartments with two orientations should have internal partitioning that allows a direct flow of air from one side of the apartment to the other; - Units should have opening windows or doors to allow natural ventilation of living areas and bedrooms; - All living areas and	- The units predominantly comply with ADG maximum apartment depths. Overall compliance is satisfactory. - Natural ventilation for underground car parks is not possible in this case. - The units have satisfactory performance in relation to ADG cross ventilation requirements. - All living areas and bedrooms should have windows in the facade or onto external balconies. - Mechanical ventilation systems in car parks are to comply with AS 1668 energy efficiency measures.	Yes

WDCP Clause	Control	Proposed	Compliance
	bedrooms should have windows in the facade or onto external balconies to maximise their exposure to daylight; Natural ventilation should be used in buildings and underground car parks where possible. Mechanical ventilation systems in car parks are to comply with AS 1668 energy efficiency measures.		
C3.2.3 Energy – Hot water systems	Centralised hot water systems are to be used in new residential flat developments.	The design incorporates centralised hot water systems	Yes
C3.2.6 Noise – Design principles for residential flat buildings	- Minimise the need for noisy equipment and appliances such as air conditioning systems or clothes dryers; - Using solid dividers between balconies; - Ensure that bedrooms and living areas are away from pedestrian and vehicle thoroughfares; - Avoiding placing windows and doors of neighbouring units opposite or adjacent each other (Institute for Sustainable Futures, 2001); and - A report from an acoustic specialist is to be submitted covering all aspects of noise control for the development including attenuation of plant and equipment noise, traffic and rail noise and noise transference between units.	The Acoustic Report prepared by Renzo Tonin and Associates dated 29 May 2020 addresses mitigation of external noise into the development and the generation of noise from the proposed mechanical plant and services. Subject to compliance with the Acoustic Report (as proposed in conditions), the proposal will have satisfactory acoustic performance.	Yes, subject to conditions.
C3.3.2 Minimum requirements for RFBs	DA to be accompanied by Sustainability Scorecard (minimum score 10) and BASIX certificate	Sustainability Scorecard score >10) and BASIX certificate provided. Compliance with these documents is proposed to be required by condition.	Yes
C4.2 Car parking	Bicycle - residential: 1 locker per 10 units, PLUS 1 bicycle rail or rack per 12 units (23 lockers and 20 rails) Bicycle – commercial: 1 locker	Stage 1 – 17 bicycle lockers and 29 bicycle rails	No but acceptable due to excess provision in

WDCP Clause	Control	Proposed	Compliance
	per 450m2 PLUS 1 bicycle rail or rack per 150m ² (2 lockers and 2 rails) Total – 24 lockers and 22 rails		Stage 2
C6.2.1 BCA	Must comply with BCA (including access)	will comply with BCA (including access)- conditions applied.	Yes, subject to conditions
C.8.2 Waste Guiding Principles	- Waste minimisation and resource recovery- encouraging improved environmental outcomes and to help meet Council's waste minimisation targets through increased source separation of materials to ensure more efficient management of waste and recyclable materials. - Access- ensuring waste systems are easy to use and that collection vehicles are able to access buildings to remove waste and recycling materials. - Safety- ensuring safe practices for storage, handling and collection of waste and recycling. - Pollution prevention- preventing stormwater pollution that may occur as a result of poor waste storage and management practices. - Ecologically Sustainable Development (ESD) - promoting the principles of ESD through resource recovery and recycling leading to a reduction in the consumption of finite natural resources. - Hygiene- ensuring health and amenity for residents and workers in the Willoughby Council area. - Noise minimisation- minimising the creation of noise during use by residents and collection of waste and recyclables. - Space- ensuring adequate space is provided for	Waste Management Plan satisfactorily addresses all of these issues.	Yes

WDCP Clause	Control	Proposed	Compliance
	storage of waste and recycling containers.		
C11 Safety by Design	- Natural security of the street and the entry point of buildings can be achieved by – Providing front entries with high visibility; – Careful siting of shrubs and landscape elements; – Lighting of pathways or hidden spaces. - The use of high walls or fences is not considered to be an effective security measure because of the ability to conceal intruders and the potential for graffiti. Determine a functional hierarchy of spaces, leading from the public to private spaces with clear definition of territory and ownership, using landscaping, fencing or paving materials. - Pedestrian site access and car parking are to be direct, clearly defined, visible and provided with adequate lighting. - Entries to buildings should be clearly visible from the street and internal driveways, with general surveillance of the site and approaches to entries possible from inside the building. - Arrange buildings to overlook public areas and communal streets to maximise surveillance. - Avoid the creation of public spaces that are little used or observed. - Avoid high fences and walls or high dense landscaping which can conceal intruders, adjacent to entries or windows, to ensure safety and surveillance. - Provide security for common areas, communal open space, recreational areas by	CPTED Report satisfactorily addresses all of these issues No objection received from Police.	Yes

WDCP Clause	Control	Proposed	Compliance
	means of swipe cards, intercoms, etc. ▪ Provide clear lines of sight from parking areas to lobby areas and well-lit routes. ▪ Use a clear numbering and naming system		
Part D2 Attached Dwellings, multi dwelling housing and residential flat dwellings	Part D2 includes detailed controls regarding setbacks, building envelope, site coverage, open space, private open space, landscaping, privacy, solar access, and views.	All of these issues are subject to the Concept Approval and/or the ADG, which take priority. The proposal has a satisfactory response to those requirements, for the reasons set out in this report.	

Referrals

Building services	Recommended approval subject to standard conditions.
Engineering	Recommended approval subject to various conditions including easement for support of the retaining wall on Artarmon Road, works in public roads, and inclusion of many conditions imposed on DA 2020/128 (civil and remedial works) regarding stormwater
Environmental Health	Recommended approval subject to conditions requiring compliance with Acoustic report
Waste	No objection to proposal.
Landscape	Recommended approval subject to compliance with landscape plans
Health	Recommended approval subject to standard conditions.
Traffic	Council's traffic officer has imposed conditions consistent with those imposed on other related DAs.
Urban Design	Requested and obtained independent urban design / design excellence review of the proposal; referred proposal to DEIRP. Has advised that the applicant's response to the DEIRP comments is satisfactory.

ATTACHMENT 3: SUBMISSIONS TABLE

Neighbour Notification

Owners of adjoining properties were notified of the proposal and four submissions were received as follows.

Property	Issues raised	Response
11 Artarmon Road, Willoughby	1. Construction traffic should not be concentrated in Artarmon Road, but should be spread equitably around other streets. 2. The currently proposed construction hours are reduced from 7am-6pm Mon-Fri and 7am-3pm Sat. These should be reduced to 8am-5pm Mon-Fri and 7am-3pm Sat. 3. Any activity and bright lighting in the plaza should cease prior to 10pm.	1. Council's traffic engineer has recommended approval of the proposed traffic movements along Artarmon Road as being the most appropriate for large vehicles. 2. It is proposed to restrict construction hours to 7 am to 5 pm Mondays to Fridays and 7 am to 12 noon on Saturdays. No work is permitted on Sundays or Public Holidays. 3. It is not proposed to approve any commercial uses in the current DA. Hours of operation and noise will be addressed in a separate DA.
Naremburn Progress Association	The proposed access 6am-10am Monday-Friday via Merrenburn Avenue is dangerous. A better alternative is to continue along Brook Street to Chandos Street and turn right there and then right into Willoughby Road.	Council's traffic officer has advised that HRVs will not be able to turn right safely at the intersection of Brook Street and Chandos Street. It is therefore necessary to retain the access route via Merrenburn Avenue.
Willoughby South Progress Association	1. Detailed landscape design for Open Accessible Spaces and Through Site Link should be provided. The Gorge is not consistent with the original Concept Approval and is less connected to nearby public spaces. The landscape plans do not meet the requirement in Modification 2 of the Concept Approval: <i>3b. Future Development Application/s for Buildings D and E must consider the provision of non-residential ground floor uses adjacent to the Village Green to encourage activation of the public domain. The ground floor design of Buildings and E must contribute to the Village Green being perceived as a public space.</i>	1. The requirement that open spaces (except the Gully Lawn) be publicly accessible is proposed to be conditioned. The Gorge is consistent with the modified and current Concept Approval MP 10 0198 MOD 4. Buildings D and E have not included non-residential uses at ground floor level. However the perception of the Gorge as being a public space will be addressed by signage at the Gateway on Artarmon Road stating that it is public space. It is proposed to impose a condition requiring the construction of a commemorative feature. 2. It is proposed to impose a condition requiring that visitor parking be provided in accordance with the Concept Approval.

Property	Issues raised	Response
	Further there should be a condition requiring a commemorative feature. 2. Proposed Visitor Parking Numbers should comply with the WDCP. 3. Proposed Transport Route for Construction Trucks. The proposed access 6am-10am Monday-Friday via Merrenburn Avenue is dangerous. 4. There should be a requirement for parking spaces for trades servicing the unit dwellings and visiting the commercial businesses. 5. There should be timed limits for the publicly accessible parking spaces. 6. Bike stands be placed at suitable points around the public domain spaces. 7. Overhead shading should be provided to the childrens' play area. 8. There should be clearly placed signage regarding public accessibility to: • Public parking spaces • Any publicly accessible parking contained underneath any of the buildings. 9. There should be clear and prominently visible signage regarding the public domain spaces. 10. There should be a link from the site, through the Walter St Reserve to the walking/bicycle track beneath the Gore Hill Freeway.	3. Council's traffic officer has advised that HRVs will not be able to turn right safely at the intersection of Brook Street and Chandos Street. It is therefore necessary to retain the access route via Merrenburn Avenue. 4. Parking is provided for SRV, MRV and HRV at basement level. The WDCP does not require extra parking for trades. 5. Council's traffic engineer has not recommended timed limits for visitor spaces. 6. The location of bicycle spaces is acceptable. 7. Overhead shading not considered necessary. 8. It is proposed to impose a condition requiring that visitor spaces be clearly indicated. 9. It is proposed to impose a condition requiring clear and prominently visible signage regarding the public domain spaces. 10. Any link through the Walter Street is outside the scope of this DA.

