

October 18, 2012

Director  
Metropolitan & Regional Projects North  
Department of Planning and Infrastructure  
GPO BOX 39  
Sydney NSW 2001

**RE: Thomas Street Car Park (MP09-0066 MOD3)**

We acknowledge receipt of your letter detailed 17<sup>th</sup> September 2012 with deep frustration.

We had submitted our objection to the original development in April 2010, however received no response from your department on reasons why our objections were ignored and subsequent approval granted for the development.

As managing agents, we provide here again our objection to the proposed amendments on behalf of Tackelly Pty Ltd who are the property owners of a commercial asset located at 799 Pacific Highway Chatswood. (799)

The proposed construction of 302 serviced apartments in addition to 241 residential apartments is considered an oversupply and will create a future eyesore. Whilst the previous approval (Building 2) allowed for commercial and retail use, the mix was considered a healthy balance for Chatswood.

Not with standing our previous objection letter issued in April 2010, we wish to strongly highlight and reinforce the additional impact such amendments including the child care centre will directly have on the owners along with current and future tenants at 799 Pacific Highway Chatswood.

The designated parking to (799) which is accessible from Thomas Street will be adversely affected, given the additional traffic movement from occupants of the serviced apartments and users of the child care centre.

Whilst additional traffic management studies have been undertaken, we believe the report has not properly addressed Thomas Street.

Of particular concern is the height including the layout and design of building 2, which will obstruct all city views which (799) commercial tenants have enjoyed for circa 20 years. Noticeably before any construction, the proposed development has already decreased both commercial rents and the property value of 799 Pacific Highway.

This financial spiral will continue during the construction phase and post completion.



