

DA NO: DA-2014/578/A

ADDRESS: 1 FREDERICK STREET, ARTARMON NSW 2064.

PROPOSAL: MODIFICATION OF APPROVED DEVELOPMENT INCLUDING CHANGE OF USE OF MALL EXTENSION TO CAFE/RESTAURANT, DELETION OF APPROVED VEHICLE ACCESS, REINSTATEMENT OF EXISTING VEHICLE INGRESS AND EGRESS, ALTERATIONS TO EXISTING BUILDING, LANDSCAPING AND ASSOCIATED WORKS.

RECOMMENDATION: APPROVAL

ATTACHMENTS:

1. SCHEDULE OF CONDITIONS
2. SITE DESCRIPTION AND AERIAL PHOTO
3. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
4. SECTION 4.15 (79C) ASSESSMENT
5. SECTION 4.55(2) (96) ASSESSMENT
6. NOTIFICATION MAP

RESPONSIBLE OFFICER: RITU SHANKER (TEAM LEADER)

AUTHOR: CHI WAI KONG (DEVELOPMENT ASSESSMENT OFFICER)

MEETING DATE 26 NOVEMBER 2019

1. PURPOSE OF REPORT

The purpose of this report is to seek determination by Willoughby Local Planning Panel (WLPP) of development application DA-2014/578/A for the modification of the approved development including the following:

- Change of use of the approved mall extension on the west of the subject building to cafe/restaurant and associated works,
- Delete the approved vehicle ingress to the basement adjoining the northern boundary,
- Reinstate the existing vehicle ingress and egress,
- Alterations to the existing building and upgrade the landscaped area on the northern and southern side,
- Reposition the approved non-illuminated signage A to the northern facade,
- Hours of operation : Monday to Saturday: 7:00 am to 12:00 midnight
Sunday: 7:00 am to 10:00 pm

The application is required to be referred to the WLPP for determination because the owner of the subject building is Willoughby City Council and the modification application is lodged under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*.

2. OFFICER'S RECOMMENDATION

THAT the Willoughby Local Planning Panel:

- 2.1 Approve Development Application DA-2014/578/A for change of use of the mall extension to cafe/restaurant, deletion of the approved vehicle access to the basement car park, reinstatement of the existing vehicle ingress and egress,**

alterations to the existing building, landscaping and associated works subject to conditions contained in Attachment 1, for the following reasons:

- 2.1.1 The modified proposal is consistent with the objectives for development in the IN1 General Industrial Zone, and objectives for the floor space ratio development standard and heritage conservation contained in the WLEP 2012.**
- 2.1.2 The modified development is consistent with the objectives for industrial development contained in Part F of the Willoughby DCP.**
- 2.1.3 The modified development is not considered to create significant impact on the heritage character of the subject heritage building and public domain, and is consistent with the industrial character of the locality and the desired future character.**

3. BACKGROUND

The site is located on the north-eastern corner of the intersection of Frederick Street and Reserve Road in Artarmon. The existing building at the subject site is a bulky goods retail centre known as Home HQ Artarmon. The centre accommodates 3 levels of bulky goods retail premises and 3 levels of basement car park. Car parking spaces and parcel pick up spaces are provided at the on-grade car park at the Reserve Road frontage of the site. Vehicular access to the site is provided from both Reserve Road and Frederick Street. A description of the site and surrounding area, including an aerial photograph is contained in **Attachment 2**.

The original Development Application (DA 2014/578) for alterations and additions to the existing bulky goods retail centre was approved by Council on 3 August 2015.

Development consent for DA 2016/526 for construction of 2 new buildings to the existing premises ground floor car parking level, landscaping, signage and associated works was granted by Sydney North Planning Panel on 26 July 2017.

4. DISCUSSION

The original development consent is for a proposal on the western side of the subject site including a new mall extension, dining area and landscaped area to the north and south of the new mall extension, new vehicular access to the basement car park and 3 signage.

The current modification application is to modify the approved development in regard to the change of use of the approved mall extension to cafe/restaurant, reinstatement of existing vehicle ingress and egress, internal alterations to existing building, landscaping and associated works.

The controls and development statistics that apply to the subject land are provided in **Attachment 3**.

No objection to the proposal was raised by Council's Building Surveyor, Heritage Architect, Landscape Architect, Traffic Engineer and Development Control Engineer.

Owners of neighbouring properties were notified for a period of 14 days and no submissions were received.

