



**Planning Proposal for Nos. 17-19 Smith Street,
Chatswood**

November 2011

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Job No/ Document No	Description of Issue	Prepared By/ Date	Reviewed by Project Manager/Director	Approved by Project Manager/Director
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Note: This document is preliminary unless it is approved by a Project Manager or Director of City Plan Strategy and Development				

1. EXECUTIVE SUMMARY

This Planning Proposal explains the intended effect of, and justification for, the proposed amendment to Willoughby Local Environmental Plan 1995. The amendment is a site specific ‘principle’ LEP for **Nos. 17-19 Smith Street, Chatswood** (the site). It has been prepared in accordance with **Section 55** of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the relevant Department of Planning Guidelines including “*A Guide to Preparing Local Environmental Plans and A Guide to Preparing Planning Proposals*”.

This Planning Proposal seeks to allow for an enabling clause which will allow a “*supermarket*” to be a permissible use within the **4(b) light industrial zone** for the subject land under Willoughby Local Environmental Plan 1995 (WLEP 1995) or the proposed IN2 zone under the Draft LEP 2009 if gazetted.

In considering the appropriate future permissible uses for the site and the appropriateness of a development for a supermarket on the subject site, it is concluded that:-

- the site is located in an area which no longer has the characteristics of traditional light industrial uses, accordingly the existing 4(b) light industrial zone and the proposed IN2 zone is anomalous;
- the proposed zone promotes the historical land use and market desires and is considered inappropriate;
- Chatswood CBD (centre) is already congested and cannot accommodate another full-line supermarket even though the expenditure capacity is available;
- the Northbridge supermarket is trading at full capacity;
- there is a Policy shift which encourages the expansion of “neighbourhood shops” within the business development zones, business parks, enterprises corridors and certain light industrial zones;
- future traffic impacts are likely to be acceptable and existing road networks would be able to cater for the additional traffic generated;
- the edge-of-centre site’s rezoning would produce a net community benefit; and
- the site has the potential to create higher order employment per square metre, consistent with the objective (a) of Ministerial Direction 1.1 Business and Industrial Zone.

A Planning Proposal, is a mechanism outside of the Comprehensive LEP process that allows consideration of “spot rezonings” for individual sites or issues. In this case it is being promulgated so as to prevent any delay with the Comprehensive LEP as well as allowing a focus on the issues of the specific proposal. More importantly the Planning Proposal process will ensure appropriate community consultation.

The supermarket use is considered consistent with the objectives of the 4(b) and draft IN2 zone in that the higher employment generation use will not adversely impact on the amenity of other surrounding land uses (low density residential) whilst providing for a compatible land use which serves the needs of the local workforce and residents.

2. THE SITE AND CONTEXT

2.1 The Site

The subject site is known as No. 17-19 Smith Street (also known as No. 4 Short Street), Chatswood (see **Figure 1** below) with a legal description of Lot 101 DP714477. The site has an area of 4,377m² and is located within the Chatswood light industrial area, on the northern side of Smith Street (between Alleyne Street and Gibbes Street).

The site has frontage to Smith Street, Gibbes Street, Alleyne Street and Short Street. The site is used to be occupied by a car service centre (vacant since early 2010) with access to Alleyne Street and Gibbes Street - see **Photos 1-3**.



Figure 1: Aerial view of the site (Source: Google Maps)



Photo 1: View of subject site from corner of Smith and Alleyne Street



Photo 2: View of Subject site form corner of Smith and Gibbs Street



Photo 3:View of subject site from Short Street

2.2 Surrounding Development

A Bunnings Warehouse is located immediately east of the site (see **photo 4**), with access to the development via Gibbes Street and Smith Street. Other major existing tenants within the area include Pet Barn, The Good Guys, Subway and Fitness First.

This part of Chatswood, west of Eastern Valley Way historically formed a main industrial precinct within the region. In addition a number of major retail and non-retail tenants exist along the western side of Eastern Valley Way including Fitness First, The Good Guys, Pet Barn and Subway. Other community facilities provided within the surrounding area includes sporting and educational facilities.





Photo 6: Existing residential development on Smith Street (west of the site)

3 DESCRIPTION OF THE PLANNING PROPOSAL

3.1 General

This Planning Proposal seeks to allow for an enabling clause which will allow a “supermarket” to be a permissible use within the **4(b) light industrial zone** for the subject land under Willoughby Local Environmental Plan 1995 (WLEP 1995), or the IN2 zone under the Draft Willoughby LEP 2009.

This Planning Proposal considers the appropriate future zoning of the site; more specifically the appropriateness of a “supermarket” on the subject site within the existing and future zone, noting that only “neighbourhood shops” are permissible.

This Planning Proposal has been prepared in accordance with **Section 55 of the EP&A Act** and the Department of Planning guide to preparing Planning Proposals. A Gateway determination under **Section 56 of the Act** is requested.

3.2 Objectives of the proposal

This section of the Planning Proposal sets out the objectives or intended outcomes of the Planning Proposal. In considering an appropriate zoning (preparation of a new planning instrument) for the subject site, Ministerial Direction 1.1 **Business and Industrial Zone** pursuant to Section 117(2) of the Environmental Planning and Assessment Act applies.

The objectives of this Direction are to:-

- | |
|--|
| <ul style="list-style-type: none">a) “Encourage employment growth in suitable locations;b) Protect employment land in business and industrial zones, andc) Support the viability of identified strategic centres”. |
|--|

3.3 Indicative Concept Plan

For the purposes of the Planning Proposal an indicative development concept (see **Figure 4**) for the site has been prepared by BN Architecture and is attached at **Appendix 1**. The indicative concept plan provides only block modeling providing for a potential gross floor areas and parking as follows:-

Table 1: Indicative Concept Statistics

Area	Approximate GFA
Supermarket	3,650m ²
Mezzanine	200m ²
Loading	100m ²
Total	3,950m²
Parking	
CP1 level	92 spaces
CP2 level	92 spaces
Total	184 spaces

Source: BN Architecture

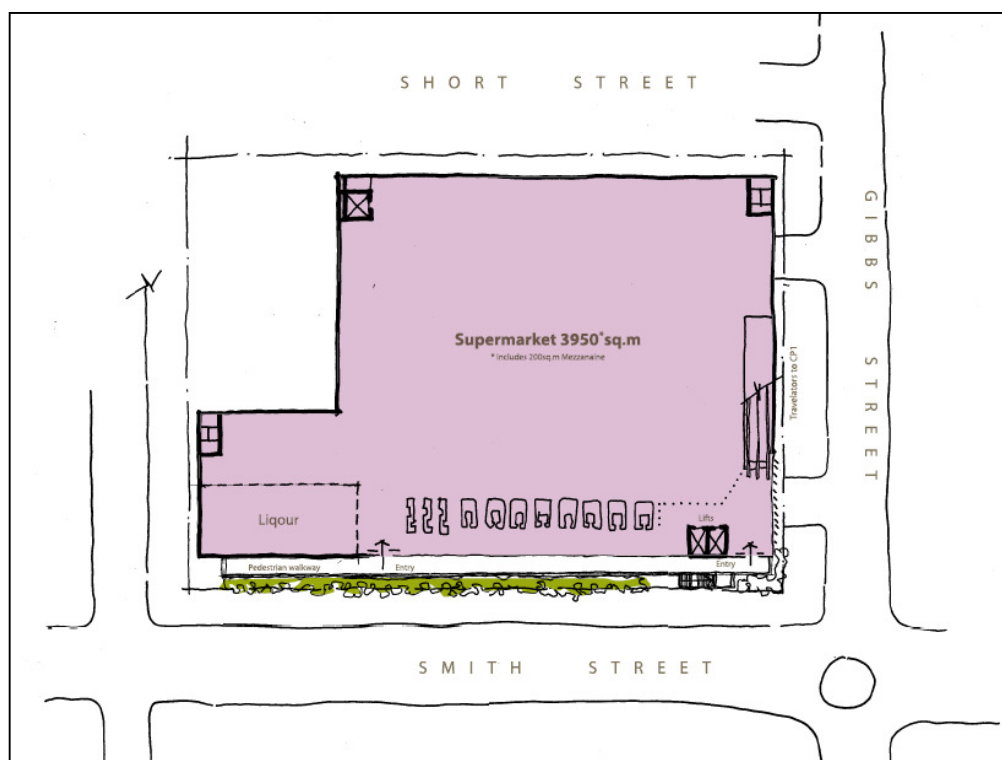


Figure 4: Indicative Concept Plan - reproduced here

3.4 Current and Draft Zoning

The site is currently zoned **Zone 4(b) Light Industrial Zone** pursuant to the Willoughby LEP 1995 (See **Figure 2**), with “retail” (supermarket) uses prohibited in the zone.

