

DA NO: DA-2023/253

ADDRESS: 18-22 SMITH STREET, CHATSWOOD NSW 2067

PROPOSAL: DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A TWO STOREY PREMISES TO OPERATE A 24 HOUR 7 DAYS A WEEK MCDONALD'S TAKEAWAY FOOD AND DRINK PREMISES TO INCLUDE 26 CAR PARKING SPACES, LANDSCAPING, SIGNAGE AND ASSOCIATED WORKS.

RECOMMENDATION: APPROVAL

ATTACHMENTS:

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

RESPONSIBLE OFFICER: RITU SHANKAR / CAITLIN MCNALLY - TEAM LEADER

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REPORT DATE: 3 SEPTEMBER 2024

MEETING DATE FOR PUBLIC MEETING 10 SEPTEMBER 2024

1. PURPOSE OF REPORT

The purpose of this report is to seek determination by *Willoughby Local Planning Panel (WLPP)* of Development Application DA-2023/253 for Demolition of existing structures and construction of a two storey premises to operate a 24 hour 7 days a week McDonald's takeaway food and drink premises to include 26 car parking spaces, landscaping, signage and associated works at 18 – 22 Smith Street, Chatswood.

The application is required to be referred to the *WLPP* for determination because 22 submissions were received as a result of neighbour notification.

2. OFFICER'S RECOMMENDATION

THAT the Willoughby Local Planning Panel:

2.1 Approve DA-2023/253 for demolition of existing structures and construction of a two storey premises to operate a 24 hour 7 days a week McDonald's takeaway food and drink premises to include 26 car parking spaces, landscaping, signage and associated works at 18-22 Smith Street, Chatswood NSW 2067, subject to conditions contained in Attachment 5, for the following reasons:

2.1.1 The proposal is consistent with the objectives of the E4 – General Industrial and considered generally consistent with the objectives of the *Willoughby DCP*.

2.1.2 The proposed development, subject to recommended conditions, will not have unreasonable impacts on the streetscape, the residential amenity of the neighbouring properties or the surrounding locality.

2.1.3 The development will provide employment opportunities and a range of goods and services.

2.1.4 It is considered that the proposed development application meets the desired outcomes and objectives of the development standards contained in the *Willoughby Local Environmental Plan 2012 (WLEP)* and objectives of the *Willoughby Development Control Plan (WDCP)*.

3. BACKGROUND

The application was lodged on 15 September 2023 and assigned to Adiba Kashfi.

The application was notified from 29 September to 23 October 2023 in accordance with the Community Participation Plan.

On 06 February 2024, the applicant provided legal advice regarding permissibility.

On 23 February 2024, a request for additional information was sent to the applicant in respect to:

- Clarification on floor area for takeaway versus dine-in,
- Stormwater Water Management,
- Vehicle access and Parking,
- Streetscape
- Signage – assessment against schedule 5 of the *SEPP* (industry and Employment) 2021
- Environmental Health concerns (Targeted investigation and RAP)

On 26 April 2024, the applicant responded to Council's RFI and architectural plans and other relevant documents were submitted.

On 20 May 2024, Council requested further information concerning waste management and collection procedures.

On 22 May 2024, the applicant responded to above with a revised waste management plan.

On 12 June 2024, Council requested further information regarding stormwater management and, pedestrian and vehicular access.

On 14 June 2024, the applicant requested clarification on the information requested by Council.

On 23 July 2024, Council provided clarification on the engineering issues.

On 27 July 2024, the application was reallocated to Akshay Bishnoi.

On 6 August 2024, the applicant responded to the engineering issues providing revised civil and architectural plans and other relevant supporting documents.

4. DESCRIPTION OF PROPOSAL

The proposal is for a demolition of the existing building and associated ancillary structures to facilitate the proposed development of a newly constructed building and associated works for McDonald's operation.

The application seeks approval for the construction and operation of a McDonald's food and drink premises, encompassing the following elements:

- Demolition of existing buildings and structures on site.
- Construction and use of a standalone McDonald's operation with a significant upper level area dedicated to the drive-thru.
- Provision of 26 parking spaces, including 1 accessible space.
- Dual lane drive-thru capable of accommodating 13 vehicles, along with 2 waiting bays.
- Creation of a combined ingress/egress driveway accessing Smith and Lower Gibbs Street.
- Loading/delivery bay situated on the lower level.
- Implementation of landscaping along the Lower Gibbs Street boundary, with a proposed green roof area on the upper level.
- Business identification signage planned for the northwest corner, eastern and western elevations, details of which are outlined in the Architectural plans.
- Operations scheduled 24 hours a day, 7 days a week.
- Integration of associated services and infrastructure as delineated in the Architectural Plans.
- Incorporation of solar panels to promote energy efficiency and sustainability in the building design.
- Removal of a street tree.



Figure 1: proposal as lodged

The proposal has undergone minor amendments since its lodgement. The amendments were primarily related to the façade and materiality with no changes to the building height and gross floor area. For comparison, the proposal as amended:



Figure 2: proposal as amended

Note:

The difference between the originally notified plans and the latest version submitted on 06/08/2024 is minor. As mentioned above, the amendments primarily relate to the façade and materiality with no changes to the building height and gross floor area. As a result, the impacts from the revised architectural plans are considered similar to the originally notified plans and do not give rise to any new issue that would necessitate re-notification.

5. DISCUSSION

A description of the site and surrounding area, including an aerial photograph is contained in **Attachment 1**.

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

A table of the issues raised in the submissions objecting to the proposal and the assessing officer's response is contained in **Attachment 3**.

Key Issues

Permissibility:

The proposed use falls within the definition of “take away food and drink premises”, which is a permissible use in the E4 Zone. According to the *WLEP 2012*, “take away food and drink premises” are defined as:

*“premises that are **predominantly** used for the preparation and retail sale of food and drink (or both) for immediate consumption away from the premises”.*

Concerns were raised whether the proposal met this definition, given the inclusion of dine-in and play areas, which could suggest a use more aligned with a “food and drink premises” other than take away, a use not permissible in the E4 Zone.

The applicant sought legal advice on the characterisation of the proposed development, which was submitted to council for consideration. Following a review of the advice, Council acknowledged that the definition of ‘take away food and drink premises’ sets out that the premises are predominately used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises. Accordingly, this leaves open the possibility that some of the business conducted at the proposed development may be for the preparation and retail sale of food or drink (or both) that is not for immediate consumption away from the premises.

In this case, the area designated for drive through/ take away use is 667.052m², comprising 88.2% of the total GFA, while the area for dine-in use is 89.673m², 11.8% of the total GFA. Given this distribution, the primary purpose of the proposed development is interpreted as being for a take away food and drinks premises. While some ‘dining’ may occur, and is provided for, the premises are predominantly used for preparation and retail sale of food or drink (or both) for takeaway consumption.

Consequently, the proposed use is considered to be predominantly for take away use, with the principal purpose of the development not being preparation of food for consumption on the premises.

In view of the above, the proposed is considered as being primarily for a take away food and drink premises, making it a permissible use in the E4 Zone.

Traffic concerns

Council’s Traffic Section has reviewed the proposal and raised issues concerning potential queuing issues and lack of mitigation measures. Specifically:

The proposed drive-thru design appears to have insufficient queueing capacity. Given the limited space allocated for vehicles waiting in the drive-through lane, there’s a high risk of queue overflow during peak hours. This could result in vehicles backing up onto Lower Gibbes Street and potentially extending to the Smith Street roundabout, due to the restaurant’s proximity to these public roads. Such overflow would not only disrupt local traffic flow but also pose safety concerns for both drive-thru customers and other road users.

Additionally, the proposed driveway access on Smith Street poses potential traffic flow and safety issues:

- Eastbound traffic conflicts: The location of the driveway may encourage eastbound motorists on Smith Street to make unsafe manoeuvres to access the site directly.
- Queue formation: These access attempts could lead to unexpected stopping or slowing of eastbound traffic, potentially causing queues to form towards and beyond the Smith Street/Lower Gibbes Street roundabout, disrupting its normal operation and reducing its efficiency in managing traffic flow.
- Safety hazards: The combination of vehicles attempting to enter the driveway and the resulting queue could create safety hazards for both motorists and pedestrians in the area.

- Cumulative impact: This issue, combined with potential overflow from the drive-thru queue, could significantly exacerbate traffic congestion in the immediate vicinity.
- Need for physical deterrents: To prevent unsafe right turns from Smith Street into the driveway, the construction of a centre median may be necessary. This would physically deter eastbound vehicles from attempting to directly access the site, but it would also have implications for local traffic patterns and potentially require additional modifications to the street design.

In view of the above, to minimise the impact of queuing, to prevent unsafe traffic manoeuvring to and from Smith Street and to provide safe pedestrian environment, special conditions have been recommended requiring a Traffic and Queue Management Plan to be prepared and construction of refuge islands with a median strip covering the entire frontage along Smith Street.

Landscaping concerns

The DA does not achieve the objectives of the *WDCP 2023* Part E for landscaping, with minimal landscaping provided. The design provides no deep soil landscape areas. There are 3 narrow on structure planters along Lower Gibbes Street, which are elevated above the street level, and a rooftop planter on structure within the site. The roof top planter offers small amounts of planting around the solar panels, which are placed on the surface of the raised planter bed. There is no planting provided along the Smith Street frontage, which is a reduction from the existing.

Additionally, the proposal seeking removal of one (1) existing street tree.

Conditions have been recommended requiring improvements to the soft landscaping within the central island located on the upper level.

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

<https://eplanning.willoughby.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=532890>

6. CONCLUSION

The Development Application DA-2023/253 has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, *WLEP 2012*, *WDCP*, and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in Attachment 5.

ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO

The property consists of two parcels of land, legally designated as Lot 1 DP 514972 and Lot 2 DP 514972, situated at the southeast corner of Smith Street and Lower Gibbes Street in Chatswood. It falls within the Willoughby City Council Local Government Area (LGA). The site is commonly referred to as 18 and 20-22 Smith Street, Chatswood. It occupies an irregularly shaped area of 1,838.55m², with a frontage of approximately 40m along Smith Street and a similar frontage along Lower Gibbes Street. The terrain slopes from south to north with a gradient of approximately 7.5m.

Currently, the site accommodates a multi-tenanted office/warehouse building featuring rooftop parking and a vehicle mechanic. It is situated within the Eastern Chatswood business precinct, adjacent to retail tenancies such as Anaconda, Bunnings, Repco, and Forty Winks.



Figure 3: Aerial Imagery, the subject is highlighted in blue



Figure 4: Context photo of 'The Forum development'

ATTACHMENT 2: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS

<i>Willoughby Local Environmental Plan 2012 Zoning:</i>	E4 – General Industrial
Existing Use Rights	No
Additional Permitted Use	No
Conservation area	No
Aboriginal Heritage	No
Heritage Item	No
Vicinity of Heritage Item	No
Natural Heritage Register	No
Bushfire Prone Area	No
Foreshore Protection Area	No
Flood related planning control	Yes
Adjacent to classified road	Yes – 170m west of Eastern Valley Way
Road/lane widening	No
BASIX SEPP	No
Infrastructure SEPP - Rail	No
Infrastructure SEPP – Road	Yes – Traffic Generating (> 50 trips per hours)
Coastal Management SEPP	No
Acid Sulphate Soil Category	5
Development near Lane Cove Tunnel	No
Contaminated Land	No
Adjacent / above Metro	No
Other relevant SEPPS	SEPP (Resilience and Hazards) 2021 SEPP (Transport & Infrastructure) 2021 SEPP (Biodiversity and Conservation) 2021, SEPP (Industry & Employment) 2021
Relevant policies and resolutions	WDCP 2023

State Environment Planning Policy (Resilience and Hazards) 2021

Chapter 5 of *Resilience and Hazards SEPP* aims to ‘provide a State-wide planning approach to the remediation of contaminated land’. Clause 4.6 requires a consent authority to consider whether the land is contaminated and if it is suitable or can be remediated to be made suitable for the proposed development, prior to the granting of development consent.

The application accompanies a Remediation Action Plan (RAP) prepared by Foundation Earth Sciences, Ref no. E2965-4, Dated 8/06/2023. The report outlines that the subject site is considered suitable for the proposed use, subject to Remediation works, strategies and Validation Plan outlined in the RAP. Council’s Environmental Health section has reviewed the report and raised no issues with the proposed development subject to conditions relating to remediation works and Validation Plan.

The application is therefore acceptable with regard to the relevant consideration of *SEPP (Resilience and Hazards) 2021*.

State Environmental Planning Policy (Transport and Infrastructure) 2021 – Chapter 2 (Infrastructure)

The subject site is adjacent to a classified road (Eastern Valley Way) to the east (170m). The following relevant clause has been considered during the assessment of this proposal.

2.122 Traffic-generating development

The proposal is considered as a traffic generating development in accordance with Schedule 3 of the *SEPP (Transport and Infrastructure) 2021*. The development site is located within 177m of the Pacific Highway, exceeding the 90m threshold from the classified road specified under schedule 3. However, due to the nature of the development, it is considered that it could generate 50 or more vehicles per hour, potentially impacting the classified road.

Accordingly, the proposal was referred to TfNSW for comments. The state agency assessed the development did not raise any concerns.

[State Environment Planning Policy \(Industry and Employment\) 2021](#)

Chapter 3 – Advertising and signage

Clause 3.1 identifies the aims and objectives of Chapter 3 – Advertising and signage, which are:

- (a) to ensure that signage (including advertising)—
 - (i) is compatible with the desired amenity and visual character of an area, and
 - (ii) provides effective communication in suitable locations, and
 - (iii) is of high quality design and finish, and
- (b) to regulate signage (but not content) under Part 4 of the Act, and
- (c) to provide time-limited consents for the display of certain advertisements, and
- (d) to regulate the display of advertisements in transport corridors, and
- (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

Clause 3.6 requires signage to satisfy the assessment criteria in Schedule 5 (See table below). The following signage has been assessed against Chapter 3 of the *SEPP (industry and Employment) 2021*.

SEPP (Industry and Employment) Chapter 3 – Advertising and Signage:

Clause 3.6 requires - A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied—

- (a) that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.

Part 3.3 Advertisements does not apply to business identification signs. The proposed wall, pylon and direction signs are considered as business identification signs.

The following Table assesses the application under section 3.1(1)(a) and Schedule 5.

