

DA NO: DA-2023/59
ADDRESS: 1 WILKES AVENUE, ARTARMON NSW 2064.
PROPOSAL: CHANGE OF USE FROM EXISTING RETAIL BUSINESS TO PROPOSED FOOD AND BEVERAGE PREMISES IN EXISTING LOCAL HERITAGE ITEM
RECOMMENDATION: APPROVAL
ATTACHMENTS:
1. SITE DESCRIPTION AND AERIAL PHOTO
2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
3. SUBMISSIONS TABLE
4. SECTION 4.15 (79C) ASSESSMENT
5. SCHEDULE OF CONDITIONS
6. NOTIFICATION MAP
RESPONSIBLE OFFICER: RITU SHANKAR - TEAM LEADER
AUTHOR: ERIC KIM – DEVELOPMENT ASSESSMENT PLANNER
REPORT DATE: 29 AUGUST 2023
MEETING DATE FOR PUBLIC MEETING 12 SEPTEMBER 2023

1. PURPOSE OF REPORT

The purpose of this report is to seek determination by Willoughby Local Planning Panel (WLPP) of Development Application DA-2023/59 for Change of use from existing retail business to proposed food and beverage premises in existing Local Heritage Item at 1 Wilkes Avenue, ARTARMON.

More specifically, the following works is proposed:

- The proposal seeks to change the use of the tenancy from retail to a food and beverage shop
- The proposed use will be serving coffee and pastries with a display of retail merchandise. No cooking will be carried out on-site
- The proposed works will only be limited to internal renovations.
- The front of house will consist of a working and seating bar bench, and a seating area along the shopfront windows to provide visual activation along both facades. The back of house will be storage and an existing toilet facility. The goods that will be stored on site are packaged dry goods including coffee, dairy, and takeaway cups.

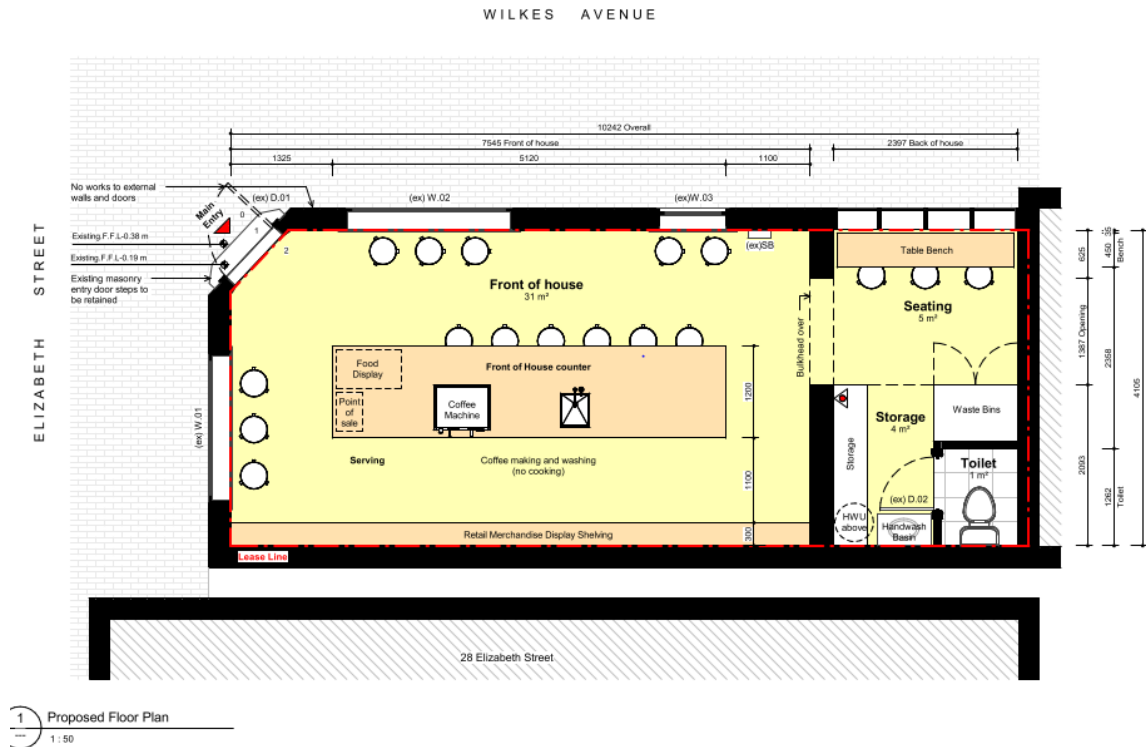


Figure 1: Floor Plan

The application is required to be referred to the WLPP for determination because there are more than 10 submissions.

