

APPENDIX A ENVIRONMENTAL ASSESSMENT

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3429

APPENDIX B SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3429

APPENDIX C PROPONENT'S RESPONSE TO SUBMISSIONS / PREFERRED PROJECT REPORT

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3429

APPENDIX D CONSIDERATION OF STATUTORY REQUIREMENTS

Ecologically Sustainable Development

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);*
- (b) *if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);*
- (c) *the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);*
- (d) *the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and*
- (e) *improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).*

The Department has considered the proposed development in relation to the ESD principles and has made the following assessment:

- **Integration** - The proposal will have the positive economic effect as it represents the development of a site with the Chatswood CBD which has been vacant for many years. The proposed development with residential and commercial uses may encourage further investment and redevelopment of sites in Chatswood. The contribution to landscaped space within the Chatswood CBD will be a key social benefit for current and future residents and workers. The proposal will have positive environmental effects in terms of locating housing and employment opportunities close to public transport and providing reduced parking to encourage sustainable transport options. The environmental impacts of the proposal can be appropriately mitigated as discussed in this report and, on balance, it is considered that the overall effect of the proposal will be positive.
- **Precautionary Principle** – The application is supported by technical and environmental reports which conclude that the proposal's impacts can be successfully mitigated. No irreversible or serious environmental impacts have been identified. The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats. Mitigation measures are outlined in the proponent's Statement of Commitments and/or the recommended conditions of approval. No significant climate change risks are identified as a result of this proposal.
- **Inter-Generational Principle** – The site's development for residential and commercial use, incorporating ecologically sustainable design principles and implementation of environmental management practices to be employed during construction of the new development, will ensure that the environment is protected for future generations. The location of new residential development and commercial floor space within an established CBD and with excellent access to public transport will enable residents and workers to make sustainable travel choices which will protect the environment for future generations.
- **Biodiversity Principle** – There is no threat of serious or irreversible environmental damage as a result of the proposal. The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats.
- **Valuation Principle** – The valuation principle is more appropriately applied to strategic planning decisions and not at the scale of an application for a single building. The principle is not considered to be relevant to this particular application.

Section 75I(2) of the Act/ Clause 8B of Regulations

Section 75I(2) of the Environmental Planning and Assessment Act 1979 and clause 8B of the Environmental Planning and Assessment Regulation 2000 provides that the Director general's Report is to address a number of requirements. These matters and the Department's response are set out below:

Section 75I(2) criteria	Response
Copy of the proponent's environmental assessment and any preferred project report	The Proponent's EA and response to submissions (PPR) are located at Appendices A and C to this report.
Any advice provided by public authorities on the project	All advice provided by public authorities on the project for the Minister's consideration is set out in Section 4.2 of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project;	No statutory panel was required or convened in respect of this project.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially governs the carrying out of the project;	Each relevant SEPP that substantially governs the carrying out of the project is identified below, including an assessment of proposal against the relevant provisions of the SEPP.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of the development against relevant Environmental Planning Instruments is provided below.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate	The environmental assessment of the project application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	It is considered that the proposal adequately complies with the DGRs and the Statement of Compliance appears in Section 3.6 of this report.
Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in Section 5 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in Sections 5 and 6 of this report.
The suitability of the site for the project	The site is a vacant parcel of land within the centre of Chatswood CBD, with excellent access to transport and services. The site has been vacant for some time, as commercial development has been unviable. The proposed mixed use building would see the provision of 4,876m ² of commercial floor space, 295 residential units, a through site link and a publicly accessible open space precinct. The site is suitable for the proposed mixed use building
Copies of submissions received by the	Copies of submissions are available on the

Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	Department's website. A summary of the issues raised in the submissions is provided in Section 4 of this report and the Proponent's response appears at in Appendix C .
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State Environmental Planning Policy (Major Development) 2005

The proposal is a major project under Part 3A of the EP&A Act because it is development for the purpose of residential, commercial and retail development under clause 13 of Schedule 1 of *State Environmental Planning Policy (Major Development) 2005*, with a CIV over \$100 million. Therefore the Minister for Planning is the approval authority.

State Environmental Planning Policy (Infrastructure) (ISEPP)

The proposal comprises more than 300 residential apartments and is therefore a traffic generating development. Clause 104 of the above mentioned ISEPP requires the Department refer the subject application to the RTA as part of the consultation process. Refer to **Section 4.2** of this report for RTA's comments and the Departments response. The Department will also notify the RTA of its determination of the subject proposal.

State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)

A Waste Classification Assessment was undertaken by Douglas Partners in respect of the proposed development. The report concludes that the risk of contamination at the site is low, in light of the proposed excavation works for the basement which will require all filling materials to be disposed off-site. Laboratory testing of soil samples revealed low (or non-detectable) concentrations of contaminants. Douglas Partners classified the bulk of filling materials on site, including buried concrete slabs and buried asphaltic concrete, as General Solid Waste (non-putrescible). Natural soil materials encountered on the site are considered by Douglas Partners to be Virgin Excavated Natural Material (VENM). Based on the findings of the Waste Classification Assessment it is considered that the site is suitable for the proposed development. Conditions should be imposed on any approval requiring validation prior to occupation of the building.

State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings (SEPP 65)

SEPP 65 seeks to improve the design quality of residential flat development through the application of a series of 10 design principles. An assessment against these principles is provided below.

The EA confirms the development has been designed having respect to the design principles of SEPP 65.

Key Principles of SEPP 65	Department Response
Principle 1: Context	The proposal involves a 5 storey podium with office uses with a residential tower above. The podium element responds to the existing and desired future character of the locality, providing a solid edge to the streetscape and public domain and providing office floor space within the Commercial core of Chatswood. The residential tower above responds to the established residential character on the Pacific Place site. The provision of publicly accessible open space and a through site link will make a positive contribution to the locality.

Principle 2: Scale	<p>It is considered that the proposal relates to the scale of surrounding buildings in terms of bulk and height:</p> <ul style="list-style-type: none"> • The small building footprint allows the building to sit in a landscaped setting. • The articulation, strong vertical and horizontal elements, and variation in window/balcony location helps break up the mass of the tower. • The height of the building responds to the existing transition in heights from the north of Chatswood up to the approved Chatswood Transport Interchange towers in the centre of the CBD.
Principle 3: Built Form	<p>The proposal satisfies the built form principle in terms of siting, building alignment and podium design. The siting of the proposed building allows for generous building separation and views and vistas to be maintained. The building alignment with 5 storey podium defines the street and public domain. The podium height is approximately 5 metres above the height of the RES which goes some way to reducing the visual impact of the RES.</p>
Principle 4: Density	<p>The provision of 295 apartments on the site is consistent with local and regional planning strategies which seek to locate housing within centres with access to transport, jobs and services.</p>
Principle 5: Resource, Energy and Water Efficiency	<p>The location and orientation of the building envelope allows units to maximise solar access and natural ventilation opportunities to reduce reliance on artificial heating and cooling. It is also proposed to provide a combination of gas and solar hot water heating and stormwater harvesting.</p>
Principle 6: Landscape	<p>The proposal includes a combination of hard and soft landscaping within a publicly accessible precinct on the western side of the RES and communal private open space on top of the RES. The proposed landscaping makes a positive contribution to the locality and optimises functionality, safety and privacy.</p>
Principle 7: Amenity	<p>The proposal seeks to optimise amenity in terms of solar access, ventilation, views and outlook and access to private and public open space. The proposal would have minimal impacts on the amenity of adjoining properties in relation to solar access, views, privacy and noise.</p>
Principle 8: Safety and Security	<p>The Proponent has considered Crime Prevention Through Environmental Design Principles in the design of the project. The proposal provides activation of the street and publicly accessible precinct and private open space areas on the site. The provision of a through site links, retail and commercial ground floor uses, secure residential lobby areas, well designed pedestrian friendly environments and landscaping improves the safety and security of the proposal.</p>
Principle 9: Social Dimensions and Housing Affordability	<p>The floor layout shows a mix of apartment types which would encourage a diverse social mix within the area and to sustain a vibrant community. Affordable housing is not proposed as part of this development however the provision of 1 and 2 bedroom units would provide more affordable housing options. 67 of the 295 apartments are adaptable dwellings allowing for aging in place.</p>
Principle 10: Aesthetics	<p>The proposed materials include rendered masonry, glazing (a combination of performance glass and clear) and aluminum. The façade of the building is articulated and provided with staggered window openings to provide a varied pattern between solid and void and create visual interest.</p>

Residential Flat Design Code (the Code)

The Residential Flat Design Code is closely linked to the principles of SEPP 65. The Code sets out a number of “rules of thumb” which detail prescriptive standards for residential flat development that would ensure the development complies with the intent of the Code.

A detailed assessment has been undertaken of the project.

Building Envelopes

The Code states a building envelope is not a building but a three dimensional zone that limits the extent of a building in any direction. It defines the extent of the overall building zone in plan and section within which a future building can be located. The length, depth and height of building envelopes are defined in metres and should be at least 20-25% greater than their achievable floor area to allow for building articulation. The primary controls to describe and support building envelopes are:

- Building height
- Building depth
- Building separation
- Street setbacks
- Side and rear setbacks
- Floor space.

Primary Development Controls

• Building Height

The Code provides guidelines for determining an appropriate building height: to ensure the development responds to the desired scale and character of the street and local area and to allow reasonable daylight access to all developments and the public domain.

