

**DA NO:** DA-2019/357  
**ADDRESS:** 1 FREDERICK STREET, ARTARMON NSW 2064.  
**PROPOSAL:** PROPOSED FIRST USE AND FITOUT OF MALL EXTENSION AT THE FRONT (WEST) OF EXISTING BUILDING FOR CAFE/RESTAURANT AND LANDSCAPING INCLUDING AN ANCILLARY CHILDREN PLAY AREA IN THE NORTHERN COURT YARD.  
**RECOMMENDATION:** APPROVAL  
**ATTACHMENTS:**  
1. SITE DESCRIPTION AND AERIAL PHOTO  
2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS  
3. SECTION 4.15 (79C) ASSESSMENT  
4. SCHEDULE OF CONDITIONS  
5. NOTIFICATION MAP  
**RESPONSIBLE OFFICER:** RITU SHANKAR - TEAM LEADER  
**AUTHOR:** CHI WAI KONG - DEVELOPMENT ASSESSMENT OFFICER  
**REPORT DATE** 30 MARCH 2020

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## 1. PURPOSE OF REPORT

The purpose of this report is to seek determination by *Willoughby Local Planning Panel (WLPP)* of Development Application DA-2019/357 for the first use and fitout of the mall extension located at the front (west) of the existing building for cafe/restaurant and outdoor dining/landscaped area including an ancillary children play area in the northern court yard.

Hours of operation: Monday to Saturday 7:00 am to 12:00 midnight  
Sunday 7:00 am to 10:00 pm

A maximum of 400 patrons and 20 staff present in the premises at any one time.

The application is required to be referred to *WLPP* for determination because the owner of the subject building is Willoughby City Council.

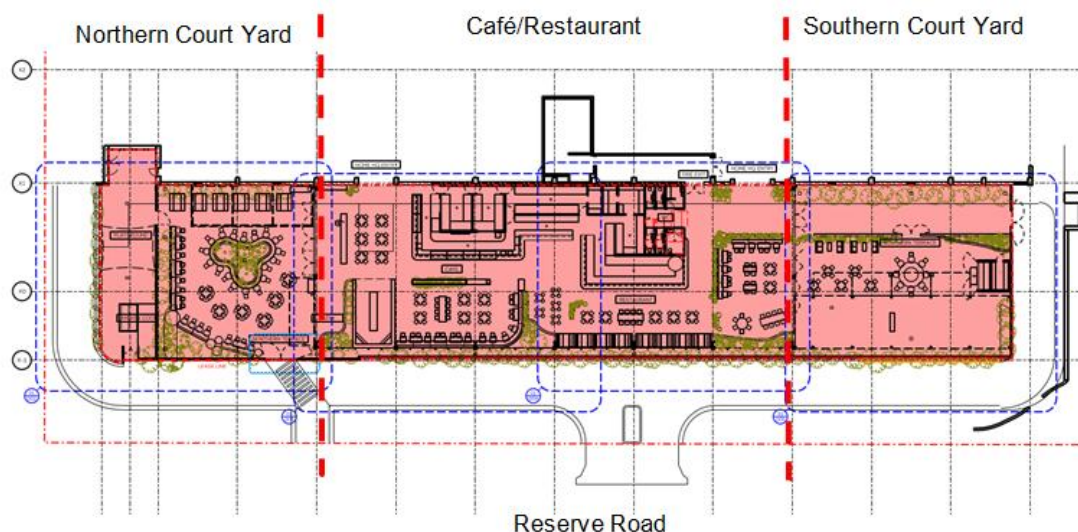


Figure 1: General arrangement plan



Figure 2: Photomontage of northern court yard



Figure 3: Photomontage of café/restaurant



Figure 4: Photomontage of southern court yard

## 2. OFFICER'S RECOMMENDATION

THAT the *Willoughby Local Planning Panel*:

2.1 Approve Development Application DA-2019/357 for the first use and fitout of a mall extension at the front (west) of building for cafe/restaurant and landscaping including an ancillary children play area in the north court yard subject to conditions contained in Attachment 4, for the following reasons:

- 2.1.1 The proposed development 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 *Willoughby Local Environmental Plan 2012 (WLEP 2012)*.
- 2.1.2 The proposed development is consistent with the objectives for industrial development contained in Part F of the *Willoughby Development Control Plan (WDCP)*.
- 2.1.3 The proposed 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.
- 2.1.4 The proposed development is consistent with the development approval for Modification Application (DA-2014/578/A) for modification of use of the mall extension as cafe/restaurant and outdoor dining/landscaped area that was approved by the *WLPP* on 26 November 2019.

