



Planning &  
Infrastructure

***MODIFICATION REQUEST:  
7 Railway Street, Chatswood  
MP09\_0154 MOD 1***



Director-General's  
Environmental Assessment Report  
Section 75W of the  
*Environmental Planning and Assessment Act 1979*

April 2012

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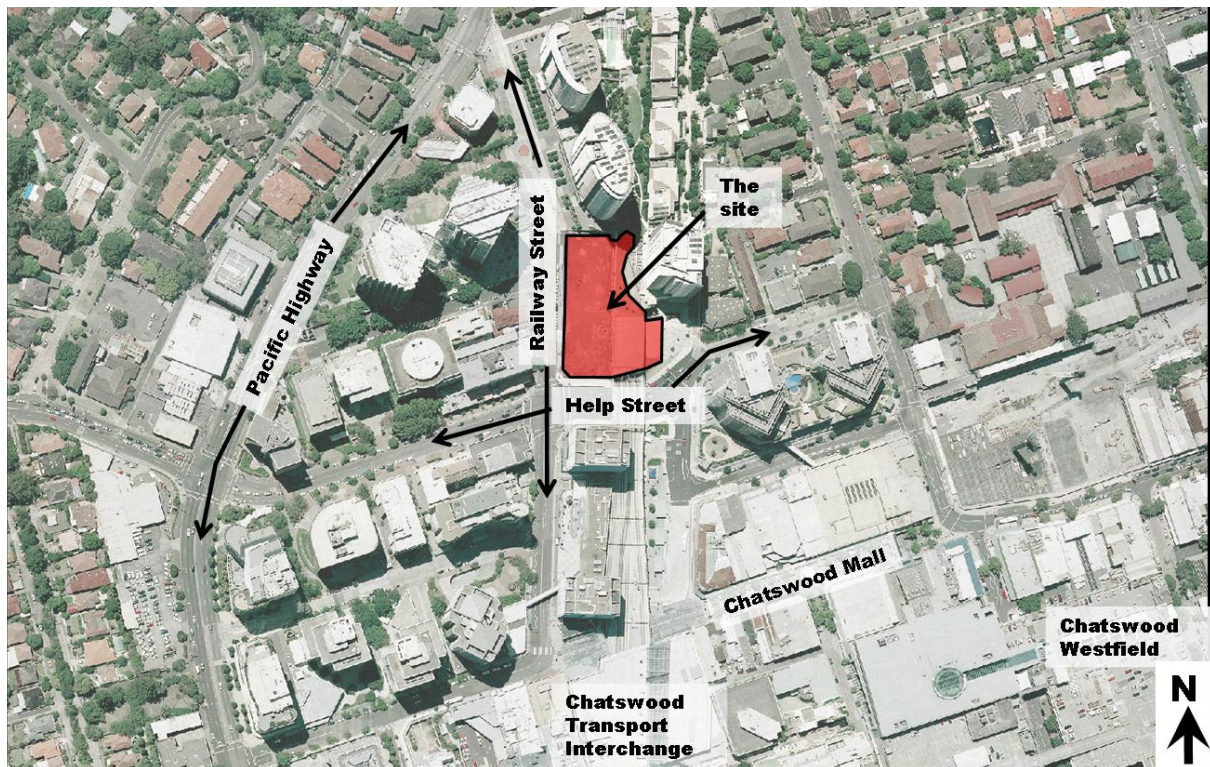
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## 1. BACKGROUND

### 1.1 The Site

The site is located at 7 Railway Street, on the corner of Railway and Help Streets, within the Chatswood CBD (refer **Figure 1** below). The site is an irregular shape and has an area of 5,148.5m<sup>2</sup>, with frontages of approximately 85 metres to Railway Street and 30 metres to Help Street. The land falls by approximately 2.5 metres from the north to the south and approximately 2.0 metres from the west to the east.

The site is located approximately 250 metres walking distance from the recently constructed Chatswood Transport Interchange with rail and bus services to/from Sydney CBD and other centres.



**Figure 1: Aerial photograph of central Chatswood (Base Image Source: NSW Land Property Management Authority)**

### 1.2 Major Project Approval

On 23 February 2011, the then Minister for Planning granted project approval for the construction of a new mixed use residential, commercial and retail development consisting of a:

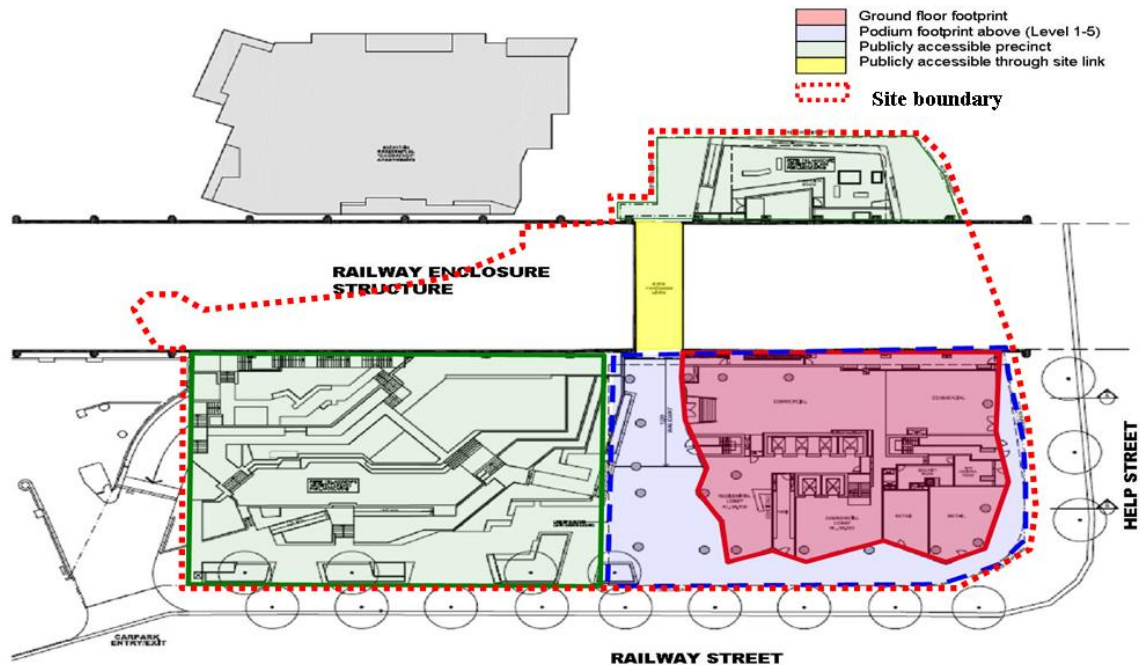
- 43 storey mixed use building consisting of a:
  - 5 storey podium accommodating retail/café tenancies, 4,876m<sup>2</sup> of commercial floor space and resident recreational facilities;
  - 37 storey tower above containing 295 residential apartments; and
  - plant within an enclosed roof structure on Level 43.
- Communal private open space on top of the Railway Enclosure Structure.
- A seven level basement accommodating a total of 332 parking spaces.
- Public domain works comprising:
  - publicly accessible open space with associated landscaping works; and
  - a pedestrian through site link between Railway Street and Cambridge Street.