The Code recommends height controls be tested against existing FSR controls. Heights should also be tested against the number of storeys and minimum ceiling heights required for the desired building use.

Building height has been discussed in **Section 5.2** of this report. The height of the proposed building is considered acceptable due to the slim tower footprint and generous separation between neighbouring buildings. Ceiling heights are discussed below and comply.

• Building Depth

The Code recommends building depths be no greater than 18 metres (glass line to glass line). Should building depths be more than 18 metres, satisfactory daylight and natural ventilation are to be achieved.

Although the proposal provides an overall building depth of approximately 25 metres, the tower has been designed to maximise daylight and natural ventilation to the units through the provision of a central core which is double loaded to take advantage of east and west orientations. Furthermore all living areas and master bedroom adjoin windows and balconies allowing natural light and ventilation.

Despite the non-compliance, it is considered that units will be provided with an acceptable level of residential amenity.

• Building Separation

The Code provides the following building separation requirements in order to maximise visual privacy between residential flat buildings and adjoining residences:

Buildings up to 4 storeys

- 12 metres is required between habitable rooms and balconies,
- 9 metres between habitable rooms/balconies and non-habitable rooms and
- 6 metres between non-habitable rooms.

Buildings between 5 to 8 storeys

- 18 metres is required between habitable rooms and balconies,
- 13 metres between habitable rooms/balconies and non-habitable rooms and
- 9 metres between non-habitable rooms.

Buildings of 9 storeys and above

- 24 metres is required between habitable rooms and balconies,
- 18 metres between habitable rooms/balconies and non-habitable rooms and
- 12 metres between non-habitable rooms.

The nearest residential buildings to the proposal are Cambridge (to the north east), Epica (to the north) and Regency Tower A (to the east). Neighbouring buildings to the south and west are commercial buildings.

The proposal provides a minimum of 23 metres between the edge of the balconies of the north-eastern corner of the proposed tower and the south-western corner of the 'Cambridge' building, which is 1 metre less than the minimum separation under the Code. The separation, however, is greater than the commercial building approved by Council, which was only 19 metres. The building is off-set from the Cambridge building and the provision of moveable screens to the balconies for privacy and wind mitigation purposes will provide additional privacy.

Building separation between the proposed building and Epica and Regency Tower A is 57m and 60m respectively, exceeding the minimum requirements under the Code.

• **Setbacks (Street, Side and Rear)**

The Code requires setbacks to relate to the area's street hierarchy and desired streetscape character. The proposed 5 storey podium is built to the street alignment, however the ground floor is recessed between 2-5m from the property boundary to create an active colonnade around the perimeter of the building. The tower has setbacks of between 0-5m from the south and west frontages.

The proposed building has a zero setback to the RES from Ground level to Level 5. From Level 6 building partly overhangs the RES by up to 1.6m.

• **Floor Space Ratio (FSR)**

The Code aims to ensure development is in keeping with the optimum capacity for the site and the local area. The proposed floor space ratio of the development is 7.8:1, which falls within the proposed FSR for the site under the Draft Willoughby LEP 2009 of 10.5:1. The floor space ratio controls have been increased within the draft LEP to encourage large scale commercial development in the Chatswood commercial core. In this regard it is considered that the floor area/density of the proposal is consistent with the desired future character of the locality.

The density (dwelling yield) of the scheme is considered to be appropriate, taking into consideration layout and solar access issues and potential impacts on adjoining properties.

Site Configuration

- **Deep Soil Zones and Planting on Structures**

The Code advises that 25% of the open space area of the site should be a deep soil zone. The proposal is located above a basement car parking area and is therefore unable to comply with the rule of thumb. However, a substantial area of publicly accessible landscaped open space is provided to the north of the building, for the enjoyment of the residents, employees and the local community.

The Code sets minimum standards for planting on structures, including minimum soil depths, volumes and areas. The proposed landscaped areas on top of the basement car park and RES generally comply with the minimum requirements.. In this regard, all trees are provided with at least 1m deep soils and a number of higher raised beds are 1.2m in height allow medium trees to be planted on the RES and over the basement car park. Raised beds allow for soil depths a minimum of 0.4m mounding to 0.6m to allow for planting of shrubs.

- **Fences and Walls and Landscape Design**

A detailed landscape plan has been provided for the project which is considered acceptable in terms of providing additional landscaping for the site and open space areas for both public and private use. The Railway Enclosure Structure provides a physical barrier

- **Open Space (Communal and Private)**

The Code recommends 25-30% of the site is provided as communal open space for residents. Where this is unable to be achieved, the proposal must demonstrate that residential amenity is provided in the form of increased private open space and / or in a contribution to public open space. Each apartment at ground level or similar space on a structure (podium) is to be provided with 25m² of private open space.

The proposal involves the creation of a substantial amount of communal private open space on top of the RES (approx 1546m²) which represents 31% of the site area. The provision of communal open space complies with the Code.

- **Orientation**

The Code encourages proposals to optimise solar access to residential apartments within the development and adjacent development, contribute to the desired streetscape character, support landscaping and open space, protect amenity and improve the energy efficiency of buildings.

The Proponent has submitted shadow diagrams to demonstrate the development is capable of achieving adequate solar access within the development and maintain light to adjoining properties.

- **Stormwater Management**

The Code seeks to minimise the impact of residential flat development and associated infrastructure on the health and amenity of natural waterways, preserve existing and natural features including watercourses and wetlands by reducing the volume impact of stormwater by retaining it on site, optimising deep soil zones, protecting stormwater quality by providing sediment filters etc and considering using grey water for site irrigation.

A Stormwater Management Plan is submitted with the proposal which incorporates provision to capture stormwater from 100% of the roof area for re-use on site.

Site Amenity

- **Safety**

The Code states a formal crime risk assessment for all residential developments of more than 20 new dwellings should be conducted as a rule of thumb.

A formal risk assessment has not been undertaken however the proposal has been designed having regard to the principles of *Crime Prevention through Environmental Design* (CPTED) to maximise opportunities for safety and security through two way casual surveillance between open space areas and private dwellings, access control, territorial reinforcement and space management.

Particular concerns were raised regarding the accessibility of the land on top of the Railway Enclosure Structure (RES) for public use, and surveillance of the proposed pedestrian tunnel under the RES. The revised proposal as detailed in the PPR proposes to locate private communal open space on top of the RES and restrict public access. In addition, an additional commercial tenancy has been provided at the entry to the pedestrian tunnel replacing the previously proposed blank wall. In light of the amendments made to the proposal a high level of territorial reinforcement and safety and security is achievable in and around the building and open space areas. Further measures to improve safety within the tunnel will be required including lighting and CCTV.

- **Visual Privacy**

The Code recommends measures to maintain privacy between residents and refers to the building separation standards discussed above. The proposed separation distances generally meet the requirements of the Code. In addition, windows and balconies are offset and measures such as fixed privacy louvers, obscure glazed screening, planters on balconies and privacy screens can be incorporated to maintain privacy between units.

Site Access

- **Building Entry**

The Code provides guidelines for the siting and design of building entrances with the aim of creating a residential identity for the development, to orient the visitor and positively contribute to the streetscape and building design.

Separate entrances are provided for the residential and commercial components of the building which is separated from the vehicular entry. The separate entries are clearly identifiable and provide clear lines of transition between the street and proposed publicly accessible open spaces.

- **Parking**

Appropriate parking levels should be determined in relation to the development's proximity to public transport, shopping and recreational facilities, the density of development and the local area and the sites ability to accommodate car parking. Visitor parking should be limited and preference should be given to underground parking.

Given the site's accessibility to public transport, a reduced level of on-site car parking is considered appropriate.

- **Pedestrian Access**

The Code requires at least 20% of apartments have barrier free access. All apartments and commercial levels are accessible by lift through the residential lobbies and basement car parking areas. Lifts are accessible from through the lobbies from Railway and Help Streets. Access to the RES is accessible from the building or via a lift from Cambridge Street. All corridors and circulation spaces comply with Australian Standards and the Disability Discrimination Act, allowing a wheelchair to pass or turn.

- **Vehicle Access**

The Code seeks to ensure pedestrian safety is maintained by minimising potential pedestrian/vehicle conflicts by ensuring adequate separation distances between vehicular entries and street intersections, limiting the width of driveways to a maximum of 6 metres and locating vehicle entries away from pedestrian entries.

The proposed building will utilise an existing vehicular access. The use of an existing vehicular access is encouraged as it minimises vehicle and pedestrian conflicts along Railway Street and within the publicly accessible open space. The width of the existing driveway is 8 metres.

Building Configuration

- **Apartment Layout**

The Code recommends single aspect apartments be limited in depth to 8 metres from a window and that a kitchen should be no more than 8 metres from a window. Cross-over apartments over 15 metres deep should be 4 metres wide or greater to avoid deep narrow units. Minimum recommended unit sizes are:

- 1 bed cross through - 50m² / 1 bed single aspect - 63.4m²
- 2 bed corner – 80m² / 2 bed cross through - 89m² / 2 bed cross over - 90m² for 2 beds and
- 3 bed - 124m² for 3 beds

The Code also provides a guide for minimum apartment sizes that can contribute to housing affordability which are 50m² for 1 bed, 70m² for 2 beds and 95m² for 3 beds.

The apartment sizes within the proposed building meet and exceed the minimum apartment sizes in the Code, with 1 bedroom apartments having floor areas of between 50m²-60m², 2 bedroom apartments having floor areas of at least 80m² and 3 bedroom apartments having floor areas in excess of 120m².

