

CONTACT

Michael Oliver Associate Director, Planning moliver@ethosurban.com 02 9956 6962

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This document has been prepared by:

This document has been reviewed by:



Ella Coleman

8 April 2020



Gemma Bassett

8 April 2020

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Ethos Urban Pty Ltd
ABN 13 615 087 931.
www.ethosurban.com
173 Sussex Street, Sydney
NSW 2000 t 61 2 9956 6952

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Executive Summary

Background

The Channel Nine Campus site at 6 – 30 Artarmon Road Willoughby was the subject of a Part 3A Concept Plan Approval that was approved by the Planning Assessment Commission on 5 March 2014. The Concept Plan Approval provides for the establishment of a residential development with small-scale non-residential uses. The Concept Plan has previously been modified once and permits up to 460 dwellings across nine residential apartment buildings, as well as small-scale non-residential uses and landscaping of the site.

In February 2020 Mirvac entered into an agreement with Euro Properties and Lotus Property Fund No.8 (LEPC9) to acquire the Channel Nine Campus site. Mirvac simultaneously entered into a separate agreement with TX Australia Pty Ltd to acquire the approximately 2,132sqm site directly to the south of the Channel Nine Campus, known as Lot 11 DP1162507 at 15 Richmond Avenue, Willoughby that currently accommodates an approximate 233m tall redundant transmission tower. Accordingly, this Modification Application seeks to modify the Concept Plan Approval to include the additional land and allow one additional residential apartment building.

Proposed Modifications

In summary, this Modification Application seeks to modify the Concept Plan Approval as follows:

- Addition of 15 Richmond Avenue (the TXA Transmission Tower Site) to the land to which the Concept Plan applies.
- An additional building envelope for a residential apartment building above basement level car parking, an increase of one from a currently approved total of nine buildings.
- A maximum of 46,853m² of new residential gross floor area, an increase of 4,296m² from a total of 42,557m².

There is no change proposed to the maximum of 460 dwellings permitted on the site. In addition to this, no change is proposed to the arrangement of the approved master plan, with all vehicle access, landscaping and public domain to remain as approved.

Statutory Context

The Concept Plan Approval (MP 10_0198) for the site was issued in accordance with Part 3A of the EP&A Act, which has since been repealed. Notwithstanding the repeal of Part 3A, the EP&A Act includes transitional provisions for Concept Plans and Project Applications approved under Part 3A to allow for modifications to be made, assessed and determined as though Part 3A had not been repealed.

Under Section 3C (1) of Schedule 2 of the Savings and Transitional Regulation, a Concept Plan may be modified in accordance with the provisions of section 75W of the EP&A Act as though this section had not been repealed.

Under Section 3BA(5) of the Savings and Transitional Regulation a Concept Plan may continue to be modified under section 75W, but only if the Minister is satisfied that:

- (a) the proposed modification is to correct a minor error, misdescription or miscalculation, or
- (b) the proposed modification is of minimal environmental impact, or
- (c) the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).

In accordance with Section 3BA(5)(c) referred to above, the 'project to which the concept plan currently relates' refers to the Concept Plan as modified by previously approved modifications, the most recent being Mod 2. Therefore, this Modification is made in accordance with the provisions of 75W(c) of the EP&A Act on the basis that the project is substantially the same as the project to which the Concept Plan currently relates

Environmental Assessment

The proposed modifications will deliver a number of significant benefits to existing and future residents of the community, including:

- Enabling the removal of the approximately 233 metre tall TX Australia transmission tower. The redundant transmission tower is highly visible throughout the surrounding residential neighbourhoods. Replacement of the transmission tower with a low/medium-scale residential building will significantly improve the character of the neighbourhood, and vistas from a broader Sydney context.
- Providing one additional residential apartment building on the site whilst maintaining the maximum of 460 dwellings will allow for a more diverse dwelling mix, enabling a greater number of two and three bedroom apartments to cater to the needs of different household types, including first-home buyers, couples without children, families, downsizers and retirees.
- The incorporation of the additional land will provide increased opportunities for landscaping on the site, replacing some areas of hardstand with deep soil planting and planter beds. This will complement the existing bush corridor to the south of the site and further enhance the leafy character of the Willoughby neighbourhood.
- Removal of the existing vehicle access point from Richmond Avenue to the TX Australia Site. Future servicing is proposed via a basement connection from the already approved Scott Street vehicle access point.

In relation to the key environmental assessment matters:

- Visual impacts associated with the proposed modifications are acceptable and considered an improvement through the removal of the highly visually intrusive transmission tower. The proposed building envelope has been designed to match the design principles of existing Chrofi Concept Plan, with the built form stepping down to match the sloping topography of the site.
- Overshadowing associated with the proposed building envelopes will not reduce any solar access for surrounding residents.
- Traffic and parking impacts associated with the proposed development is generally consistent with the approved Concept Plan (as modified) given the 460 dwelling maximum is maintained.
- A high level of residential amenity would be provided for future occupants of residential dwellings, with an initial assessment indicating compliance with the design principles under SEPP 65 and the Apartment Design Guide.

Conclusion

The proposed modifications represent an opportunity to improve the quality of the approved development and the surrounding locality by replacing the intrusive transmission tower with an appropriately scaled residential building. The additional proposed building envelope will allow for a more diverse dwelling mix to be provided, meeting the varied needs of the Willoughby community. In addition to this, the proposed building envelope is consistent with the built form of the approved Concept Plan, complementing the scale of the surrounding residential neighbourhood. The proposed development is capable of being accommodated on the site without giving rise to any significant additional environmental impacts, and will make a positive contribution to the establishment of a new residential neighbourhood. The modification offers a clear, concise and logical urban design response to realise the full potential of the site. In light of the merits of the proposed modification, we have no hesitation in recommending that the proposed modifications to the Concept Plan be approved.

1.0 Introduction

This Modification Application is submitted to the NSW Department of Planning, Industry and Environment (the Department) in relation to the Part 3A Concept Plan (MP10_0198) Approval (Concept Plan Approval) for 6-30 Artarmon Road, Willoughby in accordance with Section 3BA and 3C(1) of Schedule 2 of the *Environmental Planning and Assessment Regulation (Savings, Transitional and Other) 2017* (Savings and Transitional Regulation).

The Channel Nine Campus at 6-30 Artarmon Road, Willoughby is subject to a Part 3A Concept Plan Approval (MP10_0198 MOD 2) (Concept Plan Approval), with the most recent modification to the Concept Plan approved on 31 January 2019. The Concept Plan Approval provides for redevelopment of the site into 460 residential dwellings across nine buildings along with small-scale non-residential uses.

In February 2020 Mirvac entered into an agreement with Euro Properties and Lotus Property Fund No.8 (LEPC9) to acquire the Channel Nine Campus site. Mirvac simultaneously entered into a separate agreement with TX Australia Pty Ltd to acquire the approximately 2,132sqm site directly to the south of the Channel Nine Campus, known as Lot 11 DP1162507 at 15 Richmond Avenue, Willoughby that currently accommodates an approximate 233m tall transmission tower.

Mirvac are applying to the Department to modify the current Concept Plan Approval to incorporate the transmission tower site within the approval to permit redevelopment into a tenth residential building while maintaining the existing 460 dwelling limit across the expanded site.

The proposed Concept Plan amendment will facilitate the demolition of the existing transmission tower and redevelopment of Lots 11 and 12 into a five-storey residential flat building. The building height, scale and open space across the Channel Nine Campus site at 6-30 Artarmon Road is proposed to remain consistent with the existing Concept Plan Approval.

1.1 Project Team

The Proponent has assembled an expert consultant and design team to assess and deliver the proposed amendments to the Concept Plan, as outlined below.

Specialisation	Consultant
Development Management	Mirvac
Urban Design and Architecture	CHROFI and Mirvac Design
Urban Planning	Ethos Urban
Communications and Stakeholder Engagement	Ethos Urban
Landscape Architecture	McGregor Coxall
Traffic and Transport	Ason Group
Arborist	Footprint Green
Environmental Conditions	JBS&G
Wind	Arup
Heritage	Urbis
Quantity Surveyor	Mirvac Constructions

2.0 The Site

2.1 Site Location and Context

The site to which the existing Concept Plan applies is located at 6-30 Artarmon Road, Willoughby, within the Willoughby Local Government Area (LGA). The site is occupied by an existing television facilities and offices for Nine Studios. The site to which the existing Concept Approval has an area of approximately 29,720m² and is shown in **Figure 1**.

Located to the south is 15 Richmond Avenue, legally described as Lot 11 DP 1162507 with an area of 2,125m². Known as the TXA tower site, this land contains an approximate 233 metre high media transmission tower and ancillary hardstand area and operations building. The legal description and ownership of the site is outlined at **Table 1**. A Site Survey for the additional site is provided at **Appendix K**.



Figure 1 Aerial image of the site

Source: Ethos Urban and Nearmap

Land Ownership and Legal Description

Table 1 Legal description

Lot	DP	Street Address	Owner
<i>Approved Concept Plan Site</i>			
1	820327	14 Artarmon Road, Willoughby	LEPC9
10	1162507	14 Artarmon Road, Willoughby	LEPC9
13	6849	25 Richmond Avenue, Willoughby	LEPC9
12	1162507	Richmond Avenue, Willoughby	LEPC9
1	327266	6 Artarmon Road, Willoughby	LEPC9
<i>Additional Land to be included in the amended Concept Plan</i>			
11	327266	15 Richmond Avenue, Willoughby	TX Australia Pty Ltd

The Scott Street public road reserve is excluded from the Concept Plan as a result of MOD 2. This Modification Application does not seek to change this.

