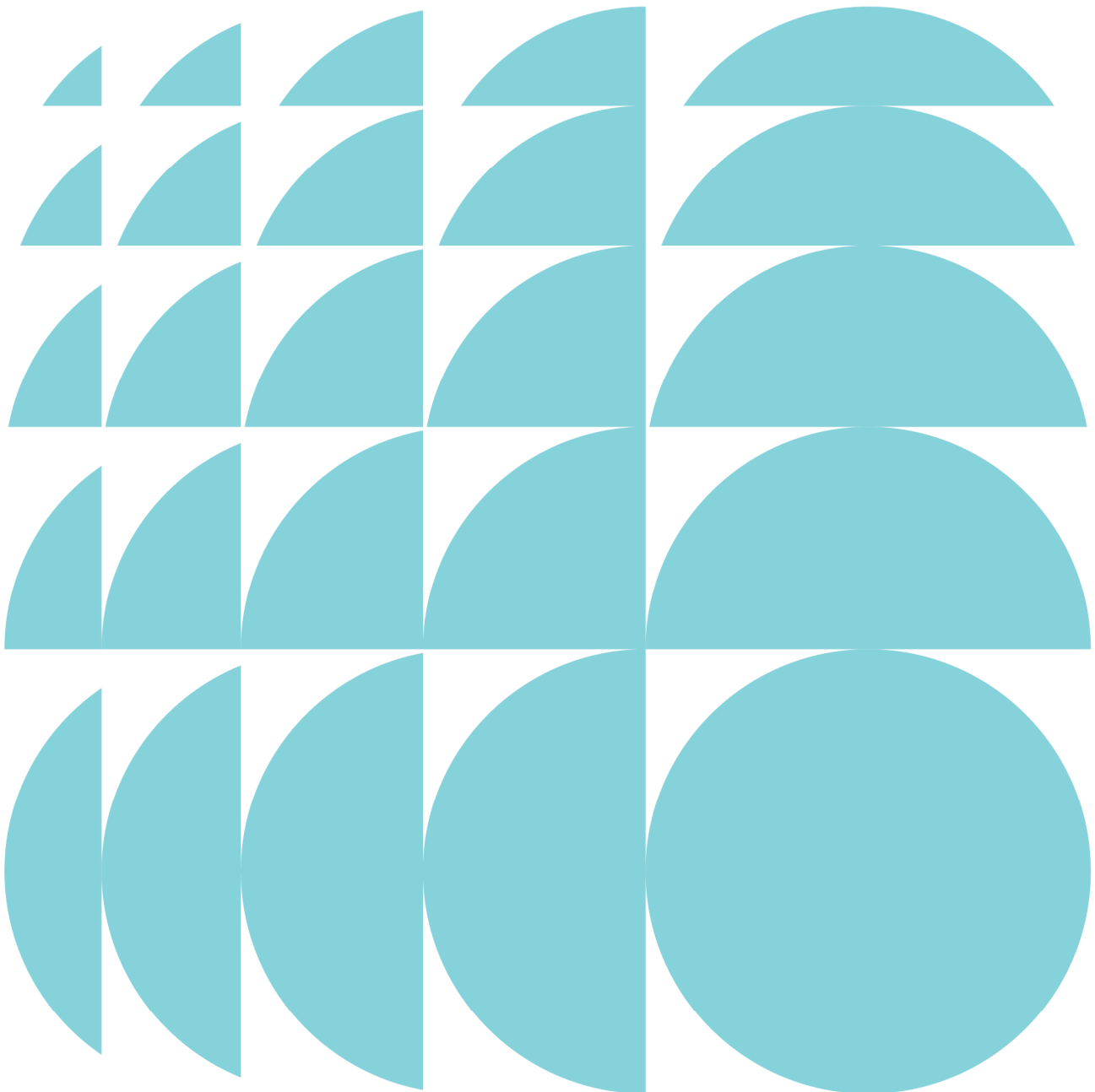


Response to Submissions

6-30 Artarmon Road, Willoughby
Section 75W Modification to MP10_0198

Submitted to NSW Department of Planning and
Environment
On behalf of LEPC9 Pty Ltd

28 March 2018 | 15709



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	Executive Summary	4
1.0	Introduction	5
2.0	Summary of Submissions	6
2.1	Approach to General Public Submissions	6
2.2	Analysis of Public Submissions	6
2.3	Resident Organisations	9
2.4	Submissions by Public Agencies	9
3.0	Preferred Project	10
3.1	Key Changes to Exhibited Modification Application	10
3.2	Description of Final Modification Application	10
4.0	Response to Key Assessment Issues	12
4.1	Statutory Planning	12
4.2	Urban Design and Residential Amenity	13
4.3	Public open space	18
4.4	Public benefit offer and affordable rental housing	19
4.5	Other issues requiring further response	21
5.0	Conclusion	22

Figures

Figure 1	Summary of key issues identified in public submissions	8
Figure 2	Final proposed master plan	11
Figure 3	Indicative sections through 'sunken apartments' demonstrating suitable solar access and privacy	14
Figure 4	Scott Street section illustrating lot boundaries (red), existing carriageway and future landscaping	15
Figure 5	Summary of development proposals along Walter Street (refer Table 3)	16
Figure 6	Indicative rendering of future Village Square at the corner of Scott Street and Artarmon Road	19

Tables

Table 1	Breakdown of submissions by suburb, and level of representation per suburb	6
Table 2	Summary of number of public submissions by issue raised	7
Table 3	Summary of current development proposals for Walter Street properties	16

Attachments

- A Detailed Response to Agency Submissions
Ethos Urban
- B Urban Design Response and Final Master Plan Drawings
CHROFI
- C Schedule of Proposed Modifications to Terms of Approval
Ethos Urban
- D Solar Access, Shadow Analysis and SEPP 65 Design Verification Statement submitted with Development Applications for 15-17 and 21-27 Walter Street
Architecture Urbaneia and Csquared Architects
- E Correspondence with Willoughby City Council regarding Public Benefit Offer
Platform Project Services and Willoughby City Council
- F QS Statement on Walter Street Reserve pathway
Altus Group
- G Final Public Benefit Offer
McCullough Robertson Lawyers on behalf of LEPC9 Pty Ltd
- H Amended Arboricultural Impact Assessment
Redgum
- I Updated CIV Statement
Altus Group

Executive Summary

Purpose of this report

This submission to the Department of Planning and Environment (the Department) comprises a Response to Submissions made in response to comments received from the Department, local and State government agencies and the general public during the public exhibition of the Section 75W Modification Application to amend the Part 3A Concept Plan Approval (MP10_0198) for the Nine Network Australia site at 6-30 Artarmon Road, Willoughby.

Background

This is the second Section 75W Modification Application made in relation to the Part 3A Concept Plan Approval for the Channel Nine Site. A previous modification application was submitted and publicly exhibited in 2016, however, Willoughby City Council's decision to withdraw from the Scott Street Deed of Agreement and consequent legal proceedings required that application (MOD 1) to be deferred and a new application lodged for a revised Concept Plan excluding Scott Street from the development site. The exhibited Modification No.2 amends the revised CHROFI master plan to reflect the removal of Scott Street and also incorporated a number of design changes to reflect feedback received from key stakeholders during the MOD 1 planning process, for example, by retaining additional trees within the site and improving through-site pedestrian connectivity.

Consultation and Public Submissions

Section 75W Modification Application No.2 was publicly exhibited by the NSW Department of Planning and Environment online and at two physical locations between 16 November 2017 and 15 December 2017. During this period a total of 461 public submissions, 7 resident group submissions and 5 submissions by public agencies were received by the Department. It is noted that of the 461 submissions received, 44% were template/form letters containing key points distributed by local resident organisations. Key issues identified by the public were generally the same as those previously raised during the public exhibition of MOD 1, and include:

- Built form, including height, building envelopes, transitional areas, internal site levels and overshadowing;
- Open space, including internal pedestrian connections and orientation of internal parklands;
- Traffic and transport, including impacts on local road networks, internal vehicular circulation and parking provision; and
- Development contributions and public benefit.