Apartments have depths of between 6.5 and 10 metres (approx). Where apartments are greater than 8 metres in depth, the area of non-compliance typically contains bathroom / laundry areas. All living areas and bedrooms adjoin windows and balconies which receive adequate light and ventilation. It is considered that the non-compliance is minor and units will be provided with an acceptable level of residential amenity through the provision of full height glazing.

The back wall of the majority of kitchens is within 8.0m of a window, and where the kitchen is further from a window, it adjoins a living area with full height floor to ceiling glazing to maximize access to daylight.

- **Apartment Mix**

The Code advises that a mix of apartment types provides housing choice and supports equitable housing access. The proposal includes a range of apartment types - 24% of apartments contain 1 bedroom, 42% of apartments contain 2 bedrooms and 34% of the apartments contain 3 bedrooms. The Department does not raise concerns with the mix of apartments on the basis that the mix will offer apartments to a variety of potential occupants.

- **Balconies**

The Code recommends each unit have a primary balcony with a minimum depth of 2 metres. All primary balconies for apartments have a minimum depth of 2 metres.

- **Ceiling Heights**

The Code recommends minimum ceiling heights as follows:

- 3.3m – retail/commercial
- 2.7m for residential (habitable rooms)
- 2.4m for non-habitable rooms (min 2.25m)

2.7m floor to ceiling heights are provided for the residential portion of the building, and 3.3m floor to ceiling heights are provided for the retail/commercial floors.

- **Flexibility**

The Code encourages housing designs which meet the broadest range of occupants needs possible and encourage adaptive re-use by providing apartment layouts which accommodate the changing use of rooms and promote accessibility and adaptability.

The apartment layouts are open plan which allows some flexibility. 23% of apartments are designed as adaptable dwellings, capable of being converted to an accessible apartment.

- **Ground Floor Apartments**

Not applicable - As the proposed building is a mixed use building incorporating non-residential uses up to Level 5, all apartments are located above ground level.

- **Internal Circulation**

The Code recommends that the number of units accessed from a single core should be limited to 8. On levels 15-42, the proposal complies, providing 6, 7 or 8 apartments per level. However, levels 6-14 contain 10 units per level. On these levels, entries are generally offset and well separated. The Department does not raise concern with the minor non-compliance as the apartment entries from the corridor have been well placed.

- **Mixed Use**

The Code provides design principles for mixed use buildings to maintain residential amenity and compatibility between uses. The proposal involves retail uses on the ground floor, commercial uses (offices) up to Level 5, and residential apartments from Level 6-42. The uses are considered complimentary of one another in so much as the office uses will generally be unused in the evenings and weekends when residents are more sensitive to impacts. Separate residential and commercial lobbies are provided to provide a clear distinction and separation between the two uses. Retail shops on the ground floor of the development will benefit from patronage from both the office and residential uses and depending on the type of shop are likely to be a convenience for residents and workers.

- **Storage**

The Code requires that in addition to kitchen cupboards and bedroom wardrobes, accessible storage facilities are to be provided at the rate of 6m³ for studio and one-bedroom apartments, 8m³ for two-bedroom apartments and 10m³ for three plus bedroom apartments.

Storage areas are provided within each unit and further storage is provided with the basement level to provide for storage of larger items.

Building Amenity

- **Acoustic Privacy**

The Code seeks to ensure a high level of amenity is provided by protecting the privacy of residents within buildings both within apartments and private open spaces by arranging apartments to minimise noise transmission between apartments by appropriately grouping rooms to separate noisy areas from quieter areas and resolving conflicts of noise, outlook and views by using design measures including double glazing, operable screened balconies and courtyard walls.

Sufficient distances are maintained between units to minimise any noise conflicts and rooms are appropriately positioned to minimise internal noise transmission. Due to the site's location adjacent to the rail corridor, the Acoustic report submitted with the EA recommends requirements for glazing and insulation to ensure noise criteria for living and sleeping areas is met.

- **Daylight Access**

The Code recommends that 70% of apartments are to receive at least 2 hours of sunlight (in denser urban areas) to living spaces and private open spaces in midwinter between 9.00am and 3.00pm. The number of single aspect units with a southerly aspect (SW-SE) should be limited to no more than 10% of the total units proposed.

A minimum of 2 hours of sunlight is provided to living areas of 206 apartments (70%) in midwinter between 9.00am and 3.00pm. A minimum of 2 hour solar access is provided to 215 (73%) of balconies in midwinter between 9.00am and 3.00pm. Only 3% of apartments are single aspect and south-facing which achieves the requirements.

- **Natural Ventilation**

The Code recommends building depths to support natural ventilation typically ranging from 10-18 metres and recommends that 60% of units should be naturally cross ventilated and 25% of kitchens should have access to natural ventilation.

Of the 295 apartments proposed, only 147 (50%) of units are capable of being naturally cross ventilated. However based upon the wind conditions in the vicinity of the site, a further 57 westerly facing apartments with wider frontages and stepped facades (minimum 2 metres) may be capable of being naturally ventilated. On this basis, 69% of apartments will be naturally cross ventilated achieving compliance with the rule of thumb. The open plan design of the apartments means that all kitchens have adequate access to natural ventilation through a living room which adjoins a window/balcony. In addition, approximately 63% of kitchens are within 3-4m of a window.

Building Form

- **Awnings and Signage, Facades and Roof Design**

The Code encourages awnings to provide weather protection and provide contribute to the legibility of the development by locating awnings over building entries. Under awning lighting should be provided for safety. Any proposed signage should be integrated into the design of the development by responding to scale, proportions and architectural detailing and provide clear and legible way finding for residents and visitors. Facades should promote high architectural quality, define and enhance the public domain and desired street character and ensure building elements are integrated into the overall building form and design. Roof design should be incorporated into the overall façade and building composition.

All entrances to the building are covered by the level above providing weather protection. Entrances and common areas would be appropriately lit. No signage is proposed at this stage and further development approval would be sought where needed. The development presents active retail and commercial frontages to both Railway and Help Street at the ground floor, as well as separate residential and commercial lobbies. Various materials and finishes are incorporated into the design to articulate the façade and roof design and provide visual interest.

Building Performance

- **Energy Efficiency**

The Code seeks to reduce the need for mechanical heating and cooling, reduce a reliance on fossil fuels, minimise greenhouse gas emissions and support renewable energy by incorporating possible solar design techniques, improving the design of dwellings, providing for the future installation of photovoltaic panels, reducing reliance on artificial lighting and maximising the efficiency of household appliances.

The building has been designed to minimise energy use for heating and cooling. Passive design strategies including use of balcony screens, insulation for walls and ceilings are proposed. BASIX

certificates have been submitted for the building demonstrating the development meets the required target of 20% reduction in energy use.

- **Maintenance and Waste Management**

The Code provides better design guidelines to ensure long life and ease of maintenance for the development. Waste management plans are required to be submitted as part of the planning application.

Appropriately durable materials are proposed for construction. A waste management plan has been submitted.

- **Water Conservation**

The BASIX Assessment submitted with the proposal outlines measures to reduce mains consumption of potable water and urban stormwater runoff.

Measures incorporated into the proposal include a 50,000 Litre rainwater tank collecting stormwater from 100% of the roof area for re-use on site and 3 and 4 star rated water efficient appliances in all apartments. The use of native species in landscaping is proposed to minimise water use.

Overall, the proposed development is generally consistent with the objectives of the Code and recommended "Rules of Thumb". It is considered that the proposal will provide a high level of residential amenity within apartments and quality environment with the residents provided with communal areas and public open space for their enjoyment.

State Environmental Planning Policy Building Sustainability Index: BASIX 2004

SEPP BASIX encourages sustainable residential development across NSW by setting targets that measure the efficiency of buildings in relation to water and energy use and thermal comfort. SEPP BASIX requires the development to meet sustainability targets of a 20% reduction in energy use and a 40% reduction in potable water.

There has been a commitment to use the requirements of BASIX as a minimum requirement and BASIX certificates have been submitted indicating that each unit the building will satisfactorily meet the BASIX targets. The resulting BASIX scores for the building are:

- Energy – 20% reduction
- Water – 41-43% reduction
- Thermal Comfort – Pass

A condition is recommended that the proposal be carried out in accordance with the commitments of the certificates.

Sydney Regional Environmental Plan No. 5 (Chatswood Town Centre)

The provisions of Sydney Regional Environmental Plan No. 5 (Chatswood Town Centre) (SREP 5) apply to the site. As of 1 July 2009 all REPs are deemed to be State Environmental Planning Policies (SEPPs).

Of particular relevance to this project, SREP 5 aims to:

- (a) provide retail, commercial and residential floor space, while preserving the compactness of Chatswood.
- (b) Consolidate office development on the western side of the railway line, and retail development on the eastern side of the railway line.
- (c) Improve traffic flow and ensure pedestrian and vehicular accessibility.
- (d) Encourage the use of public transport.

- (e) Foster urban consolidation principles.
- (f) Encourage residential development which supports public transport use, retail and recreational facilities and contribute to the vitality of the centre.

The proposal is considered consistent with the aims of SREP 5 in that it involves residential and commercial uses within the centre of Chatswood, encouraging utilisation of existing public transport. The provision of a large publicly accessible area of open space and through site link will improve pedestrian linkages in the locality.

