



Channel 9 Willoughby

*Modification of Concept
Approval
(MP 10_0198 MOD 2)*



October 2018

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Cover photo

Indicative photomontage of proposed Village Square (Source: Proponent's EA)

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Glossary

Abbreviation	Definition
ADG	Apartment Design Guide
AS	Australian Standard
BCA	Building Code of Australia
Concept approval	Approved concept plan for a residential development with ancillary uses 6-30 Artarmon Road, Willoughby (MP 10_0198)
Commission	Independent Planning Commission
Council	Willoughby City Council
DCP	Development Control Plan
Department	Department of Planning and Environment
EA	Environmental Assessment Report prepared by Ethos Urban, dated 30 October 2017
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FEAR	Future Environmental Assessment Requirement
FSR	Floor space ratio
GA NSW	Government Architect NSW
GFA	Gross floor area
LEC	Land and Environment Court
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning
OEH	Office of Environment and Heritage
PAC	Planning Assessment Commission
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
Planning Secretary	Secretary of the Department of Planning and Environment
PPR	Preferred Project Report
Proponent	Euro Properties and Lotus Property Fund No. 8
RtS	Response to Submissions prepared by Ethos Urban, dated 28 March 2018
SEARs	Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
SSD	State Significant Development
VPA	Voluntary Planning Agreement



Executive Summary

Euro Properties and Lotus Property Fund No.8 (the Proponent) seeks approval to modify the concept approval (MP 10_0198) for a residential development, including small scale non-residential uses, at 6-30 Artarmon Road, Willoughby (the site), pursuant to section 75W of the Environmental Planning and Assessment Act 1979 (the EP&A Act).

Background

On 5 March 2014, the independent Planning Assessment Commission (PAC) approved a concept plan for a staged residential development, including small scale non-residential uses. The decision was challenged by the previous Proponent and owner of the site, Nine Network Australia Pty Ltd (Channel 9), in the Land and Environment Court (LEC). As a result of successful mediation, the LEC disposed of the proceedings and the PAC issued an amended concept approval on 23 December 2014. In late 2015 the Proponent agreed to purchase the site.

In July 2016, the Department of Planning and Environment (the Department) accepted modification request MP10_0198 MOD 1 (MOD 1), seeking to increase the number of approved buildings envelopes, increasing building heights up to 12 storeys and permit up to 510 dwellings.

The Department publicly exhibited MOD 1 between 5 August 2016 and 5 September 2016 on the Department's website, at the Department's Information Centre, and at Council's Offices. The Department also advertised the exhibition in the North Shore Times and notified surrounding landholders, Council, relevant government agencies and previous submitters to the original concept approval in writing. The exhibition resulted in 234 public submissions (207 objections) and seven submissions from Government agencies, including an objection from Willoughby City Council (Council). In addition to exhibiting MOD 1, the Department met with representatives of special interest groups and Council to provide an overview of the amendments. The Department also facilitated a meeting between the Proponent and Council.

However, as the site incorporated land owned by Council, who has not provided land owner's consent, MOD 1 has not progressed.

Proposed modification

On 7 April 2017, the Proponent submitted a second modification request MP 10_0198 MOD 2 (the proposal) seeking to:

- exclude the portion of Scott Street owned by Council from the site
- increase the approved building envelopes from seven to nine
- increase the maximum gross floor area (GFA) from 37,136 square metres (m²) to 44,585 m²
- increase the maximum number of dwellings from 400 to 495
- increase the maximum building height from eight to 12 storeys
- include child care facility as a permitted use.

The proposal was also accompanied by a public benefit offer, which included additional affordable housing and monetary contributions towards public infrastructure works.

The difference between the two modifications is the removal of land owned by Council (portion of Scott Street) from the site, which results in Scott Street remaining in situ and the building envelopes proposed under MOD 1 on the eastern edge of the site shifting west of Scott Street.

On 4 May 2017, the Department advised the Proponent that land owner's consent from Council was required to exclude the portion of Scott Street owned by Council from the concept plan site and requested the proposal be withdrawn.

On 17 August 2017, the LEC declared that Council's land owner's consent was not required to exclude the land owned by Council (being part of Scott Street) from the concept plan site. As such, on 15 November 2017 the Department accepted the proposal.

Engagement

The Department publicly exhibited the proposal for 30 days between 16 November 2017 and 15 December 2017, resulting in 452 public submissions (430 objecting, 3 providing comment and 19 in support) and four submissions from Government agencies, including an objection from Council.

Given the similarities between the two modifications, and the high level of community interest in both applications, the Department has considered the combined total of 686 public submissions to both modification applications. The key issues raised in the public submissions include density, building height, traffic impacts, application type (modification vs new application), insufficient public infrastructure to support the development and public benefits. The Department's assessment has considered these issues, which is discussed in more detail in **Sections 5 and 6**.

On 16 April 2018, the Proponent submitted a Response to Submissions (RtS) which was referred to Government agencies and placed on the Department's website. As the RtS did not result in any significant amendments or increase any environmental impacts, it was not formally re-exhibited. However, given the level of public interest in the proposal, the Department notified the heads of several community groups the RtS had been received and it was made available to view on the Department's website. Additional submissions were received from five Government agencies, including Council, in response to the RtS. No further public submissions were received.

Assessment

To assist with its assessment, the Department sought the advice of the Government Architect NSW (GA NSW) in relation to urban design and visual impacts and obtained independent traffic advice in relation to traffic impacts. In addition to the GA NSW advice, Council's submission included a review undertaken by Allen Jack + Collier (AJC). These reports concluded that there is merit in the proposal as originally submitted, subject to a number of design refinements which have been addressed in **Section 6**.

The proposal as originally submitted results in an additional 907 m² of open space, improved solar access to adjoining development and acceptable traffic impacts. While the Department acknowledges the improved public benefits and enhanced design approach to the constraints of the site, it has also considered the concerns raised by Council and the local community in relation to the density and scale of the proposal as originally submitted. Therefore, the Department raised concerns that the maximum building height established by the PAC and LEC would be exceeded.

The Proponent responded to these concerns by subsequently reducing building heights to maintain the maximum height limit of RL 105.4 set by the PAC and LEC. This reduction in building height has resulted in the proposal having a reduced maximum GFA of 43,907 m² and dwelling yield of 460.

Summary

The Department supports the amended proposal and notes that while it results in an additional 60 dwellings on the site, these are accommodated within revised building envelopes that maintain the maximum height set by the PAC and LEC, improve solar access to adjoining dwellings, increase open space and improve the character and amenity of the surrounding area. Further, the Department notes the additional traffic generation associated with the increased density result in acceptable operation of the Willoughby Road/ Artarmon Road/ Small Street intersection without the need for an upgrade. In addition, the Department has recommended the retention of 14 of the 17 additional trees sought for removal under the proposal.

The Department's assessment demonstrates the proposal will have limited environmental impacts beyond those already considered in the concept approval and is within the scope of a modification under Section 75W of the EP&A Act. The Department concludes the application is in the public interest and has recommended approval, subject to new/ amended future environmental assessment requirements to ensure the development achieves a high standard of design, appearance and amenity.



Contents

Glossary	iii
Executive Summary	iv
Contents	vii
1. Introduction	1
1.1 Background	1
1.2 The site	1
1.3 Surrounding development	4
1.4 Approval history	6
1.4.1 Concept plan	6
1.4.2 Modification (MP 10_0198 MOD 1)	8
1.4.3 Modification (MP 10_0198 MOD 3)	8
2. Proposed Modification	9
2.1 Description of proposal	9
3. Strategic Context	13
3.1 Premier's and State's Priorities	13
3.2 Greater Sydney Region Plan and North District Plan	13
3.3 Willoughby City Strategy Community Strategic Plan 2013-2029	14
4. Statutory Context	15
4.1 Modification of the Minister's approval	15
4.2 Approval authority	15
4.3 Permissibility	15
4.4 Secretary's Environmental Assessment Requirements	16
4.5 Mandatory/ Relevant Matters for Consideration	16
4.5.1 Environmental Planning Instruments (EPIs)	16
4.5.2 Objects of the EP&A Act	16
4.5.3 Ecologically Sustainable Development	18
4.5.4 Environmental Planning and Assessment Regulation 2000	18
5. Engagement	19
5.1 Consultation for MOD 1	19
5.1.1 Department's engagement	19
5.1.2 Summary of submissions	19

5.2	Consultation for the proposal.....	20
5.2.1	Department’s engagement.....	20
5.2.2	Summary of submissions	20
5.3	Key Issues – Government Agencies.....	21
5.4	Key Issues – Council/Community/Special Interest Groups.....	21
5.5	Response to Submissions	23
6.	Assessment.....	25
6.1	Introduction	25
6.2	Density	26
6.3	Built form	27
6.3.1	Envelope height.....	27
6.3.2	Overshadowing	29
6.3.3	Public domain interface.....	32
6.4	Public Domain	34
6.4.1	Open space	34
6.4.2	Tree management	36
6.5	Traffic, parking and public transport.....	37
6.5.1	Traffic generation and road safety	37
6.5.2	Car parking	39
6.5.3	Public transport.....	40
6.6	Residential Amenity	40
6.6.1	Building separation	40
6.6.2	Solar access and natural cross-ventilation.....	41
6.7	Developer contributions and public benefits	41
6.8	Other Issues	42
7.	Evaluation	44
	Appendices.....	45
	Appendix A – Relevant Supporting Information	46
	Appendix B – Key Issues – Council and Community Views.....	47
	Appendix C – Consolidated Consent (MP 10_0198).....	49
	Appendix D – Recommended Notice of Modification.....	50



1. Introduction

1.1 Background

This report provides an assessment of proposed modification request MP10_0198 MOD 2 (the proposal) to the concept approval for a residential development at 6-30 Artarmon Road, Willoughby.

The proposal seeks to modify the concept approval as follows:

- reconfigure the layout of building envelopes, open space and internal road network
- increase in the number of building envelopes from seven to nine
- amend building envelope heights (while maintaining the maximum approved envelope height of RL 105.4)
- increase in total gross floor area (GFA) by 6,771 square metres (m²) to 43,907 m²
- increase in the maximum number of dwellings from 400 to 460.

The application has been lodged by Euro Properties and Lotus Property Fund No.8 (the Proponent), pursuant to section 75W of the Environmental Planning and Assessment Act 1979 (EP&A Act).

1.2 The site

The site is known as the 'Channel 9' site and located on southern side of Artarmon Road, Willoughby. The site is located approximately six kilometres (km) north of the Sydney CBD, within the Willoughby Local Government Area (LGA) (**Figure 1**).



Figure 1 | Site location (Base source: Proponent's Masterplan Report)

The site comprises two distinct parcels of land (**Figure 2**). The larger parcel is bound by Artarmon Road to the north, Richmond Avenue to the west, Walter Street Reserve to the south and a residential development known as Castle Vale to the east. The larger parcel has an area of 28,985 m², which excludes the portion of Scott Street owned by Willoughby City Council (Council). The second parcel of land, known as Lot 12, is located to the south of the existing telecommunications tower and has an area of 739 m².



Figure 2 | Aerial view showing the Site (Base source: Proponent's Masterplan Report)

While the Proponent has identified Lot 12 as being part of the site, the Department has excluded it for the purposes of calculating the floor space ratio (FSR) and open space, as Lot 12 is physically separated from the main parcel of land and no development is proposed on the lot.

The concept approval also incorporates Scott Street, which is currently partly under the ownership of Nine Network Australia and Council. This proposal seeks to exclude the portion of Scott Street owned by Council from the site (**Figure 2**).

The site slopes from the northwest corner (at the junction of Artarmon Road and Richmond Avenue) to the southeast corner, with a fall of approximately nine metres (m). Part of the southern boundary is on a steep embankment which falls away to a Council reserve and the rear of several dwellings fronting Walter Street.

The site currently accommodates several buildings being used by Nine Network Australia for television production, broadcasting and administration uses (**Figure 3**). The two main buildings consist of a four storey commercial building and a six storey studio building. Thirteen former dwelling houses are also located within the site along Scott Street and Richmond Avenue. These dwellings have been converted to office and storage spaces used by Nine Network Australia. To the east of Scott Street on Artarmon Road is an existing commercial building known as 'The Loft' which is proposed for retention (**Figure 4**). Surface level car parking, a grassed helipad and large satellite dishes are also located on the site. Mature trees and landscape plantings are located throughout the site and along the Artarmon Road and Richmond Avenue frontages.



Figure 3 | Existing buildings on the site as viewed from Artarmon Road (Source: Google Maps, 2018)



Figure 4 | Existing 'Loft' building and entrance to Scott Street (Source: Department's Photo)

1.3 Surrounding development

The surrounding locality is predominately low scale residential development, with the exception of residential flat buildings to the east (Castle Vale) and commercial development to the northeast along Willoughby Road.

Immediately to the north and west of the site, along Artarmon Road and Richmond Avenue, are typically single storey detached dwelling houses (**Figure 5**). The ground level of the dwellings immediately to the north of the site, along Artarmon Road, are elevated above the road surface by up to four metres. These dwellings have no on-site car parking and currently rely on Artarmon Road and surrounding streets for parking.

The Artarmon Conservation Area is located one block to the west of the site and is characterised by dwelling houses built between 1900 and 1940, including Federation style houses in red-brown brick with terracotta tiled roofs, Californian and Inter-war Bungalows. While predominately single storey, there are examples of two storey buildings to the north and northwest of the site.

Adjoining the site to the south is a 233 m high telecommunications tower and the densely vegetated Walter Street Reserve. The tower is jointly owned by a number of television organisations for transmission services and does not form part of the proposal.

To the southeast of the site is Walter Street, which sits below the finished level of the site due to the topography of the area. Walter Street is a 'no-through' road comprising one and two storey dwellings. Approximately 10 dwellings share a rear boundary with the site (**Figures 2**). The sites along the northern side of Walter Street are zoned medium density residential and permit development up to 12 m in height. The Department notes a number of these properties have recently received development consent for demolition and construction of residential flat development (between four to six storeys) (see **Figure 15**). Beyond Walter Street to the south is the Gore Hill Freeway, a major freeway carrying in excess of 40,000 vehicles per day.

Immediately to the east of the site is the 'Castle Vale' residential development. There is a significant change in level at the boundary between the two sites with a 12 m retaining wall, resulting in the site being elevated well above the Castle Vale development. The Castle Vale development incorporates seven residential flat buildings, which vary in height between three to eight storeys and comprise approximately 160 dwellings and a child care facility. The buildings nearest the eastern boundary of the site are eight storeys in height (**Figure 6**).

Artarmon Train Station and neighbourhood shops are located approximately 1.25 km to the west of the site (**Figure 1**). Along Willoughby Road approximately 300 m to the northeast of the site is another cluster of neighbourhood shops. Approximately 100 m to the east of the site is Willoughby Road, which includes bus stops at its intersection with Artarmon Road. Bus services to the City, Chatswood, and Bondi Junction run at high frequency.