Section 3.1(1)(a)	Assessment
(a) to ensure that signage (including advertising)— (i) is compatible with the desired amenity and visual character of an area, and (ii) provides effective communication in suitable	Considered to be consistent with the objectives.

locations, and (iii) is of high quality design and finish	
Schedule 5	
1 Character of the area <ul style="list-style-type: none"> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	<p>The proposed signs are viewed to be compatible within an area characterised by a mix of industrial, commercial, and retail uses. The proposed signs do not dominate the visual characters of the locality.</p>
2 Special areas <ul style="list-style-type: none"> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	<p>The proposed signs do not detract from the amenity or visual quality of the industrial area.</p> <p>The site is not identified as being located in proximity to any environmentally sensitive areas, heritage areas, natural or other conservation areas.</p>
3 Views and vistas <ul style="list-style-type: none"> Does the proposal obscure or compromise important views? Does the proposal dominate the skyline and reduce the quality of vistas? Does the proposal respect the viewing rights of other advertisers? 	<p>The proposed signage does not obscure or compromise important views given the proposed locations of the signs it is compatible with the building height for the proposed development.</p> <p>The signage will not dominate the skyline or reduce the quality of vistas.</p> <p>The proposed signage does not obscure any advertising of other advertisers and not block the sight of line of any existing advertising.</p>
4 Streetscape, setting or landscape <ul style="list-style-type: none"> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? Does the proposal contribute to the visual interest of the streetscape, setting or landscape? Does the proposal reduce clutter by rationalising and simplifying existing advertising? Does the proposal screen unsightliness? Does the proposal protrude above buildings, structures or tree canopies in the area or locality? Does the proposal require ongoing vegetation management? 	<p>The scale, proportion and form of the proposed signs are considered to be appropriate to the streetscape.</p> <p>The proposed signs are considered to be of an appropriate scale and form and unlikely to dominate the existing streetscape character.</p> <p>The proposed building identification signs are considered to be appropriate for the locality in terms of its scale, location and material.</p> <p>The proposed signs are identified as business identification signs and are not proposed to screen unsightliness.</p> <p>While the proposed pylon sign will protrude above the building on the site, given its location and scale it will not dominate the streetscape.</p>
5 Site and building <ul style="list-style-type: none"> Is the proposal compatible with the scale, proportion and other characteristics of the site or 	<p>Yes – the proposed signs are considered to be appropriately located and do not dominate the streetscape.</p>

<p>building, or both, on which the proposed signage is to be located?</p> <ul style="list-style-type: none"> • Does the proposal respect important features of the site or building, or both? • Does the proposal show innovation and imagination in its relationship to the site or building, or both? 	<p>The proposed signage does not detract in any way from important features of the building or site.</p> <p>The proposed signs are considered to be appropriate for the proposed use that they identify.</p>
<p>6 Associated devices and logos with advertisements and advertising structures</p> <ul style="list-style-type: none"> • Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? 	<p>No advertising is proposed. All signage will be business identification signage and designed into the signage.</p>
<p>7 Illumination</p> <ul style="list-style-type: none"> • Would illumination result in unacceptable glare? • Would illumination affect safety for pedestrians, vehicles or aircraft? • Would illumination detract from the amenity of any residence or other form of accommodation? • Can the intensity of the illumination be adjusted, if necessary? • Is the illumination subject to a curfew? 	<p>No unacceptable glare will be generated.</p> <p>No proposed illumination will not impact pedestrian, vehicle or aircraft safety.</p> <p>The proposed illuminated sign is configurable and does not directly face any residential properties. Therefore, it is not anticipated the minor lighting sought would cause nuisance or glare to adjoining residential areas.</p> <p>The illumination can be adjusted</p> <p>No, as the operation is 24/7</p>
<p>8 Safety</p> <ul style="list-style-type: none"> • Would the proposal reduce the safety for any public road? • Would the proposal reduce the safety for pedestrians or bicyclists? • Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	<p>No, road safety issues are foreseen as a result of the proposed signs.</p>

The proposed **signs** are considered to be acceptable with regard to *SEPP (Industry and Employment) 2021*.

Development Statistics				
Site Area (m²)	1838.55m ²			
<u>WLEP 2012</u>				
Clause	Control	Proposed by applicant	Standard	Numerical Compliance

CI.4.3	Height (m)	10.7m	WLEP does not specify a height limit for the site	N/A
CI.4.4 & CI. 4.4A	GFA (m ²)	756.73m ²	3677.1m ²	Yes
	FSR	0.41:1	1:1 2:1 (Area 17)	
Table 1 Car parking rates Part F WDCP	Car parking	26 car parking spaces	All other areas including major public transport route (target rates) 1 space 33m ² 757/33 = 23 spaces	Yes

Part D – Business Development			
Control	Requirement	Comment	Compliance
4.1.2 Building Design	A. use of roller shutters in lieu of glazed facades is not permissible unless a minimum of 70% of the roller shutter is transparent.	The proposed development does not incorporate roller shutters.	N/A
	B. any kind of internal security shutter, mesh gate or similar must be located a minimum of 1m behind the facade of the premises facing a public space or at the rear of any display window	The proposed development does not include any type of internal security shutter or mesh gate.	N/A
	C. any plant, equipment or machinery should be suitably screened from the general public.	Mechanical plant and equipment are located within the roof area on the northeast side of the building. The proposed parapet provides suitable screening for the mechanical equipment and does not protrude the parapet. It will not be visible for the main street.	Yes
	D. The above awning facades of 2-storey shop frontages should have a solid to void ratio of around 60:40	The proposed development is not residential	N/A
	E. The entire ground floor level of a shop top housing development must be used for	The proposed development is not identified within a	N/A

	retail/commercial purposes; this may include loading/unloading facilities but does not include car parking.	heritage conservation area	
4.2 Design in heritage conservation areas	A. extensions and additions to buildings in conservation areas are to be designed to complement their style, form, proportions, materials, colours and overall heritage context of their setting B. early building names and any historical painted advertising signs are to be preserved	The proposed development is not identified within a Heritage Conservation area.	N/A
4.3 Awning	A. If the existing awning is a traditional suspended steel box section type, it should be retained; if a new awning is needed it should match adjoining awnings and maintain the same alignment	The proposed development is a new construction of a commercial premises.	N/A
	B. New awnings should: <ul style="list-style-type: none"> • be of opaque materials with glass inserts to allow light penetration to the footpath • be continuous for the entire site frontage, including any vehicle entrance • be set back 600mm from the footpath edge • have a recess or opening to accommodate the growth of street trees • have a height clearance above the footpath between 3m and 4.2m • maintain the horizontal alignment, stepping down at regular intervals to follow the topography of the site where the footpath is sloping 	The proposed design of the building does not include a typical awning, the fascia is articulated and visually distinguishes the exterior of the premises. The fascia extends along the corner portion of the site partially along facing Lower Gibbs Street and Smith Street. The fascia will have a height clearance of 4.4m and positioned away from street trees and future growth.	Yes
	C. Entrances to large frontage developments can incorporate raised or arched canopy elements to highlight the entrance; these should be in scale with the building and compatible with the prevailing street awning character	The proposed development does not incorporate raised or arched canopies to the entrance along the northern side.	N/A
4.4 Frontages	A. A minimum width of 27m is required for developments that exceed 11m in height or where vehicular access is only available from the primary street frontage.	The site has a minimum width of 37.95m and the proposed development displays a maximum height of	Yes

		11.7m and to vehicular access provided (one from Lower Glibb and one from Smith Street) as the site is a corner block	
	B. no more than 30% of the street frontage is to be used for vehicle and pedestrian access to lower and upper levels	The proposed development offers access to the onsite car parking and pedestrian access from the main frontage (Smith Street). Combined accesses is approximately 13% of the street frontage.	Yes
	C. the bulk of new facades should be divided into equal units of around 6m each to reflect traditional small retail shopping frontages	As the proposed development is freestanding and a 2 storey commercial building, consideration has been given to the corner location and has been appropriately articulated and expressed volumetrically, addressing both streets and facades.	Yes
	D. allotments should be consolidated to reflect the general pattern of street frontages in the commercial precinct.	The proposed development does not result in an isolated lot as a result of the proposal. It provided adequate width for separation between vehicle driveway to the adjoining property on the east.	Yes
Streetscape	A. New developments or significant alterations and additions may be required to provide improvements to the quality of the public pedestrian domain, such as adding suitable paving, street trees and landscaping	The proposed development is located on a corner allotment, and facing the public pedestrian domain, and includes landscaping along the public domain to enhance the visual amenity.	Yes
	B. If shop frontages are predominantly built along the street alignment, new	The proposed development will be facing the footpath,	Yes

	developments or significant alterations and additions may be required to improve the pedestrian amenity at street level with transparent interactive frontages, including outdoor seating and/or dining areas	and does not propose outdoor seating	
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Part E	Industrial Development		
4.1 Design controls:	<ul style="list-style-type: none"> • open storage areas, truck parking areas, and any activities likely to generate emissions, are to be suitably screened and located no closer than 10m from the boundary of any dwellings within a residential zone • exposed blank walls are to be finished to a high standard to minimise the potential for graffiti • glazing must avoid glare to occupants of adjoining and nearby buildings, pedestrians and motorists • rooftop parking and structures such as plant rooms, air conditioning, exhaust systems and the like are to be suitably screened from public view • any new development or alterations and additions must not decrease solar access to primary living areas and private open space of adjoining residential properties by more than 20%; this may require increased setbacks, reorientation and/or lowering the building height • office and staff facilities should not be near intrusive noise, vibration, fumes, or any other pollution sources such as heavy machinery, industrial equipment and loading docks 	<p>The subject site does not share a boundary with or in proximity of a residential zone.</p> <p>Noted, relevant condition of consent would be imposed.</p> <p>Noted. Condition has been recommended to relocate the solar panels from ground floor to the roof.</p> <p>No parking is proposed on the upper level and Plants are either appropriately screened or contained within the building</p> <p>Not applicable, the subject site does not adjoin residential uses.</p> <p>The proposal is for take away food and drink premises with the staff facilities are appropriately located within the development. Additionally, Council's</p>	Yes

	<ul style="list-style-type: none"> • development on corner lots must address both street frontages in terms of façade treatment, articulation of elevations and landscaping 	<p>Environmental Health Section reviewed the proposal and raised no issues, subject to conditions of consent.</p> <p>The proposed building is well articulated and adequately addresses both Smith and Lower Gibbes Street.</p>	
4.2 Safety by design	The design should include high visibility to front entries, lighting of pathways or hidden spaces and careful siting of shrubs and landscape elements	The proposed design provides for a well-defined front entry Which will be highly visible to front entries. No shrubs or landscaping is proposed in proximity to the building entrance.	Yes
4.4 Paving and external hard stand areas Controls:	All hard stand areas used for outdoor storage, parking, loading and/or manoeuvring vehicles must be sealed and drained to an appropriate onsite detention system	Stormwater runoff from the hard stand areas is directed to the OSD, where possible. Council's Engineer has also reviewed details of the proposed impervious areas and stormwater management plan and raised no issues, subject to conditions of consent.	Yes
4.5 Setback	<p>A. where located on a corner lot, boundary setbacks on side street are to be a minimum of 2m</p> <p>B. setbacks on corner blocks must enable sufficient sightlines for traffic under the relevant Australian Standard. (AS 2890)</p>	<p>No, the applicant's submission fails to adequately justify why the required setback cannot be achieved.</p> <p>Notwithstanding, the non-compliance, the proposal is considered acceptable for the following reasons:</p> <ul style="list-style-type: none"> - The proposed setbacks are consistent with the existing nil setback along Lower Gibbes Street. - The development 	No, considered acceptable

		<p>aligns with the recently redeveloped site at 4 Short Street, which is located directly across the site, in north-west corner of the Smith street and Lower Gibbes Street intersection.</p> <ul style="list-style-type: none"> - Subject to special traffic conditions requiring construction of refuge islands and other public domain works, pedestrian and traffic safety concerns are minimal. - Subject to condition requiring improvements to the soft landscaping on the site. - The proposal is considered consistent with the zone objectives 	
4.6 Landscaping	<p>A. all front, side and rear setbacks are to comprise deep soil zones with a minimum width of 2m</p> <p>B. all other landscaped areas must have a minimum width of 2m and a minimum depth of 600mm</p> <p>C. all existing trees are to be shown on the landscape plans and details provided on how the trees to be retained will be protected during construction</p> <p>D. a minimum setback of 4m from the outside of the trunk of existing trees is required from</p>	<p>The proposal includes nil deep soil zones and minimal soft landscaping, failing to meet the objectives of this section of the <i>WDCP</i>.</p> <p>Council's Landscaping section has reviewed the proposal and noted that it results in a reduction of deep soil zones from the existing situation and provides minimal soft landscaping. Therefore, a special condition is</p>	No, considered acceptable subject to conditions

	<p>any building structure</p> <p>E. planter boxes are to be integrated into the building structure and have a minimum internal width of 600mm</p> <p>F. all landscaped areas (including planter boxes) are to be planted with native low maintenance species, provided with automatic watering systems, and suitably drained</p> <p>G. for sites that exceed 1500m2, a minimum 10m2 of outdoor eating and sitting area is to be provided for staff in a suitably landscaped area that receives adequate sunlight from 12pm to 2pm h. any new development or significant alterations and additions may be required to provide additional street trees along the street frontage</p> <p>H. a minimum 2m wide deep soil zone is required at the rear of any site that abuts an access street, service road, railway line, public place, residential property, or residentially zoned land</p> <p>I. trees with wide tree canopies are to be planted in deep soil zones to reduce the urban heat island effect</p> <p>J. the deep soil zones must be landscaped with trees that when mature, reach a minimum height of 15m and a minimum 3m wide tree canopy</p> <p>K. any electrical substation required for the site must be shown on the landscape plans and suitably screened from public view</p>	<p>recommended requiring improvements to the landscaping across the site. In particular, the raised island planter located on the upper level, which is currently occupied predominantly by solar panels placed on the ground surface.</p> <p>To compensate for absence of deep soil area and minimal landscape area, the raised island planter on the upper level is required to be amended to provide additional planting area and trees that will provide canopy cover. To accommodate this, the solar panels should be relocated to the roof of the building.</p>	
<p>4.7 Car parking and vehicular access</p>	<p>A. the layout of car parking spaces must comply with AS/NZS 2890.1 and AS/NZS 2890.6 (details are to be shown on the architectural plans)</p>	<p>Yes, all vehicles can enter and exit the site in a forward direction.</p> <p>All loading/ unloading</p>	<p>Yes</p>

	<p>B. the location, siting and grades of driveways, and driveway width must be in line with Australian Standard AS/NZS 2890.1</p> <p>C. all new developments and significant alterations and additions must provide accessible car parking spaces for people with disability in line with Section D3.5 of the Building Code of Australia under the National Construction Code</p> <p>D. details of swept paths may need to show that all vehicles can enter and leave the site in a forward direction</p> <p>E. any dedicated truck parking areas are to be suitably screened and located no closer than 10m from the boundary of any dwellings in a residential zone</p> <p>F. all visitor car parking for industrial unit complexes is to be provided in a common car parking area g. development must comply with the provisions in Part F (Car parking and Transport Management) of this plan</p>	<p>will occur within the site.</p> <p>The proposed development complies with Part F of the <i>WDCP</i>.</p>	
4.8 Loading and unloading facilities	<p>A. each tenancy must have a separate loading facility</p> <p>B. all loading and unloading areas must not be located closer than 10m from the boundary of any dwellings within a residential zone</p> <p>C. all new industrial developments, and developments that involve significant demolition and/or alterations and additions must make adequate provision for off-street loading and unloading facilities in line with Part F of <i>Willoughby DCP</i></p>	<p>No separate tenancy proposed.</p> <p>Loading and unloading areas proposed on the lower level.</p>	Yes
4.9 Access	A. details are to be submitted	Disabled access and	Yes, complies

<p>and mobility</p>	<p>with the development application to demonstrate the development will comply with the Disability (Access to Premises – Building) Standards 2010 under <i>Disability Discrimination Act 1992</i></p> <p>B. include ramps and toilets for people who use a wheelchair; appropriate lighting and colour contrast for people with vision impairment; tactile surface indicators for people who are blind; and any other appropriate measures to assist people with disability</p>	<p>car parking proposed.</p>	<p>with condition</p>
<p>4.11 Pollution Controls</p>	<ul style="list-style-type: none"> • depending on the type, scale, and location of development, the development application may need to include an acoustic report and/or other reports to address pollution control measures • depending on the type, scale, and location of construction works, the application may need to include a site management plan to address sediment and erosion control measures • the hours of operation may be restricted to 7am to 6pm Monday to Saturday (no work to take place on Sundays) for industrial premises that are likely to interfere with the residential amenity of adjoining and nearby dwellings • the development application may need to include details of loading and unloading times (including waste collection), and vehicle movements and their routes, if these activities are likely to interfere with any adjoining or surrounding residential properties • the discharge of any solid, 	<p>An acoustic report is accompanying the application. The report considers potential acoustic issues associated with the proposed use, use of mechanical plant/s and traffic generation.</p> <p>Conditions of consent have been recommended with regard to sediment and erosion control requirements.</p> <p>The proposal includes 24 hours operation, but is not characterised as an industrial use.</p> <p>All loading and unloading to occur only within the site boundary.</p> <p>A condition has been</p>	<p>Yes</p>

