



Planning &
Infrastructure

***MODIFICATION REQUEST:
7 Railway Street, Chatswood
MP09_0154 MOD 2***



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

May 2012

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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 5,148.5m², with frontages to Railway Street and Help Street. The site includes land over the rail corridor encased in a railway enclosure structure (RES).

The site is located approximately 250 metres walking distance from the recently constructed Chatswood Transport Interchange. The site forms part of the Mirvac Pacific Place development which includes the Cambridge building to the east and Epica, Altura and Buildings B-E to the north.

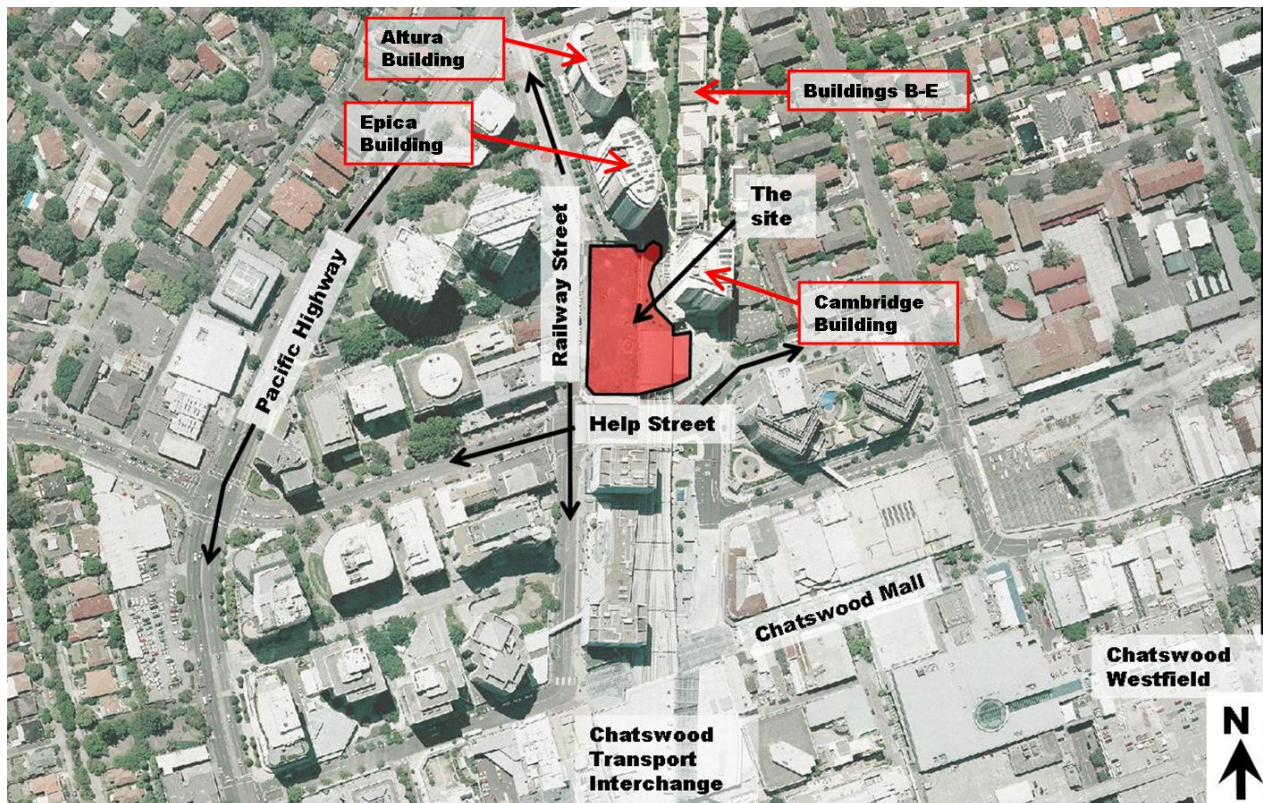


Figure 1: Aerial photograph of central Chatswood

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, 4,876m² 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 RES.
- 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**.