Further east on the opposite side of Willoughby Road, is an area of open space and sporting facilities, including playing fields, netball courts and the Willoughby Leisure Centre, which incorporates indoor recreational space and an indoor swimming pool (**Figure 1**). The nearest shopping centre with a full-scale supermarket is Northbridge, which is approximately 1.15 km to the east of the site.



Figure 5 | Typical dwellings along Richmond Avenue (left) and Artarmon Road (right) adjacent to the site (Source: Department's Photos)



Figure 6 | Neighbouring properties to the south along Walter Street (left) and Castle Vale to the east (right) of the site (Source: Department's Photos)

1.4 Approval history

1.4.1 Concept plan

In November 2012, Channel 9 submitted an application seeking concept plan approval for eight building envelopes with a maximum height of 18 storeys, comprising 600 dwellings and approximately 60,000 m² of GFA. The application consisted of two options:

- option A included the entirety of Scott Street, including land owned by Council
- option B excluded the portion of Scott Street owned by Council.

The Department exhibited the application in April and May 2013 and received 270 public submissions (262 objections and eight comments), including a petition signed by 2,910 members of the public, and six submissions from Government agencies. Council objected to the proposal.

In response to submissions, Channel 9 amended the proposal and ultimately sought approval for Option A with reduced building heights up to 12 storeys, 450 dwellings and 47,840 m² of GFA. The Department supported the amended proposal, subject to several envelope modifications to address impacts on adjoining development.

On 5 March 2014, the Planning Assessment Commission (PAC) approved the concept plan, subject to conditions that limited the building heights to eight storeys, a maximum of 350 dwellings and a total GFA of 39,550 m².

Channel 9 appealed the determination in the Land and Environment Court (LEC), which following mediation between the Proponent, PAC and Council resulted in the Court directing the PAC to approve an amended concept plan.

On 23 December 2014, the PAC approved the following in accordance with the direction:

- building envelopes for five residential flat buildings (Buildings A, B, E, F and G) between four and eight storeys in height above basement parking
- two rows of three storey terrace houses (Buildings C and H)
- a maximum of 400 dwellings
- total GFA of 37,136 m², including:
 - up to 35,886 m² of residential floor space
 - up to 500 m² of non-residential floor space
 - 1,050 m² adaptive retail/ commercial reuse of 6 Artarmon Road ('the Loft' building)
- new internal roadways and other infrastructure works to support the development
- publicly accessible open space and through site link
- temporary exhibition homes and/or exhibition villages
- subdivision.

The concept approval layout is shown at **Figure 7**.

In August 2015, Channel 9 entered into an agreement to sell the site to Euro Properties and Lotus Property Fund No.8 (the Proponent).

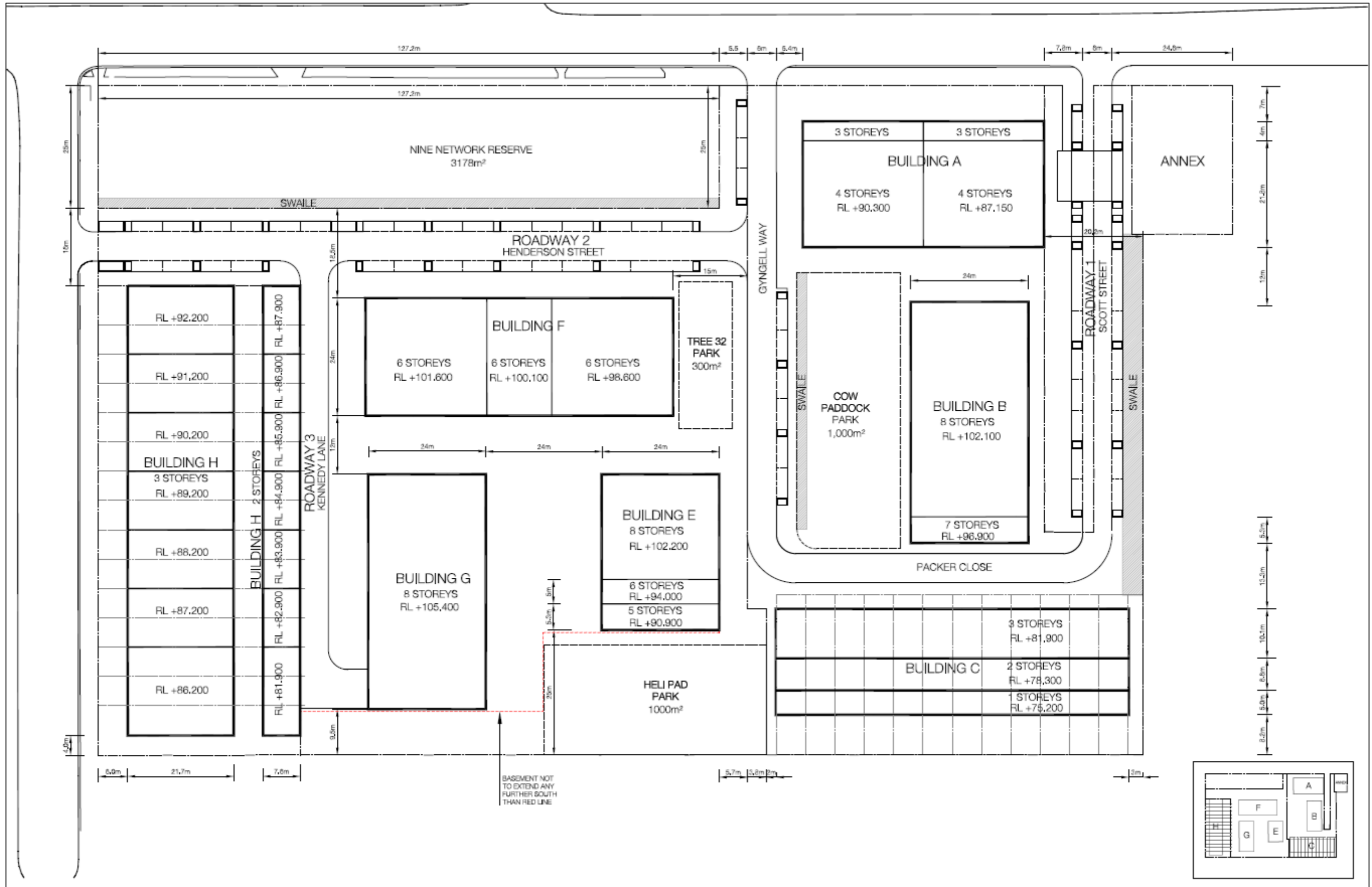


Figure 7 | Layout of concept approval (Source: Department's Approval)

1.4.2 Modification request MP 10_0198 MOD 1 (MOD 1)

In July 2016, the Department received modification request MP10_0198 MOD 1 (MOD 1), which sought to:

- increase the number of building envelopes from seven to ten
- increase the maximum building heights from eight to 12 storeys
- increase the maximum total GFA from 37,136 m² to 45,866 m²
- increase the maximum dwellings from 400 to 510
- reconfigure the building envelopes, internal road network and open space
- include child care facility as a permitted land use.

The Department publicly exhibited the proposal in August 2016 and September 2016, resulting in 234 public submissions and an objection from Council. However, as MOD 1 included part of Scott Street owned by Council, who has not provided landowner's consent, this application has not progressed.

The Proponent has indicated they intended to withdraw MOD 1 once the Department makes its recommendation to the Independent Planning Commission (Commission) for the proposal.

1.4.3 Background to this modification (the proposal)

In response to the issue of landowner's consent, in April 2017, the Proponent submitted modification request MP 10_0198 MOD 2 (the proposal) seeking to:

- exclude the portion of Scott Street owned by Council from the site
- increase the approved building envelopes from seven to nine
- increase the maximum GFA from 37,136 m² to 44,585 m²
- increase the maximum number of dwellings from 400 to 495
- increase the maximum envelope height from RL 105.4 (eight storeys) to RL 116.5 (12 storeys)
- reconfigure the building envelopes, internal road network and open space
- include child care facility as a permitted use.

The Department raised concerns about landowner's consent for the proposed removal of the portion of Scott Street owned by Council.

On 17 August 2017, the LEC declared that Council's landowner's consent was not required to exclude the land owned by Council. As such, on 15 November 2017 the Department accepted the proposal.

1.4.4 Modification request MP 10_0198 MOD 3 (MOD 3)

On 12 September 2017, the Department received modification request MP10_0198 MOD 3 (MOD 3), which sought to exclude the portion of Scott Street owned by Council from the site.

The assessment of MOD 3 is current on hold pending the determination of the subject proposal. The Proponent has indicated they intended to withdraw MOD 3 once the Department makes its recommendation to the Commission.



2. Proposed Modification

2.1 Description of proposal

On 15 November 2017, the Department accepted a modification request under section 75W of the EP&A Act to modify the concept approval. As originally exhibited the modification sought to:

- exclude the portion of Scott Street owned by Council from the site
- increase the approved building envelopes from seven to nine
- increase the maximum GFA from 37,136 m² to 44,585 m²
- increase the maximum number of dwellings from 400 to 495
- increase the maximum envelope height from RL 105.4 (eight storeys) to RL 116.5 (12 storeys)
- reconfigure the building envelopes, internal road network and open space
- include child care facility as a permitted use.

In response to concerns raised in public submissions, by Council and the Department, the Proponent amended the proposal to reduce the height of buildings consistent with the maximum height established by the PAC's and LEC's concept approval.

The key components and features of the proposal are summarised at **Table 1**, and **Figure 8** provides a comparison between the approved and proposed building envelopes (as amended). **Appendix A** contains a link to the Proponent's modification request and RtS.

Table 1 | Main components of the modification to the concept approval MP 10_0198

Aspect	Concept Approval	Proposal (as exhibited)	Proposal (as amended)
Building Envelopes	<ul style="list-style-type: none"> • Seven building envelopes • Maximum building height RL 105.4 	<ul style="list-style-type: none"> • Nine building envelopes (+two) • Maximum building height RL 116.5 	<ul style="list-style-type: none"> • Nine building envelopes (+two) • Maximum building height RL 105.4
GFA	<ul style="list-style-type: none"> • Total GFA of 37,136 m² • Residential GFA of 35,886 m² • Non-residential GFA of 500 m² 	<ul style="list-style-type: none"> • Total GFA of 44,585 m² (+7,449 m²) • Residential GFA of 43,268 m² (+7,382 m²) • Non-residential GFA of 300 m² (-200 m²) 	<ul style="list-style-type: none"> • Total GFA of 43,907 m² (+6,771 m²) • Residential GFA of 42,557 m² (+6,671 m²) • Non-residential GFA of 300 m² (-200 m²)
FSR	<ul style="list-style-type: none"> • FSR of 1.2:1 	<ul style="list-style-type: none"> • FSR of 1.54:1 	<ul style="list-style-type: none"> • FSR of 1.51:1
Dwelling Yield	<ul style="list-style-type: none"> • Maximum of 400 dwellings 	<ul style="list-style-type: none"> • Maximum of 495 dwellings (+95) 	<ul style="list-style-type: none"> • Maximum of 460 dwellings (+60)
Open Space and Public Access	<ul style="list-style-type: none"> • 3,178 m² of publicly accessible open space • 3,555 m² of communal open space 	<ul style="list-style-type: none"> • 6,382 m² of publicly accessible open space (+3,204 m²) • 1,255 m² of communal open space (-2,300 m²) 	<ul style="list-style-type: none"> • 6,385 m² of publicly accessible open space (+3,207 m²) • 1,255 m² of communal open space (-2,300 m²)

Aspect	Concept Approval	Proposal (as exhibited)	Proposal (as amended)
	<ul style="list-style-type: none"> Total open space 6,733 m² 	<ul style="list-style-type: none"> Total open space 7,637 m² (+904 m²) 	<ul style="list-style-type: none"> Total open space 7,640 m² (+907 m²)
Permitted Uses	<ul style="list-style-type: none"> Neighbourhood shops Food and drink premises Indoor recreation facilities Community facilities 	<ul style="list-style-type: none"> Neighbourhood shops Food and drink premises Indoor recreation facilities Community facilities Child care facility 	<ul style="list-style-type: none"> Neighbourhood shops Food and drink premises Indoor recreation facilities Community facilities Child care facility
Infrastructure Works	<ul style="list-style-type: none"> Three internal roads and associated public domain works 	<ul style="list-style-type: none"> Single internal road and associated public domain works 	<ul style="list-style-type: none"> Single internal road and associated public domain works
Staging	<ul style="list-style-type: none"> Four indicative stages 	<ul style="list-style-type: none"> Three indicative stages 	<ul style="list-style-type: none"> Two indicative stages
Subdivision	<ul style="list-style-type: none"> Five lot subdivision 	<ul style="list-style-type: none"> Three lot subdivision 	<ul style="list-style-type: none"> Two lot subdivision
Public Benefit Offer/ Affordable Housing	<ul style="list-style-type: none"> 4 per cent of 35,886 m² (1,435 m²) as affordable housing (dedicated to Council) 	<ul style="list-style-type: none"> 1,435 m² plus 5 per cent of any residential floor space above 35,886 m² as affordable housing (dedicated to Council) \$500,000 contribution towards Artarmon Road/ Willoughby Road/ Small Street intersection upgrade works \$1,000,000 contribution towards Walter Street Reserve regeneration works 	<ul style="list-style-type: none"> 1,435 m² plus 5 per cent of any residential floor space above 35,886 m² as affordable housing (dedicated to Council) \$500,000 contribution towards Artarmon Road/ Willoughby Road/ Small Street intersection upgrade works \$1,000,000 contribution towards Walter Street Reserve regeneration works

The concept plan has been through a series of changes since the original proposal, its approval, as exhibited and the current proposal the subject of this report, as summarised at **Table 2**.