Issues raised in public submissions have generally been previously identified and considered as part of the Section 75W Modification Application, having regard to the same issues being raised in relation to MOD 1. The Department of Planning and Environment have identified a number of matters that require further justification or clarification in relation to MOD 2, and these responses form the basis for this report.

Revisions to Exhibited Section 75W Modification Application

In response to issues raised by the Department, the Proponent and CHROFI have amended the master plan to set back proposed Buildings E and G from Scott Street in order to provide certainty that future development can achieve an appropriate landscaped setback, having regard to the existing and future anticipated roadway alignment and landscaped verge of Scott Street. This change has resulted in some minor additional adjustments to the Building G and F building envelopes for which Concept Approval is sought. No additional changes are proposed to the exhibited Modification Application. No changes are proposed to other aspects of the publicly exhibited Modification Application such as building heights or the quantum of dwellings or gross floor area proposed.

Conclusion and Recommendation

This Modification Application provides for a significantly improved urban design outcome for the site that reduces environmental impacts from the original approval, provides additional and high-quality public open space within the site, provides for additional public benefits through new monetary contributions toward local transport infrastructure and public open space, and does not give rise to any unacceptable environmental, social or economic impacts. CHROFI's amended masterplan represents a significant opportunity to realise the potential benefits of this large, consolidated site and deliver urban density in a manner that delivers positive outcomes for both the existing and future community of Willoughby. In light of the substantial benefits of this Modification Application, we have no hesitation in recommending the approval of this project.

1.0 Introduction

A Section 75W Modification Application (S75W) for the Part 3A Concept Approval for the Nine Network Australia site at 4-30 Artarmon Road, Willoughby (MP10_0198), was publicly exhibited for a period of one month between 15 November and 15 December 2017.

In total 461 public submissions, seven submissions by resident organisations and five local and state government agency submissions were received in response to the public exhibition of the Concept Plan. It is noted that of the 461 submissions received, 44% were template/form letters containing key points distributed by local resident organisations. The following key issues raised in submissions were identified as requiring a response or clarification:

- Built form, including height, building envelopes, transitional areas and overshadowing;
- Open space, including internal pedestrian connections and tree retention;
- Traffic and transport, including impacts on local road networks, internal vehicular circulation and parking provision; and
- Development contributions and public benefit.

The proponent; Lotus Property Fund No.8 and Euro Properties (LEPC9 Pty Ltd), and its specialist consultant team have reviewed and considered the comments by the Department of Planning and Environment, public agencies and the public submissions and, in accordance with schedule 6 and clause 75H(6) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), has responded to the issues raised. The issues raised in public submissions were largely consistent with the issues raised during the assessment of the original Concept Plan Application and Section 75W Modification Application No.1 (MOD 1). Accordingly, many of the issues raised have previously been identified and considered in the exhibited Modification Application No.2. This Response to Submissions report (RTS) sets out the proponent's response to the issues identified by the Department and other agencies as requiring further justification or clarification.

This report should be read in conjunction with supporting material appended to this report, the exhibited Section 75W Modification Application by Ethos Urban dated 30 October 2017 and Masterplan Report by CHROFI dated 16 October 2017, the previous Section 75W Modification Application No.1 documentation and the original Concept Plan Application documents.

2.0 Summary of Submissions

2.1 Approach to General Public Submissions

Each submission from a member of the general public, including local residents, local or special interest groups, and other interested persons has been summarised. Because a large number of submissions raise similar issues, rather than addressing each submission individually, the issues raised in submissions have been summarised and, where possible, bundled into Issue Categories. A description of these Issue Categories is described in Section 3.2 below.

It is noted that of the 461 submissions received, 44% were template/form letters which had been adapted from key points distributed by the Willoughby South Progress Association and other resident organisations.

2.2 Analysis of Public Submissions

This section provides an understanding of who has made submissions as well as a brief analysis of the numerical significance of issues raised in submissions from the general public. This analysis has not been carried out to discount issues that are raised in fewer submissions but is instead intended to help the decision makers understand which issues are of more concern to more people.

In total, 461 public submissions were received during the exhibition period for Section 75W Modification Application No.2, of which 439 objected to the modification. No petitions were received.

Of the submissions made by members of the general public, the majority (50%) of total submissions were received by residents who identified their address as being within the suburb of Willoughby. Where the address of the submitter was disclosed, residents of Willoughby, Artarmon and Naremburn represented 92% of submissions. This indicates that interest in Section 75W Modification Application No.2 is primarily local. The 411 submissions received from these three suburbs represents less than 2% of the population of these suburbs, indicating that there is neither broad-based objection to, or interest in, the overall project and proposed modification.

Other submissions on the Section 75W Modification Application No.2 included submissions from residents of Northbridge, Chatswood, Lane Cove, Neutral Bay, Castlecrag and Sydney. A breakdown by suburb of these submissions is included at **Table 1**.

Table 1 Breakdown of submissions by suburb, and level of representation per suburb

Suburb	Number of Submissions
Artarmon	124
Castlecrag	2
Chatswood	8
Naremburn	67
Northbridge	3
Willoughby	220
Willoughby East	4
Other/ Address withheld	33
Total Submissions	461

2.2.1 Analysis of Issues Raised

Table 2 below provides a summary of the issues raised in the public submissions received during the exhibition period. Submissions generally identified the same issues as those raised in relation to MOD 1 and have accordingly already been responded to as part of the exhibited Modification Application (refer to references in **Table 2** for where these matters have been addressed in the exhibited MOD 2 S75W Planning Report). As with the original Concept Plan Application and MOD 1, the main issues identified by the community relate to traffic/transport issues, the proposed building heights and the number of apartments proposed. **Figure 1** illustrates the ranking of issues raised by residents by order of the number of times the issue was raised.

Table 2 Summary of number of public submissions by issue raised

Issue Tag	Issue Description	Object	Support/ Comment	Response
Roads and Traffic	Comments regarding the impact of the project on traffic generation, site access points and local intersections.	367	9	S75W Section 6.7
Height of Buildings	Comments relating to the height of buildings, generally in relation to buildings proposed to be greater than 8 storeys in height.	359	0	S75W Sections 6.4-5
Density/ No. of Dwellings	Comments relating to the number of dwellings proposed under the modified master plan.	348	0	S75W Sections 6.1-4
Planning Process	Objections to the modification of the previously approved Concept Plan, the extent of changes sought from the original approval, requests that the PAC determine the application.	277	0	S75W Section 6.1
Public Transport	Comments relating to potential impacts on local bus capacity.	217	1	S75W Section 6.7
Open Space	Comments relating to the open space to be provided within the site.	199	14	S75W Section 6.6
Non-Residential Uses	Comments regarding the non-residential aspects of the master plan, including potential for cafes, local convenience retail and child care.	193	3	S75W Sections 6.2 and 6.7
Consultation	Comments relating to the extent to which consultation regarding Modification Applications No.1 and No.2 have been reflected in the amended master plan.	167	0	S75W Section 4.1
Education/Schools	Comments relating to the impact of the development on demand and capacity within local schools.	131	0	S75W Section 6.9.2
Street Presentation	Comments regarding the presentation of the site to Artarmon Road and Richmond Avenue.	90	2	S75W Section 6.4
Infrastructure Capacity	General comments regarding the capacity of local infrastructure (including social infrastructure) to accommodate increased development on the site.	63	0	S75W Section 6.9.2
Parking	Comments relating to the proposed parking provisions, including resident parking, visitor parking and on-street parking within the site, as well as comments regarding impact on on-street parking in neighbouring streets.	55	2	S75W Section 6.7
Cumulative Development Impacts	Comments regarding the potential cumulative impacts of construction and occupation of the Channel 9 site and other constructed, approved or proposed residential developments in the Willoughby locality.	51	3	S75W Section 6.4, 6.7 and 6.9
Overshadowing	Comments in relation to potential overshadowing, predominately in relation to Walter Street properties but also to Castle Vale apartments.	22	0	S75W Section 6.4
Visual Privacy	Comments regarding the impacts of new development on the visual privacy of surrounding dwellings.	16	0	S75W Section 6.4 and 6.5
General and Miscellaneous	Covering a wide range of comments not captured by the issue categories outlined above, including broad, unspecific objections to the development, comments regarding the suitability of the site for development, the development process, public benefits provided, population estimates, financial contributions, design excellence	196	14	S75W Section 6.0

