



WILLOUGHBY
CITY COUNCIL

City of Diversity

ENVIRONMENTAL SERVICES DIVISION

17 September 2010

The Director
Metropolitan Projects
Department of Planning
PO Box 39
SYDNEY NSW 2001

Attention: Amy Watson

Dear Ms Watson,

**Re: Major Project MP09_0154
Project Application for a mixed use commercial residential building at
7 Railway Street, Chatswood**

The proposed major project development at 7 Railway Street, Chatswood for a mixed use residential and commercial building with associated basement parking and landscaped plaza has been reviewed by Council.

Council wishes to make a submission on the proposal which is attached to this letter (Attachment 1). The submission requests that the Department recommend REFUSAL of the application to the Director-General and Minister for the reasons given in the submission.

Council resolved at its meeting of 13 September 2010 as follows:

“That Council endorse the draft submission for lodgement with the Department of Planning as Council’s response to Major Project Application MP09_0154 at 7 Railway Street, Chatswood.”

While Council is implacably opposed to the development, it nevertheless requests that if the Department of Planning is of a mind to approve the project application, the Council be given the opportunity to provide draft conditions of consent (without prejudice).

I advise that Council will be seeking a meeting with the Director General to further press its concerns with the proposal.

Yours faithfully,

Greg Woodhams
ENVIRONMENTAL SERVICES DIRECTOR

Enquiries: Greg Woodhams
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Availability: 8.30am-10.00am, otherwise by appointment

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WILLOUGHBY CITY COUNCIL

SUBMISSION TO DEPARTMENT OF PLANNING ON MPO9_0154 FOR A PROPOSED MIXED USE RESIDENTIAL COMMERCIAL BUILDING AT 7 RAILWAY STREET CHATSWOOD

1.0 Introduction

This submission has been prepared by Willoughby City Council in response to the notification of Major Project Application MP09_0154 for a proposed mixed use residential commercial development at 7 Railway Street, Chatswood.

Council requests that the Department's assessment of the application has regard to the comments and requests made in this submission and the concluding recommendation.

2.0 Recommendation

Council requests that the Minister or the Department of Planning under delegation of the Minister REFUSE the application MP09_0154.

2.1 Summary of Issues/Reasons for Refusal

1. The application should be refused on the basis that it is contrary to the strategic planning framework established by State Government and Council for Chatswood CBD.
2. The application should be refused as it will not achieve the statutory planning intent for business development in the Major Centre, it will not realise the employment potential of the Centre especially given the Governments investment in public transport, it will remove that potential for an office development on the site forever to a detriment of the CBD and it will signal to the property sector that Chatswood is no longer a balanced retail/office activity centre of Sydney.
3. The application should be refused as it is contrary to the well researched and exhibited Draft LEP 2009 that has been many years in preparation. The draft LEP reaffirms the direction to reinforce and strengthen the commercial core in the location of the site and will prohibit residential flat buildings in this location.
4. The application should be refused as the proposed changed architectural form and finish is an inferior product to the approved commercial office development on the site as well as exceeding the development standards for the site. It fails to provide an acceptable urban design solution for the pedestrian areas, it does not contribute to the active ground plane in this commercial precinct and the value of the upper public space on the top of the Railway Enclosure is undermined by the absence of the active use that was provided in the commercial scheme.
5. The application should be refused as the shadowing impacts on the public domain have not been adequately addressed and Council is concerned that the shadowing from the additional height will adversely impact the public domain of Chatswood.

6. The application should be refused as the privacy impacts have been inadequately considered. The privacy impacts have failed to consider that a residential tower will have a greater affect on the adjoining approved residential towers in that commercial office uses in the building, where the majority of the workers leave in the evenings and are not working at the weekends, will have a lesser impact.

7. The application should be refused as the change in the proposed development form has made minimal attempt to activate the public precinct landscaped areas that in the approved commercial office development provided strategic locating of active uses interfacing with the open space areas at street level and at the top of the rail enclosure structure.

8. The application should be refused as the wind management issues and impacts have not been adequately assessed and addressed and there are consequences in the quality of the architectural presentation for reliance on screens. There is an inadequate transition of the podium element to manage wind impacts off the building.

9. The application should be refused as any proposal for high-rise residential development should comply with the provision of WDCP 2006 for provision of adaptable units (this comment is made without prejudice to the recommendations of this submission).

10. The application should be refused as the increase in car parking and change in the development form proposed will result in an unacceptable increase in traffic generation from the site compared with the approved commercial office development.

11. The application should be refused as the access arrangements must be redesigned (and rebuilt where required) to provide for a minimum clearance of 3.8 metres and to 4.2 metres on ramps such that all loading including large rigid vehicles for furniture trucks and waste handling can occur on site. The waste handling must provide for and cannot provide currently in the design for 1.5 cubic metre bulk bins for general waste.

12. The proposed subdivision should be refused as the subdivision plans are incomplete and are not adequate to be the basis of a subdivision approval.

Consequential Submission (if the Application is Approved)

Should this Project Application be approved contrary to the recommendation of the Local Planning Authority, Willoughby Council will seek an urgent review by the State Government of the Inner North Sub Regional Strategy and the Chatswood CBD Strategy. There will need to be a strategic reappraisal of the role of centres such as Chatswood in a reviewed Metro Strategy. If the approval proceeds then the role of Chatswood into the future as an employment centre will be irrevocably undermined.

The Council is implacably opposed to the proponent's suggestion that the s94 Contribution applicable to the development should be offset. The proposal to offset s94 contribution by any amount (let alone the \$1.1 million proposed in the application!) is unacceptable in the context of the increased demands generated by the proposed residential population and the importance of the open space to the amenity and development outcomes for the entire Pacific Place site. If an approval is granted against the Council's submission then a s94 Contribution of at least \$3,861,587.22 should be levied.

Further, any proposal to require Council to take responsibility for the maintenance, control and management of the encumbered open space is unacceptable.