- Stratum subdivision of existing lot into two stratum lots and strata subdivision of the proposed residential stratum.

The approved project layout is provided in **Figure 2** below.

Construction has commenced with site preparation and works to protect the adjoining rail infrastructure underway. Refer to **Figure 3** below.



**Figure 2: Approved Ground Floor Layout (Base Image Source: Proponent's PPR)**



**Figure 3: Works currently occurring on site (Source: Proponent's Modification Request)**

## 2. PROPOSED MODIFICATION

The proposed modification involves a number of amendments including to the landscaping, internal layout, balcony screens, traffic control and use of parking spaces within the basement.

A detailed description of the various aspects of the proposed modification is provided in **Table 1**.

**Table 1: Proposed Modifications**

<b>Aspect</b>	<b>Description</b>	<b>Conditions to be modified</b>
<i>Landscaping</i>	Delete the requirement for street trees due to the location of below ground services. Evergreen trees are proposed within raised planter beds within the property boundary to offset the deletion of the street trees.	Amend Condition A2 and delete Condition E17
	Minor changes to the terraced landscape area as a result of revised location of vents and adjusted headroom height within the basement below.	Amend Condition A2
	Amendments to materials and finishes within the landscaped area and deletion of the requirement for on-site testing of slip resistant surfaces.	Amend Conditions A2 and E9
<i>Commercial floor space</i>	Reconfiguration of commercial levels to provide amenities on each floor and more functional/flexible space and amend the requirement for separate development consents to allow the construction of inter-tenancy walls, bathrooms and kitchenettes as part of this approval.	Amend Conditions A2 and F13
<i>Shared use of commercial car parking spaces</i>	Remove the requirement for the commercial parking spaces to be made available for residential use outside of commercial business hours.	Amend Condition E3 and delete Condition E33 (b)
<i>Number of Apartments</i>	Reduction of the overall number of apartments by one from 295 to 294 by the consolidation of two units on Level 38 into one unit.	Amend Conditions A1 and A2
<i>Screens to balconies on the eastern façade</i>	Provision of screens to certain balconies on the eastern façade to satisfy RailCorp requirements. The balconies would be enclosed by louvres to provide 'winter gardens'.	Amend Condition A2
<i>Truck manoeuvring</i>	Delete the requirement for truck manoeuvring space to be separate to and not conflict with the access to the car park by implementing a traffic signal system	Amend Condition B2(g)
<i>Drainage easement</i>	Amend the requirement for a 3 metre wide easement to allow for a variable width easement.	Amend Condition C24

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<i>Timing of rights of public access granted under the Easement in Gross for the publicly accessible landscaped area and through site link</i>	Amend the timing of the rights granted under the easement for public access to the publicly accessible landscaped area, through site link and tunnel to allow for the landscaping and walkways to be completed as the last stage of the development.	Amend Condition E45
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### 3. STATUTORY CONTEXT

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#### 3.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with clause 3 of Schedule 6A of the Environmental Planning and Assessment Act 1979 (the Act), section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the modification of the project under section 75W of the Act.

#### 3.2 Modification of the Minister's Approval

The Modification Application has been lodged with the Director General pursuant to Section 75W of the Act. Section 75W provides for the modification of a Minister's approval including *"revoking or varying a condition of the approval or imposing an additional condition of the approval."*

The Minister's approval of a modification is not required if the project as modified will be consistent with the existing approval. However, in this instance, the proposal seeks to modify terms of approval imposed on the Project Approval, and therefore, approval to modify the application is required.

#### 3.3 Environmental Assessment Requirements

No additional environmental assessment requirements were issued with respect to the proposed modifications, as sufficient information has been provided to the department in order to consider the application and the issues raised remain consistent with the key assessment requirements addressed in the original DGRs.

#### 3.4 Delegated Authority

On 14 September 2011, the Minister delegated his powers and functions under section 75W of the Act to the Planning Assessment Commission in cases where the application has not been made by or on behalf of a public authority and:

- the relevant local council has made an objection;
- a political disclosure statement has been made; or
- 25 or more public submissions in the nature of objections have been received.

Willoughby Council objects to the modification. The Planning Assessment Commission can therefore determine the modification request under delegated authority.

## 4. CONSULTATION AND SUBMISSIONS

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### 4.1 Exhibition

Under Section 75X(2)(f) of the Act, the Director-General is required to make the modification request publicly available. In accordance with Clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the application to modify the approval was made publicly available on the department's website.

