

Response to Agency and Key Stakeholder Submissions on Concept Plan S75W Modification Application No.1

Agency Comment	Proponent's Response
Willoughby City Council Design Excellence Design excellence is not a new offering from the proponent with this Modification as it is already a requirement under the existing Concept Approval. Design excellence is therefore not accepted as justification for an increase in number of dwellings, floor space ratio and height on the site. It is Council's view that the promotion of design excellence as some new benefit of this Modification is simply a way of disguising the desire to achieve a higher dwelling yield.	The voluntary design competition undertaken by the Proponent, involving five leading urban design and architecture firms, was entirely in addition to the requirements of the Concept Plan Approval. This process has resulted in a number of design benefits in comparison to the approved master plan, including increased open space, better pedestrian connectivity and legibility, and improved internal street network, reduced overshadowing and better street interfaces. As Council is aware, Conditions 1 and 2 of Schedule 3 of the Concept Approval relate simply to individual building design excellence, and not the overall masterplan.
Public Benefit The "significant additional public benefits" identified by the proponent are discussed later in this report. None constitute what Council consider or would accept as a significant public benefit. A contribution is offered for upgrades to the Artarmon Road I Willoughby Road intersection for example although the need for the upgrade is triggered by the development. This is not in any way regarded as a 'public benefit' but solely a requirement to address the traffic impacts of a development of this scale on the site. Offer of a contribution to open space and local access fall far below Council's agreed position for such contributions and the provision of affordable housing is a requirement under the WLEP not an additional 'public benefit'.	The proposed contributions toward the upgrade of the Willoughby Road intersection and the Walter Street Reserve are not required by the existing Concept Plan Approval nor warranted by any environmental impacts arising from this Modification Application as outlined in the main report and Appendix J. Notwithstanding this, the Proponent has offered a voluntary contribution of \$500,000 in addition to the local infrastructure contributions levied on new dwellings (approved and proposed) for the purpose of Council undertaking this upgrade, which will provide a public benefit to the local community, in recognition of the community concern regarding the performance of this intersection.
Governance The proposed Modification also raises significant 'governance' issues. The current Concept Plan Approval was the result of deliberations involving the local community, Council, the Planning and Assessment Commission, the Land and Environment Court and ultimately delivered an outcome endorsed by all parties. The history leading to the Concept Plan Approval is discussed further under the Governance Section of this report. Council is therefore concerned that the proposed intensification of development on the site departing from the approval that emanated from this intense process will have ramifications for public confidence in the overall planning process. It will call into question the integrity of the planning system for the community who will be unlikely to invest in future consultation.	A Modification Application under Section 75W of the EP&A Act is the appropriate mechanism for amending a Concept Plan Approval. We note that Willoughby Council has previously not objected to the use of the Section 75W mechanism to enact substantive modifications to Part 3A approvals (i.e. MP 09_0066 MOD 6).
Legal Issues Council owns a remaining portion of Scott Street measuring 920m², which provides access solely to the Channel 9 site. Council had resolved in regards the original Concept Plan to grant owners consent for Scott Street to be included in the redevelopment of the site. Scott Street has been included in the Modification redevelopment site. Council has sought legal advice from Pikes and Verekers Lawyers regarding the inclusion of Scott Street in this Modification. Council has been advised that Clause SF of the Environmental Planning and Assessment Regulation 2000 is applicable, which requires that this modification application have the consent of the owner of the land on which the project is to be carried out - which in this case includes both LEPC9 and Willoughby Council. The consent of Willoughby Council has not been obtained for the	Scott Street is excluded from Modification No.2, and accordingly land owner's consent is not required from Council.

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proposed Modification. Concern is also raised that TCN Channel Nine Pty Limited has not obtained Council's consent to the assignment or transfer of its rights under the Deed of Agreement. These legal matters must be resolved prior to any further consideration of the Modification.	
1. Design Excellence The existing approval already establishes a requirement for design excellence: <i>"Design Excellence</i> <i>1. Future Development Applications shall demonstrate that the development achieves a high standard of architectural design incorporating a high level of modulation and articulation to the buildings, and in particular to the facades of the residential flat buildings, and the incorporation of a variety of high quality materials and finishes.</i> <i>2. Future Development Applications shall demonstrate variety in the presentation between each of the residential flat buildings, including incorporation of a different palette of materials and finishes for each building.</i> <i>3. The future Development Application for Building G shall include design measures (such as articulation to the built form and facades) to achieve a visual relationship with the scale of the Building H to the west."</i> Design excellence is not a new offering from the proponent regarding the redevelopment of this site as it is already a requirement under the existing approval. Design excellence is therefore not accepted as justification for any variation to the existing Concept Plan involving an increase in number of dwellings, floor space ratio and height on the site. It is further noted that there is no design excellence clause in Willoughby Local Environmental Plan 2012. It is interesting to note that where such a clause exists, as in Sydney Local Environmental Plan 2012 (Clause 6.21). A building demonstrating design excellence "is eligible for an amount of additional floor space, to be determined by the consent authority, of up to 10%." The former Channel 9 site Modification being exhibited, located in the suburb of Willoughby, is seeking additional total floor space of 23.8%. Refer to the Built Form Section of this submission for a comparison table of the approved and proposed number of dwellings, floor space and floor space ratio. This table shows that the increase proposed regarding number of dwellings, floor space and floor space ratio is close to 25% for each category when comparing like with like. This increase is considered substantial and unreasonable as justification for design excellence. It is considered important that any discussion of increases in floor space and open space is on the basis of like with like. There are concerns with how figures are determined as well as some discrepancies between figures in the proponent's documentation. This is discussed further under the Number of Dwellings Floor Space and Open Space Site Linkages sections of this submission. All figures should be consistent, located on one summary page and address the concerns raised in this submission. This is required for a true comparison between the increases proposed and the relevance of a design excellence argument. Any revised master plan for the site to achieve improvements in "a// key planning and design measures" over the existing approval would be possible at either development application stage or if necessary by modification. It is unclear to Council why the requested increase in dwellings, floor space and height are a necessary component of the revised master plan. It is Council's view that the promotion of design excellence as some new benefit of this Modification is simply a way of disguising the desire to achieve a higher dwelling yield.	Council's submission ignores the fact that the architectural and urban design competition, undertaken voluntarily by the proponent, is for the master plan and is additional to the building-specific design excellence requirements contained within the conditions of the Concept Approval. Council's submission refers to the City of Sydney's 10% design excellence bonus, but fails to acknowledge other design excellence schemes which provide larger bonuses such as Parramatta City Council's 15% to 25% design excellence bonus and Penrith's scheme which provides a minimum bonus of 10% for design excellence. We note that the proposed increase in density on the site is not solely justified by the contribution of design excellence – as noted in the Section 75W Modification Application and elsewhere in this report, there are a number of benefits of the proposal in addition to design excellence, including: ▪ \$1 million contribution toward the upgrade of the Walter Street Reserve or another proximate open space area; ▪ \$500,000 contribution toward the future upgrade of the Willoughby Road intersection, or other proximate works to improve the functioning of the local traffic network; and ▪ Increased affordable housing contribution of 5% for additional floor space sought as part of this modification application. These are also considered to be public benefits which are independent of the design excellence process and which are supported by the additional development sought as part of this Modification Application. Overall, the voluntary design excellence process undertaken by the Proponent has led to an urban design outcome that provides a better urban environment for the future and existing local communities, creates higher residential amenity, reduces environmental impacts on surrounding properties and provides additional new open space that will be accessible to the surrounding community. The amended master plan represents a superior outcome in comparison to the existing approval, and should be supported.
Concept Plan Review by Allan Jack and Cottier The Review confirms that the Concept proposed is an improvement in many ways on the approved scheme, however	Refer to CHROFI Master Plan Report.

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the advice has concluded that the proposed scheme could be improved by reducing the density of the development currently proposed and making other design changes. The following conclusions are submitted: ▪ Inadequate levels of public open space commensurate with the number of proposed units and floor space. ▪ Ineffective pedestrian linkages through the site, in particular from the Village Square and Village Green, being adjacent the sole vehicle access ramp to the basement car parking and via narrow communal pathways surrounded by private gardens. A strong public connection is required. ▪ Linking the Village Square and Village Green creates the opportunity to preserve Tree 32, and would require relocation of the proposed single vehicle access ramp to the basement car parking underneath a building form to maximise ground level public open space. Improved pedestrian linkages should result in increases to public open space. ▪ The outlook from many units would be inferior to what has already been approved as the Modification has significantly longer residential flat building forms that face other residential flat building forms with setbacks of less than 25 metres. The opportunity exists to address this issue by increasing public open space between the Village Square and Village Green and increasing separation distances. ▪ Adverse amenity impacts of Building J on the outlook from units in the adjacent Castle Vale and solar access to the properties in Walter Street. These Impacts could be addressed by reducing the building bulk and scale. ▪ Units facing Artarmon Road on the lowest level of Building B should be deleted, being inconsistent with the low scale residential context of Artarmon Road. ▪ Inadequate street parking for visitors. This can be addressed by widening the internal street. ▪ The effective functionality of the proposed single vehicle access ramp to the basement car parking is questioned. A second vehicle access to the basement car parking is suggested. The overall conclusion is the scheme would benefit from a reduction in the number of units proposed and an increase in public open space.	
2. Public Benefit The proponent has stated this Modification comprises a number of "significant additional public benefits" and has framed them as components in a potential Voluntary Planning Agreement as follows: 1. \$3m towards the upgrade of Willoughby Rd/Artarmon Rd/Small St intersection 2. \$1 m for pedestrian and cyclist connections between the local street and open space network and the Council's Walter St Reserve including bushland regeneration. 3. Affordable housing contribution of 4% of the proposed 510 units (20 units). None of what the proponent has identified as "significant additional public benefits" is what Council consider or would accept as a significant public benefit. The issue of Public Benefit is further discussed in the Transport and Open Space I Site Linkages sections of this submission. Under the current approval there is no reference to a Voluntary Planning Agreement.(VPA). With the current proposed	Refer to Section 5.4 of main planning report for discussion of amended public benefit offer. The proponent has invited Council to outline what it believes would constitute a public benefit on a number of occasions, however, Council has not yet formally provided any position.