3.0 Brief Description of the Proposal

The major project application MP09_0154 proposes a mixed use multi-storey building containing residential and commercial use over basement car parking. In summary the application proposes:-

- 7 basement levels containing two loading docks; 395 car spaces, 16 motorcycle spaces, bicycle parking; residential storage and residential recreation facilities including pool and gymnasium.
- A 43 storey building with a height of 135.3m (including plant room) providing 35,214m² of residential floor space, 3,810m² of commercial floor space and 140m² of retail floor space.
- Stratum subdivision into two lots and strata subdivision of the residential stratum.

The residential floor space occupying 38 storeys of the proposed building provides 304 apartments made up of 75 one-bed units, 129 two bed units and 100 three bed units.

The site area is 4,913m² and the proposed FSR for the development is 8:1. The site area excludes the shared access driveway with the adjoining Epica building that provides access to the Epica loading and commercial car parking spaces. The residential car parking spaces are accessed from the shared driveway with Altura (11 Railway Street) on the north side of the Epica building.

As part of the development it is proposed to create 3,993m² of landscaped plaza area of which 580m² is under-croft paved plaza (located around the ground level entry of the building under the building overhangs). The proposed total area available to the public for passive recreational use, based on the definition of a public precinct under SREP No 5, is 3,371m² and 622m² is proposed to be private communal open space for residents.

4.0 Strategic Planning Context

The strategic context for the development of this site which is located in the office core of Chatswood is correctly identified in the Project Application to be the NSW State Plan, Urban Transport Plan, Sydney Metro Strategy, the Draft Inner North Subregional Strategy and the Chatswood City Centre Strategy. However, it is Council's view that a very deliberate, selective interpretation has been made of the strategic planning context in the report accompanying the application. This approach has ignored the critical actions and targets of the strategic planning context for Chatswood that does not suit the proponent's justification for the proposed development.

The Project Application is dismissive of the fact that Chatswood is a Major Centre under the Metro Strategy and is in fact the largest of the Major Centres in Sydney with many elements of a Subregional Centre in its fabric and operation. It is arguable that Chatswood plays a greater subregional role in Sydney than is recognised in the Metro Strategy Centres typology. Nevertheless, Chatswood's role as the major retail/office activity centre in Sydney's north, as well as a major transport nodal point demands that the strategic planning framework for Chatswood achieve its function under the Metro Strategy. The Draft Inner

North Subregional Strategy is consistent with the Metro Strategy and requires that the following Actions be pursued:

- Protection of Chatswood's activity centre role noting its location in the Global Economic Arc of Sydney. [Action B5]
- Provision of employment with the target set at an additional 7,300 jobs out of the total additional employment required in Willoughby LGA of 16,000 jobs. This requires planning for sufficient zoned land with appropriate development standards to meet the target in Council's new LEP. [Action A1 and B1]
- Increasing co-location, innovation and skills recognising the magnet infrastructure role of Council's Civic Place development known as "The Concourse". [Action A2 and B3]
- Planning for housing in centres consistent with their employment role. The following statement in the Draft Inner North Subregional Strategy is noted "***Willoughby Council to continue to encourage residential development outside the commercial core of Chatswood, but within the walking catchment of Chatswood Station, and support increased commercial activity west of the rail line***". [Action B2]
- Strategic planning ensuring that sufficient commercial office sites are provided in strategic centres like Chatswood. [Action B3]

The above points in the State Government sub-regional strategy document for Chatswood are the basis of Council's approach to planning in Chatswood City Centre. Council's Vision and Strategic Plan for the CBD seeks to implement the strategic planning goals for the Centre in the context of the constraints and opportunities of Chatswood. Of relevance in this consideration, as noted in the CBD Strategic Plan, is that the spatial growth of Chatswood City Centre is constrained by existing educational facilities to the north, high density residential to the south, and by steep topography to the west. Nevertheless the compactness of Chatswood is an asset as the centre is walkable and has been carefully planned to reinforce the structure of the centre.

The precinct structure of Chatswood has been planned to deliver a cohesive retail core on the eastern side of the rail line and a cohesive high-rise office core on the western side of the rail line. The Council's Strategy recognises the need to promote higher density commercial activity immediately adjacent to public transport nodes in the City (Chatswood Strategy :5.3c). Council's plan as reflected in the Draft Willoughby LEP that includes Chatswood City Centre is, and has been, to maintain the commercial office core but permit residential (with lower levels in commercial development) around the periphery of the commercial core. This has led to certainty of outcome (5.4a) for maintaining Chatswood's commercial and retail position in the Region.

Willoughby Council has embraced the principles of urban consolidation and introduced city living into the CBD but it has done so without compromising its precinct core roles. The residential use has been intentionally introduced around the edges of the core locations. The Strategic Plan notes that higher density residential can occur around the CBD edges whilst protecting the adjoining low density residential areas and the long term viability of the office and retail cores (5.5j). The exception to this principle is the decision by Government not to approve a significant office component at the Chatswood Transport Interchange (CTI) which in Council's publicly stated view was a serious error on the part of Government in its approval of the CTI. This occurred notwithstanding that within weeks of the approval, a large insurance company was looking for 60,000m² in a consolidated location and was interested in Chatswood or North Sydney. Being unable to find suitable existing premises or the potential of large premises in a development the company has remained in their current multiple Sydney CBD building locations.

While Council's CBD Strategy documents were originally prepared prior to the release of the Metro Strategy, the strategic planning is consistent with the Metro Strategy. Chatswood City Centre has suffered from the delays in translating those documents into new development controls to replace the obsolete SREP5. The delay primarily followed the announcement of the Parramatta (Epping) Rail Link which introduced uncertainty as to the future of the interchange precinct in the heart of Chatswood. A further delay followed redrafting of the draft LEP to fit with the Standard Template requirements. As a result the development standards for sites such as the subject land, which is part of the larger Pacific Place lands, have proceeded separately on a site specific basis and are now incorporated into the Draft WLEP.

Nevertheless the strategic planning context reflected the Metro Strategy and Draft Inner North Subregional Strategy Plan, Chatswood CBD Strategy and the Master Plan that established the future use of the subject site for commercial office use NOT predominantly residential development.