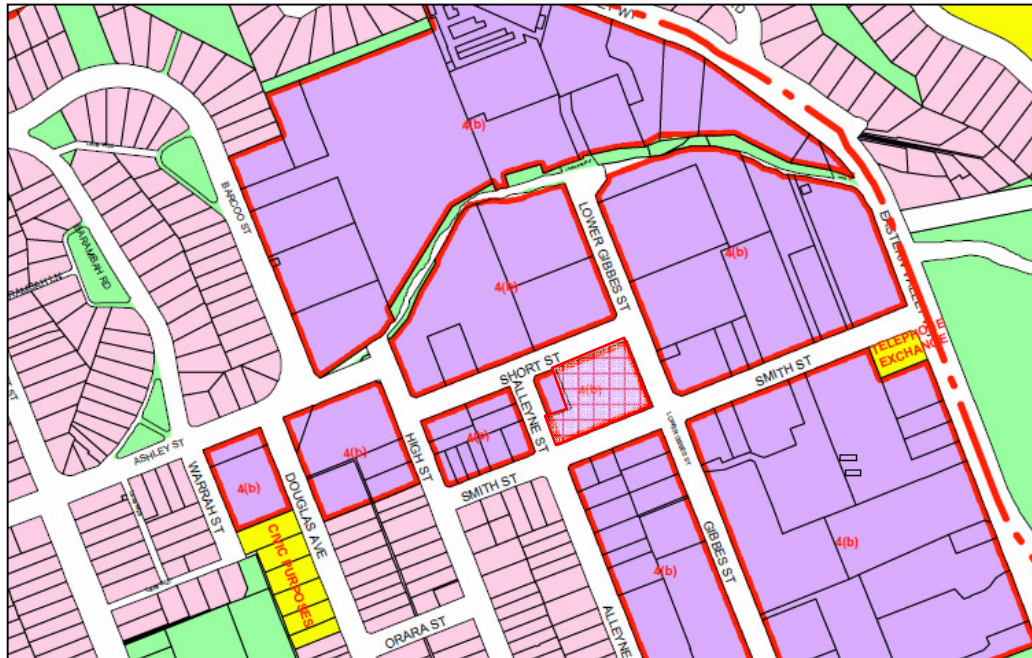


Figure 2: Existing Zoning 4(b) light industrial (shown hatched)

Within this zone the following uses are permissible:-

“Demolition

Development for the purpose of:

*Advertisements; banks; brothels; **bulky goods salesrooms or showrooms to which the provisions of Clause 44 apply**; carparking; car repair stations ;child care centres; community facilities; drainage; dwellings used in conjunction with and attached to a building used for a permitted light industry or warehouse; film and television production facilities; laboratories; light industry; motor showrooms; newsagencies; pharmacies or chemist shops; places of public worship; recreation areas; recreation facilities; roads; service stations; take-away food shops including milk bars, hot food bars and sandwich shops, but excluding drive-in take-away food shops; utility installations veterinary hospitals warehouses”*

Emphasis added

Draft Willoughby Local Environmental Plan 2009 (Draft WLEP 2009) was placed on exhibition from **Thursday 25 March to Thursday 20 May 2010**. The Draft Willoughby LEP 2009 identifies the site as **IN2 Light Industrial** (see **Figure 3** below) which also prohibits retail uses.

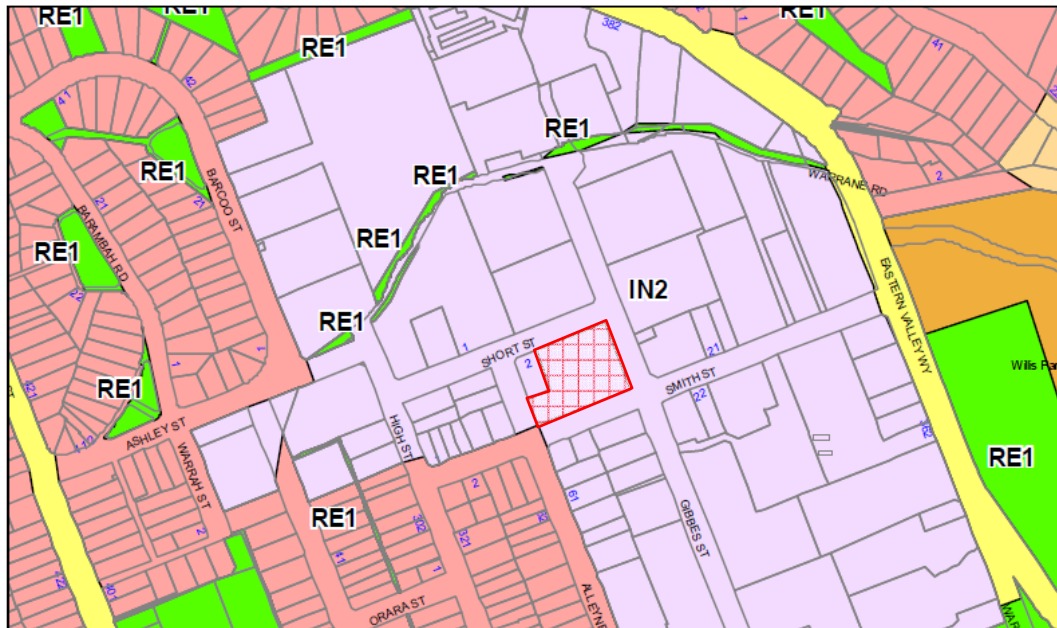


Figure 3: Draft LEP Zoning IN2 light industrial

Within the draft zone the following uses are permissible:-

*“Building identification signs; Business identification signs; Child care centres; Community facilities; Depots; Light industries; **Neighbourhood shops**; Places of public worship; Pubs; Recreation areas; Recreation facility (indoor); Roads; Self storage units; Service stations; Sex services premises; Storage premises; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Vocational education facilities; Warehouse or distribution centres”.*

Emphasis added

The objectives of the IN2 light industrial zone under the Draft LEP 2009 are as follows:-

“Objectives of zone

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To identify and preserve industrial lands to meet the current and future general industrial needs of the City of Willoughby and the wider region.*
- *To accommodate industrial development which produces a range of goods and services and provides employment, without adversely affecting the amenity, health or safety of nearby residents in adjacent areas.*
- *To enable industrial development which does not pollute or adversely affect adjoining*

land, air or water.

- *To allow only those shops and services that serve the daily convenience needs of workers employed in the industrial area.*
- *To protect the viability of business zones in the City of Willoughby by enabling development for the purposes of offices only where they are ancillary to and used in conjunction with industrial, manufacturing, warehousing or other permitted uses on the same land.*
- *To accommodate uses that, because of demonstrated special building or site requirements or operational characteristics, cannot be or are inappropriate to be located in other zones.*
- *To prohibit development if it is inappropriate in an industrial zone and can be located in established residential or business zones, such as residential and retail development and offices that are not ancillary to an industrial use.*
- *To improve the environmental quality of the City by ensuring that industries conform to environmental sustainability and hazard reduction guidelines”.*

The proponent made a submission on the Draft Willoughby LEP 2009 during the public exhibition period (refer to **Appendix 6**). The submission considered the appropriate future zoning of the subject site; the appropriateness of a supermarket on the subject site within the existing and future zone, noting that only “*neighbourhood shops*” were permissible and the possible options available to Council. The options provided within the submission are summarised below:-

Option 1: Rezone the East Chatswood land B5 Business Development and upgrade neighbourhood shops to supermarket for the subject site

Neither the subject site, nor the immediate surrounding area can be reasonably characterised as “*industrial*”. Accordingly, the existing 4(b) and proposed IN2 zone are considered anomalous. More appropriate would be to provide a zone consistent with the nature of the existing land uses and the trend/shift to allow a mix of businesses and warehouse uses within specialised large format retail areas. In this respect, the B5 Business Development zone was considered to be ideal.

It was considered that the aim of the B5 Zone is to encourage a range of employment uses/ activities in locations which are close to and which supports the viability of strategic centres. Notably, “*bulky goods premises*” are now a permissible use with consent in the **B5 zone**. It is already accepted by Council that “*bulky goods premises*” would be

permissible in the East Chatswood IN2 zone by virtue of a local provision in the Draft LEP.

As such the inclusion of a supermarket as a permissible use on the subject site within a B5 zone would be consistent with the States directive, providing a higher employment generation use in close proximity to the “*Major Centre*” of Chatswood. Moreover, it would be consistent with the policy shift in that it would allow larger scale supermarkets to be located in zones where “*neighbourhood shops*” are permitted.

Likewise “*light industry*” uses should be retained as a permissible use within the East Chatswood B5 zone.

Option 2: Allow "supermarket" to be a permissible use on the site within the proposed IN2 light industrial zone

If the B5 zone is not supported (for other reasons) was suggested that it would be reasonable to allow an additional permitted use on the site, to allow a "supermarket" to be a permissible use within the **IN2 light industrial zone**.

The current provisions in WLEP 1995 relating to *bulky goods premises* are included in the new draft WLEP 2009 as a local clause and in Schedule 1, Additional Permitted Uses. This permits “*bulky goods premises*” in the East Chatswood industrial area (other than where there is direct frontage to any residential area other than Eastern Valley Way) (the new Bunning's) and in the block bounded by Herbert, Cleg and Frederick Streets and Reserve Road, Artarmon (Council's old Depot). Accordingly, Option 2 is consistent with Councils existing practice to allow for additional permissible uses under Schedule 1 of the Draft LEP, and more specifically *bulky goods premises* within the light industrial zone.