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modification, Council has the opportunity to enter into negotiations over a VPA if State Government ultimately resolves to grant approval. Independent expert analysis of the proposed VPA has been undertaken on behalf of Council, by HillPDA Consulting. Council are prepared to share the contents of that report with the Department of Planning and Environment. Regarding point 1 of the Offer above, this is considered inadmissible for inclusion in a VPA as it relates to intersection upgrade works required for the development to proceed at all. These junction upgrades should be the subject of conditions of approval. Point 2 relates to works for pedestrian and cyclist connections and regeneration of the Walter St Reserve. These can be dealt with as part of the amount Council should seek as part of a VPA. The affordable housing offer at point 3 is presented as 4% of the number of units proposed on the site, whereas Council's policy stipulates that a contribution comprise 4% of the residential GFA. This will remain Council's position. In addition it should be noted that affordable housing is a requirement of Willoughby Local Environmental Plan 2012 and therefore should not be included in any VPA. In terms of a VPA, Council will require a share of the value uplift of the site in line with Council's agreed position.	This analysis should be made publicly available so that the Proponent can understand Council's formal position in relation to this matter. Councils position is inconsistent with the findings of the traffic studies (refer Appendix J). Noted. Noted – this is not proposed to be changed, the number of units have simply been provided for illustrative purposes. We also note that that the Proponent is voluntarily offering to provide 5% of additional GFA approved for the purpose of affordable housing, in excess of Council's requirements. Council should formally advise the Proponent of its "agreed position" and demonstrate how such a contribution would be utilised to deliver a public benefit with a proper planning purpose.
Governance The Concept Plan Approval was therefore the result of mutual agreement, between the existing owner, the Council and the community. Prior to this agreement a number of compromises were made by all parties with particular regard to the number of dwellings, floor space ratio and height on the site. The process towards the Concept Plan Approval was taken seriously by both the Council and the community, with an expectation that this would establish the parameters for any future redevelopment on the site. Council understands that there should be flexibility in the approved scheme where appropriate in order to ensure a desirable outcome for stakeholders. However concern is raised in the proposed dismissal of the previous Council and community involvement and contribution to the mutually agreed Concept Approval outcome, which established redevelopment parameters with particular regard to the number of dwellings, floor space ratio and height on the site. The new owner is proposing to reopen a process to consider an already well considered and agreed outcome. The proposed increases to the number of dwellings, floor space ratio and height on the site do not have mutual agreement from stakeholders like the existing approval. Council is therefore concerned that the proposed intensification of development on the site departing from the approval that emanated from the previous intense process will have ramifications for public confidence in the overall planning process. It will call into question the integrity of the planning system for the community who will be unlikely to invest in future consultation.	The previous assessment and approval process for the Concept Plan Approval does not abrogate the normal legal processes for the modification of an approval, which is the mechanism under Section 75W of the EP&A Act. As outlined in the main report, it is entirely normal practice for a land owner-obtained master plan (for sale purposes) to be revisited by an incoming proponent who intends to deliver a project. Such processes often result in significant enhancements to the overall masterplan, both for the future residents and for the surrounding community. The revised master plan which arose from the voluntary design competition provides for a number of public benefits, including increased open space and reduced overshadowing, whilst also providing for additional housing diversity and supply within the local area in close proximity to a major public transport corridor.
4. Legal Issues Council owns a remaining portion of Scott Street measuring 920m², which provides access solely to the Channel 9 site. Scott Street has been included in the Modification redevelopment site. In its previous submission on the original application, Council determined to grant owners consent in respect to the inclusion of the Council owned portion of Scott Street in the concept.	Scott Street is excluded from Modification No.2, and accordingly land owner's consent is not required from Council.

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At its meeting of 13 May 2013 Council resolved in part: "That ... 2. Council give owners consent to the Part 3A Application for Option A in order for the Scott Street remnant to be included in the site redevelopment; 3. Council give delegation to the General Manager to commence discussions regarding the sale of remaining Council owned portion of Scott Street to Channel 9, in accordance with the required legislative processes and Council policies; 4. Council enter into a Deed of Agreement for the sale of the remaining Council owned portion of Scott Street." As a result of the abovementioned Council Resolution, Council entered into a Deed of Agreement with TCN9 for the closure and sale of Scott Street which was to be subsumed into the new development site. The Deed of Agreement between Council and TCN Channel Nine Pty Limited, as then owners of the site, was executed on 2 June 2015. The existing Part 3A approval also stated in the accompanying Statement of Commitments regarding a closure of Scott Street: <i>"The proponent shall negotiate the closure and purchase of Scott Street with Willoughby Council."</i> The current modification involves a new owner, LEPC9. Council has sought legal advice from Pikes and Verekers Lawyers regarding the inclusion of Scott Street in this Modification. Council has been advised that Clause 8F of the Environmental Planning and Assessment Regulation 2000 is applicable, which requires that this modification application have the consent of the owner of the land on which the project is to be carried out - which in this case includes both LEPC9 and Willoughby Council. The consent of Willoughby Council has not been obtained for the proposed Modification. Concern is also raised that TCN Channel Nine Pty Limited has not obtained Council's consent to the assignment or transfer of its rights under the Deed of Agreement. These legal matters must be resolved prior to any further consideration of the Modification.	The proponent (Nine Network) did negotiate the closure and purchase of Scott Street with Willoughby Council by entering into a Deed with Council which included provisions for the assignment of rights to a future developer, however, Council has not fulfilled its obligations under this Deed. This matter is being resolved separately from the planning process.
Height The Modification proposes 10 residential flat buildings ranging from 4 to 12 storeys across the site. The applicant has not provided a compelling argument that the increased number of dwellings, floor space and height does result in a better outcome. Concern is raised that higher buildings will be located closer to neighbouring residential properties on Artarmon Road, Richmond Avenue and in the south-eastern corner of the site, as well as parts of the Walter Street Reserve. The height limits proposed do not respond to the current character of the locality nor do they reflect the desired future character of the locality. Under Willoughby Local Environmental Plan 2012, the northern side of Walter Street permits medium density residential development (zone R3) with a height control of 12 metres (3 or 4 storeys), and the land at Castle Vale to the east permits high density residential development (zone R4) with a height control of 27 metres (8 or 9 storeys). The remaining land around this site, with particular regard to Artarmon Road and Richmond Avenue is zoned low density residential (zone R2) with a height control of 8.5 metres.	Refer to main planning report. As demonstrated in the CHROFI report, these buildings have been appropriately scaled and designed taking into account the nature of these interfaces. The heights proposed represent only a minor increase above the approved heights for this site set out in the Concept Plan Approval.

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The taller buildings proposed will also be visible from the Artarmon Conservation Area. The height of the existing adjoining transmission tower is not considered to be relevant to this issue as it is a see through structure and could be removed in the future as technology changes.	Refer to accompanying heritage assessment (Appendix L).
Number of Dwellings I Floor Space The Modification proposes 510 residential dwellings, a total residential gross floor area of 44,617m², a total gross floor area of 45,966m² and a total floor space ratio of 1.5:1. This results in an increase in the number of dwellings of 110, an increase in total residential gross floor area of 8,731m², an increase in total gross floor area of 8,830m² and a total floor space increase of 0.3:1 (being residential floor space). The Concept Plan shows Lot 12 DP 1162507 located to the south of the transmission tower as part of the redevelopment site area. The approved Concept plans do not show this lot as part of the redevelopment site. Concern is raised that this 738.6m² isolated and disconnected site is included as site area for the purposes of floor space and landscaping calculations on the main site. The proposed Modification Concept plan shows no development on this lot, with it to be used for the purposes of landscaping and pathways connecting Richmond Avenue and potential pathways in adjacent Council land. Floor space is being transferred from this isolated site to the main site in order to achieve greater density on the main site. FSR based on 45,966/29,905.4 = 1.54: 1 (site area of 29,905.4m² excludes 738.6m²). This calculation has been done because the approved Concept Plan does not show this lot as part of the redevelopment site. In addition this site is isolated from the rest of the main site by the television tower. Exclusion of this area for the purposes of determining site area, results in a floor space ratio of 1.54:1 over the main site, being more than the proposed 1.5:1. This is a 28.3% increase above the Concept Approval. If this isolated lot was deleted from the site area, then the site area would be reduced to 29,905.4m², limiting the total gross floor area for the proposed Modification to 44,858.1 m² (based on the proposed floor space ratio 1.5:1). This is a reduction of 1, 107.9m² – a significant amount of floor space. In a similar way, this isolated site does not effectively contribute to available open space on the main site. Any open space provided on this isolated site should be in addition to the open space calculations for the main site. The traffic generated by the proposed development is of concern given the local and arterial road conditions and capacity of public transport. The proposed increase in population density will inevitably place further stress on the local bus services to meet the increased demand. Peak hour patronage of services on Willoughby Road are already at or exceed capacity as indicated by the long queues at peak hours. As such Council does not support further increases in the number of dwellings on this site.	The existing Concept Plan Approval does not express development density as a Floor Space Ratio (FSR), but rather approves a quantum of Gross Floor Area (GFA) and specifies the maximum number of dwellings. Given this fact, the discussion of FSR is considered to be a distraction from the more proper task of assessing the built form outcome represented in the envelope plans (illustrating the potential for distribution of GFA and dwellings) which do form part of the Modification Application. As the site is not constrained by an FSR provision under the Concept Plan Approval, the discussion of FSR (and its calculation) is not directly relevant to the assessment process. Lot 12 is included in the existing Concept Plan Approval and it is proposed, as part of this Modification Application, to utilise this land for the provision of a new publicly accessible pedestrian pathway connecting public and publicly-accessible open space areas. Its inclusion in the calculation of FSR is appropriate given that the land forms part of the approval and includes proposed development as part of the application (particularly when this development would involve a public benefit through the improvement of pedestrian connectivity to public open space areas. Refer to main report. Refer to Appendix J.
6. Commercial land uses Under the existing approval the following land uses are permissible on the site: Residential accommodation; neighbourhood shops; food and drink premises; recreation areas; community facilities; exhibition homes; exhibition villages; recreation facility (indoor)	An EMR Assessment Report was exhibited with Modification Application No.1, stating that the site is suitable, in accordance with the relevant legislation and standards, for a childcare centre use. It is unclear whether Council has reviewed this assessment given these comments. It is unclear from these comments what further assessment Council requires.

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The existing approval states, that in addition to residential floor space, the following additional floor space is permitted: - up to 500m2 of non-residential GFA to support the residential use (incorporating neighbourhood shops; food and drink premises, indoor recreation facilities or community facilities); 1050m2 adaptive retail/commercial reuse of No 6 Artarmon Road. The Modification proposes the additional 'child care centres' land use. The child care use would be available as a use on the site but is not guaranteed under the Modification. This use would be located at 6 Artarmon Road or elsewhere on the site up to 500m2. It appears from the plans that some commercial usage is planned in Building A near where Artarmon Road and the central landscape spine meet. Further details of non-residential land uses would be provided at development application stage. Council would generally be supportive of child care centres on large sites where significant redevelopment is proposed and purpose built child care centres are possible. However, Council considers that child care centres should not be permissible given the sites exposure to electromagnetic radiation from the adjoining transmissions tower. It is considered that prior to any approval of child care on this site. This issue should be further examined and fully addressed.	
7. Transport	
Access to/from the site No concerns are raised in regards the location of the proposed vehicle access and egress points. Arup have concluded: <i>"While the location of the entry points have shifted slightly from those in the approved concept plan, this is not expected to have a significant impact on the operation of the road network. The relocation of the Artarmon Road access point further east improves the site distance for vehicles departing the site and turning right towards Willoughby Road. As previously noted in Arup's 2013 study, based on the requirements outlined in Austroads Guide to Road Design, with a road design speed of 50kmlh, a safe intersection sight distance {SISD} upwards of 100m is required. The relocation of the site access point achieves this distance."</i> However concern is raised with the proposed roundabout at the Artarmon Road access point. Arup have concluded: <i>"Given the slope of Artarmon Road (approximately 10% gradient) the provision of a roundabout to provide controlled entry and exit from the site may not be appropriate. The Austroads Guide to Road Design (Part 48 - Roundabouts) notes that "Generally, it is desirable that the gradient on approaches to roundabouts be limited to 3% to 4% and should not exceed 6%". Treatments may include the installation of wide splitter islands and blisters to reduce vehicle speeds on approach. This will have implications for the roundabout design - requiring a larger footprint compared to a typical roundabout. Therefore further investigation regarding the suitability of roundabout control at this location is required, including a concept plan of the proposed layout."</i>	Noted. Refer to Appendix J.
Internal traffic circulation Concerns are raised with the internal road system. Arup have concluded:	Refer to Appendix J.