The State Government has recently announced its recommitment to completing the Parramatta-Chatswood Rail Link in a joint funding agreement with the Federal Government for the Epping to Parramatta section. The completion of this link will enable greater access from the western suburbs to jobs in Chatswood. This reaffirms the necessity for sites such as this Part 3A project to provide for a substantial quantum of job opportunities not as proposed by the proponent (or the Department).

A final point is that while Willoughby LGA is also required to meet housing targets in the same Metro Strategy documents of an additional 6,800 dwellings. Those dwellings will be achieved elsewhere within the LGA and around the edges of Chatswood and Willoughby's other centres including St Leonards. The subject site is not required to satisfy Council's residential targets.

In summary the Project Application does not adequately consider the regional strategic planning context of the site that is in the office core of Chatswood. That strategic planning context requires 7,300 additional jobs in Chatswood CBD and a residential development as proposed will undermine the achievement of that employment target. Furthermore, the spatial constraints on the growth of Chatswood mean employment generating land to achieve those jobs is at a premium so retention of land for predominantly office use (at least 20,000 - 28,000m²) is imperative.

The application should be refused on the basis that it is contrary to the strategic planning framework established by State Government and Council for Chatswood CBD.

5.0 Statutory Planning Circumstances

5.1 Site Background

The land is part of the Pacific Place site which, during the 1980s, was vacant railway land north of Chatswood Station. A proposal for large commercial office towers and retail on the railway site known as the Chatswood Connection development commenced construction but floundered in the recession of the late 1980's. Following this a site specific planning study lead to amendment of SREP 5 in 1995 to provide for a Business Commercial zoning for the western and southern part of the railway site and a medium to high density residential zoning on the eastern side of the site. Accompanying the zoning controls was the site specific DCP

(DCP18). This planning of the railway site provided for 2 office towers on Railway Street providing a gross office floor area of 68,000m², some service retail on the southern part of the site near Help Street and several low-rise and one high rise residential buildings on the eastern side of the site containing 271 units. The site was still known at that time as the Chatswood Connection site.

The land was subject to sale by expressions of interest and a tender process by State Rail Authority and Mirvac was successful. The property was sold in stages to Mirvac. Mirvac approached Council in 1999 to review the development outcomes for the site and lodged a development application for a new Master Plan development concept (DA 1999/1812). The new Master Plan was justified by Mirvac on the basis of urban consolidation principles, shifting market conditions and reduced requirements by SRA for the width of the rail corridor through the site proposed two mixed commercial/residential buildings and a commercial office tower on Railway Street and high-rise and low-rise residential on the eastern side of the site. The new proposal was for about 30,000m² of commercial office, service retailing, restaurants and about 550 residential units.

While Mirvac was of the opinion at the time that Council could satisfactorily consider and determine the application by supporting SEPP1 objections to the height and floor space controls, Council was of the view that the extent of variation was outside the appropriate and reasonable scope of SEPP1 and would set an unacceptable precedent. Council took the view that the statutory process of change to SREP5 and the DCP was warranted involving several planning workshops, public notification and strategic assessment. This process refined the outcomes and resulted in amendment of SREP 5 gazetted in 2000 and adoption of a new site specific DCP 31. These are the current planning controls for the railway land now known as Pacific Place. The subject site is the commercial office building site. Following gazettal of the amendments to SREP5, the Master Plan development application was approved in February 2001.

5.2. Development Standards

The statutory circumstances for development of the railway land are incorrectly recorded in the Project Application particularly with regard to the floor space controls which states that the FSR applying to the site of the Project Application is 5:1. The Project Application is silent on the maximum FSR applying to residential development. The following is a summary of the statutory controls of SREP 5 for the Pacific Place site:

- Height across the whole site is subject to a height control map measured as RL's to AHD (Clause 15A). The height control on the subject site is part RL179AHD to the roof excluding LMR/plant rooms and part RL100AHD.
- For the eastern part of the site zoned 2(d) residential – no floor space ratio applies.
- For the western and southern part of the site zoned Business Commercial 3(c2) the base floor space ratio is 4:1 with bonus floor space applying for road widening, provision of public precinct open space and community facilities (Clause 11).
- An additional subclause (Clause 11(10)) provides specifically for the particular circumstances of the Pacific Place site where it is zoned 3(c2) that the applicable floor space ratio be assessed over the whole of the site area of that part of the site zoned 3(c2) even if only a part of that area is the site area for a building the subject of a development application. The background to this clause recognised the uneven distribution of the proposed floor space on that part of the site compared with the building site areas. The allotment configuration at the time of drafting the clause

reflected the four staged purchasing arrangements from SRA and not the intended development form.

- A restriction on the amount of residential development applies to that part of the Pacific Place land zoned 3(c2) as noted in Clause 13 of SREP5. This is 3:1 FSR within the total FSR applying to the total 3(c2) site area (as noted above) and subject to compliance with the height controls.

In developing the Pacific Place site, Mirvac chose to utilise the opportunity for bonus floor space. This was reflected in the DCP and Master Plan assessment and approval with a proposal for about 5,000m² of public precinct in plaza and landscaped area as well road widening in Help Street. Although a child care centre is provided on the site it did not generate bonus floor space as it was provided in lieu of payment of s94 contributions for Long Day Care generated by the development.

A SEPP 1 objection was supported for variation to the floor space controls over and above the base floor space as the intention for development of the site included a pedestrian bridge link over Help Street to link with Chatswood Station and Interchange. This was identified in the DCP and was an appropriate public benefit at the time which became redundant with the changed design for Chatswood Station in 2005. (The earlier scheme for Chatswood Station proposed a podium above the rail line to which the pedestrian bridge could link.) No change was made to the approved floor space as the changed circumstances post-dated the approvals and commencement of construction. No pedestrian bridge link was provided despite the higher approved floor space. Similarly allowance was made for widening of the strip of Council land along the northern side of the Pacific Place site that links the two sides of O'Brien Street but the link was not built.

Each of the buildings was required under the Master Plan approval to be the subject of separate development applications under the framework established by the Master Plan approval. This proceeded on the part of the site zoned 3(c2) with Altura (Building A, 11 Railway Street) being approved in Development Consent 2000/1316, the office building (Building G) on the site that is the subject of this Project Application at 7 Railway Street in Development Consent 2001/600 and Epica (Building F, 9 Railway Street) in Development Consent 2002/487.