## 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 listed Local Heritage Item (I1) and used as 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 1**.

Development Application (DA-2007/479) for alterations and additions plus change of use for the purpose of a bulky goods retailing centre Home HQ was approved by Council on 25 March 2008.

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

Modification Application (DA-2014/578/A) for 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 was approved by *WLPP* on 26 November 2019.

#### **4. DISCUSSION**

The current development application is for the first use and fitout of a cafe/restaurant and outdoor dining/landscaped area including an ancillary children play area in the northern court yard as per the development consent of Modification Application (DA-2014/578/A) approved by *WLPP* on 26 November 2019.

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

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

Owners of neighbouring properties were notified for a period of 21 days and no submissions were received.

A detailed assessment of the proposal for approval is provided in **Attachment 3**.

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/pages/xc.track/SearchApplication.aspx?id=496220>

#### **5. CONCLUSION**

The Development Application DA-2019/357 has been assessed in accordance with Sections 4.15 of the *Environmental Planning and Assessment Act 1979*, *WLEP 2012*, *WDCP* and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in **Attachment 4**.

**ATTACHMENT 1: 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 listed Local Heritage Item (I1) and used as 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.

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 of the site is accessed from Reserve Road with a connecting ramp to the basement car park.



Figure 5: 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 (I1) 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 and Reserve Road, 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 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.

Development Application (DA-2007/479) for alterations and additions plus change of use for the purpose of a bulky goods retailing centre Home HQ was approved by Council on 25 March 2008.

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

Modification Application (DA-2014/578/A) for 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 was approved by the WLPP on 26 November 2019.



Figure 6: Western view of the subject building from Reserve Road



Figure 7: View of the subject site from the viewing platform located at the corner of Reserve Road and Frederick Street

**ATTACHMENT 2: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS**

<b>Willoughby Local Environmental Plan 2012 Zoning:</b>	IN1 General Industrial
Existing Use Rights	No
Conservation area	No
Heritage Item	Yes. Local Heritage 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	N/A
Relevant policies and resolutions	N/A

Modification Application (DA-2014/578/A) for use of the mall extension located on the front (west) of the existing building as cafe/restaurant, landscaping and associated works was approved by WLPP on 26 November 2019. The current development application is for the first use of the approved development and the development statistics are same as those approved.

<b>Development Statistics</b>					
		<b>Approved (DA-2014/578/A)</b>	<b>Proposed</b>	<b>Standard</b>	<b>Numerical Compliance</b>
<b>Site Area (m<sup>2</sup>)</b>		16,210	No change	No change	
<b><u>WLEP 2012</u></b>					
		<b>Approved (DA-2014/578/A)</b>	<b>Proposed</b>	<b>Standard</b>	<b>Numerical Compliance</b>
<b>CI.4.3</b>	<b>Height (m)</b>	8.08	No change	-	-
<b>CI.4.4 &amp; CI. 4.4A</b>	<b>GFA (m<sup>2</sup>)</b>	26,003	No change	24,315 m <sup>2</sup>	No <sup>(1)</sup>
	<b>Retail centre</b>	No change	No change		
	<b>Mall Extension</b>				
	<b>Café/restaurant</b>	910	No change		
	<b>Terrace/landscaping</b>	948	No change		
	<b>FSR</b>	1.6:1	No change	1.5:1	
<b><u>WDCP</u></b>					
		<b>Approved (DA-2014/578/A)</b>	<b>Proposed</b>	<b>Standard</b>	<b>Numerical Compliance</b>
<b>C.4</b>	<b>Parking Spaces</b>	446	No change	507 6/100m <sup>2</sup> for bulky goods 4/100m <sup>2</sup> for restaurant	No <sup>(2)</sup>

**Compliance with Plans and Policies**

The numerical non-compliance with floor space ratio and car parking requirement has been considered in the assessment of the previous application and was considered acceptable. Therefore, it will not be discussed in the current application.

Developer's Contribution Plans:

S7.12 Contribution:	Yes. \$20,845.05
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Referrals