The site is zoned "3(c2) Business Commercial" under SREP 5. The specific objectives for the 3(c2) zone are to:

- (a) consolidate Chatswood's main office core;
- (b) accommodate service retail to cater for local office needs;
- (c) permit high density residential uses; and
- (d) provide balance between office parking supply and demand.

The proposal is considered consistent with the zone objectives which provide for high density residential uses in the zone.

Residential Flat Buildings and commercial premises are permitted with development consent in the 3(c2) zone. Limited retailing, including bakeries, chemists, confectionery/milk bar, delicatessen, take-away food shop, sandwich shop, newsagents and the like are permitted pursuant to Schedule 3 of the SREP. The proposed uses are permissible in the zone.

The SREP contains controls specific to the Chatswood Town Centre, including controls which seek to control height, floor space and land uses. The proposed development does not comply with the height or floor space ratio controls set out in SREP 5. The issue of height is analysed in detail in **Section 5.2** of this report.

In relation to floor space, SREP 5 provides a base floor space ratio FSR of 4.0:1 of which up to 3:1 may be residential GFA. The SREP also allows a bonus FSR of 1.0:1 if the proposal involves the creation of a public precinct. The proposed FSR of 7.8:1 of which, 6.8:1 is residential floor space. The FSR does not comply with the SREP control.

The non-compliance to the overall FSR is considered acceptable in the context of the Draft LEP controls which propose to increase the FSR for the site to 10.5:1. The Department considers that the FSR control contained within the draft WLEP 2009 is reasonable in an urban context within the core of a CBD. The density of 10.5:1 is in line with strategic planning objectives including increasing density within identified centres close to public transport, as compared to SREP 5 which is a dated planning instrument, gazetted in 1983. The proposed FSR of 7.8:1 is therefore considered to be acceptable.

The intent of the maximum residential FSR is to limit the amount of residential development over the site to assist in consolidating the office core, while allowing for high density residential uses. The residential FSR for the proposal is 6.8:1, and the overall residential FSR over the whole 3(c2) zone (including Epica and Altura residential buildings) is approximately 5.17:1. The proposal therefore results in an overall residential floor area in the 3(c2) zone approximately 1.75 times the permissible GFA. It is considered that the site can accommodate the proposed additional residential GFA with minimal impacts on residential amenity. These issues have been canvassed in **Section 5.2.3** and on balance the proposed density is considered appropriate for the site.

SREP 5 DEVELOPMENT CONTROLS

	Control	Proposed	Compliance
71 - Permissibility "3(c2) Business Commercial" Zone	Commercial premises, residential flat buildings, shops listed in Schedule 3 or 7	Commercial premises, residential flat building and 2 retail premises (listed in Schedule 3 or 7)	Yes
8 – Residential development in business zones	Residential development is only permitted above or behind shops or commercial premises or development within Schedule 1 (eg. Refreshment room, dry cleaner, hairdresser)	The lower 5 levels of the building comprise retail/office uses and residential uses are proposed from Level 6-42.	Yes
10 – Retail trading in 3(c2) zone	A shop (as listed in Schedule 3) must not have a GFA of greater than 150m ² .	The retail premises have a total area of 117m ² .	Yes
11 – Floor Space Ratio	Base FSR = 4:1 Cl. 11(2)(d) Bonus FSR = 1:1 Cl. 11(6)(b) Total = 5:1	8:1	No
13 – Floor space ratio for RFBs	The maximum FSR for residential uses is 3:1 over the total site area zoned 3(c2)	5.17:1	No
15A – Height	Must not exceed height shown on the Willoughby Local Environmental Plan RL179m AHD	Maximum RL231m AHD	No – exceeds by 52m
34A – Provision of enclosure structure for North Shore Railway	Consent must not be granted for commercial premises or residential flat buildings unless the development incorporates a RES to the satisfaction of the State Rail Authority.	A RES has been built over the railway line under a previous approval.	Yes

Willoughby Local Environmental Plan 1995

Willoughby Local Environmental Plan does not apply to the Chatswood Town Centre which is covered within SREP 5.

Draft Willoughby Local Environmental Plan 2009

The draft comprehensive Willoughby LEP 2009 was publicly exhibited between 25 March 2010 and 20 May 2010. The draft LEP proposes to maintain the general structure of Chatswood Town Centre reinforcing the commercial precinct with a "B3 Commercial Core" zoning which prohibits residential uses in the centre. "B4 Mixed Use" and some "R4 High Density Residential" zoned areas are proposed on the periphery of the centre.

The proposed “B3” zoning for the city centre aims to strengthen the role of Chatswood City Centre as a major centre for the Inner North sub-region as well as providing the retail, business, community, cultural and entertainment needs of the City and the surrounding area.

DRAFT LEP CONTROLS

	Control	Proposed	Compliance
Permissibility: <i>“B3 Commercial Core” Zone</i>	Business premises, Office premises, Retail premises	Office premises, retail premises and residential uses	No – residential uses are not permitted
4.3 – Building Height	90m (southern portion) RL100m AHD (public precinct portion)	Maximum RL231m AHD (135.3m)	No – exceeds by 45.3m
4.4 Floor Space Ratio	Area 8 (5:1 on LEP map) Land in Area 8, FSR may exceed 5:1 only where: <ul style="list-style-type: none"> • the site area exceeds 2,500m², and • the floor space ratio will not exceed 10.5:1, and • a minimum of 40% of the site is available for landscaping, publicly accessible space and through site links (site coverage dos not exceed 60%). 	The site has an area of 4913m ² . 3993m ² of the site (81%) is proposed to be landscaped. The maximum FSR is therefore 10.5:1. The proposed FSR is 8:1.	Yes
6.19 – Ground floor uses in B3 zone	Ground floor uses must be active uses	Ground floor comprises of retail premises, commercial premises and residential and commercial lobbies	Yes
7.8 – Pacific Place Site, Chatswood	Development in Pacific Place Special Area shall include: <ul style="list-style-type: none"> • A minimum of 4,000m² of landscaped space accessible for use and enjoyment by the public; and, • A minimum 40 place long day child care centre; and • A shared pedestrian/ bicycle route connecting Help Street with O’Brien Street; and, • Development in Zone B4 for the 	2,327m ² of publicly accessible open space is proposed as part of this proposal. A child care centre exists in the Cambridge Building within the Pacific Place site. A pedestrian and bicycle route exits on the eastern side of the Pacific Place site between Help Street and O’Brien Street via Cambridge Lane.	No – the provision of publicly accessible open space has been reduced but the provision of private communal open space has been increased.

	<p>purposes of shop top housing, the floor space ratio of the shop top housing shall not exceed 6:1. This does not vary the floor space ratio set by Clause 4.4(2).</p>		
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Willoughby Development Control Plan 2006

The proposal departs from the approved Masterplan for the “Pacific Place” precinct, however the proposal has been designed to comply with the majority of DCP controls in principle. A summary of the key DCP considerations is provided below.

- **Context and Height** - The proposed building height exceeds the LEP control by 52 metres. The issue of height is considered in detail in **Section 5.2.1**. The height is considered acceptable in the context of the city skyline and the minimal impacts in terms of shadowing, wind, views or privacy.
- **Building location and Massing** – The building is well sited with substantial separation provided between the proposed building envelope and the existing buildings, Epica and Cambridge. The proposed massing of the building is appropriate with well defined podium and tower elements. The proposed podium is to a height of 5 storeys, which is one storey higher than the DCP podium height control. The additional storey provides for additional commercial floor space and provides a strong podium element one storey higher than the RES which aids making the building the focus rather than the RES.
- **Streetscape** - Active uses comprising of retail tenancies and commercial/residential lobbies are provided to Railway Street, Help Street and the frontage to the proposed publicly accessible landscaped area.
- **Pedestrian links** – The DCP provides performance controls for providing a sense of connection over the RES. The proposal involves use of the land on top of the RES for private communal open space rather than public open space, which is assessed in detail in **Section 5.4**.
- **Access/parking** – 332 car parking spaces are proposed within the basement car park, which is lower than Council’s maximum requirements and consistent with regional and local strategies to minimise car use and maximise suitable transport. Access will comply with AS 2890.1 and AS 2890.2.
- **Solar Access** - The proposal will not cause significant loss of overshadowing of near by public open space or residential buildings. Nearest residential buildings will retain greater than 2 hours sunlight per day. Minimal additional shadow is cast on Chatswood mall than the approved building. Overshadowing is considered in **Section 5.2.3**.

**APPENDIX E COPIES AND SUMMARY OF COUNCIL'S SUBMISSION
AND RESPONSE**



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
Phone: 9777 7650
Availability: 8.30am-10.00am, otherwise by appointment

Willoughby City Council
31 Victor Street
Chatswood NSW 2067

PO Box 57 Chatswood NSW 2057
www.willoughby.nsw.gov.au

Phone 02 9777 1000 Fax 02 9777 1038
Email email@willoughby.nsw.gov.au
ABN 47 974 826 099

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 Council's 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 active 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 vph 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 vph per space. The higher rate has been

assumed for Chatswood. The proposed development is assessed to generate in the order of 95 vtp/h compared with the 66vtp/h 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.



RECEIVED

17 JAN 2011

Director-General

OFFICE OF THE GENERAL MANAGER

13 January 2011

Mr Sam Haddad
The Director General
NSW Department of Planning
GPO Box 39
SYDNEY NSW 2001

Dear Mr Haddad,

Re: MP09_0154 7 Railway Street, Chatswood

Council requests that the Department of planning in its assessment of MP09_0154 for a mixed use development at 7 Railway Street, Chatswood consider this further submission.