The statutory planning circumstances of those approvals on the part of the Pacific Place site zoned 3(c2) resulted in an overall FSR of 4.83:1 within which a residential FSR of 3:1 was achieved in Altura and Epica complying with SREP5. The commercial floor space approved totalled 29,860m² of which 28,144m² were approved in the commercial office tower. Substantial commencement has been acknowledged.

The development standards for the Pacific Place site were carefully crafted first and foremost to recognise the main objectives of the zoning of the land, that is, a business commercial building on Help Street and Railway Street and residential on the eastern side of the site. The location of the commercial development acknowledged the relationship of the office component to the office core of Chatswood locating it on the south-western corner in a prominent view corridor down Help Street and from the Railway Street Interchange exit.

The **approved commercial building** on the Pacific Place site has been estimated to provide **the potential of more than 1400 jobs towards the jobs targets for Chatswood**. This has formed part of Council's submission on its new Comprehensive LEP in response to the Section 117 Directions (Direction 1.1 for plan making and Direction 7.1 for planning proposal Implementation of the Metro Strategy). The Project Application will result in a total FSR on the part of the Pacific Place site zoned for commercial purposes of 5.5:1 of which 5.16:1 will be residential. The subject site needs to be seen in the context of the whole of

the Pacific Place site. Residential Flat buildings were permitted in the zone because the masterplan proposed it on the northern part of the land. However, if the whole of the Pacific Place site is developed predominantly as residential use then the development if approved will make a mockery of the classification of the land under a business zone- it will reduce the employment potential on the site from more than 1400 to about 190 plus two small shops which may have 1 or 2 staff per shop.

It is Council's view that the Department has erred in its advice to Mirvac that between 3,600m² and 4,000m² is adequate commercial floor space (letter to Mirvac dated 31/3/10). Once this site is developed in the manner proposed in the Part 3A Application, it will never be available for jobs as commercial offices.

The Project Application exceeds the height control of RL 179AHD by about 52 metres or an additional 65% in the height of the building compared with the approved building on the site and the statutory controls of SREP5.

Council is aware that Leighton Construction that is already located in Chatswood was interested in the site as a commercial office building and had entered into an agreement with Mirvac to develop the site (announced in Leighton's newsletter November 2008). Clearly the global financial crisis (GFC) has delayed the potential but it does not mean that it cannot ultimately happen. The reality is that in the current market, the value and greater profit is in residential and that is all that Mirvac is interested in for this site. In addition Mirvac is seeking a substantially larger increase in floor space in this Project Application.

In summary, the Project Application has failed to adequately consider the intent of the zoning of the land for business purposes in a CBD location and it has incorrectly considered the development standards that should serve as a guide for a development under Part 3A.

The Project Application is effectively "rezoning" the land without the due process and statutory scrutiny including the obligations of the s117 Directions. The employment potential of the land will reduce from more than 1400 jobs to 190 jobs, the floor space yield will be much greater and, following strata subdivision into residential units, the land will be alienated for future office development. This is notwithstanding the expected population growth in the lower north shore envisaged by the Metro Strategy that will demand more services (and jobs). In addition, there is potential that a commercial office building could proceed on this site once the office property cycle changes. The site already has a consent in place and it is located in a well established, well recognised commercial business district where availability of suitable sites for employment generating land uses is limited.

Council is of the opinion that the Department of Planning has erred in its advice to the proponent that 3,600m² to 4,000m² of commercial floor space is adequate to provide a "significant" contribution to jobs in Chatswood. In so doing our opinion is that the Department of Planning has not given proper regard to the Section 117 Directions. In addition the Department appears to have based its advice not on independent objective research of its own but has relied on information submitted by the proponent.

The application should be refused as it will not achieve the statutory planning intent for business development, it will not realise the employment potential of the site, it will remove that potential forever to a detriment of a CBD and it will signal to the property sector that Chatswood is no longer a balanced retail/office activity centre of Sydney.

6.0 Draft Willoughby Local Environmental Plan 2009

In the framework of the regional strategic planning documents, the s117 Directions and Council's strategic planning documents, Council has prepared its Comprehensive LEP 2009. This LEP was submitted to the Department with accompanying analysis and consultant advice for a s65 Certificate in 2007. The s65 Certificate was issued and exhibition of the draft LEP finished at the end of May 2010. The Department of Planning worked closely with Council to ensure that the Plan would achieve the objectives for Willoughby and Chatswood CBD required by the Metro Strategy/Draft Inner North Subregional Strategy.

In accordance with the plan for the Pacific Place site the land along the Railway Street side of the site currently zoned Business Commercial is proposed to be zoned part B4 Mixed Use for the northern component being the location of Altura and Epica and the southern component which is the subject site that aligns with and is adjacent to the office core of Chatswood as B3 Commercial Core. The B3 zone does not permit residential development.

The same Department of Planning that gave the advice to the Part 3A proponent that 190 jobs was sufficient achievement for this site required Council to demonstrate how it was to achieve the jobs targets set for Chatswood. The subject site was a significant component of that calculation at its current approved level of more than 1400 jobs. In fact following expert advice from development consultants CB Richard Ellis (previously provided to the Department) on the level of development required to achieve the targets and to promote redevelopment of some obsolete sites, the development standards were increased on larger sites. The development standards are based on keeping the character of Chatswood's style of office buildings in the commercial core being towers in landscaped plazas achieving A-grade and Premium-grade office buildings with floor plates of 1,500m². As a result of that specialist advice the DWLEP 2009 proposes to increase the FSR for commercial office buildings on sites over 2,500m² to 10.5:1 in the B3 zone. On smaller sites the FSR proposed is 5:1. The higher commercial FSR of 10.5:1 would apply to the subject site and will realise the potential jobs yield accordingly. The proposed development standards have received the support of the Department acknowledging that the Plan has the potential to achieve the strategic intentions for Chatswood. It is noted that commercial office buildings require a floor plate that is up to 1.5 times the size of a residential building.