Table 2 | Concept plan evolution

Component	Original Proposal	PAC Approval	Concept Approval (LEC Judgment)	MOD 1	MOD 2 (exhibited)	MOD 2 (amended)
Building Envelopes	8	7	7	10	9	9
Storeys (max. RL)	18 (RL 135)	8 (RL 105.4)	8 (RL 105.4)	12 (RL 116.5)	12 (RL 116.5)	9 (RL 105.4)
GFA	60,000 m ²	39,550 m ²	37,136 m ²	45,866 m ² (+8,730 m ²)	44,585 m ² (+7,449 m ²)	43,907 m ² (+6,771 m ²)
Dwelling Numbers	600	350	400	510	495	460

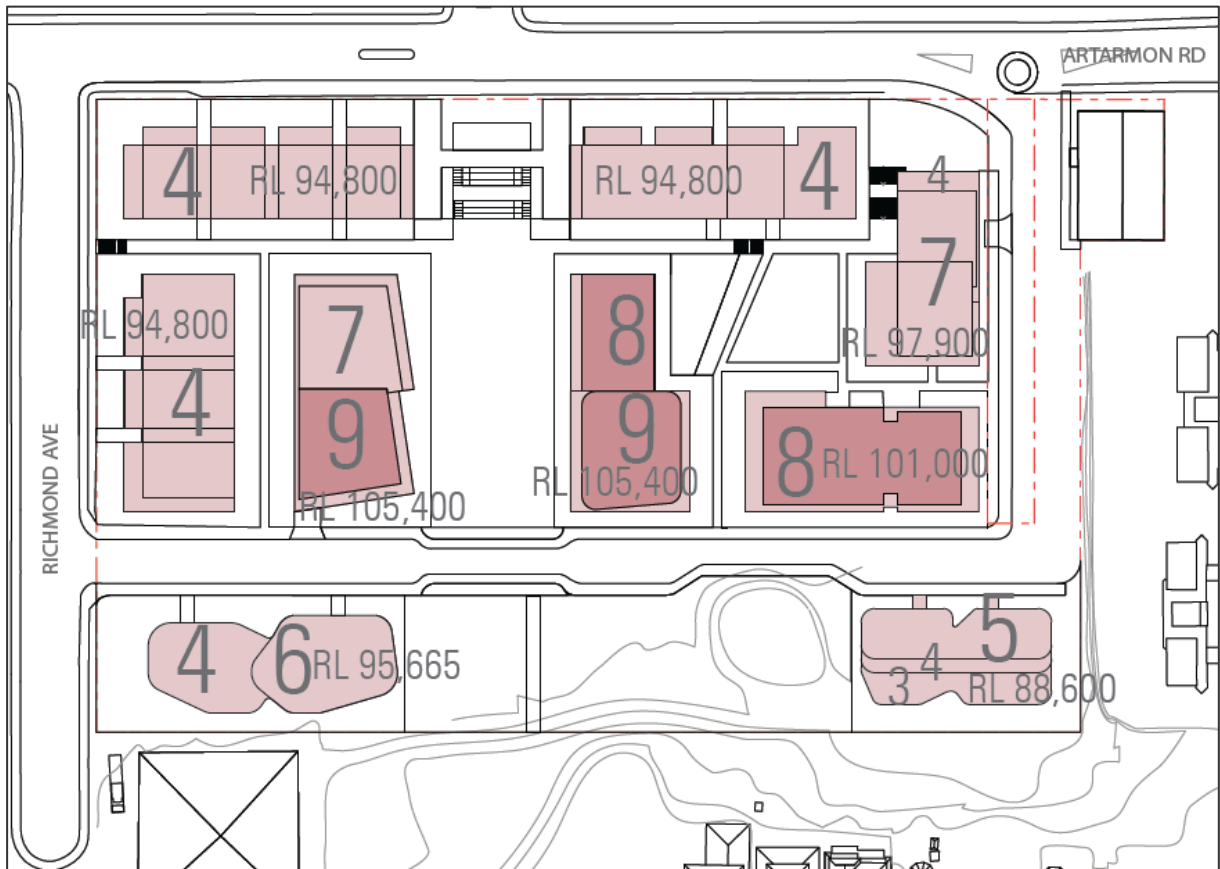
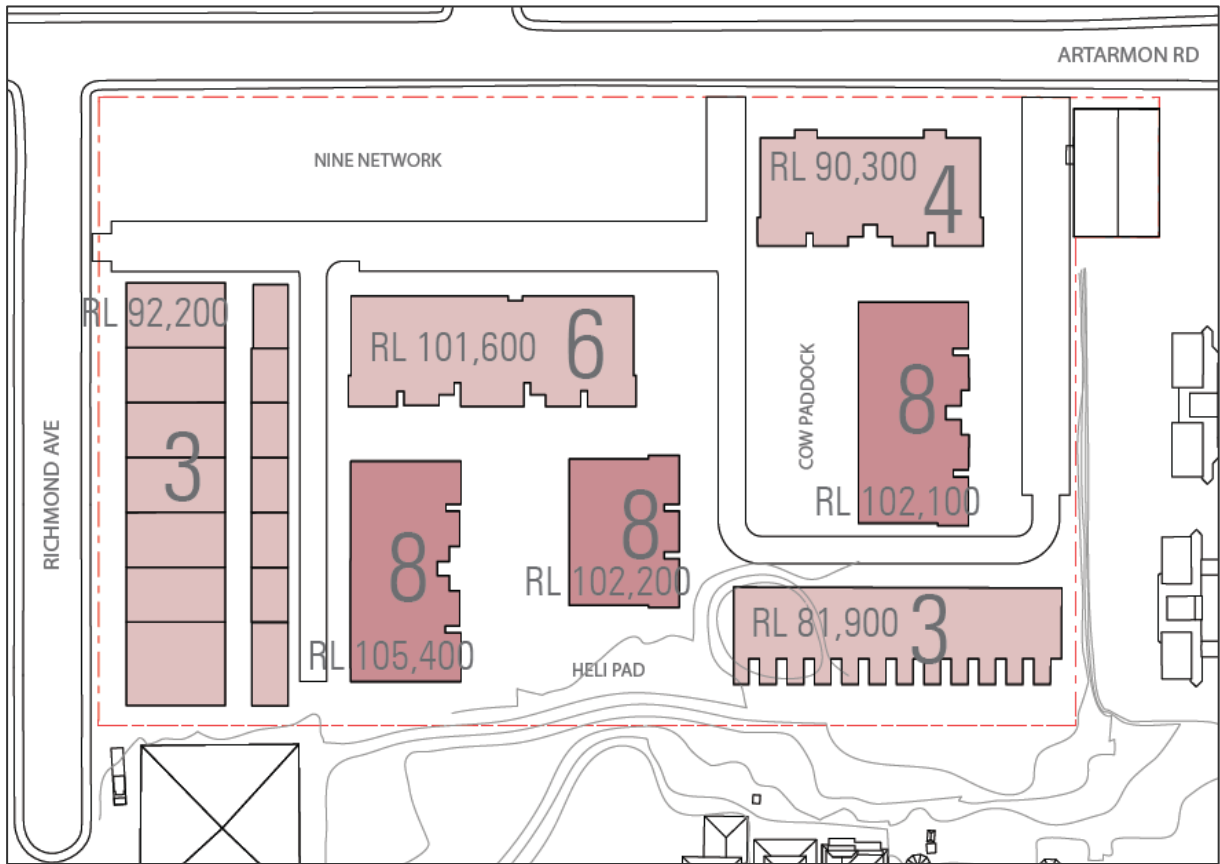


Figure 8 | Comparison between concept approval (top) and proposal (bottom) (Source: Proponent's amended proposal)



Figure 9 | Photomontage of indicative proposal looking south from Artarmon Road through the Village Green (Source: Proponent's EA)



Figure 10 | Photomontage of indicative proposed cliff top park looking southeast (Source: Proponent's EA)



Figure 11 | Photomontage of indicative proposal looking southeast at the intersection of Artarmon Road and Richmond Avenue (Source: Proponent's EA)



3. Strategic Context

3.1 Premier's and State's Priorities

The NSW Premier has announced 18 State and 12 Premier Priorities to reflect the NSW Government's commitment to tackle important issues for the people of NSW.

The proposed modification is consistent with these priorities as it seeks to increase residential accommodation and continues to provide small scale non-residential land uses.

The proposal will also increase the supply and variety of housing stock, providing more housing choice in the area. The dedication of a portion of the development as affordable housing to Council will also contribute to housing affordability in the area.

3.2 Greater Sydney Region Plan and North District Plan

The Greater Sydney Commission's (GSC) role is to coordinate and align planning to shape the future of Metropolitan Sydney. In March 2018, the GSC released A Metropolis of Three Cities – the Greater Sydney Regional Plan (the Regional Plan) and associated District Plans, which replaces the former Metropolitan Plan - A Plan for Growing Sydney.

The Regional Plan outlines how Greater Sydney will manage growth and change, and guide infrastructure delivery. It sets the vision and strategy for Greater Sydney, to be implemented through District Plans.

The vision for Greater Sydney in the Regional Plan is to meet the needs of a growing and changing population by transforming Greater Sydney into a metropolis of three unique but connected cities, being the Eastern Harbour City, the Central River City and the Western Parkland City.

The three cities vision allows opportunities and resources to be shared more equitably while enhancing the local character we value in our communities. By integrating land use, transport links and infrastructure across the three cities, more people will have access within 30 minutes to jobs, schools, hospitals and services.

The proposal is consistent with the Regional Plan, as it:

- delivers additional housing in proximity of existing centres, public transport, local services and amenities, which supports the realisation of the '30-minute city'
- recognises the need to accelerate housing growth to accommodate a growing population
- support a range of housing choices, including affordable housing to broaden choice and diversity, and assist with recognised affordability issues within Greater Sydney.

The site is located within the North District Plan area and the proposal is consistent with the relevant planning priorities identified in that plan, as it will:

- contribute towards the housing target of an additional 25,950 dwellings in the North District over the next five years (1,250 dwellings within the Willoughby LGA)
- provide housing choice and contribute to housing affordability
- renew land within an existing urban area with connections to public transport and other existing infrastructure
- deliver high quality open space and social infrastructure to meet peoples changing needs, such as though the revised public open space provision and the addition of a child care facility.

3.3 Willoughby City Strategy Community Strategic Plan 2013-2029

The Willoughby City Strategy Community Strategic Plan 2013-2029 (the Strategy) sets out a long-term vision and plan for the future of Willoughby to help guide decision making and planning for the next 16 years. The Strategy covers six key strategic directions: community and cultural life, natural environment, homes, infrastructure, economic activity and governance.

The proposal is generally consistent the Strategy's directions, in particular, the provision of additional housing that is liveable, sustainable and enhances urban character. The proposal will continue to provide housing choice in the area and includes the provision of affordable housing.



4. Statutory Context

4.1 Modification of the Minister's approval

The concept plan was originally approved under Part 3A of the EP&A Act. This means the project satisfied the definition of a 'transitional Part 3A project' under clause 2(1) Schedule 2 to the Environmental Planning & Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (ST&OP Regulation), which came into effect on 1 March 2018.

Under the ST&OP Regulation, projects subject to existing Part 3A approvals remain transitional Part 3A projects until they are transitioned to State Significant Development (SSD) (clause 3(1)-(2), Schedule 2). A Part 3A approval may be modified under section 75W of the EP&A Act in certain circumstances if the request was made before the 'cut-off date' of 1 March 2018. From 1 March 2018, new proposals to modify existing Part 3A projects can only be determined once the approved project has been declared to be SSD and the relevant provisions to modify such an approval will then apply.

As the request to modify the concept approval was submitted before 1 March 2018, the provisions of clause 3 of Schedule 2 to the ST&OP Regulation apply in respect of the request. Consequently, the assessment of this request has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the carrying out of the project under section 75W of the EP&A Act.

The Department is of the view the proposal does not warrant a new application and it may be considered and approved as an application to modify under section 75W of the EP&A Act as it remains a predominately residential masterplan, consistent with the concept approval.

The Department concludes the Minister could reasonably form the view that the modification request is within the scope of section 75W of the EP&A Act and is capable of being determined as a modification under section 75W of the EP&A Act.

4.2 Approval authority

The Minister for Planning is the consent authority for the proposed modification. However, in accordance with the Minister's delegation, the Commission is the approval authority for Section 75W applications when the following requirements are met:

- Council has made an objection
- a political disclosure statement has been made
- there are more than 25 public submissions.

As Council has objected and more than 25 public submissions were received objecting to the proposal, the Commission is the approval authority for the modification request.

Therefore, the proposal is referred to the Commission for determination.

4.3 Permissibility

The site is subject to the provisions of the Willoughby Local Environmental Plan 2012 (WLEP 2012) and is currently zoned SP2 Infrastructure - Telecommunications Facility. Development other than for the purpose of roads, telecommunications facilities and associated ancillary development is prohibited in the zone.

Notwithstanding the zoning, as a concept approval exists and the site is not located in either a sensitive coastal location or a defined environmentally sensitive area of State Significance, the Minister or delegate may consider the proposal on its merits and approve prohibited land uses.

The concept approval permits residential, recreational and small-scale retail use. The proposal seeks to include childcare facilities as a permitted use for the site. The Department notes that despite being prohibited on the site, childcare facilities are permissible within the surrounding zones. The Department concludes the proposed additional use is compatible with the surrounding land and therefore acceptable on the site.

4.4 Secretary's Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides the Secretary may notify the Proponent of Secretary's Environmental Assessment Requirements (SEARs) for the proposed modification. The Proponent must comply with the SEARs before the matter will be considered by the Minister.

On 16 June 2016, the Department notified the Proponent of the SEARs for MOD 1. Given the similarities between MOD 1 and the proposal, the Proponent addressed the SEARs issued for MOD 1 when preparing the current application. The Department is satisfied the SEARs for MOD 1 adequately address the current proposal, and no further environmental assessment requirements are required. The current application adequately addresses these SEARs to enable the assessment and determination of the application.

4.5 Mandatory/ Relevant Matters for Consideration

The following are the mandatory/ relevant matters for consideration:

- relevant environmental planning instruments
- objects of the EP&A Act
- Ecologically Sustainable Development
- Environmental Planning and Assessment Regulation 2000.

These matters are considered below.

4.5.1 Environmental Planning Instruments (EPs)

The Department has reviewed the relevant environmental planning instruments (EPs) that apply to the proposal, including:

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and accompanying Apartment Design Guide 2015 (ADG)
- Willoughby Local Environmental Plan 2012 (WLEP 2012).

The Department undertook a comprehensive assessment of the proposal against these EPs in its original assessment, and is satisfied the proposal remains consistent with these EPs. A more detailed discussion of the modification application against SEPP 65 and the ADG is discussed at **Section 6** of this report.

4.5.2 Objects of the EP&A Act

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant consent/ approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects. Therefore, in making an assessment the objects should be considered to the extent they are relevant.

A consideration of the objects of the EP&A Act, as they relate to the proposal is provided at **Table 3**.

Table 3 | Response to the objects of section 1.3 of the EP&A Act

Objects of the EP&A Act	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The proposal maximises the efficient use of the site to increase housing supply and provide appropriate social benefits. The proposal would not impact on any natural or artificial resources, agricultural land or natural areas. In addition, the proposal includes the provision of affordable housing that contributes to the social and economic welfare of the community (Section 6.7).
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	The proposal includes measures to deliver ecologically sustainable development (ESD) (Section 4.5.3).
(c) to promote the orderly and economic use and development of land	The proposed development facilitates the redevelopment of an existing urban site to provide additional housing to meet the needs of the community, including associated ancillary uses, the merits of which are considered in Section 6 .
(d) to promote the delivery and maintenance of affordable housing	The proposal includes the provision of affordable housing (Section 6.7).
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	The project involves redevelopment of a previously developed site and will not adversely impact on any native animals and plants, including threatened species, populations and ecological communities, and their habitats.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	The proposal would not have an adverse impact on nearby heritage items or conservation areas.
(g) to promote good design and amenity of the built environment	The proposal promotes good design and amenity, consistent with the ADG and advice of the GA NSW, subject to appropriate conditions of consent.