Property	Issues raised	Response
Willoughby Action Group	Insufficient visitor parking has been provided, in contravention of the Concept Approval. The justifications for this non-compliance in the Traffic Report are invalid.	It is proposed to impose a condition requiring that visitor parking be provided in accordance with the Concept Approval/WDCP.

ATTACHMENT 4: SECTION 4.15 ASSESSMENT

Matters for Consideration Under S.4.15 (79C) EP&A Act
Considered and Satisfactory ✓ Not Relevant N/A

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	State Environmental Planning Policies (SEPP)	✓
	Regional Environmental Plans (REP)	✓
	Local Environmental Plans (LEP)	✓
	Comment: The proposal complies with Concept Plan MP 10 0198 MOD 4, which overrides the Willoughby LEP 2012 to the extent of any inconsistency and SEPP 65.	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	Draft State Environmental Planning Policies (SEPP)	N/A
	Draft Regional Environmental Plans (REP)	N/A
	Draft Local Environmental Plans (LEP)	N/A
	Comment: There are no draft SEPPs that apply to the subject land.	
(a)(iii)	Any development control plans	
	Development control plans (DCPs)	✓
	Comment:	
(a)(iv)	Any matters prescribed by the regulations	
	Clause 92 EP&A Regulation-Demolition	✓
	Clause 93 EP&A Regulation-Fire Safety Considerations	✓
	Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings	✓
	Comment: Subject to conditions, the proposal will comply with the above regulations	
(b)	The likely impacts of the development	
	Context & setting	✓
	Access, transport & traffic, parking	✓
	Servicing, loading/unloading	✓
	Public domain	✓
	Utilities	✓
	Heritage	✓
	Privacy	✓
	Views	✓
	Solar Access	✓
	Water and draining	✓
	Soils	✓
	Air & microclimate	✓
	Flora & fauna	✓
	Waste	✓
	Energy	✓
	Noise & vibration	✓
	Natural hazards: Overland flowpath	✓
	Safety, security crime prevention	✓
	Social impact in the locality	✓
	Economic impact in the locality	✓
	Site design and internal design	✓

Matters for Consideration Under S.4.15 (79C) EP&A Act
Considered and Satisfactory ✓ Not Relevant N/A

	• Construction	✓
	• Cumulative impacts	✓
	Comment: Subject to conditions, the impacts of the proposal on adjoining or nearby properties are considered to be reasonable.	
(c)	The suitability of the site for the development	
	• Does the proposal fit in the locality?	✓
	• Are the site attributes conducive to this development?	✓
	Comment: The proposal is consistent with the scheme approved under Concept Plan MP 10 0198 MOD 4.	
(d)	Any submissions made in accordance with this Act or the regulations	
	• Public submissions	✓
	• Submissions from public authorities	✓
	Comment: 4 submissions were received from neighbours. Subject to conditions, the proposal satisfactorily addresses the submissions made by the public.	
(e)	The public interest	
	• Federal, State and Local Government interests and Community interests	✓
	Comment: Subject to conditions, the proposal will not compromise the character of the locality (as approved under Concept Plan MP 10 0198 MOD 4) and therefore approval of the application is in the public interest.	

CONCLUSION

Assessment has shown that likely adverse effects to the present and likely future amenity of the locality are not of such an extent as to warrant refusal.

The Development Application has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy No 65, WDCP and other relevant codes and policies. Based on the assessment above, the proposed development is considered to be acceptable and approval is recommended.

OFFICER'S RECOMMENDATION

That Development Application 2020/136 seeking Council's consent for construction of five buildings containing 230 dwellings, retail/commercial space, basement carparking, landscaping and public domain works, extension of Scott street and other associated works at 14 Artarmon Road, Willoughby NSW 2068 be approved and delegated authority be granted to the General Manager to issue the consent notice subject to the attached conditions.

ATTACHMENT 5: SCHEDULE OF CONDITIONS

SCHEDULE

Conditions of Consent: (Including reasons for such conditions)

CONSENT IDENTIFICATION

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

1. Approved Plan/Details

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

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by		
Architectural	DA-ST1-1000	C	02.06.2021	Chrofi		
	DA-ST1-1001					
	DA-ST1-1003					
	DA-ST1-1004					
	DA-ST1-1005					
	DA-ST1-1006					
	DA-ST1-1007					
	DA-ST1-1008					
	DA-ST1-1009					
	DA-ST1-1010					
	DA-ST1-1011					
	DA-ST1-1012					
	DA-ST1-1013					
	DA-ST1-1014					
	DA-ST1-1020					
	DA-ST1-1021					
	DA-ST1-1022					
	DA-ST1-1023					
	DA-ST1-1024					
	DA-ST1-1025					
	DA-ST1-1055	A				
Landscape	LD-SK-MP-8400-00a	G	02/06/2021	MGregor and Coxall		
	LD-SK-MP-8400-00b					
	LD-SK-MP-8400-00c					
	LD-SK-MP-8400-00d					
	LD-SK-MP-8400-00e					
	LD-SK-MP-8400-01a	E				
	LD-SK-MP-8400-01b					
	LD-SK-MP-8400-01c					
	LD-SK-MP-8400-01d					
	LD-SK-MP-8400-01e	F				
	LD-SK-MP-8400-01f					

	LD-SK-MP-8400-01g			
	LD-SK-MP-8400-02a	E		
	LD-SK-MP-8400-02b			
	LD-SK-MP-8400-03a	G		
	LD-SK-MP-8400-03b	E		
	LD-SK-MP-8400-03c			
	LD-SK-MP-8400-03d			
	LD-SK-MP-8400-04a	F		
	LD-SK-MP-8400-04b			
	LD-SK-MP-8400-04c			
	LD-SK-MP-8400-04d	E		
	LD-SK-MP-8400-05a			
	LD-SK-MP-8400-06a	F		
	LD-SK-MP-8400-06b	E		
	LD-SK-MP-8400-07	F		
	LD-SK-MP-8400-010a	F		
	LD-SK-MP-8400-010b	G		
	LD-SK-MP-8400-010c	E		
	LD-SK-MP-8400-010d	D		

the application form and any other supporting documentation submitted as part of the application, except for:

- (a) any modifications which are “Exempt Development” as defined under S.4.1(1) of the *Environmental Planning and Assessment Act 1979*;
- (b) otherwise provided by the conditions of this consent.
(Reason: Information and ensure compliance)

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

2. Development Contribution

s7.11 Contribution subject to the following requirement:

A monetary contribution that is required to be paid under this consent must be paid before the issue of the **first** Occupation Certificate in respect of any building to which this consent relates, except as provided by the following circumstance:

If no construction certificate in respect of the erection of any building to which the consent relates has been issued before or on 25 September 2022, the monetary contribution referred in section ‘PRIOR TO OCCUPATION OF THE DEVELOPMENT’ must be paid before the issue of the **first** Construction Certificate after that date (25 Sept 2022) for any such building.

(Reason: Statutory requirement)

3. Amendments

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

- (a) Floor to ceiling heights of habitable rooms are to have a minimum floor to ceiling height of 2.7m and non-habitable rooms are to have a minimum floor to ceiling height of 2.4m.
- (b) Use of the commercial floor space in Buildings B and G is approved, but no consent is given for any specific use or fit out of that commercial floor space.
- (c) A commemorative feature/s to be sited within the open space area which acknowledges Channel Nine's contribution to the locality and to telecommunications in general. Where feasible or appropriate, this should include adaptive reuse of elements of the transmission tower.
- (d) Visitor parking is to be provided at the rates prescribed by the Concept Approval (MP 10 0198 MOD 4).
- (e) Fifty percent of all dwellings are to be adaptable consistent with Clause C6 Willoughby DCP.
- (f) The Gorge (including the Gateway), The Plaza, the Leisure Lawn and the Dish Playground are to be clearly sign posted with signs that state the relevant areas are open to the general public. The signage at the Gateway will be located at the Artarmon Road frontage adjacent to the boundary fence.
- (g) Mailboxes are to be located in building lobbies.
- (h) Electronic access and audio/video intercom to all dwellings is to be provided to manage access.
- (i) Way finding maps are to be provided in public areas on the site to assist visitors and residents.
- (j) A low fence (maximum 1m high) is to be installed to separate the Playground from the Walter Street Reserve.
- (k) That part of the front boundary fence on the Artarmon Road frontage, between the eastern edge of the pedestrian entrance to a point 65m to the west, shall be solid and attain a height of 1.6m above ground level, in order to provide privacy to the private open spaces at ground level of Building B.
- (l) The publicly accessible open space is to be delivered in accordance with the Staging indicated on the approved architectural plans.

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

(Reason: Ensure compliance)

4. Sydney Water 'Tap In'

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

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

(Reason: Ensure compliance)

5. Agreement to Transfer Affordable Housing Dwellings

The applicant must enter into a Deed with the Council providing for the transfer of title of the **nine (9)** Affordable Housing dwellings to the Council, free of charge. The Deed is to be generally in accordance with the Housing Transfer Deed template available at Council and is to be submitted to the Council and executed prior to the issue of the staged Construction Certificate for the works on facades or fit-out.