Building Services	No objection subject to conditions.
Development Control Engineer	No objection subject to conditions.
Environmental Health Officer	<p>Council's Officer advised <i>that the Food Safety Standards require food (including drink) to be protected from contamination and for ceilings over food handling areas to be able to be easily and effectively cleaned. It is noted that the design of the open style dining area will allow the entry of pigeons and minor birds to scavenge for food scraps. They will also potentially roost on the roof frame and be a nuisance to the customers and present a health risk to the exposed benchtops and uncovered food/drinks being prepared in the various food areas.</i></p> <p>Thus the Officer advised that <i>a solid, rigid, smooth-faced ceiling needs to be included over <b>all food preparation &amp; service areas</b> to prevent contamination of food (particularly from bird droppings). It does not include the dining areas.</i></p> <p>To ensure the proposal would comply with the National Food Safety Standards and AS 4674, a condition is imposed requiring the applicant to submit plans and specifications to satisfy the recommended environmental health requirements to Council for approval prior to making an application for a Construction Certificate (<b>Condition 3</b>).</p> <p>No objection subject to the compliance with the recommended conditions.</p>
Landscape Architect	No objection subject to conditions.
Heritage Advisor	<p>Council's Heritage Advisor advised that <i>in consideration of the issues and proposed construction methods stated in the Statement of Heritage Impact, it is considered that the proposed first use and fit-out to the extension at front of heritage listed building for cafe/restaurant and landscaping is acceptable from a heritage view point, subject to the recommended conditions.</i></p>



**ATTACHMENT 3: SECTION 4.15 (79C) ASSESSMENT**

**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"> <li>State Environmental Planning Policies (SEPP)</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>Regional Environmental Plans (REP)</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>Local Environmental Plans (LEP)</li> </ul>	✓
	<p><b>Comment:</b> The proposed development is consistent with the objectives of IN1- General Industrial zone. The numerical non-compliance with the FSR has been assessed in the previous Modification Application (DA-2014/578/A) and was considered acceptable. The current application does not propose any changes to the approved floor space ratio.</p> <p>The existing building on the site is a Local Heritage Item (I1). The proposal is consistent with the objectives of Clause 5.10 – Heritage Conservation of WLEP 2012.</p> <p>Council’s Heritage Advisor advised that the submitted Statement of Heritage Impact has stated that “fit-out would not entail the removal of any significant or original fabric or physically impact the fabric in any way and all works are to be contained within the interior of the approved glazed extension that was approved and all works would be completely reversible.” Further, construction methods and recommendations are stated in the Statement of Heritage Impact to protect the western wall of the heritage item. Therefore, the proposal is considered acceptable from a heritage point of view subject to the recommended conditions.</p>	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> <li>Draft State Environmental Planning Policies (SEPP)</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>Draft Regional Environmental Plans (REP)</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>Draft Local Environmental Plans (LEP)</li> </ul>	N/A
	<b>Comment:</b> There are no draft EPIs that apply to the subject land.	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> <li>Development control plans (DCPs)</li> </ul>	✓
	<p><b>Comment:</b> The numerical non-compliance with the car parking requirement under Part C.4 of WDCP has been assessed in the previous Modification Application (DA-2014/578/A) and was considered acceptable. The current application does not propose any changes to the approved car parking provision.</p>	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> <li>Clause 92 EP&amp;A Regulation-Demolition</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Clause 93 EP&amp;A Regulation-Fire Safety Considerations</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>Clause 94 EP&amp;A Regulation-Fire Upgrade of Existing Buildings</li> </ul>	N/A
	<p><b>Comment:</b> 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"> <li>Context &amp; setting</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Access, transport &amp; traffic, parking</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Servicing, loading/unloading</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Public domain</li> </ul>	✓

**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"> <li>• Utilities</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Heritage</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Privacy</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Views</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Solar Access</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Water and draining</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Soils</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Air &amp; microclimate</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Flora &amp; fauna</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Waste</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Energy</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Noise &amp; vibration</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Natural hazards: Overland flow path</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Safety, security crime prevention</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Social impact in the locality</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Economic impact in the locality</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Site design and internal design</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Construction</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Cumulative impacts</li> </ul>	✓
	<p><b>Comment:</b> 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"> <li>• Does the proposal fit in the locality?</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Are the site attributes conducive to this development?</li> </ul>	✓
	<p><b>Comment:</b> The proposed use is compatible with existing bulky goods retail use. Further, Council's Heritage Advisor advised that <i>in consideration of the issues and proposed construction methods stated in the Statement of Heritage impact, it is considered that the proposed first use and fit-out to the extension at front of heritage listed building for cafe/restaurant and landscaping is acceptable from a heritage view point, subject to the recommended conditions.</i></p>	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> <li>• Public submissions</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Submissions from public authorities</li> </ul>	N/A
	<p><b>Comment:</b> No submissions were received.</p>	
(e)	The public interest	
	<ul style="list-style-type: none"> <li>• Federal, State and Local Government interests and Community interests</li> </ul>	✓
	<p><b>Comment:</b> 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.</p>	