JONES LANG  
LASALLE

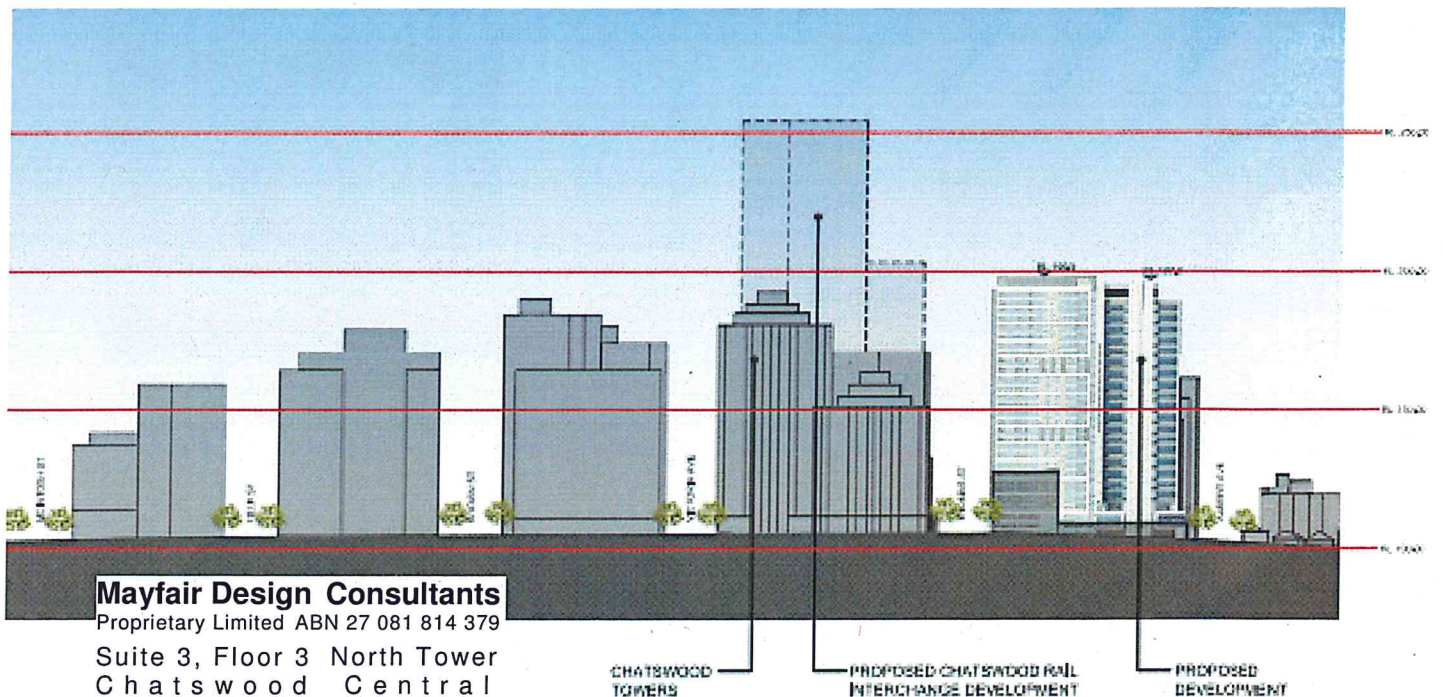
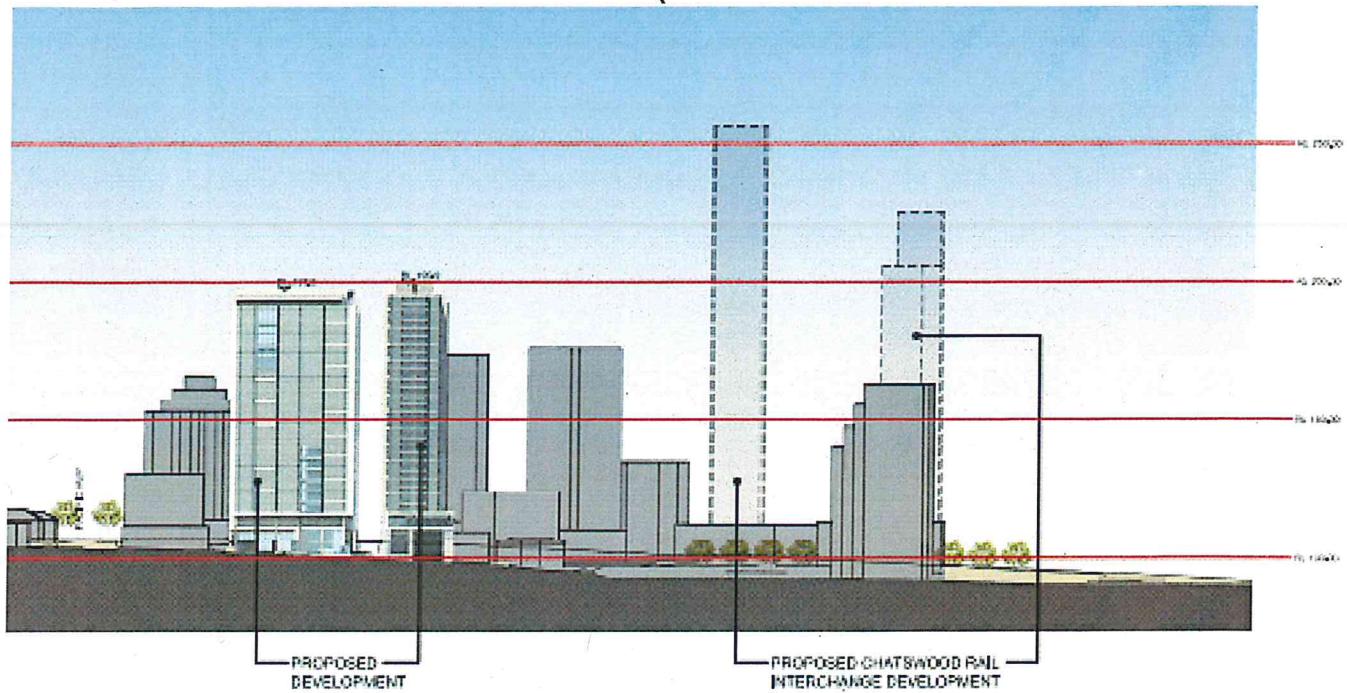
Jones Lang LaSalle (NSW) Pty. Limited  
A.B.N. 37 002 851 925  
Citadel Towers  
P O Box 5095  
Chatswood West NSW 1515  
Tel +61 2 8448 1666 Fax +61 2 9413 4320

We respectfully request that our objections are taken into consideration and  
look forward to your response.