Objects of the EP&A Act	Consideration
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	The proposal would promote proper construction and maintenance of buildings subject to recommended conditions of consent.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The Department publicly exhibited the proposal, which included consultation with Council and other government agencies, as outlined in Section 5 , and consideration of their responses as outlined in Section 6 .
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the proposal as outlined in Section 5 , which included notifying adjoining landowners, placing a notice in the newspaper and displaying the applications on the Department’s website and at Council’s office.

4.5.3 Ecologically Sustainable Development

The EP&A Act adopts the definition of ESD found in the Protection of the Environment Administration Act 1991. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle,*
- (b) *inter-generational equity,*
- (c) *conservation of biological diversity and ecological integrity,*
- (d) *improved valuation, pricing and incentive mechanisms.*

The Department considers the proposal represents a sustainable use of the site, as it proposes increased residential accommodation within an established urban area with good access to public transport, amenities, services and employment. The recommended future assessment requirements will facilitate the consideration of ESD opportunities in future applications, including opportunities for rainwater harvesting and other measures to meet energy and water efficiency targets.

4.5.4 Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the EP&A Regulation cited in this report, the relevant requirements for Notification and Fees have been complied with.



5. Engagement

As outlined in **Section 1.4.2**, as the application supersedes MOD 1 (currently on hold) and the high level of community interest in the proposal, the Department has considered the public submissions for both MOD 1 and the proposal. A summary of the consultation and submissions for both modification requests is provided in **Sections 5.1** and **5.2**.

5.1 Consultation for MOD 1

5.1.1 Department's engagement

The Department publicly exhibited MOD 1 for 30 days between 5 August 2016 and 5 September 2016 on the Department's website, at the Department's Information Centre, and at Council's Offices. The Department also advertised the exhibition in the North Shore Times and notified surrounding landholders, Council, relevant government agencies and previous submitters to the original concept approval in writing.

In addition to exhibiting the modification request, the Department met with representatives of several community groups and Council to provide an overview of the proposed modifications and understand any initial concerns. The Department also facilitated a meeting between the Proponent and Council.

5.1.2 Summary of submissions

The Department received a total of 234 public submissions in response to the exhibition of MOD 1, comprising 207 objections, 12 providing comments and 15 in support.

The Department notes that 95% of submissions objecting to the proposal and 53% of submissions in support were received from residents of Willoughby, Naremburn and Artarmon.

The key issues raised in public submissions are listed in **Table 4** below:

Table 4 | Summary of submissions to MOD 1

Issue	% of Submissions
Density (dwelling numbers)	73
Local roads and traffic impacts	69
Height of development	67
Impact on public transport	55
Impact on school facilities	47
Infrastructure Capacity	35
Parking	27
Community Consultation	23
Overshadowing	17

5.2 Consultation for the proposal

5.2.1 Department's engagement

The Department publicly exhibited the proposal for 30 days between 16 November and 15 December 2017 on the Department's website, at the Department's Information Centre, and at Council's Offices. The Department also advertised the exhibition in the North Shore Times and notified surrounding landholders, Council, relevant Government authorities and previous submitters to the original concept approval and MOD 1 in writing.

In addition to publicly exhibiting the proposal, the Department met local stakeholders, including the heads of community interest groups and Council, to understand any key emerging issues or concerns. The Department also presented to a local community meeting, which including distributing a fact sheet explaining the proposal, its history and the planning process.

5.2.2 Summary of submissions

The Department received three submissions from Government agencies, an objection from Council, and 452 public submissions (including seven submissions from special interest groups) comprising 423 objections, three providing comments and 19 in support (see **Tables 5** and **6**). The Department notes that 98% of submissions were received from residents who live within 5 km from the site.

The Department notes Council's submission included a traffic report, prepared by ARUP, and an urban design review, prepared by Allen Jack + Collier (AJC). Copies of submissions may be viewed at **Appendix A**.

Table 5 | Summary of submissions to the proposal

Submitters	Number	Position
Government Agencies	3	
• OEH – Heritage Division	√	
• Sydney Water	√	Comment
• Roads and Maritime Services	√	
Willoughby City Council (Council)	1	Object
		423 Object
Community	445	19 Support
		3 Comment
Special interest groups	7	Object
TOTAL	456	

Table 6 | Summary of community and special interest group submissions

Submitters	Number	Position
Community	445	
	420	Object
• < 5 km	14	Support
	3	Comment
• 5 – 10 km	2	Object
	3	Support
• > 10 km	1	Object

Submitters	Number	Position
	2	Support
Special interest groups	7	
<ul style="list-style-type: none"> • Artarmon Progress Association • Federation of Willoughby Progress Association • Naremburn Progress Association • NSW Wide Public Transport Advocacy • Willoughby Area Action Group • Willoughby South Progress Association • WPS Overcrowding Action Group 		Object
TOTAL	453	

5.3 Key Issues – Government Agencies

Three submissions were received from Government agencies in response to the proposal, including Office of Environmental and Heritage (OEH) - Heritage Division, Sydney Water, and Road and Maritime Services (RMS). The submissions from government agencies are summarised below:

Table 7 | Summary of Government agency submissions

Agency	Comments
OEH – Heritage Division	<ul style="list-style-type: none"> • The proposed development is likely to have negligible heritage impacts, due to the distance of identified heritage items in the vicinity of the development and the low probability of the site containing any archaeological remains with historical significance or research potential.
Sydney Water	<ul style="list-style-type: none"> • The development must have a frontage to a water main that is the correct size and can be used for connections. • Water main amplification and/or extension needs to comply with the Water Supply Code of Australia requirements. • Sydney Water assets are required to be protected. • Future development applications will be the subject of Section 73 Certificate requirements.
Roads and Maritime Services	<ul style="list-style-type: none"> • Any future development for a child care facility should be subject to a traffic impact study

5.4 Key Issues – Council/Community/Special Interest Groups

5.4.1 Council key issues

Council's submission is summarised below:

Table 8 | Summary of Council's submission

Agency	Comments
Willoughby City Council	Council objects to the proposal on the following grounds:

Agency	Comments
	<ul style="list-style-type: none"> • The height, dwelling numbers and FSR is inappropriate in the context of surrounding development. • The proposal results in unacceptable amenity and visual impacts for neighbouring residents and the local community in Artarmon. • The height of the buildings proposed dominates the central publicly accessible open space. • The proposed open space is inferior to the approved public park on the Artarmon Road. • The additional dwellings will have significant adverse impacts on the local infrastructure, including the local road network, public transport and schools. • The increase in site density and yield is not supported by a proportionally equivalent public benefit. • Child care facilities should not be permissible on the site due to potentially damaging exposure to electromagnetic radiation from the adjoining transmissions tower. • The viewing platform suspended over the Walter Street Reserve for liability reasons. <p>In addition to the above objections, Council raised the following concerns:</p> <ul style="list-style-type: none"> • The proposal raises governance issues as the concept approval was the result of mutual agreement between the previous site owners, Council and the Community. • Design excellence is not a new offering and should not be accepted as a justification for any variation to the approval. • The Proponent’s open space figures do not provide an accurate comparison between approved and proposed public open space. • The removal of all existing mature trees within the site. • The proposed Artarmon Road/ Scott Street roundabout, internal traffic circulation and loss of on-street car parking. • The upgrade of the Willoughby Road/ Artarmon Road/ Small Street intersection is the responsibility of the Proponent as a result of the proposal. • The reduction of non-residential floor area, given the approval resulted in the loss of employment generating land. • The staging and delivery of the public open space. • The lack of certainty in regard to the dwelling mix. • The lack of ability to provide input to the proposal from Council or the community prior to lodging the application.

5.4.2 Community/ Special Interest Group Issues

The Department received a total of 452 submissions from the public and special interest groups in response to the exhibition of the proposal, comprising of 430 objections, three providing comments and 19 supporting the proposal (**Table 5**).

The Department notes that of the submissions received within 5 km of the site, 94% (420 submissions) object to the proposal, while 3% (14 submissions) were in support (**Table 6**).

The key issues raised in public submissions are listed in **Table 9** below:

Table 9 | Summary of public submissions

Issue	% of Submissions
Traffic, parking, public transport impacts	82
Scale/ height of development	79
Density (dwelling numbers)	74
Planning process (new scheme vs modification)	65
Reduced public benefits	50
Inferior design to approved concept plan	44
Poor community consultation	38
Social infrastructure (education facilities)	29

Other issues raised in public submissions (15% or less) included:

- environment/ tree clearing concerns
- privacy impacts
- retention of the existing radio tower
- concerns over introduction of childcare facilities
- reduction of non-residential floor space
- insufficient on-site car parking spaces
- timing of the exhibition period just prior to the Christmas holiday extension period
- overshadowing.

The 19 submissions in support of the proposal provided the following comments:

- the proposal delivers new housing in the area which is desirable
- improved public open space and retail facilities compared to the concept approval
- increased affordable housing in the locality
- the proposal represents a better design compared to the concept approval
- the proposal includes a monetary contribution towards improvements of Willoughby Road/ Artarmon Road intersection
- creates a new community hub for Willoughby
- additional residents to support local businesses.

5.5 Response to Submissions

Following the exhibition of the proposal the Department placed copies of all submissions received on its website and requested the Proponent provide a response to the issues raised in the submissions.

The Proponent provided a response to submissions (RtS) (**Appendix A**) raised during exhibition, which provided further justification for the proposal and made the following amendments:

- increasing the setback to Scott Street for Buildings F and G to 1 m
- revised building footprint for Building G
- adjustment to site levels adjacent Artarmon Road for Building B

- removal of the Artarmon Road/ Scott Street roundabout.

The RtS was made publicly available on the Department website and referred to relevant Government agencies. In addition, the Department notified the community groups of the RtS. Additional submissions were received from Council and three Government agencies, including Transport for NSW (TfNSW), OEH - Heritage Division and Sydney Water. No further public submissions were received.

Council considered the RtS and confirmed it maintains its objection to the proposal for the reasons summarised at **Table 4**. It provided the following additional comments:

- Council would not pursue negotiations with the Proponent regarding a planning agreement at this stage
- Council supports the need for a public hearing prior to any determination.

In addition to providing comments, Council also recommended conditions should the proposal be approved.

Transport for NSW proposed the following comments in response to the RtS:

- should the upgrade of the Willoughby Road/ Artarmon Road/ Small Street intersection proceed, the future design should consider the needs of bus passengers using nearby bus stops
- any upgrade would be subject to discussions with Council, RMS and the Proponent as part of the voluntary planning agreement process.

OEH - Heritage Division and **Sydney Water** advised it had no further comments to the RtS.



6. Assessment

6.1 Introduction

The concept approval was the result of a carefully considered process of assessment, review and negotiation. This process involved the Department, Government Architect NSW (GA NSW), the local community, Council, the Proponent and LEC. The resulting concept approval provides envelope heights of up to eight storeys (RL 105.4), a maximum of 400 dwellings and a total GFA of 37,136 m².

The Proponent has reviewed the concept approval, which involved engaging five architectural and urban design firms to participate in a design excellence competition to identify the best possible urban design outcome for the site. The Proponent is progressing with the winning design, by CHROFI, and is seeking to modify the approval consistent with the CHROFI scheme. It contends this proposal is better than the existing approval and addresses the issues raised by the PAC and the community, by locating the taller buildings centrally within the site to reduce overshadowing, introducing podiums and lower scale buildings fronting Artarmon Road and Richmond Avenue to improve transition and providing additional open space.

Council and the public submissions are concerned the proposal revisits height and dwelling numbers. Given the extensive community engagement and negotiation which took place as part of the concept approval, Council and the public maintain the Proponent should not be allowed to amend the maximum heights and dwelling numbers established by the PAC and LEC.

The Department's role is to comprehensively assess the planning merits of the modified scheme, taking into account the performance of the proposal against relevant planning policies and principles, as well as advice provided by stakeholders and the varying views expressed by the community throughout its assessment.

To inform its assessment of the proposal, the Department sought advice from the GA NSW (**Appendix A**). This advice noted that many aspects of the proposal were improvements to the concept approval. In addition, Council engaged AJC to review the proposal. This review concluded the new proposal represents a sensible and well-designed plan that is stronger than the concept approval, albeit subject to several recommended design refinements.

While the Department agrees that many aspects of the proposal are improvements to the concept approval, it acknowledged the community concerns in relation to building height and did not support the additional height of Buildings D and E, as these created a distinct visual impact above the approved height (RL 105.4) established by the PAC and LEC (**Figure 12**). The Proponent has therefore amended its proposal by reducing the height of these buildings to match the maximum height established by the PAC and LEC under the concept approval.

The Department has considered the issues raised in submissions, the advice provided by GA NSW and AJC, and the PAC's original determination in its assessment of the amended proposal (hereafter referred to as 'the proposal') and considers the key issues are:

- density
- built form
- public domain
- traffic, parking and public transport
- residential amenity

- developer contributions.