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<i>"The design of the internal road system has been reviewed against relevant standards and guidelines. While the internal road allows for two standard cars to pass one another at any one time, vehicle swept path analysis indicates a 9.8m long garbage vehicle crosses the road centre line when manoeuvring within the site. This is illustrated in Figure 3, and would mean that a standard car could not pass this vehicle type when driving within the site - creating safety issues. The vehicle swept path diagram provided by the applicant does not indicate any on-street parking bays on the internal road within the site.</i> <i>An amended design should be prepared which demonstrates a service vehicle can safely pass an oncoming car, including the presence of vehicles parked on the internal street.</i> <i>A further issue with the internal road design noted in this review included that a medium rigid vehicle (8.8m long garbage truck) was adopted as the largest design vehicle. Given some furniture removalist trucks may be larger/longer than this, a 12.5m heavy rigid vehicle is typically adopted as the design vehicle."</i>	
On-street parking Concerns are raised with the loss of on-street parking in Artarmon Road and Richmond Avenue. Car spaces in the public domain have more utility and value than car spaces in the private domain. Arup have concluded: <i>"The introduction of the two site access points, including the roundabout 40m west of Scott Street, will result in changes in the availability of on-street parking in surrounding streets. This is illustrated in Figure 4 below. The applicant notes that the loss of 29 on-street parking spaces on Artarmon Road and Richmond Avenue will be off-set by the increase in available parking on the internal road within the site."</i> It is important to recognise however that while there will be no net loss of on-street parking in the area, residents of Artarmon Road reliant on parking outside their properties will be impacted by the proposal. Some of these properties contain off-street car parking (accessed off Armstrong Street) however many are reliant on existing parking available on Artarmon Road. Parking within the internal road should therefore be utilised to compensate for loss of parking on Artarmon Road. Therefore these spaces should be designated as residents parking only, with residents of Artarmon Road (between Edward Street and Willoughby Road) eligible to park in these spaces. This resident parking scheme would be implemented by Council following the occupation of the Channel 9 site." There is concern that the loss of 29 on-street car spaces and their relocation within the redevelopment site will deter their use by the local community, and result in these car spaces being used solely by occupants of the site. Council's preferred position is that the loss of any on-street parking as a direct result from the Modification be kept to a minimum. Council seeks confirmation from the proponent that all options have been considered to minimize the loss of on-street car parking, including investigating the roundabout arrangement, and is of the opinion that this public domain issue should be addressed now rather than at development application stage. If the Modification is to be approved in its current form, then attention would need to be given to the location of the 29 lost on-street car spaces replaced within the redevelopment site and the on-going management to ensure that the issue of their communal use and value are adequately addressed. Consideration of this public domain issue should not be	The Concept Plan, as modified, would result in 40 additional on-street car parking spaces available for public and visitor use. The amended street configuration has been designed such that internal roads are integrated with the local public road network. In addition, Nine Network's vacation of the site is likely to reduce the use of on-street parking associated with the existing use of the site. On-street parking will not, and is not proposed to be, designated as 'resident only' parking as suggested in Council's submission. On-street parking would be available for all visitors to the site. Further to the above, we note that community feedback strongly indicates that a substantial amount of on-street

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tokenistic but rather meaningful with future outcomes ensured. It is considered that 22 car spaces should be located near the Artarmon Road access point and 7 car spaces located near the Richmond Avenue access point, both within the site, to accurately reflect where on-street car parking is lost. The establishment of a resident parking scheme for these spaces is considered necessary to ensure the intended residents are able to use these lost on-street car spaces. Council also seeks confirmation that replacing on-street parking is in addition to any off-street car parking required and discussed further below.	parking is currently utilised by park-and-ride commuters utilising bus services along Willoughby Road and Channel 9 staff. There are a number of avenues open to Council to deal with these issues and ensure that there is adequate on-street parking available to meet the needs of local residents, such as the implementation of resident parking permits.
Off-street parking The rate at which off-street car parking will be provided is consistent with Willoughby Development Control Plan rates as well as Condition 29 of the concept plan approval for the site. A total of 674 car spaces are required, with 128 of these to be visitor car spaces. The majority of parking is to be provided within the basements of the proposed buildings, with one single access point behind Building B near the Artarmon Road site entry/ exit point. Concern is raised with the location of visitor car parking. Arup have concluded: <i>"on-street parking was intended to replace that lost on Artarmon Road and Richmond Avenue and therefore may not be available for visitor use."</i> The Modification does not propose to change Condition 30 of the existing approval, which states: <i>"30. Visitor parking required by condition 29 shall be provided where possible as kerbside parking at street level. In this regard all streets are to incorporate visitor kerbside parking."</i> The extent of visitor kerbside parking and how Condition 30 is to be addressed requires clarification. While the above comments relating to on-street parking are relevant, a reasonable percentage of visitor parking should be easily accessible and not hidden within basement car parking areas.	Arup's conclusion does not reflect the terms of approval in the Concept Plan Approval. The proposed modification would provide for 40 additional on-street parking spaces compared to the existing on-street parking provided. No changes to Condition 30 are proposed.
Traffic Modelling Approach Arup state: <i>"Traffic generation rates used in this analysis for the Channel 9 site were consistent with the Arup 2013 study as well as the GTA 2016 report supporting the concept plan modification."</i> Arup state that based on existing travel patterns of Willoughby residents and workers, the majority of trips will be directed to the Artarmon Road I Willoughby Road intersection. The breakdown is as follows: ▪ 43% - Heading east to Artarmon Road I Willoughby Road intersection, then turning right. ▪ 29% • Heading east to Artarmon Road I Willoughby Road intersection, then turning left. ▪ 28% - Heading west from site along Artarmon Road. Arup have confirmed that their traffic modelling undertaken as part of this report has considered the impact of known and potential future developments in the vicinity of the site. It is noted that no additional development was considered in the modelling undertaken by GT A consultants to support the concept plan modification. The Arup Traffic modelling has been on the basis of the intersection upgrade proposed in the Modification. This proposed upgrade will provide a 100 metre right turn bay for northbound vehicles on Willoughby Road and provide a slip left turn lane out of Small Street into Willoughby Road. Concern is raised with the proposed Willoughby Road I Artarmon Road intersection upgrade plan which does not show the full extent of any required acquisition land for road widening. A complete intersection plan is required showing all	Refer to Appendix J.

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affected land including all traffic related features. Acquisition land should include dimensions and area. This plan is to clearly show what is impacted in any required acquisition land for road widening, including trees along the Willoughby Road I Bicentennial Reserve frontage. This plan should also acknowledge any owners impacted and whether agreement has been obtained. The Arup Modelling has been based on 2 scenarios, with comments provided. - Proposed Willoughby Road I Artarmon Road intersection upgrade without a pedestrian crossing over Willoughby Road on the south side of the junction Comment: Arup conclude: "The traffic modelling indicates the increase in dwellings on the Channel 9 site will have a relatively minor impact on the operation of the (upgraded) Willoughby Road I Artarmon Road intersection. The modelling does however indicate the additional number of vehicles turning right from Willoughby Road into Artarmon Road (as a direct result of the development) will result in this movement operating at a degree of saturation above 1.0 - i.e. it is over capacity. This issue is exacerbated on occasions when a southbound travelling bus is stopped on Willoughby Road immediately north of Small Street and a vehicle is waiting to turn right into Artarmon Road. In these situations all southbound (through) traffic on Willoughby Road is blocked - resulting in Jong vehicle delays and queues. The lack of a right turn bay into Artarmon Road, or a dedicated traffic signal phase, results in the poor performance of this traffic movement. The provision of a right turn bay (similar to that proposed on the southern approach of Willoughby Road into Small Street) would ameliorate this impact." - Proposed Willoughby Road I Artarmon Road intersection upgrade with a pedestrian crossing over Willoughby Road on the south side of the junction Comment: Arup conclude: <i>"Current RMS policy is that for any new or upgraded signalised intersection, pedestrian crossings must be provided on all approaches unless it can be demonstrated that it is impractical to do so. The presence of an additional pedestrian crossing on the southern leg of the intersection is preferable given the pedestrian demand generated by the development - particularly between the site and active open space on the eastern side of Willoughby Road. This includes the Willoughby squash centre, Willoughby leisure centre and Bicentennial reserve."</i> Council's Traffic Section do not consider a pedestrian crossing of Willoughby Road south of Small Street impractical. In addition it is considered that the additional pedestrian crossing is required as a result of the redevelopment in order to provide convenient access from the southern side of Artarmon Road across to the southern side of Small Street, and the facilities in the vicinity such as Bicentennial Reserve (with the children's cycle path, passive and active recreation options), the Willoughby Leisure Centre and the Incinerator Art Gallery and cafe. Therefore the additional pedestrian crossing should be provided. The results of the analysis are summarised from P. 12 of the report: - In the PM peak hour (5-6pm), the intersection level of service goes from: - B with a 400 dwelling development to C with a 510 dwelling development	Refer to Appendix J. RMS prescribe criteria to be utilised in determining whether or not it is necessary to provide an additional pedestrian crossing leg. These criteria are clear, and in the circumstances of this project it is evident that the additional southern pedestrian leg would not be required to be provided in the instance of an upgrade to this intersection. Refer to Appendix J. The inclusion of the southern pedestrian leg is not required in an upgrade of the intersection according to RMS guidelines. As such, the Arup modelling indicates that traffic at the intersection would remain at LoS B during the PM peak period – defined as 'Good with minimal delays and spare capacity' – even when cumulative development is included. During the Saturday peak the intersection performance would, according to Arup, decline to LoS C with cumulative traffic included – defined as 'Satisfactory with spare capacity'.

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- C with a 510 dwelling development to D with a 510 dwelling development + adjacent development ▪ In the Saturday peak hour (11am-12pm), the intersection level of service goes from: - C with a 400 dwelling development to D with a 510 dwelling development - D with a 510 dwelling development to D with a 510 dwelling development+ adjacent development ▪ In the PM and Saturday peak hours, the intersection degree of saturation rises to above 1 (i.e. over capacity) when moving from a 400 to a 510 dwelling development. ▪ The high degree of saturation is related to the right turn movement from Willoughby Road (southbound) into Artarmon Road. The remaining movements operate with spare capacity. When a 510 dwelling development+ adjacent development is considered, the high degree of saturation is related to the right turn movement from Willoughby Road (southbound) into Artarmon Road as well as the right turn from Artarmon Road (eastbound) into Willoughby Road. The remaining movements operate with spare capacity. ▪ In the Saturday peak, the increase to 510 dwellings will result in vehicles ▪ experiencing increased delays and queue lengths on Artarmon Road - with queues ▪ forecast to extend back nearly 170m. Arup have concluded in regards to queue lengths: <i>"should the intersection upgrade proceed as per the applicant's proposal, queue lengths on Artarmon Road are expected to extend back to the site access point (roundabout) 40m west of Scott Street. However, should a pedestrian crossing on the southern approach of the intersection be provided (as RMS generally require), queue lengths extend back nearly 170m on Artarmon Road. This queue length has the potential to impact the ingress and egress of vehicles into and out of the site."</i> Arup conclude: ▪ "The intersection upgrade does significantly improve vehicle travel times and reduce delays for vehicles on Small Street - more than halving delays compared to the current situation. ▪ Should the Willoughby Road I Artarmon Road intersection upgrade not proceed in any form, the intersection will not operate at satisfactory levels and the additional development of the site would not be appropriate. Council considers the responsibility of the upgrade of the Artarmon Road I Willoughby Road intersection as the responsibility of the proponent, due to the increased pressure on this intersection coming as a result of the development. The original approval contained the following condition: <i>33. Future Development Application/s for each stage of development shall include a traffic study which includes figures on the current number of vehicles movements through the Artarmon Road I Willoughby Road I Small Street intersection. The traffic study is to be carried out to the RMS's and council's satisfaction and shall model the impact of the anticipated increase in vehicle traffic for that stage. Where the study reveals that the proposal would result in an unacceptable deterioration of the level of service at the intersection, concept design of the upgrade or modification of the intersection to mitigate those impacts is to be Included with the Development Application. If considered appropriate by RMS and council, the works are to be completed by the proponent prior to occupation of any</i>	Refer to Appendix J. Refer to Appendix J. Arup's diagram indicates that, absent the southern pedestrian le, queuing would <i>not</i> extend back to Scott Street, and therefore would not impact on the performance of this intersection. As noted in Arup's report the intersection's performance will also be impacted by other cumulative residential development within the Willoughby area. Section 2.4.3 of Arup's report identifies planned or potential residential development of approximately 500 additional units within the locality, which is well in excess of the 95 additional apartments sought under this Modification Application. Council has or will collect development contributions from each of these other projects that should be utilised to assist in mitigating local traffic impacts. It is therefore unclear on the evidence why the Proponent should be burdened by the full cost of upgrading this intersection. Neither TfNSW nor RMS have stated that the upgrade of this intersection is required. The Arup report clearly indicates that the lowest level of intersection performance, factoring in cumulative development proposed within the