Yours faithfully  
**JONES LANG LASALLE**

**PAUL DOVER**  
Associate Director

# COMMENTS ON THOMAS ST CARPARK CHATSWOOD DA APPLICATION,



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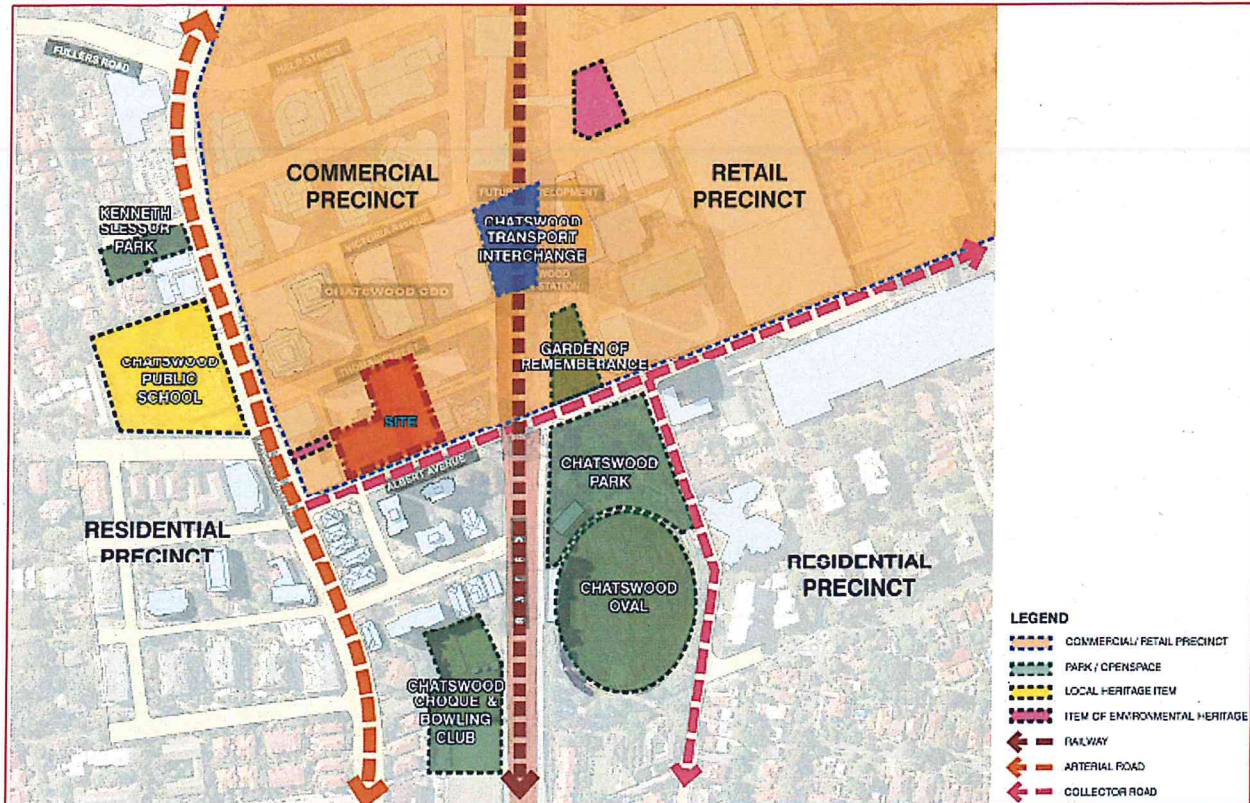
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### Application

The proposal is called Welles Thomas Plaza and PTW are the architects. The NSW Government considers the development a major project with the Consent Authority; the NSW Department of Planning. The documents on exhibition are accessible online at [majorprojects.planning.nsw.gov.au](http://majorprojects.planning.nsw.gov.au) with the Number MP 09-066.



### Site

The site is known as the Thomas Street carpark but is made of three parcels of land: Thomas St carpark, Albert Ave carpark and Fleet Lane between

### Planning

The proposal comprises two towers, set at right angles to each other.

The tower closest to the railway line (28 Storey) is residential. The one closest to the highway (20 storey) is commercial offices.

An open area, in line with Katherine St, is for minor retail and building access.

