

**20.2 MAJOR PROJECT MP09\_0066 MODIFICATION 3 – ALBERT AVENUE/THOMAS STREET, CHATSWOOD (CAR PARK SITE) SUBMISSION TO THE DEPARTMENT OF PLANNING**

<b>ATTACHMENTS:</b>	<b>1. DRAFT SUBMISSION</b>
<b>RESPONSIBLE OFFICER:</b>	<b>CHATSWOOD CBD PLACE MANAGER</b>
<b>AUTHOR:</b>	<b>CHATSWOOD CBD PLACE MANAGER</b>
<b>DELIVERY PROGRAM ITEM:</b>	<b>&lt;&lt;RIGHT CLICK - DELIVERY PROGRAM&gt;&gt;</b>
<b>MEETING DATE:</b>	<b>27 NOVEMBER 2012</b>

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**Purpose of Report**

To seek Council support for the amended draft submission to the Department of Planning on the proposed Modification 3 of Major Project Approval MP09\_0066 for the development of the Thomas Street car park site. Council is reminded that the first prepared draft submission was withdrawn from consideration at Council's last meeting at the request of the Proponent. The amended draft submission is attached to this report and was prepared following the lodgement with Council on 16 November 2012 of further information by the Proponent, the Meriton Group.

**Description of the Approved Development**

The approved development MP09\_0066 is for a mixed use development providing:

1. An 18 storey premium grade commercial office tower above a 3 storey podium containing commercial foyer, retail and restaurants and plant room (total 21 levels).
2. A mixed retail/residential building of 26 storeys above a three storey podium (total 29 levels) containing retail and restaurants, residential foyer, gymnasium and plant room.
3. Affordable housing units within the residential.
4. A five level basement providing car parking including a public car park facility to be provided in stratum to Council.
5. A landscaped plaza.

The total gross floor space approved on the site was 47,290m<sup>2</sup> as calculated in accordance with the SREP 5 definition of gross floor space. This represents an FSR of 10.94:1. The residential FSR is approved as 5.64:1 based on the same definition of GFA.

**Summary of the Proposed Changes**

Modification 3 proposes significant changes to the approved development on the site as follows:

1. Change of Building 1 (eastern building) from a 29 storey mixed use building with three large café/retail spaces, residential foyer on the ground floor, retail/restaurant space and commercial gymnasium on the first floor, resident recreation facilities on the second floor and 202 residential units above to a 32 storey mixed use building with 3 retail/café spaces and residential lobby on the ground floor, a child care centre and resident recreation facilities on the first floor and 241 units above. The change in overall height of Building 1 is an increase of 3.1 metres.

2. Change of Building 2 (western building) from a 21 storey premium commercial office building including large retail/restaurant spaces and commercial foyer facing the public plaza on the ground floor to a 29 storey serviced apartment building (302 accommodation units) with a small retail space, lobby, guest recreation facility (pool and gymnasium) reception and porte-cochere on the ground floor. There is no change in the overall approved height of Building 2
3. Change to the residential unit mix in Building 1 increasing the proportion of one bedroom units from 11% (including studios units) to 37% (no studios proposed).
4. Increase in the total GFA on the site from 44,971m<sup>2</sup> to 45,884m<sup>2</sup> with an increase in the residential floor space in Building 1 and a reduction in the floor space of Building 2.
5. Change from 5 basement levels of car parking by the addition of a “mezzanine” floor below Building 2 providing serviced apartment back of house facilities.

An undertaking is made in the amended proposal for provision of 4% of gross floor area in affordable housing units. The units are not nominated on the plans so clarification is required.

Although not stated in the modification it is proposed that the basement levels including the proposed mezzanine level encroach into Fleet Lane West by up to 2 metres.

To facilitate the lodgement of a separate modification application for the proposed encroachment into Fleet Lane, the General Manager provided an Owner's Consent for the lodgement of the application. The Owner's Consent to allow lodgement of a modification application does not give endorsement of the proposed encroachment. The modification application (MOD 4) is the subject of a separate report to this meeting of Council.