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corresponding increase in the public open space provided and that proportionally the POS is less than that provided in the approved scheme. The conclusion drawn from this is that the private benefit of an increase in site density and yield is not supported by a proportionally equivalent public benefit. Whilst it is agreed that the development has the capacity to provide a meaningful link to the open space network below the site, the proposal is quite vague with regard to the provision of the link. If it is the intent of the proposal to rely on this link as a justification for increased density and height on the site as a public benefit, more information is required. The offer provided in the Applicant's Public Benefit Offer of \$1m to provide the link and improvement to the public open space is vague as no breakdown of cost is provided. It is apparent that the works required to provide access though the reserve to the access network below requires significant engineering and rehabilitation works to both realise and maintain. If the proposal is to rely on the increase in density with public benefit to support such increased density, the quantum of contribution to public benefit needs to be clearly elucidated. Based on the information provided, such benefit to the public has not been adequately established." A further difficulty in achieving a link to the regional network to Artarmon Reserve to the west is that a portion of the land required is in private ownership (being 21 Chelmsford Avenue which abuts the Gore Hill Freeway wall). This property or part thereof would need to be purchased to enable this to happen. No evidence has been provided by the proponent to suggest this is likely to happen, or acquisition costing provided. In addition, if linking a pathway I cycleway on the northern side of the Gore Hill Freeway is not possible, no detail or costing is provided on possibilities of linking to the existing pathway I cycleway on the southern side of the Gore Hill Freeway. The Open Space Section has concluded: "In summary, the information provided with the application is not considered to support a proportional public benefit to both the broader public and the new residents of the site that justifies increased density compared to the approved scheme." Further, regarding the Applicant's Public Benefit Offer: "The offer indicates that the applicant defers costs of maintenance of the publically accessible open space and indicates that the costs should be borne by Council. (Paragraph 7)." In the original Council submission on the Concept. Council stated that it did not want the land to be dedicated to Council because of the long term maintenance costs and because the park was also for the use of the redevelopment site. It is surprising that the proponent says in the Public Benefit Offer: "it may be more appropriate that this land be dedicated to Willoughby City Council to be owned by the whole community in perpetuity. This is to be negotiated with Council prior to the commencement of works." The existing approval states: "13. The future Development Application for the park is to incorporate an appropriate legal mechanism for creating a right of public access to the open space, with the relevant instruments to be executed prior to occupation of any part of Stage 2. The future Development Application is also to incorporate appropriate measures to ensure the park is	Contrary to this, the quantum of publicly accessible open space to be provided as part of the amended CHROFI master plan (compared to the requirements of the current Concept Plan Approval) is significantly higher than the proportional increase in dwellings. It represents a 171% increase above the quantum of publicly accessible open space currently required under the Concept Plan Approval. Given that Council is ultimately responsible for revising the Plan of Management for the Walter Street Reserve, it is considered appropriate that discretion over the allocation of costs and priorities for expenditure within this space rest with Council. The final design and pedestrian connections within Walter Street Reserve will be at Council's discretion. If this connection is not possible, there are other opportunities to connect to the Gore Hill Freeway cycle path via Walter Street. Publicly accessible open space areas would be owned and maintained by the future residents of the site under a Strata or Community Title arrangement.

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managed and maintained to a high standard by the future body corporate." Council continues to support all publicly accessible land on the site being owned by the proponent, with all open space provided by the development being maintained in the future by the development. The Public Benefit Offer also indicates that management of the Council owned open space below the site be subject to a management strategy for the reserve as agreed with Council. (Point (b) , Page 2). This is not acceptable with regard to the public interest being subject to the agreement of the private beneficiary. Any management strategy for the Walter Street Reserve is to be determined solely by Council. The staging of publicly accessible open space areas is discussed under Point 16 'Development Staging' below. The drawings provided with the proposed scheme indicate an extension of a landscape element beyond the subject site over the public open space to the south. The element appears to be a viewing platform suspended over the steep drop of the adjoining Walter Street Reserve. Council raises concerns regarding liability and maintenance issues of a structure over public land and would prefer that the viewing platform be excised from any plans being considered for approval. It is noted that the Willoughby Road I Artamon Road intersection upgrade proposed in the Modification requires the acquisition of land owned by Council and making up part of open space forming part of Bicentennial Reserve. Any assessment of public benefit should have regard to the cost of this loss of open space and affected trees to the community. Concern is raised with the loss of any public open space intended to address the traffic impacts directly the result of a proposed development. Concern is also raised with the loss of trees in this area, which provide a green screen to Bicentennial Reserve beyond. Within close proximity is the children's cycling path and picnic area as well as playing fields.	This sentence indicates a requirement for Council's agreement. The final design details for the Walter Street Reserve are at Council's discretion. The intersection upgrade utilises plans prepared for Willoughby Council as part of its Willoughby Leisure Centre Masterplan. Council would be responsible for the finalisation of any intersection upgrade designs and assessments.
9. Tree management An Arboricultural Impact Statement has been provided with the Modification. The Report indicates that in addition to trees to be removed under the previous scheme, 4 additional trees are to be removed to accommodate the development. The trees are identified in the report as Trees 25, 26, 32 and 96. T25 & T26 were rated as High Significance with Moderate retention Value and T32 and T96 rated as High Significance and High Retention Value. T32, a Sydney Blue Gum (<i>Eucalyptus saligna</i>), was retained in the previous scheme in an open space area indicated on the approved plans as Tree 32 Park. This tree is now proposed to be removed to accommodate amended building footprints. Appendix E of the Arboricultural Impact Statement shows trees to be retained to be located around the boundary of the site, with all trees within the site to be removed. Concern is raised with the removal of all existing mature trees within the main part of this large site. While it is noted that approximately 100 replacement trees of varying heights at maturity are proposed to be planted following construction, it will take some years before the new plantings reach anything close to maturity. The Council sees value in the retention of the existing T32 tree, being a Sydney Blue Gum (<i>Eucalyptus saligna</i>), retained in the previous scheme and protected within an open space area indicated on the approved plans as Tree 32 Park. The removal of this tree is considered a negative outcome of the Modification. The existing design ensures the retention of this tree. The new design would result in the loss of this tree.	In response to Council's submission, the Proponent and CHROFI have modified the master plan to facilitate the retention of Tree 32 in-situ as detailed in the Response to Submissions Report and CHROFI submission. An updated Arborist's Report appended to this Modification Application.
10. Developer contributions The existing approval does refer to Section 94 Contributions and the like as follows:	No amendments are proposed to Condition 34 of the Concept Approval.

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<i>"34. Future Development Applications shall be required to pay developer contributions to the council towards the provision or improvement of public amenities and services. The amount of the contribution shall be determined by council in accordance with the requirements of the Contributions Plan current at the time of approval."</i> Willoughby Council's S94A Plan was approved in 2011 and commenced in Feb 2012, as such, a contribution of 1% of the proposed cost of development is payable on the entire development as finally approved. Separate to the issue of Public Benefit, the Proponent is liable for: ▪ Section 94A contribution of 1% of development cost; and ▪ Affordable Housing contribution of 4% of overall residential GFA.	
11. Telecommunications tower transmissions On 8 October 2007, while the telecommunications transmission tower was part of the Channel 9 site, Council resolved to advocate for the cessation of EMR transmissions from the tower and its demolition, unless such cessation gave rise to significant increased radiation hazard elsewhere. It should be noted that this position has not changed. In 2011 the tower was subdivided from the lot at 14 Artarmon Road and became known as Lot 11 DP 1162507. The site is now owned by TX Australia (a joint venture company of the Seven, Nine and Ten television networks). It is Council's understanding that while discussions may have occurred regarding the removal of the telecommunications transmission tower, the tower currently functions in this capacity and will continue to do so into the foreseeable future. In the original application, a Radiofrequency Hazard Report dated 9 November 2012 was undertaken by Kordia Solutions. A hazard assessment was undertaken with an on-site field survey of the electric field generated by communication equipment mounted on the tower. The consultant concluded that "measurements found that the electric field readings were within the General Public Reference Level' as set by the Australian Protection and Nuclear Safety Agency (ARPANSA)." An Electromagnetic Radiation Analysis dated 29 June 2016 has been prepared by Kordia Solutions and is submitted with the Modification. The JBA report summarises as follows: <i>"The revised readings undertaken as part of this application have confirmed that there is no substantial increase in the maximum radio frequency field level, which is anticipated to be approximately 5% of the general public reference level at the roof level of the proposed development site. This remains well within the ARPANSA standard, the General Public Reference Level, re-confirming that the proposal for residential accommodation, small scale commercial uses and a child care centre can be suitably accommodated on the site."</i> Kordia Solutions have concluded there is no science based reason to exclude from the site or establish an exclusion zone on this site regarding uses such as child care centres. Based on the current television tower and measurements taken, the radio frequency levels to be expected at readily accessible areas at or near ground levels of the Modification would be below 1 % of the General Public Reference Level. This is well below safety limits. The existing approval states: <i>"40. Future Development Applications shall include electromagnetic radiation reports and incorporation of appropriate building design measures to demonstrate that residents of all new dwellings will not be exposed to radiation levels (general public reference levels) as recommended by ARPANSA and meet the</i>	Noted.

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<i>requirements of Australian Standard RP3 (Electromagnetic Radiation - Human Exposure Standard 2003)."</i>	
The Modification was referred to Council's Environmental Health Section who advised that: Based on the policy of prudent avoidance, the lack of information for Council to confirm or deny the short term effects of ERM, and that this development is in such close proximity to the broadcast tower, information should be required in relation to the increased sensitive residential use of this site and the establishment of a child care centre both now and at DA stage to avoid any possible risk to human health from exposure to the adjacent towers broadcasting function. It is therefore considered necessary to require prior to any approval and not just at DA stage, more detailed information specific to this modification which satisfactorily addresses the intent behind the existing Approval condition. This would include an explanation of how the Concept design has responded to the telecommunications tower, including residential buildings, the location of publicly accessible areas with particular regard to open space and any child care centre. If it is decided that such information should be provided later at DA stage, then the condition in the existing approval should be amended to include specific mention of sensitive uses such as child care, commercial uses and publicly accessible areas.	As noted above, substantial evidence has been provided in the form of two EMR reports which confirm that electromagnetic radiation levels within the site will be well below the applicable ARPANSA criteria. The ARPANSA criteria are themselves based on the precautionary principle. It is clear from the scientific evidence provided that any risks associated with EMR on this site are well within the limits of exposure that are considered to be acceptable to humans. This Modification Application does not seek to amend Condition 40, which will continue to require that EMR reports are provided with future DAs taking into account detailed design and land use. On this basis, there are no reasonable grounds to preclude child care centres being included as an approved land use on EMR grounds.
12. Social impact and infrastructure considerations In its previous submission, Council raised concern about the increased demand of the redevelopment of the Channel 9 site on schools in the area. Council argued that leaving public school capacity to consideration at the stale level was an unsatisfactory position given the expected school age population of the development and the existing and likely future pressures on public schools in the area. The approval was granted with no condition or commitment that further addressed this issue. The Modification seeks to increase the number of dwellings on the site to 510. The proponent argues: <i>"It is not the policy of the NSW Government to levy private developers for the cost of education infrastructure within established urban areas. The Department of Education is aware of the current approval for the redevelopment of the site, and will have sufficient time to plan for the projected minor increase in student enrolments arising from new dwellings on the site ... It is not expected that the first stage of dwellings on the site would be occupied until 2022-23 at the earliest."</i> The following points are made in regard to school infrastructure: ■ The NSW Department of Education should be notified of this Modification at exhibition stage and comments invited to ensure appropriate long term planning. ■ It is considered that limiting the number of dwellings on the site to what has already been approved would mitigate the likely impacts of the approval on local school services. ■ If an approval is to be given to the Modification, it is considered reasonable for the proponent to financially contribute to a local public school in the area to contribute to the additional demand. To this end, it is requested that consideration by both the NSW Department of Planning and Environment and Department of Education occur prior to any further approval on this site. It is considered that the proposal will have infrastructure impacts on the immediate surrounding footpath and road network. Council's Engineers require the reconstruction of footpaths as well as road pavements in the surrounding streets fronting the subject site after construction. These matters need to be addressed in the terms of approval as	Planning System Circular PS 07-018 Development Contributions (6/11/2007) states that "the costs of the construction and operation of social infrastructure facilities such as schools and TAFEs, hospitals and emergency services will be borne by the State Government." Council provides no unique reasoning as to why this directive should be varied in the case of this project. The Department of Education is aware of the redevelopment of the site, and the proposed modification application, and has at least 5-6 years until the first occupation of dwellings on the site to plan for additional demand arising from the modification. As detailed in the Modification Application, the NSW State Budget 2013/14 included substantial new funding to increase the capacity of public schools within Northern Sydney. The Budget provided \$70 million of new funding from general revenue for a range of capacity-building school infrastructure works, many of which are completed or currently under construction.