**ATTACHMENT 4: 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	
Proposed general arrangement plan	DA D01	B	10.01.20	Etic	
Proposed general arrangement plan – northern terrace	DA D02	C	31.03.20		
Proposed general arrangement plan - cafe	DA D03	B			
Proposed general arrangement plan - restaurant	DA D04				
Proposed general arrangement plan – southern terrace	DA D05				
Proposed sections AA & BB	DA E01				
Proposed sections CC & DD	DA E02				
Proposed sections EE	DA E03				
Proposed sections FF – parts 01 &02	DA E04				
Proposed sections FF – part 03	DA E05				
Proposed sections GG – parts 01 & 02	DA E06				
Proposed sections GG – part 03	DA E07				
Proposed sections HH – parts 01 & 02	DA E08				
Proposed sections HH – part 03	DA E09				
Site plan	LA – 03			D	27.11.19
Northern courtyard	LA – 04				
Southern courtyard	LA - 05				
Planting palette & schedule	LA - 06				

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)

**2. Western Front Facade of Heritage Item**

All new works to and immediately adjacent to the western heritage front facade are to be undertaken such that it can be reversible so as to protect the original heritage fabric. All works are to be contained within the glazed area approved under Development Application No. 2014/578/A.  
(Reason: Heritage protection)

**PRIOR TO MAKING AN APPLICATION FOR A CONSTRUCTION CERTIFICATE**

**The following conditions are to be complied with before any Construction Certificate Application is made to the Certifying Authority.**

**3. Submit the Following Information to Willoughby City Council**

Prior to the lodgement of an application for a construction certificate, the applicant shall submit plans and specifications satisfying the following environmental health requirements to Willoughby City Council for approval. Documentation confirming approval by Willoughby City Council shall then be submitted to the Certifying Authority for the application of a Construction Certificate.

The information required includes:

- a) A rigid, smooth-faced, and easy-to-clean roof structure shall be provided over the entire café food preparation and plating area and the pizza preparation area;
- b) The sink in the corner of the café preparation stainless steel benchtop shall be relocated away from the corner so that it is easily accessible;
- c) A suitable sneeze guard of sufficient height, width and depth made of a rigid, smooth-faced, and easy-to-clean material (such as glass, Perspex or similar) shall be provided to protect food from droplet infection from customers in the café plating area;
- d) A hand wash basin of sufficient volume fitted with a mixer tap, warm water supply, liquid soap and paper towel shall be provided in the dishwash room adjacent to the café;
- e) Adequate bench/shelf space shall be provided for dirty dishes/equipment and drying of clean dishes/equipment in the dish wash room or in close proximity;
- f) Details shall be provided on where food preparation sinks are located and the purpose of other sinks. Adequate provision shall be made for sanitising sinks (or other means of sanitising) in areas which are located away from the dish wash room; and
- g) A shelf made of an impervious, smooth-faced, and easy-to-clean material (such as stainless steel or similar) shall be provided to cover entirely over the sandwich presses in the bakery area to prevent foreign matter, dirt and dust from contaminating food.

(Reason: Food safety, public health, compliance)

## PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

### 4. S7.12 Contribution

Prior to the issue of the Construction Certificate, a monetary contribution is to be paid in accordance with section 7.12 of *Environmental Planning and Assessment Act, 1979* in the amount of **\$20,845.05** for the purposes of the Local Infrastructure identified in the *Willoughby Local Infrastructure Contributions Plan*.

This contribution is based on **1%** of the estimated cost of development, being **\$2,084,505** at 28 November 2019 and the adopted *Willoughby Local Infrastructure Contributions Plan*.

#### Indexation

To calculate the monetary contribution that is payable, the proposed cost of development is to be indexed to reflect quantity variations in the Consumer Price Index, All Groups, Sydney, as published by the Australian Bureau of Statistics (ABS) between the date the proposed cost of development was agreed by the Council and the date the levy is to be paid as required by this Plan.

To calculate the indexed levy, the formula used to determine the monetary contribution is set out below:

$$\frac{\$C_o \times \text{Current CPI}}{\text{Base CPI}}$$

Where:

$\$C_o$  = the original development contribution determined by the Council based on a percentage of the cost of development as set out in the Contributions Plan

Current CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter immediately prior to the date of payment

Base CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter ending immediately prior to the date of imposition of the condition requiring payment of a contribution

Deferred payments of contributions will not be accepted.

Prior to payment Council can provide the value of the indexed levy.  
Copies of the *Willoughby Local Infrastructure Contributions Plan* are available for inspection online at [www.willoughby.nsw.gov.au](http://www.willoughby.nsw.gov.au)  
(Reason: Statutory requirement)

### 5. Heritage - Photographic Survey

Prior to the issue of the Construction Certificate, a photographic survey is to be 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:
  - (i) the name/location of the property;
  - (ii) the date of the survey;
  - (iii) 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.