3.0 Background to Modification Application

3.1 Concept Plan Approval

The redevelopment of the site was declared to be a project to which the now repealed Part 3A of the *Environmental Planning and Assessment Act 1979* applied on 19 November 2010. The previous owners, Nine Entertainment Co. (Channel Nine), submitted an Environmental Assessment Report in November 2012, which ultimately obtained approval for:

The use of the site for a residential development with small-scale non-residential uses, incorporating:

- *Building envelopes for five residential flat buildings above basement level parking and two rows of terrace houses incorporating:*
 - *up to 400 dwellings, and*
 - *up to 500m² floor space of non-residential uses to support the development;*
- *Retention and adaptive reuse of No 6 Artarmon Road for retail/commercial purpose;*
- *New internal roadways and other infrastructure works to support the development;*
- *Publicly accessible open space and through site link;*
- *Temporary exhibition homes and/or exhibition villages; and*
- *Superlot subdivision.*

This approval was obtained subsequent to an appeal in the Land and Environment Court (No. 103632 of 2014).

3.2 Modifications to the Concept Plan

Following the approval of the Concept Plan, LEPC9 agreed to purchase the site from Channel Nine in 2015. LEPC9 engaged architect Andrew Andersons AO to undertake an independent design review of the approved master plan. In response to this review, LEPC9 undertook an architectural design competition to revise the master plan outcomes for the site and significantly improve the urban design response to the site. This competition engaged with five of Australia's leading architectural and urban design practices, which resulted in the selection of Chrofi's scheme as the winning urban design response to the site.

Following the appointment of Chrofi Architects and McGregor Coxall Landscape Design, three S75W modification applications were lodged with the Department of Planning, Industry and Environment. These are outlined below.

Modification	Status
MOD 1	Withdrawn
MOD 2	Approved (discussed further below)
MOD 3	Withdrawn

Modification 2 (MOD 2) was lodged in October 2017. This Modification Application was progressed to amend the Concept Plan Approval to reflect the revised Chrofi master plan. MOD 2 was approved by the Independent Planning Commission on 31 January 2019. As a result of MOD 2, the Concept Plan as currently approved, provides for:

- Building envelopes for nine residential flat buildings above basement level parking incorporating:
 - Up to 460 dwellings;
 - Up to 42,557m² floor space of new residential gross floor area; and
 - Up to 300m² floor space of non-residential uses to support the development.
- Retention and adaptive reuse of No 6 Artarmon Road for retail/commercial purposes (within existing GFA of 1,050m²);

- New internal roadways and other infrastructure works to support the development;
- Publicly accessible open space and through site link;
- Temporary exhibition homes and/or exhibition village; and
- Superlot subdivision.

A copy of the final Modification Instrument and Approved Plans from MOD 2 are provided at **Appendix A**, with **Figure 2** below illustrating the approved building envelopes.

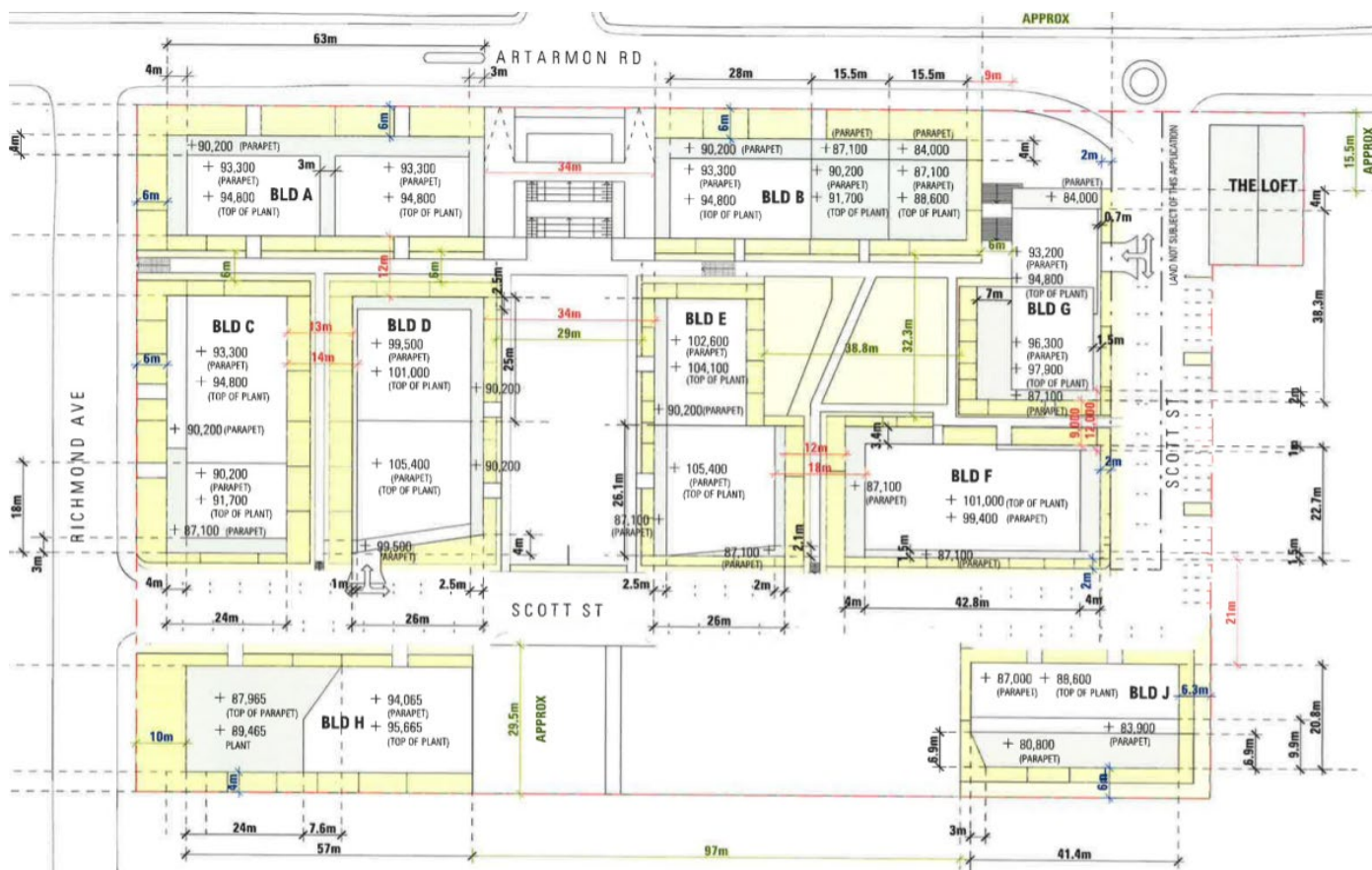


Figure 2 Extract from approved Concept Plan Drawings (as amended by MOD 2)

Source: CHROFI

3.3 Planning Pathway

The Concept Plan Approval (MP 10_0198) for the site was issued in accordance with Part 3A of the EP&A Act, which has since been repealed. Notwithstanding the repeal of Part 3A, the EP&A Act includes transitional provisions for Concept Plans and Project Applications approved under Part 3A to allow for modifications to be assessed and determined as though Part 3A had not been repealed.

Under Section 3C (1) of Schedule 2 of the Savings and Transitional Regulation, a Concept Plan may be modified in accordance with the provisions of section 75W of the EP&A Act as though this section had not been repealed.

Under Section 3BA(5) of the Savings and Transitional Regulation a Concept Plan may continue to be modified under section 75W, but only if the Minister is satisfied that:

- the proposed modification is to correct a minor error, misdescription or miscalculation, or*
- the proposed modification is of minimal environmental impact, or*
- the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).*

In accordance with Section 3BA(5)(c) referred to above, the 'project to which the concept plan currently relates' refers to the Concept Plan as modified by previously approved modifications, the most recent being Mod 2.

Therefore, this modification is made in accordance with the provisions of 75W(c) of the EP&A Act on the basis that the project is substantially the same as the project to which the Concept Plan currently relates, being Mod 2 (see further discussion at **Section 6.1.1**).

4.0 Community and Stakeholder Consultation

To support the proposed modification, consultation was undertaken with relevant public authorities, Council, stakeholders and the community. A Stakeholder and Community Engagement Report has been prepared by Ethos Urban and provided at **Appendix B**.

Meetings were held with the Willoughby Progress Association, Willoughby Area Action Group, Department of Planning, Industry and Environment, Willoughby Council and the Offices of the NSW State Premier, Minister for Planning and Public Spaces and the NSW State Premier's Electoral Office.

No substantial issues were raised by the Department of Planning, Industry and Environment, or the various state ministerial offices. The items raised by the remaining stakeholder is discussed in more detail below.

Willoughby Progress Association

The Willoughby Progress Association raised the following items:

- Traffic and parking matters relating to the site;
- Potential impact of the Western Harbour Tunnel;
- VPA and contributions;
- Public space and landscaping ratios; and
- Impact of other nearby plans including Walter Street.

It is noted that Mirvac's intent to comply with the approved Concept Plan, demolish the transmission tower and maintain the approved upper limit of 460 dwellings was supported by the Willoughby Progress Association. Following the meetings with the Association, Mirvac agreed to review the Western Harbour Tunnel proposal and share any concerns.

Willoughby Council

Mirvac met with Willoughby Council in February 2020 to discuss the proposed modification application, as well as the high-level approach for preparing and submitting Development Applications for the existing Concept Approval. Key items discussed at the meeting included the planning pathway and intent to provide a coordinated planning framework under the Concept Approval, the public benefits of removing the transmission tower, the development approach of remaining generally consistent with the approved Concept Plan parameters for dwelling numbers and building height, and consultation with the broader local community and interested stakeholders.