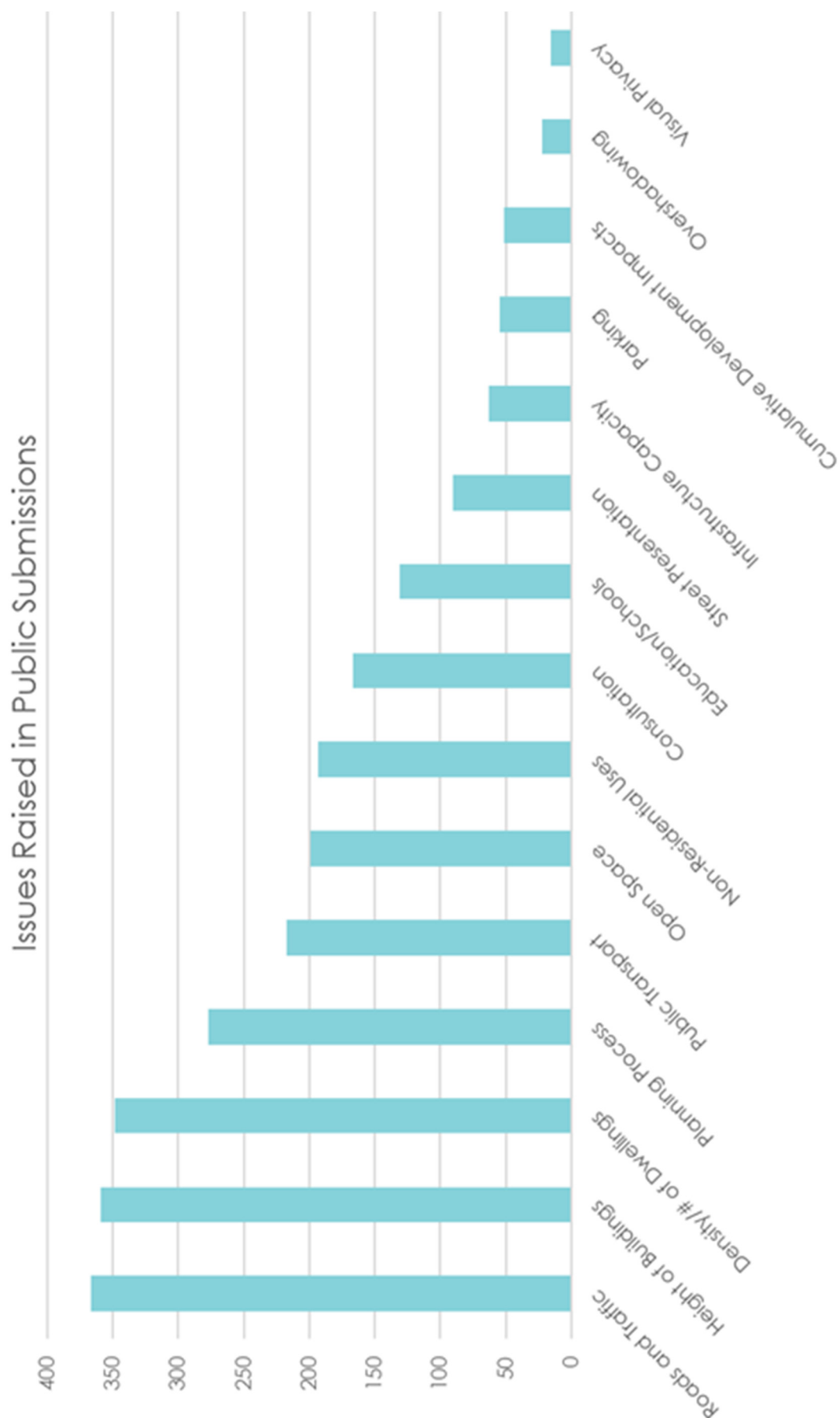


Figure 1 Summary of key issues identified in public submissions

2.3 Resident Organisations

Submissions were received from seven resident organisations, comprising:

- Willoughby South Progress Association;
- Artarmon Progress Association;
- Naremburn Progress Association;
- Willoughby Area Action Group;
- Federation of Willoughby Progress Associations;
- WPS Overcrowding Action Group; and
- NSW Wide Public Transport Advocacy

These submissions raised issues which were generally consistent with those public submissions objecting to the proposed modifications, as outlined in **Section 3.2** above.

2.4 Submissions by Public Agencies

Submissions were received from five public agencies during the public exhibition phase:

- Willoughby City Council;
- Roads and Maritime Services & Transport for NSW (joint submission);
- Sydney Water;
- NSW Heritage Council; and
- Office of Environment and Heritage.

With the exception of Willoughby City Council, none of the agencies object to the proposed modification and provided only minor comments generally relating to the future assessment requirements for subsequent Development Applications. A detailed response to issues raised in these submissions is provided at **Attachment A**.

Willoughby Council's submission is largely a duplicate of its submission on MOD 1. A detailed response to that submission was provided at Appendix F of the exhibited Modification Application No.2. Accordingly, only those aspects of Council's submission on MOD 2 which have been amended from its MOD 1 submission are addressed at **Attachment A**.

3.0 Preferred Project

The Proponent and consultant team has reviewed the Issues Letter by the NSW Department of Planning and Environment (including advice of the Office of the Government Architect) dated 22 December 2017, submissions by Willoughby City Council, public agencies, community organisations and the general public. In response to these submissions, the Proponent has made a small number of changes to the Modification Application dealing with the configuration of building envelopes in the vicinity of Scott Street. These changes are described in **Section 3.1**, whilst **Section 3.2** provides a summary of the Concept Plan as it is proposed to be modified.

3.1 Key Changes to Exhibited Modification Application

The only proposed amendment to exhibited Modification Application is a proposal to increase the setback of Buildings G and F from the Scott Street road reserve to require a minimum one metre setback from the property boundary. Providing this setback also entails minor consequent changes to these building envelopes. Amended maximum building envelope plans are included in the CHROFI Urban Design Response provided at **Attachment B**.

3.2 Description of Final Modification Application

The Proponent is seeking approval under Section 75W of Part 3A of the EP&A Act to modify the Concept Plan Approval (MP10_0198). The scope of the modification application is addressed in detail in the publicly exhibited Planning Report by Ethos Urban which accompanied the Modification Application. In summary, the proposed modification seeks to:

- Replace the approved residential master plan with the revised CHROFI master plan for 495 dwellings across seven (7) residential flat buildings ranging in height from 4 to 9 storeys, two (2) buildings being up to 11 and 12 storeys.
- Amend the configuration and layout of public open space within the Site, resulting in a 134% increase in area, supplemented by a network of communal open space, that together improve connectivity and the potential for deep soil planting.
- Include a new public benefit offer that offers to contribute \$500,000 towards the upgrade of the Willoughby Road/ Artarmon Road/ Small Street intersection and \$1 million toward bushland regeneration and access upgrades to Walter Street Reserve (and/or proximate public open space).
- Provide a simpler internal road network, providing for on-street visitor parking within a new internal loop road connecting to Scott Street.
- Allow for small-scale non-residential uses such as local retail, office, community or child-care uses to cater to demand generated predominately by the new residential population of the Site.

Table 3 summarises the key development parameters proposed to be modified. The CHROFI master plan is detailed in full in their exhibited Urban Design report and in the Urban Design Response at **Attachment B**.