This further submission has been prepared following Council Officer's consideration of the Preferred Project Report response to submissions submitted on behalf of the applicant by JBA Planning Consultants. This submission should be read in conjunction with Council's original submission submitted to the Department on 17 September, 2010.

COMPLIANCE WITH METROPOLITAN/LOCAL PLANNING STRATEGIES

The minor increase in commercial floor space proposed disregards the Department's direction for a substantial area of office floor space. The increased area is tokenistic. The change to the commercial floor space component in the development should achieve at least the job numbers identified for the site in the current approval for it to be acceptable.

Council made the following points in its September submission demonstrating why the proposal is inconsistent with metropolitan/local strategic planning as it applies to Chatswood:

- The application is dismissive of the interpretation of the role of Chatswood as a major centre for the northern region of Sydney where in fact it is the largest of the major centres identified under the Metro Strategy and rivals the regional cities of Penrith, Liverpool and Gosford.
- The application is selectively ignoring key objectives and actions of the Metro Strategy and Inner North Subregional Strategy that acknowledge the role of Chatswood as a key retail/office services activity centre, employment hub and transport node.
- Strategic long term metropolitan planning must establish the essential framework within which the development industry operates to achieve the best use of resources and planning for infrastructure. The proposed development would result in a poor use of the significant investment in infrastructure made by the State to deliver the Chatswood Bus-Rail Interchange.
- The application ignores the location of the site in the commercial core of Chatswood.

Willoughby City Council

- The application is ignoring the requirement to provide an additional 7,300 additional jobs in Chatswood over the 23,000 existing jobs and where the site has been approved for development that would deliver in the order of 1400 jobs. In this regard the application does not acknowledge the context constraints to growth of Chatswood where suitable land for jobs generating development is limited and that loss of a site in the commercial core cannot be recovered elsewhere in the centre.
- The exhibited and adopted DWLEP 2009 proposes to zone the land Commercial Core where residential is not permissible and to increase the permissible FSR to 10.5:1 to increase the potential scale of office development and jobs yield for the site to be doubled.
- The application's ignoring the fact that dwelling requirements for Willoughby are being met elsewhere in Willoughby and around the edges of its activity centres without compromising the commercial role of those centres.
- The application is ignoring the long term local Council strategic planning for Chatswood CBD.
- The application seeks to set aside the properly prepared site specific development planning controls for Pacific Place.
- The application would not be permissible under Council's draft comprehensive LEP 2009 which has been exhibited, adopted by Council and will be lodged with the Department for gazettal this month.

The applicant has provided no compelling argument why the strategic context noted above should be set aside. The increase in commercial floor space proposed in the PPR from 3,600m² to 4,800m² is said to deliver about 320 jobs based on a rate of 1 person per 15m². Council generally applies a rate of 1 person per 20m² which is the more broadly accepted rate used by many Councils and researchers for calculating potential jobs. At the more generally used rate the jobs potential of the proposal is only 240 compared with 1400 in the approved development for the site.

The role and Metropolitan strategic planning principles for Chatswood have been reinforced by the recent review of the Metro Plan that has been released. The reviewed Plan notes that major centres should retain a commercial core in cases where targeted growth for commercial development is at risk of not being accommodated in the centre as is the case for Chatswood. It also states that mixed use and residential intensification should occur outside the commercial core. The subject site is in the commercial core of Chatswood. Approval of a mixed use development on the land would be contrary to the Metro Plan. Mixed use has been developed elsewhere on the Pacific Place site consistent with it being located outside the commercial core.

At a local level Council's long term approach to Chatswood's planning and in accordance with the s117 Direction for local planning to be consistent with the Metro Strategy and subregional strategies, Council's strategic planning and management of development in Chatswood has consistently sought to protect Chatswood's business land and its roles. The comprehensive LEP for Willoughby zones the site B3 Commercial Core which does not permit residential development. The comprehensive LEP has been exhibited and adopted by Council and has been lodged with the Department and it is anticipated that the LEP will be made in early 2011. Approval of the Mirvac development would be inconsistent with the draft LEP which has now proceeded to its final stages.

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The Department may take the view that the proposal could be supported on the basis that the current zoning under the SREP permits residential development. Council submits that this would be a flawed view in that:

1. The application has been submitted under Part 3A as it is caught by the SEPP and it does not comply with the existing planning controls;
2. The effect of Part 3A is to set aside all existing planning controls; and,
3. It is inappropriate on the one hand to rely on a mechanism that sets aside the planning controls and then support a proposal on a basis that it complies with the zoning under the same planning controls and, at the same time, ignoring the height, FSR and maximum residential floor space under the existing controls.

The proposal must be assessed on its merits and in relation to the metropolitan and sub-regional planning framework. The proposal fails on both those measures.

The recent ICAC Report on the Part 3A process (December 2010) is recommending a number of reforms to the process to limit discretion and to improve transparency in the consideration of major project applications. One of the key concerns identified by ICAC was the existence of wide Ministerial discretion to approve projects that may be contrary to local and state strategic plans and lack of published objective criteria resulting in a lack of transparency and a potential corruption risk. The subject application is a proposal that is contrary to Metropolitan and local strategic planning and it is an example of a high value increase in development yield compared with the existing planning controls. Council does not consider or seek to infer any issue with the subject application but there is a potential perception of a lack of transparency and as a result a perception of potential corruption in this case. Mirvac will have a financial windfall if the development is approved ironically at the expense of the public purse as the Pacific Place land was purchased by Mirvac from State Rail Authority in stages on the basis of its current statutory development potential.

For the sake of transparency, should the Department be of a mind to recommend approval of the proposed development contrary to metropolitan strategic plans, local strategic plans, existing environmental planning instruments and exhibited draft environmental planning instrument, Council considers that the application should be dealt with in accordance with the principles and general approach reflected in the recommendations of ICAC including:

1. An independent external peer review of the application prior to its determination.
2. That the application be determined by the Planning and Assessment Commission.

ECONOMIC CONSIDERATIONS OF STRATEGIES

As noted in Council's original submission, the application relies on its justification for the departure from Metropolitan and local strategic plans on financial viability assessments of the office market in Chatswood by initially Urbis and then Leyshon Consulting. An additional comment by Leyshon Consulting has been provided with the Preferred Project Report.

Council noted in its original submission that:

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- The planning controls for Chatswood were inadequate and required review. The process of review and development of new planning controls had been commenced by Council in 1997. Delays to finalisation and implementation of new controls to stimulate development in Chatswood occurred. A major component of that delay was caused by the initial uncertainty and then unknown impact until 2005 of the new rail link development on Chatswood. The circumstances adversely impacted on the attractiveness of Chatswood for new development, notably due to the discontinuation of the Epping to Parramatta leg of the Chatswood to Parramatta Rail Link.
- There was/is interest in Chatswood for office development notwithstanding the inadequate planning controls. Examples given were IAG Insurance and Leighton Construction which had announced a joint venture with Mirvac to develop the site.
- Expression of vacancy rates as a percentage in a relatively small office market such as Chatswood leads to wide swings in rates as tenancies change. This then leads to misleading representation of the degree of the problem and expression of the severity of the actual quantum of vacant floor space compared with other centres.
- The feasibility analysis provided in the application was short-term in its consideration and did not consider the implications of the departure from the metropolitan/local strategic planning and making best use of the location on the global arc and existing infrastructure provision in Chatswood at a transport nodal point.
- Council had received independent expert advice in setting the appropriate development standards for its new LEP that also confirmed that the strategic direction was appropriate.

The Preferred Project Report provides a further comment by Leyshon Consulting. It still takes a short term view of the office market in Chatswood without consideration of the long term implications. Even more importantly the comments continue on the theme that the strategic planning role of Chatswood in the metropolitan area is misguided and requires review. It also states that if office/jobs land is lost in Chatswood, it will be "gained" by another centre. It, therefore, forms the conclusion that there is no net cost to Sydney. What about the lost return on underutilisation of existing investment in transport and infrastructure in Chatswood that will occur? What about the cost of then establishing the transport and infrastructure for a new centre elsewhere? The Leyshon Consulting arguments are, at best, specious.

Council is surprised by the broad statement by Leyshon Consulting that residents generate more available retail spending compared with workers in Chatswood. The statement is unsupported with fact or any explanation and lacks commonsense. The existing 23,000 workforce in Chatswood contributes to retail and business expenditure in Chatswood before work, at lunch time and after work through food and drinks purchases, comparison shopping for clothes, shoes, books, gifts, travel agency services, dental/doctor/health consulting services, child care services, banking services and essential grocery items for the home. Council is aware of the number of workers using the services of Chatswood just from the membership information for its library and those seeking enrolments in the child care centres. Council officer's have regular contact with the major shopping centre owners who acknowledge the importance of worker expenditure in Chatswood. Similarly there is the issue of escape expenditure of residents who work elsewhere rather than in Chatswood.

Perhaps if the Leyshon statement was only considering the weekly supermarket or grocery/convenience shopping then there may be some substance to the statement but that

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is not stated and nor is Chatswood just a convenience shopping destination. It is a comprehensive retail, support services, comparison retailing and entertainment centre where the workers make a significant contribution to its economy. A reduction in the size of work force that would follow the change in the role of Chatswood that is being put forward by the Mirvac/Leyshon proposal would have an adverse impact on that economy even with an increase in numbers of residents. This is especially the case as reduced jobs potential in Chatswood will increase the escape expenditure from residents to the locations of their employment.