The terms of this agreement must be to the satisfaction of the Council and must include a provision to the effect that the transfer of the dwellings is to be completed within two months of the registration of the strata subdivision of the development for the dwelling units to be dedicated and within 6 months of the issue of the final Occupation Certificate.

The applicant must agree to pay the Council's reasonable legal costs in satisfying itself that the agreement is appropriate, and a provision to this effect is to be included in the agreement.

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

(Reason: Ensure compliance)

6. Affordable Housing Fittings and Finishes

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

(Reason: Amenity)

7. Damage Deposit

Prior to the issue of the Construction Certificate, the applicant shall lodge a Damage Deposit of **\$300,000** (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. For the purpose of inspections carried out by Council Engineers, an inspection fee of **\$173** (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

Total Payable = \$300,000 + \$173 = \$300,173

(Reason: Protection of public asset)

8. Easement for Support

A retaining wall is to be constructed along and within the front boundary to retain the adjacent public road. The applicant is required to create an Easement for Support over Lot 10 DP 1162507 in favour of Council, at no cost to Council, over the retaining wall including the associated footings, along the full length of the wall. The easement shall be of sufficient width to enable maintenance works and reconstruction of the wall and footings. Unless agreed otherwise with Council, the terms of the easement shall be:

Terms of Easement for Support

1. The Prescribed Authority having the benefit of this easement may retain on the lot burdened the retaining wall within the site of this easement, together with any associated footing that provide support of the surface and/or subsurface of # Street and associated footpath
2. The owner of the lot burdened must not:
 - a. Interfere with the retaining wall or footing or the support it offers, or
 - b. Use the site of this easement, or any other part of the lot burdened, or any other land, in a way which may detract from the stability of the support provided by the retaining wall including its footings.
3. If the owner of the lot burdened does or allows anything to be done which damages the retaining wall or its footings or impairs its effectiveness, the Prescribed Authority having the benefit of this easement may serve notice on the owner of the lot burdened requiring the damage to be repaired or the impairment removed.
4. If the owner of the lot burdened does not comply with the notice, the body having the benefit of this easement may, after expiration of the notice period, repair the damage or remove the impairment and may recover any reasonable costs from the owner of the lot burdened. In order to carry out the repairs, the Prescribed Authority having the benefit of this easement may do anything reasonably necessary for that purpose, including:
 - a. entering the lot burdened; and
 - b. taking anything on to the lot burdened; and
 - c. Carrying out the work.
5. The owner of the burdened lot must at its own cost repair and maintain the retaining wall to ensure the stability and support provided by the retaining wall.

In this Easement for Support, unless inconsistent with the context:

Lot Burdened means the whole of the land in folio identifier Lot 10 DP 1162507

Prescribed Authority means Willoughby City Council and its assigns and successors.

To fully comply with this condition, the following stages are to be complied with:

Prior to the issue of a Construction Certificate

The following shall be submitted to Council:

- (a) Details for the retaining wall, prepared by a Structural Engineer, on stand alone set of drawings that relate to the wall only.
- (b) Certification from a suitably qualified Structural Engineer, typically CPEng, that the design complies with the relevant standards.
- (c) Geotechnical Engineer's report regarding the stability of the proposed retaining wall.

Prior to the issue of any Occupation Certificate for works relating to the retaining wall

The following shall be submitted to Council:

- (a) Certification from a suitably qualified Structural Engineer, typically CPEng, that the as-constructed wall is in accordance with the approved structural plans and details.
- (b) A survey by a Registered Surveyor certifying that the retaining wall including the associated footings is wholly within the subject easement.
- (c) The final easement documents for execution by Council

(Reason: Protection of road reserves)

9. Temporary Ground Anchors

Obtain written permission from all private property owners affected by any encroachment either below ground or the air space above as a result of any proposed temporary ground anchors prior to issue of the Construction Certificate. Copies of the permission shall be sent to Council. All works associated with the drilling and stressing of the ground anchors shall be installed in accordance with approved drawings. Council will not support permanent ground anchors extending into Council owned land or the road reserve. Temporary anchors may be permitted provided they are at a minimum depth of 1.5m below the ground surface in the road reserve / Council land.

(Reason: Encroachment of works)

10. Stormwater to Street Drainage or Reserve

Stormwater runoff from the site shall be collected and conveyed to the Council drainage system or the reserve as per the approved drawings 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. All drainage works shall comply with the requirements described in Part C.5 of Council's DCP, Technical Standards and AS 3500.3. In this regard, full design and construction details showing the method of disposal of surface and roof water from the site shall be shown on the Construction Certificate plans.

(Reason: Prevent nuisance flooding)

11. Analysis of Outlet Condition

The capacity of the existing Council stormwater drainage system at the proposed connection of the outlet shall be hydraulically evaluated using the Hydraulic Grade Line method to ensure that the outlet from the OSD tank is above the 1%AEP water level and will not be affected by the downstream water level. Full engineering details of the hydraulic evaluations prepared and signed by a practising Civil Engineer shall be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

(Reason: Prevent property damage)

12. 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 generally be in accordance with the following concept stormwater management plans, prepared by SMEC.

Plan No.	Revision No	Plan Date
SMEC –CV-SW-DA8214	P4	23/10/2020
SMEC –CV-SW-DA8215	P3	23/10/2020
SMEC –CV-SW-DA8231	P10	23/10/2020
SMEC –CV-SW-DA8237	P3	23/10/2020
SMEC –CV-SW-DA8238	P2	23/10/2020
SMEC –CV-SW-DA8239	P2	23/10/2020
SMEC –CV-SW-DA8240	P2	23/10/2020
SMEC –CV-SW-DA8251	P5	23/10/2020
SMEC –CV-SW-DA8252	P8	23/10/2020
SMEC –CV-SW-DA8261	P5	23/10/2020
SMEC –CV-SW-DA8262	P5	23/10/2020
SMEC –CV-SW-DA8271	P4	23/10/2020
SMEC –CV-SW-DA8272	P4	23/10/2020
SMEC –CV-SW-DA8273	P4	23/10/2020
SMEC –CV-SW-DA8274	P4	23/10/2020
SMEC –CV-SW-DA8275	P4	23/10/2020
SMEC –CV-SW-DA8297	P3	23/10/2020

All drawings shall comply with Part C.5 of Council's Development Control Plan and Technical Standards, AS/NSZ3500.3 – *Plumbing and Drainage Code* and National Construction Code.

The plans are to include the following:

- a) OSD system in accordance with Council's requirements
- b) The overflow level for the OSD tank to be a minimum of 300mm below adjacent floor levels.
- c) Stormwater quality improvement measures in accordance with Technical Standard 1, including devices to target hydrocarbons for all locations with runoff from all access roadways and parking areas.
- d) Flood warning signage to playground area.
- e) 600x600mm pit adjacent to the boundary prior to discharge to the Council system

(Reason: Ensure compliance)

13. Basement Pumpout Drainage System

Prior to the issue of the Construction Certificate for the basement, the applicant shall submit, for approval by the Certifier, detailed stormwater management plans in relation to any pump-out drainage system for the basement. The construction

drawings and specifications shall be generally in accordance with the approved stormwater management plans with the following requirements:

- (a) The pumpout drainage system shall comprise with two (2) submersible type pumps. The two pumps shall be designed to work on an alternative basis to ensure both pumps receive equal use and neither remains continuously idle.
- (b) Each pump shall have a minimum capacity of 10L/s or shall be based on the flow rate generated from the 1% Annual Exceedance Probability storm event 5-minutes duration of the area draining into the system, whichever is greater.
- (c) An alarm warning device (including signage and flashing strobe light) shall be provided for the pump-out system to advise the occupant of pump failure. The location of the signage and flashing strobe light shall be shown on the stormwater management plans.
- (d) The volume of the pump-out tank shall be designed with a minimum storage capacity as required by AS/NZS 3500.1.

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

14. Construction Management Plan (CMP)

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

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

(Reason: Compliance)

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

Prior to issue of a Construction Certificate for the building structure, 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 new vehicle crossing to connect the basement to the Council owned section of Scott Street and / or the private owned section of Scott Street to the public road.
- (b) Construction of the following stormwater drainage works:
 - i) New kerb inlet Pit 08-1 with a 2.4m lintel to replace the existing Council pit on Artarmon Road, to the west of Scott Street.
 - ii) New junction Pit 03-4, located within the road reserve on Artarmon Road
 - iii) New kerb inlet Pit 03-5 with a 2.4m lintel to replace the existing Council

- pit on Artarmon Road, to the east of Scott St
 - iv) New 375mm diameter reinforced concrete pipe to connect Pit 08-1 and Pit 03-4
 - v) New 450mm diameter reinforced concrete pipe to connect Pit 03-4 and Pit 03-5
 - vi) New kerb inlet pit with a 3.0m lintel on Artarmon Road, 5m to the west of the existing pit located to the west of the Scott Street intersection, with a 300mm dia RCP concrete pipe connecting the new pit to the existing pit
- (c) Construction of 1.5 metres wide footpath (max. 2.5% crossfall) for the full frontage of the development site in Artarmon Road and Council owned section of Scott 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. The plans are to include the reinstatement of the existing heritage plaque adjacent to the pedestrian entry on Artarmon Road.
- (d) Reconstruction of existing kerb and gutter for the full frontage of the development site in Artarmon Road and Council owned portion of Scott Street in accordance with Council's specifications and Standard Drawing SD105.
- (e) Reconstruction of half width the road pavement for the full frontage of the development site in Artarmon Road and reconstruction of the full width of the road pavement in the Council owned section of Scott Street
- (f) Construction of: a new roundabout at the intersection of Artarmon Road and Richmond Avenue in accordance with Council's specification. The kerb line shall be modified at the roundabout to follow the line of the vehicle diversions. Blisters will only be accepted where it is demonstrated to Council's satisfaction that it is not possible to construct a kerb on the required alignment without major changes to pavement levels or significant extensions to stormwater drainage. The style of the centre of the roundabout (eg mountable) will be determined in consultation with Council's Traffic Engineer.
- (g) Construction of a new raised threshold traffic calming device on Artarmon Road, to the west of the intersection with Edward St.
- (h) Construction of 2 pedestrian refuge islands on Artarmon Road west of Edward Street and on Edward Street north of Artarmon Road.
- (i) Modifications to street lighting as required to provide suitable lighting for the new roundabout and the new pedestrian refuges.