The department referred the modification request to Willoughby Council, Roads and Maritime Services, RailCorp and Transport for NSW for comment.

The Department received submissions from Willoughby Council, Roads and Maritime Services and RailCorp.

No public submissions were received.

A summary of the issues raised in submissions is provided below.

### 4.2 Willoughby Council

Willoughby Council objects to the following aspects of the proposed modifications:

- the deletion of street trees, noting that the existing services can be relocated and the street trees are required to enhance the footpath, provide shade, rain protection and wind mitigation and soften the scale of the development;
- the encroachment of doors to the service enclosures onto the public footpath;
- the deletion of the requirement for the shared use of commercial car spaces outside of commercial business hours, noting that the development does not provide adequate visitor parking and therefore the commercial car parking spaces need to be flexible in their availability to residential use outside of office hours;
- the deletion of the requirement for car share spaces (the Department notes that the proponent does not seek to delete the requirement for 2 car share spaces);
- the deletion of the requirement for the manoeuvring space for the loading dock to not conflict with the access to the basement, (Council considers that an additional half basement level should be provided to provide separate manoeuvring space for trucks);
- the deletion of the requirement for on-site testing of slip resistant surfaces;
- delaying the easement for public access until prior to issue of a final Occupation Certificate;
- removing the requirement for exclusive use of common areas to require separate approval; and
- the deletion of the requirement for first use of building spaces to be subject to development consent.

Council did not raise objections to the following aspects of the proposal:

- provision and location of amenities and the design of the commercial floors to provide flexibility for future tenants. However, Council raised concern that one of the commercial tenancies fronting Help Street is largely inaccessible for people with a disability and also has no internal connection to the lift lobby, basement car park and delivery facilities;
- amalgamation of two units into one on Level 38;
- the installation of screens on the eastern façade of the building. Notwithstanding, Council advised that the enclosure of balconies would count as gross floor space (for the purposes of calculating the floor space ratio). Council further noted that the screens will have little impact on the appearance of the building, and restated their previous concerns about the architectural merit of the building in response to the original application; and
- the provision of a 3 metre wide drainage easement, subject to the 88B Instrument being approved in writing by Council's Engineering Services prior to registration.



In response, the proponent provided additional information including:

- further justification for the deletion of street trees;
- an additional wind statement confirming acceptable wind conditions;
- an amended plan which removes the encroachment of service doors onto the public footpath;
- an amended plan which addresses Council's concerns regarding the accessibility to one of the ground floor commercial tenancies;
- further justification for the request to remove the requirement for shared use of commercial car parking spaces;
- further justification and clarification for the certification of slip resistant surfaces;
- further justification for the request to delay the registration of the easement for public access until issue of a final Occupation Certificate, and an alternate condition that the rights granted under the easement are subject to the completion of landscaping and walkways;
- the request that the exclusive use of common areas not require separate approval is no longer proposed; and
- an amended plan showing the indicative inter-tenancy walls, bathrooms and kitchenettes and a request that these works be undertaken as part of this approval without the need for separate development consent.

#### **4.3 Roads and Maritime Services (RMS)**

RMS provided comments on the proposed amendments in relation to:

- shared use of commercial parking spaces for residential use outside of commercial business hours; and
- loading area within the basement car park.

RMS does not object to the amendment of Condition E3 and E33 to remove the requirement for the commercial car parking spaces to be made available for residential use outside of commercial business hours.

RMS, however, initially objected to an amendment to Condition B2(g) seeking to remove the requirement for the manoeuvring space for the loading area to be separate to and not conflict with the access to the basement car park. RMS advised that the conflict between trucks and private vehicles is not supported and that the proponent has not demonstrated what measures are to be put in place to ensure that access and safety within the car park is not compromised.

In response, the proponent provided additional information, including a Traffic Signal system, to ensure the safety of truck and car movements within the basement.

After a meeting between RMS and the proponent, RMS advised that they raised no objection to the amendment of Condition B2(g) subject to the condition being amended to read:

*"Provision of access to a loading/waste handling area capable of handling two trucks at the same time and does not conflict with the access to the car park. The conflict between service vehicles and residential vehicles is to be managed by the implementation of "Car Park Access Traffic Signal System" as shown in Drawing No: PTC-01. In all other respects the access ramp and entry shall be designed in accordance with AS 2890.2".*

#### **4.4 RailCorp**

RailCorp advised that the existing conditions of approval adequately address any issues. RailCorp did not require any amended or additional conditions in respect of the modifications.

## 5. ASSESSMENT

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The Department considers the key issues for the proposed modification to be:

- loading area manoeuvring;
- shared use of commercial car parking spaces;
- street trees;
- wind impacts;
- easement for public access;
- internal works within the commercial levels;
- landscaping and materials; and
- building appearance.

### 5.1 Loading area manoeuvring

During the assessment of the original application, Council raised concerns that the loading area needed to be redesigned to avoid conflicts with multiple trucks trying to load/unload and entering/exiting cars. In this regard, the Department imposed Condition B2(g) which requires a loading/waste handling area capable of handling two trucks at the same time and manoeuvring space that is separate to and does not conflict with the access to the car park.

#### *Proponent's justification*

The proponent advises that it is not possible to provide manoeuvring space that is separate to and does not conflict with the access to the car park. The proponent considers that given the size of the site and required headroom it is not possible to provide a separate manoeuvring area dedicated to truck movements. Accordingly, it is proposed that trucks reverse into the loading lock by manoeuvring on the car park ramp and then exit the site in a forward direction.

It is proposed to manage potential conflicts between reversing trucks and cars through a traffic signal system. The traffic signal system will operate at all times and involve detector loops and height sensors which will detect when a truck is entering and exiting the loading area. The proposed traffic signal system is shown in **Figure 4**.