Mirvac will continue to work through the above matters with Council to identify appropriate responses and solutions

Future Consultation

Future consultation is proposed to ensure the community are informed about the project. Due to the COVID-19 outbreak and associated official government directives, Mirvac has adapted its original plans to hold public information sessions on the current modification application. Given the fast-changing nature of the situation, the consultation framework will be regularly reviewed for its effectiveness. The following consultation methods and tools are proposed to provide the community with information and the opportunity for feedback going forward:

- Project website and contact channels;
- Letterbox drop; and
- Newspaper advert.

5.0 Description of Proposed Modification Application

The modification seeks to extend the Concept Plan site to include the TXA site to the south of the current Concept Plan site and include one additional building envelope on this site and Lot 12. This modification does not otherwise seek to amend the arrangement of the master plan as approved under MOD 2. Accordingly, the proposed modification seeks approval for:

- Addition of 15 Richmond Avenue (the TXA Transmission Tower Site) to the land to which the Concept Plan applies.
- An additional building envelope for a residential apartment building above basement level car parking, an increase of one from a currently approved total of nine buildings.
- A maximum of 46,853m² of new residential gross floor area, an increase of 4,296m² from 42,557m².

The proposed modification will not amend the majority of the existing provisions currently approved under MOD 2 of the Concept Plan. Therefore, all of the following development parameters will remain unchanged as part of the proposed modification:

- Maximum of 460 dwellings across the expanded site area;
- Up to 300m² floor space of non-residential uses to support the development.
- Retention and adaptive reuse of No 6 Artarmon Road for retail/commercial purposes (within existing GFA of 1,050m²;
- New internal roadways and other infrastructure works to support the development;
- Publicly accessible open space and through site link;
- Temporary exhibition homes and/or exhibition village; and
- Superlot subdivision.

An amendment to the approved master plan that details the additional building envelope has been prepared by Chrofi and provided at **Appendix C**. A comparison between the approved Concept Plan site layout and the proposed site layout is provided at **Figure 3** and **Figure 4**. The proposed Concept Plan amendment includes redevelopment of Lot 11 and 12 DP 327266 into one additional five storey residential building. The building height, scale and open space across the Channel Nine Campus site at 6 – 30 Artarmon Road will remain unchanged from the existing Concept Plan approval.

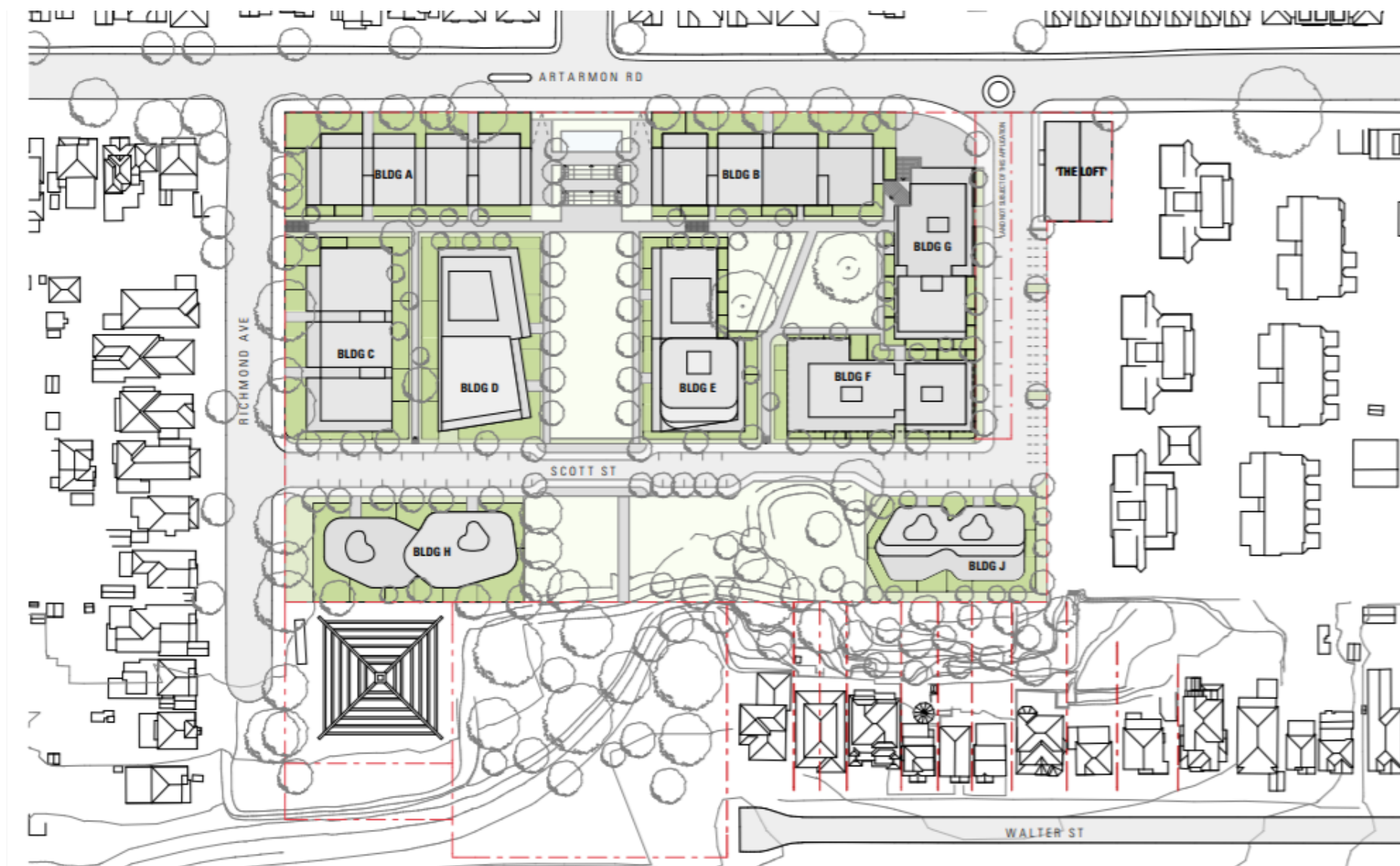


Figure 3 Approved Concept Plan

Source: CHROFI

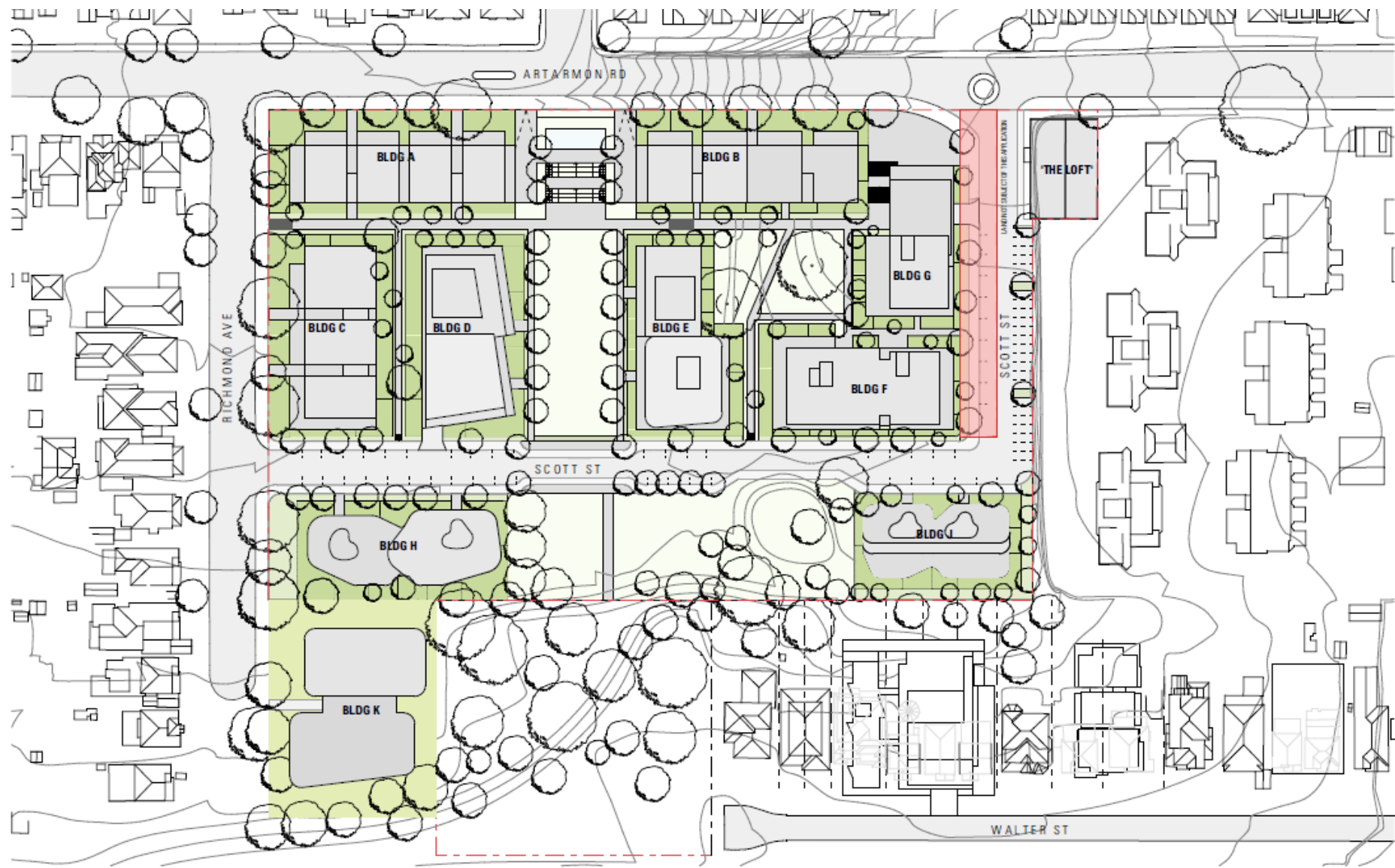


Figure 4 Proposed Concept Plan with addition of TXA Site (Building K)

Source: CHROFI

5.1 Proposed Modification

The following sections outline the proposed modifications to MP10_0198. The proposed amendments to the Instrument of Approval are detailed at **Appendix D**.