### **Considerations Concerning Modification 3**

The proposed changes to the approved scheme including the change of Building 2 from a premium commercial office building to a service apartment tourist accommodation facility raises a number of issues. While the Proponent provided further information to Council that clarified a number of inconsistencies in the application as originally lodged and approval of Modification 2 by the Planning and Assessment Commission determined some changes repeated in Modification 3 there are still some matters that require further consideration and clarification. These in summary include:

1. The strategic future direction of Chatswood.
2. Justification for the increase in floor space.
3. Provision of a condition relating to the management of the serviced apartments to ensure they are available for short-term accommodation.
4. Demonstrated provision of 4% affordable housing in the residential building with a flexible unit mix.
5. Modification of the design of the child care centre in accordance with the amended submission to Council dated 16 November 2012 and review of the wind impacts.
6. Investigation of the wind impacts generally on the site arising from the amended design.
7. Further information on traffic impacts and car parking design.
8. Further design refinement of the landscaped plaza and interface design.
9. Review of the applicable s.94 contributions – application of the s.94 Plans that applied at the time of the original approval subject to adjustment for CPI as a premium grade office building is no longer proposed.
10. Review of the new Statement of Commitments

**OFFICER'S RECOMMENDATION**

**THAT Council make a submission to the Department of Planning in respect of Modification 3 for the land known as Thomas Street car park site in accordance with the Officer's draft attached to this Report and requesting that the Department give detailed consideration to the contents of Council's submission.**

**SUBMISSION BY WILLOUGHBY CITY COUNCIL ON PROPOSED MODIFICATION 3 OF THE APPROVAL MP09\_0066 FOR THE SITE KNOWN AS THE THOMAS STREET CAR PARK SITE IN CHATSWOOD**

Willoughby City Council makes the following submission on the proposed modifications of the approved development for the 4,323m<sup>2</sup> Thomas Street car park site in Chatswood. Council notes that the original approval by the Minister was for a proposed development by the then Proponent, Welles Thomas Pty Ltd. Since the approval was granted on 28 September 2010 by then Minister for Planning, the site has been sold to the Meriton Group. The Meriton Group is the applicant and proponent of Modification 3.

Willoughby City Council notes that the approved development MP09\_0066 is for a mixed use development providing:

1. An 18 storey premium grade commercial office tower above a 3 storey podium containing commercial foyer, retail and restaurants and plant room (total 21 levels).
2. A mixed retail/residential building of 26 storeys above a three storey podium (total 29 levels) containing retail and restaurants, residential foyer, gymnasium and plant room.
3. Affordable housing units within the residential.
4. A five level basement providing car parking including a public car park facility to be provided in stratum to Council.
5. A landscaped plaza.

The total gross floor space approved on the site was 44,971m<sup>2</sup> as calculated in accordance with the Draft Willoughby Local Environmental Plan 2012 definition of gross floor space. This represents an FSR of 10.40:1. The residential FSR is approved as 4.97:1 based on the same definition of GFA.

**CURRENT ZONING AND DEVELOPMENT STANDARDS**

The site is zoned Business Commercial 3(c2) in SREP 5 for Chatswood Town Centre. The site is on the southern side of Chatswood CBD office core that is located on the western side of the North Shore Rail Line. The zoning of the land is consistent with that of the rest of the office core of Chatswood.

The development standards for the site permit a floor space ratio of maximum of 5.5:1 and a maximum roof height excluding plant room of RL 150 AHD (approximately 50 metres) on the Thomas Street side of the site and RL 130 AHD on the Albert Avenue side (approximately 30 metres). The maximum component of residential floor space within the overall maximum floor space is 2.5:1.

The development standards were crafted to have regard to the requirements of the Metro Strategy to contribute to the required additional 7,300 jobs in Chatswood CBD.

The approved development exceeds the current development standards of height and floor space ratio.

**PROPOSED ZONING AND DEVELOPMENT STANDARDS IN DWLEP 2012**

The proposed zoning of the site in DWLEP2012 is B3 Commercial Core on the western portion and B4 Mixed Use on the eastern portion. The maximum FSR permitted on the site calculated in accordance with the LEP standard template gross floor area definition is 6:1. The maximum overall height on the northern side fronting Thomas Street is 60 metres and 34 metres on the southern side fronting Albert Avenue. The maximum FSR for the shop top

housing component on the part of the site zoned B4 is 1:1 (within the 6:1). The site is subject to the affordable housing provisions of the instrument. The floor space in affordable housing is excluded from the calculation of FSR. Albert Avenue is identified as an active street frontage on the Active Street Frontages Map.