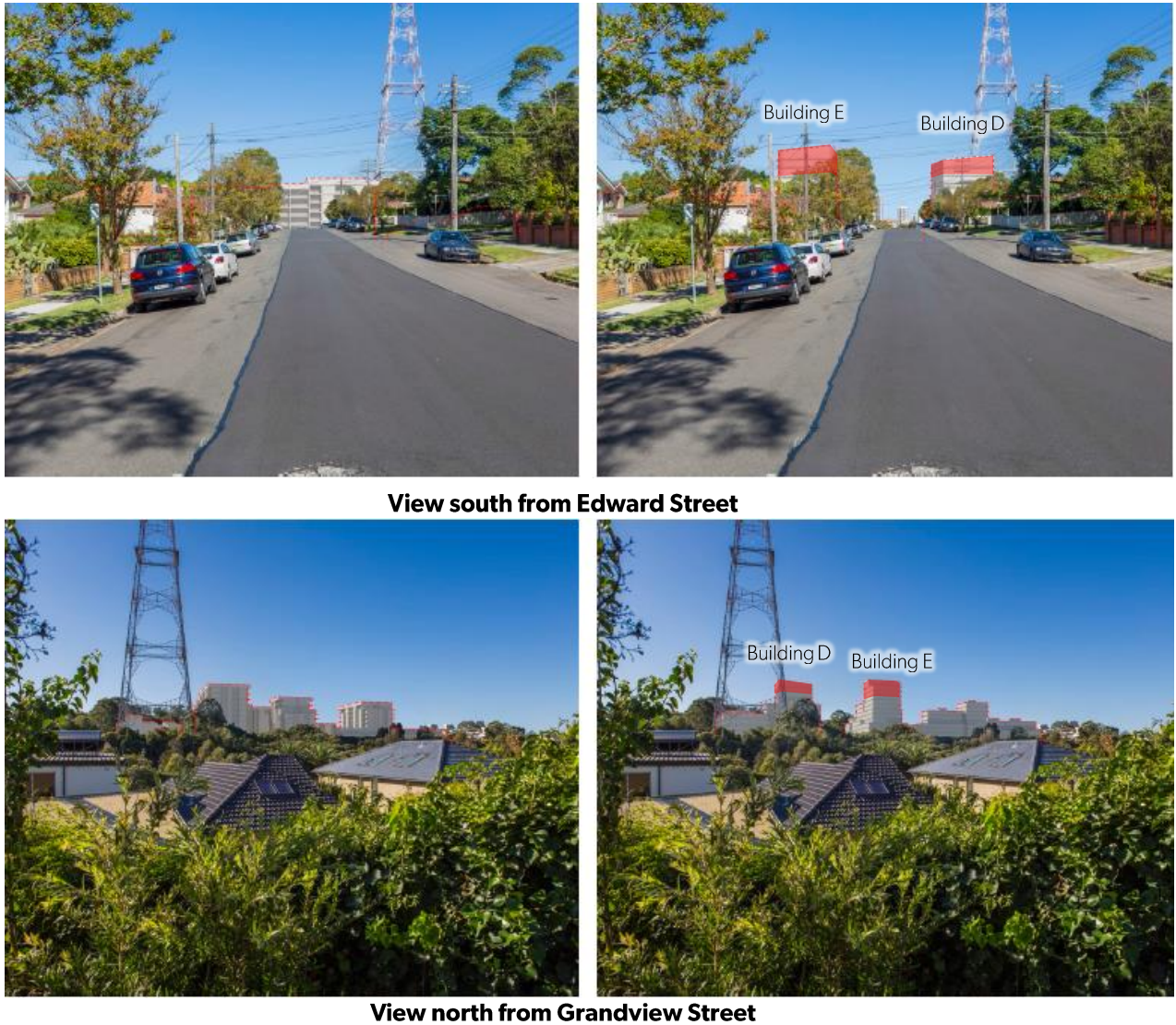


Figure 12 | Comparison between the concept approval (left) and the exhibited proposal (right), showing the additional building height not supported by the Department in red (Base source: Proponent provided)

6.2 Density

Density is a sensitive issue in the local community, being a key issue raised by Council and the public in the original concept plan, MOD 1 and the current proposal. The concept approval set a maximum GFA of 37,136 m² and a maximum of 400 dwellings within seven building envelopes. The proposal seeks to increase the number of building envelopes and building heights, to accommodate an additional 6,771 m² of GFA and up to an additional 60 dwellings.

The Department acknowledges the significant public objection to the proposed increase in dwelling numbers and notes 74% of public submissions object to the proposed density. In particular, the submissions raise concerns that increased dwelling numbers would further exacerbate demand for public services (transport, schools, and amenities), have unacceptable traffic impacts and result in a scale of development that is inconsistent with the character of the area.

The Department considers density is ultimately informed by the appropriateness of the built form, traffic generation and demand on existing/ future infrastructure. Noting the site's location within a predominately low scale area

(with a strong one and two storey character), the Department considers any increase in density must be sensitive to this character.

The Department considers an increase in density is acceptable for this site, as:

- building heights are no greater than the maximum height established by the approval (see **Section 6.3.1**)
- the built form along the site edges create a reasonable transition with the surrounding low scale character (see **Section 6.3.1**)
- overshadowing of adjoining properties is improved (see **Section 6.3.2**)
- open space has been increased and improved (see **Sections 6.4**)
- traffic generation remains acceptable and has no material impact on the road network (see **Section 6.5**).
- the proposal includes additional public benefits via a proposed voluntary planning agreement (VPA) (see **Sections 6.7**).

In addition, as part of its assessment of the original concept approval, the Department considered the site was well located to provide additional density. Having regard to the updated strategic planning context since the concept approval, the Department considers that increased density and housing diversity in an established suburb with access to public transport and facilities is consistent with the key goals of the Regional Plan and the North District Plan.

The Department concludes the proposal does not unreasonably impact on the surrounding area, despite an increase in density, and results in improve public benefits.

6.3 Built form

Built form was a key assessment issue in the Department's consideration of the original concept approval and the Department notes the significant public objection to the proposed height, scale and visual impact (79% of the 452 public submissions).

The Department considers the key assessment issues associated with built form are:

- envelope height
- overshadowing
- public domain interface.

6.3.1 Envelope height

The concept approval established a maximum storey height and RL for each envelope. In determining the concept approval, the PAC considered that maximum envelope heights above eight storeys (RL 105.4) were inconsistent with the existing low scale character of the immediate area, would not provide an appropriate built form transition between building envelopes and result in adverse visual impacts and overshadowing. The PAC determined the site could reasonably accommodate an envelope height of eight storeys (up to RL 105.4), without impacting on the surrounding area.

The Department considers the key issues for further consideration in relation to envelope height are:

- maximum envelope height
- site edge/ street frontage envelope height.

Maximum envelope height

The proposal as exhibited sought to increase the maximum envelope height for Buildings D and E to 11 and 12 storeys (RL 113.3 and RL 116.2) respectively, which would exceed the maximum height of eight storeys and RL 105.4 established under the concept approval.

As set out in **Section 6.1**, the Department agrees with the concerns raised in public submissions and by Council about this additional height, and required the Proponent to reduce the height of Buildings D and E to be consistent with the maximum height established by the PAC and LEC (**Figure 13**).



Figure 13 | Comparison between the approved (left) and proposed (right) building envelopes
(Source: Proponent’s amended proposal)

The Department considers the proposed revised maximum envelope height is acceptable as it:

- maintains the maximum height (of RL 105.4) established by the concept approval
- ensures that the taller elements of the proposal are located centrally, with no detrimental visual impact when viewed from the surrounding area (**Figure 12**)
- reduces overshadowing of adjoining dwellings (**Section 6.3.2**).

The Department concludes the proposal appropriately respond to the constraints of the site and will not result in any adverse impacts on adjoining dwellings or surrounding area.

Site edge/ street frontage envelope height

The Department notes the surrounding area to the north and west has a low scale suburban character consisting of an unassuming and generally cohesive one and two storey built form. To the south of the site along Walter Street, several sites have recently received development consent for the demolition of existing dwelling houses and the construction of residential flat development of up to six storey developments.

The proposal seeks to alter how the development presents along the site edges in terms of building envelope height. The concept approval included three storey envelopes adjacent to the southern boundary and Richmond Avenue, with publicly accessible open space and a four storey residential flat building adjacent to Artarmon Road (see **Figure 13**). The proposal seeks to provide a more uniform four storey built form along Richmond Avenue and Artarmon Road, with a built form of up to six storeys along the southern boundary.

Public submissions raised concerns over the appearance of the proposal being inconsistent with the character of the area. Council also raised concerns about the increase in building heights adjacent to adjoining dwellings along Richmond Avenue and Artarmon Road.

The Proponent contends the proposed built form along the site edges appropriately responds to the surrounding low scale character of the area. The Proponent argues the proposal offers a better transition in scale compared to the concept approval and more closely reflects the existing scale of adjoining dwellings.

In advice provided to the Department, the GA NSW (**Appendix A**) considers the proposal responds appropriately to the surrounding context and represents an improvement to the concept approval, noting:

- the general massing arrangement of smaller, more articulated built forms provides an improved transition in scale to the detached dwellings along Artarmon Road and Richmond Avenue
- the four storey podium across the site and vertical articulation of taller buildings breaks down building bulk
- the centrally position of the height within the site ameliorates impacts on the surrounding residential development.

The Department supports the proposed building heights along the site edges/ street frontages, as:

- the proposal responds appropriately to the surrounding context, noting the generally arrangement of smaller, more articulate built forms on the site edge providing a scale transition to the detached dwellings
- the proposed four storey envelopes along Artarmon Road and Richmond Avenue are setback on the upper floor, which also assists in the scale transition to the lower scale buildings to the north and west of the site and reduces the visual appearance of these buildings when viewed from the surrounding public domain
- the amended layout relocates the open space from the corner of Artarmon Road/ Richmond Avenue centrally within the site (creating a view corridor from Edward Street) and providing an opportunity for a new four storey building on this corner that reinstates the rhythm of buildings that respond to the street layout
- the proposal reduces overshadowing of adjoining properties (**Section 6.3.2**).

Conclusion

The Department considers the proposed envelope heights on the site edge appropriately respond to the surrounding low scale character and the central buildings retain the maximum height established under the concept approval. The proposal also improves the transition between the taller central buildings and the surrounding development. The Department therefore supports the proposed envelope heights.

6.3.2Overshadowing

The concept approval maintained an acceptable level of solar access to adjoining development along Walter Street to the south and at Castle Vale to the east. The Department notes this was a key consideration in the assessment of the original concept approval.

Concerns were raised in public submissions about overshadowing as a result of increased building heights, particular to the dwellings along Walter Street to the south and Castle Vale development to the east.

The Proponent provided a detailed solar analysis and contends the proposal improves solar access to existing dwellings along Walter Street and within the adjoining Castle Vale development, as well as maintains acceptable levels of solar access for the recently approved (but not yet constructed) development along Walter Street.

The Department consideration of solar access impacts to these areas is considered below:

Walter Street (existing dwelling houses)

The Proponent's solar analysis compares the solar access received by the existing dwellings along the northern side of Walter Street under the concept approval and the proposal. The Proponent contends the solar analysis demonstrates the proposal will have an overall improvement compared to the concept approval.

The Department notes Council's Development Control Plan (DCP) requires new development maintain three hours of solar access between 9 am and 3 pm on 22 June (midwinter) to both the internal living areas and principal open space of adjoining dwelling houses.

The Department notes that five existing dwellings along Walter Street do not receive three hours of solar access to their principal open space between 9 am and 3 pm, midwinter, under the concept approval (**Figure 14**).

However, the Department notes solar access to these dwellings improve under the proposal, with only four dwellings receiving less than three hours of solar access to their principal open space during this time (**Table 10**).

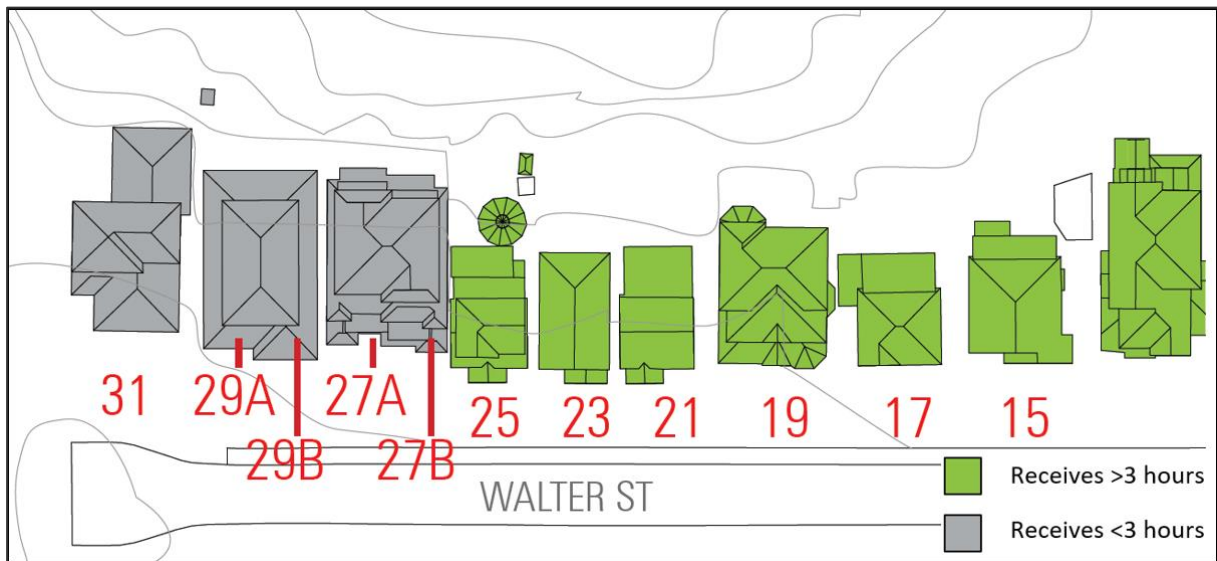


Figure 14 | Solar analysis of Walter Street existing dwellings (Source: Proponent’s EA)

Table 10 | Solar analysis summary of Walter Street existing dwellings

Address	Rear façade (hours)		Rear principal open space (hours)	
	Concept approval	Proposal	Concept approval	Proposal
31	4.25	5.5	2	5.25
29A	3.5	4.5	0	0
29B	4	5	0.25	1.5
27A	3.25	4.25	0	0
27B	3.5	4	0	0
25	5.75	5.75	5.75	4.75
23	6	6	4.25	4.25
21	6	6	5.5	6
19	5.25	5.5	4.75	4.75
17	6	6	6	5.75

The Department notes the remaining dwellings along Walter Street affected by the proposal maintain compliance with Council’s DCP requirements and overall receive additional solar access compared to the concept approval.

The Department concludes the proposal results in an overall improvement of solar access to existing dwellings along Walter Street, when compared to the concept approval and supports the modifications in this regard.

Walter Street (approved residential flat development)

In addition to solar access impacts on existing dwellings, the PAC and GA NSW also noted that any proposal had to have regard to potential solar access impacts on future development potential of Walter Street. The Department notes several of the sites along Walter Street have recently received approval for redevelopment (**Figure 15**).

In assessing the solar access impacts on the approved residential flat development, the Department has considered the proposal against the solar access criteria within the ADG. The ADG requires a minimum of two

hours of solar access between 9 am and 3 pm midwinter to the internal living areas and private open space of at least 70% of the dwellings in a residential flat building.



Figure 15 | Walter Street approved development (Base source: Proponent’s EA)

A summary of the Proponent’s solar analysis of the impacts on the approved Walter Street development is provided below at **Table 11**.

Table 11 | Solar analysis summary of Walter Street approved development

Site	Property Address	Description of Impact
Site 1	1-1A Walter Street & 452-460 Willoughby Road	<ul style="list-style-type: none"> This approval relates to a childcare facility. The proposal will not overshadow the approved development between 9 am and 3 pm midwinter.
Site 2	5-9 Walter Street	<ul style="list-style-type: none"> The proposal will not overshadow the approved development between 9 am and 3 pm midwinter.
Site 3	11-13A Walter Street	<ul style="list-style-type: none"> The proposal overshadows the approved development from 2 pm, midwinter. The approved development however maintains compliance with the 70% of dwellings receiving two or more hours of solar access between 9 am and 3 pm midwinter.
Site 4	15-17 Walter Street	<ul style="list-style-type: none"> The proposal overshadows the approved development from 2 pm, during midwinter. The approved development however maintains compliance with the 70% of dwellings receiving two or more hours of solar access between 9 am and 3 pm midwinter.
Site 5	21-27 Walter Street	<ul style="list-style-type: none"> The proposal results in additional overshadowing on the approved development. Despite the additional overshadowing, the approved development maintains 79% of dwellings receiving at least two hours of solar access between 9 am and 3 pm midwinter.