The required plans must be designed in accordance with Council's specifications (AUS-SPEC). A minimum of three (3) weeks will be required for Council to assess the *Roads Act* submissions. Works that require approval by the traffic committee, including the roundabout and the pedestrian refuges, may take up to 2months, depending on the timing of committee meetings. Early submission is recommended to avoid delays in obtaining a Construction Certificate. For the purpose of inspections carried out by Council Engineers, the corresponding fees set out in Council's current

Fees and Charges Schedule are payable to Council prior to issue of the approved plans.

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

(Reason: Ensure compliance)

16. Design of Works in Council Land

Prior to issue of the Construction Certificate for the Building Structure the applicant must submit, for approval by Council, full design engineering plans and specifications prepared by a suitably qualified and experienced civil engineer for the following works on Council Land:

- (a) Detailed design for the stormwater outlet works located in Council's Richmond Avenue Reserve

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 submission. 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 land owner for any proposed works in the reserve prior to the issue of the Construction Certificate.

(Reason: Ensure compliance)

17. Acquisition of Drainage Easement

Prior to the issue of a Construction Certificate, obtain a drainage easement over the outlet pipe and associated outlet structure to the legal point of discharge in Richmond Avenue Reserve. The easement width shall comply with the requirements in Part C.5 of the Willoughby DCP.

(Reason: Legal requirement)

18. OSD/Rainwater Tank Design

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

(Reason: Safe access to tanks)

19. Vehicle Access and Manoeuvring – Engineer's Certification

Prior to the issue of the Construction Certificate for the building structure, 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 into the site. 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/NZS 2890.6 in terms of minimum dimensions provided and grades on parking spaces.
- (d) That the proposed parking located off the Council owned section of Scott Street complies with AS 2890.5.
- (e) That the headroom clearance of minimum 2.2 metres between the basement floor and any overhead obstruction (including overhead services) is provided for compliance with Section 5.3.1 of AS/NZS 2890.1 and Section 2.4 of AS/NZS 2890.6.
- (f) That the headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities for compliance with Section 2.4 of AS/NZS 2890.6.
- (g) That a shared area with minimum dimensions of 2.4 x 5.4m is provided adjacent to all disabled parking spaces and a shared area with minimum dimensions of 2.4m x 2.4m is provided at the end of all disabled parking spaces to comply with AS/NZS 2890.6. A bollard shall be located in the shared zone in accordance with AS/NZS 2890.6.
- (h) That the headroom clearance 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. A minimum clearance of 4.5m shall be provided for the areas traversed by a HRV and MRV
- (i) Simultaneous manoeuvring of B99 and B85 vehicles at all ramps and ramp ends including the clearance lines for each vehicle, in accordance with AS2890.1, is complied with.
- (j) Simultaneous manoeuvrability of the largest vehicle using the site and a passenger vehicle including clearance in accordance with AS2890.1 and AS2890.2, is provided.

(Reason: Ensure compliance)

20. Finish Surface Levels Along the Street Boundary

Prior to the issue of a Construction Certificate for the building structure, 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)

21. Internal Noise Levels Residential

To minimise the noise intrusion from any external noise source, all new building work shall be designed and constructed to comply with the criteria contained in State Environment Planning Policy (Infrastructure) 2007 and Dept. of Planning's *Development Near Rail Corridors & Busy Roads Interim Guideline 2008* and Section 4 of the acoustic report by Renzo Tonin & Associates, Ref. TL162-02F03 Stage 1 – Acoustic Assessment (r4), dated 29 May 2020.

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

(Reason: Amenity, environmental compliance and health)

22. Building Ventilation

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

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

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

(Reason: Health and compliance)

23. Noise Mechanical Services

To minimise the impact of noise onto receivers on surrounding land, all mechanical services shall be designed to comply with the noise emission criteria contained in the EPA's *Noise Policy for Industry* (2017). Details of the proposed equipment, siting, appropriate noise criteria, any attenuation required and recommendations shall be prepared by an appropriately qualified acoustic consultant and presented in an acoustic report. This report shall be provided to the Certifying Authority prior to the issue of a Construction Certificate.

(Reason: Amenity, environmental compliance and health)

24. Mechanical Ventilation for Potential Future Use of Commercial/Retail Tenancy

Where it is intended for a food premises to occupy a commercial/retail tenancy, the base building design shall include provisions (such as a services shaft of sufficient size to accommodate a riser duct) for the installation of mechanical exhaust ventilation to the potential food premises, or any other use which requires mechanical ventilation. The provisions shall allow any mechanical exhaust ventilation system to discharge vertically to atmosphere and comply with the requirements of the National Construction Code and any relevant Australian Standard.

(Reason: Amenity/Ensure compliance)

25. Traffic Management Plan

Prior to issue of the Construction Certificate, a detailed Traffic Management Plan shall be prepared for pedestrian and traffic management consistent with the Construction Traffic Management Plan (Ref: 1192r05v4 dated 2 July 2020) and be submitted to the relevant road authority for approval. The plan shall: -

- (a) Be prepared by a Transport for NSW (TfNSW) accredited consultant.
- (b) Be in accordance with the current version of AS1742.3 and its associated handbook; and the RMS's Traffic Control at work site manual.

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

(Reason: Public safety and amenity)

26. Traffic Work

Prior to issue of the Construction Certificate, any proposals for changes to the carriageway of a public road including shared paths, involving traffic arrangements shall be referred to the Local Traffic Committee for approval. All work shall be designed in accordance with RMS Technical Directives and Guidelines.

(Reason: Public safety and amenity)

27. Council Approval

- (a) Submit to Willoughby City Council and State Transit Authority Bus (STA Bus) a proposal detailing the design of the temporary pedestrian refuge islands and all associated signage (pedestrian crossing, traffic movements, street parking and new bus zone), pavement markings and street lighting.
- (b) All temporary relocation works shall be designed in accordance with Transport/ Roads and Maritime Services (RMS) Technical Directives & Guidelines; and Australian Standards.
- (c) Following Council approval of the detailed designs, proponent to undertake community notifications of the temporary pedestrian crossing facilities relocation within 500m radius 2 weeks before the physical works start.
(Reason: Public safety and amenity)

28. Construction Truck Access (Heavy Rigid Vehicle / HRV)

- (a) HRV trucks can only use Richmond Avenue trucks routes and access after the temporary pedestrian crossing facilities and street parking changes have been fully implemented.
- (b) An independent road safety audit to be completed for the temporary relocation and all corrective actions be addressed. (**OPTION** – if a private certifier is use to review /ensure the approved detailed pedestrian crossing facilities plan is implemented & safety is maximised).
(Reason: Public safety and amenity)

PRIOR TO COMMENCEMENT

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

29. Waste Management Plan

A Waste Management Plan which provides details of specific strategies to salvage and recycle a minimum of 85% of used and unused demolition and construction materials shall be submitted to the Certifier prior to commencement of work.
(Reason: Environment protection/waste reduction)

30. Site Management

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

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

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

31. 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)

32. Permits and Approvals Required

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

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

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

(Reason: Legal requirements)

33. Application for Vehicle Crossing

Submit an application with fees to Council for the construction of a new vehicular crossing / access point from Artarmon Road or the Council owned section of Scott Street.

(Reason: Protection of public asset)

34. Adjustment to Street Lighting

Prior to commencement of work, consult with utility authorities to determine the requirements of relocation/adjustment of electricity supply and street lighting services fronting the property at Artarmon Road due to the proposed new works in Artarmon Road and Edward Street, including new pedestrian refuges and traffic calming devices. Such street lighting shall also conform to Council's standard specifications and the appropriate Australian Standards.

(Reason: Public amenity)

35. 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)

36. Property/Reserve Boundary

Prior to commencement of work, the property/reserve boundary is to be surveyed by a registered surveyor and such boundary is to be clearly marked on site.

(Reason: Property/reserve management)

37. Dilapidation Report of Public Open Space

Submit a dilapidation report including photographic record of the Public Open Space adjoining the development, detailing the physical condition of items such as, but not exclusively to, trees, bushland, rock outcrops and physical improvements such as paths, furniture and play equipment.

The applicant may be held liable to any damage to public infrastructures 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 Certifying Authority prior to commencement of works.

(Reason: Protection of Council's infrastructure)

38. Project Arborist

- (a) A Project Arborist is to be appointed prior to commencement of works on site;
- (b) The Project Arborist is to have a minimum qualification AQF Level 5;
- (c) The Project Arborist is to oversee and authorise all tree protection works in accordance with AS4970-2009 Protection of trees on development sites and relevant conditions of consent;
- (d) The Project Arborist is to certify that all tree protection measures have been installed prior to commencement of works.

(Reason: Safety, environmental protection, landscape amenity)

39. Community Liaison Officer

The Applicant shall appoint a Community Liaison Officer for the duration of the project works to communicate with the local community and be their main point of contact. The name and contact details of the Community Liaison Officer shall be included on signage around the project site and any notification letter or written information material distributed to the local community.