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notice for subsequent development applications.	
13. Loss of employment generating lands In its previous submission, Council raised concern with the loss of employment generating lands. An approval was granted despite the concern raised by Council. Regarding the Modification Council supports the proposed non-residential uses on the site (being The Loft building and 500m²), subject to the other issues such as television tower emissions being addressed. Council restates its original position that the continuation of Channel 9 on the site is encouraged as part of the site redevelopment or alternatively in the nearby Artarmon industrial area where a number of businesses associated with television production exist. The loss of Channel 9 from the City will result in the loss of approximately 600 jobs on the site, as well as impact on the associated television production activities in Artarmon, potentially leading to further job losses in the City.	These comments have been resolved previously and are not applicable to this Modification Application.
14. Heritage A Supplementary Heritage Impact Statement has been submitted with the Modification. The Supplementary Heritage Impact Statement was referred to Council's Heritage Architect for comment who advised: "The subject site is located to the east and south-east of the Artarmon Conservation Area with the eastern section of the Conservation Area one block west of the development. As noted previously, the statement of significance for the Artarmon Conservation Area is as follows: The Conservation Area is outstanding for its intactness, with few unsympathetic intrusions occurring. The wide range of largely intact Californian and Inter-war bungalows as well as Federation housing in general good condition, occur in either groupings of consistent styles or subtle blends of successive periods to produce a mix of interesting and varied streetscapes. The area is significant as a harmonious and unified 1910-1920's lower North Shore residential area whose development relates to the development of the railway The increased height of the modified development will have a visual impact as viewed from within streetscapes and other areas of the public domain, that is the greatest visual impact of the modified 12 storey buildings would be from the south-eastern portion of the Artarmon Conservation Area, where the proposed towers would have a greater additional heritage impact on the visual setting. It is accepted, however that the extra height is, to some degree, mitigated by the design of the lower scale 2 storey buildings with a third storey setback to Richmond and Artarmon Road which along with landscaping assists in screening a portion of the towers. I concur with the accompanying modified heritage impact statement, the modification of the arrangement of the proposed buildings whereby the taller buildings are concentrated in the centre of the site and smaller scale buildings along the street edge will have a positive impact in reducing heritage streetscape impact, but on balance the additional height of the 12 storey towers will have a detrimental visual impact on the south-eastern portion of the Artarmon Conservation Area."	Refer to Appendix L.
15. Aboriginal Heritage An Aboriginal Archaeological Due Diligence Report was submitted with the original application. This report considered the site to have very low to no level of potential for containing subsurface Aboriginal archaeological deposits. This Report was referred to Council's Aboriginal Heritage Officer who provided the following additional comments: "Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of	Noted.

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Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted". The Modification does not differ from the Approval regarding the boundary of the site and where development or works are generally to occur. The existing approval includes in the accompanying Statement of Commitments regarding archaeology: "If Aboriginal objects are identified during the development, works must stop immediately and the Office of Environment and Heritage and an archaeologist be contacted." There is no request to change this Commitment in the Modification. The retention of this Commitment continues to be supported by Council.	
16. Contamination A Remedial Action Plan was submitted with the original application. The original application was referred to Council's Environmental Health Section, as was this Modification. The comments made still stand. The existing approval states: <i>"39. Future Development Applications shall demonstrate compliance with the requirements of SEPP 55 and are to include a detailed contamination assessment including detailed remedial action strategy, and incorporation of any necessary remediation as part of future Development Applications."</i> It is therefore considered that prior to any approval of this Modification: ▪ An independent review of all stages of site investigation process be conducted. ▪ A site audit should be undertaken to review the preliminary investigation, detailed investigation, remedial action plan and validation report. Therefore a site auditor accredited by the EPA under the Contaminated Land Management Act should be engaged to review all contamination matters. ▪ Furthermore, a Site Audit Statement should be issued by the site auditor prior to any approval of the Concept Plan. ▪ Potential contamination from lead based paint used to paint the TV tower should be included in any contamination documentation provided by the proponent and considered in any compliance with SEPP 55, and contamination strategy and any independent review of contamination issues.	The Modification Application does not give rise to any matters that alter the original assessment and determination regarding the future management of potential contaminants within the site.
17. Affordable housing The existing approval states: <i>"36. Future Development Applications shall provide dwellings equivalent to a minimum of 4 percent of new residential floor space to council at no cost, to be made available by council as affordable housing consistent with the Willoughby Local Environmental Plan 2012."</i> The Modification does not propose to change this condition. Concern is raised with the affordable housing reference in the Modification to number of units and not m² - which may result in an affordable housing provision being less than expected in WLEP 2012. Based on the proposed residential floor space of 44,626m², a total affordable contribution of 1,785m² is required. The number of units will be determined at development application stage, following consultation with Council to determine an appropriate unit mix of bedrooms and therefore size. This should be clarified at this stage with the proponent to ensure no misunderstanding and reinforced in any approval.	The number of affordable units has been provided for reference and communicative purposes only, and in no way alters the implications of this condition. No amendment to Condition 36 is proposed. The Proponent is also making a voluntarily commitment to provide 5% (rather than 4%) of additional floor space for the purpose of affordable housing as an additional public benefit associated with the project.
18. Adaptable housing The existing approval states:	Noted.

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"35. Future Development Applications shall provide a percentage of adaptable housing consistent with the Willoughby Development Control Plan." The Modification does not propose to change this condition or the section on accessibility and adaptable housing in the Statement of Commitments.	
19. Sustainability The Modification states that the approved concept plan established principles for ESD performance on the site and that these principles continue to be reflected and are able to be achieved. Council's submission on the original application recommended that the Terms of Approval and Statement of Commitments included a requirement for the applicant to incorporate in the design: ■ Provision for stormwater harvesting from hard surfaces and roof tops for landscaping irrigation (particularly the park), toilet flushing and laundry services for units; ■ Solar gas boosted hot water facility for all units; ■ Solar collectors for lighting of communal areas and basement parking; The first application to outline how the development will meet the principles of sustainable design including: ■ Green Building Council minimum 5 star rating; ■ Demonstrating that the passive design will reduce the demand for electricity, water and gas; ■ Some form of renewable energy onsite or other decentralised energy systems; ■ Water Sensitive Urban Design on site. The existing approval states: <i>"28. Future Development Applications are to incorporate an ESD plan to demonstrate the incorporation of best practice ESD principles in the design, construction and ongoing operation phases of the development."</i> The existing approval also states in the accompanying Statement of Commitments regarding sustainability: <i>"Future Development Applications for residential development on the site will demonstrate that the project exceeds the minimum BASIX targets."</i> The Council requests that the specific requirements previously identified be included in any approval.	No changes are proposed to Condition 28 that would give rise to the need for further assessment of this matter.
20. Development staging The Modification proposes staging the development into 3 stages: ■ Stage 1 - Part of site fronting onto Artarmon Road and majority of Richmond Avenue. ■ Stage 2 - Middle section of site. ■ Stage 3 - Rear of site, remnant section of site fronting onto Richmond Avenue, section of site having boundary with Castle Vale to east.	An amended staging plan is provided as part of the CHROFI Urban Design Report. Reciprocal rights across lots for stormwater are most appropriately dealt with at the Development Application stage.

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This staging is also qualified as being dependent on market conditions. The proposed public and communal open space within each of the above stages is proposed to be completed prior to issuing of an Occupation Certificate for the dwellings within that stage. As Council raised in its submission on the original application, public open space areas should be provided in Stage 1 of the development, to service the recreational needs of the residents of the first stages of the development, the needs of the locality with potential access via Richmond Avenue and any linkages through the Walter Street Reserve, and to ensure that it is in fact provided. If left to the last stage, concern exists that these public open space areas may not be constructed and that they may not be available for a number of years. The development is expected to be subdivided with a Community Title scheme with an Owners Corporation to oversee community property such as roads and open space areas and potentially other separate residential body corporate entities. Reciprocal rights between lots for stormwater, services, access and waste collection will be required. Planning for reciprocal rights should be explained in detail for each stage.	
21. Stormwater Management The existing approval also states in the accompanying Statement of Commitments regarding stormwater and flooding: "Future applications for development shall include a detailed Stormwater Management Plan addressing on-site stormwater detention measures, opportunities for rainwater reuse, water quality management measures to be implemented including Water Sensitive Urban Design." Council's development engineers have provided the following comments in relation to stormwater management. These matters need to be addressed in the terms of approval as notice for subsequent development applications: "A preliminary review of the Part 3A concept plan and the Integrated Water Management (IWM) Plan prepared by Cardno have identified the following concerns with regard to on-site stormwater management which shall be considered/addressed with future development applications: The engineering comments are recommended to be reflected in Terms of Approval.	These matters are most appropriately dealt with in future Development Applications, as required by the Statement of Commitment noted by Council.
22. Noise Council's Environmental Health Section previously required the provision of a noise report as follows: "The proposal ... has the potential to increase traffic and therefore increase noise on the existing local road network. A noise assessment at concept plan stage should be made with reference to the NSW Road Noise Policy published by the Department of Environment, Climate Change and Water NSW. March 2011 (now known as the Office of Environment & Heritage). Therefore, an acoustic report prepared by a suitably qualified acoustic consultant should be undertaken which addresses the noise assessment criteria as stipulated in the NSW Road Noise Policy being for existing residences affected by additional traffic on existing local roads generated by the proposed land use development. It is important that this is addressed prior to any approval being granted to the concept plan". These comments are particularly relevant due to the significant likely increase in traffic queuing in Richmond Avenue and in Artarmon Road due to the high volume of peak hour movements. The existing approval states in the accompanying Statement of Commitments regarding a noise report: <i>"Future applications for development will be accompanied by a Noise Report which demonstrates compliance with the relevant standards for internal amenity." There is no request to change this Commitment in the Modification.</i>	The total volume of traffic generated by the site, as it is proposed to be developed under the CHROFI Master Plan, is generally consistent with the existing level of traffic generated by Nine Network's use of the site. In addition, a larger proportion of total movements will occur during less-sensitive daytime hours associated with the residential nature of the site. As such, it is not considered that the redevelopment of the site would have any significant impact on road traffic noise.