Documentary evidence from the applicant confirming lodgement is to be provided to the Accredited Certifier.

(Reason: Heritage conservation)

## **6. 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 schedule of colours and textures shall be submitted to the Certifying Authority, prior to the issue of Construction Certificate.

(Reason: Visual amenity and heritage protection)

## **7. No Attachments to the Western Heritage Wall Facade**

All new works are to be free standing and not entail removal of any significant or original fabric or physically impact the fabric of the Heritage listed item in any way. The applicant is to ensure the retention of the significance of the listed heritage item, including its associated fabric, setting and views. Details of the protection measures are to be provided to the Accredited Certifier prior to the Issue of Construction Certificate.

(Reason: Heritage protection)

## **8. Damage Deposit**

Prior to the issue of the Construction Certificate, the applicant shall lodge a Damage Deposit of **\$11,000** (GST Exempt) to Council against possible damage to Council's assets and any infrastructure within the road reserve/footway during the course of the building works. The deposit will be refundable subject to inspection by Council after the completion of all works relating to the proposed development. For the purpose of inspections carried out by Council Engineers, an inspection fee of **\$169** (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 = \$11,000 + \$169 = \$11,169**

(Reason: Protection of public asset)

## **9. Detailed Stormwater Management Plan (SWMP)**

Prior to the issue of the Construction Certificate, submit to the Certifying Authority for approval, detailed stormwater management plans in relation to the on-site

stormwater management and disposal system for the new development. The construction drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer, with all stormwater from the new works draining to the existing OSD 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 National Construction Code. If an overland flow path is not available for the area of the proposed works, the pipe drainage system shall be designed to carry the flow from the 1%AEP storm.

(Reason: Ensure compliance)

#### **10. Overland Flow**

A suitably qualified and experienced civil engineer must certify that a suitably sized overland flow path is provided for the new works for the 1% AEP storm. If an overland flow path is not available, the piped system must be sized for the 1%AEP storm event, with a 50% blockage of the pipe network. The certification is to be submitted to the Certifying Authority prior to issue of the Construction Certificate.

(Reason: Prevent property damage)

#### **11. Construction Management Plan (CMP)**

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

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

(Reason: Compliance)

#### **12. Building Ventilation**

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

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

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

(Reason: Health and compliance)

### **13. Mechanical Ventilation – Food Premises**

Emission control equipment shall be provided in the mechanical exhaust system serving cooking appliances at the food premises to effectively minimise the emission of odours, vapours and oils. Solid fuel cooking equipment must have a separate exhaust ventilation system/s. Exhaust hoods must be of stainless steel construction with an internal 50mm x 50mm gutter, an unscrewable drainage plug at one corner and have removable grease filters for effective cleaning.

Prior to the issue of a Construction Certificate, detailed design plans, to scale, and specifications and operational information of the proposed emission control equipment shall be submitted to the certifying authority demonstrating that the ventilation system has been installed and is operating in accordance with the following Australian Standard/New Zealand Standards:

- (a) *AS/NZS 1668.1:1998 – The use of ventilation and air conditioning in buildings – Fire and smoke control in multi-compartment buildings;*
- (b) *AS/NZS 1668.2:2002 – The use of ventilation and air conditioning in buildings – ventilation design for indoor air contaminant control;* and
- (c) *AS/NZS 2918:2001 – Domestic solid fuel burning appliances – Installation.*

(Reason: Amenity, environmental compliance and health)

### **14. 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 Certifying Authority 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](http://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](http://www.foodstandards.gov.au).
- (Reason: Public health, safety and compliance)

#### **15. Noise Mechanical Services**

To minimise the impact of noise onto receivers on surrounding land, all mechanical services shall be designed to ensure “offensive noise”, as defined under the provisions of the *Protection of the Environment Operations Act 1997*, is not emitted from the development. Details of the proposed equipment, siting, appropriate noise criteria and any attenuation required shall be prepared by an appropriately qualified acoustic consultant and accompany the application for a Construction Certificate.

(Reason: Amenity, environmental compliance and health)

### **PRIOR TO COMMENCEMENT**

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

#### **16. Report Existing Damages on Council’s Property**

Prior to commencement of any works on site, submit to Council and the Principal Certifying Authority 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)

#### **17. Permits and Approvals Required**

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

- (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 the RMS. A separate written application to work outside normal hours must be submitted for approval.

It should also be noted that, in some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.

- (c) Permit to open public roads, including footpaths, nature strip, vehicular crossing or for any purpose whatsoever. All applications are to include current fees.