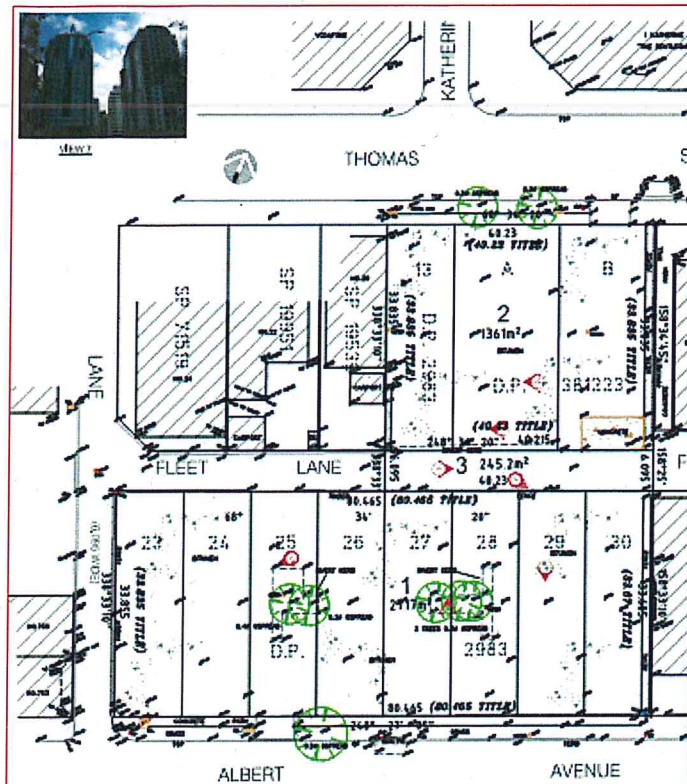
An underground carpark several storeys deep utilises the entire "L" shaped site.



## Survey

The survey identifies the sites though it does not say who owns Fleet Lane, and how it becomes part of the development.

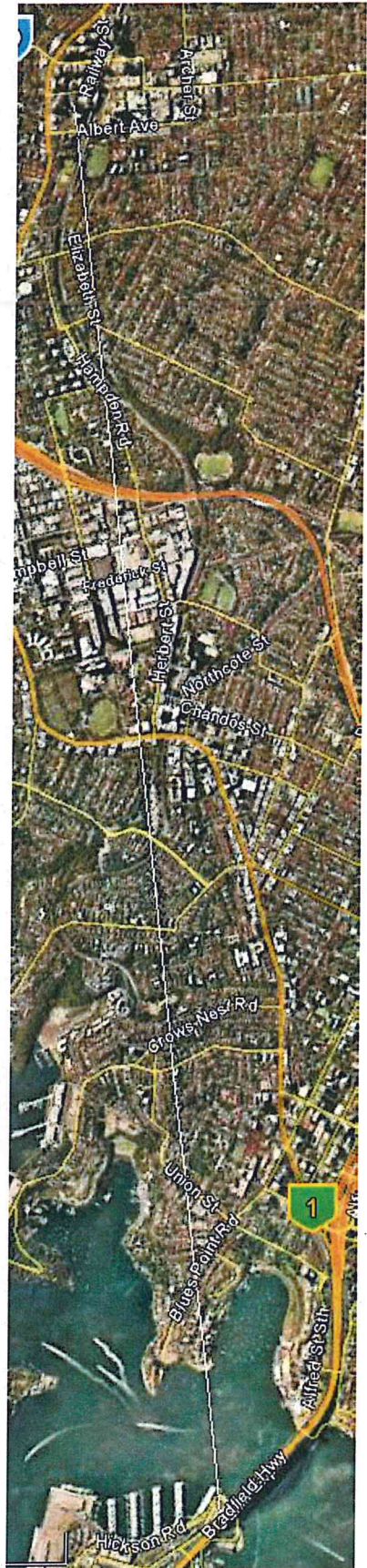
The inset picture shows a view up Katherine Street with Tower B on the left and Bentleigh residential flats on the right. Tower B is shown with a height of 189.95 metres.



The proposed Commercial Office tower is on an axis between Tower B and the view of the Sydney CBD (Harbour Bridge).

The proposed building's long axis is orientated East-West and will remove Tower B's CBD outlook that has been a feature of the office space for over 20 years.

Tower A will be similarly compromised.



## Compliance Issues

The following tables identify where the *proposal does not comply* with the relevant regulations (Part I17.9 of Willoughby Development Control Plan 2006).

The text shown shaded below is extracted from Appendix 0 Table of Compliance (Part I 17.9 of Willoughby Development Control Plan 2006).