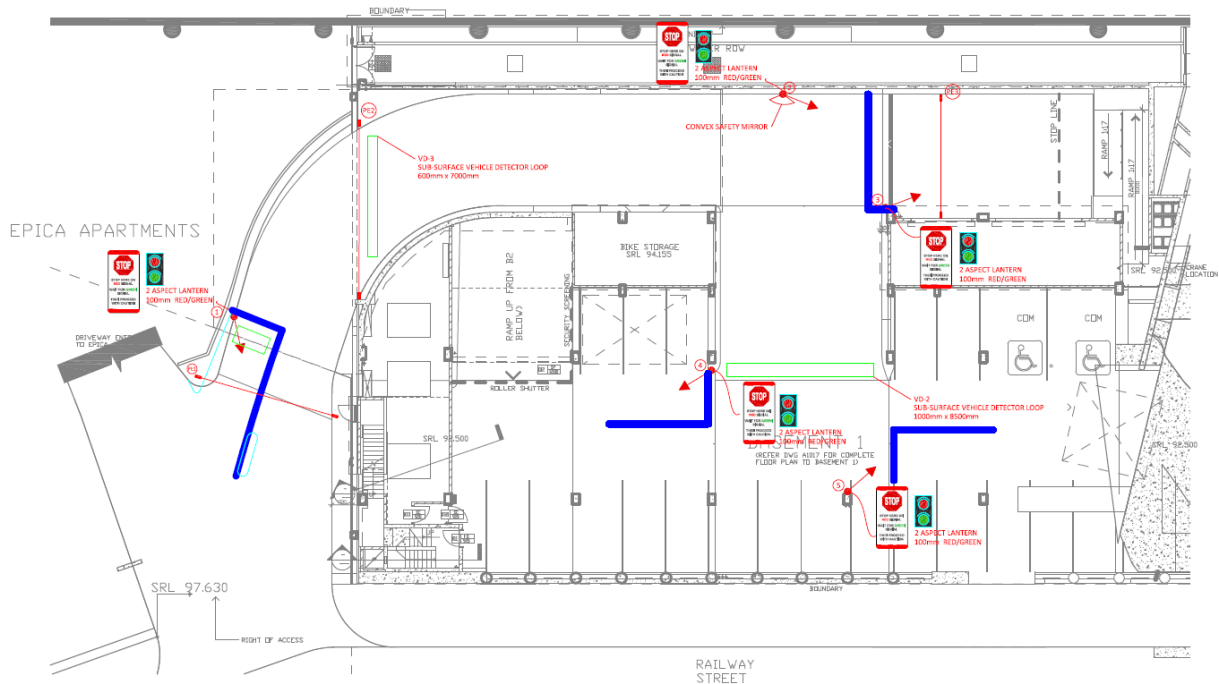
#### *Council's comments*

Council objects to any amendment to the existing condition and considers that the provision of an additional half basement level should be provided so that the delivery/waste collection does not conflict with cars using the car park.

#### *RMS comments*

RMS originally raised objection to the proposed amendments and considered that the proponent did not adequately demonstrate how the conflict between trucks and cars will be addressed and the measures put in place to ensure that access and safety to the car parking access is not compromised.

After a meeting with the proponent and consideration of additional information on how the conflict between trucks and cars would be managed, RMS advised that they raised no objection to the proposed traffic signal system to manage truck and car access to the car park.



**Figure 4: Proposed traffic signal system within the basement (Source: Proponent's Modification Request)**

#### *Department's consideration*

The Department is satisfied that the proposed traffic signal system, as agreed to by RMS, will ensure that both trucks and cars can safely access the site. The traffic signals will ensure that the potential conflict between reversing trucks and cars is removed.

The Department considers that the traffic signal system is also appropriate given the likely number and frequency of truck movements on the site (approximately 6 waste collection vehicles plus delivery vehicles, removalist vehicles, etc).

The traffic signal system will remain 'green' and give priority to cars at all times except when a truck is entering or exiting the site. In this regard, the efficiency of vehicle movements in and out of the basement will be unaffected at most times. It is considered that adequate queuing space is provided within the property to cater for cars held at the entry to the basement while a truck is entering or leaving the loading area.

On this basis, the Department supports the proposed traffic signal system to remove the potential conflict between trucks and cars. It is therefore recommended that Condition B2(g) be amended to delete the requirement for separate manoeuvring space and require the implementation of the proposed traffic signal system instead.

## **5.2 Shared use of commercial car parking spaces**

Willoughby DCP requires 74 visitor car parking spaces for the residential component of the development (1 space per 4 apartments). The approved development provides only 9 residential visitor spaces. The Department previously considered that the visitor parking provision was acceptable given the site's location within the Chatswood CBD and proximity to public transport. Further, the proponent previously advised that the commercial car parking spaces would be available for residential visitor car parking outside of core business hours, to aid in meeting the potential need for visitor car parking.

Conditions of approval were therefore imposed to ensure that the retail and commercial car parking spaces were available for the use of visitors outside of standard office hours. In particular, Condition E33 requires a Section 88B Instrument to ensure the shared use of spaces is registered on the title of the development.

#### *Proponent's justification*

The proponent requests that the requirement for shared use of the spaces be deleted. The proponent previously offered the shared use of commercial car parking spaces as it envisaged that the commercial floor space would be occupied by a single tenant, where the spaces would not be allocated but used on a first in first served or shared basis. However, the proponent now advises that initial sales (off the plan) have been to individual tenants each requiring car parking spaces. The use of spaces is therefore not as flexible as originally envisaged.

The proponent therefore considers that the shared use of car parking spaces is not appropriate given that:

- under NSW legislation it is illegal to remove, or wheel clamp, a car that is parked illegally within private property so there is no enforcement mechanism to ensure visitors do not occupy commercial spaces within office hours;
- signage is not a practical way to enforce the shared arrangement as there is no ability to ensure visitors do not use commercial spaces within office hours;
- there will not be a 24 hour building manager on-site;
- the shared use of spaces may restrict the ability for commercial tenants to work outside of standard business hours; and
- restricted access to the commercial car parking spaces may make the commercial tenancies less attractive to future occupiers.