- (d) Permit to place skip/waste bin on footpath and/or nature strip. (Maximum three (3) days).
- (e) Permit to work and/or place building materials on footpath and/or nature strip. (Maximum two (2) weeks).
- (f) Permit to establish Works Zone on Public Roads adjacent to the Development including use of footpath area. Applications must be received by Council at least twenty-one days prior to the zone being required. The application will then be referred to the Council's Local Traffic Committee for approval, which may include special conditions.
- (g) Permit to construct vehicular crossings over Council's footpath, road or nature strip.

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

### **18. 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.**

### **19. Construction Methods**

All construction methods and recommendations made in the Statement of Heritage Impact (Job No. 8647, November 2019) prepared by Heritage 21 are to be complied with. In this regard, a suitably qualified Heritage Consultant is to be retained to supervise the works. Council is to be advised of the nominated consultant.  
(Reason: Heritage conservation and ensure compliance)

### **20. 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)

**21. Demolition Work AS 2601-2001**

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

(Reason: Safety)

**22. 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)

**23. 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)

**24. Tree Protection**

(a) Retain and protect the following trees and vegetation throughout the demolition and construction period: All trees not indicated for removal on the approved plans unless exempt under relevant planning instruments or legislation.

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

(c) Tree roots greater than 25mm diameter are not to be removed unless approved by a qualified Arborist on site.

(d) All structures are to bridge roots unless directed by a qualified Arborist on site.

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

(Reason: Tree management)

**25. Public Tree Protection**

Unless identified by the development consent, no tree roots over 50mm diameter are to be damaged or cut and all structures are to be bridged over such roots.

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

(Reason: Tree management)

**26. Storage of Materials on Council Land Prohibited**

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

(Reason: Safety, environmental protection)

**27. Dust Control**

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

- (a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- (b) Any existing accumulation of dust (e.g. in ceiling voids and wall cavities) must be removed using an industrial vacuum cleaner fitted with a high efficiency particulate air (HEPA) filter.
- (c) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system.
- (d) All stockpiles of materials that are likely to generate dust must be kept damp or covered.
- (e) Demolition work must not be carried out during high winds, which may cause dust to spread beyond the boundaries of the site.

(Reason: Amenity)

**28. Construction Noise**

Construction noise shall be controlled to comply with the requirements as set out in the EPA Interim Construction Noise Guideline. Noise levels shall not exceed the rated background level by more than 10dB(A) at the most sensitive receiver during the standard construction hours. A noise monitoring plan shall be implemented during construction. Where noise levels may be exceeded appropriate measures to control excessive noise shall be implemented immediately.

(Reason: Amenity)

**PRIOR TO OCCUPATION OF THE DEVELOPMENT**

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

**29. 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)

**30. On-site Water Management System**

Prior to the issue of any Occupation Certificate, the stormwater runoff from the new development shall be collected and disposed of via the OSD system in accordance with Sydney Water's requirements AS/NZS3500.3, Council's DCP and Technical Standards. The construction of the stormwater drainage system of the proposed development shall be generally in accordance with the approved design stormwater management plans and Council's specification (AUS-SPEC).

(Reason: Prevent nuisance flooding)

**31. Works-As-Executed Plans - Stormwater**

Prior to the issue of any Occupation Certificate and upon completion of the stormwater system, the following shall be submitted to the Certifying Authority:

- (a) Work-as-Executed plans based on the approved stormwater management plans from a registered surveyor to verify that the stormwater management system is constructed in accordance with design requirements. Any minor changes or variations to the approved plans should be highlighted in red on the approved stormwater plans.

(Reason: Record of works)

**32. Vehicular Access and Garaging**

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B99 vehicles. In all respects, prior to the issue of any Occupation Certificate, the proposed vehicle access including any parking spaces shall be designed and constructed to comply with the minimum requirements of AS/NZS 2890.1 and Council's standard specification.

(Reason: Vehicular access)

**33. 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)

**34. Completion of Landscape Works**

Prior to the issue of a Whole Occupation Certificate, any approved landscape works shall be consistent with the approved design, completed to a professional standard, consistent with industry best practice and published standards.

(Reason: Landscape amenity)

**35. Certification – Ventilation**

Prior to the issue of any relevant Occupation Certificate, certification shall be provided from a suitably qualified mechanical engineer certifying that all work

associated with the installation of the mechanical and/or natural ventilation systems has been carried out in accordance with the relevant Australian Standards and or alternative solution.