The development standards were crafted to have regard to the site's contribution to provide an additional 9,000 jobs in Chatswood CBD under the Draft Inner North Sub-Regional Plan and the Metropolitan Plan 2036.

The approved development exceeds the draft future development standards for height and floor space ratio for the site. It is noted that the Environmental Assessment Report accompanying the modification application does not correctly identify the development standards of DWLEP 2012.

## PROPOSED VARIATIONS TO THE APPROVED DEVELOPMENT

Modification 3 proposes significant changes to the approved development on the site as follows:

1. Change of Building 1 (eastern building) from a 29 storey mixed use building with three large café/retail spaces, residential foyer on the ground floor, retail/restaurant space and commercial gymnasium on the first floor, resident recreation facilities on the second floor and 202 residential units above including to a 32 storey mixed use building with 3 retail/café spaces and residential lobby on the ground floor, a child care centre and resident recreation facilities on the first floor and 241 units above. The overall height of the building is proposed to increase by 3.1 metres.
2. Change of Building 2 (western building) from a 21 storey premium commercial office building including large retail/restaurant spaces and commercial foyer facing the public plaza on the ground floor to a 29 storey serviced apartment building (302 accommodation units) with a small retail space, lobby, guest recreation facility (pool and gymnasium) reception and porte-cochere on the ground floor. No change is proposed to the overall approved height of the building.
3. Change to the residential unit mix in Building 1 increasing the proportion of one bedroom units from 11% (including studio units) to 37% (no studios units proposed).
4. Increase in the total GFA on the site from 44,971m<sup>2</sup> to 45,884m<sup>2</sup> with an increase in the residential floor space in Building 1 and a reduction in the floor space of Building 2.
5. Change from 5 basement levels of car parking by the addition of a "mezzanine" floor below Building 2 providing serviced apartment back of house facilities.

An undertaking for provision of 4% of GFA in affordable housing units has been made in the amended proposal. The units are not nominated on the plans.

Although not stated in the modification it is noted that the basement levels including the proposed mezzanine level encroach into Fleet Lane West by up to 1.5 to 1.9 metres. In preparing this submission Council is aware that this encroachment is now the subject of a separate modification application (MOD 4). Council also notes that MOD 4 modification would require approval for the current modification, MOD 3, to proceed.

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**COUNCIL COMMENTS ON MODIFICATION 3****1. Change of Uses**

The modification proposes a significant change to the proposed land uses on the site that will impact on the potential employment yield of the site. No comment was provided in the original documentation on this key issue for strategic planning within the Sydney Region in the Metropolitan Plan 2036 and Chatswood's role as a major centre in the northern sub-region of Sydney. However, the Proponent provided additional information to Council on 16 November 2012 and 19 November 2012 providing information on the employment opportunities that the site is likely to generate.

The approved development was anticipated to provide employment on the site that would provide a significant contribution to Chatswood's employment targets for 2036. It was estimated that operational jobs generation on the site would be between 1,000 and 1,500 in the office and retail activities. The change to serviced apartments, child care centre and reduced retail and café space although all permissible uses will significantly reduce the jobs potential of the site. The additional submission of 16 November 2102 identifies jobs potential for serviced apartments as being more than 500 direct and indirect jobs but this includes the jobs potential of all external contractors that may attend the site, for example, furniture or linen supplies, linen washing, pest control, pool maintenance and so on that are likely based elsewhere in Sydney.

The issue is the actual jobs generation in Chatswood CBD to contribute to the targets for Chatswood identified in the Metropolitan Plan and Draft Inner North Sub-Regional Plan. The actual on-site potential for jobs will be limited to the retail/restaurant activities, child care and the concierge, reception, booking, management, housekeeping and building maintenance for the serviced apartments. An estimate is that this would be in the order of 100.

The site is partly zoned B3 Commercial Core and partly zoned B4 Mixed Use and hotels, motels and serviced apartments are permissible in both zones. The serviced apartment building is not obliged to be located on the part of the site zoned B3. The option also exists for a commercial building and a serviced apartment building on the site.

Council acknowledges that the Minister is the consent authority. The change of uses proposed on this site if approved, in combination with the other major project sites that had some jobs potential in Chatswood but have been approved for mainly residential use, (Chatswood Transport Interchange towers and 7 Railway Street) means Chatswood CBD has reduced scope for significant increase in additional office accommodation.