#### *Council's comment*

Council objected to the deletion of this requirement, noting the shortfall in visitor car parking provision. Council also notes that the development does not contribute to the provision of public parking in Chatswood.

Council suggested that the commercial car parking spaces could be held as common area and their allocation managed by the Building Manager on an as needs basis with changing tenancy demands. It was also suggested that suitable agreements could be put in place with the commercial tenants allowing for residential visitor use after 6.00pm with appropriate line marking and signage to this effect.

#### *RMS comment*

The RMS did not raise any objections to the deletion of this requirement.

#### *Department's consideration*

The Department supports reduced parking on the site given the proximity of the development to the Chatswood Transport Interchange. Through the assessment process of the original Major Project application, the Department requested that the proponent reduce the car parking to a more appropriate level given its accessibility to transport, services and employment opportunities. The PPR therefore proposed a reduction in the number of car parking spaces from 395 to 332.

The Department considered that the allocation of spaces was also appropriate being 295 spaces for residents, 9 spaces for residential visitors, 26 spaces for the commercial/retail uses and 2 designated car share spaces.

The proponent's comments on the impracticalities of implementation and management of the arrangement are supported with legal advice. Further, the Department agrees that the limited ability to enforce compliance with the shared use and the restrictions on the use of commercial spaces by the tenants outside of standard business hours may be a disincentive for prospective commercial tenants within the development.



While the Department supported the shared arrangement of the commercial parking spaces, it is considered that the request to delete the requirement to share spaces is acceptable for the following reasons:

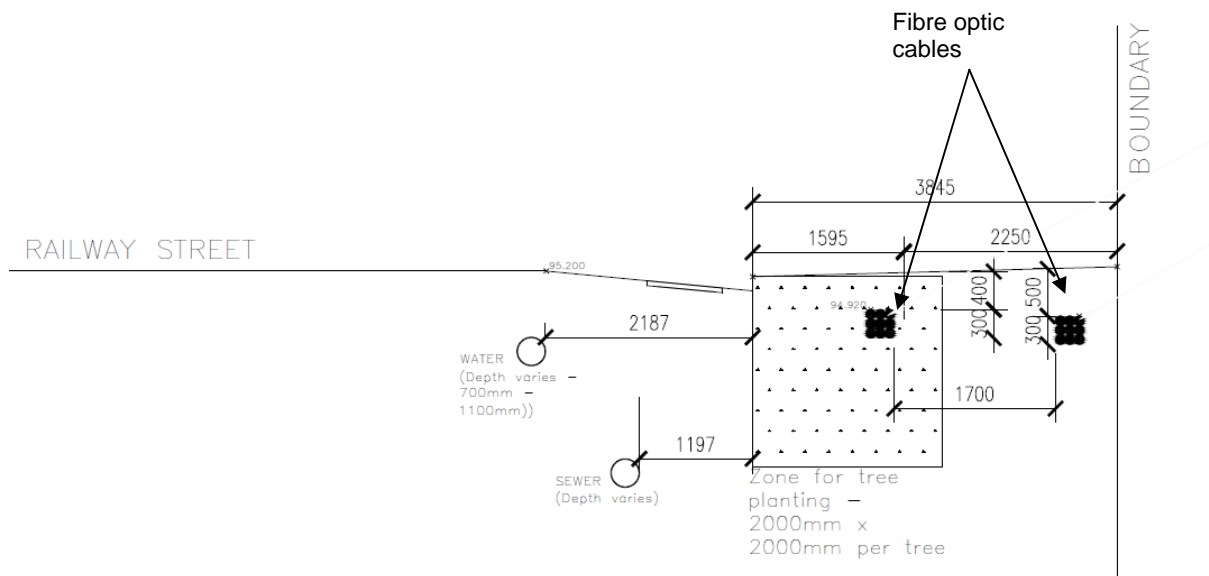
- the site is located approximately 250 metres walking distance from the Chatswood Transport Interchange; and
- there is a good supply of on-street parking outside of standard business hours in the surrounding streets.

### 5.3 Street trees

The approved landscape plan provided for street trees along Railway Street and Help Street in accordance with Council's requirements for street trees within the CBD to provide high amenity streetscapes. The Wind Assessment prepared by WindTech, in particular, recommended that two street trees be provided at the corner of Railway and Help Streets to address the slight exceedance of the comfortable walking criteria at this location.

#### *Proponent's justification*

The proponent has advised that major Telstra fibre optic cables (running between Sydney and Brisbane) are located under the footpath on the eastern side of Railway Street. The proposed tree root zone would therefore interfere with these existing cables (refer to **Figure 5**). The relocation of this cable is not feasible due to the disruption to services (an estimated cost of \$1 million per day) which would result and the conflict with other services.