A detailed assessment of the proposal for approval is provided in **Attachments 4 and 5**.

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

<https://eplanning.willoughby.nsw.gov.au/Common/Common/terms.aspx>

5. CONCLUSION

The Development Application DA-2014/578/A has been assessed in accordance with Sections 4.15 and 4.55(2) 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 1**.

ATTACHMENT 1: SCHEDULE OF CONDITIONS

SCHEDULE

CONDITIONS OF CONSENT: (including reasons for such conditions)

Development Consent 2014/578 is modified as follows:

A. Condition 1 is amended to read as follows:

1. Approved Plan/Details

The development must be in accordance with the following plans:

Type	Plan No.	Revision / Issue No	Plan Date (as Amended)	Date Stamped by Council	Prepared by
Demolition	DA04	B	05.05.2015	07 May 2015	Saunders global
Architectural	DA06 – DA 12 (inclusive)	B	& 06.05.2015		
Landscape	DA01- DA010 (inclusive)	D	21.04.2015		Arcadia Landscape Architecture
Landscape Details	DA101, 501 & 502	D			

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

As modified by (DA-2014/578/A)

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Demolition plan Level LG & GL	DA06	C	9.08.19	HDR
Architectural plans	DA06A, DA07, DA08, DA09, DA10, DA11 and DA12			
Landscape	DA_05, DA_06, DA_07, DA_08	E	09.09.2019	Arcadia Landscape Architecture
Landscape Details	DA_010, 101, 501 & 502		09.09.2019 & 09.08.2019	

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)

B. Condition 3 is amended to read as follows:

3. Roof Material – Glare

The external finish to the roof shall have a BASIX classified roof colour in the medium or dark range to minimise the effects of glare to neighbouring properties. Roof colour is to be submitted with the application for Construction certificate.
(Reason: Amenity)

C. Condition 5 is amended to read as follows:

5. Sydney Water Quick Check Certificate

The approved plans must be submitted to Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains and to see if further requirements need to be met.

Plans will be appropriately stamped and the Certifying Authority must ensure the plans are stamped by Sydney Water prior to release of the Construction Certificate.
(Reason: Ensure compliance)

D. Condition 7 is amended to read as follows:

7. Heritage - Photographic Survey

A photographic survey is to be submitted to the Certifying Authority and a copy lodged with Willoughby City Council for its historical archives. The photographic survey is to be submitted in a report format, and shall include:

- a) A front cover marked with:
 - the name/location of the property;
 - the date of the survey;
 - the name of the company or persons responsible for the survey.
- b) A layout plan of the existing building and site; identifying rooms and features shown in the photographs.
- c) Photographs of the interior, exterior, grounds and a streetscape view of the building, labelled to indicate their location in relation to the layout plan. Photographic records of each elevation and each room and any architectural/decorative features or finishes are to be included. Where colour is a feature of the building (for example, the building features stained glass, leadlight or polychrome brickwork), additional colour photographs are to be included in the photographic survey report.

(Reason: Heritage conservation)

E. Condition 8 is amended to read as follows:

8. External Finishes – Heritage Character

All external building material shall be in colours and textures, which are compatible with the heritage character of the locality. In this regard:

- (a) a schedule of these colours and textures shall be submitted to the Certifying Authority.
(Reason: Visual amenity)

F. Condition 10 is amended to read as follows:

10. Detailed Stormwater Management Plan (SWMP)

Submit for approval by the Certifying Authority, detailed stormwater management plans in relation to the on-site stormwater management and disposal system for the development. The construction drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer showing that stormwater runoff from the proposed driveway and roof areas is collected and directed to the existing on-site detention system. All drawings shall comply with Part C.5 of Council's Development Control Plan and Technical Standards, AS3500.3 – *Plumbing and Drainage Code* and BCA.

(Reason: Ensure compliance)

G. Condition 11 is amended to read as follows:

11. Revised Architectural Plans

Prior to issue of any Construction Certificate, the applicant shall submit, for approval by the Certifying Authority, revised architectural plans showing the following:

- a) The removal of the existing exit vehicular crossing and the associated concrete island in Reserve Road and reinstated with kerb and gutter with turfing on the nature strip. All works shall be carried out to Council's Specification.
- b) The reconstruction of the existing entry vehicular crossing to Council's Specification. The crossing shall be 3.6m wide and be constructed at right angle to the street kerb in plain concrete.