	<p>liquid, or gaseous materials must comply with the <i>Protection of the Environment Operations Act 1997</i></p> <ul style="list-style-type: none"> • if there is likely to be a need to dispose of liquid waste to the sewer, Sydney Water should be contacted for its requirements on installing grease arrestors • appropriate pollution control measures must be installed to prevent stormwater pollution 	<p>recommended requiring a Section 73 compliance certificate to be obtained from Sydney Water prior to the issue of the occupation certificate.</p> <p>The applicant proposes water quality treatments before stormwater can be discharged into Council's stormwater infrastructure. Council's Engineering section has reviewed the submitted model and raised no issues subject to conditions of consent.</p>	
4.12 Stormwater Disposal and Flooding controls	<ul style="list-style-type: none"> • depending on the type, scale, and location of development, the development application may need to include a stormwater management plan • an application for development on flood prone land may need to include a flood risk assessment report and/or a flood study • new industrial development on land exceeding 2,000m² must implement appropriate water sensitive urban design measures • the application must show the proposal satisfies the objectives and controls of Part I (Stormwater Management) in this plan 	<p>Council's Engineering section have reviewed the proposed stormwater management plan and water quality treatments and raised no issues, subject to conditions of consent.</p>	Yes
4.14 Signage	<p>A. the content must relate to the building and/or business on the site</p> <p>B. the size of signs must be in proportion with the building</p> <p>C. there must be an integrated and coordinated scheme for business identification signs for multi-tenanted complexes</p> <p>D. there must be no glare or light spill from any signs onto adjoining properties</p>	<p>Business identification sign proposed. Detailed assessment done under <i>SEPP</i> (Industry and Employment) 2021</p>	Yes

	<p>E. directory boards identifying tenants must be located next to the entrance of the complex and not impact on landscaped areas or access points to adjoining properties</p> <p>Notes: • Signs, other than building identification signs and business identification signs, are prohibited in the land use table for general industrial (E4) zoned land. • Many of these types of signs may be erected without approval under the Codes <i>SEPP</i>. • A development application is required if any of the development standards for proposed 'building identification signs' or 'business identification signs' do not satisfy the exempt provisions of the Codes <i>SEPP</i>. Any such application will be assessed in accordance with the signage provisions under <i>State Environmental Planning Policy (Industry and Employment) 2021</i>. • Third party advertising signs are prohibited in the land use table for industrial zoned land</p>		
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Operational Details

Operational Details	Comment
Description of proposed use	Take Away Food And Drink Premises
Hours of Operation	The proposal include 24-hour 7 days a week operation. However, since the development is predominantly for take away food and drink premises, and to minimise any potential amenity impacts from the use of the dine-in area during late hours, a condition of consent will be imposed to limit the operational hours of the dine-in use to between 6am to 10pm.
Loading/Unloading	On-site loading is proposed.
Delivery details	Deliveries to also occur within the site.
Staff/Patron numbers	Not specified.

Air/odour	The proposed development does not appear to be of a kind which would result in significant Air/ odour issues. Notwithstanding, conditions have been recommended.
Noise	The application accompany an acoustic report.

Developer’s Contribution Plans:

7.12 contribution:	Yes
a. Applicable rate (%):	1%
b. The cost of development (Part A CI 25J) (\$)	\$7,852,332.00
c. Date of accepted cost of development:	15/09/2023
d. The total contribution payable (\$)	\$78,523.32

Referrals

Internal Referrals

Building services	No objections, subject to conditions
Engineering	No objections, subject to conditions
Environmental Health	No objections, subject to conditions
Waste	<p><i>The main waste management issues at this development have been resolved with the updated SWMMP (dated 22 May 2024). There are still some items that require clarification:</i></p> <ul style="list-style-type: none"> • <u>Waste storage – water access:</u> <i>please confirm that the provision of water and high-pressure hose(s) are available for the waste storage area and confirm the appropriate drainage of water to the sewer.</i> • <u>Education:</u> <i>please provide further details around waste management education and incentives to ensure correct waste management at the development.</i> • <u>Demolition and construction waste management:</u> <i>please provide further details on the demolition and construction stage. See Table 9 for the additional requirements.</i> <p><i>The following items have been addressed by the updated SWMMP (dated 22 May 2024):</i></p> <ul style="list-style-type: none"> • <u>Waste storage:</u> <i>Please confirm that sufficient access and space is provided for waste and recycling containers. Bin room area should be indicated on the architectural plans and in the WMP.</i>

	<ul style="list-style-type: none"> • <u>Refrigerated garbage rooms:</u> please confirm if refrigerated garbage rooms are required according to WDCP 2023 and provide further detail. • <u>Collection:</u> Please confirm that the onsite collection point provides adequate space for waste vehicles to enter and leave the site in a forward direction. • <u>Height clearance:</u> Waste storage areas and collection points must have a minimum height clearance of 4.5m. Please provide more detail on height clearances. • <u>Resource recovery and waste management plan:</u> please provide an updated WMP that details the information provided in Table 6 (Attachment 1 – WDCP 2023, Part D). This includes but is not limited to: <ul style="list-style-type: none"> ○ Estimated generation rates; ○ Proposed bin sizes and numbers; ○ Collection frequency; ○ Details of additional equipment (e.g., compactors) to be used; ○ Location, size and access to garbage and recycling spaces; and ○ Details of waste management arrangements for contractors and employees. <p>The proposal is acceptable, subject to special conditions of consent.</p>
Traffic	<ol style="list-style-type: none"> 1. <u>Referral to TfNSW under SEPP (Infrastructure) Schedule 3 requirements</u> Based on the number of traffic generated by the proposed development (>50 per hour), the application is required to be referred to TfNSW. 2. <u>Potential queuing issues resulted from the drive-through component</u> The proposed drive-through design appears to have insufficient queueing capacity. Given the limited space allocated for vehicles waiting in the drive-through lane, there's a high risk of queue overflow during peak hours. This could result in vehicles backing up onto Lower Gibbes Street and potentially extending to the Smith Street roundabout, due to the restaurant's proximity to these public roads. Such overflow would not only disrupt local traffic flow but also pose safety concerns for both drive-through customers and other road users. These issues underscore the importance of reassessing the drive-through design to ensure adequate on-site queueing capacity and minimize the risk of disrupting

public road usage.

3. Potential queuing issues along Smith Street

The proposed driveway access on Smith Street poses potential traffic flow and safety issues:

- *Eastbound traffic conflicts: The location of the driveway may encourage eastbound motorists on Smith Street to make unsafe manoeuvres to access the site directly.*
- *Queue formation: These access attempts could lead to unexpected stopping or slowing of eastbound traffic, potentially causing queues to form towards and beyond the Smith Street/Lower Gibbes Street roundabout, disrupting its normal operation and reducing its efficiency in managing traffic flow.*
- *Safety hazards: The combination of vehicles attempting to enter the driveway and the resulting queue could create safety hazards for both motorists and pedestrians in the area.*
- *Cumulative impact: This issue, combined with potential overflow from the drive-through queue, could significantly exacerbate traffic congestion in the immediate vicinity.*
- *Need for physical deterrents: To prevent unsafe right turns from Smith Street into the driveway, the construction of a centre median may be necessary. This would physically deter eastbound vehicles from attempting to directly access the site, but it would also have implications for local traffic patterns and potentially require additional modifications to the street design.*

4. Mitigation measures to be undertaken to cater for the increase in traffic and walking/ cycling activities

The traffic report did not address the crucial aspects of the proposed development's impact on local mobility:

- *Lack of mitigation measures: The report does not propose any strategies to alleviate the potential traffic impacts generated by the development. The queuing issues mentioned in items 3 & 4 above have not been provided with any mitigation measures to improve the safety and traffic operation within the vicinity of the development.*
- *Increased non-vehicular traffic: While the development is likely to increase vehicular traffic, it's also expected to attract more pedestrians and*

	<p>cyclists. However, the current design does not account for this increase in non-motorized transportation.</p> <ul style="list-style-type: none"> • <i>Absence of safety enhancements: Despite the anticipated rise in foot and bicycle traffic, no measures have been proposed to improve pedestrian and cyclist safety around the development site.</i> • <i>Neglected pedestrian infrastructure: The application should conduct a thorough review of pedestrian desire lines along Smith Street and Lower Gibbes Street. Based on this analysis, it should propose specific improvements to enhance the safety and functionality of walking and cycling routes in the vicinity.</i> • <i>Comprehensive mobility plan: The developers should be required to present a holistic plan that not only addresses vehicular traffic but also promotes and protects active transportation modes, ensuring safe and efficient movement for all road users.</i> • <i>Lack of control to deter right turn from Smith Street into the development via Smith Street access</i> <p><i>These oversights in the current proposal could lead to safety hazards and reduced accessibility for pedestrians and cyclists, potentially undermining the development's integration into the local community's transportation network.</i></p> <p><i>The proposal is acceptable, subject to special conditions of consent.</i></p>
<p>Landscaping</p>	<p><i>There is one (1) existing street tree to be removed. An arborist report was not submitted with the application. WDCP Part G requires replacement at 3:1.</i></p> <p><i>The tree to be removed is a <i>Sapium sebiferum</i> (Tallowood) which is on the undesirable species list of WDCP Part G. Consent is required as it is a street tree, and therefore not exempt. It is noted that there a several other street trees of the same species along this section of Smith Street on the southern side. These trees have been heavily pruned below the power lines and consequently has a poor form.</i></p> <p><i>The Landscape Plan provides two (2) replacement street trees to the Smith Street frontage. The replacement street trees have been specified in the conditions in-line with Council's street tree masterplan.</i></p> <p><i>The DA does not achieve the objectives of the WDCP 2023 Part E for landscaping, with minimal landscaping provided. The design provides no deep soil landscape areas. There are three narrow on structure planters along Lower Gibbes Street, which are elevated above the street level, and a rooftop planter on structure within the site. The roof top planter offers small amounts of planting around</i></p>

	<p><i>the solar panels, which are placed on the surface of the raised planter bed.</i></p> <p><i>There is no planting provided along the Smith Street frontage, which is a reduction from the existing.</i></p> <p><i>The raised island planter located on the upper level is predominantly occupied by solar panels shown to be located on the ground surface. To compensate for absence of deep soil area and minimal landscape area, the raised island planter on the upper level shall be amended to provide additional planting area and trees that will provide canopy cover. The solar panels should be relocated to the roof of the building.</i></p> <p><i>There are not objections with regard to landscape subject to the following conditions.</i></p>
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External Referrals

TfNSW	No objection to development.
Ausgrid	No objections, subject to conditions
NSW Police	No objections, subject to conditions

ATTACHMENT 3: SUBMISSIONS TABLE

Council was in receipt of 22 individual submissions (excluding one letter of support) from the following objectors:

	Address	Name	Date of submission
1	6 Megalong Avenue, North Willoughby	Catherine Mumby	2 October 2023
2	98 Neerim Road, Castle Cove	Jenny Chen	16 October 2023 – in Support
3	17 Eden Street, Chatswood	Tim Royale CC Samuel Robert	19 October 2023
4	No address given	Zeina Ryan	23 October 2023
5	No address given	Michael Creenaune CC Samuel Robert	16 October 2023
6	Alleyn Street, Chatswood	Jess Whitbourn	26 October 2023
7	8 Smith Street, Chastwood	Sean Freitas	1 November 2023
8	5 Neville Street, North Willoughby	Berjing Ilizian	1 November 2023
9	238 Eastern Valley Way, North Willoughby	Hagop Baghdassarian	6 November 2023
10	309a High Street, Chatswood	Ingrid McNamara	13 November 2023
11	High Street, Chatswood	Mrs Gabi Parke	13 November 2023
12	Deepwater Road,	Mr Zoe Hart	13 November 2023
13	63 Deepwater Road, Castle Cove	Mr A Hart	13 November 2023
14	91 Duntroon Avenue, Roseville Chase	Mr Dan Batten	13 November 2023
15	268 High Street, Chatswood	Mr Raymond Fung	14 November 2023
16	309a High Street, Chatswood	Ingrid McNamara	14 November 2023
17	309a High Street, Chatswood	Adam Marshall	14 November 2023
18	2 Warrane Road, Roseville Chase	Mrs Irene Ohannessian	15 November 2023
19	4 Holly Street, Chatswood	Mr Lorinda Saleh	29 November 2023
20	39 Neerim Road, Castle Cove	Mr Jonathan Boyd	2 December 2023
21	36 Deepwater Road,	Rebecca Kerr	4 December 2023
22	35 Douglas Avenue, Chatswood	Karen Crawshaw	29 January 2024
23	394 Eastern Valley Way, Roseville	Lynne Lyons	12 August 2024

Issues raised	Officer's Response
Fast food and its Impact on neighbourhood health	<p>The proposed development is located within E4 zoned land that permits takeaway food and drinks premises.</p> <p>In response to the health concern raised, the applicant stated <i>"While food choice is not a planning matter for consideration under the EP&A Act, it is noted that the McDonald's healthy choice range, as endorsed by the Heart Foundation of Australia, does provide customers healthy meal options should they choose."</i></p>
24 Hour operation will negatively impact the nearby residents	<p>DA documentation provided to Council such as the CPTED, POM, TIA and Acoustic assessment addresses amenity impacts as applicable to the EP&A Act. These include traffic, noise and anti-social behaviour in the form of a CPTED Assessment and POM. Is it considered these assessments provide justification and mitigation opportunities where appropriate to ensure amenity of the area is maintained.</p> <p>Additionally, the proposal was referred to NSW Police for comments, and they raised no issues with the development, subject to conditions of consent.</p> <p>To further minimise potential amenity and safety issues associated with the 24 hours operation, the Dine-in area will be limited to operating 6am to 10pm. A condition of consent has been recommended to ensure this limitation is implemented.</p>
Traffic congestion Pedestrian safety	<p>A Traffic Impact Assessment (TIA) has been submitted to the Council to support the proposed development. The TIA evaluates the traffic implications and generation associated with the site and its immediate area. As per Part F of <i>WDCP</i>, 23 car parking spaces are required for the proposed takeaway food and drink premises. 26 car parking spaces have been provided.</p> <p>As discussed above in Section 5: Discussions, Council has concerns with regards to potential queuing issues associated with drive through, the safety of pedestrian environment and unsafe traffic movements to and from the site. Accordingly, conditions of consent have been recommended to mitigate these issues.</p>
Potential criminal activities associated with the 24 hours operation. Public Safety	<p>As previously discussed, the proposal was consulted with NSW Police, who raised no issues with the development, subject to conditions of consent.</p> <p>Furthermore, to minimise any potential amenity and safety issues associated with the 24 hours operation the use of Dine-in areas will be limited to between 6am to 10pm. Condition of consent has been recommended to ensure this is implemented.</p>
Not suitable for the area	<p>The proposed use falls within the definition of "take away food and drink premises", which is a permissible</p>