It was certainly not suggested that Council permits a “*retail*” use but rather a “car based retail” use not dissimilar to “*bulky goods premises*” where direct vehicular access to the site by members of the public, for the purpose of loading items into their vehicles after purchase is required.

Option 2 would allow a “*supermarket*” to be a permissible use within the IN2 light industrial zone for the subject land only under Local provisions and Schedule 1. This approach would be consistent with the Amendment No. 79 to the Manly Local Environmental Plan 1988 which was gazetted on 27 August 2010. Amendment No. 79

allows a 'supermarket' on one of the larger sites within the Industrial zone (on land known as Nos. 17 and 31 Roseberry Street, Balgowlah).

Due to the uncertainty around the timing of the Draft LEP 2009, this Planning Proposal seeks to pursue Option 2, with the exception that the spot rezoning will be to the existing WLEP 1996. In this respect, the supermarket use is considered consistent with the objectives of the current 4(b) zone and for that matter the draft IN2 zone being a "car based retail" use not dissimilar to what Council considered appropriate for the Council Depot site in Artarmon and the recently built Bunning's site in East Chatswood. Moreover, the higher employment generation use will not adversely impact on the amenity of other surrounding land uses (low density residential) whilst providing for the a compatible land use which serve the needs of the local workforce and residents.

4 JUSTIFICATION

4.1 Technical Studies

The following technical studies accompany the Planning Proposal in order to demonstrate consistency with the objectives of the 4(b) zone and the anticipated IN2 light industrial zone under the Draft LEP 2009:-

- the existing context of the site (refer to land use analysis at **Appendix 2** prepared by Jones Lang LaSalle (JLL));
- the sites future purpose (refer to land use analysis at **Appendix 2** prepared by JLL);
- the availability of supermarket floor space across Willoughby LGA and the region (refer to economic analysis at **Appendix 3** prepared by Duane Location IQ);
- the potential impact of loss of industrial land (refer to land use analysis at **Appendix 2** prepared by JLL);
- the relationship to surrounding local centres (refer to economic analysis at **Appendix 3** prepared by Duane Location IQ); and
- traffic and parking impacts on the local street network (refer to traffic report at **Appendix 4** prepared by CBHK).
- Woolworth research findings at **Appendix 5**

4.2 Need for Planning Proposal

4.2.1 Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is not as a result of any strategic study or report. However detailed studies / analysis as to the appropriateness of the proposed land use within the future zoning of the site has been undertaken. The sections below outline the result of these studies or analysis.

4.2.1.1 Land use analysis

The strategic land use analysis undertaken by JLL dated May 2010 (**Appendix 2**) identifies the existing land uses within the existing and proposed light industrial zoned area. From this analysis it can be seen that the area is evolving from light industrial uses to:-

- warehouse/ self storage;
- showrooms;

- bulky goods retailing;
- office;
- retail; and
- recreational uses.

The report identifies that Chatswood East remains a popular destination for over 300 business enterprises however during May 2010 JLL identified in excess of 100 vacancies in the existing 4(b) and proposed IN2 zone (including 20 tenancies with in excess of 1,000m² of floor space currently available).

The JLL audit found that *“There are few manufacturing uses remaining in the precinct, with previous manufacturers such as Fawcett Bros/Rosella and Tip Top moving out and being replaced by non-industrial uses”*. In addition, of those businesses involved in “storage” most have a significant (over 50%) representation of office floor space.

In general, JLL provides an analysis of industrial property trends. The analysis found dramatic changes in the industrial sector in recent years including:-

- *“A continued shift to outer metropolitan areas, where large, low cost industrial land is available;*
- *A greater emphasis on efficiency in “the freight task”, with accessibility to quality infrastructure (road, rail, sea) and large modern distribution centres key “pull factors; and*
- *Increased diversification of land uses in the inner suburban industrial areas, including a range of more intensive retail and office uses, and mixed business uses requiring both office space and warehouse space”*.

Even new development at Barcoo Street (Northlight and Roseville Business Precinct) which have added some 5,000m² of “industrial” floor space and Chatswood East are being used for office/warehouse, storage or bulky goods retailing. Northlight has a number of vacant units whilst the Roseville Business Precinct has struggled to attract either an investment or tenant market.

The land use analysis recognises that the area is no longer considered or characterised as traditional light industrial, but rather more appropriately characterised by mixed business format employment generating uses and as an area capable of supporting higher order employment uses. This is consistent with market trends where traditional

industrial uses have been located in outer suburban areas with inner suburban areas either losing employment or changing focus to more mixed uses/ mixed business format.

In its response to the applicants submission made on the Draft LEP 2009, Council staff raised questions as to alternative sites for a supermarket, and demand for convenience retailing within the 4(b) Light Industrial Zone.

In more detail Council's staff comments are summarised below:-

- *"(A shortage of supermarket space) does not justify using up the best industrial land in the City so that Woolworths can build a "one size fits all facility;*
- *There are other opportunities for supermarket development in Willoughby including:*
 - *Chatswood Interchange*
 - *Royal North Shore Hospital site;*
 - *Northbridge Plaza Woolworths.*
- *Impact on High Street Markets and Penshurst Street / Victoria Avenue of a new supermarket;*
- *There is nothing to stop Woolworths establishing several smaller supermarkets within existing centres;*
- *Lot consolidation is generally necessary to create large supermarkets which serve a large catchment and generate large amounts of vehicular traffic"*

In response to these comments JLL prepared a supplementary land use study dated January 2011 (see **Appendix 2**). In this regard the JLL report states as follows:-

"How is Council addressing a shortage of supermarket space?

While Council has indicated their concerns over loss of industrial zoned land, there appears to be no solution to addressing the lack of suitable land for retail purposes, particularly formats such as medium to large sized supermarkets.

Future population growth is expected to lead to increased demand for retail facilities such as supermarkets in inner suburban areas.

Conversely, demand for industrial uses in inner suburban areas has diminished due to the structural changes that have occurred in this sector. These changes are summarised in Appendix A.

The opportunities identified by Council for supermarket development are areas that already have supermarkets.

The three opportunities identified by Council for supermarket development all have at least one supermarket. The Woolworths proposal would result in a supermarket serving a market with relatively poor access to convenient supermarkets and grocery stores.

There are limited opportunities to locate supermarkets that serve the “convenience retail” market within the Chatswood CBD. Development sites are limited and a supermarket is unable to compete with high rise apartments and mixed use developments for such sites. The Chatswood Interchange is a significantly different market, serving predominantly the commuter market.

Furthermore, it should not be necessary for customers to visit regional centres such as the Chatswood CBD for supermarket shopping.

Development of supermarkets in existing centres has significant limitations

Land fragmentation, existing leases, and the relatively shallow depth of centre zones constrain opportunities for new supermarket development within existing centres such as Penshurst Street /Victoria Avenue.

Impacts will be minimal

Analysis undertaken by Location IQ suggests that the projected impacts on other retailers will not threaten viability.

Council's statements regarding negative impacts are not supported by any analysis.

We considered that the potential to develop further supermarkets in the Willoughby LGA in addition to the proposed supermarket at Smith Street is very limited. However, the demand for such facilities is significant, therefore there is a strong case for additional supermarkets in addition to Smith Street and the Chatswood Interchange.

One size fits all?

It is noted that the proposed supermarket at Smith Street is described by Council staff as a “one size fits all” development. This comment is not accepted. Woolworths is actively pursuing supermarket opportunities of varying sizes. The potential trade area of the Smith Street site clearly supports the development of a full-line supermarket, which is what is being proposed”.

It is worth noting that the additional analysis undertaken by JLL indicated that as at January 2011 there were over 150 listings of industrial premises for lease in the Chatswood area. This is a clear indication that the vacancy rate has not improved since May 2010.

What also became apparent is that the economic downturn has provided the opportunity for businesses to relocate to areas which are considered better quality industrial markets with lower rent or land prices as well as better accessibility such as Lane Cove West and Artarmon.

4.2.1.2 Economic Impact

The degree to which a land use zoning, which would allow a supermarket use, is likely to impact on existing retailing and centres is demonstrated within the economic impact assessment (EIA) undertaken by Duane Location IQ dated 20 May 2010 (**Appendix 3**).

The EIA has found that the provision of supermarket floor space within the Willoughby LGA is substantially undersupplied at only 194m² per 1,000 persons well below the Australian average of 330m² per 1,000 persons (around 59% of the Australian average).

There is an estimated 1,350m² of supermarket floor space (foodstores greater than 500m² in size) throughout the defined Chatswood main trade area (as defined within the EIA) which has a resident population of 25,570. This equates to a provision of retail floor space of 52.8m² per 1,000 persons, significantly below the Australian average of 330m² per 1,000 persons. As such, there is a substantial undersupply of supermarket floor space currently within the main trade area of the site. The main trade supermarket floor space provision is around 16% of the Australian average.