(Reason: Amenity)

40. Dewatering of Development Site

Appropriate pollution control methods shall be adopted to ensure any water discharged into Council's stormwater system from dewatering activity on the development site complies with relevant environmental criteria. The following details shall be submitted to Council for approval prior to the commencement of any work:

- (a) Details of proposed pollution control methods
- (b) Certification from an appropriately qualified environmental consultant verifying the adequacy of the proposed pollution control methods to ensure discharged water complies with the following water quality criteria:

Analyte	Unit	Measurement	Criteria
Total nitrogen	µg/L	< than	2650
Total phosphorous	µg/L	< than	39.5
Dissolved oxygen	%sat	Btn 80 - 120%	
pH	pH units	Btn 6.5 - 8.5	
Conductivity	µS/cm	< than	437
Suspended solids	Mg/L	< than	2
Turbidity	NTU	< than	3.2
Zinc	µg/L	< than	19.3
Lead	µg/L	< than	0.5

Copper (& other heavy metals)	µg/L	< than	4.9
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(Reason: Environmental protection, compliance)

41. Direct waste collection from basement

A design certificate and detailed plans are to accompany the Construction Certificate application that confirms that the waste can be directly collected from the basement as detailed in the Operational Waste Management Plan dated 05/06/2020 Report No S0487 Rev D prepared by Elephants Foot. The design certificate is to be in accordance with the Waste Management Guide and specifically confirm that the:

- (a) Waste collection vehicle is able to access the basement, adequately manoeuvre into position, load bins and exit the basement
- (b) Adequate vertical clearance is provided along the route of travel to/from external entry/exit points to collection area
- (c) The collection vehicle must be able to manoeuvre in the basement with limited need for reversing
- (d) The grades of entry/exit must not exceed the capabilities waste collection vehicle
- (e) The floor of the basement has been designed to carry the load of the vehicle.

(Reason: Environmental protection/waste reduction/public health and safety)

42. Spoil Route Plan

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

(Reason: Public amenity)

DURING DEMOLITION, EXCAVATION AND CONSTRUCTION

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

43. Hours of Work

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

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

If a variation to these approved hours for multiple or extended periods is sought, an application under Section 4.55 of the *Environmental Planning and Assessment Act*

1979 must be lodged with Council at least twenty-one (21) days in advance of the proposed changes to the hours of work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and be accompanied by the required fee. Note: This Section 4.55 application may require re-notification in some circumstances.

(Reason: Ensure compliance and amenity)

44. Building Site Fencing

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

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

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

The public safety provisions and temporary fences must be in place and be maintained throughout construction.

(Reason: Safety)

45. Provide Erosion and Sediment Control

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

(Reason: Environmental protection)

46. Demolition Work AS 2601-2001

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

(Reason: Safety)

47. Asbestos Sign to be Erected

On sites involving demolition or alterations and additions to building where asbestos cement is being repaired, removed or disposed of a standard commercially manufactured sign not less than 400mm x 300mm containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" is to be erected in a prominent visible position on the site. The sign is to be erected prior to the commencement of works

and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility.

(Reason: Public Health and safety/Ensure compliance)

48. Neighbour Notification of Asbestos Removal

The applicant/builder is to notify anyone occupying premises in the immediate vicinity of the site, five working days prior to demolition works involving removal of asbestos. Such notification is to be clearly written, giving the date work will commence, Work Cover NSW phone number 131 050, Councils phone number 9777 1000.

As a minimum, this notification is to be placed in the letterbox of every property (including every residential flat or unit) either side and immediately at the rear of the site.

(Reason: Public health)

49. Asbestos Removal and Disposal

Works involving the removal of asbestos must comply with Councils Policy on handling and disposal of asbestos, and must also comply with the Code of Practice for "How to Safely Remove Asbestos" approved under section 274 of the NSW Work Health and Safety Act 2011.

Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS 2601 – The Demolition of Structures.

All asbestos laden waste, including bonded or friable asbestos must be disposed of at a waste disposal site approved by the NSW Department of Environment, Climate Change and Water.

Upon completion of the asbestos removal and disposal the applicant must furnish the Certifier with a copy of all receipts issued by the waste disposal site as evidence of proper disposal.

(Reason: Environmental protection/Public health and safety)

50. Survey Certificate

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

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

(Reason: Ensure compliance)

51. Temporary Toilet Facilities

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

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

(Reason: Health and amenity)

52. 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 temporary ground anchors. On completion of these works, a report from the Geotechnical Engineer shall be submitted to Council for record purposes.

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

(Reason: Protection of public assets)

53. 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)

54. 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)

55. 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)

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

The connection of the site stormwater drainage system to the existing Council pipeline / pit / channel shall be inspected by Council's Engineer when the pipes are exposed, prior to backfill, and it is possible to confirm that the connection complies with Council's requirements and the new connection pipe does not protrude into the Council pipe system. The inspection must be booked via telephone with Council's Engineer and a minimum of 48hours notice provided. For the purpose of inspections carried out by Council Engineer, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council.

(Reason: Ensure compliance)

57. Heritage Plaque

The existing heritage plaque located in the footpath on Artarmon Road shall be protected during construction. If the plaque is damaged or lost, it shall be replaced at the applicant's expense.

(Reason: Protect Council's asset)

58. Public Tree Protection

Unless identified by the development consent, no tree roots over 25mm diameter are to be damaged or cut and all structures are to be bridged over such roots.

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

(Reason: Tree management)

59. No Access through Public Open Space

Site access is not approved for construction of the development through adjacent public land.

(Reason: Safety, landscape amenity, tree protection)

60. Storage of Materials on Council Land Prohibited

The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in the Council reserve is prohibited.

(Reason: Safety, environmental protection)

61. Protection of Rock and Sites of Significance

(a) All existing rock outcrops outside and below the approved construction footprint are to be maintained and preserved during the works;

(b) Should any Aboriginal sites be uncovered during works, works are to cease and the Council, the NSW Office of Environment and Heritage and the Metropolitan Local Aboriginal Land Council are to be contacted.

(Reason: Protection of significant environmental features)

62. Tree Trunk, Branch and Root Protection

(a) Retain and protect the following trees and vegetation throughout the demolition and construction period: All trees unless exempt under relevant planning instruments or legislation.

(b) The above trees must be clearly marked and protection devices in place to prevent soil compaction and machinery damage.

(c) Tree protection measures must comply with AS 4970-2009 Protection of trees on development sites with particular reference to Section 4 Tree Protection Measures.

(d) Tree protection measures in accordance with c) above are to be certified by the Project Arborist prior to commencement of works.

- (e) Tree roots greater than 25mm diameter are not to be removed unless approved by The Project Arborist on site.
 - (f) All structures are to bridge roots unless directed by The Project Arborist on site.
- (Reason: Tree management)

63. Waste Classification – Excavation Materials

All materials excavated and removed from the site (fill or natural) shall be classified in accordance with the *Environment Protection Authority* (EPA) Waste Classification Guidelines prior to being disposed of to a NSW approved landfill or to a recipient site.

(Reason: Environment and health protection)

64. Unexpected Finds Protocol

An unexpected finds contingency plan should be incorporated into site redevelopment works. In the event that previously unidentified contaminated soils or materials are identified during site redevelopment, works should cease in the immediate vicinity and the affected area isolated to minimise disturbance. A suitably qualified contaminated site consultant should be engaged to assess the degree, type and extent of contamination and establish a suitable remediation plan. The Site Manager/landowner shall notify Council in writing when they become aware of any contamination.

(Reason: Environment & Health Protection)

65. Importation of Fill

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

(Reason: Environment & Health Protection)

66. Dust Control

The following measures must be taken to control the emission of dust:

- (a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- (b) Any existing accumulation of dust (e.g. in ceiling voids and wall cavities) must be removed using an industrial vacuum cleaner fitted with a high efficiency particulate air (HEPA) filter.
- (c) All dusty surfaces and activities must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system. Activities could include, but are not limited to, rock-breaking, excavation, earth moving, drilling, and angle grinding, cutting, jack hammering and chiselling of concrete or masonry.
- (d) All stockpiles of materials that are likely to generate dust must be kept damp or covered.
- (e) Demolition work must not be carried out during high winds, which may cause

dust to spread beyond the boundaries of the site.
(Reason: Amenity and environmental protection)

67. Noise and Vibration from Excavation, Siteworks and Construction

- a) Noise and vibration mitigation measures shall be carried out in accordance with the recommendations contained within Sections 4 and 5 of the Construction Noise & Vibration Management Plan prepared by Renzo Tonin & Associates, Ref. TL162-02D02 CNVMP (r1), dated 07/04/20.
- b) Noise shall be controlled to comply with the requirements as set out in the EPA Interim Construction Noise Guideline (ICNG). Noise levels shall not exceed the following noise criteria:
 - Affected residential properties (during ICNG recommended standard hours) – Noise affected level of RBL + 10dB; and
 - Highly noise affected level (i.e. noise level above which there may be strong community reaction) $\leq 75\text{dB(A)}_{\text{Leq(15mins)}}$.
- c) Noise and vibration measurements shall be carried out by a suitably qualified acoustic consultant on receipt of a legitimate complaint lodged by a member of the public to the nominated Community Liaison Officer or Council. A report of the findings and action taken to mitigate any exceedances shall be submitted to Council **within 7 days** of its completion. Where Project Noise Levels are exceeded, appropriate measures to control excessive noise shall be implemented immediately.
- d) Noise and vibration mitigation measures shall be implemented whenever possible to minimise potential impact on surrounding properties including:
 - Screening noise through the use of acoustic barriers;
 - Utilisation of acoustic enclosures, engine silencers and mufflers;
 - Maintaining plant and equipment properly so that they are in good working condition;
 - Locating equipment away from sensitive noise receivers where feasible;
 - Avoiding the simultaneous operation of equipment;
 - Ensuring contractors and site workers are inducted and trained about noise reduction and management; and
 - Implementing a noise and vibration complaint register and process to log, investigate and resolve unnecessary disturbance.