The approval provided for publicly accessible open space at ground level and private communal open space on top of the RES. The open space on top of the RES was partially for residents of 7 Railway Street and partially for the use of all Pacific Place residents as outlined in **Figure 3**.

1.3 Modifications

Modification Application MP09_0154 MOD 1 was approved by the Planning Assessment Commission on 30 May 2012. The approval provides for:

- amended landscaping and street trees;
- reconfiguration of the layout of commercial levels, including indicative inter-tenancy walls, kitchenettes and bathrooms;
- reduction in the number of apartments from 295 to 294;
- provision of screens to balconies on the eastern façade;
- deletion of the requirements in relation to separate access and manoeuvring space for the loading dock;
- provision of a variable width drainage easement; and
- delaying the rights of the easement for public access to the landscaped area and through site link coming into effect until landscaping and walkway works are completed (no later than 6 months after the issue of the first subdivision certificate for the lot).

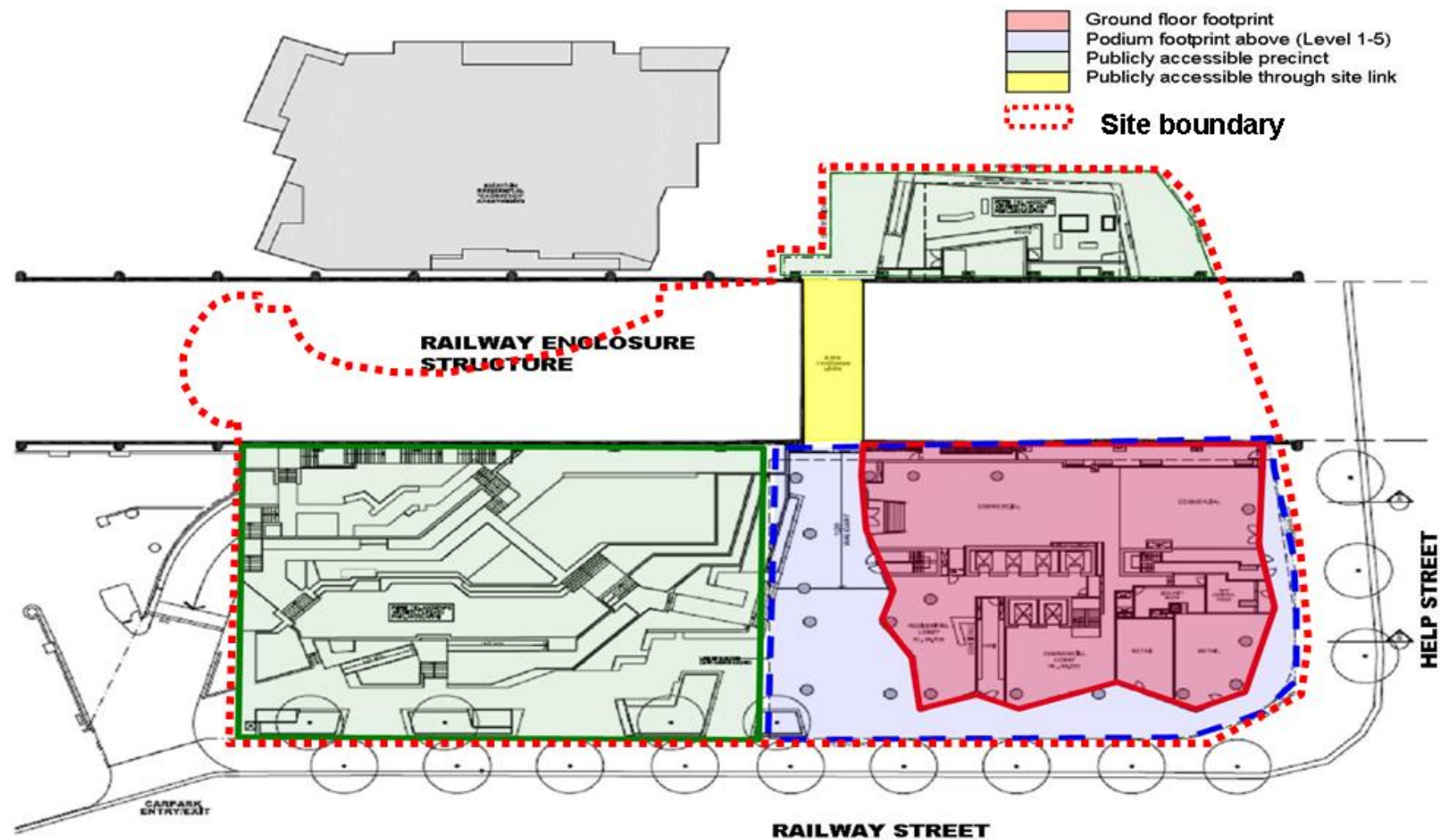


Figure 2: Approved Ground Floor Layout

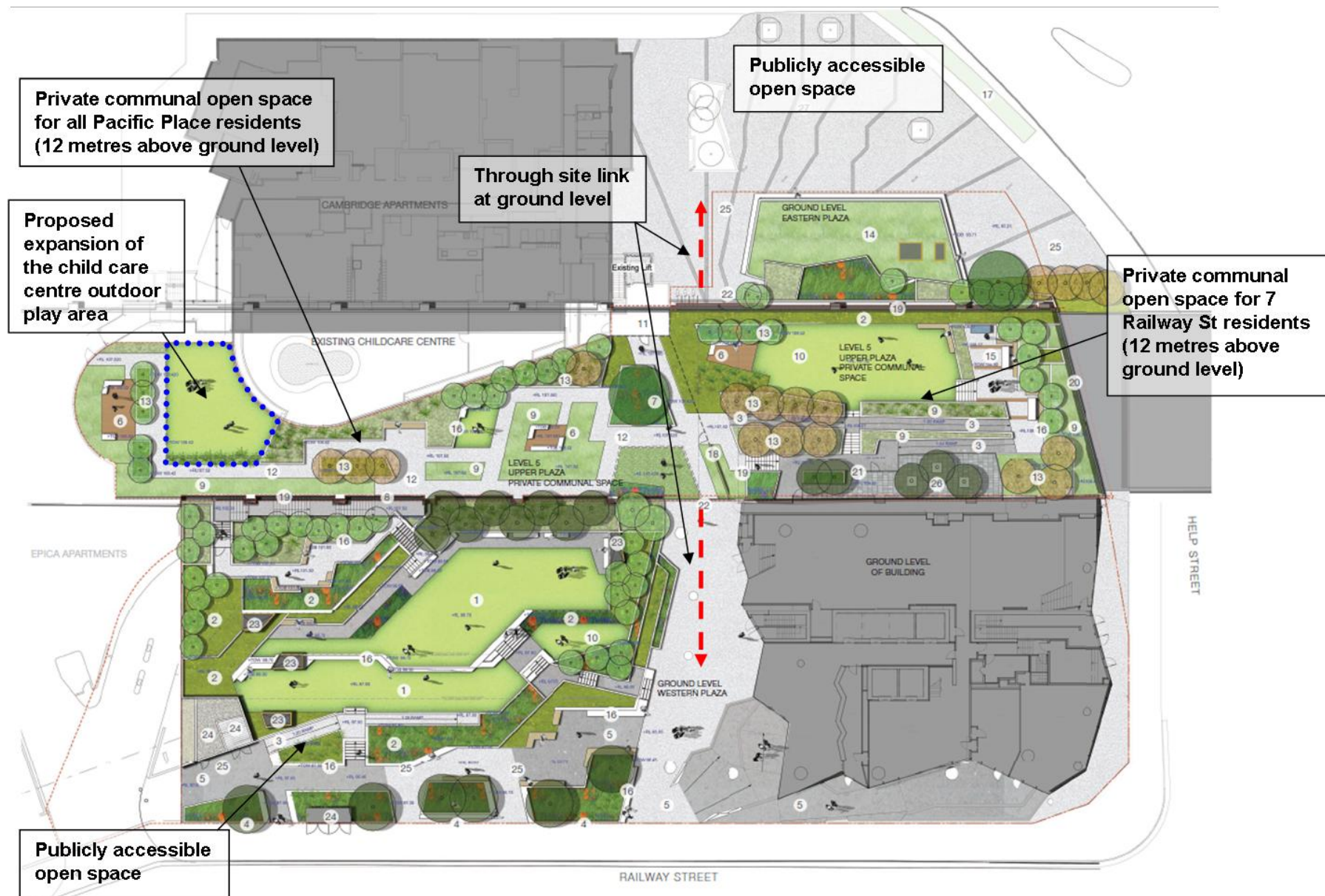


Figure 3: Approved Landscape Masterplan

2.1 Modification description

The modification is required as the operator of this child care centre has submitted an application with Willoughby Council to increase the number of child care places by 12 children, from 46 to 58. It is proposed to expand the outdoor play area to provide for the increase in child care places. Refer to **Figure 4** below.