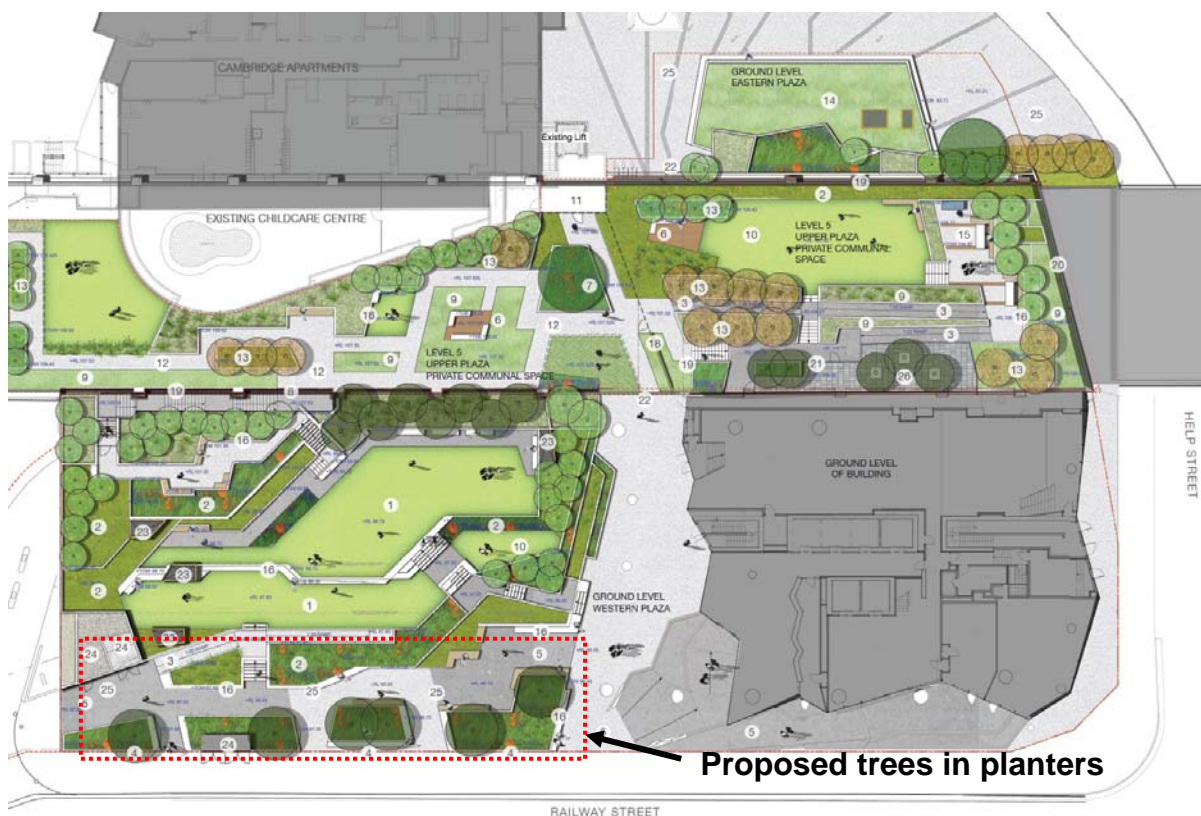


**Figure 5: Existing Services in Railway Street and the zone required for tree planting (Source: Proponent's Modification Request)**

The proponent proposes to delete the street trees and provide replacement trees within the boundary in planters along the western portion of the Railway Street frontage. Refer to **Figure 6**.

This is consistent with the landscape scheme for the Epica and Altura buildings (approved by Council) immediately to the north of the development as demonstrated in **Figure 7**. These trees are within the property boundary.

In addition, a supplementary Wind Statement has been provided confirming that the marginal exceedance of comfortable wind conditions at the corner of Railway and Help Streets is not exacerbated by the development and that mitigation measures are not warranted in this location.



**Figure 6: Proposed Landscape Plan with trees proposed along the western portion of the Railway Street frontage within the publicly accessible open space (Source: Proponent's Modification Request).**



**Figure 7: Existing trees within the setback of Epica and Altura buildings (Source: Proponents Modification Request)**

#### *Council's comments*

Council considers that the street trees are an essential element within the Chatswood CBD to enhance the public footpath, provide shade and rain cover, mitigate wind impacts and soften the scale of buildings for pedestrians. Council considers that the services located within the footpath can be relocated.

#### *Department's consideration*

The Department supports the proposed alternate planting within the property boundary given the difficulty and cost (estimated at \$1 million lost revenue per day) associated with the relocation of the major Telstra fibre optic cables. The tree planting within planters is also consistent with the landscape character established for Railway Street (refer to **Figure 7** above). The wind impacts associated with the deletion of street trees are discussed in **Section 5.4**.

On this basis, it is recommended that Condition E17 be deleted, subject to the revised landscape plan featuring additional trees within the property boundary being approved as part of Condition A2.

#### **5.4 Wind impacts**

As discussed in **Section 5.3**, it is proposed to delete the requirement for street trees which will impact on wind conditions at ground level and pedestrian amenity around the development.

As the Building Code of Australia and Australian Standards do not regulate wind conditions for pedestrian amenity, there are a number of different guidelines for assessing acceptable wind conditions. The Wind Assessment provided with this application considers three different guidelines:

- Davenport's Criteria for Mean Wind Speeds (1972);
- Lawson's Criteria for Mean Wind Speeds (1975); and
- Melbourne's Criteria for Peak Wind Speeds (1978).

The key criteria from each guideline is provided in **Table 2** below.

**Table 2: Wind assessment criteria**

<b>Criteria</b>	<b>Davenport</b>	<b>Lawson</b>	<b>Melbourne</b>
<i>Slow walking</i>	5.5m/s to 7.5m/s	6m/s to 8m/s	
<i>Fast walking</i>	7.5m/s to 10m/s	8m/s to 10m/s	
<i>Maximum Annual Gust</i>			23m/s

It is noted that existing wind conditions at an isolated location on the corner of Railway and Help Street (refer to Point 20 in **Figure 8**) comply with the Lawson slow walking criteria of 8m/s but exceed the Davenport slow walking criteria of 7.5m/s by 0.4m/s.

In the absence of street trees, the post development wind conditions in this location are estimated to be 7.8m/s. This is an improvement to the current conditions and continues to comply with the Lawson criteria. The wind conditions, however will not meet the more stringent Davenport criteria for slow walking.

In addition, the annual maximum gust (a sustained gust of wind for a period of 3 seconds once per year) at Point 20 is 24.6m/s which also exceeds the Melbourne criteria by 1.6m/s. The proponent's wind engineer has advised that this gust speed in a small area presents an acceptable level of risk, noting that the difference between a 3 second gust of 23m/s and 24m/s is not significant.