2. OFFICER'S RECOMMENDATION

THAT the Willoughby Local Planning Panel:

2.1 Approve/Refuse Development Application DA-2023/59 for change of use from existing retail business to proposed food and beverage premises in existing local heritage item at 1 Wilkes Avenue, Artarmon NSW 2064, subject to conditions contained in Attachment 7, for the following reasons:

- 2.1.1 The proposal is consistent with the zone objectives and objectives within the *WDCP*.
- 2.1.2 The proposal respects the heritage values of the site through maintaining significant heritage features.
- 2.1.3 The impacts of the proposal are viewed to be of a reasonable extent and do not excessively impact the locality in a detrimental manner.

3. BACKGROUND

The subject DA was lodged on 24 February 2023.

Notification had occurred between 20 March 2023 to 3 April 2023. 19 individual submissions were received.

Additional information request was provided on 19 April 2023, requesting further detail on food storage, sanitary facilities, waste storage facilities, and interior details.

Additional information was provided on 30 April 2023. A further amended waste management plan was provided on 5 May 2023.

4. DISCUSSION

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

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

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

A detailed assessment of the proposal for approval is provided in **Attachment 4**.

The **plans** used for this assessment can be found in a file named **WLPP Plans** under the DA tracking functionality for this application on Council's website:

<https://eplanning.willoughby.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=526915>

5. CONCLUSION

The Development Application DA-2023/59 has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, *WLEP 2012*, *WDCP*, and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in Attachment 5.

ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO

The property known as 1 Wilkes Avenue, Artarmon, legally described as Lot 3 DP 1161375, is an irregular shaped lots orientated generally on a north-east/south-west axis. The site is zoned B1-Neighbourhood Centre and is identified as a heritage item, "Group of shops and the Wilkes Avenue Plaza." The site is located within the Artarmon Heritage Conservation Area.

The Statement of Significance for the item is:

Numbers 1,3 and 7 Wilkes Avenue and 22 Elizabeth Street, have local heritage significance for its association with the early urbanisation of the Artarmon area. Built in the Inter-War style, the buildings are representative of late 1920s design, exhibiting characteristics typical of their era. Aesthetically, the buildings make up a unified group in a well designed urban streetscape and display good standards of craftsmanship in the brickwork and joinery . Local commercial centres like Wilkes Plaza have provided and continue to provide a social facility for the local working and residential community.

The site is located on the south western side of Elizabeth Street and is currently occupied by the original single storey commercial building that faces both Wilkes Avenue and Elizabeth Street. 1 Wilkes Avenue is a single storey unpainted brick shop building with tiled roof and overhanging eaves and splayed corner entrance, which displays characteristics of the Federation Arts and Crafts style of architecture.

The locality comprises of commercial/retail premises along Wilkes Avenue and Elizabeth Street. Medium density residential flat buildings are also present along Elizabeth Street, with Artarmon Station being in close proximity to the subject site. It is noted that businesses of a similar nature such as cafes and restaurants are present within the heritage item.



Figure 2: Aerial View

ATTACHMENT 2: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS

Willoughby Local Environmental Plan 2012 Zoning:	B1 Neighbourhood Centre
Existing Use Rights	No
Additional Permitted Use	No
Conservation area	Yes – Artarmon HCA
Aboriginal Heritage	No
Heritage Item	Yes - Group of shops and the Wilkes Avenue Plaza
Vicinity of Heritage Item	Yes
Natural Heritage Register	Yes
Bushfire Prone Area	No
Foreshore Protection Area	No
Flood related planning control	No
Adjacent to classified road	No
Road/lane widening	No
BASIX SEPP	No
Infrastructure SEPP - Rail	No
Infrastructure SEPP – Road	No
Coastal Management SEPP	No
Acid Sulphate Soil Category	5
Development near Lane Cove Tunnel	No
Contaminated Land	No
Adjacent / above Metro	No
Active Street Frontage	Yes
Other relevant SEPPS	N/A
Other relevant REPS	Sydney Regional Environmental Plan (Sydney Regional Harbour catchment)
Relevant policies and resolutions	WDCP