Table 2.4 of the EIA outlines the retail expenditure levels generated by the Chatswood main trade area population currently estimated at \$364.9 million. Table 2.5 presents a breakdown of retail spending by key commodity group, indicating the largest spending market is food and grocery at \$134.2 million, representing 36.8% of the total retail spending market. Further, the socio-economic profile of the main trade area population reflects that of an established suburban area of a major metropolitan city with an older, affluent population.

The projected sales impacts on surrounding existing centres is summarised as follows:-

“...Impacts on surrounding stores that are likely to result from the proposed Chatswood Woolworths are all projected to be less than 10% and consequently, the viability of all centres will not be impacted as a result of the development.

The addition of a Woolworths supermarket at the Chatswood site would not impact on the retail hierarchy of surrounding centres.

The Chatswood Woolworths development will retain spending that is currently escaping the region and will help to alleviate the congestion at existing fullline supermarket facilities including at Northbridge and Chatswood CBA.

The highest centre impacts will be on the existing Woolworths supermarkets, namely Northbridge and the proposed Metro Chatswood. The Northbridge supermarket is understood to achieve very strong sales volumes and Woolworths obviously has confidence that this incumbent store and the proposed Metro Chatswood and Chatswood Woolworths can all trade at viable levels”.

Accordingly, the EIA demonstrates that the projected impacts from the development of a supermarket on the site on other retailers throughout the region will “*not threaten the viability or continued operation of any centres*” and is therefore consistent with the objective (c) of Ministerial Direction 1.1 Business and Industrial Zone.

It is worth noting that within a 2km radius from the subject site there are two (2) existing Coles stores compared with no Woolworths stores whilst within a 5 km radius there are five (5) Coles stores and only one (1) Woolworths store (refer to table 3.1 of the EIA).

The supermarket is projected to employ approximately 195 persons as summarised in Table 4.4 of the EIA. Taking a conservative view and allowing for an estimated 10% of the total increase to be as a result of the reduced employment at existing retail facilities, the net additional jobs are estimated at 176. It is noted that bulky goods retailing, whilst providing more jobs than most transport and storage uses, is a relatively low employment generator compared to manufacturing and other retail uses such as supermarkets.

Duane Location IQ prepared a supplementary report dated 16 February 2011 in response to a number of issues raised by Willoughby Council staff during the public submission response on the Draft LEP 2009 - see **Appendix 3**. The key issues raised by Council regarding the submission, included:-

- “Council has consistently strived to maintain the supply of existing industrial land particularly for service industry in the LGA and subregion.”
- “There are other opportunities for supermarket development in Willoughby including:

- Council has approved a supermarket (Woolworths) adjoining the Chatswood Interchange;
- The Royal North Shore Hospital Divestment lands at St Leonards.
- Redevelopment and expansion of the Northbridge Plaza Woolworths.”
- “The Smith St proposal would not satisfy the ‘net community benefit test’ under the draft Centres policy due to ... the likely impact on the economic viability of strip centres at High St Markets and Penshurst St/Victoria Avenue.”

The letter prepared by Duane Location IQ dated 25 July 2011 provides a summary of the main conclusions of the supplementary report and states as follows:-

"i Chatswood East no longer represents a core industrial precinct but instead provides a variety of uses. There has been an increasing shift away from the traditional industrial uses such as manufacturing towards traditional office floorspace, smaller business operators in office/warehouses and retail/showroom facilities. This shift is reflected in the composition of more recent developments, including the new Bunnings along Smith Street as well as community facilities such as Fitness First Platinum.

ii. There is a high level of vacancies within the total precinct, estimated at around 20% of total tenancies (83 out of 410). This reflects the fact that traditional industrial uses are no longer drawn to this region. Instead, major operators would prefer to locate within industrial/warehouse areas which have increased main road exposure and accessibility, easy access to public transport as well as larger land parcels.

iii The range of uses now provided within the defined Chatswood East Industrial precinct include:

- Office/warehouse
- Traditional offices
- Retail/showrooms
- Automotive
- Community (i.e. Gyms, childcare etc.)
- Traditional retail facilities

iv. Reflecting the trends indicated above, a supermarket within this precinct is proposed to provide around 180 permanent jobs and would represent an optimal use of land for the surrounding population.

v. A proposed supermarket development would help to rejuvenate the Chatswood East precinct, with increased employment and viability within the overall precinct, while still maintaining Chatswood East as a key employment generating region".

4.2.1.3 Traffic and Parking

The traffic analysis undertaken by Colston Budd Hunt and Kafes (**Appendix 4**) provides the characteristics of the existing traffic environment. The capacity of the road network is generally determined by the capacity of its intersections to cater for peak period traffic flows. The traffic data at Section 2.14 of the CBHK report dated May 2010 demonstrates the existing intersection performance at:-

- the intersection of Smith Street and Eastern Valley Way;
- the intersection of Castle Cove Drive and Eastern Valley Way;
- the roundabout at the intersection of Smith Street and Gibbes Street;
- the intersection of Smith Street and Alleyne Street; and
- the intersection of Smith Street and High Street.

The report acknowledges that the site is well serviced by public transport with Sydney Buses operating along Smith Street past the site with bus stops located in the vicinity of the site as well as along Eastern Valley Way. It is considered that a supermarket use would strengthen the demand for these services.

The traffic generated by such a development would have its largest effects during the weekday afternoon and Saturday midday peak periods. Based on RTA Guidelines a supermarket would likely generate some 600 vehicles per hour in the peak periods.

The traffic report dated May 2010 concludes that:-

- (i) *"The site has good access to public transport;*
- (ii) *Parking would be provided in accordance with Council requirements.*
- (iii) *Access to the site will be provided from Gibbes Street (car park) and Short Street (service area);*
- (iv) *Parking layout and internal circulation will be designed to comply with AS2890.1-2004;*
- (v) *Service arrangements will be designed to comply with AS2890.2-2002; and*

(vi) *The surrounding road network could cater for the additional traffic generated by the proposed development”.*

A supplementary letter was prepared by CBHK dated 17 August 2010 which addresses some additional matters is summarised below:

- Intersection of Smith Street and Eastern Valley Way – Concern with traffic turning left from Castle Cove Road onto Eastern Valley and then right into Smith Street, with particular focus in the buildup of cars queuing in Eastern Valley Way turning right;
- Big Picture Traffic - How will this project affect traffic in the LGA, eg may benefit traffic problems areas in other parts of the LGA, reduce overall traffic, better distribution of shopping traffic; and
- Mixture of vehicles using this area. In particular potential conflict with traffic from existing uses such as North Shore Timber and Korean Church.

In this regard the report concluded as follows:-

- *“the intersection of Smith Street/Eastern Valley Way/Castle Cove Road can satisfactorily accommodate traffic from the proposed supermarket;*
- *the proposed supermarket would result in a reduction in traffic travelling to Chatswood and Northbridge/Castlecrag and would result in a substantial reduction in vehicle kilometres travelled with associated reduction in fuel costs, vehicle emissions and travel times; and*
- *the adjacent road network can satisfactorily accommodate traffic from the proposed supermarket”.*

During the public exhibition of the Draft LEP Council considered the traffic report's findings and Council's Traffic Engineers had the following comments:

“The intersection of Eastern Valley Way and Smith St would be unable to cope with the additional traffic generated by a Woolworths supermarket on Smith St. In particular the right turn bays on both Eastern Valley Way and Smith St would not have the storage capacity to cater for the increase in traffic.

The consultant's intersection analysis showed that the intersection of Eastern Valley Way and Smith St had an average delay of less than 25 seconds during peak periods, which represents a level of service B. However my analysis of the intersection showed an average delay of over 40 seconds during the afternoon peak, which represents a level of

service D. It also showed a level of service E for both of the right turn bays. The analysis also showed extensive queuing for northbound traffic on Eastern Valley Way.

It is possible that when modelling the intersection, the consultants may have used the default setting of 500m for the length of the right turn bays, when in fact they are about 35m. This would make a big difference to the performance of the intersection, as the lack of capacity in the right turn bays would not show up in the results. My modelling indicated that right turning traffic would frequently extend back beyond the end of the turning bays and into the middle traffic lane.

These results would indicate that it would not be feasible to construct a Woolworths supermarket in Smith St, unless significant modifications were made to the intersection of Eastern Valley Way and Smith St.

Council has also recently received a petition from residents of Alleyne St complaining about the volume of traffic using their street. They have also expressed concern about the likely increase in traffic volumes should a Woolworths supermarket be constructed in Smith St".

In response to these comments CBHK undertook additional analysis in order to ascertain why Council reached different conclusions to those found in the traffic reports mentioned above - refer to Supplementary Traffic Report dated February 2011 at **Appendix 4**.