(Reason: Amenity)

68. Testing to Verify Water Quality Prior to Dewatering Activity

- (a) No dewatering of the development site is permitted to be discharged to Council's stormwater system without sampling of the potential effluent being carried out by a suitably qualified environmental consultant, analysis being conducted by an appropriate NATA-registered water laboratory, and written approval from Council being obtained. The test results shall be collated in a report submitted to Council written by the environmental consultant with a statement provided that the water to be discharged meets the Council-approved design water quality criteria.

- (b) On the occasion that any rainfall or other event necessitates dewatering of the site, ongoing water quality sampling, analysis and collation of results shall be conducted prior to each discharge to Council's stormwater system (or other receiving watercourse). Should test results exceed the water quality criteria, dewatering is not permitted and adjustments to the pollution control methodology will need to be made by the suitably qualified environmental consultant. Any changes to the methodology require the written notification of Council.
- (c) A copy of the water pollution control method (and any modification required), the written approval from Council to discharge, and the ongoing water quality test results shall be kept on the site at all times, for the duration of the site works that will require dewatering activity, and produced to an authorised officer of the Council when requested.

(Reason: Environmental protection, compliance)

69. Loading and Unloading During Construction

The following requirements apply:

- (a) All loading and unloading associated with construction must be accommodated on site.
- (b) The structural design of the building must permit the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.
- (c) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (d) In addition to any approved Works Zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
- (e) If a Works Zone is warranted an application must be made to Council prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need of the site for such facility at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (f) Application for a Works Zone must be submitted to Council a minimum 8 weeks prior to being required. Works application form is available on the City's Website.

(Reason: Public safety and amenity)

PRIOR TO OCCUPATION OF THE DEVELOPMENT

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

70. Payment of Monetary Contributions - S7.11 Contribution

Prior to the issue of the **first** Occupation Certificate in respect to any building to which this consent relates (except for the circumstance under condition "Development Contribution" referred in the section 'PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE'), a monetary contribution is to be paid to Council in accordance with section 7.11 of *Environmental Planning and Assessment Act, 1979* in the amount of

\$3,293,587.87 for the purposes of the Local Infrastructure identified in the *Willoughby Local Infrastructure Contributions Plan*.

Active transport and public domain facilities	\$140,463.55
Open space and recreation facilities	\$2,581,571.52
Plan administration	\$48,674.50
Recoupment community facilities	\$496,481.99
Recoupment open space and recreation	\$26,396.31
TOTAL	\$3,293,587.87

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

(Reason: Statutory requirement)

71. Planning Agreement

The obligations under the Planning Agreement executed on 10 March 2021 relating to this development are to be satisfied at the timing required under Schedule 2 of the Planning Agreement.

(Reason: Ensure compliance)

72. Section 73 Compliance Certificate

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

The Section 73 Certificate must be submitted to the Certifier.

(Reason: Ensure statutory compliance)

73. DA Required for Use

As no specific fit-out or use has been approved in the Development Consent for the commercial floor space, a Development Consent must be lodged and consent issued for use of the commercial premises. An Occupation Certificate for the commercial premises must be issued prior to occupation of those premises or site.

(Reason: Compliance)

74. BASIX Certificate

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

(Reason: Environmental sustainability)

75. Fire Safety Certificate Forwarded to NSW Fire and Rescue

Prior to the issue of any Occupation Certificate and upon completion of the building work, a Fire Safety Certificate shall be furnished by the owner to Council, and the owner must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be forwarded to the Commissioner of New South Wales Fire and Rescue, and must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building in accordance with Clause 172 of the *Environmental Planning and Assessment Regulation 2000* in respect to each essential fire safety measure included in the Schedule attached to the Construction Certificate.

(Reason: Safety)

76. Public Right of way

The applicant is to provide a Public Right of Way on the Title in favour of Council. The purpose is to allow The Gateway, The Gorge, The Leisure Lawn, the Dish Playground and The Plaza areas to be accessible to the public and available for public use at all times. Draft terms for the instrument are to be discussed with Council. Documentary evidence of registration of these instruments with the NSW Department of Lands is to be submitted to Council prior the issue of an Occupation Certificate for the building structure.

The above instruments can be created under Section 88b of the Conveyancing Act 1919 for newly created lots. For an existing lot, a Positive Covenant and Restriction on the Use of Land can be created under Section 88E(3) of the Conveyancing Act 1919 using Form 13PC and 13RPA respectively.

(Reason: Public amenity)

77. Safer by Design

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

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

including the waste storage areas.

This lighting shall ensure consistency to avoid contrasts between areas of shadow/illumination and preferably be solar powered and with an automatic/timed switching mechanism, motion sensor or equivalent for energy efficiency. Such lighting shall be installed and directed in such a manner so as to ensure that no nuisance is created for surrounding properties or to drivers on surrounding streets. Car parking lighting system is to be controlled by sensors to save energy during periods of no occupant usage.

- (b) The ceiling and vertical structures of the basement parking area shall be painted white (or equivalent) in order to ensure good visibility, surveillance and less reliance on artificial lighting lux levels.
- (c) The design, installation and maintenance of landscaping (and associated works) within pedestrian routes around the site (and adjacent to mailboxes) shall not impede visibility and clear sight lines along the pedestrian footway from one end to the other.
- (d) The means to isolate the residential and commercial components of the building shall be incorporated into the development, including the security keying of lifts and doors and other measures for access control.
- (e) Walls/screens between balconies shall be designed to avoid foot holes or natural ladders so as to prevent access between balconies/terraces within the development.
- (f) Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
- (g) A small portion of each storage area shall be of solid construction (i.e. Cupboard).

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

78. Temporary Ground Anchors – Destressing

Prior to the issue of an Occupation Certificate for the building structure, all damages to Council's infrastructures due to the works associated with the piling and installation of the ground anchors shall be restored to the requirements of Willoughby City Council at no cost to Council. All ground anchors shall be de-stressed and removed on completion of the works. A certificate issued by a professional Geotechnical Engineer verifying that all ground anchors have been decommissioned and removed shall be submitted to Council. Permanent ground anchors are not permitted.

(Reason: Destressing of ground anchors)

79. Stormwater to Adjacent Reserve

Prior to the issue of an Occupation Certificate for the building structure, stormwater from Catchment A is to be controlled and conveyed to the reserve adjacent to the property in accordance with Council's specification, including the use of water pollution control measures and stilling basin, as per SMEC drawings SMEC-CV SW-DA8237/P2, SMEC-CV SW-DA8271/P3 and SMEC-CV SW-DA8297/P2.

(Reason: Prevent nuisance flooding)

80. CCTV Report of Council Pipe System After Work

Prior to the issue of a Whole 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 pipelines located in Artarmon Road 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.

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)

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

Prior to the issue of an Occupation Certificate for the building structure, inspection of drainage connection works to the existing Council's pipeline/pit/channel 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)

82. On-site Water Management System

Prior to the issue of an Occupation Certificate for the building structure, the stormwater runoff from the site shall be collected and disposed of via an approved OSD system in accordance with Sydney Water's requirements AS/NZS3500.3, Council's DCP and Technical Standards. Outlet for Catchments A, B and C shall be constructed prior to the issue of any Occupation Certificate. The construction of the stormwater drainage system of the proposed development shall be in accordance with the approved detailed stormwater drawings required under this development consent and Council's specification (AUS-SPEC). The following OSD tanks and associated water quality improvement devices shall be constructed prior to the issue of any Occupation Certificate:

- Tank 03-2
- Tank 01-4
- Tank 02-5

(Reason: Prevent nuisance flooding)

83. Sign for On-site Stormwater Detention (OSD) System

Prior to the issue of any Occupation Certificate pertaining to any works requiring Rainwater Reuse system or On-Site Detention System, an aluminium plaque measuring no less than 400mm x 200mm is to be permanently attached and displayed within the immediate vicinity of the OSD tanks.

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)

84. 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 any 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)

85. Certification of OSD

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

(Reason: Legal requirement)

86. Certification of the Basement Pumpout Drainage System

Prior to the issue of an Occupation Certificate for the building structure and upon completion of any pump-out system, the following shall be submitted to the Certifier.

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

(Reason: Ensure compliance)

87. Works-As-Executed Plans - OSD

Prior to the issue of an Occupation Certificate for the building structure 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)

88. S88B/S88E(3) Instrument

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

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

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

(Reason: Maintenance requirement)

89. Documentary Evidence of Positive Covenant, Engineers Certificate

Prior to the issue of an Occupation Certificate for the building structure, 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)

90. Construction of Kerb & Gutter

Prior to the issue of an Occupation Certificate for the building structure, 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 Artarmon Road and the Council's owned section of Scott Street.

(Reason: Public amenity)

91. Reconstruct Pavement

Prior to the issue of an Occupation Certificate for the building structure, half the road pavement adjoining to the full frontage of the development site in Artarmon Road and full width pavement for the frontage of the development site in the Council owned portion of Scott Street shall be reconstructed in accordance with Council's approved drawings, conditions and specification (AUS-SPEC). Council's standard design traffic for this pavement is 1×10^6 ESA.