Issues raised	Officer's Response
	<p>use in the E4 Zone. The proposal is considered to be consistent with the zone objectives and relevant controls in the <i>WDCP 2023</i>.</p> <p>Furthermore, subject to conditions limiting the hours of the dine-in use and requiring public domain works to improve the pedestrian and traffic environment, the proposal is considered suitable for the site and surrounding area.</p>
<i>Noise and light pollution</i>	<p>The application was accompanied by an acoustic assessment, indicating that the proposal meets compliance with the relevant acoustic requirements. Council's Environmental Health Section has reviewed the proposal and recommended conditions requesting acoustic treatment to minimise any potential noise impacts associated with the development.</p> <p>Regarding the light pollution issue, the subject site is located in an industrial area with the nearest residential area being at least 110m away. The site is not readily visible from the residential area, so it is unlikely to have any significant light pollution impacts.</p> <p>Additionally, all signs are internally illuminated, ensuring they do not result in any unacceptable glare or light pollution to the nearby residential area.</p>
<i>Acoustic and Odour issues</i>	<p>Council's Environmental Health Section has reviewed the proposal and recommended conditions requiring measures to mitigate any acoustic and odour issues associated with the proposed development.</p>
<i>Insufficient parking</i>	<p>The proposal complies with Council's Car parking requirements.</p>
<i>Impact on nearby businesses</i>	<p>The proposal is not expected to have any unreasonable impacts on nearby businesses.</p>
<p><i>Zoning and Land use conflict</i></p> <p><i>The proposal is characterised as restaurant or café and is prohibited in the E4 Zone</i></p> <p><i>Permissibility</i></p>	<p>The proposed use falls within the definition of "take away food and drink premises", which is a permissible use in the E4 Zone. Please refer to the Discussion section of the report.</p>
<i>Existing traffic congestion issues</i>	<p>Any potential traffic generation and manoeuvring impacts have been assessed by Council's Traffic Section. Appropriate conditions have been recommended to mitigate any traffic related issues.</p>
<i>Not enough lighting</i>	<p>Subject to conditions of consent, the applicant is required to upgrade the street lighting in the adjoining streets.</p>
<p><i>Waste management issues</i></p> <p><i>Littering in the neighbourhood</i></p>	<p>A waste management plan submitted under the current DA outlines the ongoing waste management procedures. Waste collection frequency will be discussed with the contractor and will depend on the future store volumes. General waste will not be visible</p>

Issues raised	Officer's Response
	<p>from the street and stored within the corral area of the building on the lower level.</p> <p>Council's Waste Section has reviewed the proposal and recommended conditions relating to waste management and collection procedures.</p>
<i>Impact on the nearby residential area</i>	<p>All amenity impacts associated with the proposed development and the 24 hour operation have been considered and appropriately addressed through conditions of consent.</p>
<i>Not being notified of the development (very limited notification zone)</i>	<p>The application was notified in accordance with the Willoughby Community Participation Plan. As a Category C application, it was notified to all properties within a 100 meter radius for 21 days.</p>
<i>Traffic queuing associated with drive through</i>	<p>Council's Traffic Section has acknowledged the potential traffic queuing impacts associated with the drive through and recommended a condition requiring the development of a Traffic and Queue Management Plan to propose measures for managing queues.</p>

ATTACHMENT 4 - SECTION 4.15 (79C) ASSESSMENT

The application has been assessed under the provisions of S.4.15 (79C) of the *Environmental Planning and Assessment Act*.

The most relevant matters for consideration are assessed under the following headings:

**Matters for Consideration Under S.4.15 (79C) EP&A Act
Considered and Satisfactory ✓ and Not Relevant N/A**

(a)(i)	The provisions of any <i>environmental planning instrument (EPI)</i>	
	<ul style="list-style-type: none"> • <i>State Environmental Planning Policies (SEPP)</i> 	✓
	<ul style="list-style-type: none"> • <i>Regional Environmental Plans (REP)</i> 	✓
	<ul style="list-style-type: none"> • <i>Local Environmental Plans (LEP)</i> 	✓
	Comment: proposal satisfies the requirements of the relevant <i>SEPPs</i> and <i>WLEP</i> .	
(a)(ii)	The provision of any draft <i>environmental planning instrument (EPI)</i>	
	<ul style="list-style-type: none"> • Draft <i>State Environmental Planning Policies (SEPP)</i> 	N/A
	<ul style="list-style-type: none"> • Draft <i>Regional Environmental Plans (REP)</i> 	N/A
	<ul style="list-style-type: none"> • Draft <i>Local Environmental Plans (LEP)</i> 	N/A
	Comment: There are no draft <i>SEPPs</i> that apply to the subject land.	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> • <i>Development control plans (DCPs)</i> 	✓
	Comment: The proposal satisfies the requirements of the <i>DCP</i> .	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> • Clause 92 EP&A Regulation-Demolition 	✓
	<ul style="list-style-type: none"> • Clause 93 EP&A Regulation-Fire Safety Considerations 	✓
	<ul style="list-style-type: none"> • Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings 	N/A
	Comment: Conditions of consent will ensure the proposal satisfies the requirements of the regulations.	
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"> • Context & setting 	✓
	<ul style="list-style-type: none"> • Access, transport & traffic, parking 	✓
	<ul style="list-style-type: none"> • Servicing, loading/unloading 	✓
	<ul style="list-style-type: none"> • Public domain 	✓
	<ul style="list-style-type: none"> • Utilities 	✓
	<ul style="list-style-type: none"> • Heritage 	N/A
	<ul style="list-style-type: none"> • Privacy 	✓
	<ul style="list-style-type: none"> • Views 	✓
	<ul style="list-style-type: none"> • Solar Access 	✓
	<ul style="list-style-type: none"> • Water and draining 	✓
	<ul style="list-style-type: none"> • Soils 	✓
	<ul style="list-style-type: none"> • Air & microclimate 	✓
	<ul style="list-style-type: none"> • Flora & fauna 	✓
	<ul style="list-style-type: none"> • Waste 	✓
	<ul style="list-style-type: none"> • Energy 	✓
	<ul style="list-style-type: none"> • Noise & vibration 	✓
	<ul style="list-style-type: none"> • Natural hazards: Overland flowpath 	✓

**Matters for Consideration Under S.4.15 (79C) EP&A Act
Considered and Satisfactory ✓ and Not Relevant N/A**

	<ul style="list-style-type: none"> • Safety, security crime prevention 	✓
	<ul style="list-style-type: none"> • Social impact in the locality 	✓
	<ul style="list-style-type: none"> • Economic impact in the locality 	✓
	<ul style="list-style-type: none"> • Site design and internal design 	✓
	<ul style="list-style-type: none"> • Construction 	✓
	<ul style="list-style-type: none"> • Cumulative impacts 	✓
	Comment: The proposal does not cause detrimental impacts on surrounding properties and satisfies the objectives of the controls relating to Industrial developments	
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> • Does the proposal fit in the locality? 	✓
	<ul style="list-style-type: none"> • Are the site attributes conducive to this development? 	✓
	Comment: The proposal does not adversely alter the character of the locality or impact on the streetscape.	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> • Public submissions 	✓
	<ul style="list-style-type: none"> • Submissions from public authorities 	✓
	Comment: Public submissions have been considered as part of the overall assessment of the application. Referral comments from Ausgrid, NSW Police have been incorporated into the consent.	
(e)	The public interest	
	<ul style="list-style-type: none"> • Federal, State and Local Government interests and Community interests 	✓
	Comment: The proposal, subject to conditions of consent, is considered to be in public interest for the reasons outlined in this report.	

CONCLUSION

Assessment has shown that likely adverse effects to the present and likely future amenity of the locality are not of such an extent as to warrant refusal.

ATTACHMENT 5: SCHEDULE OF CONDITIONS

SCHEDULE

CONDITIONS OF CONSENT: (including reasons for such conditions)

GENERAL CONDITIONS

Condition

1. Approved Plan/Details

The development must be in accordance with the following consent plans electronically stamped by Council:

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
3D Views	A001	H	02/08/2024	Richmond + Ross
Demolition Plan	A002.1	H	02/08/2024	
Site Plan – Upper Level	A003	H	02/08/2024	
Site Plan – Lower Level	A004	H	02/08/2024	
Site Signage Plan Upper Level	A005	H	02/08/2024	
Site Signage Plan Lower Level	A006	H	02/08/2024	
Sign Details	A007	H	02/08/2024	
Sign Details	A008	H	02/08/2024	
Signage Details	A009	H	02/08/2024	
Signage Details	A010	H	02/08/2024	
COD Unit Details	A011	H	02/08/2024	
Floor Plan – Lower Level	A012	H	02/08/2024	
Floor Plan – Upper Level	A013	H	02/08/2024	
Front & Side Building Elevations	A014	H	02/08/2024	
Drivethru & Rear Building Elevations	A015	H	02/08/2024	
Finishes Schedule	A016	F	12/04/2024	
Roof Plan	A017	H	02/08/2024	
Sections	A018	H	02/08/2024	
Landscape Coversheet	000	E	16/04/2024	Site Image Landscape Architects
Landscape Plan	101	E	16/04/2024	
Landscape Details	501	C	16/04/2024	
Landscape Sections	502	A	01/08/2023	

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

- (a) any modifications which are “Exempt Development” as defined under S.4.1(1) of the *Environmental Planning and Assessment Act 1979*;

- (b) otherwise provided by the conditions of this consent.
(Reason: Information and ensure compliance)

2. NSW Police

The following conditions from NSW Police must be complied with:

- The site should be clearly identified with signage that is visible from the street. This will enable all emergency services to locate the premises. Where possible visibility into the building should not be obscured by vegetation or any type of structure which can create opportunities for concealment.
- Appropriate signage should be erected inside and around the perimeter of the entire property to warn of security treatments in place e.g. "This site is under 24-hour video surveillance".
- A high-definition CCTV system should be included to provide maximum surveillance of all common areas of the building including entry/exits, car parks and storage areas. The system should be capable of recording high-quality images of events. The recording equipment should be locked away to reduce the likelihood of tampering. Monitors should be placed in the office areas to allow the manager to view all areas under camera surveillance.
- All recording made by the CCTV system should be stored for at least 30 days and ensure that the system is accessible by at least one member of staff at all times it is in operation, and provide any recordings made by the system to a police officer or inspector within 24 hours of any request by a police officer or inspector. The CCTV cameras will need to be placed in suitable locations to enhance the physical security and assist in positively identifying an individual, who may be involved in criminal behaviour.
- Lighting in and around the proposed development should comply with Australian Standard AS: 1158 and should provide for adequate, uniform illumination. External lighting should be of a 'white light' source. Note that high- or low-pressure sodium 'orange' lighting is not compatible with quality surveillance systems. Internal lighting should be controlled away from public access. If this is not possible, use tamper-resistant switches. Luminaries (light covers) should be designed to reduce opportunities for malicious damage.
- Doors should be of solid construction and should be fitted with quality deadlock sets that comply with the Building Code of Australia and Australian Standards – Lock Sets AS:4145.
- All 'Staff only' areas should be clearly marked as such and physical barriers such as doors and gates should be erected to prevent unauthorised entry.
- Staff should be provided with a secure area in which to store their personal effects whilst working.
- An emergency control and evacuation plan should be implemented within the building and a copy be provided to North Shore Police.
- Tills should be positioned out of reach and should front customers to enable staff to maintain vision of the servicing area and beyond.

- An efficient and secure Cash Collection and Storage system should be implemented to minimise the risk of robbery offences and should include a safe designed and installed to the Australian Standards.
- The proprietors/management of the premises must take all steps necessary to ensure that no increased noise emissions occur from persons at the premises. Management must also ensure the behaviour of patrons at and around the premises does not detrimentally affect the amenity of the neighbourhood.
- The proprietors/management should strongly consider employing a security guard during peak times i.e., Friday and Saturday nights.
- Staff must receive appropriate training on what to do during an armed hold up or another similar incident involving a violent offender.
- Senior store manager contact details should be provided to North Shore Police.
- Wheelchair access (ramp) should at no time be blocked nor impede access to anyone with a disability.
- Signs should be placed in the car park warning people against leaving valuables in their vehicles.
(Reason: Ensure compliance)

3. Ausgrid

The following conditions from Ausgrid must be complied with:

The applicant/developer should note the following comments below regarding any proposal within the proximity of existing electrical network assets.

Ausgrid Underground Cables are in the vicinity of the development

Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.

It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD).

In addition to DBYD the proponent should refer to the following documents to support safety in design and construction:

SafeWork Australia – Excavation Code of Practice.

Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.

The following points should also be taken into consideration.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.

Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Ausgrid Overhead Powerlines are in the vicinity of the development

The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at www.ausgrid.com.au.

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer’s cost.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances”. This document can be found by visiting the following Ausgrid website:
www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries

For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details: <https://www.ausgrid.com.au/Connections/Get-connected>

Should you have any enquiries, please contact Ausgrid at development@ausgrid.com.au
(Reason: Ensure compliance)

4. Local Infrastructure Contributions

For development that involves subdivision and/or building work, any contribution required under Council’s Local Infrastructure Plan must be paid to Council prior to the issue of the subdivision certificate or first construction certificate, whichever occurs first.
(Reason: Statutory requirement)

5. Compliance with National Construction Code

All building works must be carried out in accordance with the performance requirements of the National Construction Code.
(Reason: Compliance)

6. Construction Certificate

This consent IS NOT an approval to carry out any building works. A Construction Certificate may be required PRIOR TO ANY WORKS BEING COMMENCED.

Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 9777 1000.

(Reason: Ensure compliance and statutory requirement)

7. Notify Council of Intention to Commence Works

In accordance with the provisions of Section 6.6 of the *Environmental Planning and Assessment Act 1979* the person having the benefit of the development consent shall appoint a Certifier and give at least 2 days' notice to Council, in writing, of the person's intention to commence the erection of the building.

(Reason: Information and ensure compliance)

8. Occupation Certificate

The building/structure or part thereof shall not be occupied or used until an occupation certificate has been issued in respect of the building or part.

(Reason: Safety)

9. Erection Wholly within the Boundaries

All works (with the exception of any works approved under S138 of the *Roads Act 1993*) including footings, shall be erected wholly within the boundaries of the property.

(Reason: Ensure compliance)

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition

10. Submit the Following Information to Willoughby City Council

Prior to the issue of any construction certificate, the applicant shall submit the following information to Council's Traffic Section for its review, comment and written approval, including approval from Traffic Committee. Documentation confirming approval by Willoughby City Council shall then be submitted to the Certifier for the application of a construction certificate.

Due to the increased pedestrian demand associated with the development, the following infrastructure improvements are required within the adjoining streets:

(a) Pedestrian Refuge Islands:

- Install pedestrian refuge islands on the eastern and southern legs of the Smith Street/Lower Gibbes Street intersection
- All refuge islands must comply with current Australian Standards and Council design guidelines.
- The refuge island on the eastern leg shall include a concrete median extension covering the entire frontage of the development. The purpose to extend the concrete median is to deter right-turn movements from Smith Street into the development as well as to prevent right-turn movements from the development onto Smith Street.

(b) Kerb ramp Modification:

- Modify existing kerb ramps on both sides of Smith Street and Lower Gibbes Street to accommodate the new refuge islands
- Ensure all modifications comply with accessibility standards and Council requirements.

Note:

Design Submission and Approval Process:

- Submit detailed designs of all proposed infrastructure improvements to Council's Traffic Section for initial review.
- Undertake community consultation on the proposed infrastructure improvements.
- Following Council's review and community consultation, submit the designs to the Local Traffic Committee for final approval.
- Obtain written approval from both Council and the Local Traffic Committee before commencing any construction work.