In addition when Council was made aware of this Project Application late last year, Council moved to seek further independent advice on the future role of Chatswood separate to the instructions it was receiving from the Metro Strategy/DINSS. It appointed HillPDA to carry out an independent review of the role and future for Chatswood. The advice was received in March 2010 and forwarded to the Department at that time. The conclusion and recommendations of the independent report confirmed the future strategic role of Chatswood as a centre, the need for the office core of Chatswood to be retained and that the proposed development standards were appropriate to encourage increased development that has lagged in recent years with outdated planning controls. The report considered the competition from other centres on Chatswood and also correctly pointed out that a comparison of percentage vacancy rates in a smaller submarket like Chatswood can be misleading as even a single tenancy movement can result in a major swing of the market indicators. The report also recommended looking at appropriate peripheral sites where a component no greater than 50% of residential should be considered in mixed use development. This is currently occurring as part of the review of DWLEP 2009 following exhibition. The subject site is located in the heart of Chatswood and cannot be considered in any analysis as a "peripheral" site.

Similar scrutiny of DWLEP 2009 by the Department applied to the achievement of the dwelling targets for Willoughby in the Plan. The dwelling targets are met within the Plan in a number of locations around Willoughby and around its centres including Chatswood CBD. The Plan does not need to compromise the jobs yield to achieve the dwelling targets set for Willoughby as is suggested by this Project Application.

The change in the development form proposed by this Project Application will mean that Council will not have available adequate development potential in its Plan to achieve the employment targets set for Chatswood CBD. Also the precedent that will be set by approval of this development will likely result in other sites seeking to use Part 3A to overturn the planning strategy for centre to gain the shorter term development return on housing.

Strategic government planning must establish the essential framework within which the industry operates to achieve the best use of resources and infrastructure provision in a City.

Regrettably the marketing analysis that is provided by a proponent is going to be a short term view and is not going to capture the wider long term costs and implications on the City of undermining the strategic direction. This is confirmed by the two market appraisals that have been provided in this Project Application that make no attempt to estimate the cost to Sydney of the loss of potential jobs in an established and well serviced CBD location like Chatswood nor does it consider the impact on the retail industry in Chatswood that relies to a significant extent on that existing and future work force expenditure in its shops and restaurants and providing business services. (See also Council's letter to the Department in October, 2009)

In summary the Project Application is contrary to the well researched and exhibited Draft LEP 2009 that has been many years in preparation. It will set a precedent for other sites to ignore properly developed well founded strategic planning, zoning controls and development standards as well as resulting in WLEP 2009 being unable to meet its employment targets for Chatswood CBD. This will have an adverse impact on the viability of Chatswood as a major centre.

Should this Project Application be approved contrary to the recommendation of the Local Planning Authority, Willoughby Council will seek an urgent review by the State Government of the Inner North Sub Regional Strategy and the Chatswood CBD Strategy. There will need to be a strategic reappraisal of the role of centres such as Chatswood in a reviewed Metro Strategy. If the approval proceeds then the role of Chatswood into the future as an employment centre will be irrevocably undermined. The State Government has made large investment in transport infrastructure in Chatswood that will be likely be serving only a dormitory/retail area.

7.0 The Development Design

The proposed architectural form is, as can be expected, a function of the buildings changed purpose. The reduced floor plate size means that the building will no longer span over the rail corridor that was originally providing active shop frontage along the western side of the plaza facing Cambridge Lane. This space is now proposed to be a "plaza". The intention of the Pacific Place planning and the DCP was to create a secondary active plaza space along the pedestrian desire line from the Zenith and other offices through the site via the existing tunnel under the rail line to the bus interchange and shopping precinct of Chatswood. The two small shops under The Cambridge building were part of that proposed outcome. These will become permanently isolated shops as a result of the Project Application. An active plaza space at the corner of Help Street and Cambridge Lane will no longer be achievable.

The changed design also means that the intended location of a café/restaurant at the top of the rail enclosure structure with outside seating facing north to activate the location and

provide passive surveillance will also not be achieved. This will compromise the potential public use of the elevated area of public precinct.

While the public precinct on Railway Street is retained in the proposal, it will suffer from the lack of commercial activity, employee movements and business activity around it to keep it vibrant during the day. The design of the ground floor of the proposed building potentially extends and lengthens the effective blank wall “dead” frontage along the walkway through the site and under the rail line even if the glazing to the resident’s pool area is clear which is unlikely. The approved proposal located a café in that part of the ground floor that overlooked the entry to the tunnel and included outside seating. Again the passive surveillance is compromised in the new proposal with no active uses adequately interacting with the landscaped public precinct area.

The building as a tall slim tower of nearly comparable height to the Chatswood Transport Interchange towers seeks to rely on those towers to justify an increased height. The Project Application refers to some urban design principle that requires an arc in heights be formed across Chatswood centre. It notes that the heart is the peak of the arc and that the proposal is the “missing link” in the arc. However, this site is seeking a height comparable to the peak and it is removed in location from the “peak”. It is not known the basis of the philosophy and nor is there any public policy document from either Council or Government that supports these arguments used in justification. This is especially relevant as the skyline form of Chatswood varies greatly depending from which vantage point it is viewed from. The alleged “arc” if it is a desired outcome would only be viewed from a few locations.

The mass of the building and height is proposed to be articulated by angled faces, staggering of solid vertical elements and openings and three floor plate changes. This goes some way to breaking up the mass and bulk of the building but does not achieve a podium transition and an active space in under-croft void that can appropriately relate to a pedestrian.

However, the wind management issues require the use of screens on balconies to manage adverse wind impacts. Council in its approvals of the three residential units on the Pacific Place site was careful to manage the provision of screens to balconies to the west facing façades or where privacy impacts were an issue from the communal open space or because of building separation issues. The screens are located very deliberately as the random nature of screens detracts from the quality of the architectural form of a building.