The Department concludes the proposal will maintain acceptable levels of solar access to the approved development along Walter Street, having regard to the solar access criteria within the ADG.

Castle Vale development

Similar to the solar analysis for the approved residential flat developments along Walter Street, the Department has considered the proposal against the solar access criteria within the ADG to assess the impact on the Castle Vale development.

The Department notes the concept approval affects four dwellings within the Castle Vale development to the extent that they do not achieve the minimum two hours of solar access between 9 am and 3 pm midwinter. However, the revised proposal reduces this impact, such that only one dwelling no longer achieves two hours of solar access (**Figure 16**). The Department notes that this is an improvement of three dwellings when compared to the concept approval.

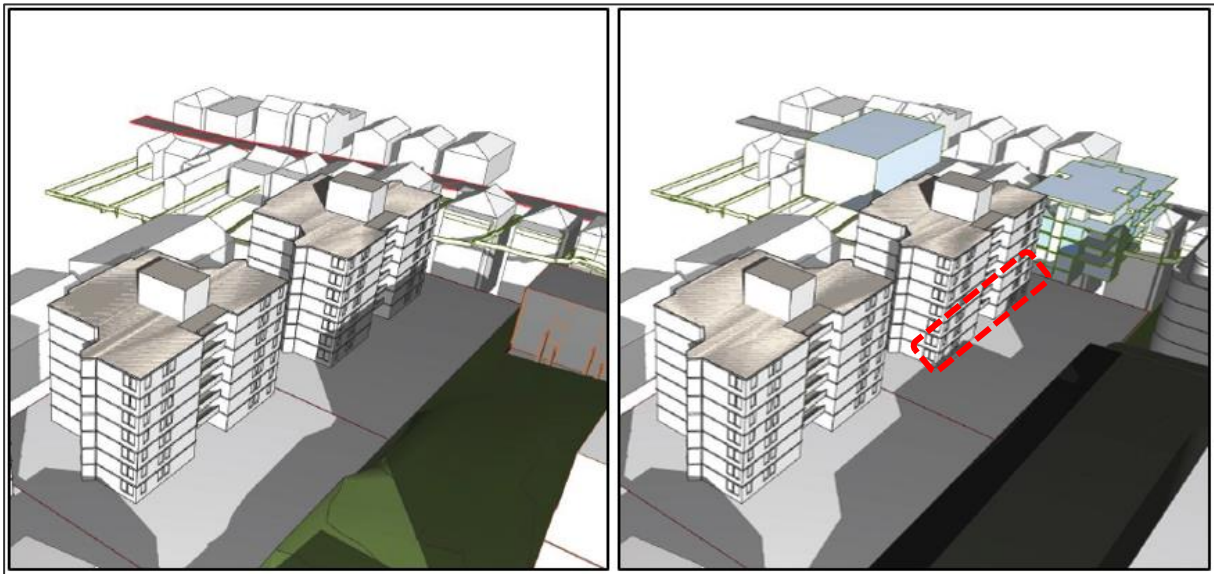


Figure 16 | Comparison between concept approval (left) and proposal (right) overshadowing of the adjoining Castle Vale at 2.00 pm, 21 June (midwinter) (Base source: Proponent's RtS)

Conclusion

The Department concludes the proposal results in improved solar access to adjoining development when compared to the concept approval.

6.3.3 Public domain interface

The site is located within predominately low scale residential environment, comprising one and two storey detached dwelling houses, which provide generous landscaped front setbacks that are either at-grade with the adjoining public domain or follow the natural topography of the area.

The proposal identifies significant level changes across the site to accommodate the new building form. The proposal includes lowered courtyards within the front setback areas along Richmond Avenue and Artarmon Road. The ground levels of Building A and parts of Building B are set below the adjoining ground levels of Artarmon Road and Richmond Avenue by between 1.2 m and 2.2 m (**Figures 17** and **18**).

Concerns were raised in the public submissions the proposal was not in keeping with the character of the area. In addition, Council's design advice by AJC raised concerns over the proposed lowered courtyards, visual privacy and compatibility with the prevailing streetscape character.

The GA NSW noted the design for the lowered courtyards was unconventional and problematic if not well designed, and required further coordination with pedestrian circulation, privacy and ground level functionality.

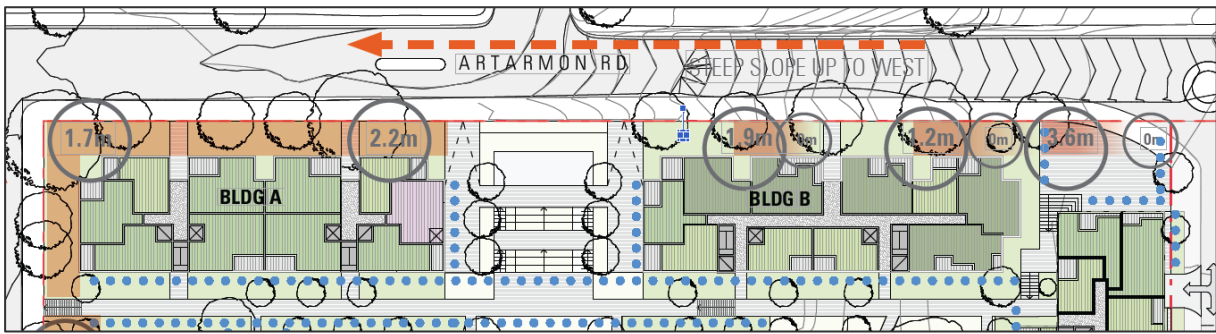


Figure 17 | Indicative level changes along Artarmon Road and Richmond Avenue (Source: Proponent's EA)

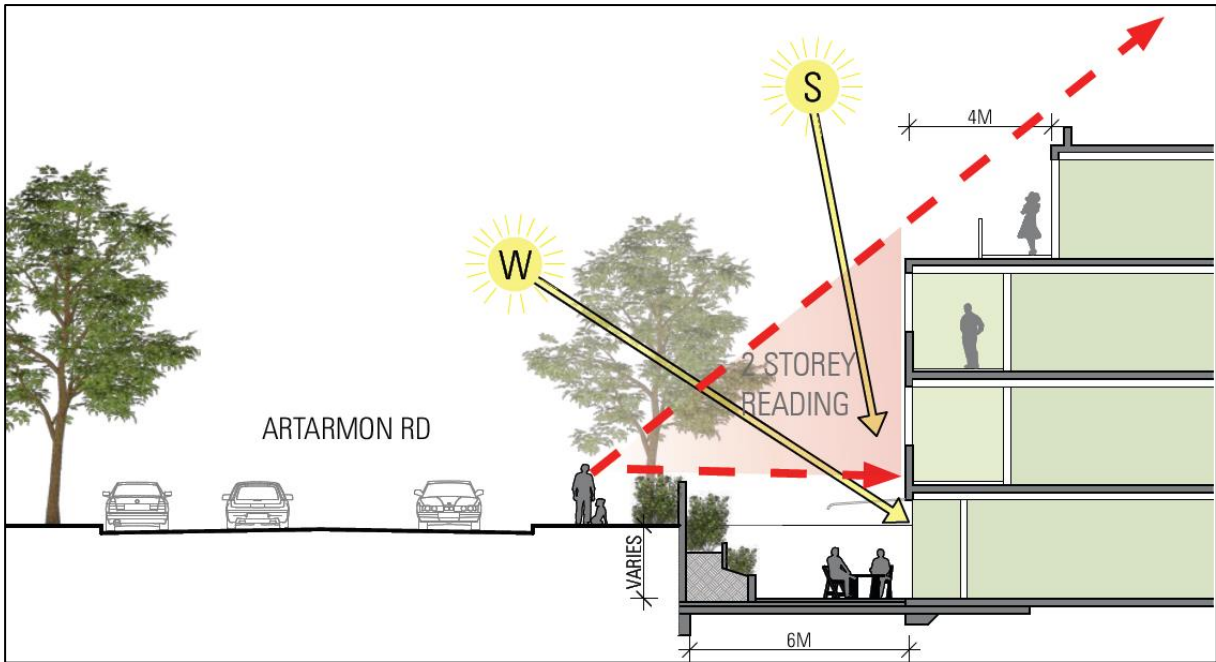


Figure 18 | Building A street scale diagram (Source: Proponent's EA)

The Proponent contends that by lowering the existing site levels and sinking the development into the site, the proposal results in an overall reduction in visual bulk compared to the approval. The Proponent also contends the dwellings fronting Richmond Avenue and Artarmon Road will receive high levels of amenity, while providing an appropriate street edge treatment consistent with the surrounding area.

The Department notes the prevailing character of the area consists of at-grade, generously landscaped front setbacks, and considers it important the proposal appropriately responds to this character and provides a good level of amenity to these dwellings.

The Department accepts that given the slope of Artarmon Road, parts of the Building B frontage will sit below the existing levels of the public domain. However, the Department considers the courtyard depth of 1.7 m to 2.2 m for Building A is excessive and inconsistent with the prevailing character of the area. Further, the Department notes the indicative design details rely heavily on landscaping within the Council verge or raised landscaping within the site to maintain adequate visual privacy (see **Figure 18**). This would have the effect of reducing the utility of the courtyards and also diminish the sense of connectivity between the building and the street, which is considered to provide a high quality urban design outcome.

Notwithstanding the above, the Department acknowledges these issues can be resolved in the detail design of future development applications. As such, the Department recommends a new future environmental assessment requirement (FEAR), which requires Council to be satisfied that any level changes within the Artarmon Road

setback appropriately responds to the character of the street and maintains appropriate amenity for those dwellings.

Subject to resolving the public domain interface for Building A, the Department concludes the proposal appropriately respects the character of the area and can achieve acceptable urban design outcomes.

6.4 Public Domain

The Department acknowledges the reconfiguration of the public domain is a significant concern for the community. Council and public submissions raised concerns the revised open space layout and orientation would privatise and discourage the wider community from using the space in comparison to the approved open space adjacent to Artarmon Road. Concerns were also raised about the removal of additional significant trees to accommodate the revised building envelopes.

The Proponent contends the increased open space and its layout is a significant improvement to the publicly accessible space provided in the concept approval, as it consolidates the publicly accessible open space, creates new view corridors and improves the approved through-site connection to Walter Street Reserve. In addition, the Proponent notes future development applications will include significant replacement planting to compensate for the loss of existing trees.

The Department considers the key assessment issues to be:

- open space
- tree management.

6.4.1 Open space

The proposal seeks a new configuration of the site that changes the size and layout of the open spaces. Open space within the site is characterised as either publicly accessible or communal (available to future residents). All publicly accessible open space includes legal arrangements to ensure the space remains publicly accessible, while access to communal open space will be controlled by the future owners corporation.

The original concept approval provided 6,733 m² of open space in the form of a 3,178 m² publicly accessible park adjacent to Artarmon Road and 3,555 m² of communal open space (**Figure 19**). The proposal seeks to provide 7,640 m² of open space in the form of 6,385 m² of publicly accessible open spaces known as the Village Green, Village Lawn and Village Square, and 1,255 m² of communal open space (**Figure 20**). This is summarised in **Table 13**.

The GA NSW advises that one of the most significant improvements to the concept approval is the proposed redesign and increase in the public domain. This includes the consolidation of open spaces, the intent and positioning of a 'cliff top' reserve and the green central open space that provides an extension of the view corridor down Edward Street. The AJC review, commissioned by Council, also notes the arrangement of public spaces is a stronger site response to that of the concept approval and acknowledges the increase in open space.

The Department considers the design and layout of the proposed open space is a significant improvement to the concept approval. The Department notes the proposal increases the total amount of open space by 907 m². The new layout doubles the amount of publicly accessible open space available under the concept approval and improves visual links and accessibility to the public. The additional publicly accessible open space (6,385 m² compared to the approved 3,178 m²) was also a key reason the GA NSW and AJC support the proposal.

In terms of staging and delivery, the Department notes that a significant portion of the public open space will be provided as part of the Stage 1 works, with the remaining open space being delivered as part of Stage 2. Recommended amendments to FEAR 13 will ensure these spaces are completed prior to the occupation of the relevant stages.

Table 13 | Open space summary

	Publicly Accessible Open Space	Communal Open Space	Total Open Space
Approved	3,178 m ²	3,555 m ²	6,733 m ²
Proposed	6,385 m ²	1,255 m ²	7,640 m ² (+907 m ²)

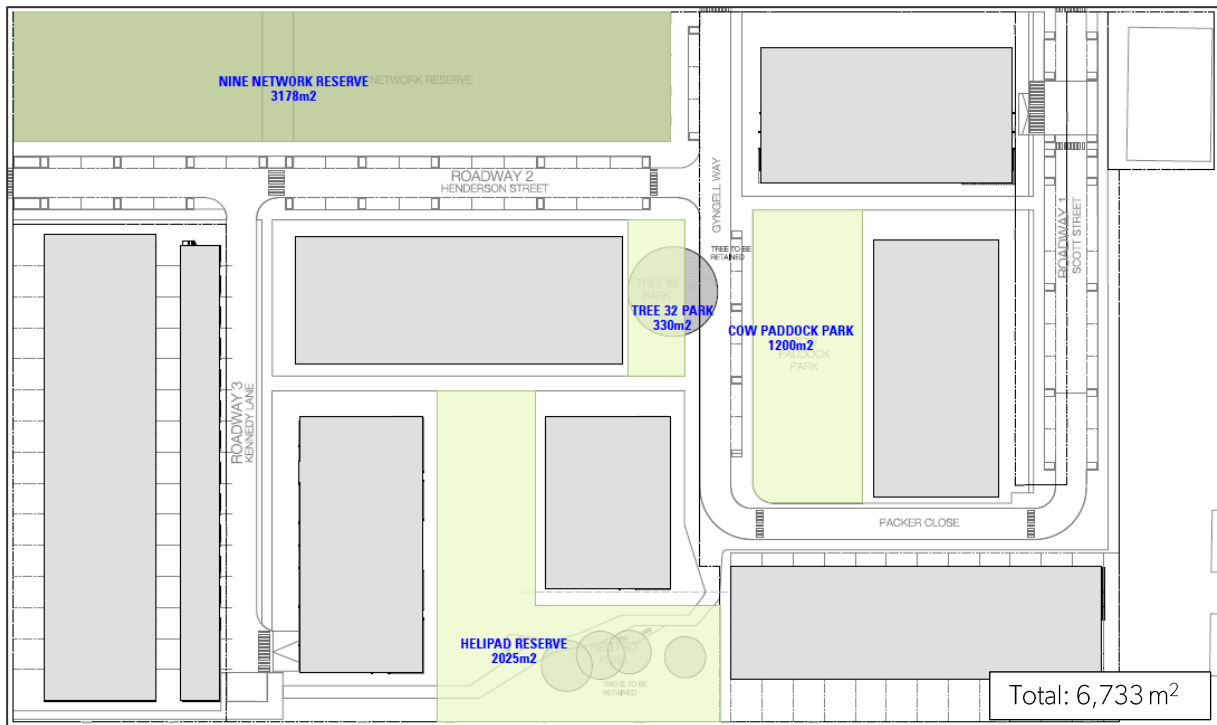


Figure 19 | Concept approval open space (Base source: Proponent’s amended proposal)