(Reason: Ensure compliance)

92. Concrete Footpath

Prior to the issue of an Occupation Certificate for the building structure, construct a 1.5m concrete footpath for the full frontage of the development site in Artarmon Road and Council owned portion of Scott Street. The existing Heritage Plaque shall be reinstated in the concrete footpath along Artarmon Road, in a location to be agreed with Council, generally in the vicinity of the pedestrian entry to the site from Artarmon Road, at the junction of Stages 1 and 2.

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

(Reason: Public amenity)

93. Construct Stormwater

Prior to the issue of an Occupation Certificate for the building structure, construct the following stormwater works:

- a) New kerb inlet Pit 08-1 with a 2.4m lintel to replace the existing Council pit on Artarmon Road, to the west of Scott Street.
- b) New junction Pit 03-4, located within the road reserve on Artarmon Road
- c) New kerb inlet Pit 03-5 with a 2.4m lintel to replace the existing Council pit on Artarmon Road, to the east of Scott St
- d) New 375mm diameter reinforced concrete pipe to connect Pit 08-1 and Pit 03-4
- e) New 450mm diameter reinforced concrete pipe to connect Pit 03-4 and Pit 03-5
- f) New kerb inlet pit with a 3.0m lintel on Artarmon Road, to the west of Pit 08-1
- g) New 300mm diameter reinforced concrete pipe to connect the new pit to Pit 08-1.

(Reason: Stormwater management)

94. Construct Works in Road Reserve

Prior to the issue of an Occupation Certificate for the building structure, construct the following works in the road reserve:

- New roundabout at the intersection of Artarmon Road and Richmond Avenue
- New pedestrian refuge islands on Artarmon Road, west of Edward Street.
- New pedestrian refuge islands on Edward Street, north of Artarmon Road

- New raised threshold traffic calming device on Artarmon Road, west of the intersection with Edward Street.

(Reason: Traffic and pedestrian safety and management)

95. Street Lighting

Prior to the issue of an Occupation Certificate for the works in the road reserve, provide amendments to the existing street lighting system as required to serve new works, including the new pedestrian refuges and traffic calming devices. The lighting shall be in accordance with Australian Standard AS/NZ 1158.

Reason: Public amenity)

96. Vehicular Crossing

Construct a new vehicular crossing / access point in accordance with the Council approved drawings, 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 (where applicable). A separate application for the crossing including current fees and charges is to be submitted for approval by Council.

The crossing is to be as per the approved drawings. The new crossing shall be located no closer than 1 metre from any power pole and 2 metres from any street tree unless otherwise approved by Council.

The 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)

97. Removal of Redundant Crossings

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

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

(Reason: Public amenity)

98. Inspection of Civil Works on Road Reserves

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

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

99. Performance Bond

Prior to the issue of an Occupation Certificate for works in the road reserve, the Applicant shall lodge with the Council a performance bond of \$150,000 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)

100. 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)

101. Easement for Support

Prior to issue of an Occupation Certificate for the building structure:

- (a) The Easement is to be registered with the NSW Land Registry Services.
- (b) Submit a certificate from a Structural Engineer certifying the retaining wall has been constructed in accordance with the Structural Engineer's details.
- (c) Submit a survey by a Registered Surveyor certifying that the retaining wall is wholly within the subject easement.
- (d) An approved balustrade may be required to be erected along the top of the wall in the interests of public safety.

(Reason: Protection of road reserves)

102. Public Infrastructure Restoration

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

(Reason: Protection of public assets)

103. Vehicle Access and Manoeuvring – Construction & Certification

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

- (a) That the as-constructed carpark complies with the approved Construction Certificate plans.
- (b) That finished driveway gradients and transitions comply with AS/NZS 2890.1 and AS 890.2 and will not result in scraping to the underside of cars.
- (c) That a maximum gradient of 5% is provided for the first 6 metres from the property's front boundary into the site All driveway grades shall comply AS/NZS 2890.1 and AS 2890.2.
- (d) That all visitor parking spaces have a minimum width of 2.5m and meet the requirements of Class 2 parking in AS/NZS 2890.1.
- (e) Aisle widths throughout basements comply with AS/NZS 2890.1.
- (g) That the constructed vehicular path and parking arrangements comply in full with AS/NZS 2890.1, AS 890.2 and AS/NZS 2890.6 in terms of minimum dimensions provided and grades on parking spaces.
- (h) That the parking located off the Council owned section of Scott Street complies with AS 2890.5.
- (i) That headroom clearance of minimum 2.2 metres between the basement floor and any overhead obstruction (including overhead services) is provided for compliance with Section 5.3.1 of AS/NZS 2890.1 and Section 2.4 of AS/NZS 2890.6.
- (j) That headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities for compliance with Section 2.4 of AS/NZS 2890.6.
- (k) That the headroom clearance 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. A minimum of 4.5m is provided for all areas accessed by a MRV and HRV.
- (l) That a shared area with minimum dimensions of 2.4 x 5.4m is provided adjacent to all disabled parking spaces and a shared area with minimum dimensions of 2.4m x 2.4m is provided at the end of all disable parking spaces to comply with AS/NZS 2890.6, and that a bollard is located in the shared zone in accordance with AS/NZS 2890.6.
- (m) Simultaneous manoeuvring of B99 and B85 at all ramps and ramp ends including clearances for each vehicle as per AS/NZS 2890.1 is achieved.

- (n) Access and manoeuvrability of the largest vehicle accessing the site and simultaneous manoeuvrability of the largest vehicle using the site and a passenger vehicle including clearances in accordance with AS/NZS 2890.1 and AS 2890.2 is achieved.

(Reason: Ensure compliance)

104. Stormwater Maintenance Plan

Prior to the issue of an Occupation Certificate for the building structure, a Stormwater Maintenance Plan shall be submitted to the Certifying Authority for approval. The plan shall include details of the maintenance tasks required and the timeframe for each task, required to ensure that the system operates as designed.

(Reason: Ensure stormwater system operates)

105. Certification of Water Quality Improvement System

Prior to the issue of an Occupation Certificate for the building structure, a suitably qualified civil engineer shall submit certification that the as constructed stormwater quality improvement system complies with the requirements of Part C.5 of the Willoughby DCP and Technical Standard 1.

(Reason: Protect the environment and ensure compliance)

106. Floodway Sign

Prior to the issue of the relevant Occupation Certificate, install Floodway Warning signage (such as "Rain may cause flood waters to rise. Keep off this area during heavy rain") in the vicinity of the sunken playground area.

(Reason: Safety)

107. Bicycle Racks

Prior to the issue of a Whole Occupation Certificate, install bicycle racks required by Part C.4 of the Willoughby DCP in locations throughout the site near the pedestrian entries to the buildings. The locations shall generally be in accordance with the positions shown on Chrofi drawing DA-ST1-1005/B

(Reason: Ensure compliance)

108. Completion of Landscape Works

Prior to the issue of a Whole Occupation Certificate, any approved landscape works located within the approved stage of works including all planting, site furniture, play equipment, barbeques and shelters shall be consistent with the approved design, completed to a professional standard, consistent with industry best practice and published standards and certified by a qualified Landscape Architect.

(Reason: Landscape amenity)

109. Weed Removal

All noxious and environmental weeds shall be removed from the property prior to completion of building works. Documentary evidence of compliance with this condition shall be submitted to the Certifier prior to the release of a Whole Occupation Certificate.

(Reason: Environmental protection; landscape amenity)

110. Tree Planting

Prior to the issue of a Whole Occupation Certificate, trees are to be planted in accordance with the following table:

No. Required	Species	Location	Min Pot Size
All trees within the approved stage of works	As indicated on Planting Plan Dwg No. LD-SK-MP 8400-10a Rev F dated 02/6/21 prepared by McGregor+Coxall	As indicated on the Landscape Plan	As indicated on the Landscape Plan

(Reason: Landscape amenity)

111. Project Arborist Certification

Prior to the issue of any Occupation Certificate, the Project Arborist is to certify in writing that all tree protection measures and remediation works have been complied with as per conditions of consent.

(Reason: Protection of trees required to be retained)

112. Contamination/Remediation – Site Validation Report

A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant in accordance with:

- (a) Environment Protection Authority (EPA) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites'; and
- (b) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The SVR shall clearly state that the objectives in the approved Remedial Action Plan have been achieved, whether there are any ongoing site management requirements, and that the land is suitable for the proposed use. The SVR and notice of completion of remediation works, in accordance with clause 18 of SEPP 55, must be submitted to Council for its review and concurrence prior to the issue of an Occupation Certificate.

(Reason: Environmental protection, public health and safety)

113. Contamination – Site Audit Statement and EMP

A final Site Audit Report (SAR) and Section A Site Audit Statement (SAS) from the Accredited Site Auditor shall be submitted to Council for review and concurrence in writing prior to the issue of any Occupation Certificate for the site.

- a) The final SAS should clearly state that the portion of land, to which the SAS relates, is suitable for the proposed use/s. The SAS should refer to an attached site survey that clearly identifies the area to which the Statement relates for easy identification.
- b) Where compliance with a condition on a SAS can only be ensured with the involvement of Council, the Accredited Site Auditor must seek written agreement from Council first before the SAS is issued.
- c) Inclusion of an Environmental Management Plan (EMP) in a SAS condition requires the prior discussion with Council and should be done in accordance with Section 3.4.6 of the EPA's *Contaminated Sites Guidelines for the NSW Site*

Auditor Scheme (3rd Edition 2017). The approval of Council must be obtained in writing prior to the issue of the final Site Audit Statement.