The proposed landscape scheme is considered clever and interesting but will be expensive to maintain noting its location above the basement car parking. The design is similar in concept to the original design of the Master Plan proposal for the Pacific Place site which was subsequently modified by Mirvac to a lesser outcome in its style and use of levels to create more intimate spaces likely because of cost. The landscape design does not acknowledge the original concept for development of the site that a restaurant in the base of the Epica building (existing) would be able to overlook the space and potentially have outside seating for that purpose. The extent of open space has increased in area compared to the approved scheme because of the reduced floor plate required by the changed development but there is nothing gained in terms of recreational potential by the increased area for the reasons noted above. Although originally the proponent sought to hand over the space to Council for ongoing maintenance, Council will not take responsibility for the precinct space in stratum over/under other structures, particularly due to the unforeseen implications of the structural quality of the slabs and water-proofing. Also the landscaped area was intended to be a setting for a commercial office building with cafes at its base and the developer received floor space bonus accordingly. See later discussion on “safer by design”.

A final point is that the proposed external finishes for the proposed development is for a painted masonry. The long term durability of painted surfaces in a building of the size in this Project Application is unacceptable. Use of low maintenance durable finishes should be mandatory in large developments as proposed.

In summary, the proposed development in its proposed changed architectural form and finish is an inferior product to the approved commercial office development on the site. It fails to provide an acceptable urban design solution for the pedestrian areas, it does not contribute to the active ground plane in this commercial precinct and the value of the upper public space on the top of the Railway Enclosure is undermined by the absence of the active use that was provided in the commercial scheme.

8.0 Unacceptable Impacts of the Proposed Development

The Council would like to make the following submissions in respect to aspects of the development despite Councils objection to the residential development on the site in principle. The development has several significant design flaws that represent grounds for refusal in their own right.

8.1 Overshadowing

The Project Application analyses the shadowing impacts and considers impacts on Chatswood Mall. The reality is that the shadowing impacts on the public domain are significantly increased in a number of locations including the Mall. The Project Application considers that during the peak usage times of the lunch time hours the building will cast the same or less shadow or shall fall within existing shadows cast by other buildings. This is not accepted. The proposed building height lengthens the shadow significantly and, therefore, increases the height of the impact and the awareness of shadowing. Depending on the direction of the shadowing impact it makes negligible change to the width of the shadow compared with the approved scheme although the floor plate is reduced in size.

It is noted that the height controls for the subject site and the Regency Towers at 2 Help Street had regard to the shadowing impacts on Chatswood Mall and were set based on that consideration and analysis. An increase in height by 52 metres in the proposal will have a negative impact on shadowing in the public domain of Chatswood and on Chatswood Mall.

In summary the shadowing impacts on the public domain have not been adequately addressed and Council is concerned that the shadowing from the additional height will adversely impact the public domain of Chatswood.

8.2 Privacy

The Project Application relies on increased set backs resulting from the reduced floor plate sizes and hence the building distance separations to make a claim that the building “is not expected to have adverse impacts on the visual privacy of neighbouring residents”. This is not accepted. The argument completely fails to acknowledge that the approved scheme as a commercial building that would largely be vacant during the evenings and at weekends when surrounding residents are more sensitive to privacy and overlooking impacts during their main recreational hours. The privacy impacts have not been adequately considered.

In summary the privacy impacts have inadequately considered. The privacy impacts have failed to consider the change in impacts from commercial office uses in the

building where the majority of the workers leave in the evenings and are not working at the weekends.

8.3 Views

The existing residents in Epica, Cambridge and The Regency (2 Help Street) have made purchase decisions for their units based on publicly available statutory and policy documents. While Council cannot make a detailed analysis of view loss, Council does note that the view analysis submitted with the Project Application passes judgement on what is “significant” view access and what is not before making the analysis. If there are objections from surrounding residents to view loss, those residents are expressing what their judgement is of what is significant. Those judgements are a legitimate basis for assessing view impact even if they accord with the claims and judgements in the Project Application.

The proposal is likely to have significant view impacts for residents of the adjoining residential towers based on their expectation of the views that would be retained with the approved commercial office building.

8.4 Active Uses/Safer by Design

The change from a commercial office building to a residential building has changed the dynamics of the Master Plan for the Pacific Place where safer by design principles of passive surveillance had been well considered in the site layout. The proposed location of through site links and public precinct areas that considered pedestrian desire lines of surrounding offices and residential and the commercial office building workers drove the location of active retail and restaurant uses. The loss of these active and interactive uses around and overlooking the plaza spaces will have unacceptable consequences on safety. The consequence is likely to be claims from a future Owners Corporation to deny public access and the right of the public to use of the space for recreation during lunch time hours and after work. The intention for restaurants and activity around the public spaces is not going to be realised. This is a loss to the local area as well as to other residents in Pacific Place. It will be a tragedy of the changed direction in development form if this Project Application is approved.

The public spaces (and resident communal spaces) elsewhere on the Pacific Place site are within the shared neighbourhood land of a Community Scheme (Lot 1) and the management and maintenance of those spaces is shared by the four developments (Cambridge, B2E, Altura and Epica). The public spaces include the north-south bicycle pathways and walkways through the development. The subject site is a separate allotment and is not part of the Community Scheme reflecting the intention for a commercial office building. The opportunity for shared responsibility and management by a neighbourhood association do not exist for the subject site.

The meetings with other residents reported in the Project Application (Appendix LL) correctly raised the security concerns without being aware of what was originally intended for the site in the approved development (see later further discussion on “safe by design”).

The residents also commented that an increase in retail will increase the amount of foot traffic diminishing the amenity of residents. The increase in the amount of foot traffic is the intention and is to maintain a dynamic and active CBD. It is an ironic concern when the residents have chosen to live in a CBD location. The residents also commented that existing retail and business premises within the site are not fully utilised. Council Officers are aware that some commercial tenants in the Altura and Epica buildings have struggled with the Residential Owners Corporations when the Corporations seek to restrict the type and operation of businesses on the site and their ability to erect identification signage.

In summary the change in the proposed development form has made minimal attempt to activate the public precinct landscaped areas that in the approved commercial office development provided strategic locating of actives uses interfacing with the open space areas at street level and at the top of the rail enclosure structure. The development should be redesigned to provide for additional active uses around the ground floor including retail, cafes and restaurants.