5.1.1 Inclusion of Additional Land

It is proposed that Lot 11 DP 327266 to the south of the currently approved master plan site be included in the Concept Plan site. The relationship between the approved Concept Plan site and the TXA site is shown in **Figure 5**. The TXA site currently accommodates a 233 metre media transmission tower and ancillary structures.

This modification seeks to include this site in the approved Concept Plan site to accommodate a building envelope for a residential building. This will enable dismantled of the transmission tower and all structures on the site which will be subject to a separate approval.



Figure 5 The TXA site relationship with the Concept Plan site

Source: Ethos Urban, Nearmap

5.1.2 Proposed Building K Envelope

This application seeks to amend the master plan to include a new additional building envelope on the TXA site and on Lot 12. This building envelope is described as Building K and will accommodate a residential apartment building.

Building K has been designed to align with the urban design principles and rationale of the existing approved master plan, according to the following design principles developed by Chrofi:

- Building K should feel coherent with the overall approach of the approved masterplan, and cohesive with the built form approach for all buildings of the approved Concept Plan.
- Building K should respond to the approved Concept Plan approach to Richmond Avenue in terms of scale and response to the existing houses on this street.

- Building K should respond to the proposed building typologies of the approved Concept Plan and should architecturally relate to the approved buildings on the main site.
- Future layouts and apartment amenity should be coordinated with Building H (the adjacent building) to maximise outlook, solar access and privacy for both buildings.
- Building K should respond to its own context and the natural topography of its site.

Building Height

Building K is stepped in height to follow the topography of the site. The building envelope has a maximum height of RL 89.965 in the northern portion of the building envelope.

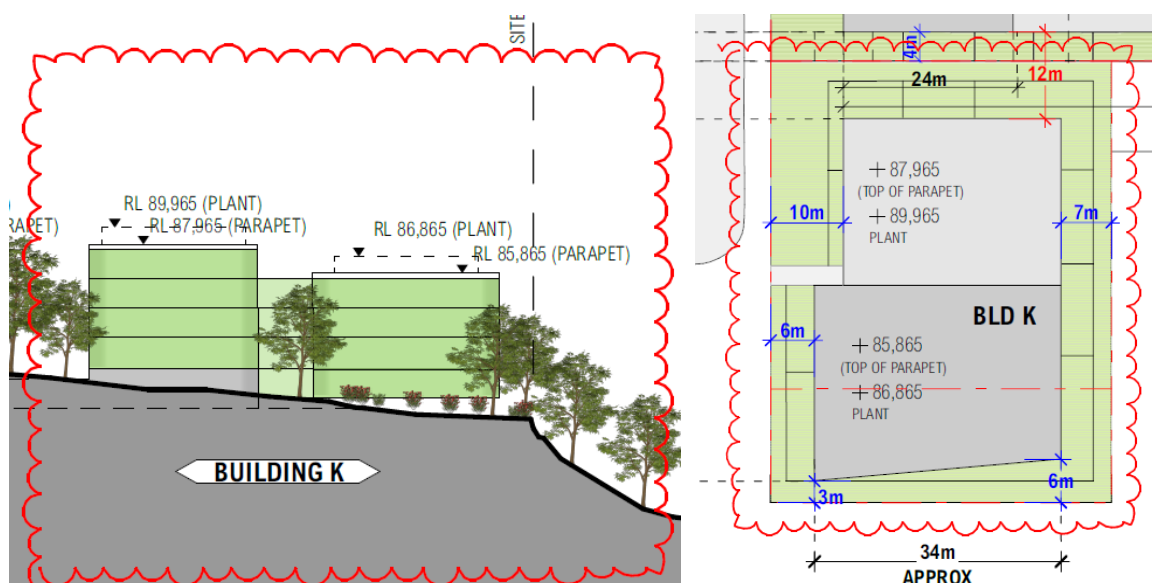


Figure 6 Proposed building height

Source: Chrofi

Gross Floor Area

The GFA that can be accommodated within the proposed building envelope will be approximately equivalent to an FSR of 1.5:1, which is generally commensurate with the approved Concept Plan. The GFA will be increased by a total of 4,296m², to a total of 46,853m² for residential uses. This is equivalent to a 10% increase in residential GFA. While the GFA is increased, no change is proposed to the existing approved dwelling cap of 460.

Setbacks

The proposed setbacks are described in **Table 2** and illustrated at **Figure 7**.

Table 2 Proposed setbacks

Setback	Distance
Richmond Avenue (west)	6 metres (minimum) 10 metres (maximum)
Building H (north)	12 metres
Bush reserve (east)	7 metres
Bush reserve (south)	3 metres (minimum) 6 metres (maximum)

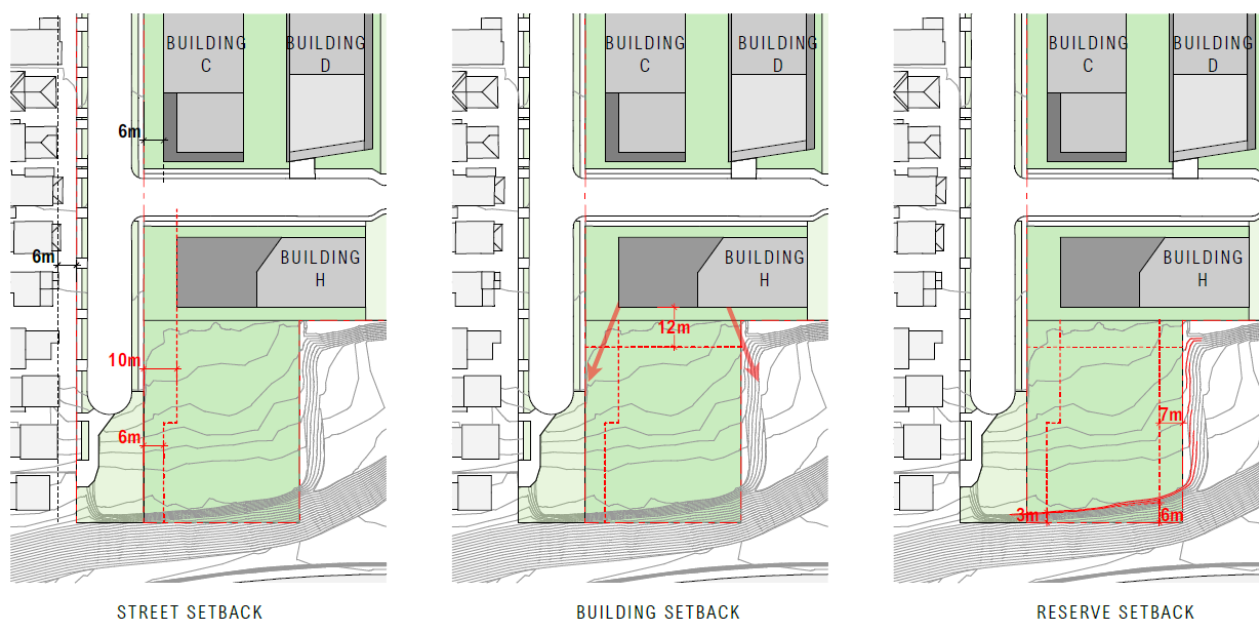


Figure 7 Proposed setbacks

Source: Chrofi

5.1.3 Modification to Conditions

The proposed modifications to the Concept Plan detailed above require amendments to the approved Concept Plan Instrument of Approval to reflect the inclusion of additional land, increased GFA and other minor amendments. These are detailed in **Appendix D**.

5.2 Numerical Overview

Table 3 provides a comparison of the key development statistics under the current Concept Plan Approval (as modified) to what is proposed under this modification application.

Table 3 Key development information

Component	Approved	Proposal	Difference
Total GFA	43, 907m ²	48,203m ²	+4,296m ² residential GFA
Residential GFA	42,557m ²	46,853m ²	+4,296m ²
Non-residential GFA	300m ²	300m ²	No change
Adaptive retail/commercial reuse	1,050m ²	1,050m ²	No change
Maximum Height	RL 105.5 AHD	RL105.5 AHD	No change
Number of building envelopes	9	10	1 additional building envelope
Apartments	460	460	No change
Car Spaces	<ul style="list-style-type: none"> 0.5 space per studio apartment 1 space per 1 bedroom or 2 bedroom apartment 1.25 spaces per 3 bedroom apartment 	<ul style="list-style-type: none"> 0.5 space per studio apartment 1 space per 1 bedroom or 2 bedroom apartment 1.25 spaces per 3 bedroom apartment 	No change

5.3 Access and Parking

Vehicle Access

Vehicle access to the site remains unchanged from the approved Concept Plan, with the proposed Building K to be accessed via the existing vehicle entry point from Scott Street through an internal basement connection underneath Building D (refer to **Figure 8**). The existing TX Site driveway on Richmond Avenue will be removed.