In conclusion the supplementary report states as follows:

- *the adjacent road network can satisfactorily accommodate traffic from the proposed supermarket;*
- *the intersection of Smith Street/Eastern Valley Way can satisfactorily accommodate traffic from the proposed supermarket;*
- *the different SIDRA results concluded by Council was due to the use of inappropriate input parameters;*
- *the proposed supermarket would result in a reduction in traffic travelling to Chatswood and Northbridge/Castlecrag and would result in a substantial reduction in vehicle kilometres travelled, with associated reduction in fuel costs, vehicle emissions and travel times;*
- *that capturing traffic within the local area would reduce traffic around Northbridge Plaza and Chatswood CBD, with consequent reduced traffic and parking impacts at these locations;*
- *the proposed supermarket is located close to existing bus services which provide links to surrounding areas;*
- *locating a supermarket outside of town centre location such as Chatswood would not result in significant increase in car trips; and*

- *with supermarket traffic in place, traffic flows in Alleyene Street will remain less than the maximum environmental capacity for a local street.*

In addition to the supplementary analysis, CBHK has had meetings with the RTA in order to discuss the traffic effects of the proposed supermarket use on the subject site in the context of and taking into account the opening of Bunnings. This included the potential upgrade to intersection for Eastern Valley Way; Smith Street and Castle Cove Drive. The matters raised by the RTA as well as the findings is provided within the letter by CBHK dated 21 June 2011 at **Appendix 4**.

The results of the additional traffic surveys pre and post Bunnings are summarised within Table 1 of the CBHK letter. In summary the additional traffic surveys reveal as follows:-

- *"traffic flows on Eastern Valley Way (north of Smith Street) increased by some 145 to 285 vehicles per hour (two-way). South of Smith Street traffic flows decreased by some 55 to 135 vehicles per hour (two-way);*
- *traffic flows on Smith Street increased by some 120 to 170 vehicles per hour (two-way); and*
- *traffic flows on Castle Cove Drive did not change.*

Access to Bunnings store is via Smith Street and Gibbes Street. Thus by adding the changes in traffic flow on these streets an estimate of the additional traffic generated by Bunnings can be made. This would result in Bunnings generating some 250 to 300 vehicles per hour (two way)".

The analysis identified that currently the Eastern Valley/Smith Street/Castle Cove Drive intersection operates with average delays of some 45 seconds per vehicle, representing level D service (satisfactory but near capacity). The SIDRA analysis was rerun including the traffic generation from the proposed supermarket and the analysis found that the intersection would operate with average delay of some 50 seconds per vehicle. This still represents a level of Service D.

With respect to possible intersection improvements the CBHK letter concludes as follows:-

"The RTA and Richmond+Ross (on behalf of Woolworths) have investigated opportunities to increase capacity at the intersections of Eastern Valley Way with Smith Street and Castle Cove Drive by lengthening the right turn bays on Eastern Valley Way.

The Richmond+Ross scheme widens Eastern Valley Way on the eastern side of the road, while the RTA scheme widens Eastern Valley Way on the western side of the road. Both options lengthen the right turn bays to some 100 metres (from some 20 metres).

Both options would provide the same traffic benefits (subject to satisfying road design criteria). The SIDRA model was rerun with the right turn bays lengthened on Eastern Valley Way and supermarket traffic in place. The analysis found that the intersection would continue to operate at level of service D. However, average delays per vehicle on Eastern Valley Way would reduce (one to four seconds per vehicle) and queue lengths would reduce (by some 10 to 30 metres). Additional storage capacity would also reduce the incidence of overflow into the through traffic lanes and improve safety".

As mentioned above, the preliminary planning undertaken by Woolworths included discussions with Transport Roads and Maritime Services (RMS) regarding the possible state road infrastructure improvements. Within its letter dated 10 November 2011 (see **Appendix 7**) the RMS provides "in principle" support to the proposed upgrade works subject to successful planning consent and design detail. RMS also acknowledges the time and effort undertaken by Woolworths during the pre-planning phase.

With respect to parking, a supermarket would provide parking in accordance with the requirements of WDCP 2002, similarly access and servicing are capable of being provided in accordance with the appropriate Australian Standard.

4.2.1.4 Woolworths Research findings

Woolworths undertook a study to investigate the support for a new supermarket at the subject site (see **Appendix 5**). Fieldwork was conducted and 400 residents were interviewed. Of those interviewed 37% were strongly in favour of a new Woolworths Store in Chatswood whilst 31% were somewhat in favour (nett in favour 68%).

38% of those in support of a new store cited the reason being *"it is convenient /to my home, work / closer than others"*. This strongly suggest a convenience retail need within the area.

43% preferred shopping at stand-alone supermarkets. Of those that preferred a stand-alone supermarket, 36% cited the reason as being *"parking is easier / don't like to park in*

big complex", whilst 21% cited the reason as being "the shopping centre is too crowded/busy."

The biggest concern with a new store is traffic congestion. The majority of respondents (80%) indicated that they would like to see such a proposal for a new supermarket put forward for consideration and discussion with the local community.

4.2.2 Is the Planning Proposal the best means of achieving the objective or intended outcomes or is there a better way?

Currently, Willoughby Local Environmental Plan 1995 applies to the subject site. The subject site is zoned **4(b) light industrial** under the WLEP 1995 (refer **Figure 2**) whilst the Draft LEP maintains this zoning as IN2 light industrial. The current zoning of the site limits its renewal for purposes that would contribute to local and state strategic planning objectives.

The gazettal of the Draft LEP 2009 is uncertain and due to the time constraints involved, it is considered that the Planning Proposal is the best means of achieving the intended outcome.

The Department of Planning's current position on LEPs, such as the type described in this Planning Proposal, is found in the Department of Planning Circular No. PS06- 005, dated 16 February 2006, titled "*Local environmental plan review panel*". The Circular requires Council to address the following pro-forma evaluation criteria when notifying the Director-General of its decision to prepare a LEP:

Table 2: Evaluation criteria for new LEP's:

DEPARTMENT OF PLANNING CRITERIA	COMMENT
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg, land release, strategic corridors, development within 800 metres of a transit node)?	The Planning Proposal will allow a supermarket use which will be compatible and/or complementary with the surrounding land uses; would increase choice and competition within the area, and would facilitate a permanent employment-generating activity. See Table 3 in Section 5.3 for further detail on the compatibility of the Planning Proposal with State and regional strategic directions for development.
Will the LEP implement studies and	The Draft Inner North Sub-Regional strategy identifies East

strategic work consistent with State and regional policies and Ministerial (section 117) directions?	Chatswood as Category 1 employment lands or “<i>land to be retained for industrial purposes</i>”. However, it is unlikely that the key functions identified within Category 1, such as heavy industry and manufacturing would occur on the site due to its contextual constraints. Typically, when the Department of Planning refers to “employment land” it is predominantly referring to “industrial land”. Largely excluded from the concept of “employment lands” is the retail sector, considered to be Australia’s largest single source of employment. It is our position that all lands capable of supporting employment should be recognised as employment lands. Moreover it is considered that the Planning Proposal will be generally consistent with State and regional policies and Ministerial (section 117) Directions. Further technical work to demonstrate this is also proposed as a part of the planning approval process for any future DA on the site. See Tables 3 & 4 in Section 5 for further detail on the consistency of the Planning Proposal with State and regional policies and Ministerial Directions
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	The subject site, being edge-of-centre has good connections with the established “Major Centre” of Chatswood with good access to existing infrastructure such as public transport. Relationship between the Planning Proposal and nearby Centres is addressed within the Duane Location IQ reports at Appendix 3 as well as Section 5.1 below.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	Yes, the Planning Proposal will facilitate a permanent employment generating activity. Refer to Section 5.4 for more detail on Employment land.
Will the LEP be compatible/complementary with surrounding land uses?	The land use analysis undertaken by JLL recognises that the site and the area is no longer considered or characterised as traditional light industrial, but rather more appropriately characterised by mixed business format employment generating uses and as an area capable of supporting higher order employment uses.

	Accordingly the proposed “supermarket” use is considered compatible and complementary to the evolving and future character of the area.
Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders?	No, it is considered that the Planning Proposal will not create a precedent. This is because this Site is considered removed from high quality infrastructure including (Freeways such as M2; M5 and M7) access to freight (rail road and sea) as well as being in close proximity to low residential density housing. The site is unique and as such the planning proposal is site specific requesting an enabling clause to allow an additional permissible use on the subject site.
Will the LEP deal with a deferred matter in an existing LEP?	No. This is not applicable to the Planning Proposal.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Currently there are not other Planning Proposals/LEP amendments within the Willoughby LGA.

4.2.3 Is there a net community benefit?

Currently there are two full-line supermarkets (Coles at Chatswood Chase and Westfield) serving the Chatswood CBD (centre). A 2,700m² supermarket is planned at Metro Chatswood, which is likely to serve workers / commuters and CBD residents, given its location and format. The land use analysis (refer to **Attachment 2**) identified that there are limited sites available within the Chatswood CBD that would be large enough to support a full-line supermarket. The above, together with the existing congested traffic and limited parking availability within the Chatswood CBD, makes it less attractive for supermarket development. Accordingly, there is limited suitably zoned land within the existing centre available for supermarket development.