(Reason: Public amenity)

H. Condition 13 is amended to read as follows:

13. Licensee Details

The name, address and contractor licence number of the licensee who has contracted to carry out the work or the name and permit number of the Owner-Builder who intends to carry out the work shall be furnished in writing to the Certifying Authority.

NB: Should changes be made for the carrying out of the work the Certifying Authority must be immediately informed.

(Reason: Information)

I. Condition 38 is amended to read as follows:

38. Vehicular Crossing

Reconstruct the existing entry vehicular crossing including the replacement of the existing layback and/or gutter and any associated road restoration as directed by Council's Engineers. All works shall be carried out in accordance with Council's specification AUS-SPEC C271 and Council's Standard Drawing SD105 - Council Vehicular Footpath Crossing and Kerb and Gutter details and any approved

longitudinal sections. A separate application for the crossing including current fees and charges is to be submitted for approval by Council.

The crossing is to be 3.6 metres wide with no splays and is to be constructed at right angles to the street kerb in plain concrete. The new crossing shall be located no closer than 1 metre from the adjoining property boundary and 2 metres from any street tree unless otherwise approved by Council.

For the design levels of the vehicular crossing at the property boundary, the following shall be complied with:

- (a) At back of layback – 100 mm above and parallel to the gutter invert.
- (b) At property boundary – match with the finished level of the internal driveway levels at the property.

The footpath which forms part of the proposed crossing shall have a maximum crossfall of 2.5%. The nature strip and footpath is to be adjusted for a minimum distance of 3 metres on both sides of the crossing to suit the new levels.

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

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

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.
(Reason: Public amenity)

J. Condition 39 is deleted.

K. Condition 54A is added to read as follows:

54A. Hours of Operation

The hours of operation of the café/restaurant are to be restricted to those times listed below, i.e.:

Monday to Saturday	7.00 am to 12.00 midnight
Sundays	7.00 am to 10.00pm

Any variation to these hours is to be subject to the prior consent of Council.
(Reason: Amenity)

ATTACHMENT 2: SITE DESCRIPTION AND AERIAL PHOTO

The site is located on the north-eastern corner of the intersection of Frederick Street and Reserve Road in Artarmon. The existing building at the subject site is a bulky goods retail centre known as Home HQ Artarmon. The centre accommodates 3 levels of bulky goods retail premises and 3 levels of basement car park. Car parking spaces and goods pick up spaces are provided at the on-grade car park at the Reserve Road frontage of the site. Vehicular access to the site is provided from both Reserve Road and Frederick Street. The main customer basement car park and service yard/loading access is provided via a signalised access on Frederick Street while an open car parking area located on the western side is accessed from Reserve road with a connecting ramp to the basement car park.