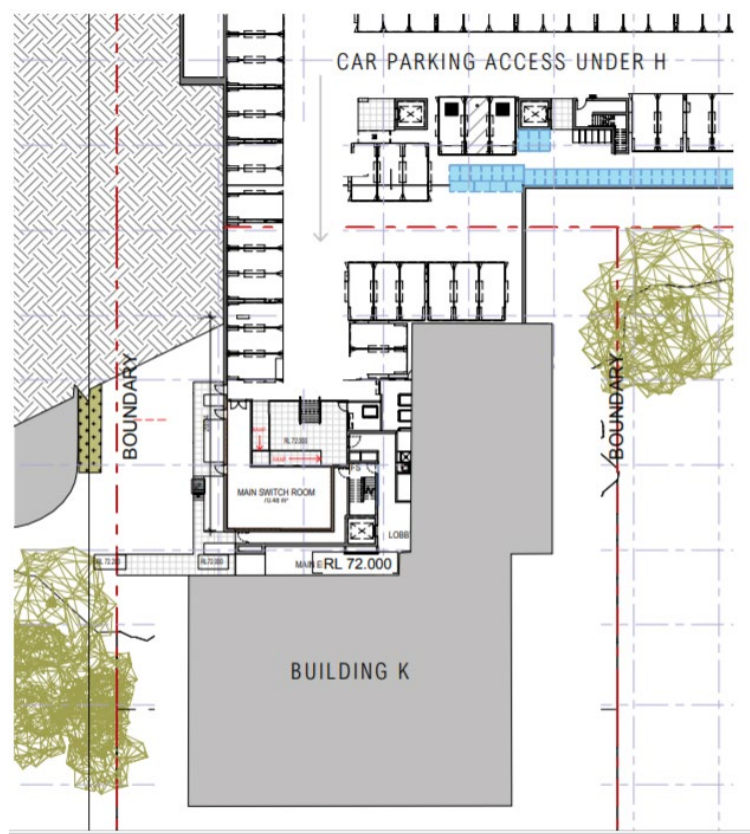


Figure 8 Indicative Relationship between basement car park and Building K

Source: Chrofi

Parking

No change is proposed to the car parking rates set out in Condition 29 of the approved Concept Plan. All residential parking will be located in the basement of buildings on site and will only be accessed from the internal loop road (no additional driveways to Artarmon Road or Richmond Avenue). Visitor parking will continue to be accommodated kerbside on the internal street network, with additional spaces located on Scott Street. There is no change proposed to the approved car share requirements set out in Condition 31.

5.4 Landscaping






Landscape Concept Plans have been prepared by McGregor Coxall and are provided in the Urban Design Report at **Appendix F**. The additional landscaping around the Building K envelope, including private open space at ground level, provides opportunities for deep soil planting and landscaping along the Richmond Avenue frontage.






Plant species have been selected consistent with the approved Concept Plan and will provide a range of trees, shrubs and groundcovers.

6.0 Environmental Assessment

This section of the report assesses and responds to the environmental impacts of the proposed amendments to the Concept Plan.

6.1 Relevant Legislation and Planning Policy

Plan	Assessment
Strategic Plans	
NSW Premier's Priorities	The NSW Premier's Priorities represent the key policy priorities for the NSW Government, replacing the former NSW 2021 plan. The priorities outline the NSW Government's vision and objectives for the State's near-term future and are intended to guide all government action. The priorities set a series of targets designed to rebuild the economy, deliver quality government services, improve infrastructure, strengthen our local environment and communities and improve governance structures. The proposed modifications will not prevent achieving any of the current NSW Premier's Priorities, which primarily relate to social policy, green infrastructure and improving the public service.
Greater Sydney Region Plan	<p>The <i>Greater Sydney Region Plan</i> is the overarching strategy for growing and shaping the Greater Sydney Area. It sets a 40-year vision (to 2056) and establishes a 20-year plan to manage growth and change for Greater Sydney in the context of social, economic and environmental matters. The plan was finalised and adopted in March 2018 and seeks to strengthen Sydney as a metropolis of three cities – the western parkland city, central river city, and the eastern harbour city. The Plan provides 10 key directions supported by 40 objectives that inform the District Plans, Local Plans and Planning Proposals which follow in the planning hierarchy. An assessment against the key directions is provided below.</p> <div>  <p>A city supported by infrastructure</p> <p>The modification seeks to enhance the approved master plan to provide new residential dwellings in an area that benefits from high quality transport, health and social infrastructure.</p> </div> <div>  <p>A collaborative city</p> <p>This direction acknowledges that managing the competing needs of the city requires all levels of government, industry and the community to work together and identifies Collaboration Areas where multiple stakeholders will work together to support future growth. The site is not located within a Collaboration Area.</p> </div> <div>  <p>A city for people</p> <p>The modification will facilitate an improved master plan for future residents, providing medium density dwellings on a site that will provide significant open space for recreation.</p> </div> <div>  <p>Housing the city</p> <p>The modification will facilitate an improved master plan for future residents, allowing a diverse dwelling mix to be delivered in a high quality, masterplanned community. The modification will maintain the affordable housing commitments that currently form part of the Concept Plan approval.</p> </div> <div>  <p>A city of great places</p> <p>The site is located in proximity to public transport, local shops, recreation facilities and other social infrastructure. Within the site, the master plan seeks to deliver high quality public and communal open space, with the landscape design and small-scale retail space providing opportunities for local activation.</p> </div>

Plan	Assessment
	 <p>A well connected city</p> <p>The site benefits from train and bus services, as well as local and regional cycle connections. Future residents of the site will benefit from this connectivity, contributing to achieving the '30-minute city'.</p>
	 <p>Jobs and skills for the city</p> <p>The proposal will support employment centres in Chatswood, St Leonards, Macquarie Park and the CBD by providing high quality residential dwellings in a well-connected location.</p>
	 <p>A city in its landscape</p> <p>The proposed modification does not affect the approved Landscape Master Plan approved for the site. A significant amount of active and passive landscaped space will be provided across the site, and will enhance the bushland character of the area.</p>
	 <p>An efficient city</p> <p>The proposed modification will continue to deliver on the ESD commitments set out in the approved Concept Plan.</p>
	 <p>A resilient city</p> <p>The environmental initiatives implemented through the development seek to contribute to enhanced environmental outcomes and mitigate impacts related to climate change.</p>
North District Plan	<p>The <i>North District Plan</i> underpins the <i>Greater Sydney Region Plan</i> and sets the 20-year vision for the District through 'Planning Priorities' that are linked to the Region Plan. The proposed modification is consistent with a number of these priorities, as follows:</p> <ul style="list-style-type: none"> • Planning for a city supported by infrastructure. • Providing housing supply, choice and affordability, with access to jobs, services and public transport. • Creating and renewing great places and local centres, and respecting the District's heritage. • Delivering integrated land use and transport planning and a 30-minute city. • Increasing urban tree canopy cover and delivering Green Grid connections.
Draft Willoughby Local Strategic Planning Statement	<p>At its meeting of 10 February 2020, Council resolved to update the Draft Local Strategic Planning Statement to identify the site as a 'housing diversity area' that is suitable for additional higher-density housing. The proposed modification is consistent with this strategy by locating new housing close to identified transport corridors (Willoughby Road bus corridor and Artarmon Station), active transit networks (Gore Hill Cycleway) and ample public open space.</p>
State Planning Instruments	
<i>Environmental Planning and Assessment Act 1979</i>	<p>The proposal continues to be consistent with the objects of the EP&A Act as it will promote housing supply and diversity to meet the social and economic needs of the community, will increase employment, promotes good design and minimises environmental impacts.</p>
Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017	<p>Refer to Section 6.1.1.</p>

Plan	Assessment
State Environmental Planning Policy No 55 - Remediation of Land	Refer to Section 6.8 .
State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings	The proposed modifications will facilitate residential buildings that will achieve the objectives of State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings (SEPP 65) and the Apartment Design Guide (ADG). The Design Report at Appendix G demonstrates that the proposed building envelope is capable of complying with key design criteria relating to solar access, natural cross ventilation and building separation. Future detailed development applications will be assessed in full in accordance with the recommended design criteria set out in the ADG.
Willoughby Local Environmental Plan 2012	The Channel 9 and TXA sites are both currently zoned SP2 Infrastructure – Telecommunications Facility. No height or FSR development standards apply to the site. The Concept Plan approved under the former Part 3A supersedes the provisions of any local environmental plan to the extent of any inconsistency. Accordingly, a modification to the Concept Approval is the appropriate planning pathway to provide a coordinated planning outcome.

6.1.1 Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017

Clause 3BA(5)(c) of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (the Transitional Regulation) requires the consent authority to be satisfied that the consent as proposed to be modified is *substantially the same* as the existing consent (incorporating any modifications previously made). It is important to note that this comparative task is therefore between the Concept Approval as approved under MP10_0198 Modification 2 in 2019.

There is a significant body of case law which relates to whether or not a modification application is substantially the same as the original development. It should be noted that existing case law relates to Section 4.55 of the EP&A Act (and the preceding Section 96), which is different in both its construction and context, and accordingly this caselaw should be treated as guidance only rather than a definitive test. The reality is that a modification to a Part 3A Concept Approval, which is inherently broad-reaching and general in nature, will always be required to be assessed with regard to the context of the Concept Approval in contrast to the approach taken to a highly-specific development consent issued under Part 4 of the EP&A Act. The case law relevant to whether the Modification Application meets the 'substantially the same' test can be summarised as follows:

- The Modification Application must not result in a modified development that 'radically transforms' the development originally approved in the existing consent. That test was espoused in the decision of *Sydney City Council v Ilenace Pty Ltd* (1984) 54 LGRA 217. ". This approach and test was also followed by Mason P in the NSW Court of Appeal in *Transport Action Group Against Motorways Inc v Roads and Traffic Authority* (1999) 104 LGERA 133.
- The Modification Application must not propose development that would change the substance of the existing consent and result in a 'wholesale rejection or replacement' of the existing consent (Sheller JA in *Transport Action Group*).
- In respect of the proposal to add a parcel of land to the already approved consent we confirm there is authority that land can be added by way of a modification application. In that decision, *Scrap Realty Pty Ltd v Botany Bay City Council* [2008] NSWLEC 333 (*Scrap Realty*), the Chief Justice of the NSW Land and Environment Court confirmed that a development consent can be modified to include additional land beyond that originally included in the consent, provided that the development overall continued to satisfy the 'substantially the same' test that applied to the modification. As outlined in this Section, the addition of a relatively small parcel of land that is contiguous on two sides with land subject to the original Concept Approval is within the scope of a modification application, has no increased environmental impacts (and indeed will improve the visual impacts for the locality of the existing infrastructure on that land if it is removed).