(Reason: Public Safety and amenity)

11. Contaminated Land – Remediation and Validation

After demolition of the structure on the site but prior to the lodgement of an application for a Construction Certificate:

- (a) The site shall be remediated in accordance with the Stage 3 – Remedial Action Plan (RAP) prepared by Foundation Earth Sciences, Ref. E2965-4, Rev. 0, dated 8 June 2023;
- (b) Any variations to the RAP must be approved in writing by Council prior to the commencement of any work;
- (c) Prior notice of any remediation work must be given to Council at least 30 days before the commencement of the work in accordance with Clause 4.13 of *State Environmental Planning Policy - (Resilience and Hazards) 2021*;
- (d) A Stage 4 Validation Report and a clearance certificate (issued by an appropriately qualified occupational hygienist) must be submitted to Council for concurrence in writing once remediation and validation sampling have been completed and the results obtained. The Validation Report must clearly state that the objectives stated in the approved RAP have been achieved and the land is suitable for the proposed use. In addition, notice of completion of remediation pursuant to Clauses 4.14 and 4.15 of *State Environmental Planning Policy - (Resilience and Hazards) 2021* shall be provided.

The Validation Report and notice of completion of remediation must be submitted to Council prior to any excavation, demolition, or other building works, undertaken that are not associated with the remediation.

Notes: (i) Contaminated land reports submitted to Council must be prepared, or reviewed and approved by, a certified contaminated land consultant certified under the Environment Institute of Australia and New Zealand – Certified Environmental Practitioner (Site Contamination) (CEnvP (SC)) or the Soil Science Australia – Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) schemes.

(ii) Contaminated land reports shall be prepared in accordance with:

- *State Environmental Planning Policy - (Resilience and Hazards) 2021*
- *Contaminated Land Planning Guidelines* (Department of Urban Affairs and Planning and EPA 1998) or updates
- *Consultants reporting on contaminated land – Contaminated Land Guidelines* (NSW EPA 2020).

(Reason: Environmental protection, public health and safety)

12. S7.12 Contribution

Prior to the issue of the Construction Certificate, a monetary contribution is to be paid in accordance with section 7.12 of *Environmental Planning and Assessment Act, 1979* in the amount of **\$78,523.32** for the purposes of the Local Infrastructure identified in the *Willoughby Local Infrastructure Contributions Plan*.

This contribution is based on 1% of the Estimated Development Cost, being **\$7,852,332.00** at 15/09/2023 and the adopted *Willoughby Local Infrastructure Contributions Plan*.

Indexation

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

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

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

Where:

$\$C_o$ = the original development contribution determined by the Council based on a percentage of the Estimated Development Cost, set out in the Contributions Plan

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

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

condition requiring payment of a contribution

Please note that the dollar value stated applies to a payment made within the current calendar month. Any payment made in following months would have the relevant indexation (CPI Index) applied in the first instance to determine the actual amount due in the current month.

Deferred payments of contributions will not be accepted.

Prior to payment Council can provide the value of the indexed levy. Copies of the *Willoughby Local Infrastructure Contributions Plan* are available for inspection online at www.willoughby.nsw.gov.au

When you are ready to pay, please contact Council's Customer Service Centre on 9777 1000 to organise your payment.

(Reason: Statutory requirement)

13. Amendments

Prior to the issue of the Construction Certificate, the proposal is to be amended in the following manner:

- (a) The Solar Panels proposed on the upper level in the central island are to be relocated on the roof of the building.

Plans detailing the above amendment are required to be shown on the Construction Certificate plans.

(Reason: Visual amenity)

14. Traffic and Queue Management Plan

Prior to the issue of a construction certificate, a Traffic and Queue Management Plan must be developed to prevent drive-through lane queues from spilling onto public roads. The applicant should propose measures for managing queues, including methods and personnel to direct traffic into the car park when queues begin to form at the access point, thus mitigating impacts on public roads.

The Traffic and Queue Management Plan should detail specific steps and procedures for personnel to effectively execute the plan. The plan must be submitted to Council for review and approval before implementation by the developer.

(Reason: Public safety and amenity)

15. Construction and Demolition Waste Management Plan

Prior to the issue of a construction certificate, an updated Waste Management Plan (WMP) should be submitted to Council. The plan must maintain compliance with the submitted WMP (original dated 24 August 2023 and response provided to Council in the Request for Information dated 22 May 2024), and also include sufficient detail for:

- Estimated generation rates for the demolition phase;
- Nominated lawful offsite recycling and disposal location(s) for wastes that will be removed from the site for both the demolition and construction phases;
- Estimated percentage of waste that will be reused or recycled for both the demolition and construction phases;

- Site plan showing location of onsite waste storage facilities during both the demolition and construction phases, including truck access; and
- Asbestos handling and disposal, if any, or a clearance certificate.

The WMP is to be followed throughout the Construction and Demolition works.
(Reason: environmental protection/waste reduction/public health and safety)

16. Operational Waste Management Plan

Before the issue of a construction certificate, an updated Waste Management Plan (WMP) should be submitted to Council. The plan must maintain compliance with the submitted WMP (original dated 24 August 2023 and response provided to Council in the Request for Information dated 22 May 2024), and also include:

- Waste storage water facilities: the provision of water and high-pressure hose(s) in the waste storage area along with appropriate drainage of water to the sewer; and
- Education: Sufficient detail on waste management education and incentives to ensure correct waste management and recycling at the development.

The WMP is to be implemented throughout the ongoing use of the development.
(Reason: environmental protection/public health and safety)

17. Damage Deposit

Prior to the issue of the Construction Certificate, the applicant shall lodge a Damage Deposit of **\$85,000** (GST Exempt) to Council against possible damage to Council's assets and any infrastructure within the road reserve/footway during the course of the building works. The deposit will be refundable subject to inspection by Council after the completion of all works relating to the proposed development. For the purpose of inspections carried out by Council Engineers, an inspection fee of **\$260** (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

Total Payable = \$85,000 + \$260 = \$85,260

(Reason: Protection of public asset)

18. Temporary Ground Anchors

Obtain written permission from all private property owners affected by any encroachment either below ground or the air space above as a result of any proposed temporary ground anchors prior to issue of the Construction Certificate. Permits are to be obtained from Council for any temporary ground anchors to be installed within the road reserve. Copies of the permission shall be sent to Council. A Temporary Ground Anchor Permit is to be obtained from Council for any ground anchors proposed to be installed in Council's Road Reserve. All works associated with the drilling and stressing of the ground anchors shall be installed in accordance with approved drawings.

(Reason: Encroachment of works)

19. Stormwater to Street Drainage via Reinforced Concrete Pipe (RCP)

Stormwater runoff from the site shall be collected and conveyed to the underground drainage system in Smith Street via Class 4, RRJ 375mm steel reinforced concrete pipe (RCP) in accordance with Council's specification. A grated drainage pit (min. 900mm x 600mm) shall be provided within the property and adjacent to the boundary prior to discharging to the Council's drainage system. In this regard, full design and construction details showing the method of disposal of surface and roof water from the site are to be submitted to Council for approval prior to the issue of the Construction Certificate.

(Reason: Prevent nuisance flooding)

20. Analysis of Outlet Condition

The capacity of the outlet pipe to the Council system shall be hydraulically evaluated using the Hydraulic Grade Line method to ensure that the outlet from the OSD system is above the downstream water level for the 1% AEP storm event. Full engineering details of the hydraulic evaluations prepared and signed by a Chartered Professional Civil Engineer shall be submitted to Council for approval prior to the issue of the Construction Certificate.

(Reason: Prevent property damage)

21. Detailed Stormwater Management Plan (SWMP)

Prior to the issue of the Construction Certificate, submit to the Certifier for approval, detailed stormwater management plans in relation to the on-site stormwater management and disposal system for the development. The construction drawings and specifications shall be prepared by a chartered professional civil engineer and generally in accordance with the concept stormwater management plans, prepared by Richmond + Ross, dated 18/04/2024 including the following:

- a) A catchment plan quantifying the areas that are draining to and bypassing the OSD system shall be included in the stormwater drawings,
- b) A Drains model shall be carried out to demonstrate that the total site discharge including runoff from all bypassing areas does not exceed the Permissible Site Discharge (PSD) of 31.2 l/s in the 1% AEP storm event. The Drains results must also be included in the stormwater drawings. The time of concentration used for both pervious and impervious areas must be in 5-minute duration.

All drawings shall comply with Part I of Council's Development Control Plan and Technical Standard 1, AS/NSZ3500.3 – *Plumbing and Drainage Code* and National Construction Code.

(Reason: Ensure compliance)

22. Construction Management Plan (CMP)

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

- (a) Construction vehicles access to and egress from the site
- (b) Parking for construction vehicles
- (c) Locations of site office, accommodation and the storage of major materials related to the project
- (d) Protection of adjoining properties, pedestrians, vehicles and public assets

- (e) Location and extent of proposed builder's hoarding and Work Zones
- (f) Tree protection management measures for all protected and retained trees.

(Reason: Compliance)

23. Road Pavement – Engineering Details

The applicant shall submit, for approval by Council as the road authority, prior to issue of the Construction Certificate, full engineering design plans and specifications prepared by a suitably qualified and experienced civil engineer for the reconstruction of half of the road pavement and any associated works fronting the subject site in Smith Street and Lower Gibbs Street.

The required plans must be designed in accordance with Council's Specifications (AUS-SPEC). Approval must be obtained from Willoughby City Council as the road authority under the *Roads Act 1993* for any proposed works in the public road.

(Reason: Protection of public asset)

24. Design of Works in Public Road (Roads Act Approval)

Prior to issue of any Construction Certificate, the applicant must submit, for approval by Council as a road authority, full design engineering plans and specifications prepared by a suitably qualified and experienced civil engineer for the following infrastructure works:

- a) The reconstruction of 1.5 metres wide footpath (max. 2.5% crossfall) towards the kerb for the full frontage of the development site in Smith Street plus 3 metres beyond the frontage of the site in accordance with Council's specification and Standard Drawings SD105 and SD100. All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to the applicant. Detailed long section and cross sections at 5 metres interval shall be provided
- b) The reconstruction of 1.2 metres wide footpath (max. 2.5% crossfall) towards the kerb for the full frontage of the development site in Lower Gibbs Street in accordance with Council's specification and Standard Drawings SD105 and SD100. All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to the applicant. Detailed long section and cross sections at 5 metres interval shall be provided,
- c) The reconstruction of existing kerb and gutter for the full frontage of the development site in Smith Street and Lower Gibbs Street in accordance with Council's specifications and Standard Drawing SD105,
- d) The reconstruction of the existing half width road pavement for the full frontage of the development site in Smith Street and Lower Gibbs Street in accordance with Council's specifications,
- e) The removal of all redundant vehicular crossings including layback and gutter and reinstate into Council's standard kerb and gutter in accordance with Council's specification and Standard Drawings SD105,
- f) The construction of a new 6 metres wide vehicular crossing in Smith Street in accordance with Council's specification and Standard Drawings SD105,
- g) The construction of a new 6 metres wide vehicular crossing in Lower Gibbs Street in accordance with Council's specification and Standard Drawings SD105,
- h) The construction of min. Class 4, RRR 375mm steel reinforced concrete pipe and kerb inlet pits (KIPs) with 2.1m precast lintel in Smith Street for the proposed stormwater connection in accordance with Council's Specification. The new kerb inlet pit must be

located at a minimum distance of 0.5m from any layback wing. The grates of the kerb inlet pits shall be in Class D bicycle friendly type,

- i) The construction of any awnings located over the road reserve,
- j) The construction of any civil works and street lighting works as required by Council's Traffic Team,

The required plans must be designed in accordance with Council's specifications (AUS-SPEC). A minimum of three (3) weeks will be required for Council to assess the *Roads Act* submissions. Early submission is recommended to avoid delays in obtaining a Construction Certificate. For the purpose of inspections carried out by Council Engineers, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council prior to issue of the approved plans.

Approval must be obtained from Willoughby City Council as the road authority under the *Roads Act 1993* for any proposed works in the public road prior to the issue of any Construction Certificate.

(Reason: Ensure compliance)

25. Splay Corner for Fence

In order to ensure adequate sight distances for pedestrians and traffic in the frontage road, 2m x 2.5m sight splays shall be provided at the driveway exit to comply with AS2890.1. These required sight splays must be clearly depicted on the construction drawings.

(Reason: Pedestrian safety)

26. Driveway Longitudinal Section

Prior to issue of the Construction Certificate and in order to assess the susceptibility of vehicles to scraping as they pass over the proposed access driveway the applicant shall submit longitudinal sections for approval by the Certifier along each side of each proposed vehicular access path drawn at 1:20 Scale. The longitudinal sections shall include the following: -

- (a) Horizontal distance from the centreline of the road to the proposed parking slab, including provision of Council's standard layback as per Council's standard drawing SD105 which is available from Council's website. Council's standard layback is 500mm wide and back of layback is 100mm above the gutter invert.
- (b) Both existing and proposed levels (in AHD) and gradients represented in percentage (%) of the vehicular crossing and driveway.
- (c) Crossfall on road pavement shall be shown on long sections.

The design shall be prepared by a suitably qualified civil engineer using Council's standard vehicle profile (SD100). All driveway grades and transitions shall comply with AS/NZS 2890.1 -2004 and Council's specifications.

The new crossings are to be 6 metres wide with no splays and be constructed at a right angle to the street kerb. The footpath/footpath zone which forms part of the proposed crossing shall have a maximum crossfall of 2.5% towards the kerb.

For the design levels of the vehicular crossing at the property boundary, the following shall be complied with, unless written approval is gained from Council for alternate levels:

Smith Street frontage

- (a) At back of layback – 100mm above the parallel to the gutter invert.
- (b) At property boundary – 340mm above and parallel to the gutter invert.

Lower Gibbes Street frontage

- (a) At back of layback – 100mm above the parallel to the gutter invert.
- (b) At back edge of footpath – 120mm above and parallel to the gutter invert.
(1.35m from face of kerb)
- (c) At property boundary – 250mm above and parallel to the gutter invert.

The suitability of the grade of driveway inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.
(Reason: Safe vehicular access)

27. Flood Affected Development

The development site subject of this consent is affected by overland flooding. Information regarding flooding shall be obtained by purchasing a flood information certificate from Council.

Based on the flood information obtained from Council, a Flood Risk Management Report prepared by a qualified civil engineer experienced in flood analysis and management and complying with the requirements in Part I of the Willoughby DCP and Technical Standard No. 2, "Floodplain Management" and the NSW Government's Floodplain Development Manual 2005, shall be submitted with the application for Construction Certificate. All measures contained in the report shall form part of any Construction Certificate issued.
(Reason: Managing Flood Risk)

28. OSD/Rainwater Tank Design

The design of all rainwater/OSD tanks shall comply with the requirements of the NSW Work Health and Safety Regulation 2017, to minimise risks associated with confined spaces. The design shall also consider "Safety in Design" requirements. Prior to issue of a Construction Certificate, a suitably qualified person shall certify that the design meets these requirements.
(Reason: Safe access to tanks)

29. Vehicle Access and Manoeuvring – Engineer's Certification

Prior to the issue of the Construction Certificate, the Applicant shall submit, for approval by the Principal Certifier, certification from a suitably qualified and experienced Traffic Engineer relating to the design of vehicular access and manoeuvring for the development. This certification must be based on the architectural drawings and the structural drawings, and must make specific reference to the following:

- (a) That finished driveway gradients and transitions comply with AS/NZS 2890.1 and AS 2890.2 and will not result in scraping to the underside of cars.
- (b) That a maximum gradient of 5% is provided for the first 6 metres from the property's front boundary to the basement. All driveway grades shall comply AS/NZS 2890.1 and AS 2890.2.
- (c) That the proposed vehicular path and parking arrangements comply in full with

AS/NZS 2890.1, AS 2890.2 and AS 2890.6 in terms of minimum dimensions provided and grades on parking spaces.