Table 3 Summary of key approved and proposed Concept Approval parameters

Measure	Approved	Final Proposed	Change
Apartments	400	495	+95
Floor Space Ratio	1.2:1	1.5:1	+0.3:1
Non-Residential GFA	500m ² + The Loft Building	c.300m ² + The Loft Building	-c.200m ² Decreased by 15%
Building Volume (above existing ground)	181,727m ³	162,495m ³	-19,232m ³ Reduced by 11%
Maximum building height	8 storeys (RL 105.4 plus plant)	12 storeys (RL 116.4 to plant)	Three buildings above current approval at 9, 11 and 12 storeys
Public Open Space	3,178m ²	7,435 m ²	+4,257m ² (134% increase)
Vehicular access points	2 x Artarmon Road 1 x Richmond Ave	1 x Artarmon Road 1 x Richmond Ave	1 less driveway to Artarmon Road

Measure	Approved	Final Proposed	Change
Parking rates	1 & 2 Bed – 1 space 3 Bed – 1.25 spaces Visitor – 1 per 4 dwellings	1 & 2 Bed – 1 space 3 Bed – 1.25 spaces Visitor – 1 per 4 dwellings	No change
Development Contributions	As per Council's S94A Plan.	As per Council's S94A Plan.	No change
Planning Agreement	Not applicable/not required.	\$1.5 million (or works-in-kind)	+\$1.5 million
Affordable Housing	Approx. 16 apartments (4% of GFA)	Approx. 20 apartments (4% of approved GFA, 5% of additional GFA)	+ 4 apartments

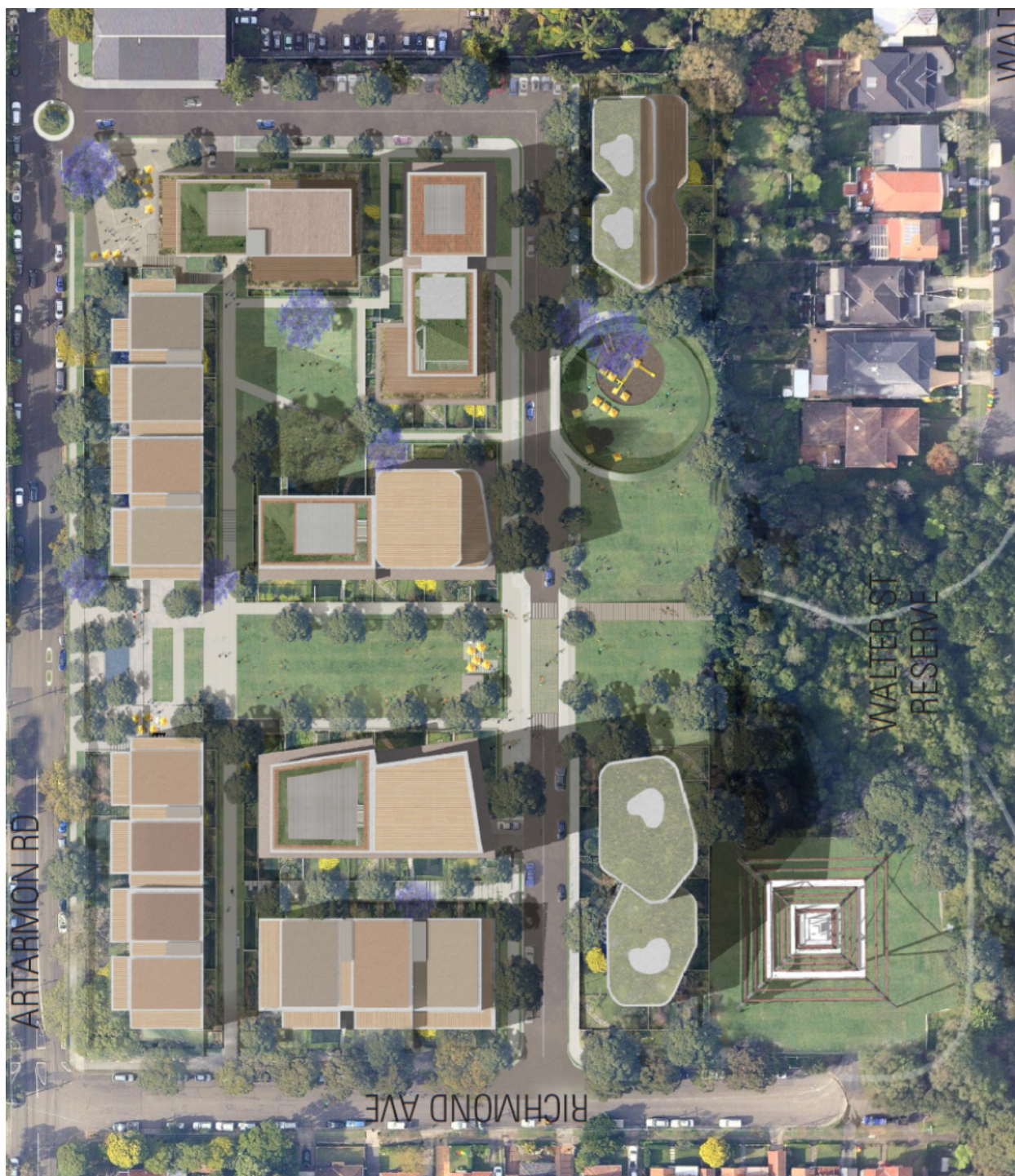


Figure 2 Final proposed master plan

Source: CHROFI

4.0 Response to Key Assessment Issues

The following sections provide a response to those matters identified by the NSW Department of Planning and Environment as requiring further explanation, clarification or justification.

4.1 Statutory Planning

4.1.1 Modification Process

Under Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Regulations) Regulation 2017*, the mechanism for the modification of a Part 3A Concept Plan continues to be the former Section 75W of the EP&A Act.

The submission of a second S75W Modification Application arises due to the decision by Willoughby City Council to not proceed with the Deed of Agreement between Council and Nine Network Australia that was entered into to facilitate the sale of Scott Street to the Proponent and future developer of the site. This decision by Council necessitated design modifications to exclude Scott Street from the amended master plan contained in Modification No.1. Rather than undertaking these amendments through preparation of a Response to Submissions/ Preferred Project Report for Modification No.1, due to legal issues arising from the exclusion of Scott Street from the Concept Plan it is instead necessary to make these amendments via a new Modification Application (Modification No.2). It is the intention of the Proponent to withdraw Modification No.1 should the current Modification Application No.2 proceed to determination.

Notwithstanding the above, Modification No.1 and Modification No.2 are fundamentally similar to and arise from the same planning process undertaken for the original Concept Plan Approval, and has included a significant new design excellence process, further community consultation and additional public benefit offerings. Community feedback received during the preparation and formal exhibition of Modification No.1 has been considered and a detailed response was included in the exhibited Planning Report which accompanied Section 75W Modification No.2.

The most prominent issue raised in submissions by the general public related to the approval process for the original Concept Plan and the current proposal to modify this approval. Submissions focused on the previous planning application, assessment and approval process and contended that a modification to the existing approval parameters should not be permitted, specifically in relation to building height and the number of dwellings and that the extent of the changes means that they should be progressed via a new planning application rather than a modification to the Concept Approval.

The *Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011* includes clear and explicit provisions that signalled the intent of the NSW Parliament to allow existing Part 3A approvals to continue to be modified using provisions of Section 75W. The *Environmental Planning and Assessment (Savings, Transitional and Other Regulations) Regulation 2017* which commenced on 1 March 2018 also includes specific provisions to ensure that existing S75W Modification Applications continue to be assessed under this framework.

The appeal to the PAC's determination of the original Concept Plan Approval was mediated between the Nine Network, Willoughby Council and the NSW Planning Assessment Commission (on behalf of the Minister for Planning) in the forum of the NSW Land and Environment Court, this does not fetter the ability to further modify the Concept Plan under the Act.