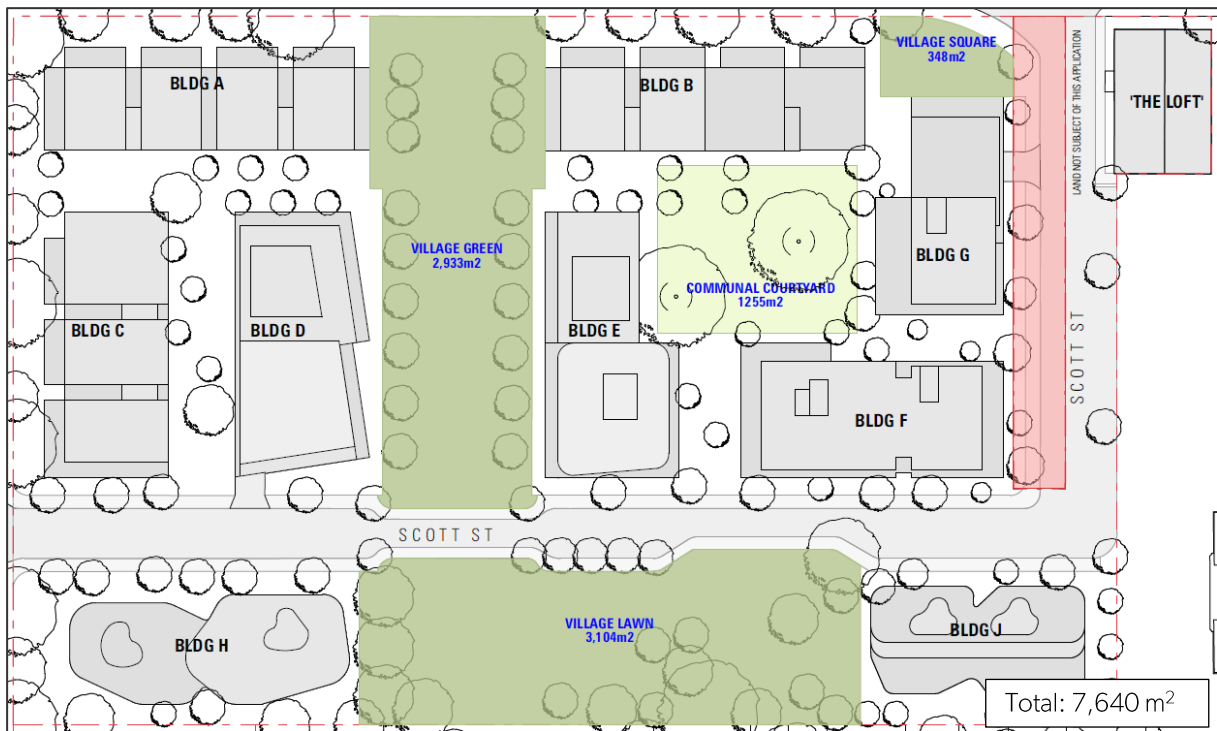


Figure 20 | Proposed concept plan open space (Base source: Proponent’s amended proposal)

The Department concludes the proposal represents a significant improvement in open space and therefore supports the proposal in this regard.

6.4.2 Tree management

The proposal seeks to remove an additional 17 trees, compared to the concept approval. The Department notes the concept approval allowed for the removal of 44 trees, while the proposal seeks approval to remove 61 trees.

Council and public submissions raise concerns about the removal of existing mature trees due to their environmental and aesthetic benefits to the area. The submissions also raised concerns that any replacement trees would take several years to mature to compensate for the tree removal.

In support of the tree removal, the Proponent contends the landscape master plan, prepared by McGregor Coxall, provides for more than 100 new native trees within the site and the replacement planting will provide significant visual and environmental benefits to the community over the medium and long term.

The Department notes that 10 of the additional 17 trees proposed for removal are located within adjoining properties, including Council’s land. Given these 10 trees are located outside of the subject site, the Department does not support their removal and recommends amendments to FEAR 23 (Tree Protection) to this effect.

The Department notes that of the seven remaining trees proposed for removal, four (trees 18, 19, 20 and 96) are of high significance and retention value. Trees 18, 19 and 20 (Red Bloodwoods) are located in the northeast corner of the site, adjacent to the Artarmon Road/ Scott Street intersection (**Figure 21**). The Proponent requests the removal of these three trees to accommodate the new Artarmon Road/ Scott Street roundabout and Village Square.



Figure 21 | Existing trees located on the Artarmon Road/ Scott Street intersection (Source: Google Maps)

While Tree 20 is proposed to be removed to accommodate the new Village Square, the Department notes that the Proponent’s Arboricultural Impact Assessment, dated January 2018, identifies this tree to be retained and protected with a tree protection zone.

Given this and the high significance of these trees and the contribution that they make to the green, leafy character of the area, the Department agrees with concerns raised in public submissions and recommends that Trees 18, 19 and 20 be retained. Additionally, the removal of these trees is no longer required to accommodate the roundabout, as this has been removed from the proposal (**Section 6.5.1**). However, the Proponent will need to refine the design of the Village Square to accommodate these trees (this can be resolved through the detailed design).

The Department notes the Proponent's statement of commitments requires further investigation for the retention/relocation of tree 96 (Cabbage Tree Palm). Given its location within the front setback of Building H, the Department considers that tree 96 can be retained and protected without significant impacts to proposed building envelopes.

The Department considers the removal of the remaining three trees is acceptable, as future development applications will involve substantial replacement planting that exceeds the total number of trees being removed.

Amendments to FEAR 23 (Tree Protection) are therefore recommended to require the retention and protection of the 10 trees located adjacent to the site and trees 18, 19, 20 and 96.

6.5 Traffic, parking and public transport

The Department acknowledges that traffic generation and associated impacts on the surrounding road network, street parking and public transport were key issues in the assessment of the original concept approval. Traffic and parking impacts represented 69% of the 237 public submissions for MOD 1 and 82% of the 452 public submissions for the proposal.

Council and public submissions raised concerns about the increase in traffic congestion, parking impacts and demand on public transport. Council also raises concerns about the future operation of the Willoughby Road/ Artarmon Road/ Small Street intersection to the east of the site.

As part of the concept approval, MOD 1 and the proposal, the Proponent has submitted traffic impact assessments, prepared by AECOM, GTA consultants and McLaren Traffic Engineering (respectively), that identify the additional traffic generation and parking impacts associated with the development.

The Department's consideration of the traffic, parking and public transport impacts of the proposal is outlined below.

6.5.1 Traffic generation and road safety

Traffic generation and its impact on the surrounding road network have been key issues in the submissions for the original concept approval, MOD 1 and the current proposal.

Concerns were raised in the public submissions that increasing dwelling numbers would result in additional traffic congestion and noise impacts. These submissions also raised concerns the proposed Artarmon Road/ Scott Street roundabout would prioritise the residents of the development and impede the traffic flow along Artarmon Road.

Council raised concerns over traffic impacts and as part of its submission to MOD 1 and the proposal, engaged ARUP to provide a traffic assessment, which concluded:

- the Willoughby Road/ Artarmon Road/ Small Street intersection would operate at an unsatisfactory level and is required to be upgraded
- the Scott Street/ Artarmon Road roundabout is not appropriate given the gradient of Artarmon Road and departs with the Austroads Guide to Road Design
- inadequate internal circulation space within the new road network is provided for waste and large removalist vehicles

- a portion of car parking within the new internal road should be designated as resident parking only to offset the loss of existing street parking.

The proposal was also referred to TfNSW and RMS, who both raised no objection to the proposal subject to any future application for a child care centre being subject to its own traffic impact assessment.

The Proponent submitted a traffic impact assessment, prepared by McLaren Traffic Engineering, that concluded a proposal based on 510 dwellings would have acceptable impacts on the surrounding road network. The traffic modelling in McLaren’s report indicates the Willoughby Road/ Artarmon Road/ Small Street intersection maintains its existing level of service (LoS) during the weekday AM and Saturday peak periods, however reduces the LoS from ‘B’ to ‘C’ during the weekday PM peak (**Table 12**). Despite the reduction in performance during the weekday PM peak, the Department notes that a LoS of ‘C’ indicates the intersection is still operating at a satisfactory level.

Table 12 | Willoughby Road/ Artarmon Road/ Small Street intersection LoS

Intersection	Existing	Approved	Proposed
Weekday AM	B	B	B
Weekday PM	B	B	C
Saturday	C	C	C

The Proponent argues the Willoughby Road/ Artarmon Road/ Small Street intersection upgrade being pursued by Council was originally recommended in a traffic study commissioned in relation to proposed expansion of the Willoughby Leisure Centre and is not the result of the proposed development. The traffic modelling concludes the proposal would not have an unreasonable impact on the overall level of service the Willoughby Road/ Artarmon Road/ Small Street intersection.

The McLaren report also included a swept path analysis that illustrated waste and service vehicles could appropriately enter Scott Street from Artarmon Road.

To assist in its assessment of the traffic impacts, the Department engaged Samsa Consulting to undertake an independent traffic analysis of the proposal and provide advice on the conclusions of the ARUP and McLaren assessments, including:

- the impact on the Willoughby Road/ Artarmon Road/ Small Street intersection
- the proposed Artarmon Road/ Scott Street roundabout
- internal swept paths
- the appropriateness of any monetary contribution towards future intersection works.

The traffic analysis provided by Samsa Consulting agrees with McLaren’s traffic analysis, in that the traffic generated by the proposal would not impact on the performance of the Willoughby Road/ Artarmon Road/ Small Street intersection to the extent that warrants an upgrade. The review concluded the operation of the intersection following the development would be mostly affected by background traffic volumes along the surrounding road network rather than the proposal itself. The review noted approximately 3% additional traffic is anticipated to travel through the subject intersection due to the proposal and that this level of traffic increase is likely to be within any daily variations in peak hour traffic volumes that occur at present.

Samsa Consulting also noted the ARUP traffic assessment included traffic generation from future potential development in the surrounding area. Samsa Consulting disagreed that all potential future development should

be used in the traffic assessment due to those developments being subject to their own approval process and considering them for the subject proposal would over-estimate the traffic generation in the area.

As advised by Samsa Consulting, the Department accepts the analysis prepared by McLaren in relation to the Artarmon Road/ Willoughby Road/ Small Street intersection. The Department notes that neither RMS or TfNSW raised any concerns with the operation of the subject intersection. Furthermore, the Department acknowledges the McLaren traffic assessment was based on 510 dwellings, and not the lesser traffic generation resulting from the reduced 460 dwellings now proposed. The Department considers the extent of the traffic impacts arising from the proposal is acceptable and does not warrant an upgrade of the intersection.

Despite demonstrating the proposal does not impact on the surrounding road network, the Proponent has made a monetary contribution offer to Council towards future intersection works (see **Section 6.7**).

While the Proponent's traffic analysis provides an indicative roundabout at the Artarmon Road/ Scott Street intersection, the Proponent has removed this in its RtS. As advised by Samsa Consulting, the Department considers the retention of Scott Street and the provision of a raised pedestrian crossing on Artarmon Road, west of Edward Street (FEAR 17), provides sufficient sight distances and traffic speeds along Artarmon Road to permit safe right-hand turn movements into and from the Scott Street without the need for a roundabout. Therefore, the Department recommends the deletion of FEAR 10 and 11 which restricts Scott Street to left in/ out only and requires the provision of a roundabout at the intersection of Artarmon Road and Richmond Avenue.

In addition to the proposed monetary contribution, the Department notes FEAR 16 requires the Proponent to provide the detailed design and 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. Having regard to the above, the Department considers the proposal will not result in any unreasonable traffic generation or associated impacts on the surrounding road network and recommends approval of the proposal.

6.5.2 Car parking

The concept approval requires future development applications provide on-site car parking at a rate consistent with Council's parking controls. FEAR 29 requires future developments to provide on-site car parking at the following rates:

- 0.5 space per studio apartment
- 1 space per 1 and 2 bedroom apartment
- 1.25 spaces per 3 bedroom apartment
- 1 visitor space per 4 apartments

The Department notes the proposal does not seek to change the approved car parking requirements.

Concerns were raised by Council and public submissions the proposal would result in the loss of on-street car parking spaces from the provision of a new roundabout at the intersection of Artarmon Road and Scott Street and increase demand for on-street parking. The public submissions also raised concerns the number of off-street car parking spaces being provided as part of the development is insufficient.

In addition, Council raises concerns that on-street parking provided within the site will be used as visitor parking, rather than replace the loss of existing street parking along Artarmon Road and Richmond Avenue as a result of the proposal.

The Proponent notes the internal road has been designed to accommodate on-street parking on both sides wherever possible and the additional parking provided entirely offsets any reduction in parking along Artarmon Road and Richmond Avenue. Furthermore, the proposal maintains the approved on-site car parking rates established by PAC and the LEC (as above).

The Department notes, as exhibited, the original proposal included a new roundabout at the intersection of Artarmon Road and Scott Street that resulted in the loss of 16 on-street car parking spaces along Artarmon Road. The proposal no longer includes the subject roundabout, therefore maintaining those existing parking spaces along Artarmon Road.

The Department notes the on-site car parking rates established by the PAC and LEC do not change. The Department remains satisfied the proposal provides sufficient on-site car parking provisions, consistent with Council's controls, and ultimately provides an additional 14 street car parking spaces compared to the concept approval.

6.5.3 Public transport

The Department considered impacts on existing public transport as part of its assessment of the original concept approval. The Department notes the proposal seeks to increase the approved maximum number of dwellings from 400 to 460.

Concerns were raised in public submissions the proposal would result in adverse impacts on the existing public transport network, particularly the city bound bus services along Willoughby Road. The submissions noted that existing public transport in this location was already at capacity without taking into account the concept approval or the additional dwellings proposed under this application.

The Proponent states the additional passenger demand arising from the proposal would be minimal in the context of existing passenger numbers, and the proposal is not expected to result in any significant impact on existing bus capacity.

The Department is satisfied an additional 60 dwellings will have minimal impact on the existing public transport and notes any upgrades to bus services along Willoughby Road is ultimately up to TfNSW, should this be considered necessary in the future.

6.6 Residential Amenity

Noting the proposal is a modification to a concept approval and subject to detailed consideration under future development applications, the Department has considered the proposal against the relevant design criteria within the ADG.