- (d) That the headroom clearance of minimum 2.2 metres between the basement floor and any overhead obstruction (including overhead services) is provided for compliance with Section 5.3.1 of AS/NZS 2890.1 and Section 2.7 of AS 2890.6.
- (e) That the headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities for compliance with Section 2.7 of AS 2890.6.
- (f) That a shared area with minimum dimensions of 2.4 x 5.4m is provided adjacent to all disabled parking spaces and a shared area with minimum dimensions of 2.4m x 2.4m is provided at the end of all disabled parking spaces to comply with AS 2890.6. A bollard shall be located in the shared zone in accordance with Section 2.4 of AS 2890.6.
- (g) That the headroom clearance required in AS 2890.2 for the largest vehicle using the site has been provided for the loading area and the path to and from the loading area.
- (h) Simultaneous manoeuvring of B99 and B85 vehicles at all ramps and ramp ends including the clearance lines for each vehicle, in accordance with AS2890.1, is complied with.
- (i) Simultaneous manoeuvrability of the largest vehicle using the site and a passenger vehicle including clearance in accordance with AS2890.1 and AS2890.2, is provided.

(Reason: Ensure compliance)

30. Tree Protection Plan

- (a) Submit to the registered certifier a Tree Protection Plan for approval prior to issue of a construction certificate.
- (b) The Tree Protection Plan is to be prepared by a qualified Arborist with minimum qualification AQF Level 5.
- (c) Tree Protection Plan shall address tree protection and management of all trees not approved for removal (including those on the nature strip and adjoining properties) in accordance with AS 4970-2009 'Protection of trees on development sites' and clearly mark tree protection zones as well as tree protection measures and fencing.

(Reason: Tree protection)

31. Amended Landscape Plan

To compensate for absence of deep soil area and minimal landscape area, the raised island planter on the upper level shall be amended to provide additional planting area and trees that will provide canopy cover.

The following details must be shown on an amended Landscape Plan:

- (a) The raised island planter on the upper level shall not be occupied by solar panels and is to be fully planted;
- (b) At least 3 trees are to be planted in the raised island planter on the upper level;
- (c) The planting species and locations must be suitable to maintain sight-lines for vehicles.

The amended Landscape Plan shall be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate.

(Reason: Landscape amenity)

32. Building Ventilation

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

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

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

(Reason: Health and compliance)

33. Mechanical Ventilation – Food Premises

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

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

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

(Reason: Amenity, environmental compliance and health)

34. Construction and Fitout of Food Premises

All works associated with the food premises construction and fit out shall comply with the:

- (a) *Australian Standard AS 4674:2004 – Design, Construction and Fitout of Food Premises;*
- (b) *Food Standards Code (Australia) and Food Safety Standard 3.2.3 – Food Premises and Equipment;*
- (c) *Food Act 2003 and Food Regulation 2015;*

- (d) *National Construction Code – Building Code of Australia and any relevant Australian Standards;*
- (e) *Plumbing Code of Australia and Australian Standard/New Zealand Standard AS/NZS 3500 series on Plumbing and Drainage; and*
- (f) *Sydney Water commercial trade wastewater requirements for food premises and the most recent editions of any relevant Water Services Association of Australia codes of practice, guidelines, policies and requirements.*

Detailed design plans of all areas relating to the food premises operations, including sectional elevations, to scale, and specifications of the equipment, finishes and operations, shall be submitted to the Certifier for approval, prior to a Construction Certificate being issued.

Note:

- (i) A “*Food Premises Design, Construction and Fit-out Guide*” (based on compliance with the above standards) is available on Council website;
- (ii) Copies of *AS 4674-2004* may be obtained from SAI Global by visiting www.saiglobal.com; and
- (iii) Copies of the Food Standards Code (Australia) may be obtained from Food Standards Australia New Zealand by visiting www.foodstandards.gov.au.

(Reason: Public health, safety and compliance)

35. Noise Mechanical Services

To minimise the impact of noise onto receivers on surrounding land, all mechanical plant equipment shall be designed to comply with the noise emission criteria contained in the EPA’s *Noise Policy for Industry (2017)*. Details of the proposed equipment, siting, appropriate noise criteria, any attenuation required and recommendations shall be prepared by an appropriately qualified acoustic consultant and presented in an acoustic report. This report shall be provided to the Certifying Authority prior to the issue of a Construction Certificate.

(Reason: Amenity, environmental compliance)

36. Construction Traffic Management Plan

Prior to issue of the Construction Certificate, a detailed Construction Traffic Management Plan shall be prepared for pedestrian and traffic management and be submitted to the relevant road authority for approval. The plan shall: -

- (a) Be prepared by a TfNSW accredited consultant.
- (b) Be in accordance with the current version of AS1742.3 and its associated handbook; and the TfNSW’s Traffic Control at work site manual.
- (c) Implement a public information campaign to inform any road changes well in advance of each change. The campaign shall be approved by the Traffic Committee.
- (d) Nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council’s Traffic Engineer or the Police.
- (e) Confine temporary road closures to weekends and off-peak hour times and shall be the subject of approval from Council. Prior to implementation of any road closure

during construction, Council shall be advised of these changes and a Traffic Guidance Scheme shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

(Reason: Public safety and amenity)

37. Traffic Work

Prior to issue of the Construction Certificate, any proposals for changes to the carriageway of a public road including shared paths, involving traffic arrangements shall be referred to the Local Traffic Committee for approval. All work shall be designed in accordance with RMS Technical Directives and Guidelines.

(Reason: Public safety and amenity)

38. External Finishes – Solar Absorptance

The external glazing and walls of the proposed dwelling are to be of minimal reflectance so as to avoid nuisance in the form of glare or reflections to the occupants of nearby buildings, pedestrians and/or motorists. Details demonstrating compliance are to be submitted with the Construction Certificate application.

(Reason: Visual amenity)

BEFORE WORKS COMMENCE

Condition

39. Report Existing Damages on Council's Property

Prior to commencement of any works on site, submit to Council and the Principal Certifier a report with digital photographs of any existing damages to Council's assets fronting the property and the immediate adjoining properties. Failure to do so will result in the applicant being liable for any construction related damages to these assets. In this respect, the damage deposit lodged by the applicant may be used by Council to repair such damages.

(Reasons: Protection of Council's Infrastructure)

40. Geotechnical Report

The site and adjoining sites (including the road reserve or other public space) are to be inspected by an independent Geotechnical Engineer and a comprehensive report shall be submitted to the registered certifier prior to commencement of work. The report should indicate how the work is to be undertaken safely and with maximum protection for neighbouring amenity, with particular regard to acoustic and vibration impacts. The report should identify the stages at which the engineers' personal supervision is to occur during the works. The report should recommend when and where further study and investigation are to take place during construction.

All construction plans are to be referenced at the conclusions and recommendations of the report, including for further investigation, are to be followed during the works. The report shall be submitted to Council for record purposes.

In the event of the geotechnical conditions of the site results in instability during the excavation phase and more area than approved being excavated, all excavation work is to cease and Council to be contacted to allow the matter to be reviewed.

(Reason: Protection of adjoining properties and ensure compliance)

41. Dilapidation Report of Adjoining Properties

Prior to commencement of work, submit a photographic survey and report of the adjoining property at 24 Smith Street to the Certifier and all owners of this adjoining property. Such photographic survey and report shall be prepared by a suitably qualified person, detailing the physical condition of this property, both internal and external including items as walls, ceilings, roof, structural members and other items as necessary.

In the event of a property owner refusing to allow access to carry out the photographic survey, the proponent must demonstrate in writing to the Certifier, and provide a copy to Council, that the purpose of the survey was made clear to the property owner and that reasonable attempts to obtain access were made.

(Reason: Protection of adjoining owners)

42. Permits and Approvals Required

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

- (a) Permit to erect Builder's hoarding where buildings are to be erected or demolished within 3.50m of the street alignment. Applications are to include current fees and are to be received at least 21 days before commencement of the construction.
- (b) Permit to stand mobile cranes and/or other major plant on public roads. Applications are to include current fees and security deposits and are to be received at least seven days before the proposed use. It should be noted that the issue of such permits may also involve approval from the NSW Police Force and TfNSW. A separate written application to work outside normal hours must be submitted for approval.
It should also be noted that, in some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.
- (c) Permit to open public roads, including footpaths, nature strip, vehicular crossing or for any purpose whatsoever. All applications are to include current fees. (Minimum one (1) weeks' notice required.)
- (d) Permit to place skip/waste bin on footpath and/or nature strip. (Maximum three (3) days).
- (e) Permit to work and/or place building materials on footpath and/or nature strip. (Maximum two (2) weeks).
- (f) Permit to establish Works Zone on Public Roads adjacent to the Development including use of footpath area. Applications must be received by Council at least twenty-one days prior to the zone being required. The application will then be referred to the Council's Local Traffic Committee for approval, which may include special conditions.
- (g) Permit to construct vehicular crossings over Council's footpath, road or nature strip.

- (h) Permit to install ground anchors beneath the road reserve.

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

(Reason: Legal requirements)

43. Application for Vehicle Crossing

Submit an application with fees to Council for the construction of a plain concrete vehicular crossing.

(Reason: Protection of public asset)

44. Underground Utility Services

Where excavation is proposed, locate and establish the size and levels of all utility services in the footpath and road reserve. Contact "Dial Before You Dig" Service" prior to commencement of any works.

All adjustments to public utilities' mains and services as a consequence of the development and associated construction works shall be at the full cost to the applicant.

(Reason: Protection of utilities)

45. Removal of Trees in Public Areas

Prior to the commencement of work,

- (a) Written notification is to be provided to Council giving a minimum of 7 days warning prior to undertaking the removal of any trees approved for removal in public areas
- (b) Removal of approved trees is to be undertaken by a qualified Arborist (Minimum qualification AQF Level 3) with suitable public liability insurance.

(Reason: Management of Public Land)

46. Project Arborist

- (a) A Project Arborist is to be appointed prior to commencement of works on site;
- (b) The Project Arborist is to have a minimum qualification AQF Level 5;
- (c) The Project Arborist is to oversee and authorise all tree protection works detailed in the approved Tree Protection Plan, AS4970-2009 *Protection of trees on development sites* and relevant conditions of consent;
- (d) The Project Arborist is to certify that all tree protection measures have been installed prior to commencement of works.

(Reason: Safety, environmental protection, landscape amenity)

47. Dewatering of Development Site

Appropriate pollution control methods shall be adopted to ensure any water discharged into Council's stormwater system from dewatering or pumping activity on the development site complies with relevant environmental criteria.

A Construction Site Dewatering Plan (CSDP) shall be prepared by a suitably qualified environmental consultant and submitted to Council for approval prior to the commencement of any work. The CSDP can be incorporated into any Construction Management Plan covering the entirety of siteworks to be carried out on the site, or can be a stand-alone document. It shall contain details on the water treatment method, equipment to be used, water testing regime and a written statement that the water to be discharged will meet the Council-approved design water quality criteria below.

Where a discrepancy exists between Council’s criteria and that from the Australian and New Zealand Environment and Conservation Council: 2000: *Guidelines for Fresh and Marine Water Quality, National Water Quality Management Strategy*, the lower value shall prevail.

Analyte	Unit	Measurement	Criteria
Total nitrogen	µg/L	< than	900
Total phosphorous	µg/L	< than	63.5
Dissolved oxygen	%sat	Btn 80 - 120%	
pH	pH units	Btn 6.5 - 8.5	
Conductivity	µS/cm	< than	778
Suspended solids	Mg/L	< than	50
Turbidity	NTU	< than	50
Zinc	µg/L	< than	43
Lead	µg/L	< than	0.6
Copper (& other heavy metals)	µg/L	< than	6.5

(Reason: Environmental protection, compliance)

48. Hazardous Building Material Assessment

Prior to commencement of work, a hazardous building material assessment shall be undertaken by an appropriate qualified person and is to be submitted to the Certifier for approval. The assessment shall identify any likely hazardous materials within any structure to be demolished and provide procedures on how to handle and dispose of such materials.

(Reason: Environmental protection/public health and safety)

49. Spoil Route Plan

Submit a “to and from” spoil removal route plan to Council prior to the commencement of excavation on the site. Such a route plan should show entry and exit locations of all truck movements.

(Reason: Public amenity)

DURING DEMOLITION AND BUILDING WORK

Condition

50. Hours of Work

All construction/demolition work relating to this Development Consent within the City, unless varied by an Out of Hours Work Permit, must be carried out only between the hours of 7 am to 5 pm Mondays to Fridays and 7 am to 12 noon on Saturdays. No work is permitted on Sundays or Public Holidays.

An application for an Out of Hours Work Permit to allow variation to these approved hours must be lodged with Council at least 48 hours prior to the proposed commencement of the work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and must be accompanied by the required fee. One (1) permit is required for each variation to the approved working hours within any 24 hour period.

If a variation to these approved hours for multiple or extended periods is sought, an application under Section 4.55 of the *Environmental Planning and Assessment Act 1979* must be lodged with Council at least twenty-one (21) days in advance of the proposed changes to the hours of work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and be accompanied by the required fee. Note: This Section 4.55 application may require re-notification in some circumstances.

(Reason: Ensure compliance and amenity)

51. Provide Erosion and Sediment Control

Where work involves excavation or stockpiling of raw or loose materials, erosion and sediment control devices shall be provided wholly within the site whilst work is being carried out in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the *Protection of Environment Operations Act 1997* and the Department of Environment, Climate Change and Water guidelines. The control devices are to be maintained in a serviceable condition AT ALL TIMES.

(Reason: Environmental protection)

52. Demolition Work AS 2601-2001

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

(Reason: Safety)

53. Temporary Ground Anchors – Supervision

A professional Geotechnical Engineer shall be on site to supervise the piling, excavation and finally the installation and stressing of any ground anchors. On completion of these works, a report from the Geotechnical Engineer shall be submitted to Council for record purposes.

A Chartered Professional Engineer shall monitor adjoining public infrastructures to detect any ground heaving or settlement during and after the installation of the piling and ground anchors. A rectification report shall be submitted to Council should unacceptable displacements occur within the zone of influence.

(Reason: Protection of public assets)

54. Sweep & Clean Pavement

Sweep and clean pavement surface adjacent to the ingress and egress points of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council.

(Reason: Legal requirement)

55. Street Signs

The applicant is responsible for the protection of all regulatory / parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works are to be replaced at full cost to the applicant.

(Reason: Protection of public assets)

56. Maintenance of Nature Strip

Where a nature strip and/or footpath is located directly adjacent to the property, the nature strip must be maintained during the construction period to ensure the turf/ vegetation is no higher than 75mm in height and the public footpath is kept free of all rubbish, weeds and debris to ensure safe public access.