Therefore, **it is Council's submission that approval of this modification means that Council will no longer plan for or attempt to achieve the jobs targets set in strategic metropolitan planning for Chatswood CBD to 2036. It is council's submission that it will not be possible to reach strategy targets due to lack of remaining development sites for the time frame.** Achieving increased business and employment opportunities in Chatswood will now mainly be reliant on redevelopment of existing developed sites which given the existing built form is unlikely within the time frame.

**Willoughby Council also advises that it will be exceeding its residential dwelling targets in the Metropolitan Plan and Draft Inner North Sub-Regional Plan as those targets have already been planned for and will be met in the planning for the rest of Willoughby outside of Chatswood CBD.**

## **2. Proposed Changes to Development Statistics**

The additional information provided by the proponent now clarifies the calculations for floor space proposed in the amended application. The overall floor space is proposed to increase from 44,971 m<sup>2</sup> to 45,884m<sup>2</sup> with the proposed changes and increasing the approved FSR from 10.4:1 to 10.61:1. The documentation in the original application relating to floor space and FSR is incorrect in advising there is a decrease in floor space.

The approval for the site is a site specific approval that provides for a development outcome significantly larger than the current controls of SREP 5 and the future controls in DWLEP 2012 provide for. There is no "concession" for providing affordable housing as that was part of the undertaking in the original project application that was approved by the Minister. There is no base to receive a "concession" from as the approved development already exceeds the development standards for the site (see also Point 4).

**It is Council's submission that it does not consider that the increase in floor space has been adequately justified (see below point 4).**

## **3. Management of the Serviced Apartments**

The documentation lodged with the application indicates that the serviced apartment complex is to be held in single ownership by the Meriton Group and will not be strata subdivided. Council supports this to ensure it continues as a commercially managed tourist accommodation facility. However, to ensure that the use of the premises is not compromised from that intent Council requests that the conditions of consent preclude the use of residential leases under the *Residential Tenancies Act 2010* or roll-over tenancy agreements so that the facility is true to its commercial purpose of providing accommodation for short term visitors and tourists to Chatswood. The further documentation received from the Proponent on 16 November 2012 advises that the Meriton Group has no objection to such a condition.

## **4. Affordable Housing Units**

The plans accompanying the modification or the documentation do not indicate the affordable housing units that are to be handed over to Council. While there is an undertaking in the development to provide 4% of floor space in residential units to Council, it is unclear where in the building those units are located and the unit mix. Council notes that in the approved development 10 units on Level 3 are to be handed over to Council. That includes a mix of studio, one-bed and two-bed units and includes two two-bed dual key units that can operate separately giving a potential of 12 affordable housing units. Level 3 or any of the lower levels in the modified development only provides 8 units and less than 4% of both unit numbers or 4% of floor space which is 867m<sup>2</sup>. The floor plates in the residential building vary from 823m<sup>2</sup> to 766m<sup>2</sup>.

**It is Council's submission that the affordable housing units be nominated and that the undertaking of provision of 4% is demonstrated.**

**It is also Council's submission that a financial justification that providing affordable housing units supports an additional floor on Building 1 is not supported or relevant.**

The Thomas Street car park site development was a site specific approval by the Minister for the Welles Thomas Group (the original proponent) that considered the strategic planning requirements for the site that had to be achieved. These constraints of providing affordable housing units and a 250 space public car park in addition to the parking needs of the development were reflected in the reduced sale price for the site compared with the value of the land if those constraints did not exist. There is no basis, therefore, to use any of these constraints of strategic planning and community outcomes as a justification for increasing

Building 1 by a level. Furthermore there is no development standard that is applicable to the site that gives any concession for provision of affordable housing units as the approved outcome is inconsistent with the planning controls.

### **5. Adaptable Units**

Council noted with concern that Modification 3 was again seeking to reduce the level of provision of adaptable units in the development from the requirement of 20% to 10% as requested previously in Modification 2. Since MOD 3 was lodged the Planning and Assessment Commission has determined Modification 2 and required the provision of 20% adaptable units for people with disabilities. This has been acknowledged and agreed to by the Proponent in the amended documentation received on 16 November 2012.