Further, it is considered that the subject site, being edge-of-centre has good connections with the established “Major Centre” of Chatswood with good access to existing infrastructure such as public transport. The rezoning of the subject site to allow a supermarket use would be compatible and/or complementary with the surrounding land uses; would increase choice and competition within the area, and would facilitate a permanent employment-generating activity. The above demonstrates the rezonings ability to produce a net community benefit.

Residential Amenity

The supermarket use is considered consistent with the objectives of the current and proposed industrial zone in that the higher employment generation use will not adversely impact on the amenity of other surrounding land uses (low density residential) whilst providing for the a compatible land use which serve the needs of the local workforce and residents.

Traffic congestion

Detailed traffic reports will accompany any future DA for the subject site. Notwithstanding the traffic studies undertaken by CBHK (at **Appendix 4**) were based on the indicative concept plan and demonstrated that the adjacent road network can satisfactorily accommodate traffic from the proposed supermarket use.

5 STRATEGIC PLANNING FRAMEWORK

5.1 *Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

- **Draft Inner North Sub-Regional Strategy**

The subject site is located within the East Chatswood employment lands. The Draft Inner North Sub-Regional Strategy identifies East Chatswood as Category 1 employment lands or *“land to be retained for industrial purposes”*.

The Draft sub regional Strategy defines Employment lands as:-

“Traditional industrial areas and business and technology parks for higher order employment. They are vital to supporting the economy and ability to service the city and incorporate light industries, heavy industry manufacturing, urban services, warehousing and logistics and high-tech based activities”.

The size of the subject site, in single ownership, its relationship to adjoining low density residential and light industrial activities and its location close to the *“Major Centre”* of Chatswood renders it desirable for redevelopment. However, it is unlikely that the key functions identified within Category 1, such as heavy industry and manufacturing would occur on the site due to its contextual constraints. The site is removed from high quality infrastructure including (Freeways such as M2; M5 and M7) access to freight (rail road and sea) as well as being in close proximity to low residential density housing.

The employment capacity target for Willoughby LGA is 16,000 new jobs by 2031. Council's *“Report on Industrial areas”* state that the main areas of growth in employment capacity are the Chatswood CBD which has the potential for an increase of approximately 7,300 jobs and St Leonards, where the St Leonard's Strategy estimates the redevelopment of the Royal North Shore Hospital to generate around 3,250 jobs and other sites around 950 jobs.

Industrial land in Artarmon and East Chatswood is also identified in the *“Report on Industrial areas”* as having the potential to increase employment capacity. Further, it is acknowledged by Council that *“the changes that will lead to an increase in employment capacity include both additional floor space and additional uses which generate a higher number of employees per square meter”*.

In this context it is pertinent to review what is considered appropriate “*additional uses*” to generate higher numbers of employment per sqm.

- **Choice Free Zone Report - May 2008**

In 2008, the Urban Taskforce commissioned former ACCC Chairman, Professor Allan Fels, to examine the regulation of retail development under the current planning system. His report, Choice Free Zone, was released in May 2008. Professor Fels, argues that retail developments should be encouraged outside established shopping centres, easing the transport burden and encouraging more “*pedestrian friendly*” communities.

The Choice Free Zone report concluded that shoppers are paying far too much for their groceries because of restrictive out-of-date planning legislation. Professor Fels found that an overhaul of the state government’s centres’ policy would allow greater competition, leading to consumers paying less for basic food items and other household products.

Key points of the Fels Choice Free Zone report were:

- *“Reform of the system could amount to \$78 billion in extra income for the NSW economy and \$296 billion Australia-wide.*
- *It would also be a boom for employment, delivering 147,000 jobs nationally and 47,000 jobs in NSW.*
- *The report argues against present planning laws which effectively restrict supermarkets to established centres, resulting in traffic congestion and restrictive trade.*
- *Major retail landlords in existing shopping centres were taking between 17 and 21 per cent of retail turnover as rent. This compares with 9 to 12 per cent in other countries”.*

- **Productivity Commission report**

In addition, the August 2008 Productivity Commission report on retail tenancy regulation recommended that:-

“While recognising the merits of planning and zoning controls in preserving public amenity, States and Territories should examine the potential to relax those controls that limit competition and restrict retail space and its utilisation.”

- **State Plan**

In planning for the State's future, the State plan: a new direction for NSW (NSW Government 2006) has identified the need to continue to deliver strong economic growth in a way that meets community needs, is environmentally sustainable and makes the most efficient use of the State's investment in infrastructure. In particular, key priorities that are relevant to the planning of the State's centres include, but are not limited to:

- E3 – Cleaner air and progress on greenhouse gas reductions;
- E5 – Jobs closer to home;
- E7 – Improve the efficiency of the road network;
- P1 – Increased business investment;
- P6 – Increased business investment in regional NSW; and
- S6 – Increasing share of peak hour journeys on a safe and reliable public transport system.

- **Draft Centres Policy**

To meet these priorities, the Department of Planning released a Draft Centres Policy during April 2009. The Draft Centres Policy is based on six key planning principles to guide future retail and commercial development, they are:-

- ***“Principle 1 – Retail and commercial activity should be located in centres to ensure the most efficient use of transport and other infrastructure, proximity to labour markets, and to improve the amenity and liveability of those centres.***
- ***Principle 2 – The planning system should be flexible enough to enable centres to grow, and newcentres to form.***
- ***Principle 3 – The market is best placed to determine the need for retail and commercial development. The role of the planning system is to regulate the location and scale of development to accommodate market demand.***
- ***Principle 4 – The planning system should ensure that the supply of available floorspace always accommodates the market demand, to help facilitate new entrants into the market and promote competition.***
- ***Principle 5 – The planning system should support a wide range of retail and commercial premises in all centres and should contribute to ensuring a competitive retail and commercial market.***
- ***Principle 6 – Retail and commercial development should be well designed to ensure it contributes to the amenity, accessibility, urban context and sustainability of centres”.***

In summary, the Draft Centres Policy sets out that retail and commercial activities should be located in established or new centres to ensure the most efficient use of transport and other infrastructure, proximity to labour markets, and to improve the amenity and liveability of those centres but that the planning system should respond to accommodate demand and contribute to ensuring competitive retail markets. However existing centres are already highly congested, and the cost of expanding transport infrastructure, including roads and rail, are extremely high.

The Draft Centres Policy identifies a sequential mechanism known as the Net Community Benefit Test to assess the merits of rezoning in the following circumstances:-

- *“proposals to develop within an existing centre where the current zoning does not permit the use;*
- *proposals to develop outside an existing centre where the current zoning does not permit the use; and*
- *proposals to create a new centre”.*

As the subject site is located outside of the 1km radii identified within the Draft Subregional Strategy, the subject site is considered an “edge-of-centre” proposal. The following sequential approach should therefore be taken when considering proposals on edge of centre sites:-

- *“it must first be demonstrated that there are no **suitably zoned sites within the existing centre**. Where the zoning is flexible – such as a mixed use zone – there will be more options available to proponents. It is recognised that acquiring appropriately zoned sites within existing centres may not always be practical or feasible particularly if large format sites are required.*
- *if there are no suitably zones sites in the existing centre, it must then be demonstrated that there are **no suitable sites in an edge of-centre location**. Where available, edge of-centre sites will generally be supported particularly if good connections can be established with the existing centre.*
- *out-of-centre stand-alone sites will generally not be supported unless it has been demonstrated that there are **no suitable within-centre or edge of-centre sites** and there is a demonstrated net community benefit”.*

Emphasis added

Currently there are two full-line supermarkets (Coles at Chatswood Chase and Westfield) serving the Chatswood CBD (centre). A 2,700m² supermarket is planned at Metro Chatswood, which is likely to serve workers / commuters and CBD residents, given its location and format. The land use analysis (refer to Attachment 1) identified that there are limited sites available within the Chatswood CBD that would be large enough to support a full-line supermarket. The above, together with the existing congested traffic and limited parking availability within the Chatswood CBD, makes it less attractive for supermarket development. Accordingly, there is limited suitably zoned land within the existing centre available for supermarket development.

Further, it is considered that the subject site, being edge-of-centre has good connections with the established “Major Centre” of Chatswood with good access to existing infrastructure such as public transport. The rezoning of the subject site to allow a supermarket use would be compatible and/or complementary with the surrounding land uses; would increase choice and competition within the area, and would facilitate a permanent employment-generating activity. The above demonstrates the rezonings ability to produce a net community benefit.

- **Standing Committee on State Development dated December 2009**

Since the release of the Draft Centres Policy there have been a number of submissions and reports prepared, in particular the **Standing Committee on State Development** dated December 2009 which considers the appropriateness of competition policy issues within the planning system. The Standing Committee acknowledged that: *“There is a need to ensure that the planning system does not impede competition by creating unnecessary barriers to new entrances to a market.”*

Further, the Standing Committee noted that:-

“The principal means of supporting competition in the planning system is through ensuring that there is sufficient suitably zoned land to accommodate market demand, thereby allowing new entrances into the market”.

- **Promoting economic growth and competition through the planning system dated April 2010 (the review)**

The Department of Planning and the Better Regulation Office have since conducted a review into competition and economic growth through the planning system. Promoting economic growth and competition through the planning system dated April 2010 (the review) states that the land-use planning systems should be flexible enough to accommodate growth and to provide for new investment thus allowing for competition between existing and new entrants.