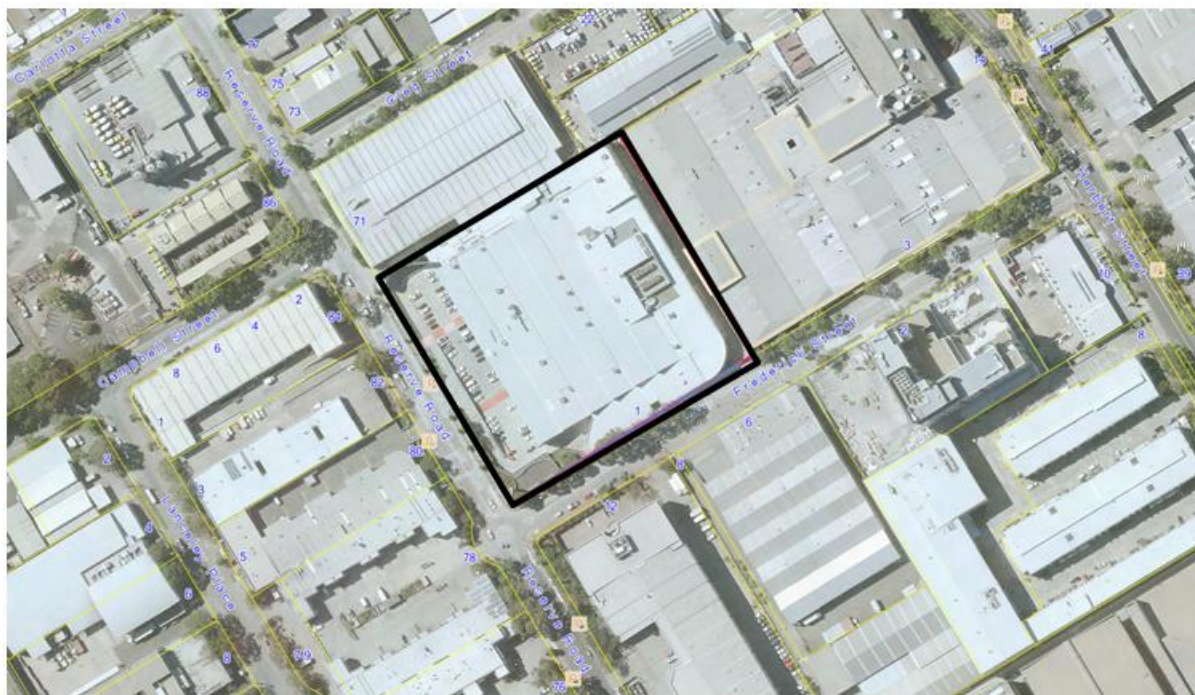


Figure 1: Aerial view of the location of the subject site

The existing development at the site is the result of an adaptive reuse of a Local Heritage Item previously used by Willoughby City Council as a workshop depot. The main heritage features of the existing building the industrial building façade and roof forms. Owing to the site level difference between the ground floor of the building and Frederick Street, the main heritage façade of the building is partly below the street level. The site has a viewing platform located at the corner of Reserve Road and Frederick Street to the heritage façade.

Immediately adjoining the development site to the north is a Bunnings Warehouse and a self-storage building to the east. Opposite the site are industrial complexes. Royal North Shore Hospital is further to the south of Reserve Road.

The original Development Application (DA 2014/578) for alterations and additions to the existing bulky goods retail centre was approved by Council on 3 August 2015.

Development consent for DA 2016/526 for construction of 2 new buildings to the existing premises ground floor car parking level, landscaping, signage and associated works was granted by Sydney North Planning Panel on 26 July 2017.



Figure 2: Western view of the subject building from Reserve Road



Figure 3: View of the subject site from the viewing platform located at the corner of Reserve Road and Frederick Street

ATTACHMENT 3: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS

Willoughby Local Environmental Plan 2012 Zoning:	IN1 General Industrial
Existing Use Rights	No
Conservation area	No
Heritage Item	Yes. General Local Item (I1)
Vicinity of Heritage Item	No
Flood related planning control	Yes
Adjacent to classified road	No
Road/lane widening	No
Applicable DCP	WDCP
Applicable SEPPs	SEPP 64 – Advertising and Signage
Relevant policies and resolutions	N/A

Development Statistics (R2 & E4 – Dwelling House and/or ancillary development)					
		As approved (DA 2014/578)	Calc. by Council	Standard	Numerical Compliance
	Site Area (m²)	16,210	No change	No change	
<u>WLEP 2012</u>					
		As approved (DA 2014/578)	Calc. by Council	Standard	Numerical Compliance
CI.4.3	Height (m)	8.08	No change	-	-
CI.4.4 & CI. 4.4A	GFA (m²)	25,990	26,003	24,315 m ²	No ⁽¹⁾
	Retail centre	No change	No change		
	Mall Extension	897	910		
	FSR	1.6:1	1.6:1	1.5:1	
<u>WDCP</u>					
		As approved (DA 2014/578)	Calc. by Council	Standard	Numerical Compliance
C.4	Parking Spaces	446	446	507 6/100m ² for bulky goods 4/100m ² for restaurant	No ⁽²⁾

Compliance with Plans and Policies

The proposal will not comply numerically with the following requirements of **Willoughby Local Environmental Plan 2012**

(1) Floor Space ratio

The numerical non-compliance with the FSR was discussed in the assessment of the original development application and considered acceptable. The gross floor area of the current modification application is 13m² (0.05%) greater than that of the approved development. Clause 4.6 variation is required for S4.55 under **WLEP 2012**. Therefore, the current proposal is considered acceptable and no significant additional environmental impact is likely to impact on adjoining properties.

The proposal will not comply numerically with the following requirements of **Willoughby Development Control Plan**

(2) Parking Spaces

The numerical non-compliance with car parking provision was discussed in the assessment of the original development application and considered acceptable. It is noted that the provision of car parking spaces is same as that of the approved development. Therefore, the numerical non-compliance with car parking provision is considered acceptable. Council's Traffic Engineer raised no objection to the car parking issue.