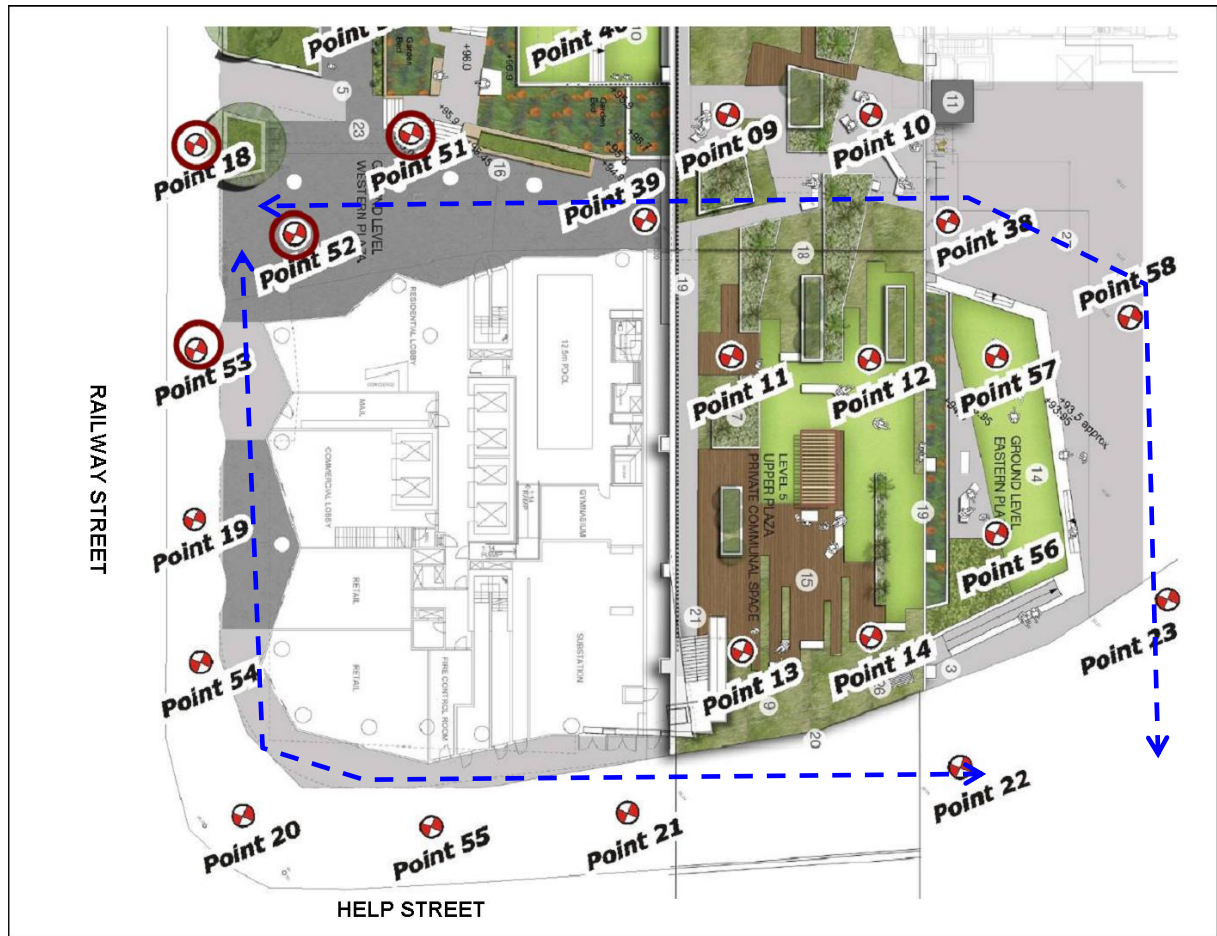
Notwithstanding the identified exceedance, it is considered that the wind conditions are acceptable given that:

- the exceedance is limited to an isolated location being a very small area at the corner of Railway and Help Street;
- the proponent's wind engineer has also advised that the wind conditions in the areas surrounding Point 20 comply with both the Davenport and Lawson slow walking criteria (locations 19, 54, 55 and 21 in **Figure 8**);



- the maximum gust of 24.6m/s in this location is expected to occur for only 3 seconds once a year and in this regard is unlikely to significantly impact on pedestrian safety and amenity; and
- while the area will be used for pedestrians wishing to cross Railway Street, pedestrian routes are also provided:
  - under the awning of the building which generally aligns with the property boundary; and
  - through the landscaped open space and tunnel as shown in (refer to **Figure 8**).

On this basis, the deletion of the requirement for street trees (Condition E17) is considered acceptable with replacement trees provided within the property boundary.



**Figure 8:** Wind testing locations and with possible pedestrian routes shown in blue  
(Base Image Source: Proponent's Modification Request)

### 5.5 Easement for public access

The proponent originally sought to amend the timing of the required easement for public access over the publicly accessible landscaped area, through site link and tunnel until the issue of a final Occupation Certificate.

Council objects to the proposed timing of the registration of the easement and considers that the easement should be enabled as soon as any occupation of the development commences. Council raised concern that many developments do not have final Occupation Certificates and some conditions of consent remain outstanding with occupation already been granted under interim Occupation Certificates.



In response an alternative option is proposed, whereby the easement is registered prior to issue of any Occupation Certificate, however the rights granted under the easement are not available until such time as the landscaping and walkways are complete.

The Department considers that the proposed timing of registration is appropriate prior to issue of any Occupation Certificate to ensure that the public access to the site is granted as envisaged within the original development.

It is considered appropriate to defer access to the site until construction is complete to:

- provide public safety; and
- allow the landscaping to be completed as the last stage of works to avoid damage during construction.