The review states that:-

“there is an interest in changes to the planning system so that larger scale formats are able to be located in the broader range of zones where neighbourhood shops are typically permitted – such as industrial zones, neighbourhood centres and most residential zones”.

However, the review also differentiates between local shops and large format retail. Smaller scale supermarkets or convenience shops may be appropriate in a mix use zone while larger scale supermarkets are more appropriate in business or commercial zones well served by public transport.

In summary the review recommended as follows:-

1. *“Develop a Competition State Environmental Planning Policy (SEPP) to clarify that competition between individual businesses is not in itself a relevant planning consideration. In particular, the SEPP should specify that the loss of trade for an existing business is not normally a relevant planning consideration. The SEPP should also specify that a planning authority should not consider the commercial viability of a proposed development.*
2. *The SEPP should clarify that any restrictions on the number of a particular type of retail store contained in any LEP or DCP is invalid.*
3. *The Competition SEPP should specify that any proximity restriction on particular types of retail stores contained in LEPs or DCPs are invalid.*
4. *The final Activity Centres Policy should consider ways to **increase opportunities for competition by allowing more types of shops into centres that currently only permit ‘neighbourhood shops’.***
5. *The Minister for Planning issue a direction to councils to consider applications that divert from the floorspace ratios in the DCP. These applications should include justification in a similar manner to a clause 4.6 or SEPP 1 submission. The council would then have to consider the application on its merits.*
6. *Guidance to be provided on how to consider third party objections when assessing development proposals. This guidance can be referred to by applicants, community members, determining authorities and courts. This guidance should include advice on prioritizing issues to be addressed and information on recourse available to seek losses from vexatious objectors. It should also address the matters proposed in recommendation 1 of this review.*

7. *The Minister issue a direction to councils under section 117 of the EP&A Act to ensure that unless it can be justified on sound planning grounds, such as for environmental protection reasons, planning policies and instruments cannot apply retrospectively. As a general rule, only policies and instruments in place at the time of lodgement of the application should be considered when assessing a development proposal”.*

Emphasis added

Consistent with the above mentioned various submissions, reviews and recommendations since the release of the Draft Sub-Regional Strategies, it is submitted that “*retail premises*” and “*business premises*” should not be excluded from zones intended for employment purposes, such as the business development zone; business parks; enterprise corridor zones and certain light industrial zones.

- **Employment Lands Development Program (ELDP) 2010 Overview Report**

In February 2011, the NSW Government released the Employment Lands Development Program (ELDP) 2010 Overview Report, which will be used to help implement the Metropolitan Plan 2036. The ELDP report provides an assessment of the existing and future supply of Employment Lands in the Sydney Region. What is apparent from the ELDP is that two-thirds of jobs in employment lands are from the “*production and manufacturing*” industry sectors. These sectors are typically located in the outer subregions where there is greater availability of land; better accessibility to freight and the like. The ELDP report acknowledges that a range of other industry sectors are present in Employment lands reflecting their diverse economic roles, especially in the inner Sydney subregions (such as Chatswood East). This is consistent with the policy shift in that other higher density employment uses are contributing to job creation within employment lands.

The ELDP defines employment lands as follows:-

“Land that is zoned for industry and/or warehouse uses including manufacturing; transforming and warehousing; service and repair trades and industries; integrated enterprises with a mix of administration, production, warehousing, research and development; and urban services and utilities”.

Typically, when the Department of Planning refers to “*employment land*” it is predominantly referring to “*industrial land*”. Largely excluded from the concept of “*employment lands*” is the retail sector, considered to be Australia’s largest single source of employment. In this regard,

the development priorities or next steps as identified by the ELDP report includes an analysis of the changing nature of industry.

It is our position that all lands capable of supporting employment should be recognised as employment lands. The policy shift as outlined above from the traditional principle that industrial land should be retained for employment purposes to acknowledging that a mixed of uses including retail premises and business premises which can more appropriately contribute to employment generation, supports this further.

5.2 Is the Planning Proposal consistent with the local Council's Community Strategic Plan, or local strategic plan?

Council undertook a major strategic review of the industrial areas at East Chatswood and Artarmon in 2003 known as the *Willoughby Industrial Areas Study*. The study draws upon the State Government's Metropolitan Strategy and prescribed employment targets.

The Industrial Study states as follows:-

"Industrial land in Artarmon and East Chatswood also has potential to increase employment capacity following the recent amendments to the planning controls which are included in the new draft WLEP. The changes that will lead to an increase in employment capacity include both additional floor space and additional uses which generate a higher number of employees per square metre".

The Planning Proposal is considered to be consistent with the statement above as the proposal provides for higher employment generating uses within an appropriate location; close to public transport and being a more appropriate compatible land use with the adjoining residential uses. The Planning Proposal delivers a quantum of employment that will reasonably contribute to subregional employment targets.

The proponent prepared a submission on the Draft LEP 2009 during the public exhibition period. Willoughby Council's comments on the submission is attached at **Appendix 5**. Council staff's position is not supported by any technical studies and their comments are refuted by the technical studies as discussed within **Section 4.2** above.

In summary the Chatswood East area is evolving and can no longer be considered as having an industrial character rather there is an emerging mixed use character with a high vacancy

rate of industrial buildings. The vacancy rate is attributed to the area no longer attracting heavy industries such as manufacturing not having the benefit of accessibility. As such the area can no longer be classified as "strategic employment lands" or "Category 1 industrial lands".

A supermarket use is considered compatible and complementary to the evolving and future character of the area.

5.3 *Is the Planning Proposal consistent with applicable state environmental planning policies*

Table 3: Consistency with state environmental planning policies (SEPP's)

SEPP TITLE	CONSIS- TENCY	COMMENT
1. Development Standards Consistent.	Yes	The Standard Instrument clause 4.6 will supersede the SEPP.
4. Development Without Consent and Miscellaneous Exempt and Complying Development	Yes	The Planning Proposal will not contain provisions that will contradict or would hinder application of this SEPP.
6. Number of Storeys in a Building	Yes	The Planning Proposal will use the Standard Instrument definitions to control building heights.
14. Coastal Wetlands	NA	Not applicable
15. Rural Landsharing Communities	NA	Not applicable
19. Bushland in Urban Areas	NA	Not applicable
21. Caravan Parks	NA	Not applicable
22. Shops and Commercial Premises	NA	This policy relate to change of use and is not applicable
26. Littoral Rainforests	NA	Not applicable
29. Western Sydney Recreation Area	NA	Not applicable
30. Intensive Agriculture	NA	Not applicable
32. Urban Consolidation (Redevelopment of Urban Land)	Yes	The Planning Proposal aims to be consistent with the SEPP having regard to the range of uses that may be appropriate for the site.

33. Hazardous and Offensive Development Complex	NA	Not applicable
36. Manufactured Home Estates	NA	Not applicable
39. Spit Island Bird Habitat 41. Casino Entertainment	NA	Not applicable
44. Koala Habitat Protection	NA	Not applicable
47. Moore Park Showground	NA	Not applicable
50. Canal Estate Development	NA	Not applicable
52. Farm Dams, Drought Relief and Other Works	NA	Not applicable
53. Metropolitan Residential Development	NA	Not applicable
55. Remediation of Land	Yes	The Planning Proposal will not contain provisions that will contradict or would hinder application of this SEPP.
59. Central Western Sydney Economic and Employment Area	NA	Not applicable
60. Exempt and Complying Development	NA	Not applicable
62. Sustainable Aquaculture	NA	Not applicable
64. Advertising and Signage	NA	Not applicable
65. Design Quality of Residential Flat Development	NA	Not applicable
70. Affordable Housing (Revised Schemes)	NA	Not applicable
71. Coastal Protection	NA	Not applicable
SEPP (Building Sustainability Index: BASIX) 2004	Yes	The Planning Proposal will not contain provisions that will contradict or would hinder application of this SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	NA	Not applicable
SEPP (Major Projects) 2005	NA	Not applicable
SEPP (Sydney Region Growth Centres) 2006	NA	Not applicable
SEPP (Infrastructure) 2007	Yes	The Planning Proposal will not contain provisions that will contradict or would hinder application of this SEPP.
SEPP (Kosciuszko National Park- Alpine Resorts) 2007	NA	Not applicable
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NA	Not applicable

SEPP (Temporary Structures and Places of Public Entertainment) 2007	NA	Not applicable
SEPP (Exempt and Complying Development Codes) 2008	Yes	The Planning Proposal will not contain provisions that will contradict or would hinder application of this SEPP.
SEPP (Rural Lands) 2008	NA	Not applicable
SEPP (Western Sydney Parklands) 2009	NA	Not applicable
SEPP (Affordable Rental Housing) 2009	NA	Not applicable
SEPP (State and Regional Development) 2011	N/A	Not applicable
Draft Competition SEPP	Yes	The draft SEPP proposes: • The commercial viability of a proposed development may not be taken into consideration by a consent authority, usually the local council, when determining development applications; • The likely impact of a proposed development on the commercial viability of other individual businesses may also not be considered unless the proposed development is likely to have an overall adverse impact on the extent and adequacy of local community services and facilities, taking into account those to be provided by the proposed development itself; and • Any restrictions in local planning instruments on the number of a particular type of retail store in an area, or the distance between stores of the same type, will have no effect. The viability of a business is a commercial decision to be made by the business itself based on its own assessments of market demand.