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The need for this requirement is considered even more necessary with the requested addition of 110 dwellings. 23. Unit mix In the original Council submission, Council sought a unit mix in the development as follows: - One bedroom - up to 35% - Two bedrooms - between 50% and 70% - Three bedrooms - up to 20% The proposed unit mix in the Modification is as follows: - One bedroom 33% - Two bedroom 62% - Three bedroom 5% The existing approval states: <i>"27. Future Development Applications for Stages 1 and 2 shall provide a variety of apartment types and sizes including studio, 1 bedroom, 2 bedroom, 3 bedroom and 3+ bedroom units. The proposed apartment mix is to be justified by consideration of population trends and market demands."</i> Council seeks a more certain unit mix across this development site, catering to a mix of owners or tenants including couples and families. It is recommended that any approval of this Modification require the applicant to commit to providing a mix of unit sizes in the development, within the following ranges - - One bedroom - up to 35% - Two bedrooms - between 50% and 70% - Three bedrooms - up to 20%	This matter was considered and resolved as part of the original Concept Plan through the imposition of Condition 27. The indicative floor plans provided within the Modification Application indicate an apartment mix that is consistent with Council's desired mix. Council will be the assessment authority for future Development Applications. As such, it is not considered appropriate to amend Condition 27.
24. Consultation with Council and the community Prior to the exhibition of the proposed Modification, Council and the community were informed of the proposed Modification by the proponent. However there has not been input by Council into the preparation of the new Concept or amendments made by the proponent as a result. While the Modification may result in a better outcome with regard to certain design features, it does not satisfactorily address continuing concerns over number of dwellings, floor space ratio and height on the site. In addition further concerns have been raised in the Concept Plan Review carried out by Allen Jack and Cottier at Council's request. It would appear that the Modification and accompanying Concept Plan is being driven by a desire to increase the dwelling yield rather than working within already established development parameters to achieve a well-mannered solution acceptable to all stakeholders.	Consultation with the community and Council has informed a number of the design aspects of the CHROFI master plan. We have heard and listened to the matters raised by the community and Council, however, we respectfully disagree with Council and the community in relation to the capacity of the site to accommodate additional dwellings and taller building heights. The additional development yield responds to clear strategic planning directives that encourage urban consolidation on well-located sites with access to public transport, services and employment and increase housing diversity and supply to meet the needs of future generations. As demonstrated in the Modification Application, we believe that this is able to be achieved without any significant additional impacts on local amenity.
Allen Jack + Cottier – Design Review on behalf of Willoughby City Council	
Allen Jack + Cottier believe that additional public open space, more commensurate with the proposed increase in dwelling numbers should be provided in the proposed concept plan.	Modification Application No.1 substantially understated the increase in publicly accessible open space in comparison to the approved Concept Plan. A 171% increase in publicly accessible open space is proposed in comparison to the current Concept Plan Approval. Furthermore, the recommendation of AJ+C is inconsistent with the Apartment Design Guide, which expresses desirable provision for open space within a site as a percentage of the site area. We note that the relative value of open space is not only defined by its quantity, but also its quality. The proposed Modification Application seeks to provide a series of connected and differentiated open space areas

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	which will provide higher amenity to users in comparison to the currently approved park.
More careful consideration for the programme/uses of Village Green is required to better inform the design of this public open space so that that it creates a more diverse contribution to the public open space and maintains the view corridor identified in the overall site planning strategy.	Detailed design of the Village Green space will be resolved at the Development Application stage.
Further assessment of anticipated pedestrian traffic should be used to inform the design strategies of Village Square and the Gateway as the two major pedestrian access points to the site. And by virtue of this site linkages that improve pedestrian access the rest of the site should be incorporated into the public open space design.	Refer to main report.
Retention of Tree 32 should be considered for its own merits and as an opportunity for it to contribute to improved site linkages and additional public open space.	Tree 32 is proposed to be retained as part of the amended master plan.
Modification of the proposed forms (Buildings E and F) around Tree #32 and potential site linkages should also be undertaken to reduce the overall length of building frontage provided on the site with minimal separation to other buildings. We believe the length of building facades facing other buildings less than 25m away could be reduced by some 200m.	As noted in the CHROFI submission, the proposal complies with the requirements of SEPP65 and the Apartment Design Guide in respect of building separation and visual privacy. The north-south orientation of building envelopes has a number of benefits including the provision of visual breaks in buildings, improving solar access to apartments and open space areas and supporting natural ventilation. Further detailed design will be undertaken at the DA stage, and these matters assessed by Council at that time.
The applicant should be required to demonstrate the relative impacts of Building J on the outlook from units in the adjacent Castle Vale Development and the solar access to the properties along Walter Street.	Building separation between Buildings F and J and the adjacent Castle Vale development exceed the requirements of the Apartment Design Guide. This was not raised as a matter of concern in public submissions.
The units facing Artarmon Road on the lowest level of Building B should be removed to improve this building's relationship with the low scale residential context of Artarmon Road.	Refer to CHROFI Master Plan Report.
Office of the NSW Government Architect (for NSW Department of Planning and Environment)	
Site Planning	
<i>Comments</i>	
One of the most significant improvements in the concept plan is the structure planning of the site and the location and amount of public domain provided. Under the Concept Plan the system of streets and open spaces is indicated as part of the public domain and is in public ownership.	Noted, a dimensioned plan is provided in the CHROFI Urban Design Report.
This is an essential aspect of the plan and should be a key feature of the project going forward. As such, it is important that the configuration, location and size of public spaces is clearly agreed at the Concept Plan stage of the project so that the quality of public space is not compromised as the project goes forward into detailed design development.	
It is recommended that a dimensioned plan is provided that defines and articulates the boundaries between private and public space. It should include the location, size, key guidelines and configuration of each space to match the intended programming. This is to ensure that there is a definitive location for public areas and that buildings and other private areas are not increased in scale or height such that they impinge on the proposed system of public open spaces and streets.	
Building Massing and Height	Refer to CHROFI Urban Design Report for solar studies incorporating proposed future development along Walter Street.
The bush build type (buildings H and J) is less successful. These two buildings are not dissimilar to standard slab residential flat buildings. Further solar studies are required to establish whether Building J in particular will overshadow, the rear of Walter Street buildings when fully developed under the current zoning, which allows for residential flat buildings. Walter street lots are located significantly lower level than building J, which results in an overall height of Building J, of 2 or more levels above its actual height and Walter Street lots are located to the south of the subject site.	

Agency Comment	Proponent's Response
Walter Street is currently in transition from detached dwellings to residential flat buildings up to 4 storeys. The WDCP controls will result in residential flat buildings with much smaller rear gardens as well as much narrower setbacks than the current houses. It is important that Building J does not impede the design quality of future residential flat buildings on Walter Street lots, taking into account the significant level change. It is recommended that further design development is undertaken to refine building J in response to the future medium density context along Walter Street (Recently lodged DA 's for Walter street lots are now available from Willoughby Council) including: - the orientation of apartments to the east and west, with less apartments looking down into Walter Street lots, - deeper setbacks at the rear boundary, - a smaller building footprint or a different building type, rather than an east-west oriented slab building. The position of buildings G is much close to the side boundary than the previous scheme resulting in a reduced setback by as much as 18m less. It appears that the majority of dwellings in the neighbouring buildings are oriented to the east, north and south rather than towards the subject site. Therefore this is not likely to be an issue.	
Additional Built Form The generic section of the 'sunken' design and imagery provided in the Concept Plan documentation is unconventional; although not necessarily problematic if well designed. The drawings indicate that the 'sunken ' apartments have a 6m wide sunken garden area. This dimension is required to be documented in the concept plan to ensure the garden spaces do not get reduced in width during the design development phase, such that apartment amenity is compromised. The intended level change has not been demonstrated to be coordinated with pedestrian and vehicular circulation, privacy and the functionality of ground level external public, communal and private spaces. Creating a significant level change in the form of retaining walls around building boundaries creates an additional level of design complexity that must be resolved. Given the significant natural and man-made topographic changes across the site, it may be appropriate for parts of the buildings frontages to be sunken, however key frontages such as those along the central park may not result in a quality park edge if sunken below the park level. It is recommended that the 'sunken' level is further explored, dimensioned and detailed to ensure that the generic section provided in the Concept Plan documentation functions across all building edge conditions, topographic conditions and various transitional/sectional arrangements between public space, communal space, private open space and dwelling interiors as well as common circulation routes into buildings and vehicular entries. This study should determine typical and maximum depths of the sunken level across the site.	Noted. A more detailed plan illustrating the extent of proposed 'sunken courtyards' and other level changes within the site is provided in the CHROFI Urban Design Report. It is noted that this Modification Application relates to the Concept Approval only, and that there will be subsequent detailed Development Applications submitted to Council for buildings and open space areas illustrating the specific design approaches to these spaces. It is considered, and acknowledged in the GAO submission, that whilst unconventional this approach is capable of providing suitable amenity to future occupants subject to good design which will be assessed by Council at the DA stage.
Access to services and Public Transport Further investigation into how the increase in population will be accommodated with regard to access to essential services should be undertaken to ensure that public transport options match demand and the increase in built form is accompanied by public transport initiatives such as a bus service linking the community to trains and services.	Refer to Appendix J. The site is within close walking distance of bus stops on Willoughby Road which provide direct services to Chatswood, North Sydney and the Sydney CBD.
Ground Plane There is limited information in the concept plan regarding how the buildings are resolved at ground level in section.	Refer to additional information provided within CHROFI Urban Design Report.

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This is important as the significant topographic variations (both natural and man-made) across the site combined with the 'sunken floor' level and the variety of open spaces may result in disconnection between interior and external spaces, circuitous circulation routes and ramps for pedestrian and vehicles. The quality of the public domain and open spaces; including parks, streets and communal areas will be influenced by the interface design of buildings at ground level It is recommended that more design detail is provided on: ▪ The interface between (street section) ground level apartments and streets, parks and other exterior spaces. ▪ The resolution of level changes throughout the site on all buildings.	
Resolution of Building Articulation and Materials The precedent imagery in the Concept Plan includes perspectives of well-articulated buildings that use a palette of complementary materials. However there is limited detailed design information in the Concept Plan on how each building is resolved in elevation and specific information on materials and detailing. Given the number of buildings and the size and scale of buildings it is desirable that there is more information provided in the Concept Plan as to how variety is to be provided between buildings, how materials and detailing is used to break down the scale of buildings and how the new buildings complement the character of surrounding existing streets and buildings. It is recommended that additional information is provided on: ▪ Articulation of buildings and building elevations, ▪ The intended palette of materials and variety of materials/detailing between buildings.	The Proponent has committed to engaging a range of architectural firms to design individual buildings under the guidance of master plan architect CHROFI. The floor plans provided within the Modification Application are indicative only, with the building envelope drawings instead forming the basis for the master plan which is sought to be approved. This is consistent with the level of architectural design undertaken at the master plan stage. Individual building design, including articulation and materiality, will be subject to further design development and will be able to be assessed by Willoughby City Council at the DA stage.
Further matter for Consideration The site is not within walking distance to local services such a supermarket and there is no train station. There is a bus to Chatswood which requires walking down the steep hill to Willoughby Road and a 20-30 minute bus ride. As such it is expected residents will mainly drive to access essential services, with potential public domain impacts. Some assessment of pedestrian access and connectivity from the site to essential daily and weekly services i.e. such as shopping, entertainment, child care etc. is recommended.	Timetabled bus services from Willoughby Road to Chatswood Interchange take between 13 and 16 minutes (10-13 minutes to Chatswood Chase), not 20-30 minutes as stated in this submission. Local shops at Willoughby Road are less than 600m from the site's Artarmon Road frontage, and walking via Edward St/ Borlaise St provides a gentler gradient. It is also expected that there will be some small retail offering as part of the non-residential uses within the site providing local convenience retail services.
Transport for NSW	
<i>Willoughby Road / Artarmon Road / Small Street Intersection upgrade</i> The proponent proposes an arrangement with Willoughby Council whereby a \$3 million contribution is proposed to upgrade the above intersection to allow for greater traffic flow from Willoughby Road onto Artarmon Road through the creation of a slip lane. This raises a number of issues including: ▪ It is unclear where any additional funding will be sourced from if the cost of the intersection exceeds \$3 million. This needs to be resolved and clarified between all parties involved. - Roads and Maritime should be involved from the outset in the design for any intersection improvements given that Willoughby Road is a State Road. Roads and Maritime would also need to approve any changes to the traffic signals. ▪ The GTA analysis should clarify that the intersection is currently 'no right turn' from 0600- 2200 weekdays. Therefore, the analysis that attributes the loss of performance to traffic from the leisure centre on Small Street may not be wholly correct and may need to be re- examined.	The Proponent is proposing to make a financial contribution toward Willoughby City Council to be used for the purpose of this upgrade (which is able to be pooled with S94 local development contributions from this development and other residential development within the locality). Council would be responsible for coordinating detailed design and works funding agreements with RMS. Refer to Appendix J.