(Reason: Public amenity and safety)

57. Tree Removal

Approval is given for the removal of the following trees as identified on Landscape Plan Dwg. No. 101 E dated 16/1/2024 prepared by Site Image Landscape Architects:

Tree Species	Location
(a) <i>Triadica sebifera</i> (Chinese Tallow)	Street tree on Smith Street frontage

(Reason: Site development)

58. Tree Trunk, Branch and Root Protection

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

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

- (c) Tree protection measures must comply with AS 4970-2009 Protection of trees on development sites with particular reference to Section 4 Tree Protection Measures.
- (d) Tree protection measures in accordance with (c) above are to be certified by the Project Arborist prior to commencement of works.
- (e) Tree roots greater than 25mm diameter are not to be removed unless approved by The Project Arborist on site.
- (f) All structures are to bridge roots unless directed by The Project Arborist on site.
(Reason: Tree management)

59. Public Tree Protection

- (a) Unless identified by the development consent, no tree roots over 25mm diameter are to be damaged or cut and all structures are to be bridged over such roots.
- (b) Should any problems arise with regard to the existing or proposed trees on public land during the construction or bond period, the applicant is to immediately Contact Council's Public Trees section and resolve the matter to Council's satisfaction.
(Reason: Tree management)

60. Waste Classification – Excavation Materials

All materials excavated and removed from the site (fill or natural) shall be classified as complying with a Resource Recovery Order and associated exemptions made under the Protection of the Environment Waste Regulation 2014, or as waste classified in accordance with the Environment Protection Authority (EPA) Waste Classification Guidelines prior to being removed to a recipient site or to a suitable EPA approved waste disposal facility.
(Reason: Environment & Health Protection)

61. Hazardous Materials – Clearance Certificate

Following completion of the removal of any identified hazardous material associated with demolition works, a clearance certificate shall be issued by an appropriately qualified occupational hygienist and submitted to the Certifier. The clearance certificate shall verify that the site is free from any hazardous materials from the demolished buildings.
(Reason: Health and safety)

62. Unexpected Finds Protocol

An unexpected finds contingency plan should be incorporated into site redevelopment works. In the event that previously unidentified contaminated soils or materials are identified during site redevelopment, works should cease in the immediate vicinity and the affected area isolated to minimise disturbance. A suitably qualified contaminated site consultant should be engaged to assess the degree, type and extent of contamination and establish a suitable remediation plan. The Site Manager/landowner shall notify Council in writing when they become aware of any contamination.
(Reason: Environment & Health Protection)

63. Importation of Fill

Any fill material to be imported onto the site for levelling, construction or engineering purposes must be certified by a suitably qualified consultant as virgin excavated natural material (VENM) or excavated natural material (ENM), or compliant with a Resource Recovery Order and associated exemptions made under the Protection of the Environment Waste Regulation 2014. Other materials used for the construction of greens, tees and bunkers etc. should not contain contaminated material that could be a risk to human health or the environment.

(Reason: Environment & Health Protection)

64. Dust Control

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

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

(Reason: Amenity and environmental protection)

65. Construction Noise & Vibration

Construction noise and vibration shall be controlled to comply with the requirements as set out in the EPA Interim Construction Noise Guideline (ICNG) and appropriate vibration criteria. The recommendations contained in Section 7 of the acoustic report prepared by Muller Acoustic Consulting Pty Ltd, Ref. MAC231769-01RP1, dated 7 August 2023, shall be implemented. Noise levels shall not exceed the following noise criteria wherever possible:

- (a) Affected residential properties (during ICNG recommended standard hours) – Noise affected level of $RBL + 10dB$ and Highly noise affected level (i.e. noise level above which there may be strong community reaction) $\leq 75dB(A)_{Leq(15mins)}$.
- (b) Affected commercial premises (i.e. office, retail outlets etc.) – $70dB(A)_{Leq(15mins)}$.

A noise and/or vibration monitoring plan shall be implemented during construction in the event of a complaint being received by Council or the construction contractor. Where noise criteria are exceeded, appropriate measures to control excessive noise shall be implemented immediately.

(Reason: Amenity)

66. Testing to Verify Water Quality Prior to Dewatering Activity

- (a) On the occasion that any rainfall or other event necessitates dewatering of the site, ongoing water quality sampling, analysis and collation of results shall be conducted prior to each discharge to Council's stormwater system (or other receiving watercourse). Should test results exceed the water quality criteria, dewatering is not permitted and adjustments to the pollution control methodology will need to be made by the suitably qualified environmental consultant.
- (b) A copy of the up-to-date Construction Site Dewatering Plan (or other document detailing the water pollution control method) and the ongoing water quality test results shall be kept on the site at all times, for the duration of the site works that will require dewatering activity, and produced to an authorised officer of the Council when requested.

(Reason: Environmental protection, compliance)

67. Loading and Unloading During Construction

The following requirements apply:

- (a) All loading and unloading associated with construction must be accommodated on site.
- (b) The structural design of the building must permit the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.
- (c) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (d) In addition to any approved Works Zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
- (e) If a Works Zone is warranted an application must be made to Council prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need of the site for such facility at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities
- (f) Application for a Works Zone must be submitted to Council a minimum 8 weeks prior to being required. Works application form is available on the City's Website

(Reason: Public safety and amenity)

68. Skips and Bins

Rubbish skips or bins are not to be placed on Council's footpath, nature strip or roadway unless prior written approval has been granted by Council.

(Reason: Safety)

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition

69. Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained prior to the issue of a Final Occupation Certificate. An application must be made either directly to Sydney Water or through a Sydney Water accredited Water Service Coordinator. For details go to www.sydneywater.com.au/section73 or call 1300 082 746.

The Section 73 Certificate must be submitted to the Certifier.
(Reason: Ensure statutory compliance)

70. Graffiti

A graffiti resistant coating shall be applied to any exposed blank walls to minimise the potential of graffiti.
(Reason: amenity)

71. Access for the Disabled - Disability Discrimination Act

The building/development must comply with the requirements of the Disability Discrimination Act.

It should be noted that this approval does not guarantee compliance with this Act and the applicant/owner should investigate their liability under this Act.
(Reason: Access and egress)

72. Temporary Ground Anchors – Destressing

Prior to the issue of any Occupation Certificate, all damages to Council’s infrastructures due to the works associated with the piling and installation of any ground anchors shall be restored to the requirements of Willoughby City Council at no cost to Council. All ground anchors shall be de-stressed by the removal of the anchor heads and protruding tendons on completion of the works. A certificate issued by a professional Geotechnical Engineer verifying that all ground anchors have been decommissioned shall be submitted to Council.
(Reason: Destressing of ground anchors)

73. Stormwater Runoff from Upstream Lots

Prior to the issue of any Occupation Certificate, provide an interceptor drainage system to capture and convey all stormwater runoff from the upstream neighbouring property to the Council or public drainage system. The drainage system is to comprise suitable inlet pits, grated drains, pipes and channels and is to be designed in accordance with Part I of the Council’s WDCP and AS/NZS 3500.3. This drainage system is to be designed for storm events up to and including the 1%AEP storm event.
(Reason: Prevent nuisance flooding)

74. Grated Box Drain

Prior to the issue of any Occupation Certificate for the garage/car-space and for stormwater control, a minimum 200mm wide grated trench drain with a heavy duty removable galvanised grate is to be provided within the property along the front boundary to collect driveway runoff. The trench drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.

(Reason: Proper disposal of stormwater)

75. On-site Water Management System

Prior to the issue of any Occupation Certificate, the stormwater runoff from the site shall be collected and disposed of to an approved OSD system with a minimum volume of 67.5m³ or by the Drains model, whichever is greater and a Permissible Site Discharge (PSD) of 31.2l/s in accordance with Sydney Water's requirements AS/NZS3500.3, Part 1 of Council's DCP and Technical Standards 1 and 2. The construction of the stormwater drainage system of the proposed development shall be in accordance with the approved detailed stormwater drawings required under this development consent and Council's specification (AUS-SPEC).

(Reason: Prevent nuisance flooding)

76. Sign for Rainwater System

Prior to the issue of any Occupation Certificate pertaining to any works requiring a Rainwater Reuse system, an aluminium plaque measuring no less than 400mm x 200mm is to be permanently attached and displayed within the immediate vicinity of the rainwater tank/s.

The wording for the plaque shall state *"This is the rainwater retention and reuse system required by Willoughby City Council. It is an offence to alter any part of the system without written consent from Council. The registered proprietor shall keep the system in good working order by regular maintenance including removal of debris"*.

(Reason: Prevent unlawful alteration)

77. Sign for On-site Stormwater Detention System

Prior to the issue of any Occupation Certificate pertaining to any works requiring an On-Site Detention System (OSD), an aluminium plaque measuring no less than 400mm x 200mm is to be permanently attached and displayed within the immediate vicinity of the OSD tank or basin.

The wording for the plaque shall state *"This is the on-site stormwater detention system required by Willoughby City Council. It is an offence to alter any part of the system without written consent from Council. The registered proprietor shall keep the system in good working order by regular maintenance including removal of debris"*.

(Reason: Prevent unlawful alteration)

78. Confined Space Sign

Prior to the issue of any Occupation Certificate, securely install standard confined space danger signs in a prominent location within the immediate vicinity of access points to on site stormwater detention systems, rainwater tanks and confined spaces in accordance with the requirements of NSW Work Health and Safety Regulation 2017.

(Reason: Safe access to tank)

79. Certification of OSD

Prior to the issue of any Occupation Certificate, a suitably qualified and experienced civil engineer (generally CP Eng. Qualification) shall certify on Council's standard certification form that the as-built OSD system is in accordance with the approved plans and complies with Council's DCP and Technical Standards. Council's standard certification form is available in Appendix 2 of Council's Technical Standard No. 1.

(Reason: Legal requirement)

80. Certification of Rainwater Reuse System

Prior to the issue of any Occupation Certificate pertaining to any works requiring a Rainwater Reuse system and upon completion of the Rainwater Retention and Reuse System, a licensed plumber shall certify that the rainwater retention and reuse system has been constructed in accordance with the approved stormwater management plans and that the as-built system has been fitted with proprietary first flush device and connected to non-potable use including toilet flushing, laundry and landscape irrigation. All plumbing/drainage works shall be carried out which comply with the current plumbing requirements of Sydney Water and the National Construction Code Volume 3.

(Reason: Record of works)

81. Works-As-Executed Plans - OSD

Prior to the issue of any Occupation Certificate and upon completion of the OSD System, the following shall be submitted to the Certifier:

- (a) Work-as-Executed plans based on the approved stormwater management plans from a registered surveyor to verify that the volume of storage, PSD, water and floor levels are constructed in accordance with design requirements. Any minor changes or variations to the approved plans should be highlighted in red on the approved stormwater plans.
- (b) Engineer's certification of the OSD system together with the completed Council's standard form for On-Site Detention Record of Installation.

(Reason: Record of works)

82. Works-As-Executed Plans – Rainwater Reuse

Prior to the issue of any Occupation Certificate pertaining to any works requiring a Rainwater Reuse system and upon completion of the Rainwater Reuse System, the following shall be submitted to the Certifier:

- (a) Work-as-executed plans based on the approved stormwater plans from a registered surveyor to verify that the volume of storage, invert levels of inlet, overflow pipes

and discharge outlet are constructed in accordance with design requirements. Any minor changes or variations to the approved plans should be highlighted in red on the approved stormwater plans.

- (b) Plumber's certification that the Rainwater Reuse system has been fitted with proprietary first flush device and connected to non-potable use including toilet flushing, laundry and landscape irrigation. The Certificate shall detail the number and type of fixtures connected to the tank. All works completed shall comply with the current plumbing requirements of Sydney Water and the National Construction Code Volume 3.

(Reason: Record of works)

83. S88B/S88E(3) Instrument

Create Positive Covenant and Restriction on the Use of Land on the Title in favour of Council as the benefiting authority for the as-built on-site stormwater detention (OSD) system and stormwater treatment system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council's Technical Standards.

The above instruments shall be created under Section 88B of the *Conveyancing Act 1919* for newly created lots. For an existing lot, the instruments can be created under Section 88E(3) of the *Conveyancing Act 1919* using Form 13PC and 13RPA respectively. The size and relative location of the OSD system and stormwater treatment system, in relation to the building footprint and property boundary, must be shown on the final plan of subdivision/strata plan or must be shown on the scale sketch, attached as an annexure to the request 13PC and 13RPA forms. The S88B instrument or 13PC/13RPA forms shall be lodged with Council's Standard S88B/S88E Lodgement Form with all supporting documentations listed in the Form. Council's Standard Form is available from Council upon requested. Council's costs, including legal fees associated with reviewing, approving and executing the Positive Covenant and Restriction of Use together with associated PEXA fees must be paid by the Applicant. The Applicant is responsible for any stamp duty payable in respect of the dealing.

Documentary evidence of registration of these instruments with the NSW Land Registry Services shall be submitted to the Certifier and Council prior to issue of any Occupation Certificate.

(Reason: Maintenance requirement)

84. Documentary Evidence of Positive Covenant, Engineers Certificate

Prior to the issue of any Occupation Certificate, the following documentary evidence of the completed drainage works shall be submitted to Certifier and Council: -

- (a) Registered Positive Covenant and Restriction on the Use of Land by way of the Title Deed.
- (b) Certification from a suitably qualified and experienced civil engineer (generally CP Eng. Qualification) for the as-built OSD system.
- (c) Work-as-Executed plans highlighting in red any variations based on the approved stormwater management plans from a registered surveyor for the as-built OSD system.

(Reason: Public record)

85. Splay Corner for Fence

Prior to the issue of any Occupation Certificate and in order to ensure adequate sight distances for pedestrians and traffic in the frontage road, 2m x 2.5m sight splays have been provided at the driveway exits.

(Reason: Pedestrian safety)

86. Construction of Kerb & Gutter

Prior to the issue of any Occupation Certificate, construct a new kerb and gutter together with half road pavement reconstruction in accordance with Council's specification for the full frontage of the development site in Smith Street and Lower Gibbs Street.

(Reason: Public amenity)

87. Reconstruct Pavement

Prior to the issue of any Occupation Certificate, half the road pavement including any necessary associated works for the full frontage of the development site in Smith Street and Lower Gibbs Street shall be reconstructed in accordance with Council's approved drawings, conditions and specification (AUS-SPEC).

(Reason: Ensure compliance)

88. Concrete Footpath

Prior to the issue of any Occupation Certificate, construct a:

- a) 1.5m wide concrete footpath for the full frontage plus 3 metres beyond the frontage of the development site in Smith Street,
- b) 1.2m wide concrete footpath for the full frontage of the development site in Lower Gibbs Street.

All works shall be carried out in accordance with Council's standard specifications and drawings.

(Reason: Public amenity)

89. Vehicular Crossing

Construct two new vehicular crossings including the layback and gutter with half road reconstruction as directed by Council's Engineers. All works shall be carried out in accordance with Council's specification AUS-SPEC C271 and Council's Standard Drawing SD105 - Council Vehicular Footpath Crossing and Kerb and Gutter details and any approved longitudinal sections. A separate application for the crossing including current fees and charges is to be submitted for approval by Council.

The crossings are to be 6 metres wide with no splays and is to be constructed at a right angles to the street kerb in plain concrete. The new crossing shall be located no closer than 1 metre from any power pole and 2 metres from any street tree unless otherwise approved by Council. The centreline of the new crossing shall be aligned with the centreline of the internal driveway at the property boundary.

For the design levels of the vehicular crossing at the property boundary, the following shall be complied with unless written approval is gained from Council for alternate levels:

Smith Street frontage

- (a) At back of layback – 100mm above the parallel to the gutter invert.
- (b) At property boundary – 340mm above and parallel to the gutter invert.