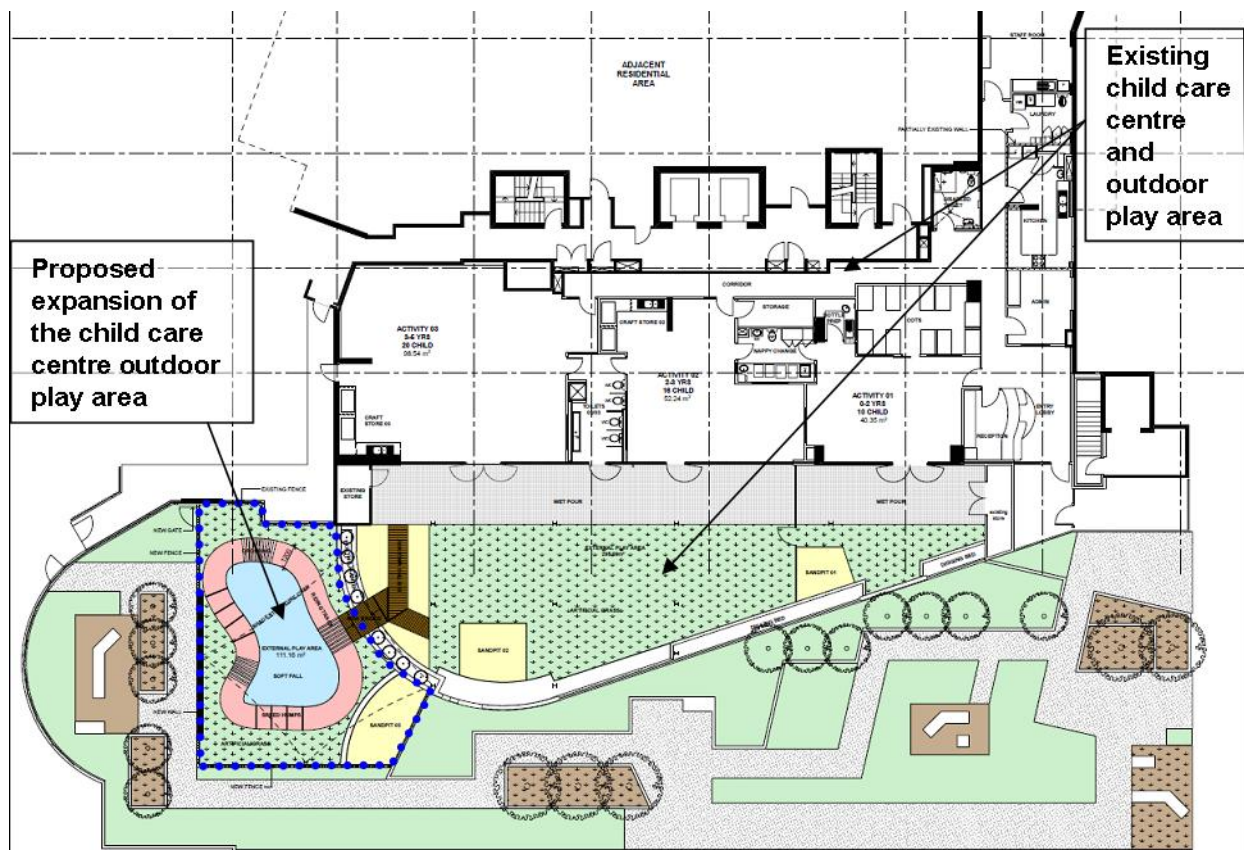


Figure 4: Application lodged with Willoughby Council for expansion of the child care centre

Council is unable to determine this application as the area is approved as communal open space for a separate development under the current Major Project Approval. The modification therefore proposes to create an additional stratum allotment to enable the lease of this space to the adjoining Sandcastles Child Care Centre and remove the requirements for this area to be used as private communal open space. It is also sought to carry out the stratum subdivision in two stages.

This modification, if approved, will allow Willoughby Council to consider and determine the application (currently under assessment) to expand the child care centre.

2.2 Conditions to be modified

The proponent seeks to modify the following conditions:

- **Condition A1** - amend the development description from two stratum lots to three stratum lots;
- **Condition A2** – amend the approved plans to include updated site, podium, landscaping and staged stratum plans to reflect the excising of the proposed child care centre open space from the communal open space; and
- **Condition E37** – amend the requirement for an easement for access over the northern area of communal open space to exclude the proposed child care area open space.

3. STATUTORY CONTEXT

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 Directors in the Major Projects Assessment Branch in cases where the application has not been made by or on behalf of a public authority and:

- the relevant local council does not object to the proposal;
- a political disclosure statement has been made; or
- less than 10 public submissions in the nature of objections have been received.

Willoughby Council does not object to the modification, political donations have not been disclosed and no public submissions have been received.

The A/Director, Metropolitan & Regional Projects South can therefore determine the modification request under delegated authority.

4. CONSULTATION AND SUBMISSIONS

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 for comment.

Willoughby Council made a submission raising no objection to the proposal. Council, however, advised that the Department needs to consider whether the reduction in open space remains adequate for future residents' needs. The Department has considered this issue in **Section 5**.

No public submissions were received.

5. ASSESSMENT