An increase in residents around the periphery of the centre and an increase in jobs potential in the centre as is proposed in the strategic planning policies is appropriate. This requires long term commitment to the strategic outcome not a short term response to the financial interests of a developer especially noting that the developer will have a windfall gain compared with the development value of the land when purchased.

The further comment provided by Leyshon Consulting does not even attempt to justify the amount of residential proposed or the tokenistic amount of office and in so doing does not address the Director General's requirements for increased commercial noted in the Department's letter of 18 October, 2010.

DEFERRAL OF DWLEP 2009 AS IT APPLIES TO CHATSWOOD CBD

The precedent and consequence of approval of the subject application as noted in Council's original submission will lead to similar proposals by other land owners and developers in Chatswood in the current market. The residential development industry is short term in its thinking. Business will seek the fastest and greatest financial return in the shortest time possible and will have little regard for strategic planning principles if it does not achieve that outcome. This will be by way of further Part 3A applications to by-pass the strategic and statutory planning circumstances in Chatswood. If there is an adopted and consistent strategy for the city then the parameters for the development industry are clear and not open to speculative pressuring for short term gain. Council is confident that this is the view also of the Department and the Minister.

It is Council's view that the precedent of an approval will have the effect of opening all sites in Chatswood's business core to residential redevelopment with a tokenistic component of commercial floor space. Loss of potential office/jobs development opportunities to residential uses on key sites is irretrievable.

If this application is approved Council will consider abandoning its DWLEP 2009 as it applies to Chatswood CBD and seek a complete review of the strategic role of Chatswood and the development standards that should apply. Why should Council work hard towards achieving the State Government's Metropolitan planning goals when an approval as now sought by Mirvac does not support and is in conflict with those goals and plans? Council's alternative approach is to let Chatswood become a dormitory and retail centre and give up the fight for a properly balanced and integrated multi-use centre.

PASSIVE SURVEILLANCE AND ACTIVE PUBLIC DOMAIN

The changes proposed in the Preferred Project Report seeking to address the issue of surveillance, safety and public domain activation are unacceptable.

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As noted in Council's September submission the active public domain initiatives in the approved scheme for the site included:

- Café/restaurant space on the ground floor of the office building with outside seating interacting with the public space in Railway Street.
- Cafe/restaurant space at the top of the rail enclosure structure (RES) with north facing outside seating interacting with the public space along the RES and sharing the public lift access with the child care centre.
- Shops that complete the active frontage around the Cambridge Lane plaza.

The amendments proposed make no attempt to acknowledge Safer by Design principles. The proposal now takes the easy way out with the top of the rail enclosure structure by just eliminating all public access and making the space for resident use only. This is a complete departure from the master planning for the Pacific Place site.

The use of the space that was intended to be shops with offices above fronting the Cambridge plaza for the location of the substation is a dereliction of proper urban design. The usefulness and effectiveness of the plaza space for the public is compromised from the intent of the master plan. The purchasers of the two shops at the base of the Cambridge building at 1 Cambridge Lane will be compromised in never seeing the anticipated completion of a boutique plaza space connected to an active through site link to Railway Street open space with the offices above.

The ground floor of the proposed scheme has increased the commercial office frontage facing the Railway Street public open space but makes no attempt to design a space and setting that will lend itself to active retail or cafe use. The primary focus of the ground floor is still a residential foyer!

The additional floor space potential for the site in DWLEP 2009 was anticipated by Council to increase the opportunity for active uses interacting with the public domain. As commercial floor plate sizes and configurations are larger than residential, as reflected in the approved scheme which spans over the RES, the layout of the building could optimise the ground floor plane for various uses that contribute to the public domain. The current scheme, however, does not achieve this with the dominance of the security controlled residential lobby at ground floor.

As stated in the opening paragraph of this section the response of the PPR to the issues of passive surveillance, safety and active public domain are unacceptable especially in the knowledge of the approved scheme for the site.

SHADOWING IMPACTS

Council notes the further analysis that has been provided on the shadowing impacts of the proposed development. The further analysis confirms what Council considered in its September submission that the shadowing impacts on the Mall, which is a year round active public space in Chatswood, are unacceptable.

It is agreed that the critical peak usage times in the Mall is the period 11.30am to 2pm. Any increase in shadowing compared with the existing approved development during that period

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is unacceptable. The concern of Council that the proposed building height lengthens the shadow and hence increases the height of the shadowing impact compared with the shadowing impacts of existing development is confirmed. It is the height of the shadowing impact at a point that is the issue and this increases as the shadow lengthens. The shadow will fall on the vertical surface of the shop fronts on the southern side of the Mall. A person standing or sitting in the Mall will be in shadow rather than having it impacting at or near ground level. This is unacceptable.

PRIVACY, VIEW LOSS, WIND IMPACTS

The PPR response to the concerns on privacy, view loss and wind impacts in the PPR is no response other than to consider that these are not issues. Council is of the view that they are issues in the development and stands by its comments in the September submission.

CAR PARKING, LOADING, TRAFFIC AND WASTE MANAGEMENT

The reduction in car parking to 332 spaces still exceeds the approved development number of 219 spaces. In addition the 219 spaces, as noted in Council's September submission, has the potential to be reduced following Council's review in 2003 of car parking rates in Chatswood to promote use of public transport for the journey to work. Reduced car parking provision has a direct correlation with reduced traffic generation.

The head clearance required for entry of Council's garbage trucks is 3.8 metres. The entry currently constructed does not comply. A higher clearance also allows for larger delivery trucks to enter the site and make use of the loading facilities on site. As noted in the original submission a clearance in the loading docks of 4.2 m is required.

Despite the provision of a comprehensive new waste management report it is of no use if the garbage trucks cannot access the site. The volume of waste generated by a residential development of the scale proposed requires the use of full sized garbage trucks by Council.

The proposed Loading Dock Management Plan is also of no use if the required truck sizes cannot access the site. Further a management plan that outlines measures that would prevent another truck entering when the loading dock is occupied does not consider that perhaps the loading facility and manoeuvring has to be redesigned to avoid conflicts with entering/exiting cars and to provide a truck lay over area. If the dock is full a truck will not go away until the dock is free it will likely unload illegally on the street or park and unload on the footpath which is unacceptable.

ADAPTABLE UNITS FOR PEOPLE WITH DISABILITIES

Although the number of adaptable units is proposed to increase to 20%, Council is still of the view that any proposal for large development that incorporates residential units serviced by lifts should achieve 50% of units being adaptable for people with disabilities in accordance with WDCP.

ARCHITECTURAL FORM/FINISHES

Similarly no further comment is proposed on the few changes to the architecture of the building. The building still lacks the sleek architecture of the approved commercial building.

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The Preferred Project Report is considered to also not adequately justify the height and massed form of the building as required by the DG in the letter of 18 October 2010. No options for reduced height have been provided. The discussion only considers "a commercially viable project" in the current market and hence the needs of the residential development component. This is an admission of the driver to Mirvac's proposal that is having no regard to the strategic planning of the Pacific Place site and Chatswood as a major centre. The PPR and the Project Application discussion is merely a justification that the development had to be of a scale and floor space to make the development a major project pursuant to the SEPP Major Projects and Part 3A of the EP&A Act in order to bypass the Council and the provisions of SREP5.

The architectural character of the building is not of such merit to support setting aside the relevant development standards for height and FSR.

The height is a direct result of the smaller floor plates of residential (about 900 – 930m²) combined with the floor space quantum required to qualify as a Major Project. It has been justified in the context of the towers as yet to be built above the Chatswood Transport Interchange (CTI) – another Ministerial approval. Without the CTI the context of Chatswood could not justify the height. As stated earlier in this submission, a commercial building with larger floor plates (1,500 – 1,800m²) and ancillary retail and cafes would not result in a building of the proposed height compared with a residential development with the same floor space. The PPR does not adequately respond to the DG requirements.

SECTION 94 CONTRIBUTIONS

The proposal to off-set the s.94 contributions for open space for future maintenance of the public spaces on the site is unacceptable as has previously been stated by Council in its September submission. There is no basis in law to off-set contributions for the future recurrent expenditure on maintenance of open space by owners. The open space is part of the setting of the proposed building and it is the landscaped separation for other buildings on the site as well as being the "lid" to the basement car parking or the rail enclosure structure as it is on the rest of the Pacific Place site. More especially it must be noted that the contributions levied by Council where Mirvac seeks to off-set are not just for open space but also for developing recreation facilities and community facilities. Facilities will still be demanded by the future residents and workers and so full s.94 contributions should apply if this proposal is approved contrary to Council's submission.

Council reiterates its position that the open space/plaza areas are not to be dedicated to Council but must remain in the ownership and responsibility of the building owners with public rights of way over such areas.

OPEN SPACE

The amenity quantum and standard of the open space has been reduced from the approved scheme.

Council does not support the reduction in area of landscaped open space by removal of the area at the top of the RES. The continuation of the commercial floor area to the level of the RES would allow for a café or similar use to activate the space at this level as in approved

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scheme by Council. This would enhance the amenity of the space as public landscaped area accessible by the lift on the east side of the RES or by the stair access on the west side or through the commercial lift of the building.

Council submits that the top of the RES should be maintained and publicly accessible landscaped space as approved with stair access from the western park and activation by café/kiosk uses. Landscaping of the space should include deciduous tree planting to assist in drawing attention to the area from Railway Street.