Control		Existing Proposed by applicant	Calc. by Council	Standard	Numerical Compliance
<u>WLEP</u>					
Height	Cl.4.3	Height is not proposed to be altered.		8m	N/A
GFA	Cl.4.4 & Cl. 4.4A	GFA is not proposed to be altered.		74.8sqm	N/A
FSR	Cl.4.4 & Cl. 4.4A	FSR is not proposed to be altered.		1:1	
Heritage	Cl. 5.10	The proposal does not involve changes to the main architectural features of the item. Council's heritage planner has raised no objections to the proposal.		Conserve the heritage significance	Yes
Active Street Frontage	Cl. 6.7	Existing exterior windows are to be retained. No works to the existing facades are proposed.		Promote uses that attract pedestrian traffic	Yes

<u>WDCP</u>				
Parking Rates	C.4.2	No parking facilities are existing within the site. It is noted that the site is in close proximity to Artarmon Station. It is also understood that nearby street parking is also available. The site is also a heritage item, thus, alterations to the building to provide car parking is not a viable option. The required parking spaces for the proposed café use is less than the existing retail use.	Restaurants (within railway precincts and MPTCs 1 space / 75m ²	No, acceptable upon merit.
Bicycle Rates	C.4.4	No bicycle lockers or rails are provided on site. It is noted that lockers are available at Artarmon station. It is also understood that due to the heritage importance of the site, the alterations to the building to cater to the bicycle requirements is not viable.	Retail/Restaurant Bicycle Lockers: 1 per 450sqm Bicycle rail/racks: PLUS 1 per 150sqm.	No, acceptable upon merit.
Waste Management	C.8	Appropriate waste management plan has been provided.	To encourage waste minimisation (source separation, reuse and recycling) and ensure appropriate storage/collection of waste and quality design of facilities	Yes
Privacy	E1.8	Conditions have been placed to ensure that noise emissions are compliant with the Protection of the Environment Operations Act 1997.	Mechanical plant and equipment should be designed and located to minimise noise nuisance	Yes
Characteristics of Business Areas	E2	The proposal caters to the characteristics of Wilkes Avenue through provided a local coffee shop.	Wilkes Avenue Artarmon – Provides a location for small business, convenience goods and café/restaurant activities that serve the community east of the Station.	Yes

Operational Details

Operational Details	Comment
Description of proposed use	Food and beverage premise (no cooking)
Description of previous/current use	Retail

Hours of Operation	Mon – Fri	7am – 3pm
	Sat	7am - 3pm
	Sun/Hol	7am – 3pm
Loading/Unloading (WDCP C4.5)		Unloading to occur on Elizabeth Street.
Delivery details		Delivery to occur during business hours along Elizabeth Street.
Staff/Patron numbers		20 patrons and 4 staff
Air/odour		No cooking is proposed on site. NCC compliance is conditioned.
Noise		Condition has been placed to ensure that noise emissions are compliant with the Protection of the Environment Operations Act 1997.
Water		Condition has been placed for Sydney Water consent to discharge waste water into sewer.
Waste (WDCP – C.8)		Waste agreement has been reached with 28 Elizabeth Street Artarmon to store the waste bins within their communal waste bin area.

Developer’s Contribution Plans:

S7.11/7.12 Section 94A contribution:	N/A – COW < \$100,000
---	-----------------------

Referrals

Buildings	Conditions have been provided on 20 April 2023.
Environmental Health	Conditions have been provided on 23 August 2023.
Heritage	The proposed change of use to a food and beverages premises has the potential to negatively impact on the interior of the building through a requirement to have increased ventilation, fittings and plumbing intrusions into the original fabric of the shop. However, the plans submitted with the proposal indicate no changes to the main architectural elements of the building. The HIS submitted with the proposal state that the proposed

	<p>metal ceiling will be retained and no ventilation is required.</p> <p>The change of use from retail to food and beverage is acceptable from a heritage perspective. As no physical works are required to the building, there will be no detrimental impacts from the proposal.</p>
--	---