Part	Controls	Proposed Development	Our Comments
I.17.9.1 Land Uses	Mixed use buildings with residential above commercial including home offices will be located addressing the Albert Avenue frontage.  Commercial offices and service retail is to address the Thomas Street frontage.	The commercial tower on the site has been designed to address Albert Avenue, Albert lane and Fleet Lane at the rear with retail/café premises addressing Albert Avenue at the ground floor. However, the ground floor and the podium to the residential tower will extend across the site and address both the Thomas Street and Albert Avenue Frontage. Retail/café premises will be provided at these levels which with the retail/café space to Thomas Street having a direct interface with the street frontage. Thus the intent of the control is achieved.	
I.17.9.2 Building Form and Massing	The building envelope, notwithstanding the permissible height shall be adjusted to not reduce solar access to living areas and balconies of apartments on the southern side of Albert Avenue to less than 2 hours between 9am and 3pm in midwinter.	See discussion at Section 6.4 of EAR.  The impact of the proposed new development on the Thomas Street car park site will result in these building being overshadowed at 12pm in mid winter. However, solar access to the buildings to the south will still be available during the morning hours in mid winter. Late afternoon solar access will also be available to these residential units as the shadow from the proposed development moves to the west). Thus, during the times most residents will be at home (i.e. early morning and later afternoon) residents will continue to receive good solar access.  In addition, at equinox only some of the buildings to the south of the site will be overshadowed at 3pm with the majority of buildings having full sun access from morning to midday.	In winter the only <i>beneficial</i> sun access is between 9:00am and 3:00pm  No amount of argument about the sun being available when the residents are home makes up for the southern side of Albert Ave losing their beneficial solar access.  An indication that the development is too big for the site; or its footprint is too great
I.17.9.4 Car Parking, Loading and Traffic	All other access to the site shall be from Fleet Lane.	Non compliance. The site constraints limit access from any other frontage, particularly as Council has required a right-of-way to be provided from Fleet Lane to Thomas Street. Access to the site will continue to be provided from Albert Avenue in accordance with existing access arrangements.	With a requirement of left-turn in and left-turn out, a carpark structure for over 500 (should be 700) cars and a median strip in Albert Ave, forcing cars to leave heading in an easterly direction the traffic stress will be huge.  For a public carpark so close to a major traffic junction with The Pacific Highway the access is poorly conceived.

I.17.9.4 Car Parking, Loading and Traffic	Loading access will be provided from Fleet Lane via Thomas Street	The proposed development provides one driveway entrance off Albert Ave for loading access	Manoeuvring for loading is at the carpark entrance, possibly causing a backup of cars onto Albert Ave  For a public carpark so close to a major traffic junction with The Pacific Highway the arrangement is poorly conceived
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The text shown shaded below is extracted from Appendix I RFDC Table of Compliance

Part	Design Element	Proposed Development	Our Comments
Building design	Apartment layout  Single-aspect apartments should be limited in depth to 8 metres	The proposed residential tower has 19 studio apartments with a depth of 10m. Other single aspect apartments in the proposed development have a depth range of 8.5 – 10m	It appears that such departures from the codes lead to overdevelopment of the site
	The back of a kitchen should be no more than 8 metres from a window	In the proposed development the depth from the back of kitchens to windows ranges from 6 - 9m.	It appears that such departures from the codes lead to overdevelopment of the site
	Balconies  Primary balconies adjacent to primary living areas for all apartments with minimum depth of 2 metres  A 2.0m deep balcony can comfortably accommodate a table and 2 chairs  A 2.4m deep balcony can comfortably accommodate a table and 2 chairs	Balconies with a depth of 2m are provided for all apartments in the proposed development except the studio apartments.	It appears that such departures from the codes lead to overdevelopment of the site
	Internal circulation  Where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to 8.	The number of units in the proposed development accessible from a single corridor ranges from 6 – 10	It appears that such departures from the codes lead to overdevelopment of the site
	Daylight access  Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter.	See discussion at Section 6.15 of EAR	Whenever it is necessary for a design to depart from the code it is so that the design leads to overdevelopment of the site  A taller slim building with commercial offices at the lower levels, where daylight access is problematic, would raise the residential units into a preferred location and satisfy the daylight requirements.
	Natural ventilation  Building depths which support natural ventilation typically range from 10 to 18 metres.  60% of apartments should be naturally cross ventilated  25% of kitchens should have access to natural ventilation	See discussion at Section 6.15 of EAR for details  The proposed development does not meet this design element.	It appears that such departures from the codes results from overdevelopment of the site  The units rely on mechanical ventilation to make them habitable. This is contrary to environmental sustainability; needing electricity to ventilate areas that with different planning can be naturally vented.  It mocks affordability housing

The text below is extracted from The Environmental Assessment Report

WLEP (Amendment No 65) limits the height of buildings on this site to

Northern portion of site RL 150

Southern portion of site RL 130

The proposal is 49.90m and 67.20m respectively greater in height than is desirable.