In the circumstances of this proposal, the Modification Application meets the substantially the same test regardless of which of the above (or a combination of the above) tests are applied.

The Concept Approval remains fundamentally the same, being for the demolition of existing media and broadcasting structures and the redevelopment of the site for a residential master planned community. No change to the approved land uses is proposed. No change is proposed to the scale or configuration of existing building envelopes approved under the Concept Approval. The Modification Application simply provides for the incorporation of a small parcel of additional land upon which the already-approved number of dwellings will continue to be distributed, consistent with the scale of development already approved under the Concept Plan.

Based on these early decisions of *Ilenace* and *Transport Action Group*, there is no doubt that the Modification Application is a true "modification".

In *Moto Projects (No 2) Pty Ltd v North Sydney Council* [1999] NSWLEC 280 the Court considered a modification application to delete an ingress ramp to a mixed-use development in North Sydney. As highlighted in the Council Assessment Report, Bignold J held at [56] that:

The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).

The decision in *Moto Projects* makes clear that the comparative task in assessing whether a development is 'substantially the same' cannot be viewed as merely a quantitative assessment of development statistics, but must also include a contextual assessment of the qualitative nature of the approved and modified developments. Having regard to this, the following sections set out how the proposed modification is substantially the same in both the quantitative and qualitative sense.

The Quantitative Assessment:

The following table sets out the headline development statistics that informs the quantitative assessment of the proposed modification:

Table 4 – Quantitative summary of Modification Application

Measure	Approved	Proposed Modification	Difference
Site	Main site dissected by TXA site	Infill main site by including TXA site	One additional lot included
Site area	29,720m ²	31,845m ²	+2,125m ² (+7%)
Maximum building height	Maximum RL 105.4	Maximum RL 105.4	No change
Maximum dwellings	460	460	No change
Dwellings per hectare	155 dwellings/ha over Channel 9 site	141 dwellings/ha over Channel 9 and TXA site	8.8% reduction
Total GFA	43,907m ²	48,203m ²	9% increase in total GFA
Residential GFA	42,557m ²	46,853m ²	10% increase in residential GFA
Adaptable Apartments	50%	50%	No change
Car parking rates	0.5/Studio 1/1&2-bed 1.25/3-bed 1/4 visitor	0.5/Studio 1/1&2-bed 1.25/3-bed 1/4 visitor	No change
Vehicular access points	All via Scott Street/ internal road.	All via Scott Street/ internal road.	No change
Open Space	Village Green – 2,933m ² Village Lawn – 3,104m ² Village Square – 348m ²	Village Green – 2,933m ² Village Lawn – 3,104m ² Village Square – 348m ²	No change

As outlined in **Table 4**, the quantitative changes to the Concept Approval are minimal, and well within the scope of what can be considered substantially the same. This is particularly the case when consideration is given to those

metrics that were given the greatest importance during the assessment of both Modification 2 and the original Concept Approval:

- **Height** – the proposed Modification Application is within the maximum building height approved under the Concept Approval. The proposed Building K is consistent with the height, bulk and scale of the adjoining Building H and the pattern of development established along the eastern edge of Richmond Avenue under the Concept Approval. The proposed building height will not result in any adverse impacts in terms of visual impact (refer to **Section 6.4**), overshadowing or privacy (**Appendix G**). It is also noted that the proposed building envelope will replace an existing structure that towers to 233 metres in height, one of the tallest structures in Sydney, which is a significant visual intrusion to the existing district. The removal of this tall structure is considered to be of considerable public benefit, and its replacement with a much more modestly scaled building is considered a positive outcome with regard to building form.
- **Number of Dwellings** – the Concept Plan will remain capped at 460 dwellings, consistent with the existing approval. This is a significant commitment by the Proponent to respect the status of the existing Concept Approval, whilst undertaking the significant task of demolishing the existing TXA tower structure.
- **Traffic and Parking** – by remaining consistent with the existing Concept Approval dwelling cap and car parking rates, the proposed modification will ensure the addition of Building K results in consistent traffic generation and continues to ensure that sufficient off-street and on-street parking is provided.

In light of the above, it is clear that the proposed Modification Application demonstrates that it is ‘substantially the same’ as the existing Concept Approval having regard to quantitative factors.

The Qualitative Assessment:

As made clear in *Moto Projects*, it is not appropriate to only consider whether the proposed modification is substantially the same through only a quantitative lens. The proposed modification raises a number of qualitative and contextual matters which must also be factored into the decision-making process.

In a qualitative sense, the development as it is proposed to be modified is fundamentally the same development that is approved under the existing Concept Approval. The development will continue to provide for the replacement of the existing broadcasting and media uses with a medium-scale residential redevelopment and significant new area of publicly accessible open space.

The proposed modifications represent a logical evolution of the Concept Approval to facilitate the removal of the redundant TXA tower, which is contiguous with the Channel 9 Site to the north and south, as part of the wholistic relocation of historical media and broadcasting uses away from the site. By facilitating the removal of the TXA tower, the project has the ability to deliver a significant public benefit to the immediate and broader local community with regard to the visual quality of the locality and a reduction in perceived health impacts. This is consistent with and in addition to the existing positive contributions made by the approved project with regard to publicly accessible open space and contributions to new local infrastructure and improvements to existing public open space.

The introduction of Building K represents a natural continuation of the built form established under the existing Concept Approval down to the end of Richmond Avenue, and will ensure that the streetscape is legible and consistent from an urban design perspective. The building envelope proposed maintains an appropriate transitional scale, which is of particular significance given that the building will replace an existing structure that is massive, visually dominant and entirely out of character with the existing residential surrounds.

The Modification Application maintains the existing arrangements for vehicular access and parking, with the future building to include a connected basement to the existing Building H to allow all basement ingress/egress to occur from within the site onto the new Scott Street. The existing TXA Site driveway access on Richmond Avenue will be removed resulting in improved conditions for existing residents.

Importantly, all of the key matters raised by the community and Council through the assessment of the original Concept Plan Application and Modification 2 are respected, in that the proposal does not seek to vary the building heights, number of dwellings or vehicular access arrangements.

Importantly, the proposed modification will not result in any additional adverse environmental impacts, as outlined in further detail in **Section 6.0**, including for example:

- The modification facilitates a significant reduction in the scale of buildings/structures on the TX Tower site compared to existing tower, resulting in a significant improvement to the visual amenity of both private and public views within the immediate vicinity of the site as well as the broader community, including from key viewpoints such as those within the Artarmon Heritage Conservation Area.
- The proposed building envelope will not result in any additional overshadowing of private open space associated with existing dwellings within the community.
- Building K increases opportunities for improved passive surveillance and activation of the Walter Street Reserve.
- The removal of the existing vehicular access point to TX Tower site from Richmond Ave will result in a reduction of vehicle movements opposite the existing dwellings on Richmond Avenue.
- The modification will remove the need for future ongoing servicing/maintenance of TX Tower and potential upgrades to meet modern broadcasting requirements.

Accordingly, it is important to note that the qualitative assessment of the changes to the approved development demonstrates that the development as proposed to be modified will continue to be substantially the same and will not result in any changes to the key planning parameters or result in any additional environmental impacts.

Having regard to the above, it is clear that in a qualitative sense the proposed modifications to the approved development are for substantially the same development as that currently approved.

Conclusion:

Having regard to the requirements of Section 4.55(2)(a), it is clear that the test of *substantially the same* is met, as:

- The proposed development modification is not a 'radical transformation' of the approved development as enunciated in *Ileance* as it continues to be for the removal of existing media and broadcasting facilities and their replacement with a medium-scale residential community;
- The Modification Application does not alter the existing approved consent in a manner which is significant or substantial;
- The proposed development is not a 'wholesale rejection or replacement' of the approved development as enunciated in *Transport Action Group*, but instead reflects only a modest and logical increase to the site area whilst continuing to ensure that new development continues to respect the key planning and design parameters of building height and maximum number of dwellings that are established under the existing Concept Approval; and
- The proposed development is substantially the same as the approved development when taking a holistic view of both the quantitative and qualitative aspects of the modification in its proper context as required in *Moto Projects*.

6.2 Built Form and Urban Design

The proposed modification continues to implement the built form and open space principles of the approved scheme and applies them to the site at 15 Richmond Ave, effectively completing the street. Consistent with the approved Concept Plan, the following built form and scale strategies were considered successful and have been applied to this site:

- Building massing that includes strongly articulated forms along Artarmon Rd and Richmond Ave that provide a transition in scale to detached houses along these frontages.
- A 4-storey podium datum and good building articulation to help break down the scale.
- A new residential building that ties into the diverse range of approved building typologies (street buildings, mid rise towers and the bush buildings).
- Built form that crests and steps down with the natural topography.
- Built form that includes encourages and allows for building articulation.
- Retention of the Richmond Street planting.
- A high level of apartment amenity with solar access, cross ventilation and privacy.

Building K has been designed as a Bush Building, in accordance with the design of Buildings H and J. Bush Buildings have been designed to be organic in form and sit within the broader green grid context.

Building Height

As illustrated in **Figure 9**, the height of the proposed Building K is consistent with the scale of approved building envelopes along this street frontage, and will provide a sympathetic transition to the low-scale residential dwellings on the other side of the street.