(Reason: Amenity, environmental compliance and health)

**36. 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 Certifying Authority. 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)

**37. 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 Certifying Authority 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)

**38. 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)

**39. Plan of Management**

The Plan of Management dated 12 November 2019 submitted with the development Application shall be amended to include effective bird control measures. These measures shall include details on how birds will be excluded or kept out of the food preparation, processing and storage areas. The amended Plan shall be submitted to the Certifying Authority prior to the issue of an Occupation Certificate.

(Reason: Amenity, compliance)

## **ONGOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

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

### **40. 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)

### **41. Accessibility to Car Parking Spaces**

In perpetuity, the car parking spaces are to be accessible during all hours of operation of the business.  
(Reason: Ensure compliance)

### **42. Loading and Unloading**

In perpetuity, loading and unloading of goods is to be conducted wholly within the site and especially in any loading facility, internal dock or goods handling area. These areas are to be maintained free of obstruction for the sole use of delivery vehicles. Under no circumstances are loading/unloading activities to be conducted from vehicles standing kerbside in Frederick Street, Reserve Road or from any appurtenant right of way.  
(Reason: Access and amenity)

### **43. Hours of Operation**

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

Monday to Saturday	7:00am to 12:00 midnight
Sundays & Public Holidays	7:00am to 10:00pm

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

### **44. Industrial/Commercial - Uses Being Confined To As Approved**

All uses being confined strictly to the areas so designated on the approved plans and under no circumstances are additional use areas to be allocated elsewhere in the proposed building without the prior consent of Council.  
(Reason: Ensure compliance)

### **45. Amenity - No Music or Other Noise**

No music or other noise being directed out over the footpath of the adjoining street or other public places.  
(Reason: Amenity)

**46. Site Lighting**

Any lighting on the site is to be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.  
(Reason: Amenity)

**47. Bunting/Flags**

No bunting, flags (other than National) or other moving or wind disturbed displays being erected or maintained on the site, except as may be approved by Council for an opening celebration and one or two of the immediately following weeks.  
(Reason: Visual amenity)

**48. Portable A Frame Sign**

Under no circumstances are portable or A-frame signs to be erected outside the site for the purposes of advertising, without the prior consent of Council.  
(Reason: Amenity and access)

**49. Vehicle Management**

All vehicle movements to and from the sub-station area shall be undertaken under the control of a traffic controller. Vehicles are to leave the site in a forward facing direction. If they are unable to turn around at the sub-station area, they are to reverse in under appropriate traffic control measures. Vehicles using the access are to be restricted to vehicles servicing the sub-station and fire sprinkler rooms only. Signage is to be provided to detail access is restricted to Authorised Vehicles Only.  
(Reason: Pedestrian and vehicle safety)

**50. Trees on Adjoining Properties**

No approval is given for the removal or pruning of trees on the nature strip, adjoining reserves, or neighbouring private land.  
(Reason: Environmental protection)

**51. 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)

**52. Hand Wash Basin/s – Food Premises**

A dedicated hand wash basin/s shall be located in each area where contamination of the hands is likely to occur and must be within 5m from any place where food handlers are handling food. The hand wash basin shall be of a suitable size (500mm x 400mm), fixed to the wall at bench height and accessible at all times. The basin shall be supplied with hot and cold water under pressure through an approved hands free mixing device which can be adjusted to enable the hands to be washed under hot water. A supply of liquid soap and paper towels is to be provided adjacent to the hand wash basin.  
(Reason: Health & Compliance)



**53. Walls – Solid Construction – Food Premises**

All tenancy perimeter walls and internal walls including partition walls shall be solid construction. The walls are to be constructed in masonry, brickwork or other approved method with all voids filled with a suitable material.

(Reason: Health & Compliance)

**54. Floor, Wall & Ceiling Finishes – Food Premises**

All finishes shall comply with AS4674-2004 *Table 3.1, Table 3.2 and Table 3.3*. All finishes must be able to be effectively cleaned, be unable to absorb grease, food particles or water and must be unable to provide harbourage for pests.

(Reason: Health & Compliance)

**55. Waste Storage Area – Food Premises**

The waste storage area shall be fitted out to comply with the following:

- (a) The floor of the garbage room shall be impervious, coved at the intersection with the walls, graded to a floor waste connected to the sewer;
- (b) The walls shall be finished with a smooth, impervious surface;
- (c) The garbage area shall be ventilated, proofed against pests, have self-closing doors; and
- (d) Provided with a hose tap connected to the water supply.

These provisions are to be in place prior to the occupation of the food premises.

(Reason: Health & Amenity)

**56. Use and Fitout of the Food Premises**

The use of the food premises shall be carried out in accordance with the amended Plan of Management at all times and the approved plans. No open potentially hazardous food shall be placed in a position where it is exposed to contamination from foreign matter, dust, dirt or droplet infection. Any significant changes in the operation, or any change in the configuration, of the food premises will require development consent from Council.