The FSR is residential 2.5:1

The FSR Commercial 3.0:1

The FSR of the proposal is about **twice** as great as is desirable

We note that Council is proposing to apply a permissible FSR of 10.5:1 under **its Draft LEP** drafted in accordance with the Standard LEP Template. In addition, as detailed in Council's letter of 4 August 2009, Council has that it will accept a floor space mix on the site of 5.5:1 commercial GFA and 5:1 residential GFA with a maximum FSR of 10.5:1 on the site consistent with the future FSR control for the site under the Draft Willoughby LEP.

Even these generous changes are exceeded by the proposal

**Until the Draft LEP is gazetted it has no authority and is irrelevant.**

There appears to be a conflict of interest in that the apparent owner of the land being sold (Willoughby Council) is also an authority able to manipulate the DCP and other development controls to enhance the FSR to its financial benefit.

### 5.3 Key Development Statistics

The proposed development will have the following key statistics:

**Table 3 – Key Development Statistics**

Development Criteria	Proposed		
Building Height (storeys)	<ul style="list-style-type: none"> <li>Residential tower – 29 storeys plus plant room above;</li> <li>Commercial tower – 21 storeys plus plant room above.</li> </ul>		
Building Height (RL) *	<ul style="list-style-type: none"> <li>Residential tower – RL 199.90 (approximately 98.5m) or RL 201.40 measured to top of lift motor room.</li> <li>Commercial tower – RL 197.20 (approximately 95.8m)</li> </ul>		
Gross Floor Area (GFA)		SREP 5 definition (sqm)	Standard Template definition (sqm)
	Residential	22,910	21,494
	Commercial/Retail	24,690	23,657
	Total	47,600	45,151
FSR		SREP 5 definition (sqm)	Standard Template definition (sqm)
	Residential	5.3:1	4.97:1
	Commercial/Retail	5.71:1	5.47:1
	Total	11.01:1	10.44:1
Unit Mix	<ul style="list-style-type: none"> <li>16 studio units (8%)</li> <li>16 one-bed units (8%) and 2 one-bed plus study units (1%) (18 one-bed units in total)</li> <li>132 two-bed units (63%) and 8 two-bed dual key units (4%) (140 two-bed units in total)</li> <li>34 three-bed units (16%)</li> <li>Total – 208 units</li> </ul>		
Average Units Sizes	<ul style="list-style-type: none"> <li>Studio – 37sqm</li> <li>One-bed units (including one-bed plus study) – 63sqm to 71sqm</li> <li>Two-bed units (including dual key) – 78sqm to 91sqm</li> <li>Three-bed units – 99sqm to 149sqm</li> </ul>		
Car Parking	<ul style="list-style-type: none"> <li>Public parking spaces – 250</li> <li>Residential parking spaces – 192</li> <li>Commercial parking spaces – 64</li> <li>Total – 506 parking spaces</li> </ul>		

## 6.6 Traffic, Parking and Access

A Traffic and Parking Assessment has been prepared for the project (Appendix G) which assesses the traffic, parking and vehicle access implications of the project.

### Car Parking

The application of the car parking rates under the WDCP would require the following car parking provision on the site:

- Residential Apartments
  - 16 studio units – 8 spaces
  - 18 one-bedroom units – 18 spaces
  - 140 two-bedroom units – 140 spaces
  - 34 three-bedroom units – 43 spaces
  - Visitors – 52 spaces
  - Total residential spaces required – 261 spaces
- Commercial Office
  - 19,092sqm NFA – 174 spaces (notably, in Council's letter of 24 August 2009, it indicated that a commercial car parking rate of 1/200sqm would be considered, similar to the rate used for the Pacific Place (Mirvac) office component which would reduce the commercial car parking requirement to 96 spaces)
- Retail Space
  - 2,031sqm NFA – 82 spaces

Total number of parking spaces required – 506 spaces (or 428 with reduced commercial car parking rate).

In addition, 250 public car parking spaces are required.