The Department considers the key assessment issues to be:

- building separation
- solar access and natural cross-ventilation.

6.6.1 Building separation

The proposal seeks to modify the number and layout of the approved building envelopes, resulting in revised building separation that has the potential to impact on the amenity for future residents.

Council's design advice by AJC raised concern the proposal provides insufficient separation between Buildings B and G, and Buildings F and G to achieve minimum ADG separation requirements.

As exhibited, Buildings B and G had a separation distance between 3 m and 7.5 m and Buildings F and G had a separation distance between 6 m and 9 m. In response to concerns raised by Council and the Department, the Proponent increased the separation distance for Buildings B and G to 9 m, and for Buildings G and F to between 9 m and 12 m. The Proponent contends the amended building envelopes allow appropriate internal amenity in accordance with the ADG.

The Department acknowledges that building separation contributes to good urban form and improves internal amenity for residents. The ADG sets minimum building separation to assist in providing acceptable levels of visual and acoustic privacy, improved outlooks, natural ventilation and daylight access.

The Department is satisfied the proposal is capable of satisfying the separation requirements of the ADG. The Department notes the detail design and layout of each building will be the subject of future development applications assessed by Council. These applications will need to demonstrate that appropriate separation and/or design measures have been incorporated into the development to achieve acceptable amenity for the future dwellings.

The Department notes amended FEAR 26 requires future development applications to have regard to the ADG and demonstrate that dwellings achieve appropriate levels of amenity.

6.6.2 Solar access and natural cross-ventilation

The ADG requires living rooms and private open space of at least 70% of dwellings receive a minimum of two hours of direct sunlight between 9 am and 3 pm during midwinter. In addition, the ADG requires 60% of dwellings within the first nine storeys of a building achieve natural cross ventilation.

The Proponent submitted indicative floor plans demonstrating the proposal is capable of achieving compliance with the ADG. The Department notes the final design of each building will be the subject of future assessment by Council and will need demonstrate adequate solar access and natural cross ventilation is achieved.

6.7 Developer contributions and public benefits

The original concept approval provided 3,178 m² of publicly accessible open space, an accessible bush track through Walter Street Reserve and the equivalent of 4% of the residential gross floor area as affordable housing to be dedicated to Council.

The proposal provides an additional 3,207 m² (total 6,385 m²) of publicly accessible open space and includes a public benefit offer, comprising:

- a monetary contribution of \$500,000 to Council towards any future intersection upgrade works to the Willoughby Road/ Artarmon Road/ Small Street intersection
- a monetary contribution of \$1,000,000 to Council towards future public access and regeneration works to Walter Street Reserve (in lieu of constructing the accessible bush track)
- 1% of any residential gross floor area above the approved 35,886 m² to be dedicated to Council as affordable housing (in addition to the 4% of all residential gross floor area).

Public submissions have noted the proposed public benefits are already required through existing conditions of the concept approval. In addition, Council raised concerns about the proposed public benefit offer, stating the intersection upgrade is caused by the proposal and the provision of affordable housing is a requirement of the Willoughby LEP 2012. The Department notes that no agreement has been reached between Council and the Proponent on the terms of a public benefit offer.

The Department notes the traffic reports submitted with the proposal, and the Department's traffic assessment demonstrate the proposal does not materially impact on the Willoughby Road/ Artarmon Road/ Small Street intersection warranting an upgrade (**Section 6.5.1**). With regard to affordable housing, the Department notes the proposal is not subject to any statutory affordable housing requirements. Therefore, the Department considers the monetary contribution towards any future intersection upgrade and the provision of affordable housing is a reasonable public benefit.

The Department notes the proposal results in a number of significant improvements in comparison to the concept approval, notwithstanding the proposed increased density of the development. The Department therefore considers the public benefit offer is reasonable in respect to the additional density sought under the proposal.

The Department therefore recommends a new Term of Approval requiring a VPA, subject to Council accepting the public benefit offer, in accordance with the Proponent’s public benefit offer. The VPA is to be prepared, publicly exhibited, and executed prior to the determination of the first development application for residential within Stage 1, or as otherwise agreed with Council.

6.8 Other Issues

The Department’s consideration of other issues is provided at **Table 14**.

Table 14 | Summary of other issues raised

Issue	Findings	Recommendation
Public consultation	<ul style="list-style-type: none"> Concern was raised in public submissions about the level of public consultation undertaken by the Proponent prior to lodging the current proposal and the timing of the exhibition period close to the Christmas holidays. Given the similarities between MOD 1 and the current proposal, the Proponent argues the public consultation undertaken prior and during the consideration of MOD 1 remains relevant to the proposal. The Department exhibited the proposal for 30 days, consistent with the exhibition provisions under the former Part 3A of the EP&A Act, as stated in Section 5. The Department also met with the representatives of several special interest groups, officers from Council and attended a community meeting, in which it outlined the changes sought under the proposal and distributed a fact sheet. The Department notes that the detailed design of Stages 1 and 2 will be the subject of future development applications to be submitted for Council’s determination and which will involve further public consultation. The Department is satisfied that sufficient public consultation has been undertaken to allow the assessment and determination of the modification application. 	No additional conditions or amendments to existing conditions are necessary.
Social infrastructure	<ul style="list-style-type: none"> Concerns were raised that the proposal will have adverse impacts on existing education facilities. Social infrastructure requirements, such as education spaces, libraries and child care centres, were considered in the Department’s assessment of the original application. This concluded that, under Planning Circular 08-017, the collection of contributions towards school places is not supported. However, Council may levy contributions towards other social infrastructure in accordance with its Section 94A Contributions Plan. The Department maintains this position, noting that Council may levy contributions on future development applications in accordance with its Section 94A Contributions Plan. 	No additional conditions or amendments to existing conditions are necessary.
Privacy impacts	<ul style="list-style-type: none"> Concerns were raised in public submissions the proposal will impact on visual and acoustic privacy of adjoining dwellings. 	No additional conditions or amendments to existing conditions are necessary.

Issue	Findings	Recommendation
	<ul style="list-style-type: none"> The Department considers the proposed building setbacks from adjoining development appropriate in mitigating any privacy impacts. The Department notes that future development applications submitted to Council will be required to address privacy impacts in more detail. 	
Retention of existing radio tower	<ul style="list-style-type: none"> Concerns were raised over the potential health impacts associated with the existing radio tower. The removal of the existing radio tower does not form part of either the current proposal or the concept approval. The Department notes the proposal was accompanied by an electromagnetic energy analysis, which concluded the site was suitable for residential development. 	No additional conditions or amendments to existing conditions are necessary.
Childcare facilities	<ul style="list-style-type: none"> The Department acknowledges the concerns raised about the potential traffic impacts associated with any future childcare centre on the site. The current proposal seeks to include childcare facilities as a permissible use. The Department notes that child care facilities are permissible in all residential and mixed-use zones under Willoughby Local Environmental Plan 2012. The Department notes any future development application for a childcare centre would be subject to its own traffic assessment. The inclusion of childcare facilities as a permissible use on the site will be consistent with the surrounding zoning. 	Include childcare as an additional permitted use and amended FEAR 34 to ensure appropriate traffic impacts are considered in a future development application.
Reduction of non-residential floor space	<ul style="list-style-type: none"> Concerns were raised the reduction in non-residential floor space would further worsen traffic impacts and restrict the range of businesses that could be located within the site. The Department notes non-residential uses are not mandatory within the development. The Department considers the proposed 1,250 m² (including the Loft building) of non-residential floor area is sufficient to accommodate an appropriate range of uses. The Department is satisfied the proposal will result in acceptable traffic impacts. 	No additional conditions or amendments to existing conditions are necessary.
Inclusion of Lot 12	<ul style="list-style-type: none"> Council argues Lot 12 (Figure 2) should be excluded from the site area calculations. The Department agrees with Council that Lot 12 should not be included in the site area calculations, as it is isolated from the main site and no development is proposed on that lot. Despite the exclusion of Lot 12, the proposed density is considered acceptable. 	No additional conditions or amendments to existing conditions are necessary.



7. Evaluation

The Department has assessed the merits of the proposal taking into consideration the issues raised in all submissions, the Proponent's response to those submissions and its amended proposal, and is satisfied the impacts have been satisfactorily addressed by the proposal and through the Department's recommended conditions.

The Department considers the proposal has strategic merit as it contributes towards meeting housing targets, provides housing diversity and contributes to housing affordability, with connections to public transport and assists in delivering high quality open space and social infrastructure to meet peoples changing needs. The Department considers the proposal is consistent with directions and actions in the Regional Plan and North District Plan and the site has sufficient capacity to accommodate the increase in housing without causing adverse impacts on the immediate surrounding area.

The key issues considered in the assessment of the proposal are density, built form and traffic impacts. The Department considers the site is large enough to support the scale of development proposed, including heights of up to RL 105.4 with smaller scale development of three to five storeys along the site edges. The proposed built form, in conjunction with the associated open spaces, is considered to result in an improvement on the approval. The site was found to be well suited for the provision of increased residential densities due to its location within proximity to existing centres and access to public transport, in line with the objectives of the Regional Plan. The Department notes that despite the increased density the proposal does not result in any adverse increase in traffic generation and intersections, and the local road network will continue to operate at acceptable levels.

The Department has reviewed a number of other issues, including privacy impacts, overshadowing, amenity, social infrastructure, childcare facilities, subdivision, open space, consultation and the planning process, and is satisfied the proposal is appropriate and has recommended conditions to reduce and/or mitigate impacts on the surrounding locality.

The Department concludes the impacts of the proposal are acceptable and can be appropriately mitigated through the implementation of the recommended conditions. Consequently, the Department considers the proposal is in the public interest and should be approved subject to conditions (outlined in **Appendix C**). This assessment report is hereby presented to the Commission for determination.

Endorsed by:

Ben Lusher
Director
Planning Framework

Endorsed by:

Anthea Sargeant 26/10/18
Executive Director
Key Sites and Industry Assessments



Appendices

Appendix A – Relevant Supporting Information

Appendix B – Key Issues – Council and Community Views

Appendix C – Recommended Notice of Modification

Appendix D – Consolidated Consent (MP 10_0198)

Appendix A – Relevant Supporting Information

The following supporting documents and supporting information to this assessment report can be found on the Department's website at:

1. Modification Request Environmental Assessment Report
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8385
2. Submissions
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8385
3. Advice received to support the Department's assessment (attached hereunder):
 - Government Architect NSW
 - SAMSA consulting
4. Response to Submissions
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8385
5. Supplementary information and amendments
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8385

Appendix B – Key Issues – Council and Community Views

Table 15 presents the key issues raised in the public submissions (as summarised in **Section 5.1** and **5.2**), and how the Department has considered each issue.

Table 15 | Department’s consideration of key issues raised in submissions

Issue	Department’s Consideration
<p>Traffic, parking, public transport impacts (370 submission)</p>	<ul style="list-style-type: none"> As discussed at Section 6.4, the Department considers the proposal will not result in any adverse traffic impacts. The Proponent’s and Department’s traffic assessments both concluded the proposal does not create the need for an upgrade of the Willoughby Road/ Artarmon Road/ Small Street intersection. Section 6.4.2 considers car parking, which complies with Council’s car parking rates. The Department is satisfied the additional demand for public transport generated by proposal will have minimal impacts on public transport, compared to the existing approval. Further, any required upgrades to bus services along Willoughby Road is ultimately up to TfNSW, who raised no objection to the proposal.
<p>Scale/ height of development (357 submission)</p>	<ul style="list-style-type: none"> The Department acknowledges the concerns raised in public submissions and Council regarding unacceptable built form and visual impacts on the immediate and broader surrounding area as a result of the increase in building height. As outlined in Section 6.3.1 the Department raised concerns over any buildings exceeding the maximum height limited established by the PAC and LEC. Subsequently, the Proponent reduced building heights to maintain the approved maximum height limit of the site. The Department considers the development provides for an appropriate built form transition and does not have an adverse visual impact on the locality.
<p>Density (dwelling numbers) (334 submission)</p>	<ul style="list-style-type: none"> The Department considers the increase in density is acceptable as the proposal results in an improved built form which reduces impacts on adjoining development (Sections 6.3), would have acceptable traffic impacts (Section 6.5) and includes appropriate public benefits (Section 6.7). In addition, the Department considers the proposed increase in density has strategic merit as it will increase housing stock and housing diversity in Willoughby, consistent with the Regional Plan and North District Plan (Section 3.2).
<p>Planning process (292 submission)</p>	<ul style="list-style-type: none"> Concerns were raised in public submissions and Council the proposal was not a modification, but rather a completely new application (see Section 4.1). Furthermore, concerns were raised the proposal sought to exceed the maximum height and dwelling numbers established by the PAC and LEC (see Section 6.3.1). The Department notes section 75W provides broad powers to modify former Part 3A approvals. Despite being a modification application, the Department has undertaken a rigorous assessment of the proposed modifications, which included considering the concerns raised in all submissions. The planning process also allows the submission of multiple modification applications.

Issue	Department's Consideration
	<ul style="list-style-type: none"> The Department has assessed the proposed modification on its merits, having regard to the impacts of the proposal and issues raised in submissions. The Department notes the Commission will ultimately determine the application.
Reduced public benefit (226 submission)	<ul style="list-style-type: none"> The Department acknowledges the concerns raised in public submissions regarding the public benefits. The Department notes the acquisition of Scott Street is a matter between the Proponent and Council, and is not a matter for consideration under the current proposal. As discussed in Section 6.7, the Department considers the proposal results in additional public benefits compared to the concept approval.
Inferior design to concept approval (197 submission)	<ul style="list-style-type: none"> Several submissions consider the proposal to be an inferior design to the concept approval. The Department notes the GA NSW and AJC both concluded the proposal is superior to the current concept approval. The Department considers the amendments to the envelopes and open space, in addition to the new public benefits, results in a significant improvement to concept approval (see Section 6). The Department considers the future development applications for each stage can achieve design excellence.
Community consultation (171 submission)	<ul style="list-style-type: none"> The Department is satisfied sufficient public consultation has been undertaken to allow for the assessment and determination of the modification applications.
Social infrastructure (130 submission)	<ul style="list-style-type: none"> Concerns were raised in public submissions about the impact of the increase in residential density on social infrastructure, particularly education facilities. The Proponent has stated that the social infrastructure and services are the responsibility of the State Government. In addition, the proposal includes centre based childcare facilities as an additional permitted use. The Department notes FEAR 34 requires each future detailed stage of the development to pay contributions to Council, which equate to 1% of the CIV of each future detailed stage and will be used for the provision or improvement of public amenities and services. The Department concludes the proposal is acceptable.

Appendix C – Consolidated Consent (MP 10_0198)

A consolidated consent, which incorporates the modification within the recommended notice of modification (**Appendix D**), can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8385

Appendix D – Recommended Notice of Modification

The recommended notice of modification can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8385