(Reason: food safety, public health and hygiene)

**57. Removal of Trade Waste**

The building/business owner must ensure that there is a contract either with Council or a licensed contractor for the removal of trade waste. No garbage shall be placed on the public footpaths, roadways, plazas, reserves at any time.

(Reason: Health and amenity)

## **PRESCRIBED CONDITIONS**

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

### **58. 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

### **59. 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)

### **60. 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 Certifying Authority 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)

### **61. 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)

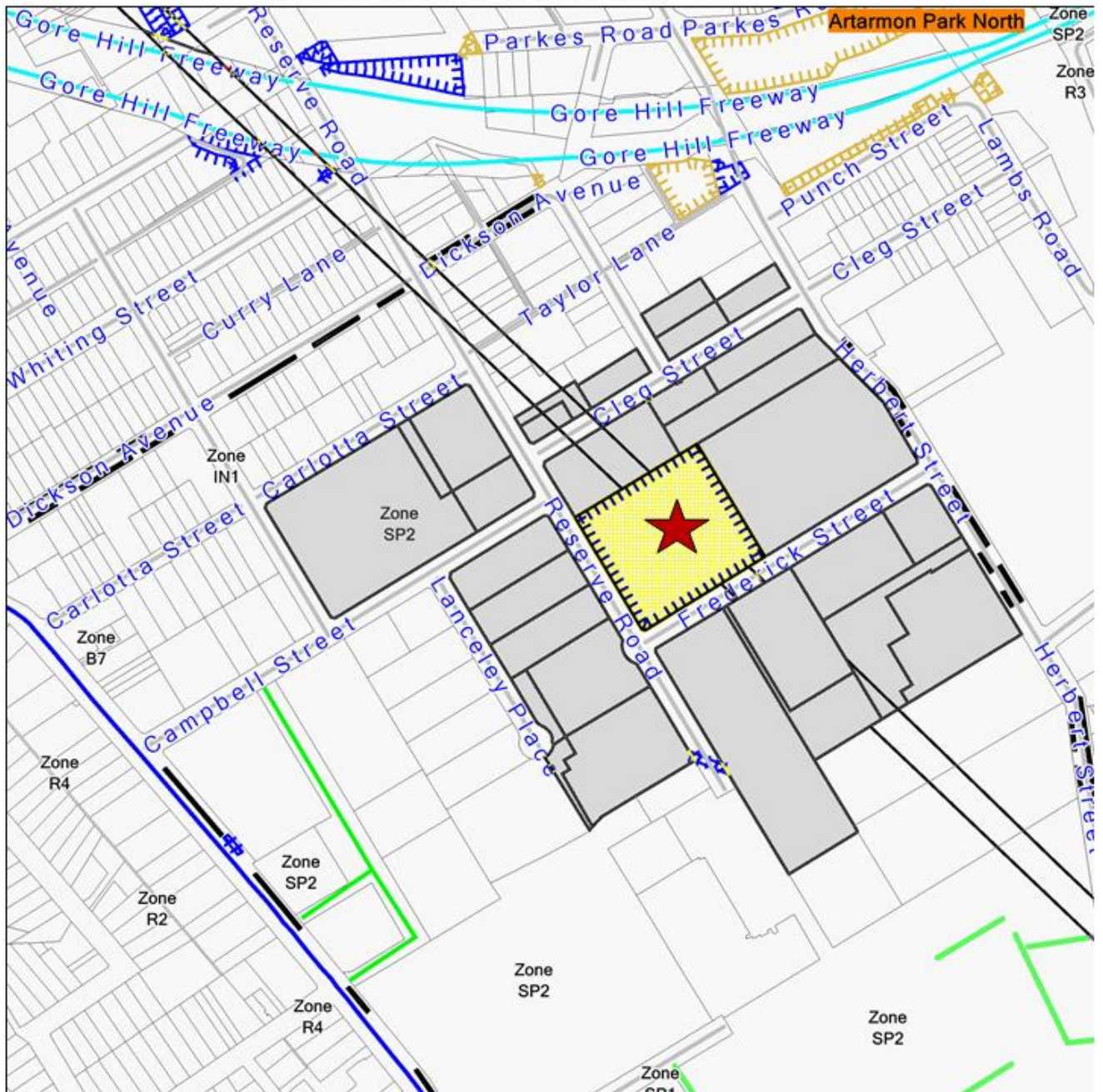
ATTACHMENT 5: NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2019/357

At: 1 Frederick Street, ARTARMON NSW 2064.



 SUBJECT SITE