The Modification Application assessment process has been carried out in generally the same manner as the original Part 3A Concept Plan Application, comprising pre-lodgement community and stakeholder consultation, preparation of an environmental assessment in accordance with requirements issued by the NSW Department of Planning and Environment, formal public exhibition and comment period and a review and response to the issues raised during this process. We anticipate that the Modification Application will be assessed by the NSW Department of Planning, taking into account expert technical evidence and public submissions, and will be determined by the independent NSW Planning Assessment Commission. This assessment process is rigorous and provides ample opportunity for engagement with the issues raised by the modified project.

This modification is well within the scope of the modification process established for Part 3A Concept Plans, and is consistent with the evolving nature of other large-scale urban redevelopment projects, particularly where the original approval has been obtained by an existing land-owner.

As demonstrated in the exhibition Modification Application and in this report, the amended Master Plan continues to be for the residential redevelopment of the site (with small-scale non-residential tenancies) and would deliver a significant improvement in urban amenity and a reduction in environmental impacts associated with the originally approved master plan.

In light of the above, it is evident that a S75W modification is the proper planning pathway to amend the approved master plan under the EP&A Act.

4.1.2 Future Environmental Assessment and Road/ Public Domain Works

Future Development Applications for the detailed design and construction of the proposed buildings and associated open space and public domain upgrades will be assessed by Willoughby City Council and determined by the Sydney North Planning Panel or Willoughby Local Planning Panel.

It is expected that future Development Applications will be required to provide for improvements to site vehicular access, pedestrian footpaths and the landscape verge immediately adjoining the site on Richmond Avenue, Artarmon Road and Scott Street. These works may be required to be carried out by the Proponent as a condition of consent, subject to approval under section 138 of the *Roads Act 1993*. It is noted that the traffic assessment indicates that the construction of the Scott Street/Artarmon Road intersection upgrade (to a roundabout) would be required to mitigate the impacts of the proposed modification. The Proponent does not object to this upgrade being required as a term of the Concept Approval should the current Modification Application be approved. Willoughby City Council is the relevant roads authority under the *Roads Act 1993* for Artarmon Road, Richmond Avenue and Scott Street.

Pursuant to the provisions of schedule 6A section 3(1) of the EP&A Act, Part 3A continues to apply to and in respect of a transitional Part 3A project as in force immediately before the repeal of that Part. Accordingly, section 75V of the EP&A Act continues to apply in respect of any Concept Approval (as modified). Section 75V(1)(f) requires that a consent under section 138 of the *Roads Act 1993* cannot be refused if it is necessary for carrying out an approved project and is to be substantially the consistent with the Part 3A approval. Section 75V(2) makes clear that this requirement also applies where development consent for a subsequent stage of the project is issued under Part 4 of the EP&A Act. Accordingly, Council may not withhold consent under the *Roads Act 1993* for the carrying out of works within the road reserve where they are necessary for the delivery of subsequent stages of the Concept Approval (as it is proposed to be modified).

4.2 Urban Design and Residential Amenity

4.2.1 Ground level interfaces

Sections 3.1 to 3.14 of the CHROFI Urban Design Response (**Attachment B**) provides further detail regarding the intended interface between the indicative proposed buildings and levels within the existing and proposed public domain within and adjacent to the subject site. Having regard to this information, the following observations are relevant to the planning assessment for this Modification Application:

- The Modification Application seeks approval for maximum building envelopes only, it does not 'lock-in' the detailed building design that will be the subject of separate detailed assessment in relation to urban design and residential amenity as part of future detailed Development Applications for the site.
- The purpose of the indicative floor plans is to demonstrate that detailed design of individual buildings within the maximum building envelopes can achieve a suitable level of amenity and good urban design outcomes, not to define or constrain the future detailed design of the development.
- It is commonplace for residential apartments to directly abut public or private landscaped spaces as part of new residential developments and achieve high quality urban design and residential amenity outcomes even where level differences occur between the apartment and the public space – some examples include The Gantry Apartments at Camperdown by Bates Smart/Aspect Studios, Putney Hill by Cox/Frasers and Harold Park by

Mirvac. A range of appropriate design approaches are available to be employed within the CHROFI master plan and the Concept Approval framework,

- As demonstrated in the CHROFI Urban Design Response, there are numerous examples of where 'sunken apartments' have been delivered in Sydney with good amenity and urban design outcomes. Indicative cross-sections of potential apartments (**Figure 3**) within the site with frontages to Artarmon Road and Richmond Avenue demonstrate that a detailed design outcome is readily achievable that attains adequate direct sunlight, suitable dimensions and appropriate visual privacy. Accordingly, the Department may be satisfied that detailed building design for these apartments can achieve the relevant urban design and residential amenity requirements.
- Ultimately the maximum building envelopes for which approval is sought are limited in width/depth and have a maximum height, but do not seek to define individual floor levels. Should, as part of the future detailed design and planning assessment of Development Applications, it be deemed that the proposed 'sunken apartments' do not achieve adequate amenity or result in an inappropriate urban design outcome then there is nothing in the Concept Approval which would prevent a consent authority from requiring design amendments.

If the Department requires further satisfaction regarding the above, it could seek to insert a new condition within Schedule 3 – Future Environmental Assessment Requirements of the Concept Plan Instrument of Approval requiring that detailed design of ground-level apartments demonstrates that suitable outcomes are attained with respect to casual surveillance, activation, solar access and visual privacy. However, it is noted that each of these matters will be a relevant consideration in the assessment of future Development Applications irrespective of whether it is a specific requirement of the final Concept Approval.

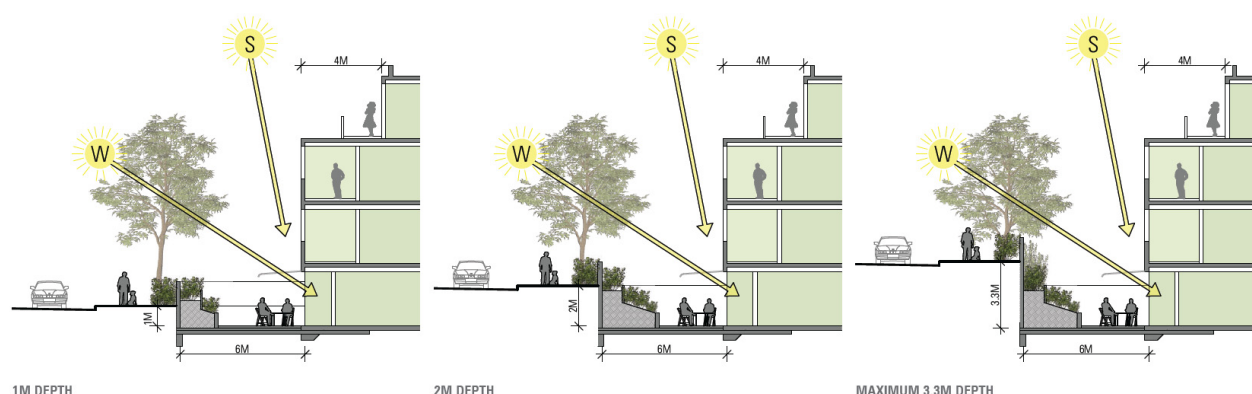


Figure 3 Indicative sections through 'sunken apartments' demonstrating suitable solar access and privacy

Source: CHROFI

4.2.2 Scott Street building setbacks

As outlined in **Section 3.1**, the proposed building envelopes contained in the CHROFI master plan have been revised to provide a one metre setback between the Scott Street road reserve and the eastern edge of the maximum building envelope for Buildings G and F.

The increased setback to the property boundary will result in a total setback of 5.5m from the kerbside parking lane and 7.6m from the carriageway (existing). No change is proposed to the location or alignment of the existing Scott Street carriageway as part of this Modification Application, and Council has not identified any works to Scott Street as part of its infrastructure schedule of works that would alter the existing alignment. As noted in **Section 4.1.2** the consent authority for future Development Applications is able to require improvements to the road reserve to ensure a high-quality street environment and landscaped verge that are consistent with the Concept Approval.