Council also submits that the activation of the Cambridge Lane plaza should be completed with café/shop frontages to the plaza and offices above.

OMISSIONS FROM THE STATEMENT OF COMMITMENTS

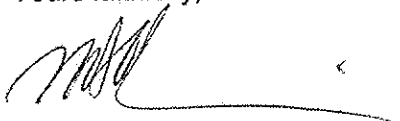
Council notes that the Statement of Commitments omits a number of undertakings both in the PA and in the PPR. These are noted on a without prejudice basis include but are not limited to:

- Undertaking to pay all the s.94 contributions
- Provide a car park management plan that ensures client/tenant/visitor access, shared use of car spaces as nominated, provision of car share scheme and the arrangement is reflected in the subdivision.
- Loading dock management.

CONCLUSION

As stated at the outset, Council requests that the Department considers this further submission. Council officers request a meeting with you at your earliest convenience to discuss the contents of this submission and the undertaking you gave the Environmental Services Director and myself during our last meeting on this proposal.

Yours faithfully,



Nick Tobin
GENERAL MANAGER

Willoughby Council objects to the project. The key concerns raised by Council, in response to the exhibition of the project, and the Department's response is summarised in the following table.

Council objection	Department's response
<p><i>Lack of Commercial floor space</i></p> <ul style="list-style-type: none"> Residential development of the site will undermine the role of Chatswood as an employment centre and achievement of employment targets within the Draft Inner North Sub-Regional Strategy which seek to strengthen the commercial role of Chatswood. The exhibited draft Willoughby LEP 2009 proposes to zone the site "B3 Commercial Core" which will prohibit residential development. While the market may favour residential development at this time, there is potential for an office development on the site once the office property cycle changes. The previously approved commercial building would provide approximately 1400 jobs, whereas the proposal would provide only an estimated 190 jobs. 	<p>Detailed consideration of the amount of commercial floor space is provided in Section 5.1.</p>
<p><i>Height, FSR and Built form</i></p> <ul style="list-style-type: none"> The proposal exceeds the height control by approximately 52m (an additional 65% compared with the approved commercial building). The height is comparable to the approved Chatswood Interchange Towers. The justification for the height on the basis of an arc with proposed heights comparable to the peak of the arc is not supported. The transition between the podium and tower is not sufficient to relate to a pedestrian. Residential FSR over the entire Pacific Place site is excessive. The changed architectural form and finish is an inferior product to the approved office building. 	<p>The issue of height is addressed in Section 5.2.1. The podium height has been increased to 5 storeys to provide increased office floor space. The materials and finish of the podium has been revised to better integrate with the tower. Minor modifications have been made to the tower including articulation/variation to upper levels to break up the height/bulk of the building. It is considered that the amended façade treatment and podium design is more cohesive and balanced.</p> <p>The proportion of residential and non-residential floor space over the site is discussed in Appendix D.</p>
<p><i>Overshadowing</i></p> <ul style="list-style-type: none"> The proposal causes increased shadowing in a number of locations including Chatswood Mall. The proposed building lengthens the shadow significantly (compared to approved building) and increase the height of the impact and awareness of shadowing. 	<p>The issue of overshadowing is addressed in Section 5.2. The Proponent has provided a shadow analysis of the shadow impact of the proposed building between the hours of 12pm and 2pm, ie. The lunch time period when solar access to the mall is most critical. The shadow analysis shows that at the summer solstice and equinox there is no shadow impact on the mall. On winter solstice there is minimal overshadowing.</p>
<p><i>Privacy</i></p> <ul style="list-style-type: none"> A commercial building would be vacant during the evenings and weekends when 	<p>It is considered that the residential use of the building will have minimal privacy impacts on surrounding residential properties as the uses</p>

<p>surrounding residents are likely to be sensitive to privacy and overlooking impacts.</p>	<p>are entirely compatible and the building has been sited and designed with privacy in mind. Generous building separation has been provided between the adjacent residential buildings and the use of offset balconies and windows and privacy screens ensure the maintenance of privacy to existing and future residents.</p>
<p><i>Treatment of the Public Domain</i></p> <ul style="list-style-type: none"> • The approved commercial building spanned over the RES providing a café/restaurant at the top of the RES with outdoor seating facing north to activate the location and provide passive surveillance. • The current proposal with a reduced floor plate no longer spans the RES and the proposed public precinct on top of the RES has no activation/surveillance. • The ground floor does not provide any active uses facing the public precinct which compromises passive surveillance, particularly adjacent to the entry to the walkway under the railway. • Unlike other buildings and public spaces within the Pacific Place site, the subject site does not form part of the Community Scheme. Therefore there is no opportunity for shared responsibility and management of the public precinct. • The landscaping will be expensive to maintain. Council will not accept dedication of the public precinct or any responsibility for on-going maintenance. 	<p>The EA as exhibited proposed a through site connection over the RES with publicly accessible open space on top of the RES accessed by a set of stairs on the western side and a lift on the eastern side. The Department shared Council's concern that the area was not activated sufficiently and would likely be an underutilised and potentially unsafe area.</p> <p>The Proponent revised the proposal to provide a larger area of communal open space on top of the RES. The pool and gym have also been relocated from the ground floor to the 5th floor of the building to provide a direct connection to the open space, which has dual benefits in terms of activation / surveillance and provision of a higher standard of recreational facilities for future residents.</p> <p>The ground floor of the building has also been revised with additional active uses including commercial floor space which overlooks the publicly accessible precinct and entry to the tunnel under the RES.</p> <p>Management and maintenance of the communal and publicly accessible areas of open space will be the responsibility of future residents, through the strata scheme. It is noted that Willoughby Council will not accept the dedication of any portion of the site. The Proponent is seeking an offset in Section 94 contributions on this basis which is discussed in Section 5.3.</p>
<p><i>Views</i></p> <ul style="list-style-type: none"> • The proposed building will have a significant impact on the views of residents of Epica, Cambridge and The Regency buildings. Residents would have had an expectation that views would be retained on the basis of the approved commercial building. 	<p>The slimmer tower, will generally maintain and in some cases enhance e when compared to the lower but larger building footprint approved on the site, The visual impact of the proposed building is discussed in detail in Section 5.2.</p>
<p><i>Wind Management</i></p> <ul style="list-style-type: none"> • No wind tunnel tests have been undertaken. • Reliance on screens to balconies to manage wind impacts. • Landscaping plan has not been developed sufficiently to determine wind mitigation capabilities. • The minimal transition between the podium 	<p>The Proponent has made a commitment to undertake wind tunnel tests prior to any Construction Certificate being issued for any works above ground level. The Wind Assessment undertaken by Windtech Consultants</p> <p>This will enable appropriate wind mitigation measures including landscaping to be fully</p>

<p>and tower is unable to mitigate wind impacts and downwash off the building.</p>	<p>detailed in the Construction Certificate. This issue will also be dealt with as a condition of the Project Approval.</p>												
<p><i>Adaptable housing</i></p> <ul style="list-style-type: none"> • Council's DCP requires 50% of dwellings be capable of adaptation in high rise buildings. This requirement is not considered onerous or unreasonable and no justification is provided on why the proposal does not comply. • Design of units would need to be amended to include: <ul style="list-style-type: none"> • Plumbing in positions in adjacent bathrooms that allows for 2 bathrooms to become a single bathroom. • A 450mm off-set at doorways where doorways are in structural walls • Increased hallway widths where side walls are structural walls. 	<p>The Proponent has increased the provision of adaptable apartments from 10% to 23%. The PPR proposes 67 adaptable apartments, which will make a substantial contribution to the stock of adaptable housing in Chatswood. The Residential Flat Design Code aims to maximise the number of accessible, visitable and adaptable apartments in a building. The relevant "rule of thumb" is to provide barrier free access to at least 20% of dwellings. The proposal therefore meets the minimum accessibility requirements in accordance with the Code.</p>												
<p><i>Traffic</i></p> <ul style="list-style-type: none"> • Traffic generation from 395 car parking spaces is greater than the approved commercial building which involved 219 spaces (in the order of 95 trips per hour, compared to 66 trips per hour). • The traffic analysis has not adequately considered the weekend and evening peak traffic periods in Chatswood. • Proposed car parking is excessive. Parking should be limited to a maximum of 1 space per unit (304 spaces), 1 space per 7 units for visitors (43 spaces) and the remainder set aside for a car share scheme (4 spaces) and non-residential uses. • The allocation of visitor parking is unclear. 	<p>The PPR proposes a reduction in car parking spaces as follows:</p> <table border="0"> <tr> <td>Residential</td> <td>295 spaces (1 space per apartment)</td> </tr> <tr> <td>Visitors</td> <td>9 spaces (1 space per 33 apartments)</td> </tr> <tr> <td>Commercial</td> <td>24 spaces (1 space per 200m²)</td> </tr> <tr> <td>Retail</td> <td>2 spaces (1 space per shop)</td> </tr> <tr> <td>Car share</td> <td>2 spaces</td> </tr> <tr> <td>TOTAL</td> <td>332 spaces</td> </tr> </table> <p>The reduction in parking spaces to 1 space per apartment is in line with Council's recommendation. Furthermore, in recognition of the excellent access to public transport visitor parking has been substantially reduced to 9 spaces. It is also noted that the commercial spaces will largely be vacant after hours and on weekends and a formal arrangement will be made for the shared use of these spaces. This matter can be formalised with an 88B Instrument as a condition of any project approval. The allocation of visitor car parking has been shown on the plans submitted with the PPR.</p>	Residential	295 spaces (1 space per apartment)	Visitors	9 spaces (1 space per 33 apartments)	Commercial	24 spaces (1 space per 200m ²)	Retail	2 spaces (1 space per shop)	Car share	2 spaces	TOTAL	332 spaces
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TOTAL	332 spaces												
<p><i>Access and waste collection requirements</i></p> <ul style="list-style-type: none"> • The shared access with the Epica building does not comply with the conditions of consent for Epica which require a minimum 3.6 metres clearance. • The minimum height should be at least 3.8m with 4.2m within the loading dock bays. • 1.5 cubic meter bulk bins to be provided for waste, and 240L wheelie bins (compaction ratio 2:1) for recyclables. 	<p>The access points, car parking spaces, circulation, loading docks, etc will be designed to comply with relevant Australian Standards, in particular AS 2890.2 Parking facilities – Off-street commercial vehicle facilities. A revised waste management plan has been submitted with the PPR which provides for 1.5 cubic meter bulk bins to be provided for waste, and 240L wheelie bins (compaction ratio 2:1) for recyclables.</p>												