(Reason: Environmental protection, public health and safety)

114. Environmental Management Plan – Positive Covenant

A positive covenant (88E instrument) shall be registered on the title of the portion/lot of land binding the owners and future owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the encapsulated/remaining contaminated materials.

The required documentation and associated legal paperwork (which notes Council's interest in the positive covenant) shall be forwarded to Council for consideration and endorsement before the positive covenant is registered with NSW Land Registry Services. Evidence that the positive covenant has been placed on the certificate of land shall be submitted to Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.

(Reason: Environmental protection, public health and safety, compliance)

115. Contamination - Environmental Management Plan

The validation of the site as suitable for the proposed mixed-use redevelopment will be contingent upon the implementation of an Environmental Management Plan (EMP) to manage residual risks posed by contaminated material to future site users.

Where required, the EMP shall contain the following elements:

- A statement of the objectives of the EMP – i.e. to ensure continued suitability of the site after it has been remediated;
- Identification of residual environmental contamination issues at the site that require ongoing management/monitoring to meet the EMP objectives, the type of contamination and location within the site (including survey plans);
- Documentation of environmental management measures which have been implemented to address the identified environmental issues at within the site;
- Description of management controls to limit the exposure of the site users to known areas of contamination to acceptable levels;
- Description of responsibilities for implementing various elements of the provisions contained in the EMP;
- Timeframes for implementing the various control/monitoring, etc. elements outlined in the EMP;
- Environmental monitoring and reporting requirements (if required) for the future management of environmental impact underlying the site;
- Corrective action procedures to be implemented where EMP assessment criteria are breached.

(Reason: Environmental compliance, public health and safety)

116. Acoustic Treatment – Certification

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

(Reason: Amenity, environmental compliance and health)

117. Certification – Ventilation

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

118. Council Inspection – Waste Management Facilities

Prior to the issue of an Occupation Certificate for the basement structure, an authorised Council waste officer is to inspect and approve all waste management facilities to ensure they comply with the Operational Waste Management Plan dated 05/06/2020 Report No S0487 Rev D prepared by Elephants Foot.. Specifically, the path of travel for all waste, from unit to point of waste collection, waste storage room sizing, access to water and sewer connections, finished materials, access and door way dimensions, and that all waste facilities are fit for purpose.
(Reason: Environmental protection/waste reduction/public health and safety)

PRIOR TO THE RELEASE OF LINEN PLANS/SUBDIVISION CERTIFICATE

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

119. General Easement/ROW Provision and Certification

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

120. 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. All on-site stormwater detention tanks and associated access points are to be located in common property.
(Reason: Ensure compliance)

121. Section 88B Instrument

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

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.

122. Annual Fire Safety Statement

Attention is directed to Clause 177 of the *Environmental Planning and Assessment Regulation 2000* regarding the submission of an Annual Fire Safety Statement in relation to each essential fire safety measure implemented in the building or on the land on which the building is situated.

(Reason: Safety)

123. Public Access

a) The areas indicated on the approval plans as The Gateway (including the community room) and The Gorge, The Leisure Lawn, The Dish Playground and The Plaza areas are to be publicly accessible.

b) The abovementioned spaces are to be managed and maintained to a design standard equivalent to that shown on the approved plans.

(Reason: Public Amenity)

124. 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)

125. Loading and Deliveries

All loading and unloading of goods, including deliveries and removalist activities, shall occur within the site and not on the surrounding public roadways.

(Reason: Traffic management and safety)

126. Road Reserve Planting

Replacement planting proposed within the road reserve may be undertaken subject to the following conditions:

- (a) The cost of all works being borne by the applicant.
- (b) All service location checks and liability being the responsibility of the applicant.
- (c) Ongoing maintenance and replacement planting will not be provided by Council.
- (d) Council retains the right to prune or remove the planting as may be required for road or service maintenance and safety.

(Reason: Management of public assets)

127. Trees on Adjoining Properties

No approval is given for the removal or pruning of trees on the nature strip, adjoining reserves, or neighbouring private land.

(Reason: Environmental protection)

128. Noise Control – Offensive Noise and Vibration

To minimise the noise and vibration impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the *Protection of the Environment Operations Act 1997*.

(Reason: Amenity)

129. Mechanical Ventilation Systems with Regulated Air Handling and Water Systems

Mechanical ventilation systems comprising regulated air handling and water systems (cooling towers, warm-water systems and the like) shall be registered with Council on completion of the installation in accordance with the requirements of the *Public Health Act 2010* and *Public Health Regulation 2012*.

(Reason: Health protection)

130. Walls – Solid Construction – Food Premises

All perimeter walls and internal walls (including partition walls) of tenancies intended to be used as food premises shall be solid construction. The walls are to be constructed in masonry, brickwork or other approved method with all voids filled with a suitable material.

(Reason: Health & Compliance)

131. Ceiling Construction – Food Premises

The ceiling of any intended food premises tenancy shall comply with AS4674-2004. The ceiling must be rigid, smooth-faced, able to be effectively cleaned, resistant to grease, food particles and water, and must not provide harbourage for pests.

(Reason: Health & Compliance)

132. Waste Management Plan Implementation

The Operational Waste Management Plan dated 05/06/2020 Report No S0487 Rev D prepared by Elephants Foot is to be implemented throughout the ongoing use of the development.

(Reason: Environmental protection/waste reduction/public health and safety)

PRESCRIBED CONDITIONS

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

133. Compliance with National Construction Code

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

(Reason: Compliance)

STATUTORY REQUIREMENTS

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

134. Construction Certificate

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

Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 9777 1000.

(Reason: Ensure compliance and statutory requirement)

135. Notify Council of Intention to Commence Works

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

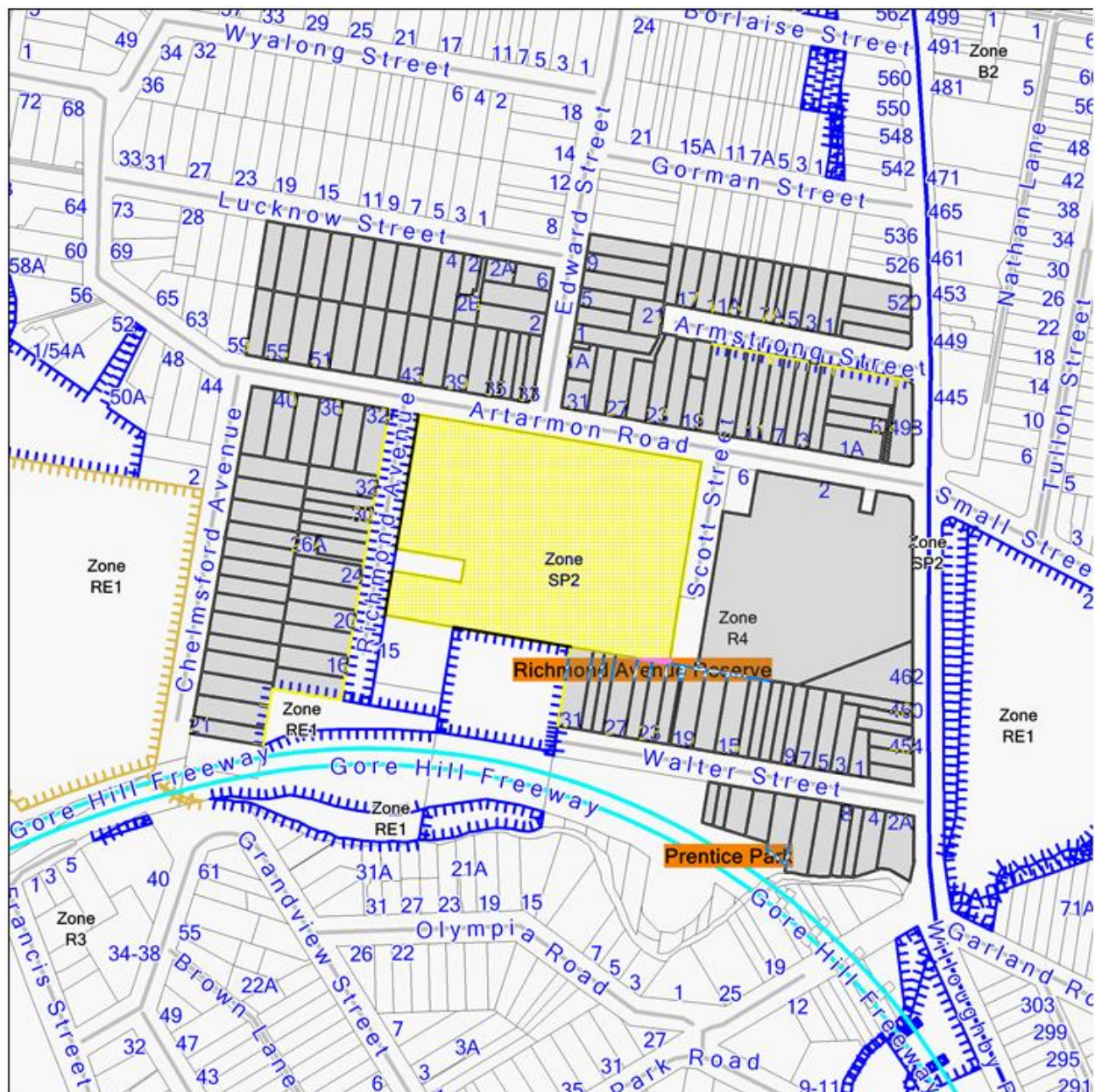
(Reason: Information and ensure compliance)

136. Occupation Certificate

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

(Reason: Safety)

ATTACHMENT 6: NOTIFICATION MAP



PPSSNH-101- 14 ARTARMON ROAD, WILLOUGHBY NSW 2068.