Scott Street is a public road with frontage only to the subject site. The roadway will be used primarily by future residents of and visitors to the subject site and is not intended to provide any through-connection. Accordingly, it is appropriate that its future character reflects the intended urban character for the overall subject site, as reflected in the amended CHROFI master plan. The proposed setbacks to Scott Street are consistent with those setbacks

proposed to the remainder of the internal loop road, which is intended to be perceived as a continuation of the public road to promote public access to the site, particularly to the open space areas.

The proposed setbacks are generally consistent with those already approved for internal roadways under the current Concept Plan Approval, for example:

- Approved Building F is setback 5.5m from the kerbside parking lane and 7.7m from the carriageway to 'Henderson Street' in the approved SJB plan.
- Approved Building E is setback 6.0m from the carriageway to 'Gyngell Way' in the approved SJB plan.
- Approved Building B is setback only 2.25m from the carriageway of Packer Close in the approved SJB plan.

As demonstrated in Sections 3.15-3.16 of CHROFI Urban Design Response (**Attachment B**), the proposed setback provides adequate space for a generous landscaped verge to Scott Street with landscaping, large tree planting and pedestrian footpaths (**Figure 4**).

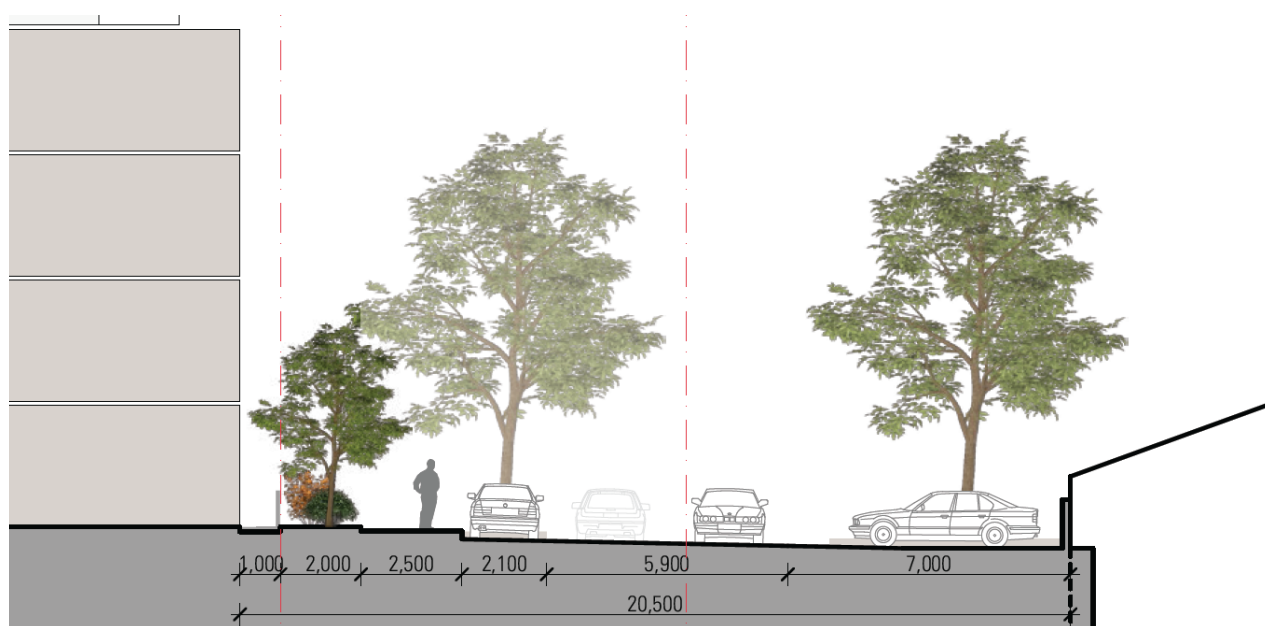


Figure 4 Scott Street section illustrating lot boundaries (red), existing carriageway and future landscaping

Source: CHROFI

4.2.3 Overshadowing to future Walter Street apartment buildings

As outlined in Section 6.4.3 of the S75W Planning Report, there have been four proposed residential apartment developments situated on Walter Street located to the south of the subject site which have recently received development consent (refer **Table 3** and **Figure 3**). The Apartment Design Guide (ADG) states that living rooms and private open space of apartments in at least 70% of apartments within a new development should receive a minimum of two hours direct sunlight between 9am and 3pm in mid-winter.

As noted in the S75W Planning Report, the Development Application for the closest approved residential apartment development to the Channel 9 site (21-27 Walter Street) included an assessment of overshadowing from the amended CHROFI master plan. These assessment documents which form part of that Development Consent have been included at **Attachment D** and confirm that more than 70% of apartments will achieve a minimum of two hours of daylight in accordance with the requirements of the ADG notwithstanding the building envelopes proposed as part of this Section 75W Modification Application. It is understood that Council also engaged a third-party architecture firm to undertake a peer review of the SEPP 65 assessment to inform Council's assessment of this DA.

CHROFI have undertaken additional analysis of solar impacts to the approved residential apartment developments located along Walter Street to determine the extent (if any) of the maximum building envelopes contained in the amended CHROFI master plan on solar access to future residential apartments. Only the residential apartment

building approved at 15-17 Walter Street is impacted by additional overshadowing from the CHROFI master plan compared to the existing overshadowing of this site. Solar access diagrams submitted with this Development Application indicated that 22 out of the 23 apartments within the approved development receives the minimum of two hours of direct sunlight in accordance with the ADG (refer **Attachment D**). The solar analysis for the DA does not, however, appear to have considered overshadowing from the approved SJB maximum building envelopes under the existing Concept Approval. In any case, modelling by CHROFI demonstrates that when the amended CHROFI master plan (particularly Building J) is taken into account, there is some additional overshadowing of apartments located at the lower levels of the north-western corner of this building however all affected apartments continue to achieve a minimum of two hours of direct sunlight in accordance with the ADG. The approved development would continue to achieve well in excess of the solar access required under the ADG (96% of apartments compared to the required 70%).

Having regard to the above, the amended master plan will not result in any unacceptable solar impacts to future residential apartment developments along Walter St.

Table 4 Summary of current development proposals for Walter Street properties

Ref	Figure	Address	Status	Overshadowing Assessment
2016/210	2	5-9 Walter Street	Approved	No overshadowing impact from amended CHROFI master plan.
2016/303	3	11-13A Walter Street	Approved	No overshadowing impact from amended CHROFI master plan.
2016/532	4	15-17 Walter Street	Approved	Minor additional overshadowing to lower-level apartments at north-west building corner, however, no change to number of apartments receiving at least two hours of direct sunlight at mid-winter (96%).
2016/452	5	21-27 Walter Street	Approved	CHROFI master plan was included in the proponent's solar assessment for this DA. ADG solar access is achieved notwithstanding amended CHROFI master plan. 79% of apartments receive the required two hours of direct sunlight at mid-winter.



Figure 5 Summary of development proposals along Walter Street (refer Table 3)

Aerial image: Nearmap

4.2.4 Internal residential amenity

The CHROFI Urban Design Response (**Attachment B**) sets out details of the indicative floor plans and apartment layouts which have formed the basis for the maximum building envelopes for which consent is sought as part of this Modification Application. It is noted that these plans are indicative only and provided solely for the purpose of demonstrating that future detailed design of buildings is capable of achieving a suitable level of internal residential amenity within the maximum building envelopes established under the amended Concept Plan.

Sections 3.25 and 3.26 of the CHROFI Urban Design Response identify minimum separation distances between proposed Buildings B, G and F. At the closest points, separation between Buildings B and G is 6 metres, which is suitable for non-habitable to non-habitable separation under the ADG for buildings up to 4 storeys. The indicative floor plans prepared by CHROFI indicate that apartment layouts can be readily designed within the maximum building envelopes to provide a non-habitable/non-habitable interface in this location without impacting on overall amenity and thereby comply with this ADG requirement.