### **6. Provision of a Child Care Centre**

The proposal to introduce a child care centre for 49 children on the site was acceptable except for the proposed location on the site. It is a compromised position facing south with little sun penetration and potential adverse wind impacts. The amended documentation received on 16 November 2012 proposes a change to the design of the first floor of Building 1 to increase the size of the play area for the child care centre by extending it over the awning and above the central plaza. This will provide a play area that will have some access to northern sun. Subject to careful design within all of the outside play areas for wind mitigation there is no longer an objection to the child care centre. Wind mitigation is a serious issue in Chatswood and there is the potential on this site that there will be a degree of channelling of wind between the two buildings.

**It is Council's submission that should the Modification 3 be recommended for approval that a condition require amendment of the design of the child care centre in accordance with the sketch plan provided to Council on 16 November 2012 and that a detailed wind analysis be carried out prior to a construction certificate for the child care centre that ensures that wind speeds do not exceed safe and comfortable levels for play by small children. Council considers that wind speeds should not exceed a moderate breeze (Beaufort Number 4).**

### **7. Traffic, Access and Car Parking**

The traffic report accompanying the modification has a number of inconsistencies in it not the least of which is the copy of the approved development plans attached to the report at Appendix A. It is noted that there are a number of changes to the design of the basement levels including provision of a "mezzanine" level, relocation of bicycle parking, changes to the layout of car parking and changes to the location of garbage rooms and loading docks arising from the changes to the location of lift cores.

The following comments concern changes and impacts to traffic and car parking:

- a) Additional information has been provided on the manoeuvring into and through the porte-cochere of cars, taxis and buses that had not previously been addressed. In the additional submission on 16 November 2012 the Proponent advises that from its experience with its serviced apartment hotels in the city a maximum of 1 mini-bus/airport van will arrive every two hours. The Proponent also advises that where public transport is readily available such as at the subject site taxis play a minor role. On the basis of this the Proponent advises there will be no queuing or multiple use of the porte-cochere. Swept path diagrams have been provided for mini-buses and taxis that indicate that the porte-cochere will accommodate those vehicles. A further diagram indicates that a taxi can pass a parked mini-bus in the porte-cochere. The Proponent advised at a meeting held on 14 November 2012 that large buses will not



be accessing the site. Despite the Proponent's comment should a coach seek to access the site it will have to pick-up or drop-off in Albert Avenue or Thomas Street. The porte-cochere and the surrounding lane network cannot provide for manoeuvring of buses/coaches.

- b) The capacity of the road network is required to accommodate the existing demand (delivery, garbage collection and car parking) for buildings fronting Thomas Street (20 to 24), the current and future through traffic in the lane network as well traffic to the porte-cochere. The pattern of future traffic movement assessed in the report lodged with the MOD 3 has not adequately considered the drop-off and pick-up impacts of the porte-cochere.
- c) The additional information dated 16 November 2012 provided an amended plan for Basement 5 that addresses previous concerns that the car park layout was inconsistent with the car parking allocation requested in the modification, that is, 166 residential spaces including 15 visitor spaces and 78 serviced apartment and retail spaces and 10 child care spaces. Also the amended plan through deletion of a circulating ramp enables the provision of an additional 2 residential spaces and 2 serviced apartment spaces giving a total of 168 residential spaces (including 15 visitor spaces) and 81 retail/serviced apartment spaces with an overall total of 508 spaces in addition to the public car parking and child care parking.
- d) There are 15 tandem spaces (total 30 spaces) that can only be allocated as a pair to a single unit. As a result the proposed provision of residential car spaces means only 138 of the total of 241 units will have a car space. While the site is located at a major transport interchange the provision of residential spaces is significantly less than WDCP requirements and the RTA guidelines. The effect of that as has happened elsewhere in Willoughby including in the St Leonards area is residential parking occurs in nearby streets with requests/demands for residential parking stickers that Council will not provide to new buildings. Furthermore there is no provision of parking of a car share vehicle that may be used by residents given the number of units that are not provided with a car space. The provision of parking for car share vehicles is separate to any facility Council may have in the public car park and would be for parking of a vehicle under use by a resident. This was discussed in more depth in Council's original submission to the development in March 2010.
- e) WDCP requires car parking for service apartments provided at the rate of 1 per 4 suites plus one space per 2 employees. Retail provision is required at the rate of 1 per 25m<sup>2</sup> and restaurant parking at 1 per 75m<sup>2</sup> in the railway precincts. This gives a minimum of 97 spaces for the non-residential uses excluding child care. It is noted that does not allow for one space per 2 employees in the serviced apartment building as on-site employment numbers are only guessed at 100 for the hotel and retail and the area of the small café/retail space on the ground floor has not been provided in the documentation Building 2. The on-site provision of car parking for the modified development is 81 spaces well under the WDCP requirement. While day time staff in the serviced apartment building and retail have the convenience of public transport that is unlikely for shift staff when public transport availability may not correspond with shift times.
- f) Council in the original application has previously raised concern regarding the design of the loading docks and manoeuvring of trucks. The amended design provides separated area from the circulating aisles for manoeuvring that is an improvement from the original design. However, the short term spaces for couriers have been removed and column positions require precision driving by trucks accessing the loading docks. One medium rigid (8.8 metres) and one small rigid truck are the maximum capacity of the two loading docks. When a 10.2m truck is using the loading