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As currently proposed the intersection design will have a detrimental impact on a significant bus stop (designation TSN 206879) which is serviced by routes 257, 272, 343 and M40. On a weekly average, over 1800 customers utilise TSN 206879. If the stop is moved or altered in any way this may have a detrimental impact to existing customers. Detailed consultation of the impacts of the bus stop through discussion with TfNSW is required before any change to the location of the bus stop could be considered. The concept layout (p.22 GTA Traffic Impact Assessment) offers limited options of where the stop can be repositioned, particularly when the road network is considerably constrained (see below). There needs to be prior agreement on where any additional funding for the intersection works will be sourced from if the cost exceeds \$3 million. The applicant is to obtain in-principle approval from Roads and Maritime. TfNSW will work with the proponent to explore possible alternative locations for bus stop TSN206879. TfNSW would also need to provide approval in writing for the relocation of bus stop TSN206879.	As noted above, TfNSW would be consulted with by Council as part of the detailed intersection design upgrade. The Proponent is proposing to make a financial contribution to Council for part of the anticipated cost of the upgrade. It is expected that this funding would be pooled with local development contributions gathered from the development of the subject site and other development within the locality to meet the full cost of the works.
<i>Construction Pedestrian Traffic Management Plan (CPTMP)</i> It is important that construction traffic on Willoughby Road does not adversely impact the significant existing bus operations. Recommendation: Provide a draft Construction Pedestrian Traffic Management Plan (CPTMP) to specifically but not limited to: - Location of the proposed work zone - Haulage routes - Construction vehicle access arrangements - Proposed construction hours - Estimated number of construction vehicle movements; - Construction program - Any potential impacts to general traffic, cyclists, pedestrians and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works - Pedestrian and bicycle rider movements along footways and cycleways should be maintained at all times during construction activities, particularly along Captain Cook Drive; and - Measures proposed to mitigate any associated general traffic, public transport, pedestrian and cyclist impacts should be clearly identified and included in the CPTMP	An additional Statement of Commitment is proposed to be included which requires the submission of a CPTMP prior to the submission of the first Development Application, as outlined in Appendix G.
NSW Roads and Maritime	
Roads and Maritime has reviewed the submitted documentation and raises no objection to the proposed modifications.	Noted.
NSW Environment Protection Authority	
As detailed in our original response to you, dated 17th May 2016 (ref: DOC16/218477-01), the EPA considers this current modification only minor and therefore has no additional comment further to our previous advice.	Noted.
NSW Office of Environment and Heritage	

Agency Comment	Proponent's Response
After reviewing the relevant documents, OEH's Greater Sydney Planning Team has concluded that the matter does not contain biodiversity, natural hazards or Aboriginal cultural heritage issues that require a formal OEH response. We have no further need to be involved in the assessment of this project.	Noted.
NSW Heritage Division	
The Heritage Division had provided comments on the previous EA in August 2013 stating that due to the distance of identified heritage items in the vicinity of the development and the low probability of the site containing any archaeological remains with historical significance or research potential, the proposed development was likely to have negligible heritage impacts. The updated Environmental Assessment (EA) was exhibited for public comment from 5 August 2016 to 5 September 2016. The EA included a Heritage Impact Statement (HIS) prepared by GML Heritage. The HIS notes that the amendments outlined in the modified concept plan are also likely to have negligible impact on historical items located in the vicinity of the site. Therefore, no objection is raised to the proposed s.75W modification application.	Noted.
Sydney Water	
The development must have frontage to a water main that is the correct size and can be used for connection. Preliminary investigation shows that a 200mm drinking water main amplification and extension within the development boundary may be required for the existing water main in Scott Street. The amplification and extension would need to comply with the Water Supply Code of Australia requirement for minimum sized mains for this scope of development. Detailed water requirements will be subject to the connection points to the existing system which will be provided at the Section 73 Application phase.	Noted.
The proposed development site is traversed by a number of existing wastewater mains. Where proposed works are in close proximity to a Sydney Water asset, the developer may be required to carry out additional works to facilitate there development and protect the wastewater main. Subject to the scope of development, servicing options may involve adjustment/deviation and or compliance with the Guidelines for building over/adjacent to Sydney Water assets. Subject to the location of the connection points of buildings to the existing sewer mains, amplification of the existing reticulation mains may be required. In order to determine detailed requirements, the developer is to submit their proposed wastewater servicing brief at the Section 73 application phase.	Noted.
Willoughby South Progress Association	
As stakeholders in the redevelopment of Channel 9's Willoughby site we are greatly concerned about the scale, height and residential density proposed and are strongly in favour of the original agreed plan embodying a maximum height of eight storeys and a maximum of 400 dwellings. At a Community Meeting held on August 16 this year [2016], over 180 people again agreed that residential redevelopment of the site was an appropriate use but that the proposed 510 apartments and up to 12 storey high buildings was unacceptable. The meeting went on to unanimously endorse the following resolution:	Noted.
The approved maximum building storey height and apartment numbers on the Channel 9 site were set after	The approval of the original Concept Plan was granted in the context of a specific urban design

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extensive community consultation, assessment and review by the Land & Environment Court and Planning Assessment Commission.	
Nothing has changed regarding the site that warrants any increase in the approved building storey height and apartment numbers	Since the original approval, some key progress has included: - Competitive urban design excellence process which has demonstrated that, under the competition-winning CHROFI scheme, the site is capable of accommodation additional height and apartments without significant environmental impacts (including reduced overshadowing, increased public open space and greater permeability); - Increase in NSW Government projections for housing demand and population growth; and - Increased investment in public transport capacity within the region.
Its opposition to the proposed or any increase in the building storey height and apartment numbers on the Channel 9 site above the 8 storey and 400 apartment limits that were set by the Land & Environment Court and Planning Assessment Commission.	The proposed modification application is entirely consistent with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> .
The PAC found that 350 apartments and eight storeys maximum height was the appropriate level of development of the site, taking into consideration all the impacts of the development on the surrounding neighbourhood and infrastructure. This subsequently lifted to 400 apartments at conciliation at the L&E Court and this was reluctantly accepted by the community and Council.	The PAC's decision was formed in the context of the specific master plan under consideration at that time. It was not a proclamation as to the maximum development potential of the site. The CHROFI master plan demonstrates that additional housing supply can be accommodated on the site whilst demonstrating improvements in many of the key assessment metrics which informed the original decision – for example overshadowing is reduced from the approved scheme, whilst the visual impact is no worse than that which is approved.
As stated above, nothing has changed regarding the site that warrants any increase in the approved building storey height and apartment numbers. In fact, currently, residential development will add a further approximately 200 apartments within 500 metres of the Channel 9 site, further stretching already stressed infrastructure.	Cumulative development within the locality is in generally in accordance with the provisions of the Willoughby Local Environmental Plan 2012, which came into force in December 2012 – over four years ago. Council assessed and planned for infrastructure to support this cumulative development in the process of developing this LEP. At that time, the original Concept Plan application for the Channel 9 site had also been publicly exhibited. As such, public authorities have had a substantive amount of time to anticipate and plan for the required local infrastructure, particularly as no dwellings are anticipated to be completed on the Channel 9 site until 2022/23.
We dispute the figure for the number of people that will occupy the development because, given its location, distant from many essential services and in a sought after school catchment area, a larger number of families will live there than the standard number for a high rise development.	A methodology statement for these calculations is provided at Appendix K . The local data and assumptions relied upon are considered to be appropriate and reflective of the likely future occupancy patterns for the site.
We further dispute the traffic movement figures as, again due to its location and the already overcrowded morning peak conditions for city buses on Willoughby Rd, many more occupants will choose to use their cars than the standard RMS figure for high rise developments.	Refer to Appendix J .
We question the benefit to the local community of the proposed \$4m contribution to the revamping of the Artarmon Rd/Willoughby Rd intersection. What is proposed may give some relief to traffic proceeding west on Small St but will have no beneficial effect for those proceeding east on Artarmon Rd.	Willoughby Council would be responsible for finalising the design for the upgrade of the Willoughby Road intersection.
In view of all the above, particularly the addition of apartments in other low rise developments in the immediate vicinity of the Channel 9 site, we request that your Dep't of Planning gives consideration to reducing the number of apartments back to the 350 approved by the PAC in 2015.	The proposed modification is consistent with State and Council strategic planning objectives, will result in a better planning outcome than the currently approved scheme, and will deliver a number of significant public benefits. In light of this we strongly support the proposed modification as submitted.
Artarmon Progress Association	
APA objects to proposed increase to the approved and number of apartments to 510 dwellings, and building height to 12 storeys. These increases are inappropriate for the Channel 9 site location.	Noted.

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In 2014 the Planning Environment Commission, after conciliation meetings in the Land & Environment Court found that the limitations of the Channel 9 site location required a lower level of development than its owner had proposed. PAC approved a development limited to 400 apartments and maximum 8 storey building height; this was well below the 450 apartment, 12 storey development that was sought.	The PAC's decision was formed in the context of the specific master plan under consideration at that time. It was not a proclamation as to the maximum development potential of the site. The CHROFI master plan demonstrates that additional housing supply can be accommodated on the site whilst demonstrating improvements in many of the key assessment metrics which informed the original decision – for example overshadowing is reduced from the approved scheme, whilst the visual impact is no worse than that which is approved.
Since PAC's ruling, there have been no changes to the site, its location or the community, which now make a larger development on the Channel 9 site appropriate. The EIS supporting the proposed modification provides no tangible reason that justifies the proposed increases, or why PAC's past ruling needs to be changed.	Since the original approval, some key progress has included: - Competitive urban design excellence process which has demonstrated that, under the competition-winning CHROFI scheme, the site is capable of accommodation additional height and apartments without significant environmental impacts (including reduced overshadowing, increased public open space and greater permeability); - Increase in NSW Government projections for housing demand and population growth; and Increased investment in public transport capacity within the region.
The Channel 9 site is limited and should not have the proposed high rise high density development.	The proposed scale of development is considered to be appropriate for the site based on its size, site conditions, amenity and proximity to public transport, open space, local services and employment centres.
The Channel 9 site location is not situated within walking distance to required amenities or transport links. Facilities such as mass transport and amenities needed to make high rise apartments viable are all more than 1 km away, these include: schools, rail transport, supermarkets, post office and medical centres. As a result the site will generate excessive car movements as residents will be highly dependent on car transport to travel to work, school, shops etc.	Bus stops located on Willoughby Road are located less than 200 metres from the site edge, and provide frequent services throughout the weekday and weekend periods to a number of major local centres of employment and services. Furthermore the site is within 800 metres walking distance of the Willoughby Road shops (near French Street).
The proposed scale of the modified development is out of place with the surrounding area. The site is located within a predominantly R2 low density, single dwelling residential area, with 'Castlevale' the only apartment development in the immediate area. The proposed development is significantly larger and higher than 'Castlevale', with a proposed building height of 12 storeys at Channel 9, compared to 8 storeys in 'Castlevale'.	We note that Walter Street is also zoned for residential apartment buildings, and mixed use residential development is permitted along much of Willoughby Road. The proposed building heights reflect the unique opportunities presented by the size and positioning of the site, and as demonstrated in the CHROFI master plan are able to be accommodated without any additional overshadowing and no significant impacts in terms of visual impact in comparison to the approved Concept Plan.
Artarmon Progress Association objects to the proposed modification to increase the approved apartment numbers and building height at the Channel 9 site. Artarmon Progress Association requests that the proposed modification be assessed and determined by the Planning Assessment Commission at a public meeting held to enable effective community comment on it.	The proposed modification is consistent with State and Council strategic planning objectives, will result in a better planning outcome than the currently approved scheme, and will deliver a number of significant public benefits. In light of this we strongly support the proposed modification as submitted.
Naremburn Progress Association	
We write to you seeking to make a submission on behalf of the Naremburn Progress Association (NPA) regarding the Modified Concept Plan (MCP) for the Channel Nine Willoughby site, as recently lodged by JBA Urban acting for LEPC9. The NPA OBJECTS to the MCP as it seeks to significantly increase both height and density beyond those limits set following exhaustive consultation between Channel Nine, Willoughby Council and the community during 2012-2013 and with adjudication by both PAC and the Land & Environment Court, culminating in the Determination dated March 2014.	Noted.
These limits were greater than the community was really willing to accept but were agreed somewhat on the understanding that no party would be able to increase numbers/heights etc. above those set, at any time in the future. The existence of Clause 75W of the EP&A Act was certainly not made known to the public. Hence it was with great	Provisions for the modification of an approval are an inherent component of the NSW planning system, and the provisions of Section 75W have not changed since the assessment of the original Concept Plan application. It is normal practice throughout NSW for a landowner-obtained planning approval to be substantially modified by an