ATTACHMENT 3: SUBMISSIONS TABLE

Council was in receipt of nineteen (19) individual submissions from the following objectors:

1.	133 Artarmon Rd
2.	5 Wilkes Ave
3.	PO Box 428
4.	Artarmon Village
5.	2A Help Street
6.	7 Jersey Road
7.	7 Jersey Road
8.	No address provided
9.	Willoughby Rd
10.	Fuller Road
11.	Pacific highway
12.	No address provided
13.	11 Salisbury Rd
14.	No address provided
15.	64 Nicholson Street
16.	No address provided
17.	20/17 Hampden Road
18.	3/10 Broughton Road
19.	318 Mowbray Road

The below table provides the issues raised by the objectors and Council's response.

Issues Raised	Officer's Response
Number of cafes in vicinity	Restaurants or cafes are a permissible use under the B1 zone. The proposal is consistent with the characteristics of Wilkes Avenue Artarmon of E2 of the <i>WDCP</i> , which describe the centre as providing a location for small businesses, convenience goods and café/restaurant activities that serve the community east of the Station.
Business competition	Business competition is not a planning concern.
Traffic Congestion/insufficient parking space	The proposal will not result in excessive traffic congestion. The proposed use requires less parking spaces in comparison the existing retail use of the site in accordance with Council's <i>DCP</i> . Although there is 1 car parking space deficiency, it is noted that the subject building is heritage listed, and alterations to the building to accommodate for a parking space is not appropriate. Artarmon Station is in walking distance to the subject site, with on street parking nearby also available.
Noise pollution	Condition has been placed to ensure that noise emissions are compliant with the Protection of the Environment Operations Act 1997.
Visual Impact	No works to the façade of the building will be conducted. Condition has been placed for all original and significant building fabric, including ceilings, windows and doors must be protected.

Waste Disposal	Waste management plan has been provided. Council's Resources Recovery team and environmental health team have raised no concerns regarding waste.
Inadequate facilities	Condition has been placed for the subject proposal to be compliant with the NCC.
Lack of consultation	The application went through the appropriate notification period, with submissions being received during and after this period. Notification sign has been appropriately placed.
Damage to premise due to the operations	An ongoing condition has been placed where all original and significant building fabric, including ceilings, windows and doors must be protected.
Local ecology	Adequate waste arrangements are proposed. No proposed changes are located outside the premise.
Privacy of pedestrians	It is noted that no changes to windows are proposed, thus no further impact on the pedestrians is resulted. It is also understood that the site is subject to Active Street Frontage and is zoned B1 Neighbourhood Centre. Thus, casual surveillance and the ability for pedestrians to view the café is crucial.

ATTACHMENT 4 - SECTION 4.15 (79C) ASSESSMENT

The application has been assessed under the provisions of S.4.15 (79C) of the Environmental Planning and Assessment Act.

The most relevant matters for consideration are assessed under the following headings:

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

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> State Environmental Planning Policies (SEPP) 	✓
	<ul style="list-style-type: none"> Regional Environmental Plans (REP) 	✓
	<ul style="list-style-type: none"> Local Environmental Plans (LEP) 	✓
	<p>Comment: The proposal is consistent with the WLEP and WDCP as proposed.</p> <p>WLEP2012 Amendment 34</p> <p>WLEP2012 was gazetted on 30 June 2023. The site is zoned E1 Local Centre with the proposed use being permissible with consent.</p> <p>WDCP2023</p> <p>WDCP2023 commenced on 31 July 2023. The proposal is consistent with the performance criteria of Artarmon Local Centre within Part L Placed Based Plans</p>	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> Draft State Environmental Planning Policies (SEPP) 	N/A
	<ul style="list-style-type: none"> Draft Regional Environmental Plans (REP) 	N/A
	<ul style="list-style-type: none"> Draft Local Environmental Plans (LEP) 	✓
	<p>Comment: There are no draft SEPPs that apply to the subject land. Consideration to the draft LEP revealed no impact on this development.</p>	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> Development control plans (DCPs) 	✓
	<p>Comment: DCP assessment above.</p>	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> Clause 92 EP&A Regulation-Demolition 	N/A
	<ul style="list-style-type: none"> Clause 93 EP&A Regulation-Fire Safety Considerations 	N/A
	<ul style="list-style-type: none"> Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings 	N/A
	<p>Comment: There are no prescribed matters that affect the application.</p>	
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"> Context & setting 	✓
	<ul style="list-style-type: none"> Access, transport & traffic, parking 	✓
	<ul style="list-style-type: none"> Servicing, loading/unloading 	✓
	<ul style="list-style-type: none"> Public domain 	✓
	<ul style="list-style-type: none"> Utilities 	✓
	<ul style="list-style-type: none"> Heritage 	✓
	<ul style="list-style-type: none"> Privacy 	✓