dock manoeuvring space precludes the ability for the truck to position itself to allow use by another truck. It is noted that the size of garbage vehicle that is used by Council for residential buildings of the proposed scale is the 10 metre medium rigid trucks.

- g) A medium rigid truck is unable to negotiate the entry from Albert Avenue from the left hand lane in Albert Avenue. This was an issue that continues from the original design.
- h) It is not possible from the plans provided to determine the head clearance over the lane-way link to Fleet Lane East from Thomas Street. All deliveries and waste handling vehicles for the buildings at 2 to 12 Thomas Street and 73 to 77 Albert Avenue will be required to use the new lane-way. Noting that the amended plan proposes to extend the first floor over the lane and the pool is located above the lane it is essential that the unencumbered clearance (free of all pipes, sprinklers, signage and so on) is at least 4.5 metres and that the clearance is demonstrated and confirmed in the plans.
- i) The public car parking provision is meeting the commitment Council has to public car parking provision on the west side of the rail line serving the office core of Chatswood. This is made up of replacing the public car spaces removed by the development of the site and allowing for additional existing and projected demand with the future development of Chatswood. The public car parking is required to be the separate to the demands for the development itself and cannot be relied to make up a shortfall. This was acknowledged in the assessment of the original application where a car parking contribution for 51 spaces was required for the approved commercial office tower. Any short-fall in residential or non-residential car parking in the development cannot be made up by assumed use of the public car parking on-site.
- j) The development must provide for its own needs in car parking separate to the public car park but the traffic Report contradicts this by stating that "*small service vehicles will also access the [loading dock] area while service personnel etc will be able to use the visitor and public parking spaces*". This position is unacceptable.
- k) The change to the layout of the Basement 1 and introduction of a mezzanine floor has resulted in the stormwater management including rainwater retention and detention being unable to be accommodated to the required capacity in the basement structure. The proponent in the additional information dated 16 November 2012 acknowledged the issue and has undertaken that the design will be amended.

**It is Council's submission that the matters in the above comments need further information or consideration. Council requests that the Department provide to Council any further information that may be lodged in response to the above and at the very least be satisfied on the traffic impacts of the proposed modifications before approving changes.**

## **8. Architectural Style and Form**

Changes to the built form arise with the proposed changed uses and layout in the development. The service apartments incorporate enclosed balconies that generally maintain a consistency of glazed elevation similar to the previously approved commercial building although it lacks a defined frame and consistency in the glazing style compared with the approved scheme. Prominent vertical blades are proposed to extend beyond the building line and along the line separating the serviced apartment units below Level 5 to give

definition to the lower levels and connection to the ground level replacing the podium of the approved development.

The residential Building 1 highlights balcony lines and these have greater variation than the approved scheme.

Nevertheless the changed architectural form relies on painted surfaces with contrasting highlight colours to edges to provide the fine grain detail in the design of the tower rather than massed consistency in proportion and use of more durable applied finishes. Painted finishes require continued and regular maintenance. However, the additional documentation provided on 16 November 2012 advises of an applied finish is proposed to the lower levels that is textured terracotta face "brick" laid in stretcher course.