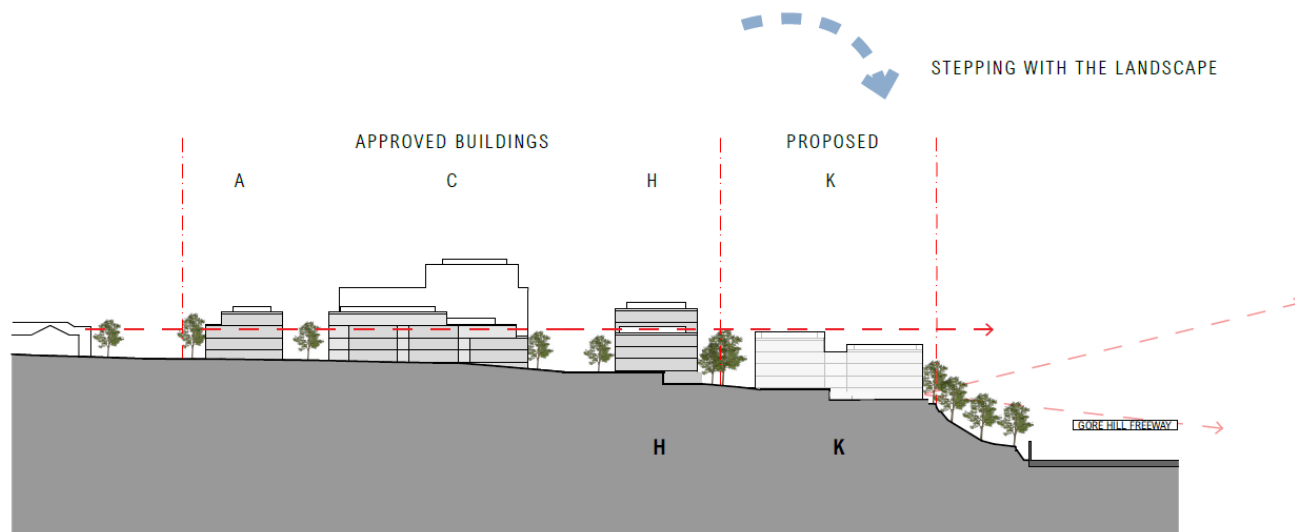


Figure 9 Relationship of Building K envelope to the approved Concept Plan (Section along Richmond Ave)

Source: Chrofi

Setbacks

The proposed building envelope has been set back a minimum of 6 metres to Richmond Avenue, which is consistent with the approved building envelopes along this street frontage. This street setback will assist in achieving a sympathetic transition to existing surrounding development and will be landscaped in accordance with the Landscape Drawings at **Appendix F**. Within the site, the Building K envelope is set back from Building H by a total of 12 metres to meet the ADG design criteria for building separation. To the south and east, where the site adjoins the bush reserve, a minimum setback of 3 metres is provided, which increases to 7 metres. This setback area will allow for additional landscaping and a transition to the existing vegetation within the reserve. All setbacks are illustrated at **Figure 10** below.

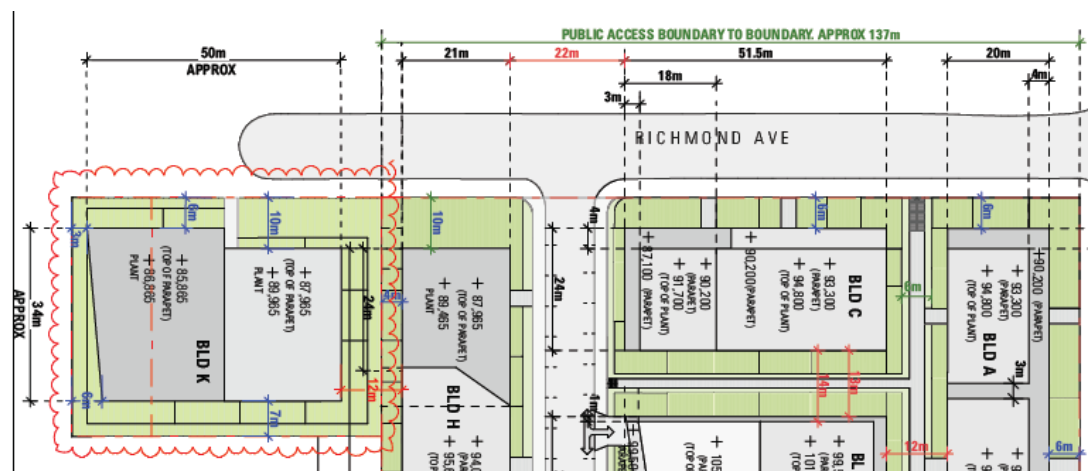


Figure 10 Building K setbacks

Source: Chrofi

6.3 Landscaping Concept

The proposed landscaping concept will complement the surrounding street planting and adjoining bush reserve. As illustrated at **Figure 11** the proposed Building K envelope aims to bring the existing bush character into the building by providing a native planting palette that blends into the context and works with the existing levels to allow maximum retention of existing vegetation.



Figure 11 Proposed landscaping concept

Source: McGregor Coxall

6.4 Visual Assessment

Chrofi have prepared detailed visual impact diagrams to assist in assessing the visual impacts of the proposed modification against the approved Concept Plan (MOD 2).

The visual impact assessment cannot simply be defined by a comparison of building heights or floor space ratios. The placement of building mass, including the orientation and depth of buildings, relationship between buildings and any changes to site levels all have a significant impact on the perception of the overall building massing.

The site, located on a ridge line, is visible from a number of local streets and distant vistas. These views and vistas have been analysed to demonstrate the existing site, approved Concept Plan and proposed new Building K.

In many cases the proposed built form of Building K will not be visible due to approved built form, landscape or topography. The removal of the transmission tower will significantly improve many of the views, resulting in additional clear views to the sky.

A key concept of the proposed Building K was a low scale built form on Richmond Avenue, which aims to reflect the low scale residential houses in the immediate context. Street massing views demonstrate massing is broken down into smaller apartment building forms. Setbacks from the street have been created to reflect the typical street setback and approved concept plan setbacks on Richmond Ave. The view comparison is provided at **Figure 12**.

EXISTING

APPROVED CONCEPT PLAN

PROPOSED BUILDING K

**Figure 12 The site viewed from Richmond Avenue***Source: CHROFI*

From the distant southern view, the proposed Building K has been designed to sit in the escarpment topography with a built form that feels horizontal and aligned to the cliff edge. As a broken-down massing, the step in the building form and bush typology building form help to reduce the overall sense of bulk and scale of the proposed Building K. These bush buildings sit within the tree canopy allowing the three approved tower forms with their slender proportion to remain the focus.

Building K will not be visible from most distant locations (except as described above) or from streets to the east of the site due to Walter Street Reserve or the existing built form around the site. The visual impact of removing the transmission tower has been assessed in each view resulting in significantly improved outcome.

EXISTING

APPROVED CONCEPT PLAN

PROPOSED BUILDING K

**Figure 13 The site viewed from Naremburn across the Gore Hill Freeway***Source: Chrofi*

The removal of the TXA Tower is the key visual impact viewed from most locations around the site. For example, **Figure 14** and **Figure 15** show the considerable improvement that the removal of the TXA Tower has on the surrounding environment. From these surrounding local views, Building K has much less impact, or is not visible. The transmission tower is visually intrusive within both foreground and regional views throughout Sydney. The tower is a prominent intrusion in far-reaching views from the lower North-Shore and Sydney Harbour as well as from parts of the Eastern Suburbs and Inner West. Importantly, the removal of the transmission tower will provide significant visual benefits by removing this visual intrusion from a number of viewpoints within the Artarmon Heritage Conservation Area, including from Willoughby Reserve, whilst the modestly-scaled new residential building will remain hidden by topography, existing tree canopy and surrounding dwellings. This is a significant improvement that will improve the visual quality of the area from both an amenity and a heritage conservation perspective.

EXISTING

APPROVED CONCEPT PLAN

PROPOSED BUILDING K

**Figure 14** The site viewed from Edward Street looking south.

Source: Chrofi

EXISTING

APPROVED CONCEPT PLAN

PROPOSED BUILDING K

**Figure 15** The site viewed from the corner of Small Street and Willoughby Road.

Source: Chrofi

As demonstrated in the preceding sections and the further analysis contained within the Chrofi Urban Design Report (**Appendix G**), the amendments to the master plan would result in a significant improvement to the visual impacts of the approved Concept Plan. In light of this, it is considered that the proposed modification should be supported on the basis that the visual impacts are a significant improvement when compared to the existing impact of the TXA tower. The analysis illustrates that the Building K built form is not highly visible from surrounding areas and, where it is visible, is consistent with the height and scale of the approved Concept Plan.

6.5 Transport, Traffic and Parking

A Traffic and Transport assessment has been prepared by Ason Group and provided at **Appendix G**. The transport, traffic and parking matters relating to the proposed modification to the Concept Plan are discussed below.

Parking

This Modification Application does not seek to change the approved parking rates or the maximum number of dwellings (460) specified in the approved Concept Plan. All residential parking will continue to be provided in a basement car park accessed from within the site. Visitor spaces will continue to be provided kerbside on the internal road network, including the utilisation of existing on-street car parking on Scott Street.

Traffic

The proposed modification does not result in any change to the maximum number of dwellings permitted on the site. The development will continue to provide for a maximum of 460 dwellings, comprising a mix of apartment sizes to be determined as part of future Development Applications in accordance with Condition 27 of the Concept Approval.

The site has been the subject of a number of previous traffic studies for proposed developments involving 495, 510 and 600 apartments. In each case, the relevant traffic studies concluded that the local transport network was capable of accommodating the anticipated traffic generation with acceptable impacts. The maintenance of the approved limit of 460 dwellings ensures that there will be no increase in traffic impacts compared to the existing Concept Plan parameters, and that the Concept Plan as modified would continue to have acceptable impacts on the local road network. Specifically:

- No change to maximum number of dwellings;
- No change to car parking rates;
- No change to site egress/ingress points, with all vehicles from, Building K accessing the basement from the approved internal road.