Developer's Contribution Plans:

S7.11/7.12 Section 94A contribution:	Yes. No change to the original monetary contribution
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Referrals

Building Services	No objection and no additional conditions.
Development Control Engineer	No objection subject to amendments to the approved conditions.
Traffic Engineer	No objection and no additional conditions.
Landscape Architect	No objection subject to recommended conditions.
Heritage Architect	No objection and no additional conditions.

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 ✓ Considered and Unsatisfactory ✗ 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) 	N/A
	<ul style="list-style-type: none"> Local Environmental Plans (LEP) 	✓
	<p>Comment: The modified development is consistent with the objectives of IN1-General Industrial zone. The numerical non-compliance with the FSR is existing and considered acceptable.</p> <p>Within the General Industrial zone café/restaurant is ultimately a form of 'commercial premises'. As commercial premises are prohibited in the General Industrial zone a café/restaurant would ordinarily be a prohibited use. A café already exists on this site, within the heritage building. The café/restaurant is considered ancillary to the other retail uses.</p> <p>The existing building on the site is a Local Heritage Item. Council's Heritage Architect concurs with the submitted Heritage Statement that the proposed amendments to the approved extension have reduced its envelope and scale which allows the approved extension to become more visually subservient to the original facades of the heritage item, with new western façade becoming further modulated and articulated with its division into 6 steel column and beam bays. The approved wall extension continues to be a recessive element compared to the larger more imposing existing building.</p> <p>The new location of signage A is consistent with the Assessment Criteria of Schedule 1 of SEPP 64 – Advertising and Signage as it is compatible with the character of the site and locality, does not reduce the quality of vistas and contributes to the visual interest of the streetscape.</p> <p>Council's Heritage Architect advised that the new location of signage A to the north will not compete with the heritage setting of the main building.</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) 	N/A
	Comment: There are no draft EPIs that apply to the subject land.	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> Development control plans (DCPs) 	✓
	Comment: The car parking provision of the approved development does not comply with the requirements under Part C.4 of WDCP. The gross floor area of the modified development is less than the approved development and car parking provision remains the same as approved. Council's Traffic Engineer raised no objection to the proposal.	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> Clause 92 EP&A Regulation-Demolition 	✓

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Considered and Unsatisfactory ✗ and Not Relevant 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: A standard condition which requires any demolition to be carried out in accordance with the requirements of AS 2601 is included in the development consent.</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 	N/A
	<ul style="list-style-type: none"> • Heritage 	✓
	<ul style="list-style-type: none"> • Privacy 	N/A
	<ul style="list-style-type: none"> • Views 	✓
	<ul style="list-style-type: none"> • Solar Access 	✓
	<ul style="list-style-type: none"> • Water and draining 	N/A
	<ul style="list-style-type: none"> • Soils 	✓
	<ul style="list-style-type: none"> • Air & microclimate 	N/A
	<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: Overland flow path 	✓
	<ul style="list-style-type: none"> • Safety, security crime prevention 	✓
	<ul style="list-style-type: none"> • Social impact in the locality 	✓
	<ul style="list-style-type: none"> • Economic impact in the locality 	✓
	<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 	✓
	<p>Comment: The proposed café/restaurant use is ancillary and compatible with the existing bulky goods retail use. It serves the need of the patrons and supports the viability of the subject centre.</p>	
(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? 	✓
	<p>Comment: The proposed use is compatible with existing bulky goods retail use. Further Council's Heritage Architect advised that <i>the proposed amended design, facilitating ongoing conservation of the heritage item by maintaining economic viability, that the new application has generally improved the subservience and design of the extension by removing the top tiered pavilion skillion on the roof, introduction of more sympathetic materials and reducing the amount of loss of original fabric.</i></p>	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> • Public submissions 	N/A
	<ul style="list-style-type: none"> • Submissions from public authorities 	N/A
	<p>Comment: No submissions were received.</p>	
(e)	The public interest	

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Considered and Unsatisfactory ✘ and Not Relevant N/A

	<ul style="list-style-type: none">Federal, State and Local Government interests and Community interests	✓
	Comment: The proposal does not compromise the heritage characteristic of the subject heritage building or industrial character of the locality. Therefore, the proposal is in the public interest.	