Similarly, the minimum building separation distance on 9 metres for non-habitable interfaces required under the ADG for buildings up to 8 storeys is achieved for the closest distance between Buildings G and G. Between 5 and 8 storeys the ADG requires a minimum separation of 12 metres for non-habitable/habitable interfaces and 18m for habitable/habitable interfaces where no additional privacy screening or other design mitigation. The indicative floor plans demonstrate how a combination of design measures could allow for habitable room interfaces to occur within this reduced setback area whilst continuing to achieve appropriate residential amenity.

CHROFI have also undertaken an analysis of the typical floor plans in order to demonstrate that future building design within the proposed maximum envelopes is capable of achieving an appropriate level of solar access and cross ventilation in accordance with the requirements of the ADG.

Overall, it is considered that future residential apartments will benefit from a very high level of residential amenity as a result of improvements to the urban form and open space distribution within the subject site arising from the amended CHROFI master plan. The indicative apartment layouts which accompany this Modification Application demonstrate that the proposal is capable of achieving compliance with the relevant provisions of the ADG, subject to detailed design. Further detailed assessment of building design and internal apartment layouts will be undertaken in accordance with the requirements of SEPP 65 and the ADG by Willoughby Council as part of future Development Applications for the site.

4.2.5 Clarification of Building A, B and C heights

As set out in Drawing A-S75W-402, the maximum building heights of Buildings A, B and C are defined in terms of maximum RLs that would provide for a four-storey building to the relevant street frontages to Artarmon Road and Richmond Avenue. The exception to this is at the intersection of Scott Street and Artarmon Road, where the change in site levels and the creation of the new Village Square would result in an additional storey incorporated at the lower level (Basement L1 as identified in Drawing A-S75W-105) for the proposed commercial tenancies activating this space. This level would sit below the adjacent street level in Scott Street, and is considered to acceptable given that:

- The location of the potential 5-storey element is the gateway to the site from Willoughby Road/ Artarmon Road, and it is appropriate for a more significant building element in this location to mark the entrance to the site;
- The approach to Building A and The Loft along Artarmon Road is contextualised by immediate proximity to the 8-storey Castle Vale Buildings located to the east;
- The provision of the ground floor commercial tenancies will provide street activation and deliver local amenity to the existing and future community; and
- Existing ground levels for dwellings on the northern side of Artarmon Road opposite the Village Square are approximately 1+ storeys above the road surface level, with an appropriate height transition achieved.

As illustrated in Drawings A-S75W-301, A-S75W-302 and A-S75W-304, there may also be some opportunities through the detailed design of Buildings A, B and C to include an additional half-level within the interior (non-street frontage side) of the site. This would be dependent on the final landform levels, building layouts and detailed analysis of residential amenity. It is likely that any additional half-level would form part of a two-level apartment connected to the level above. A detailed design and residential amenity analysis would be assessed as part of future Development Applications. The half-level is also shown on the Artarmon Road elevation (Drawing A-S75W-201), however as noted at Section 7.2 of the CHROFI Urban Design Response this level would not be visible from Artarmon Road. The potential lower level would not impact upon the overall building height, which is limited by the maximum RL (as exhibited) and would not impact upon the four-storey presentation of these buildings to Artarmon Road and Richmond Avenue. Accordingly there would be no adverse impacts arising from this internal half-level element should it be incorporated as part of future Development Applications.

4.3 Public open space

4.3.1 Public and communal open spaces

As outlined in Section 3.18 of CHROFI's Urban Design Response, the calculation of public open space and communal open space has been revised to allocate the Village Courtyard (Tree 32 surrounds) as communal open space rather than public open space. This reflects that this space is surrounded on four sides by residential apartment buildings and is not immediately perceptible from Artarmon Road as being an accessible public space. Notwithstanding this, it is intended that this space will continue to provide public pedestrian access linkages between the Village Square and Central Lawn open space areas and between Richmond Avenue and Artarmon Road. These linkages will be supported through clear wayfinding signage which will be detailed as part of future Development Applications.

Notwithstanding the re-allocation of the Village Courtyard area from public to communal open space for the purpose of site calculations, the amended master plan still provides for a significant increase in the area of publicly accessible open space compared to the existing Concept Plan Approval (134% increase compared to current approval).

Public access through the site is able to be secured and maintained through a range of legally enforceable mechanisms, such as a condition of development consent or a requirement to provide a public right of way. It is not intended that these spaces would be dedicated to Council. The body corporate/community association of the future development will be responsible for the maintenance and upkeep of all communal and publicly accessible spaces within the site. The existing Condition 9 of Schedule 3 – Future Environmental Assessment Requirements in the Concept Approval already requires that:

“Future Development Applications are to make all internal roadways, the pedestrian through-site link, and all on-street parking in the vicinity of the publicly accessible park, publicly accessible. Future Development Applications are to incorporate an appropriate legal mechanism for creating a right of public access to the roadways, footpaths and parking areas, with the relevant instrument/s to be executed prior to occupation of the relevant stage. The future Development Applications are also to incorporate appropriate measures to ensure the roadways are managed and maintained to a high standard by the future body corporate”.

No change is proposed to this condition as part of this Modification Application. Accordingly, the final mechanisms for the legal and practical maintenance of public access to designated publicly accessible areas are able to be resolved as part of the relevant future Development Application(s).

4.3.2 Village Square

The Village Square is intended to be an intimate, urban-scale public plaza which acts as the pedestrian gateway to the site for residents and visitors travelling from Willoughby Road. It is intended that ground-level tenancies within Buildings B and G would, subject to future commercial demand and separate development consent, include small-scale neighbourhood retail (i.e. a convenience store and/or newsagent) and food and drink premises such as a café or restaurant. Subject to the future land use and separate development consent, some designated outdoor seating may be included within the Village Square for use in association with a food and drink premises.

As well as being conveniently located for pedestrians from the site and immediate surrounds walking to the local bus stop at Willoughby Road along Artarmon Road, the Village Square is also intended to include a connection through to the Village Courtyard space which includes pedestrian connections through to the Village Lawn. This will ensure that the Village Square is a highly active and well-utilised space which contributes to the amenity of the site and wider locality.



Figure 6 Indicative render of future Village Square at the corner of Scott Street and Artarmon Road

Source: CHROFI

4.4 Public benefit offer and affordable rental housing

The Proponent has attempted to engage with Willoughby City Council regarding the Public Benefit Offer which accompanied the Modification Application on a number of occasions since early-2016, however, have been unable to obtain clear guidance as to Council's position as to what additional contributions/projects should be included. In the absence of input from Council, the Proponent has drawn upon previous experience from the original Concept Plan Application process as well as the community engagement sessions which have informed the amended CHROFI master plan for the site.

Most recently, Platform Project Services wrote to Council on 18 January 2018 requesting a meeting to discuss Council's preferred public benefit should the Department and Planning Assessment Commission determine to support the current Modification Application. A copy of this correspondence, and Council's reply, is provided at **Attachment E**. Council's response was to decline a meeting and did not outline any specific public benefits which could be provided other than "*roads, open space and community facilities*".

Roads, open space and community facilities to meet the needs of new development are items which are already funded through Council's Section 94A Contributions Plan. The existing Concept Approval is subject to a condition requiring the payment of local development contributions in accordance with the applicable Section 94/94A Contributions Plan that applies when future Development Applications are lodged with Council. These contributions are payable on all residential dwellings and, should the Modification Application be approved, additional contributions will be received by Council pro-rata to the increase in residential dwellings. The original Concept Approval was granted nearly four years ago, and Council has been aware of the proposed modification for over two years, providing ample time for Council to review the schedule of works in its local contributions plan.

Notwithstanding the above, the Proponent wishes to deliver additional public benefits that will enhance the local community for both existing and future residents. It is noted that the Modification Application and accompanying Public Benefit Offer directly addresses the areas of potential improvement identified by Council as follows:

- Monetary contribution toward the future upgrade of the Willoughby Rd | Artarmon Rd | Small St intersection will improve local road network performance and was identified as a key existing issue for the local community

during consultation that the project can contribute toward resolving. It is noted that, as outlined in Section 6.7 of the exhibited Planning Report and in accompanying transport study, neither the original Concept Approval nor the Modification Application would result in a requirement to upgrade this intersection and the impacts arising from traffic generated from the site would not result in any unacceptable impacts on local road network performance.