There are no deemed State Environmental Planning Policies (former Regional Environmental Plans (REPs)) applicable to the Planning Proposal.

5.4 Is the Planning Proposal consistent with the applicable ministerial directions?

It is considered that the Planning Proposal is consistent with the relevant Directions issued under Section 117(2) of the Act by the Minister to Councils, as demonstrated in the assessment of the following:-

Table 4: Consistency with S117 Ministerial Directions

DIRECTION TITLE	CONSIS- TENCY	COMMENT
Employment and Resources		
1.1 Business and Industrial Zones	Yes	In considering the appropriateness of the proposed land use the following matters for review were identified: 1. The availability of supermarket floorspace in the area; 2. The existing context of the site; 3. The future purpose; 4. The potential impact of loss of industrial land; and 5. The relationship to surrounding local centres. The studies undertaken and discussed in more detail at Section 4.2.1 concludes as follows:- 1. The EIA concluded that there is a substantial undersupply of supermarket floor space currently within the main trade area of the site. 2; 3 & 4 The land use analysis recognises that the site and the area is no longer considered or characterised as traditional light industrial, but rather more appropriately characterised by mixed business format employment generating uses and as an area capable of supporting higher order employment uses. 5. the EIA demonstrates that the projected impacts from the development of a supermarket on the site on other retailers throughout the region will “not threaten the viability or continued operation of any centres” and is therefore consistent with the objective (c) of Ministerial Direction 1.1 Business and Industrial Zone. In addition, the site has the potential to create higher

		order employment per square metre, consistent with the objective (a) of Ministerial Direction 1.1 Business and Industrial Zone . Also refer to Appendix 3 for projected employment generation.
1.2 Rural Zones	NA	Not applicable
1.3 Mining, Petroleum Production and Extractive Industries	NA	Not applicable
1.4 Oyster Aquaculture	NA	Not applicable
1.5 Rural Lands	NA	Not applicable
Environment and Heritage		
2.1 Environment Protection Zones	NA	Not applicable
2.2 Coastal Protection	NA	Not applicable
2.3 Heritage Conservation	NA	Not applicable
2.4 Recreation Vehicle Areas	NA	Not applicable
Housing, Infrastructure and Urban Development		
Direction 3.1 Residential zones	NA	Not applicable
3.2 Caravan Parks and Manufactured Home Estates	NA	Not applicable
3.3 Home Occupations	NA	Not applicable
3.4 Integrating land use and transport	Yes	The Planning Proposal will enable residential development in close proximity to jobs and services encouraging walking, cycling and use of public transport.
3.5 Development Near Licensed Aerodromes	NA	Not applicable
Hazard and Risk		
4.1 Acid sulphate soils	NA	The site is not located on acid sulphate soils. Accordingly, Direction 4.1 is not applicable.
4.2 Mine Subsidence and Unstable Land	NA	Not applicable
4.3 Flood prone land	NA	The site is not located within flood prone land. Accordingly, Direction 4.3 is not applicable.
4.4 Planning for Bushfire Protection	NA	The site is not located within a Bushfire prone area. Accordingly, Direction 4.4 is not applicable.
5 Regional Planning	NA	Not applicable
6 Approval and Referral Requirements		
6.1 Approval and Referral Requirements	Yes	The Planning Proposal will be consistent with this Ministerial Direction.
6.2 Reserving Land for Public	Yes	The Planning Proposal will be consistent with

Purposes		this Ministerial Direction.
6.3 Site Specific Provisions	Yes	The Planning Proposal will be consistent with this Ministerial Direction.
Implementation of the Metropolitan Strategy		
Planning Proposals shall be consistent with: (a) the NSW Government's Metropolitan Strategy: City of Cities, A Plan for Sydney's Future, published in December 2005 ('the Metropolitan Strategy').	Yes	Refer to Section 5.1 of the Planning Proposal for detail.

6 ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

6.1 Is there any likelihood that critical habitat or threatened species, population or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The subject site is located within an existing urban environment and does not apply to land that has been identified as containing critical habitat or threatened species, population or ecological communities, or their habitats.

6.2 Are there any other likely environmental effects as a result of the Planning Proposal?

The Planning Proposal is unlikely to result in any environmental effects. Future development applications will investigate the potential for other likely environmental effect arising for a future development applications.

6.3 How has the Planning Proposal adequately addressed any social and economic effects?

A supermarket use at the subject site will retain spending to the area which is currently escaping the region. The use is projected to employ approximately 176 persons. The proposal contributes to the continued social growth of the area by encouraging a type of development which will help to diversify and increase employment., and as such increasing the viability of Chatswood East.

Accordingly, it is considered that the Planning Proposal will have a neutral or positive effect on the local economy and community.

7 STATE AND COMMONWEALTH INTERESTS

7.1 Is there adequate public infrastructure for the Planning Proposal?

The Planning Proposal is unlikely to place significant additional burden on public infrastructure. Existing utility services will adequately service the any future development proposal as a result of this Planning Proposal.

7.2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

At this first iteration of the Planning Proposal, the appropriate State and Commonwealth public authorities have not yet been identified, and the Gateway Determination has yet to be issued by the Minister for Planning.

8 COMMUNITY CONSULTATION

This Planning Proposal may be considered to be of a type that falls within the definition of a 'low impact Planning Proposal'.¹ The community will be notified of the commencement of the exhibition period via a notice in a local newspaper and via a notice on Willoughby Council's website. The written notice will:-

- Give a brief description of the objectives or intended outcomes of the Planning Proposal;
- Indicate the land affected by the Planning Proposal;
- State where and when the Planning Proposal can be inspected;
- Give the name and address of the RPA for the receipt of any submissions and
- Indicate the last date for submissions.

During the exhibition period, the following material will be made available for inspection:-

- The Planning Proposal, in the form approved for community consultation by the Director General of Planning;
- The Gateway determination; and
- Any studies relied upon by the Planning Proposal.

It is noted that Woolworths undertook additional market research which involved community consultation in the form of a fieldwork survey. This survey indicated that 80% of the respondents would like to see a proposal for a supermarket put forward for consideration and discussion with the local community.

In addition it is Woolworths intention to undertake a letter drop to up to 5,000 homes and provide information in the North Shore times.

¹ Low impact planning proposal means a planning proposal that in the opinion of the person making the gateway determination is consistent with the pattern of surrounding land use zones and/or land uses, is consistent with the strategic planning framework, resents no issues with regard to infrastructure servicing, is not a principle LEP, and does not reclassify public land.

9 CONCLUSION

This Planning Proposal seeks to allow for an enabling clause which will allow a “supermarket” to be a permissible use within the **4(b) light industrial zone** for the subject land under Willoughby Local Environmental Plan 1995 (WLEP 1995).

In considering the appropriate future zoning of the site and the appropriateness of a development for a supermarket on the subject site it is concluded that:-

- the site is located in an area which no longer has the characteristics of traditional light industrial uses, accordingly the existing 4(b) light industrial zone and the proposed IN2 zone is anomalous;
- the proposed zone promotes the historical land use and market desires and is considered inappropriate;
- Chatswood CBD (centre) is already congested and cannot accommodate another full-line supermarket even though the expenditure capacity is available;
- the Northbridge supermarket is trading at full capacity;
- there is a Policy shift which encourages the expansion of “*neighbourhood shops*” within the business development zones, business parks, enterprises corridors and certain light industrial zones;
- the site has the potential to create higher order employment per square metre, consistent with the objective (a) of Ministerial Direction 1.1 **Business and Industrial Zone**;
- the proposed supermarket use would help to rejuvenate the Chatswood East precinct, with increased employment and viability within the overall precinct, while still maintaining Chatswood East as a key employment generating region;
- the supermarket use is considered a “car base retail” use not dissimilar to *bulky goods premises* which is permissible under the 4(b) zone within Chatswood East subject to Clause 44;
- future traffic impacts are likely to be acceptable and existing road networks would be able to cater for the additional traffic generated; and
- the edge-of-centre site’s rezoning would produce a *net community benefit*.

In summary there is no reasonable planning basis for retaining the current land use zoning nor from allowing the proposed zoning.

APPENDIX 1

INDICATIVE CONCEPT PLAN

APPENDIX 2

LAND USE ANALYSIS

APPENDIX 3

ECONOMIC ANALYSIS

APPENDIX 4

TRAFFIC REPORT

APPENDIX 5

WOOLWORTHS RESEARCH FINDINGS

APPENDIX 6

SUBMISSION ON DRAFT WLEP 2009

APPENDIX 7

COUNCIL STAFF RESPONSE

APPENDIX 8

LETTER FROM RMS