Agency Comment	Proponent's Response
surprise that we learnt of the substantially modified Concept Plan prepared by a group of consultants engaged by LEPC9.	incoming developer experienced in delivery residential communities.
Two evening meetings (termed "community information sessions") were held by JBA at the Uniting Church hall, Willoughby on the 25th and 26th May, 2016. These sessions were generally effective in presenting the MCP to the community and assisted attendees in gaining a clearer understanding of the key elements. However, whilst the combining of the three previously separate public green spaces into a significantly enlarged one would appear to provide better usage of that space and improve the flow through the entire development, it does not follow that approval should thereby be given to increase the number of storeys by 50% (from 8 to 12), and the number of units from 400 to 510 (28% increase). Whether these improvements would benefit the entire community as opposed to just the site developer and unit owners should not be assumed, as it appears the Proponent contends the improved space can only be made available with significantly increased building heights and total unit numbers.	As noted in the main report, the increase in height is not 50% in real terms due to the skilful design by CHROFI which utilises the natural slope within the site to distribute building massing. In fact, the amended masterplan has an overall building bulk which is 11% less than the currently approved Concept Plan. Publicly accessible open space has been significantly increased under the proposed modification, and has been skilfully designed so as to maximise opportunities for use and benefit to the surrounding community.
It should be noted that the feedback from the community information sessions was both concise and unified: the community does not consider that the advantages of the modified design outweigh the significant issues arising from a 50% increase in height and 28% increase in density. Much of the thought and work that went into the original concept plan was based on the external effects of the new use for the site. The redesign of the building layouts will no doubt be a benefit to the occupiers, however the negative effects of various externalities continue to bear unchanged on the MCP. These include increased traffic flow on already congested roads, increased demand for already scarce on-street parking, overshadowing of adjacent housing, increased demand for local school spaces and increased loading on public transport. The effects of all these will be greatly exacerbated with the completion within the next two years of more than two hundred new apartments in close proximity to the Channel Nine site.	The PAC's decision was formed in the context of the specific master plan under consideration at that time. It was not a proclamation as to the maximum development potential of the site. The CHROFI master plan demonstrates that additional housing supply can be accommodated on the site whilst demonstrating improvements in many of the key assessment metrics which informed the original decision – for example overshadowing is reduced from the approved scheme, whilst the visual impact is no worse than that which is approved. Detailed discussion and assessment of environmental impacts is contained within the main planning report.
It is important to understand that the community does not oppose the redevelopment of the Channel Nine site. However, it has developed an understanding of bulk, scale and visual amenity and seeks to preserve the many attractive elements of the area, achieved through sensitive and appropriate design which has flowed through from the strong interaction between developers, Council and the community. The current approved Concept Plan with its 400 apartments and maximum 8 storey height drew widespread support at all levels, such that we would be confident to say the continuation of those parameters into the later MCP would be an exciting prospect, and one that may well attract universal support. On the other hand, while we remain accepting of the residential conversion of the site we reiterate our opposition to any proposals to increase the height and density in the modified concept plan.	We note that the proposed building 'bulk' would in fact be reduced by 11% under the proposed modification. Similarly, the scale and visual impacts of the modified scheme are considered to be comparable or no worse than the approved scheme. This has been achieved by a skilful design which has taken into account the key outcomes and considerations learnt during the previous assessment process.
Willoughby Area Action Group	
The Willoughby Area Action Group (WAAG) objects to the proposed modification to the Channel 9 site development. The modification seeks to increase the building height from 8 to 12 storeys, and apartment numbers from 400 to 510 dwellings. These proposed increases are well above the level which is sustainable and appropriate for the site's location. The Willoughby community has campaigned for appropriate development on the Channel 9 site. The community throughout the initial Channel 9 assessment process actively supported a medium density, mid-rise apartment development on the site. At the Planning Assessment Commission's public meeting, held 19th February 2014, the community spoke with a unified voice with each speaker supporting a medium density development on the site and objecting to the proposed over development of the site.	Noted.
At the 2014 PAC meeting the site's then owner was seeking approval for a 450 apartment development. PAC assessed this and found that this was an excessive level of development given the site's location. The Planning Assessment	The PAC's decision, subsequently mediated before the LEC, was formed in the context of the specific master plan under consideration at that time. It was not a proclamation as to the maximum development potential of the site.

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Commission, together with the Land & Environment Court determined that 400 apartments was the maximum density that was appropriate for the Channel 9 site.	The CHROFI master plan demonstrates that additional housing supply can be accommodated on the site whilst demonstrating improvements in many of the key assessment metrics which informed the original decision – for example overshadowing is reduced from the approved scheme, whilst the visual impact is no worse than that which is approved.
Nothing has changed regarding the site, or its location that alters its ability to house more residents than when it was reviewed and assessed by PAC. The site is not appropriated for high rise, high density development because:	Since the original approval, some key progress has included: ▪ Competitive urban design excellence process which has demonstrated that, under the competition-winning CHROFI scheme, the site is capable of accommodation additional height and apartments without significant environmental impacts (including reduced overshadowing, increased public open space and greater permeability); ▪ Increase in NSW Government projections for housing demand and population growth; and ▪ Increased investment in public transport capacity within the region.
a) The amended development scale is excessive and out of place to the surrounding area: - The site is located within a predominantly low density, single dwelling residential area - The Channel 9 site adjoins the Artarmon low density residential conservation zone - Castlevale on the eastern boundary of the development site is the only non-low density development in the area. The proposed development dwarfs Castlevale: - Maximum building height 12 storeys in the amended development, compared to 8 storeys in Castlevale - FSR of 1.5:1 in the amended development, compared to 1:1 in Castlevale	We note that: ▪ The site is currently zoned for Special Uses, but adjoins land zoned not only R2 Low Density Residential but also for R3 Medium Density Residential and R4 High Density Residential; ▪ The site is situated outside of the conservation zone; ▪ A number of residential flat buildings are also approved or proposed along Walter Street; and ▪ The master plan reflects the adjoining site conditions by ensuring an appropriate transition in scale to the adjoining low density residential areas, as outlined in the CHROFI Master Plan report.
b) The Channel 9 site location is not close to mass transport and amenities needed to make high rise apartments viable. The site is more than 1 km away from facilities such as: public schools, rail transport, supermarkets, post office and doctors and other medical facilities	Bus stops located on Willoughby Road are located less than 200 metres from the site edge, and provide frequent services throughout the weekday and weekend periods to a number of major local centres of employment and services. Furthermore the site is within 800 metres walking distance of the Willoughby Road shops (near French Street).
c) The site will generate excessive car transport because it is located in an area that is not close to transport, schools, medical, shops etc.	Refer above response.
The proposed increase in building height and apartments must be rejected because the applicant in their EIS does not provide any reason that justifies: - The increase in apartment numbers and building heights. The EIS notes that changes are needed to improve the “poor design” of the approved concept plan. Even if the design is improved this does little to offset the adverse impact on the community of the over development and increased density on the site. - Overturning the past decisions of PAC and the Land & Environment Court. The Planning Assessment Commission (PAC) determined that the Channel 9 site development should be limited to 400 dwellings. The PAC report clearly states that the sites' location makes it unsuitable for any higher apartment numbers. The Channel 9 site limitations, as identified by PAC, remain. Nothing substantive has changed.	The approved master plan was considered to be acceptable by the PAC. The proposed changes to the master plan demonstrate through a different design approach, arrived at through a rigorous voluntary design excellence process, the site is capable of accommodating additional housing supply without resulting in any unacceptable additional environmental impacts. Refer to responses above.
The Willoughby community's objective continues to be to obtain an appropriate level of development on the Channel 9 site. At short notice, more than 180 residents attended a community meeting held on 16th August. This meeting noted:	Noted.

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- The approved maximum building storey height and apartment numbers on the Channel 9 site were set after extensive community consultation, assessment and review by the Land & Environment Court and Planning Assessment Commission. - Nothing has changed regarding the site that warrants any increase in the approved building storey height and apartment numbers.	
The meeting passed the following resolution: Its opposition to the proposed or any increase in the building storey height and apartment numbers on the Channel 9 site above the 8 storey and 400 apartment limits that were set by the Land & Environment Court and Planning Assessment Commission.	Noted.
The Willoughby Area Action Group objects to the proposed increase in apartment numbers and building height on the Channel 9 site. WAAG requests that the proposed modification be reviewed by PAC and a public meeting is held on it.	Noted.
Willoughby Environmental Protection Association	
Willoughby Environmental Protection Association (WEPA) Inc has been actively involved in environmental protection since 1981. We commented on the previous DA for this site and now wish to record our OBJECTION to the proposed modification to the previously agreed outcome.	Noted.
That agreement was for a maximum of 400 units and a maximum 8 storeys in height. That agreement was arrived at after extensive consultation and negotiation with the community, Channel 9 and Willoughby Council and an unprecedented, unanimous decision by the PAC. The agreement took into consideration the limitations of inadequate public transport and overcrowding in local schools.	Refer to previous responses.
Nothing has changed, either on the site, or in public infrastructure, to warrant a change to the agreement.	Refer to previous responses.
The developer would have, or should have been aware, of the history of the development to date. To seek to change the negotiated agreement is an abuse of process. He/she would appear to be trying it on, at the expense of the ratepayers money and the council's and the community's time.	The amended master plan has been developed with full awareness of the key issues raised by the community, and would deliver a significant number of public benefits whilst also supporting the delivery of additional housing supply to support the projected population growth within the region.
Federation of Willoughby Progress Associations	
The Federation of Willoughby Progress Associations, representing the 9 residents Progress Associations in the Willoughby Local Government area, OBJECTS to the proposed modifications to the Channel 9 site development seeking to greatly increase the number of units for the site and the height of the development to 12 storeys for the following reasons: 1. The revised plans propose a development which is too high and has too many apartments for the site. The development should be limited to the 400 units and 8 storey maximum height agreed previously after extensive negotiations between the community, Channel 9 and Willoughby Council, and after adjudication by the Land and Environment Court and the PAC. These processes ensured proper consideration of the facts and the site, and involved considerable time, money and effort by the community and Willoughby Council. 2. The developer was, or should have been, fully aware of the negotiated height and unit number limitations for this site when they purchased it, and also of the extensive process by which these limitations were derived. It is disgraceful, a waste of our ratepayers money, and appears to be an improper use of process for the developer to be disregarding these limitations and to now be seeking to override the previous decisions by proposing to significantly increase both the height and the number of units in this development. Nothing has changed with the development or surrounding area	Refer to previous responses.

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to warrant any such increase.	