<p><i>Subdivision</i></p> <ul style="list-style-type: none"> • The draft subdivision plans have not been developed to a sufficient level. • Positive covenants / restrictions as to users required. • Car parking spaces must be allocated to the units which they are attached. Visitor spaces to be common property. • Restriction on use of the car spaces such that dedicated spaces can only be used by the occupants of the building and cannot be leased or used by others. 	<p>These requirements can be addressed as conditions of approval.</p>
<p><i>Developer Contributions</i></p> <ul style="list-style-type: none"> • Section 94 contributions cannot be used for recurrent expenditure and maintenance. • Council does not support the proposed offset of \$1.1 million for the public precinct. • The proposal would add pressure to community and recreation facilities provided by Council. • Council will not accept liability associated with accepting dedication of the public precinct. • A contribution of \$3,861,587.22 (indexed to CPI) should be payable for the proposal. 	<p>Section 94 contributions are discussed in detail in Section 5.3. It is recommended that the full Section 94 contribution be paid, and that no offset is granted for the on-going maintenance of the landscaped area. .</p>

Willoughby Council's also made a submission raising further objections upon review of the Proponent's PPR. The additional concerns raised by Council, in response to the PPR, and the Department's response is summarised in the following table.

Council objection	Department's response
<p><i>Amount of commercial floor space / job creation</i></p> <ul style="list-style-type: none"> • The increased commercial floorspace in the PPR is tokenistic. • The proposal should achieve the same number of jobs as the previous Council approval (1,400) • The proposal is inconsistent with the Metropolitan Plan which seeks for the commercial development to be provided in the central part of centres, and residential and mixed use intensification outside of the commercial core. • Council's draft LEP seeks to protect Chatswood's commercial core by prohibiting residential and mixed uses. The LEP is in its final stages (adopted by Council and sent to Minister seeking gazettal). • The proposal must be assessed on its merits and in relation to the Metropolitan and Subregional planning framework. 	<p>In the context of the current and future office market projections, the Department considers that the PPR's provision of 4,876m² of office floor space, which will contribute approximately 320 jobs in Chatswood, is a positive outcome. There are also benefits arising from the provision of residential floor space consistent with Metropolitan Plan for Sydney 2036 and draft Subregional strategy in terms of increased housing opportunities located close to jobs, retail facilities and public transport services.</p>
<p><i>Transparency in the Part 3A process</i></p> <ul style="list-style-type: none"> • Concern that the Minister has the discretion to approve projects that are contrary to Metropolitan, sub-regional or local strategies. 	<p>The proponent has not declared a reportable political donation within the past 2 years and therefore there is no requirement for the project to be determined by the Planning</p>

<ul style="list-style-type: none"> • Lack of published objective criteria for assessment. • An independent external peer review of the application should be made. • The application should be determined by the Planning Assessment Commission. 	<p>Assessment Commission. The Department has assessed the application in the context of metropolitan, subregional and local strategies and also considered relevant EPIs.</p>
<p><i>Economic impact / financial viability</i></p> <ul style="list-style-type: none"> • The Leyshon Report takes a short term view without consideration of the long term implications. • It states that the sub-regional strategy targets may need to be reviewed and that the office role of Chatswood may need to be reconsidered. • It states there there will be no net cost to Sydney as office development that will not occur in Chatswood will occur in other centres (eg. Macquarie Park). • Concern regarding the underutilisation of existing investment in transport and infrastructure and the cost of establishing transport and infrastructure in new centres. • Weekday officer worker expenditure is a key contributor to the overall retail expenditure. • Long term commitment is required to achieve an increase in jobs in the centre and increase in residents around the periphery of the centre. 	<p>The Department has carefully considered the proponent's justification and Council's view in Section 5.1. Commercial development of the site has not been viable for at least 10 years, and the situation will not improve for at least another 10 – 15 years. It is considered that there will be cost to Chatswood resulting from leaving a site within the commercial core vacant for over 25 years. A vacant site may also have a detrimental affect on the ability of Chatswood to attract further interest from the development industry.</p> <p>The public benefit of the development is available now, in terms of the provision of a high quality mixed use building and a substantial area of publicly accessible landscaped area and through site link.</p>
<p><i>Deferral of the Draft LEP as it applies to Chatswood</i></p> <ul style="list-style-type: none"> • Concern regarding the precedent of this proposal, and that other landowners and developers make seek to develop residential rather than office in the current market. • Council will consider abandoning the draft LEP as it applies to Chatswood and seek a complete review of the strategic role of Chatswood. • If this proposal is approved, it is Council's view that the only alternate approach is to allow the centre to become a dormitory and retail centre. 	<p>Approval of this project would not set a precedent for further development. Any proposal under Part 4 or Part 3A of the Act is assessed on it's merits.</p>
<p><i>Public domain</i></p> <ul style="list-style-type: none"> • Council considers that the proposal 'takes the easy way out' by eliminating public access to the top of the railway enclosure, which is a complete departure from the masterplan for the Pacific Place site. • The top of the railway enclosure was intended to be activated by café/restaurant with north facing outdoor seating. • The ground floor plaza (to Cambridge Street) was intended to be shops with offices above. The future potential of the shops at the base of the Cambridge building will be 	<p>The Department considers that private communal open space is appropriate on top of the RES to overcome the accessibility, functionality and surveillance issues which made the area unsuitable for public use. The provision of a large area of communal open space for residents will lessen the demand for public open space by residents. The Department is also satisfied with the increased activation of the ground level publicly accessible landscaped area.</p>

<p>compromised without a further retail cluster within the plaza. The shops/café within Cambridge Plaza should be incorporated into the proposal.</p> <ul style="list-style-type: none"> • The Railway Street public precinct was intended to be activated by café/retail. • The continuation of the commercial floor space to the level of the RES would allow for a café or similar use to activate this space as in the previously approved commercial scheme. 	
<p><i>Shadowing</i></p> <ul style="list-style-type: none"> • The lengthening of the shadow cast on the mall increases the impact. A person standing or sitting in the Mall will be in shadow rather than having it impacting at or near ground level. 	<p>The shadow impact of the proposal is considered acceptable on the basis that the additional shadow occurs between 1:30 and 2:00pm, when the buildings on the northern side of the Mall cause the majority of overshadowing. This matter is assessed in Section 5.2.3.</p>
<p><i>Other</i></p> <ul style="list-style-type: none"> • Privacy, view loss and wind impacts have not been addressed. • The currently constructed vehicular access does not comply with the minimum clearance of 3.8m. Clearance of 4.2m is required within the loading dock. • The loading area has to be redesigned to avoid conflicts with multiple trucks trying to load/unload and entering/exiting cars • At least 50% of units should be adaptable • The building lacks the architecture quality and finish of the approved building. • The proposed height has not been adequately justified and no options for reduced building height have been provided. Without the Chatswood Transport Interchange the height could not be justified. • Council does not support the proposal to offset Section 94 contributions. The open space is part of the setting for the building, it is the 'lid' for the basement car park and railway enclosure and will not be dedicated to Council. • Mirvac seeks to offset contributions for both open space and recreation and community facilities. The need for recreation and community facilities will be demanded by future residents and workers so the contribution should be payable. • Statement of Commitments omits key undertakings regarding s94 contributions, car park and loading dock management. 	<p>The Department is satisfied that privacy, view loss and wind impacts have been satisfactorily addressed in the EA and PPR.</p> <p>The access will be designed to comply with AS2890.1 and AS2890.2 for commercial vehicles. Appropriate conditions have been recommended in relation to the loading dock design and management.</p> <p>The increased adaptable unit provision of 23% within the PPR is considered acceptable as it exceeds SEPP 65 requirements.</p> <p>The Department considers that the architectural quality of the building is acceptable with a tower and podium form, varied horizontal and vertical elements, articulation and variation in form.</p> <p>The proponent provided further justification for height within the PPR, which is assessed in Section 5.2.</p> <p>Section 94 contributions are discussed in detail in Section 5.3. It is recommended that the full Section 94 contribution be paid, and that no offset is granted for the on-going maintenance of the landscaped area.</p> <p>Appropriate conditions have been recommended to address Council's other concerns regarding loading dock and car parking management.</p>

APPENDIX F RECOMMENDED CONDITIONS OF APPROVAL