	<ul style="list-style-type: none"> Views 	✓
	<ul style="list-style-type: none"> Solar Access 	✓
	<ul style="list-style-type: none"> Water and draining 	✓
	<ul style="list-style-type: none"> Soils 	✓
	<ul style="list-style-type: none"> Air & microclimate 	✓
	<ul style="list-style-type: none"> Flora & fauna 	✓
	<ul style="list-style-type: none"> Waste 	✓
	<ul style="list-style-type: none"> Energy 	✓
	<ul style="list-style-type: none"> Noise & vibration 	✓
	<ul style="list-style-type: none"> Natural hazards 	✓
	<ul style="list-style-type: none"> Safety, security crime prevention 	N/A
	<ul style="list-style-type: none"> Social impact in the locality 	N/A
	<ul style="list-style-type: none"> Economic impact in the locality 	N/A
	<ul style="list-style-type: none"> Site design and internal design 	✓
	<ul style="list-style-type: none"> Construction 	✓
	<ul style="list-style-type: none"> Cumulative impacts 	✓
	Comment: The impacts of the proposal on adjoining or nearby properties are considered to be reasonable.	
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> Does the proposal fit in the locality? 	✓
	<ul style="list-style-type: none"> Are the site attributes conducive to this development? 	✓
	Comment: The development is consistent with the conservation area and character of the streetscape.	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> Public submissions 	✓
	<ul style="list-style-type: none"> Submissions from public authorities 	✓
	Comment: 19 submissions received and addressed in Attachment 3.	
(e)	The public interest	
	<ul style="list-style-type: none"> Federal, State and Local Government interests and Community interests 	✓
	Comment: The proposal will not adversely impact the character of the locality and therefore approval of the application is in the public interest.	

ATTACHMENT 5: SCHEDULE OF CONDITIONS

SCHEDULE

Conditions of Consent: (Including reasons for such conditions)

CONSENT IDENTIFICATION

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

1. Approved Plan/Details

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

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Existing Floor Plan	1.01	2	30/04/2023	Sodo Sopa
Proposed Floor Plan	1.02	3	5/05/2023	
Central Island Elevation	2.01	1	30/04/2023	
Central Island Elevation	2.02			
Shopfront Windows Elevation	2.03			
Display Shelves Elevation	2.04			
Back of House Elevations	2.05			
Equipment and Materials Schedule	0.01			

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

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

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

2. Damage Deposit

Prior to the issue of the Construction Certificate, the applicant shall lodge a Damage Deposit of **\$4000** (GST Exempt) to Council against possible damage to Council's assets and any infrastructure within the road reserve/footway during the course of the building works. The deposit will be refundable subject to inspection by Council after the completion of all works relating to the proposed development. For the purpose of inspections carried out by Council Engineers, an inspection fee of **\$250** (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

Total Payable = \$4000 + \$250 = \$4250

(Reason: Protection of public asset)

3. Construction and Fitout of Food Premises

All works associated with the food premises construction and fit out shall comply with the:

- (a) Australian Standard AS 4674:2004 – *Design, Construction and Fitout of Food Premises*;
- (b) *Food Standards Code* (Australia) and *Food Safety Standard 3.2.3 – Food Premises and Equipment*;
- (c) *Food Act 2003* and *Food Regulation 2015*;
- (d) *National Construction Code – Building Code of Australia* and any relevant *Australian Standards*;
- (e) *Plumbing Code of Australia* and Australian Standard/New Zealand Standard AS/NZS 3500 series on *Plumbing and Drainage*; and
- (f) Sydney Water commercial trade wastewater requirements for food premises and the most recent editions of any relevant *Water Services Association of Australia* codes of practice, guidelines, policies and requirements.