On this basis, it is recommended that Condition E45 is amended to allow for the rights granted under the easement for public access to be subject to the completion of the landscaping and walkways forming part of the easement site.

## **5.6 Internal works within the commercial levels**

The proposal involves minor layout changes to the commercial levels including the location of amenities and lobby space.

The proposal also seeks approval for inter-tenancy walls and amenities (kitchens and toilets) to allow the construction to occur as part of this development. The proponent submitted an additional plan which provides an indicative layout of tenancies, however it was noted that the final size and location of tenancies may vary depending on requirements.

It is considered that the proposed inclusion of inter-tenancy walls and amenities is acceptable, subject to the walls and amenities being generally in accordance with the submitted plan and approved by the Certifying Authority prior to issue of the relevant Construction Certificate. An appropriate additional condition (Condition B32) has been recommended accordingly.

It is also recommended that Condition F13 be amended to require a separate development application for the initial use and fit out of all commercial and retail premises, apart from the construction of inter-tenancy walls, bathrooms and kitchenettes where they are approved as part of this development.

## **5.7 Landscaping and materials**

The proposal seeks approval for an amended landscaping plan which involves minor changes to the terraced landscape area to accommodate adjusted headroom clearance and revised location of vents to the basement car park below. Further, some minor layout changes are proposed.

The proponent has also advised that the materials selected for the landscape scheme are also amended to ensure long-term durability and to comply with the relevant safety standards for slip resistant surfaces. Therefore, the modification seeks to remove the requirement for on-site testing of finishes (internal and external) where a material has been certified as achieving a slip resistant classification under wet and dry conditions in accordance with Australian Standard 4586.

Council objects to the removal of the requirement for on-site testing, noting that testing is required in-situ having regard to the location and usage pattern. Council further noted that the manufacturer's advice is not always reflected in in-situ tests, particularly where an applied finish is required to the surface after installation.

Council also objected to some encroachments onto the public footpath in Railway and Help Streets. The proponent has amended the plans to remove these encroachments.

The Department considers that the proposed amendments within the landscaped area are minor and do not change the size, function or amenity of the landscaped area and its purpose as publicly accessible open space (at ground level) and private communal open space (on top of the railway enclosure structure).

The Department considers that the requirement for on-site testing of slip resistant surfaces within private property is onerous where the material has already achieved a slip resistant classification under wet and dry conditions. However, it is recommended that Condition E9 be amended to require on site testing where the finish of the original product is altered in any way during or after installation, such as by surface coating or sealing.

## **5.8 Screens to balconies**

The approved development incorporates screens to apartments in the south east corner of the building, which results in balconies that are half enclosed and half open to the elements. The screens were required due to RailCorp requirements to protect the adjacent rail infrastructure.

The proposed modification seeks to fully enclose the balconies in this location with glass louvres to create 'winter gardens'. The balconies would be subject to the elements due to 80mm wide gaps in the louvres, however the full enclosure will provide a higher amenity and usability of the balconies for longer periods of the year.

Council has not raised any objections to the enclosure of the balconies, however has commented that the enclosure of the balconies will:

- increase the gross floor area (GFA) of the building; and
- make little change to the appearance of the building, reiterating its previous concerns that the approved development is of less than average architectural merit.

The Department notes that the full enclosure of 28 balconies on the south east corner of the building will result in a technical increase in GFA of approximately 560m<sup>2</sup>. This would result in the floor space ratio for the development being increased from 7.8:1 to 7.9:1. This marginal increase is considered acceptable given that the modification does not radically change the form or appearance of the building and will not result in any intensification of use or cause any adverse impact on surrounding properties.

The Department previously considered that the architectural quality of the building is acceptable, therefore disagreeing with Council's comments about the external appearance of the building. Notwithstanding, the enclosure of the balconies does not result in significant changes to the appearance of the building.

The Department therefore supports the modification to satisfy RailCorp requirements while improving amenity and functionality for future residents by providing winter gardens enclosed with glass louvres which will be useable for longer periods of the year than an open balcony.

## **5.9 Other Matters**

The Department does not raise concern with the amalgamation of two apartments into one on Level 38. Council also did not raise any objections to this aspect of the proposal.

It is also considered acceptable to amend the requirement for a 3 metre wide drainage easement to a variable width easement due to the irregular shaped property boundary. Council has raised no objections to this aspect of the proposal, subject to the wording of the Section 88B Instrument being approved in writing by Council. It is therefore recommended that Condition C24 is amended accordingly.

## 6. CONCLUSION AND RECOMMENDATIONS

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The Department is satisfied that this modification application falls within the scope of section 75W of the Act and does not change the original assessment as to the site's suitability for this development.

The proposed modification is generally consistent with the terms of the Project Approval and is considered to be acceptable. The proposed modifications have been adequately justified by the proponent in response to site constraints and practicalities of the construction of the development.

The Department supports the proposed modifications as outlined in this report and it is therefore recommended that the application be approved subject to the modified conditions.

It is recommended that the Planning Assessment Commission:

- (a) **consider** the findings and recommendations of this report;
- (b) **approve** the modification request under delegated authority, subject to conditions; and
- (c) **sign** the attached Instrument of Modification for MP09\_0154 MOD 1.



**A/Director  
Metropolitan & Regional Projects South**



**A/Executive Director  
Major Projects Assessment**

20/4/12



**Deputy Director-General  
Development Assessment  
& Systems Performance**

22/4/12

## **APPENDIX A      MODIFICATION REQUEST**

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See the Department's website at

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=5028](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5028)



## **APPENDIX B SUBMISSIONS**

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See the Department's website at

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=5028](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5028)

## **APPENDIX C    PROPONENT'S RESPONSE TO SUBMISSIONS**

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See the Department's website at

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=5028](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5028)

## **APPENDIX D    RECOMMENDED MODIFYING INSTRUMENT**

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