The Traffic and Parking Assessment by Ason Group therefore confirms that the impact of the proposed modification on existing intersections and roads surrounding the site are acceptable.

6.6 Heritage

A Heritage Assessment has been prepared by Urbis (**Appendix I**). Neither the original Concept Plan site nor the TX Tower are heritage listed or located within any heritage conservation area, however, the site is located in the broader vicinity of the locally-listed Artarmon Heritage Conservation Area listed in Schedule 5 of the WLEP 2012. An assessment of heritage significance has been undertaken in accordance with the seven criteria developed by the Heritage Council of NSW. The assessment finds that:

- The current transmission tower is the second television transmission tower constructed on the subject site. While Channel 9 was the first broadcaster to broadcast across Australia on 16 September 1956, this broadcast was undertaken from a different site in Surry Hills. The first transmission tower on the subject site was constructed in 1956 and was eventually replaced by the current transmission tower which was constructed in the 1960s (by 1964). The first transmission tower was demolished in 1972.
- While the transmission tower has associations with the Channel 9 broadcasting history of the site and the adjoining studio site, it was not the first or most important transmission tower on the site, and it is not the best example of its type in the North Shore area.
- The subject tower does not demonstrate aesthetic significance. The design and construction of the tower is typical of its type as a functional piece of infrastructure. The overall design intention of the structure is not to demonstrate a particular style or architectural quality. While associated with an advancement in technology, there are other earlier and more important examples of the type in the immediate area. While the tower itself is visible in distant views, this does not necessarily equate to significance.
- Transmission towers are common and are located throughout the immediate North Shore area, as well as the broader Sydney region. These pieces of infrastructure are required for television broadcasting and are not rare. The subject tower is of typical design and construction for the typology and has no distinguishing features which make it rare from the other examples identified in the immediate area or in Sydney.

Accordingly, the transmission tower does not meet the threshold for heritage listing and does not need to be retained on heritage grounds. Existing Condition 21 requiring commemoration of Channel Nine's contribution to the locality will continue to have effect and will be considered as part of future Development Applications.

6.7 Tree Retention and Removal

The Arboricultural Impact Assessment (**Appendix E**) finds that seven trees would likely be required to be removed as a result of the proposed modification based on the proposed building envelopes. The Arboricultural Impact Assessment outlines the following reasons for the removal of the trees:

- Three planted eucalypts required to be removed on the site are of low landscape significance, and proposed site preparation and demolition activities are likely to impact on the trees.
- Two pittosporum are located in close proximity to or within the building envelope and construction activities are likely to impact on their root system. One is of low landscape significance and the other is of moderate landscape significance.

- One planted eucalypt located within road reserve, which is of low landscape significance, is required to be removed to facilitate the proposed pedestrian footpath.
- One planted eucalypt located within road reserve, which is of low landscape significance, is required to be removed to facilitate electrical infrastructure upgrades from the verge to the existing substation and provide Ausgrid with unimpeded access to their existing asset.

Significant tree planting will be provided throughout the site and significant additional vegetation will be planted as a result of the modification (as illustrated on the Landscape Plans at **Appendix F**).

6.8 Contamination

A Preliminary Site Investigation has been undertaken by JBS&G (**Appendix I**) to detail the environmental status of the site and address the requirements of SEPP 55. The investigation assesses both Lots 11 and 12 DP 1162507 and finds that the land was used for dairy farming until redevelopment in the 1960s to construct the telecommunications tower.

The investigation identified the potential for soil and groundwater impacts to be present, however the investigation did not identify the potential for gross or widespread contamination which may preclude development of the site for residential uses. Specifically, the historical and existing site structures on the site, as well as fill materials, of unknown origins may contain contaminants. In addition to this, the estimated depth of the bedrock creates the potential for contaminated groundwater. The investigation did not identify the potential for contamination which would preclude redevelopment of the site in accordance with the Concept Plan for the proposed residential use. The investigation confirms that based on this information, and subject to further investigation prior to the submission of future Development Application(s), the site can be made suitable for the proposed use.

A Detailed Site Investigation and Hazardous Building Material Survey will be undertaken and provided to Council with future Development Applications for the site in accordance with the requirements of SEPP 55.

6.9 Wind

A Wind Impact Assessment has been prepared by Arup (**Appendix J**) to assess the potential impact on the wind conditions around the site for pedestrian comfort and safety following the inclusion of the TXA site within the Concept Plan.

This report finds that the inclusion on Building K would be expected to have a slight beneficial impact on the local wind conditions in the overall precinct compared with the approved Concept Plan and that wind conditions around Building K would be classified as suitable for pedestrian standing and are expected to meet the safety criterion.

The Arup report concludes that all locations around the site are expected to meet safety requirements for pedestrian comfort and safety at ground level.

6.10 Site Suitability

The site is suitable for the proposed development for the following reasons:

- The site is contiguous on two sides with land subject to the existing Concept Approval, making the site uniquely suitable given the ability for new development to occur in a wholistic and integrated manner with urban renewal on the adjoining land.
- The site is capable of accommodating residential apartments having regard to the proximity to nearby residential buildings, the ability to deliver a transitional scale within the Concept Plan site to surrounding low-density residential dwellings, the existing vehicular access and proximity to a key public transport spine at Willoughby Road.
- The proposed development is capable of facilitating the removal of the existing transmission tower located on the site.
- The site is not encumbered by any existing easements or restrictions that would prohibit the carrying out of the proposed development.

- The site is suitable, or is capable of being made suitable, should any unexpected contamination be identified beneath the footprint of the existing improvements.
- The building envelope is sufficiently separated and positioned from surrounding dwellings so that the site is capable of being developed for residential apartments without giving rise to any adverse privacy or overshadowing issues.

6.11 Public Interest

The proposed modification is a logical evolution of the Concept Plan approval to facilitate the removal of the redundant TXA tower as part of the overall relocation of media and broadcasting uses away from the site. By facilitating the removal of the TXA tower, the proposal will deliver a significant public benefit to the immediate and broader local community with regard to the visual quality of the locality and a reduction in perceived health impacts as a result of electromagnetic radiation. This is consistent with and in addition to the existing positive contributions made by the approved project with regard to publicly accessible open space and contributions to new local infrastructure and improvements to existing public open space.

The proposed building envelope will replace an existing structure that towers to 233 metres in height, one of the tallest structures in Sydney, which is a significant visual intrusion to the district. The removal of this tall structure is of considerable public benefit, and its replacement with a more modestly scaled building is a positive built form outcome. The reduction in scale of structures on the TXA site will improve the visual amenity of both public and private views in the vicinity of the site and the surrounding area, including from key viewpoints within the Artarmon Heritage Conservation Area.

Facilitating the removal of the TXA transmission tower will have additional benefits for perceived health impacts, as potential effects of electromagnetic radiation have historically been a concern for the community. The removal of the tower will immediately remove any perceived ongoing impact to the health of people living in the neighbourhood.

Whilst the proposed modification seeks approval for an additional building envelope, the maximum number of dwellings that can be provided under the Concept Plan remains 460 dwellings. Accordingly, the additional building envelope will allow for a greater range of one, two and three bedroom dwellings to be provided across the site. This will allow for a high level of residential amenity and assist in meeting the housing needs of the Willoughby community.

In addition to this, the proposed Building K envelope will increase passive surveillance adjacent to the bush reserve and have the potential to further activate this recreation area. Facilitating residential uses in this cul-de-sac will 'complete' Richmond Avenue and contribute to building community in the area.

Overall, the proposed modification will not result in any adverse environmental impacts that cannot be appropriately mitigated or managed. The provision of a building envelope for a residential building is consistent with the existing and future character of the surrounding area, and the removal of the TXA transmission tower is a significant improvement in relation to visual impact and amenity. As a result, the proposed modification is in the public interest and will assist in meeting the housing needs of the Willoughby LGA.

7.0 Conclusion

This section 75W modification application seeks amendments to the approved Concept Plan (MP10_0198) to include the TXA site into the approved Concept Plan site and provide for one additional building envelope.

Having regard for the environmental, strategic, and physical commonalities and differences between the approved Concept Plan and the proposed modification, the proposed modification is substantially the same as the Concept Plan (as modified). Whilst the proposed modification results in a minor quantitative change to the approved GFA, this modification does not increase the maximum number of apartments on the site, change the overall design of the Concept Plan site, or alter the essential features of the approved Concept Plan and will remain substantially the same development.

The proposed modification is justified for the following reasons:

- The Concept Plan (as proposed to be modified) will remain consistent with the relevant provisions of the *Greater Sydney Region Plan*, the *North City District Plan*, the *State Infrastructure Strategy*, the draft Willoughby Local Strategic Planning Statement and the State Environmental Planning Policies applying to the site;
- The provision of additional residential GFA is appropriate given access to existing employment, transport, public open space, retail and other services, providing a high amenity precinct that will support the growth of Willoughby;
- The modification provides significant public benefit through the removal of the TXA transmission tower, which has considerable visual impact on the surrounding community;
- The proposed development provides high quality and well-designed residential dwellings in a suitable location;
- Supporting technical studies which accompany this application confirm that the environmental impacts associate with the proposal are generally positive and will not give rise to any adverse impacts; and
- The proposed development is suitable for the site and is in the public interest.

The proposed modifications represent an opportunity to improve the quality of the approved development by replacing the transmission tower with an appropriately scaled residential building. The additional proposed building envelope will allow for a more diverse dwelling mix to be provided, meeting the varied needs of the Willoughby community. In addition to this, the proposed building envelope will match the built form of the approved Concept Plan, complementing the scale of the surrounding residential neighbourhood. The proposed development is capable of being accommodated on the site without giving rise to any significant additional environmental impacts, and will make a positive contribution to the establishment of a new residential neighbourhood. In light of the merits of the proposed modification, we have no hesitation in recommending that the proposed modifications to the Concept Plan be approved.