The design also introduces the Fire Booster room to the primary frontage presentation in Thomas Street. The fire booster should be integrated into the building and/or landscaping and not take primary position dominating the narrow Thomas Street frontage. Furthermore the access doors in the open position must not encroach outside the site into the public footpath of the road. This in conjunction with the adjacent fire stair requires redesign. **The additional submission from the Proponent dated 16 November 2012 agrees to redesign that portion of the site.**

#### **9. Landscaped Plaza**

The landscaped plaza is proposed to be slightly reduced in size. Furthermore changes to the ground floor offer will reduce the interaction and passive surveillance between the buildings and the plaza. In particular this includes but is not limited to the proposed provision of only a secondary entrance to the serviced apartments from the plaza and the proposed guest recreation facilities of pool and gymnasium being located on the most prominent corner of the serviced apartment building facing north where a quality retail or restaurant space would provide a more appropriate interactive passive surveillance use. The concern is that in the long term privacy screening for users of the gymnasium with curtains or opaque film to the glazing may occur.

Furthermore the Wind Report that accompanied the original application advised of unfavourable wind impacts in the plaza and recommended various options for treatment to mitigate those impacts. Those treatments have not been incorporated into the amended plaza design. The amended design requires full review of the wind impacts that will occur to ensure that the landscaped plaza is usable, safe and comfortable all year round.

**It is Council's submission that the landscaped plaza design and its interface requires review having regard to the comments above.**

#### **10. S.94 Developer Contributions**

The approved scheme adopted a reduced rate for developer contributions of 2% in recognition that the development was going to deliver to Chatswood a jobs providing premium grade commercial office building. Modification 3 will no longer deliver that outcome if approved. This issue has been discussed previously in this submission.

In the context of s94 contributions the additional submission on 16 November 2012 disputes that the serviced apartments will not be delivery the jobs. It considers that the "*serviced apartments will be more responsive to jobs than a typical office because the technology of computing is allowing more people away from office block employment towards working from home*". This argument is strongly disputed and there is no evidence provided to support the hypothesis. Trends such as "hot-desking" are increasing the employment potential of commercial office floor space. Sole traders in small business may have greater options to

work from home but that does not apply to the majority of business and is not reflected in commuting patterns in Sydney to employment centres.

As a result the full s.94 contributions that applied at the time of the original approval in 2010 must now be applied to the development. Council's s94 Plans in 2010 have contributions applicable for Open Space, Recreation and Community Facilities, Child Care, Road and Traffic/Transport Management and Car Parking that would now be fully applicable to the development.

The applicable child care contribution of \$464,119.77 will not apply as a centre is being provided on the site.

The following would be the required contribution as adjusted for CPI if Modification 3 is approved in its current form of 241 residential units, 302 serviced apartment suites and 546m<sup>2</sup> of retail/restaurant floor space (excluding child care):

Open Space Recreation and Community Facilities	\$3,564,879.90
Roads and Traffic/Transport	\$1,316,784.90

This gives a contribution of \$4,881,664.80 excluding contributions for child care facilities. This discussion does not deal with the short fall in car parking for the serviced apartment complex and retail/restaurant uses which the additional submission dated 16 November 2012 acknowledges must be met by way of contributions. The current rate for car parking contribution in Chatswood is \$28,092.56 per space.

**Council's submission is that the s94 contributions must be paid in accordance with its plans that applied at the time of the original approval subject to the CPI adjustment.**

#### **11. Modified Statement of Commitments**

The new Statement of Commitments is brief and relies on the documentation lodged with the application to articulate the commitments of the amended design as well as the conditions of consent.

The ESD commitments mainly relate to Basix and other commitments for the residential building but Modification 2 of the approved development has required that the water saving measures consistent with Basix be provided for the non-residential building. With respect to other ESD commitments it is not entirely clear whether the principles of such undertakings as thermal comfort, use of low energy appliances, use of low VOC paints and flooring and so on are also to be applied to the serviced apartment building. There is no documentation provided in the modification on wind amelioration which was a previous commitment and has been identified as an issue elsewhere in this submission.

The new Statement of Commitments proposes construction working hours that are inconsistent with conditions of consent D1.

**It is Council's submission that the new Statement of Commitments lodged with MOD 3 requires review or the Department of Planning and Infrastructure must ensure that the undertakings of the site are adequately covered by the amended conditions of consent should the application be assessed for approval.**

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**CONCLUSION**

The Modification 3 application in its current form is considered incomplete by Willoughby Council. Council requires further details on the matters raised in this submission.

As the site is proposed to no longer deliver a premium grade office building, there needs to be an acknowledged commitment to the s94 Plan contributions that applied to the site at the time of the original approval.