8.5 Wind Management

The wind report notes that there has been no actual wind tunnel test carried out for the proposed development and the report relies on the previous report and the expertise of the consultants although wind tunnel testing is proposed. The report comments that the public domain around the development should be suitable for the intended uses. Chatswood experiences an adverse wind environment because of its location along a ridge. Landscaping wind treatments on the Epica site (as amended) have not been fully implemented with a large evergreen tree not being provided outside the restaurant to manage downwash off the building impacting the public precinct area at that location. The landscape plan accompanying this Project Application has not been developed sufficiently to know whether the environment of the public spaces will be suitable for sitting and relaxing which is their purpose. Further the report requires use of screens on balconies to protect balcony usage but nevertheless comments that the high-rise balconies should not use lightweight furniture (unless securely attached) or have loose covers or glass tops.

In regard to the corner of Help Street and Railway Street, the approved commercial building was required to provide an awning to manage downwash off the building. While it is noted that a podium is proposed, the width of the podium is minimal at that corner raising doubt that it would be adequate to deal with the wind impacts.

In summary the wind management issues and impacts have not been adequately assessed and addressed and there are consequences in the quality of the architectural presentation for reliance on screens. There is an inadequate transition of the podium element to manage wind impacts off the building.

8.6 Adaptable Units for People with Disabilities

The Project Application proposes to provide only 10% of units capable of adaptation for people with disabilities. Council's DCP requires 50% be capable of adaptation in high-rise buildings served by lifts. The intent of Council's policy is to permit opportunities for greater ageing in place in the CBD for seniors as well as people with disabilities. This is not excessive or unreasonable as the Project Application attempts to argue based on the lesser standards of some other Councils. The provision requires structural design of units to allow adaptation in the future and this mainly involves:

- Plumbing positions in adjacent bathrooms that allows for two bathrooms to become one in a post-adaptation situation.
- Allowing for a 450mm off-set at doorways where doorways are in structural walls.
- Hallway widths where side walls are structural walls.

The requirement is not considered onerous or unreasonable. Other developments in Chatswood have complied with the standards of WDCP and Council sees no justification for this proposal not to also comply. This comment is made without prejudice noting that Council does not support a residential development on the site as noted elsewhere in this submission.

In summary any proposal for high-rise residential development must comply with the provision of WDCP 2006 for provision of adaptable units.

8.7 Traffic Generation/Car Parking

The car parking provision on the site is proposed to increase from the approved 219 spaces to 395 spaces. The proposal is now for 304 apartments. The provision of 219 spaces for the commercial building is less than the maximum required by the DCP for the commercial office building and reflects a rate of approximately 1 space per 105m². Since adoption of the site specific controls that established the maximum car parking standard on the Pacific Place site Council has reviewed its car parking standards with a view to reducing car parking requirements in Chatswood CBD and to promote the use of public transport for the journey to work.

The site immediately adjoins a major bus –rail interchange facility. The changed rates were adopted and came into force in 2003 with a rate of 1 space per 200m² for the subject site as it only has access from Railway Street and 1 space 110m² generally in Chatswood 3(c2) zone. The variation was, therefore, supported at the time with less car spaces and the traffic generation was reduced from the site from that which was originally envisaged.

The Project Application proposes to increase the car parking on the site to 395 spaces and claims that the traffic generation will be comparable to the approved development. From the subdivision plans it is possible to work out (the Report is silent on this point) that the proposed car spaces in the 7 basement levels are made up of 377 residential spaces and 19 non-residential spaces (commercial/retail spaces). It is unknown how many residential visitor spaces are proposed within the residential allocation but it is noted that there are another 18 spaces on Basement Level 1 in addition to the 19 non-residential spaces.

Visitor parking in Altura and Epica has been approved and provided at a lesser rate than the DCP of 1 per 5 units that accords with the RTA Guidelines for subregional centres based on Assuming that the residential visitor rate was applied as in Altura and Epica, this would mean the provision of 60 spaces for visitor parking that would be in common property of the residential strata scheme. This is only a guess as there is no commitment in the application to any visitor car parking provision which is a serious omission in the Project Application. The maximum residential allocation of car space is 329 spaces in WDCP. If there are only 18 available spaces for visitor parking, then the residential units are over provided with car spaces.

The project is of sufficient size to also warrant the operation of a car share arrangement for residents. The scheme could operate in the common/visitor parking area and could be made available to residents in the Altura, Epica, Cambridge and B2E buildings. Four spaces should be set aside and a condition imposed requiring the Owners Corporation to manage and operate (with a commercial operator) a car share scheme on site.

In addition it must be noted that in the applications for the approvals of Epica and Altura, based on the proposed intention for a commercial building on the subject site, it was argued by Mirvac to increase the provision of residential car spaces in each of those buildings by “transferring” spaces from the commercial building onto those sites. Council approved the proposal as it was consistent with Council’s commitment to promote use of public transport for the journey to work. As a result 15 spaces were “transferred” to Altura and 20 spaces to Epica. The end result of this discussion is that it is not possible to make a claim that the traffic generation from the site is consistent with that analysed for Pacific Place and this site especially when Council has moved to reduce car parking supply in Chatswood CBD. The traffic generation for the approved commercial building with 219 spaces is in the order of 66 vtpm based on traffic generation rates from studies commissioned by the City of Sydney that indicated rates per space of between 0.24 to 0.30 vtpm per space. The higher rate has been

assumed for Chatswood. The proposed development is assessed to generate in the order of 95 vtpm compared with the 66vtpm of the approved development.

Furthermore the traffic analysis does not adequately consider the other peak hours for traffic in and around Chatswood. On weekends especially from 10am to 3pm on Saturdays, Sundays and Thursday evenings, Chatswood experiences heavy congestion on the road network which has not been adequately considered.

In summary the increase in car parking and change in the development form proposed will increase traffic generation from the site compared with the approved development. If any approval is granted contrary to Council's submission then a maximum parking supply of 1 space per unit, 1 per 7 units for visitors and the remainder set aside for the car share scheme (4 spaces) and non residential uses including provision for additional active uses as recommended above.