A total of 506 car parking spaces are proposed on the site allocated as follows:

- Residential Apartments
  - 14 studio units @ 0.5 spaces per unit – 7 spaces
  - 184 one-bed, two-bed and three-bed units (excluding the 10 affordable housing units) @ 1 space per units – 184 spaces
  - Manager-caretaker unit – 1 space
  - Total residential space proposed – 192 spaces
- Commercial/Retail – 64 spaces
- Public – 250 spaces of which 40 will be allocated as residential visitor and retail component of the development subject to appropriate contributions being made to Council.

Although the provision of parking on the site is below the rates specified in the WDCP, the provision of a restricted number of parking spaces on the site is consistent with the DGRs which recommend a constrained number of spaces be provided. In addition, the car parking arrangements proposed respond to the site's strategic location in proximity to frequent and well-connected public transport services.

The allocation of 40 of the proposed public car parking spaces to the residential and retail component of the development (by way of appropriate developer contributions to Council) will further reduce the car parking shortfall. It is also proposed that no parking spaces be provided for the affordable housing component of the development given the site's proximity to public transport, services, retail premises and recreational space.

## Carparking

Part C4 – Transport Requirements for Development	<p>The following parking requirement apply to the site:</p> <p><b>Residential Apartments (railway Precinct Zone 3(c2))</b></p> <ul style="list-style-type: none"> <li>• One-bedroom – 1 space</li> <li>• Two-bedroom – 1 space</li> <li>• Three-bedroom – 1.25 spaces</li> <li>• Visitors – 1 space per 4 apartments</li> </ul> <p><b>Commercial Office</b></p> <p>1 space per 110sqm net floor area (NFA)</p> <p><b>Retail Shop</b></p> <p>1 space per 25sqm NFA</p>
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Willoughby WLEP requires that cars be provided in the the amounts shown on the table to the left

The table below is prepared to grasp the numerous numbers used in the above text. Whereas the code requires about 780 spaces the proposal jumbles the numbers and comes up with 508, over 1/3 of the number of spaces less than needed.

The community is deprived of desperately needed car spaces which the proponent dismisses by “appropriate developer contributions to council.”

The car spaces are more valuable than a contribution. The opportunity to provide public car parking does not often arise. When it is as in this case, then car parking should be maximised

When was the last time that Council built a carpark and kept it in the public domain?

If the car spaces necessary cannot be accommodated on site; then the proposal is too large and it ought to be scaled down to be in proportion to the car spaces being delivered.

Residential Apartments	Units	Car Spaces by WLEP	Car Spaces Proposed	Shortfall
Studio aptatments	16	8	7	1
One bedroom apartments	18	18	incl	
Two bedroom apartments	140	140	incl	
Three bedroom apartments	43	54	184	28
Total	217	220	191	
Manager Caretaker Unit	1	1	1	0
Visitor		54	52	2
	Basis m <sup>2</sup>	Car Spaces by WLEP	Car Spaces Proposed	Shortfall
Commercial Offices	19092	174	64	110
Retail Area	2031	81	0	81
Public Carpark		250	210	40
Total Car spaces		780	518	262

## Summary of Objections

At present there is a Public carpark serving the community at large. **The proposal wishes to use the replacement carpark for its own uses:** for visitor, retail and commercial car parking. Visitor Car parking would not be free of charge as is provided by other residential developments.

There are no valid grounds for the Retail Area not to be provided with car spaces.

The proposal deprives the community of desperately needed car spaces and places added strain on kerbside parking.

**The vehicular access and loading areas are poorly conceived** and do not conform with the requirements of the DCP, leading to congestion that is likely to affect significant parts of the Chatswood CBD

Until the Draft LEP is gazetted it has no authority and is irrelevant.

The proposal acknowledges that the building heights are exceeded. In our view the excess height is not marginal and at **49.90m and 67.20m over the DCP for the site** cannot be tolerated. The excess height (about 18 storeys too tall) of the commercial building directly impacts on the surrounding properties.

The problems that the proposal has with non-compliance issues appear to result from designing a **residential building that is too large for the site:** leading to overdevelopment.

Any change to the DCP and WLEP has not been ratified by the regulatory process and as such cannot be considered as applying to the site. Only Willoughby Development Control Plan 2006 applies. Thus the proposal is **twice as large as would be considered under the DCP and must be rejected.**