ATTACHMENT 5: - SECTION 4.55(2) (96) ASSESSMENT

Considerations Under S4.55(2) EP&A Act - Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

(a)	it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	✓
	Comments: The application relates to change of use of the approved mall extension and alterations to the bulky goods centre, the development is substantially the same development for which the original consent was granted.	
(b)	it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	✓
	Comments: N/A	
(c)	it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and	✓
	Comments: The modified application was notified in accordance with Part B4 of WDCP and no submissions were received.	
(d)	it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.	✓
	Comments: N/A	

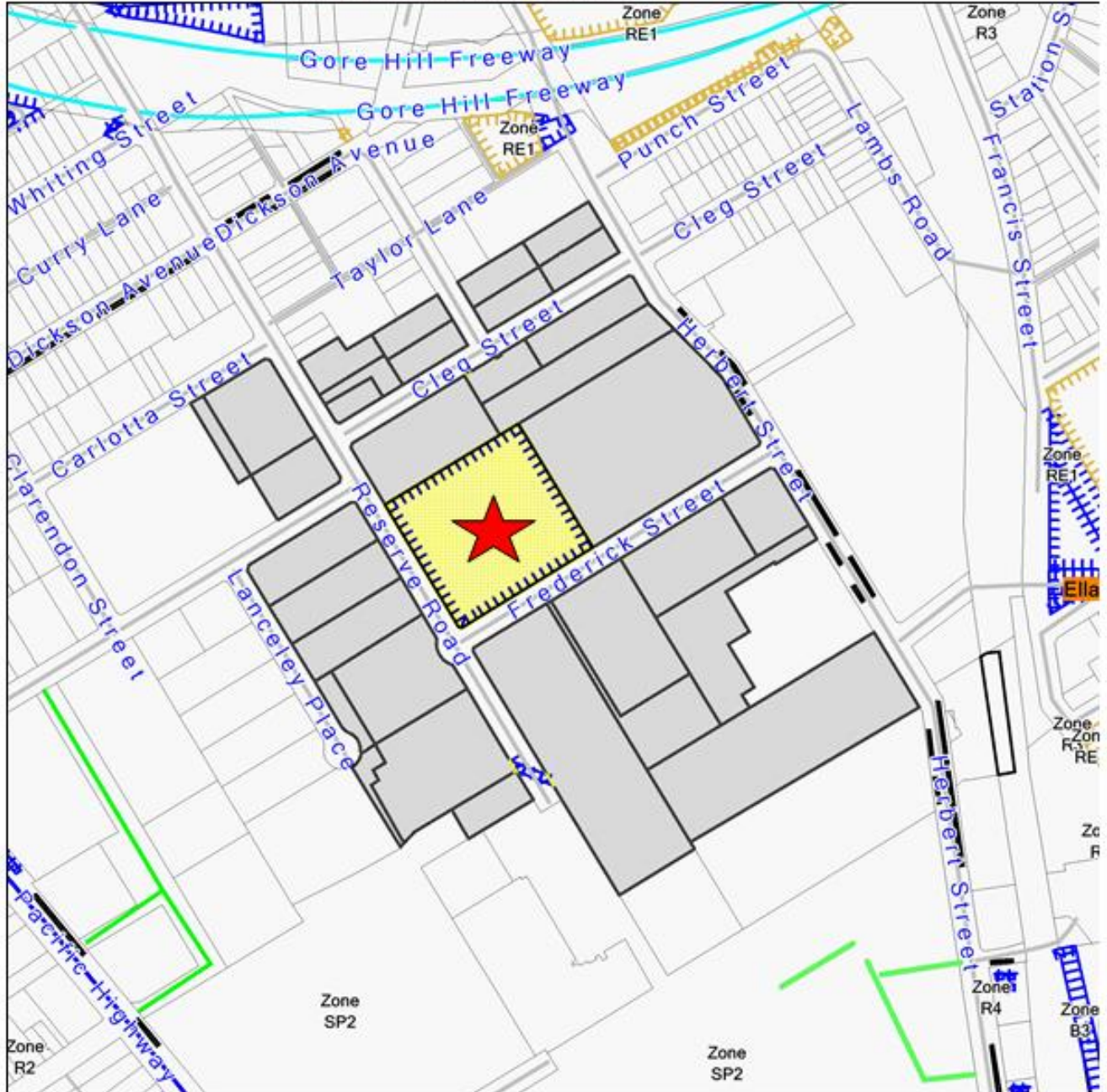
ATTACHMENT 6: NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2014/578/A

At: 1 Frederick Street, ARTARMON NSW 2064.



SUBJECT PROPERTY 