The Department considers the key issue for the proposed modification to be the reduction in communal open space.

The approved development provides approximately 1,900m² of publicly accessible open space at ground level in addition to 1,546m² of landscaped private communal open space located on top of the RES for future residents. The communal open space is to be divided into two areas – one area of 622m² which is to be accessible by residents of the 7 Railway Street only and a further area of approximately 924m² for all residents of the Pacific Place precinct.

The areas of communal open space for residents of 7 Railway Street and publicly accessible open space are not affected by the proposed modification

However, the proposal will reduce the area of communal open space accessible for all residents of the Pacific Place precinct by approximately 111m² to 813m².

The reduction in communal open space is considered acceptable given that:

- Pacific Place residents have access to private communal open space associated with the Epica, Altura and Building B-E developments;
- Pacific Place residents will continue to have access to 813m² of open space as part of this development which represents only a 12% reduction than that provided by the original approval (924m²);
- residents of 7 Railway Street have access to indoor recreation facilities and over 600m² of exclusive private open space; and
- all residents and the wider community will have access to approximately 1,900m² of publicly accessible landscaped open space at ground level to be constructed as part of this development.

Further, approval of the proposed modification would allow Council to consider and determine an application for expansion of the Sandcastles Child Care centre which would assist in meeting the demand for child care places in the Chatswood CBD.

On this basis, the proposed modification is considered acceptable.

6. CONCLUSION AND RECOMMENDATIONS

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 Department supports the proposed modification 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 A/Director, Metropolitan & Regional Projects South:

- (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 2.

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APPENDIX A MODIFICATION REQUEST

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5287

APPENDIX B SUBMISSIONS

See the Department's website at

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APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