8.8 Access/Loading/Waste Handling

The access to the site is from Railway Street from a shared driveway with Epica. The driveway has a restricted height sign (bar) of 3.5 metres. This is notwithstanding the conditions of consent for Epica that required a minimum clearance of 3.6 metres and a condition that all deliveries and waste handling occur on site in the loading dock. In addition the traffic report, waste handling report for Epica and plans accompanying indicated that the clearance would be more than 3.6 metres. The shared driveway access has potentially not been built in accordance with the approved plans and the conditions of consent. As a result as noted by the residents in the Elton Consulting Report (Appendix LL) that the loading dock height is too low to allow entry by removalist trucks such that they unload in Railway Street in contravention of the conditions of consent.

However, in the case of Epica, alterations were carried out to the roller shutter and entry to increase the height to 3.8 metres to allow entry by Council's waste collection contractor for residential waste collection from the 221 residential units in Epica. It has recently been found out that the height bar across the entry to Epica indicating 3.5m was not changed by the Owners Corporation so it would stop trucks from using the loading dock. Council will be taking enforcement action for deliveries occurring in Railway Street contrary to the conditions of consent to rectify the situation for Epica.

For the proposed building the waste management report and delivery design acknowledges that the clearance is 3.5 metres. This is adequate for the waste handling and deliveries including furniture deliveries required for a large building as proposed. The minimum should be at least 3.8 metres with 4.2 metres within the loading dock bays. Additional height is required on sloping driveways to allow for the angle of a manoeuvring truck.

The inadequate height may indicate why the waste management plan proposes 3:1 compaction and use of 98x240 litre wheelie bins for a development of this size. As Council's waste collection vehicles will not be able to access the collection areas the large number of bins will have to be moved to the street for collection. This is unacceptable for a development this size as it will be time consuming and noisy for waste trucks to empty the number of bins required from the street and Council only provides the service for 240 litre wheelie bins once a week (not twice a week as indicated in the report). Also Council has a compaction ratio of a maximum of 2:1 noting that a greater compaction ratio will cause waste to block in the bins and/or the bins to split. Council requires that 1.5 cubic metre bulk bins be used in a development of the scale proposed.

In summary if this Project Application is to be contemplated for approval the access arrangements must be redesigned (and rebuilt where required) to provide for a

minimum clearance of 3.8 metres and to 4. 2 metres on ramps such that all loading including large rigid vehicles for removalist/furniture trucks and waste handling can occur on site. The waste handling shall provide for 1.5 cubic metre bulk bins for general waste with a compaction ratio of 2:1 and 240 litre wheelie bins for recyclables.

8.9 Subdivision Plans

The draft subdivision plan and Building Management Statement is too generic to be a basis for approval especially on a complex site such as the subject site. The shared facilities have not been developed even to a basic level for consideration as part of the Project Application. The stormwater management design is insufficiently developed for the stormwater retention and detention systems to be identified on the plans noting that they require positive covenants and restrictions on use to ensure future maintenance/ clearing and safe access.

The draft strata subdivision plan does not provide for Council's standard requirements that the car spaces within the building are part of the units to which they are attached (other than the visitor spaces which must be held in common property). None of the car spaces have been allocated and as previously noted the allocation for residential visitors is unknown. There is no means of considering the allocation of adaptable spaces for people with disabilities to adaptable units in the development. There is no means of knowing whether there is a car space for visitors who may have disabilities.

Further Council requires, as has been established in the Master Plan approval for the Pacific Place site, a restriction on use of the car spaces over the title of the land is required such that the dedicated car spaces can only be used by occupants of the building and cannot be leased or used by others. The exception to this is the car share scheme spaces.

In summary the subdivision plans are incomplete and are not adequate to be the basis of a subdivision approval.

8.10 Developer Contributions and Section 94

The Project Application suggests that the s94 contributions be offset by \$1.1 million out of the total of \$3,861,587.22 for the setting up of a sinking fund for ongoing maintenance and up keep of the open space on the site! Notwithstanding the illegality of the use of s94 Contributions for recurrent expenditure and maintenance, the precinct area directly benefits the amenity of the proposed development, is the left over setback space between the towers and railway and so is unsuitable for development, the precinct was identified in the original site masterplan and the development generates demand for public amenities and services that need to be funded from the total nominated contribution. Council objects strongly to any such proposal to offset the contribution noting that the proposed development will also put pressure on the community facilities and recreation facilities provided by and managed by Council. Council is dismayed by the arrogance of the proponents that the offset request will be withdrawn if Council accepts responsibility for the space as dedicated open space. It is unacceptable for Council to take responsibility for land that would become Community Land if dedicated in the constrained and burdened circumstances of the subject site. This is especially in the context of the compromised outcomes for that open space without an active frontage and poor flexibility of use of the space. The space sits above a car park and will need to be structurally designed and waterproofed to ensure that the surface area is stable over the long term. Council would not accept such a liability.

The landscaped space on the site ironically is required by the development to provide view corridors and amenity to the other predominantly residential buildings on the site. While it may have been provided to seek bonus floor space under the Master Plan approval it is now a necessity of the development of the site and its layout.

In summary the proposal to offset s94 contribution by \$1.1 million should be rejected. It is unacceptable in the context of the increased residential population proposed and the importance of the open space to the amenity and development outcomes for the Pacific Place site. Further, to seek to put pressure on Council to take responsibility for the encumbered open space is unacceptable. A contribution of \$3,861,587.22 (indexed to CPI) and paid prior to release of any construction certificate should be applied if any approval is granted.

9.0 CONCLUSION

This submission has presented a case why this application under part 3A should be rejected.

There is a current approval that can be activated. The current downturn in the commercial office market that is affecting all business districts across the metropolitan area will mean that the development of the site will be delayed.

A residential development on the site as proposed will mean the loss of some 1400 jobs from Chatswood forever.

Council's enquiries have identified potential tenants for pre-commitment to the commercial office development and Council is prepared to work with the proponents to improve the economic feasibility of a commercial office project on the site. If this project is approved then the future strategy for Chatswood as well as other commercial centres under the Metropolitan Strategy will need to be revised to remove employment targets in favour of residential outcomes.

Council urges the Department to recommend to the Minister that the Major Project application for 7 Railway Street, Chatswood be refused.