Detailed design plans of all areas relating to the food premises operations, including sectional elevations, to scale, and specifications of the equipment, finishes and operations, shall be submitted to the Certifier for approval, prior to a Construction Certificate being issued.

Note:

- (i) A “*Food Premises Design, Construction and Fit-out Guide*” (based on compliance with the above standards) is available on Council website;
- (ii) Copies of AS 4674-2004 may be obtained from SAI Global by visiting www.saiglobal.com; and
- (iii) Copies of the *Food Standards Code* (Australia) may be obtained from Food Standards Australia New Zealand by visiting www.foodstandards.gov.au.

(Reason: Public health, safety and compliance)

PRIOR TO COMMENCEMENT

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

4. Report Existing Damages on Council’s Property

Prior to commencement of any works on site, submit to Council and the Principal Certifier a report with digital photographs of any existing damages to Council’s assets fronting the property and the immediate adjoining properties. Failure to do so will result in the applicant being liable for any construction related damages to these assets. In this respect, the damage deposit lodged by the applicant may be used by Council to repair such damages.

(Reasons: Protection of Council’s Infrastructure)

5. Permits and Approvals Required

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

- (a) Permit to erect Builder's hoarding where buildings are to be erected or demolished within 3.50m of the street alignment. Applications are to include current fees and are to be received at least 21 days before commencement of the construction.
- (b) Permit to stand mobile cranes and/or other major plant on public roads. Applications are to include current fees and security deposits and are to be received at least seven days before the proposed use. It should be noted that the issue of such permits may also involve approval from the NSW Police Force and TfNSW (RMS). A separate written application to work outside normal hours must be submitted for approval.
It should also be noted that, in some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.
- (c) Permit to open public roads, including footpaths, nature strip, vehicular crossing or for any purpose whatsoever. All applications are to include current fees. (Minimum one (1) weeks' notice required.)
- (d) Permit to place skip/waste bin on footpath and/or nature strip. (Maximum three (3) days).
- (e) Permit to work and/or place building materials on footpath and/or nature strip. (Maximum two (2) weeks).
- (f) Permit to establish Works Zone on Public Roads adjacent to the Development including use of footpath area. Applications must be received by Council at least twenty-one days prior to the zone being required. The application will then be referred to the Council's Local Traffic Committee for approval, which may include special conditions.
- (g) Permit to construct vehicular crossings over Council's footpath, road or nature strip.
- (h) Permit to install temporary ground anchors under public roads, including footpaths and naturestrip. (Minimum two (2) weeks' notice required.)

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

(Reason: Legal requirements)

6. Underground Utility Services

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

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

(Reason: Protection of utilities)

DURING DEMOLITION, EXCAVATION AND CONSTRUCTION

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

7. Removal of Material

Remove all excess excavation and construction material from the site at the completion of works to the satisfaction of the Certifier. Under no circumstances should any material be dumped or allowed to spill –

- (a) on to the adjoining public reserve
- (b) on to the land within a Foreshore Area
- (c) outside the primary or secondary building areas.

(Reason: Environmental protection)

8. Hours of Work

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

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

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

(Reason: Ensure compliance and amenity)

9. Demolition Work AS 2601-2001

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

(Reason: Safety)

10. Sweep & Clean Pavement

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

(Reason: Legal requirement)

11. Street Signs

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

(Reason: Protection of public assets)

PRIOR TO OCCUPATION OF THE DEVELOPMENT

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

12. Access for the Disabled - Disability Discrimination Act

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

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

(Reason: Access and egress)

13. Public Infrastructure Restoration

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

(Reason: Protection of public assets)

14. Food Premises

Prior to the issue of any Occupation Certificate the fitout of the food premises shall comply with Australian Standard *AS 4674:2004 – Design, Construction and Fitout of Food Premises*, the provisions of the Food Standards Code (Australia) and the *Food Act 2003*. No approval is granted for any remote storage area.

If a Private Certifier is to be used, the final inspection of the food premises fit out shall be carried out by a suitably qualified person. Documentation is to be submitted to the Certifier certifying compliance with all relevant requirements.

Council's Environmental Health Officer may be engaged to carry out this required inspection of the food premises. An inspection fee shall be charged in accordance with Council's current *Food Premises Fitout Inspection Fee*, as per the *Willoughby Council Management Plan – Fees and Charges Schedule*. This fee must be paid prior to the inspection.