Lower Gibbes Street frontage

- (a) At back of layback – 100mm above the parallel to the gutter invert.
- (b) At back edge of footpath – 120mm above and parallel to the gutter invert.
(1.35m from face of kerb)
- (c) At property boundary – 250mm above and parallel to the gutter invert.

The footpath which forms part of the proposed crossing shall have a maximum crossfall of 2.5% towards the kerb. The nature strip and footpath is to be adjusted for the full frontage of the site to suit new levels.

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

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

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier prior to issue of any Occupation Certificate.

(Reason: Public amenity)

90. Removal of Redundant Crossings

Remove all redundant crossings together with any necessary works and reinstate the footpath, nature strip and kerb and gutter accordingly. Such work shall be carried out in accordance with Council's specification.

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier prior to issue of any Occupation Certificate.

(Reason: Public amenity)

91. Inspection of Civil Works on Road Reserves

All required road pavement, footpath, kerb and gutter, drainage works and/or any necessary associated works on the road reserve shall be completed in accordance with the Council approved drawings, conditions and specification (AUS-SPEC).

Pursuant to Section 138 of the *Roads Act 1993*, all works carried out on the road reserve shall be inspected and approved by Council's Engineer. Upon completion, Work-as-Executed drawings prepared by a registered surveyor shall be submitted to Council for record purposes. The Work-as-Executed drawings shall be based on the Council approved drawings with all changes marked in red. A completion certificate shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier prior to the issue of any Occupation Certificate.

(Reason: Ensure compliance)

92. Performance Bond

Prior to the issue of any Occupation Certificate, the Applicant shall lodge with the Council a performance bond of \$42,500 against defective public civil works undertaken by the main Contractor for a period of twelve (12) months from the date of the completion certificate issued by Council as the road authority under the *Roads Act 1993*. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee which will be refundable subject to the approval of Council's Engineers at the end of the maintenance period. In this period, the Applicant is liable for any part of the work which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.

(Reason: Ensure compliance and specification)

93. Turfing of Nature Strip

Prior to the issue of a Whole Occupation Certificate and in the event of damages to the grass verge during works, trim the strip of land between the property boundary and the road, spread topsoil on top of the trimmed surface and lay approved turfing on the prepared surfaces. The turf shall be protected from vehicular traffic and kept watered until established.

(Reason: Public amenity)

94. Vehicular Access and Garaging

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B85 vehicles. In all respects, prior to the issue of any Occupation Certificate, the proposed vehicle access, including any parking spaces, shall be designed and constructed to comply with the minimum requirements of AS/NZS 2890.1 and Council's standard specification. Any columns, walls or fences shall be located in positions that comply with Figure 5.2 AS/NZS 2890.1.

(Reason: Vehicular access)

95. Public Infrastructure Restoration

Prior to the release of the Damage Deposit, any damaged public infrastructure caused as a result of the construction and development works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) must be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

(Reason: Protection of public assets)

96. Vehicle Access and Manoeuvring – Construction & Certification

Prior to the issue of any Occupation Certificate, the Applicant shall submit, for approval by the Principal Certifier, certification from a suitably qualified and experienced Traffic Engineer relating to the construction of vehicular access and manoeuvring for the development. This certification must be based on a site inspection of the constructed vehicle access, manoeuvring and vehicle accommodation areas, with dimensions and measurements as necessary, and must make specific reference to the following:

- (a) That the as-constructed carpark complies with the approved Construction Certificate plans.

- (b) That finished driveway gradients and transitions comply with AS/NZS 2890.1 and AS 2890.2 and will not result in scraping to the underside of cars.
- (c) That a maximum gradient of 5% is provided for the first 6 metres from the property's front boundary to the basement. All driveway grades shall comply AS/NZS 2890.1 and AS 2890.2.
- (d) Aisle widths throughout basements comply with AS/NZS 2890.1.
- (e) That the constructed vehicular path and parking arrangements comply in full with AS/NZS 2890.1, AS 2890.2 and AS 2890.6 in terms of minimum dimensions provided and grades on parking spaces.
- (f) That headroom clearance of minimum 2.2 metres between the basement floor and any overhead obstruction (including overhead services) is provided for compliance with Section 5.3.1 of AS/NZS 2890.1 and Section 2.7 of AS 2890.6.
- (g) That headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities for compliance with Section 2.7 of AS 2890.6.
- (h) That the headroom clearance required in AS 2890.2 for the largest vehicle using the site has been provided for the loading area and the path to and from the loading area.
- (i) That a shared area with minimum dimensions of 2.4 x 5.4m is provided adjacent to all disabled parking spaces and a shared area with minimum dimensions of 2.4m x 2.4m is provided at the end of all disable parking spaces to comply with AS 2890.6, and that a bollard is located in the shared zone in accordance with the requirements of Section 2.4 of AS 2890.6.
- (j) Simultaneous manoeuvring of B99 and B85 at all ramps and ramp ends including clearances for each vehicle as per AS/NZS 2890.1 is achieved.
- (k) Access and manoeuvrability of the largest vehicle accessing the site and simultaneous manoeuvrability of the largest vehicle using the site and a passenger vehicle including clearances in accordance with AS/NZS 2890.1 and AS 2890.2 is achieved.

(Reason: Ensure compliance)

97. Stormwater Maintenance Plan

Prior to the issue of an Occupation Certificate, submit to the certifying authority approval a Maintenance Plan for the stormwater management system. The plan is to be in accordance with recommendations of "Guidelines for the Maintenance of Stormwater Treatment Measures" published by Stormwater NSW or other relevant guidelines or publications.

(Reason: Ensure operation of system complies)

98. Certification of Water Quality Improvement System

Prior to the issue of an Occupation Certificate, a suitably qualified and experienced civil engineer (generally CP Eng. Qualification) shall certify that the stormwater treatment system (2 x OceanGuard and SF chamber with 2x690Psorb StormFilter by Ocean Protect) have been constructed in accordance with the approved plans and complies with the water quality target requirements stipulated in Part I of the Council's DCP and Technical Standards.

(Reason: Legal requirement)

99. Public Tree Maintenance

Prior to the issue of any relevant Occupation Certificate, the Project Arborist is to certify that:

- (a) All trees on public land have been adequately maintained, that there has been no net deterioration in health and condition, and that any remedial work complies with AS 4970-2009 "Protection of trees on development sites" and AS 4373 - 2007 "Pruning of Amenity Trees".
- (b) All new and replacement public trees are of the required species, container size, planting locations, planting standards, and have been grown and supplied from a recognised nursery complying to AS 2303:2018 Tree stock for landscape use.

(Reason: Tree management, public asset management)

100. Tree Planting

Prior to the issue of a Whole Occupation Certificate, plant at least 3 trees on the property.

The trees shall:

- (a) Have a minimum container size of 45L litres and grown to AS 2303:2018 Tree stock for landscape use;
- (b) Be flowering species, preferably locally occurring native species;
- (c) Palms, conifers, fastigiata and columnar trees are not acceptable for the purposes of complying with this condition;
- (d) Have the potential to attain a minimum height of 4 metres;
- (e) Be planted in an appropriate location to allow root growth;
- (f) Be planted, mulched, watered and maintained according to industry best practice.

(Reason: Landscape amenity)

101. Public Tree Planting

Prior to the issue of a Whole Occupation Certificate, plant the following trees on Council land forward of the property on the Smith Street frontage:

2x Cupaniopsis anacardioides (Tuckeroo)

The trees shall:

- (a) Have a minimum container size of 100L litres and grown to AS 2303:2018 Tree stock for landscape use.
- (b) Be planted in accordance with WCC Vegetation Management Guidelines.
- (c) Be planted at least 2m from driveways, and generally in alignment with other street trees.

(Reason: Landscape amenity, tree canopy recruitment)

102. Project Arborist Certification

Prior to the issue of any Occupation Certificate, the Project Arborist is to certify in writing that all tree protection measures and remediation works have been complied with as per conditions of consent.

(Reason: Protection of trees required to be retained)

103. Completion of Landscape Works

Prior to the issue of a Whole Occupation Certificate, any approved landscape works shall be consistent with the approved design, completed to a professional standard, consistent with industry best practice and published standards, and certified in writing by a qualified landscape architect or landscape designer.

(Reason: Landscape amenity)

104. Acoustic Treatment – Certification

Prior to the issue of any relevant Occupation Certificate, certification shall be provided from a suitably qualified acoustic engineer certifying that the acoustic treatment of the building complies with the construction details approved and the relevant design noise criteria.

(Reason: Amenity, environmental compliance and health)

105. Certification – Ventilation

Prior to the issue of any relevant Occupation Certificate, certification shall be provided from a suitably qualified mechanical engineer certifying that all work associated with the installation of the mechanical and/or natural ventilation systems has been carried out in accordance with the relevant Australian Standards and or alternative solution.

(Reason: Amenity, environmental compliance and health)

106. Trade Waste Permit / Consent

Prior to the issue of any relevant Occupation Certificate, evidence of a Sydney Water permit or consent for the discharge of wastewater to the sewer shall be submitted to the Certifier. Where a permit or consent may not be required from Sydney Water, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.

(Reason: Environmental compliance and health)

107. Food Premises

Prior to the issue of any Occupation Certificate the fitout of the food premises shall comply with Australian Standard *AS 4674:2004 – Design, Construction and Fitout of Food Premises*, the provisions of the Food Standards Code (Australia) and the *Food Act 2003*. No approval is granted for any remote storage area.

If a Private Certifier is to be used, the final inspection of the food premises fit out shall be carried out by a suitably qualified person. Documentation is to be submitted to the Certifier certifying compliance with all relevant requirements.

Council's Environmental Health Officer may be engaged to carry out this required inspection of the food premises. An inspection fee shall be charged in accordance with Council's

current *Food Premises Fitout Inspection Fee*, as per the *Willoughby Council Management Plan – Fees and Charges Schedule*. This fee must be paid prior to the inspection.

(Reason: Public health, safety and compliance)

108. Food Premises Registration

Prior to an Occupation Certificate being issued, the food premises shall be registered with Willoughby City Council by completing and submitting the Food Business Registration Form available on Council's website.

(Reason: Public health, safety and compliance)

109. Refuge Island and Relevant Works

Prior to the issue of any Occupation Certificate, the construction of refuge islands and relevant works, as required under **Condition 10** of this consent must be completed.

(Reason: Ensure compliance)

110. Provision of Street Lighting

Prior to the issue of any Occupation Certificate, the developer is to install new street lighting at the Smith Street/ Lower Gibbes Street to enhance the visibility at night.

(Reason: Public safety and amenity)

111. Public Domain Works

Prior to the issue of a Whole Occupation Certificate, the written consent of Council's planning and Infrastructure Director must be obtained that confirms the public domain works as required and/or approved under this consent have been completed to the satisfaction of Council.

(Reason: Ensure compliance)

OCCUPATION AND ONGOING USE

Condition

112. Annual Fire Safety Statement

Attention is directed to Clause 177 of the *Environmental Planning and Assessment Regulation 2000* regarding the submission of an Annual Fire Safety Statement in relation to each essential fire safety measure implemented in the building or on the land on which the building is situated.

(Reason: Safety)

113. Graffiti

Any graffiti carried out on the property shall be removed, within 48 hours, at full cost to the owner/occupier of the site.

(Reason: Amenity)

114. Hours of Operation

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

- Drive-thru: 24 hours, 7 days a week
- Dine-in: 6:00 AM to 10:00 PM, all days

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

115. Plan of Management

The Plan of Management prepared by SLR, dated August 2023 is to be implemented throughout the ongoing use of the development. If this Plan of Management conflicts with any conditions of this consent, the requirement of the condition/s will prevail.
(Reason: Public safety and amenity)

116. Analysis of Outlet Condition

All storage outlet pipes from the OSD tank shall be above the 1% Annual Exceedance Probability (AEP) event water level.
(Reason: Maintain designed discharge)

117. Rainwater Retention and Re-Use Tank(s) System – Ongoing Maintenance

The registered proprietor of the land shall take full responsibility for the ongoing maintenance of the Rainwater Retention and Re-Use Tank(s) system constructed on the land, in accordance with the conditions of this consent, the certified constructed system and the Registered Surveyor’s Work As Executed plans. The registered proprietor shall not carry out any alterations to this system and shall carry out regular maintenance to tanks, pipelines, walls and other structures, plumbing fixtures, first flush apparatus, gutters, leaf gutter guards, downpipes, pumps, pipe connections and any associated devices relevant to the system, to keep the system clean, in good working order and to ensure efficient and on-going operation of the system
(Reason: Ensure compliance)

118. Stormwater Treatment System – Ongoing Maintenance

The registered proprietor of the land shall take full responsibility for the ongoing maintenance of the Stormwater Treatment System constructed on the land. The maintenance of the system is to be undertaken in accordance with the recommendations of “Guidelines for the Maintenance of Stormwater Treatment Measures” published by Stormwater NSW or other relevant guidelines or publications.
(Reason: Ensure compliance)

119. Ongoing Implementation of Traffic and Queue Management Plan

Throughout the operation of the business, the approved Traffic and Queue Management Plan must be executed and maintained in accordance with the version approved by the Council. This includes, but is not limited to:

- Adhering to all specified measures for managing drive-through lane queues.
- Deploying personnel as outlined in the plan to direct traffic when queues begin to form.
- Implementing all procedures detailed in the plan to mitigate impacts on public roads.
- Regularly reviewing the effectiveness of the plan and proposing updates to the Council if necessary.
- Maintaining records of any incidents or issues related to traffic and queue management.
- Ensuring all staff are trained and familiar with their roles and responsibilities as outlined in the plan.

The operator must be able to demonstrate compliance with this condition at any time upon request by the Council. Failure to adhere to the approved Traffic and Queue Management Plan may result in enforcement action by the Council.

(Reason: Public safety, amenity and compliance)

120. Maintenance of structures on public land

The owner of the premises is to maintain the awning approved by this consent and located over Council's road reserve, directly adjacent to the property. This awning must be maintained at all times to a structurally sound condition in order to provide an acceptable level of public safety. Any approval granted for the awning under section 138 of the *Roads Act 1993* must include provision for an appropriate indemnity in favour of Council regarding the awning.

(Reason: To ensure pedestrian and public safety and to ensure that structures located on public land for private benefit are maintained to an acceptable standard.)

121 Business Identification Signs

Any proposed business identification signs are to be the subject of a fully co-ordinated scheme for the whole site. Such signs should relate to the scale, design and architectural treatment of the proposed building and have regard to the likely impact on the surrounding area.

(Reason: Visual amenity)

122. Noise Control – Offensive Noise and Vibration

To minimise the noise and vibration impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the *Protection of the Environment Operations Act 1997*.

(Reason: Amenity)

123. Waste Storage Area – Food Premises

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

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

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

(Reason: Health & Amenity)

124. Floor, Wall & Ceiling Finishes – Food Premises

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

(Reason: Health & Compliance)

125. Odour Emissions

Upon commencement of the use and in perpetuity, exhaust air and filtration equipment installed at the premises shall be maintained and operated in a proper and efficient manner to ensure that there is no noticeable odour outside the boundary of the property.

(Reason: Amenity, Environmental Compliance)

126. On-Site Collection Point

The nominated on-site collection point is to be utilised to facilitate the collection of waste and recycling bins for the development. The on-site collection point is to be kept clear of obstructions at all times so not to restrict the collection of waste and recycling bins.

(Reason: Environmental protection/waste reduction/public health and safety)

127. Signage

Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin.

(Reason: Environmental protection/waste reduction/public health and safety)

128. Site Lighting

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

(Reason: Amenity)

ATTACHMENT 6: NOTIFICATION MAP