- Funding toward the upgrade of the Willoughby Rd | Artarmon Rd | Small St intersection will also unlock additional traffic capacity to the east of Willoughby Road to facilitate the significant traffic generated by the Willoughby Leisure Centre and supporting facilities. This upgrade has been previously identified by Willoughby Council as a necessary component of any future expansion of these community facilities. The contribution by the Proponent will therefore increase the capacity of Council to augment these facilities for the benefit of the entire local community.
- Local road works necessary to provide access to the site, including the Scott Street roundabout (if required as a condition of the Modification Application if approved), would be undertaken at the cost of the Proponent and would have a positive effect on traffic calming within the locality. Other improvements to pedestrian facilities and landscaping immediately adjacent to the site within the road reserve is able to be required as a condition of future development consent and will contribute to the broader character and quality of the locality.
- The amended CHROFI master plan provides for a significant 134% increase in the quantum of publicly accessible open space to be provided within the site, as well as improving the quality and safety of this space in comparison to the approved Concept Plan. The re-orientation of the space promotes the development of a connected urban 'green grid' which builds on the existing regional open space network and provides for additional pedestrian connectivity.
- The proposed \$1 million monetary contribution (or works-in-kind to equivalent value) towards bush regeneration and public access improvements within the Walter Street Reserve significantly exceeds the value of the "bush track" required under the terms of the current Concept Plan Approval. The reserve is currently in poor condition and inaccessible, despite successive Council management plans identifying objectives for regeneration and access improvements. The proposed contribution will contribute toward the public amenity and environmental quality of this space for the benefit of the entire Willoughby community.

Future Environmental Assessment Requirement No.16 currently requires the provision of a publicly accessible bush track connecting from the site to Walter Street through the Walter Street Reserve. The condition does not require any additional works to improve the Walter Street Reserve. Altus Group have estimated that the cost of undertaking these works would be in the order of \$364,000 (**Attachment F**). In contrast, the Public Benefit Offer of \$1 million is based upon the more significant upgrades described at Section 4.9 of the exhibited CHROFI Master Plan and Urban Design Report which include:

- Formed durably pathway with timber boardwalks, crushed sandstone and concrete pathways and steel staircases at significant topographical changes to provide a higher level of pedestrian utility and safety;
- Removal of accumulated rubbish, weed removal and bush regeneration throughout the Reserve; and
- Directional signage and maps at the entrance to the pathways and within the local vicinity to promote connectivity.

The cost of the exhibited CHROFI and McGregor Coxall scheme has been estimated by Altus Group at \$996,000 (**Attachment F**). Any surplus up to the value of the \$1 million Public Benefit Offer can be utilised for additional upgrade works within the Walter Street Reserve or to improve pedestrian connectivity to the Reserve in the immediate vicinity of the site. This represents a net benefit above the existing approval requirements of \$636,000.

In addition to the above, the Public Benefit Offer proposes to provide for an increased provision of affordable rental housing to align with the targets set out in the Greater Sydney Commission's recent Draft North District Plan. The Modification Application proposes to provide 5% of the additional gross floor area proposed under this Modification Application in the form of finished dwellings, which is in excess of Council's requirement of 4% of additional gross floor area under the provisions of the Willoughby Local Environmental Plan 2012. A revised Statement of Commitment to this effect was included in the exhibited Modification Application (Appendix G), and for clarity it is also proposed to amend the affordable housing condition in Schedule 3- Future Environmental Assessment Requirements of the Instrument of Approval (refer **Attachment C**).

The Final Public Benefit Offer submitted by the Proponent (**Attachment G**) is a voluntary offer which will contribute to significant enhancements in local infrastructure and facilities in addition to those improvements supported by the payment of additional Section 94/94A Development Contributions and additional residential rates. The benefits offered do not arise from any need to mitigate the environmental impacts of the development but are rather additional enhancements that ensure that both the existing community and future residents of the site benefit from a high quality urban environment.

4.5 Other issues requiring further response

4.5.1 Traffic assessment

A number of public submissions raised concern regarding potential traffic generated by a future child care centre located within the subject site. No child care centre is proposed to be developed on the site under the current Modification Application. Rather, this modification seeks to ensure that centre-based child care is identified as a land use that is permitted with development consent, as it would be if the site was zoned R3 Medium Density Residential, R4 High Density Residential, B2 Local Centre or B4 Mixed Use under the provisions of the Willoughby Local Environmental Plan 2012. This would allow the possibility for a Development Application to be submitted to Willoughby Council to use part of the non-residential floor space to be utilised for the purpose of a small-scale child care centre on the site, if there was local demand for such a facility. Any such Development Application would be subject to a detailed assessment of the proposal's environmental impacts and compliance with the relevant technical standards, including in relation to car parking and traffic generation, as part of this assessment process and subject to final determination by Council.

4.5.2 Tree retention

The Arboricultural Impact Assessment has been amended by Redgum Horticultural in order to correct an error in the publicly exhibited version of this report in order to correct previous errors by confirming that Tree 32 is proposed to be retained throughout the construction phase and identifying the location of Tree 69 (located outside of the site boundary) which is to be retained. The revised report is provided at **Attachment H**.

4.5.3 Capital investment value and construction jobs

A revised estimate of the project's capital investment value has been prepared by Altus Group and is provided at **Attachment I**. Based on the revised CIV of \$230,064,780 and an anticipated construction timeframe of six years, the project is anticipated to generate approximately 110 full time-equivalent (FTE) construction jobs.

5.0 Conclusion

The proposed modification to the Concept Plan Approval offers a number of significant benefits to the existing and future Willoughby community, including:

- Significant improvements to the urban design framework for the Site resulting in a reduction in the environmental impacts, such as overshadowing and visual impact, the delivery of a better transitional scale to the surrounding areas and a higher quality master plan design outcome.
- 134% increase in public open space within the Site and improvements to the accessibility, quality and connectivity of this space to better meet the needs of the community and integrate with Council's established open space network and retain significant trees.
- \$500,000 financial contribution toward the upgrade of the intersection of Willoughby Road, Artarmon Road and Small Street, which has already been conceptually planned by Council to support the upgrade of the Willoughby Leisure Centre. The existing and future performance of this intersection was the source of significant community concern during the original assessment phase, and the upgrade will see future performance that is better than current conditions during all weekday peak periods and better than the approved weekend conditions.
- \$1 million financial contribution for bushland regeneration and access improvements of the Walter Street Reserve, which have been identified in Council's Plan of Management since 1999 but have not been able to be fulfilled. These upgrades will significantly improve community access to and between existing open space areas, as well as having a number of local environmental benefits.
- Additional affordable housing provision in accordance with Council's requirements in proportion to the increase in total dwellings, and overall housing to support Willoughby's future projected population growth.

These benefits are additional to the existing Concept Plan approval and are directly supported by an increase in the number of dwellings proposed on the site to a total of 495 apartments. Importantly, whilst both the number of dwellings and maximum building heights are proposed to be increased, the actual environmental and social impacts of the amended CHROFI master plan are no greater and in many instances better than the currently approved master plan. In particular:

- Net improvement to overshadowing impacts on dwelling houses in Walter St.
- Net improvement to the overshadowing impacts on existing apartment buildings in the adjoining Castle Vale development.
- Appropriate transitions in the scale of building forms, particularly at sensitive low-density residential interfaces such as Walter St and Artarmon Rd.
- Reduction in the visual impact of the redevelopment of the Site through the sensitive placement of taller building elements, intelligent spacing of buildings and a narrowing of proposed building envelopes.
- Safer site access to Artarmon Road and Richmond Avenue through a refined traffic and access strategy.
- Minimal increases in demand for social infrastructure such as local public schools, with new demand from the Site not arising until at least 2023.

In light of the above, we consider the proposed modifications to represent a substantial improvement to the current Concept Plan and we have no hesitation in recommending that this Section 75W Modification Application be approved.