(Reason: Public health, safety and compliance)

15. Food Premises Registration

Prior to an Occupation Certificate being issued, the food premises shall be registered with Willoughby City Council by completing and submitting the Food Business Registration Form available on Council's website.

(Reason: Public health, safety and compliance)

16. Trade Waste Permit / Consent

Prior to the issue of any relevant Occupation Certificate, evidence of a Sydney Water permit or consent for the discharge of wastewater to the sewer shall be submitted to the Certifier. Where a permit or consent may not be required from Sydney Water, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.

(Reason: Environmental compliance and health)

ONGOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land, and relevant legislation.

17. Maximum numbers permitted

To minimise amenity impacts on the general locality, the following authorised population capacities are not to be exceeded:

20 patrons, 4 staff

In this regard staff are to monitor and control the maximum number of persons.

(Reason: Amenity)

18. Hours of Operation

The hours of operation of the café are to be restricted to those times listed below;

Monday to Sunday: 7am – 3pm

(Reason: Amenity, Compliance)

19. Signage

No advertising signage is approved with this development consent.

(Reason: Ensure compliance)

20. Annual Fire Safety Statement

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

(Reason: Safety)

21. Heritage – Maintain Portion of Existing Building and No Demolition of Extra Fabric

All original and significant building fabric, including ceilings, windows and doors must be protected. Alterations to, and demolition of, the existing building shall be limited to that documented on the approved plans (by way of notation) or conditioned in this consent.

No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

Should any portion of the existing building which is indicated on the approved plans to be retained be damaged, all the works on-site are to cease and written notification given to Council. No work is to resume until the written approval of Council is obtained.

(Reason: Heritage conservation and Ensure compliance)

22. No Cooking Consent

Consent is granted solely for the use of the premises in the preparation and serving of coffee (and similar beverages) and ready-to-eat food such as pastries. Any proposed future use involving the heating and cooking of food, which produces the emission of steam or vapour will require development consent from Council.

(Reason: Health & Amenity)

23. Storage of commercial bins

The storage of commercial waste bins/containers is not permitted in public spaces, including footpaths or roadways.

The commercial waste bins are to be stored within the space of 30A Elizabeth Street, Artarmon, NSW 2064, with their residential bins, in accordance with agreement with the Owners - Strata Plan No 13687 outlined in the "*Minutes Of Paper Committee Meeting, Strata Plan No 13687*" on Thursday 06 July 2023.

(Reason: Health & Amenity)

24. Odour Emissions

Upon commencement of the use and in perpetuity, odour control and roasting equipment installed at the premises shall be maintained and operated in a proper and efficient manner to ensure that there is no noticeable odour outside the boundary of the property.

(Reason: Ensure Compliance)

25. Noise Control – Offensive Noise and Vibration

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

(Reason: Amenity)

26. Waste Management Plan (WMP) Implementation

The approved WMP (prepared by Zi Low, Rev B, dated 5/05/2023) is to be implemented throughout the ongoing use of the development.

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

27. Kerbside Collection Point

The nominated kerbside collection point is to be utilised to facilitate the collection of waste and recycling bins for the development. All mobile garbage bins that are left

kerbside for collection must be taken back within the property boundary on the same day of service.

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

28. Licenced Waste Collection

All businesses must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection disposal.

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

29. Waste Storage Containers

No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.

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

30. Signage

Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin.

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

31. Management

Contracts (or agreements) with cleaners or other personnel, must clearly outline the waste management and collection system and must clearly identify everyone's role and responsibility. This is to include:

- (a) Responsibility for cleaning and maintaining waste storage bins and containers.
- (b) Responsibility for the transfer of bins to the nominated collection point.
- (c) Method of communication concerning the developments waste management system.

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

PRESCRIBED CONDITIONS

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

32. Compliance with National Construction Code

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

(Reason: Compliance)

STATUTORY REQUIREMENTS

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

33. Construction Certificate

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

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

(Reason: Ensure compliance and statutory requirement)

34. Notify Council of Intention to Commence Works

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

(Reason: Information and ensure compliance)

35. Occupation Certificate

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

(Reason: Safety)

ATTACHMENT 6: NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2023/59

At: 1 Wilkes Avenue, ARTARMON NSW 2064

