

13 July 2012

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

Dear Sir,

Subject: Request for Review of Refusal of a Planning Proposal at Nos. 17-19 Smith Street East Chatswood

City Plan Strategy and Development, on behalf of Fabcot Pty Ltd, who is the landowner, lodged a Planning proposal (PP) with Willoughby City Council on 21 November 2011 on the above mentioned land.

The purpose of the PP was and is to seek the inclusion of an enabling clause into the relevant Environmental Planning Instrument (Willoughby LEP) to permit the development of a 'supermarket'.

The PP was refused by Willoughby Council at their meeting on 28 May 2012 (see Council's report at **Appendix 1**).

In light of the above decision, we refer you to **Section 56(5)** of the Environmental Planning and Assessment Act 1979 (EP&A) which states as follows: -

"Section 56 Gateway determination

(5) The Minister may arrange for the review of a planning proposal (or part of a planning proposal) under this section to be conducted by, or with the assistance of, the Planning Assessment Commission or a joint regional planning panel:

(a) if there has been any delay in the matter being finalised, or

(b) if for any other reason the Minister considers it appropriate to do so"

[Emphasis added]

and **Section 54 (1) and (2)** of the EP&A Act 1979 which states as follows: -

“Section 54 Relevant planning authority

(1) For the purposes of this Part, the **relevant planning authority** in respect of a proposed instrument is as follows:

- (a) the council for the local government area to which the proposed instrument is to apply, subject to paragraph (b),
- (b) **the Director-General or any other person or body prescribed by the regulations if the Minister so directs** under subsection (2).

(2) The Minister may direct that the Director-General (or any other person or body prescribed by the regulations) is the relevant planning authority for a proposed instrument in the following cases:

- (a) the proposed instrument relates to a matter that, in the opinion of the Minister, is of State or regional environmental planning significance...
- (c) **the Planning Assessment Commission or a joint regional planning panel has recommended to the Minister that the proposed instrument should be submitted for a determination under section 56 (Gateway determination) or that the proposed instrument should be made.**

...”

[Emphasis added]

Having regard to the above and on behalf of the owner/applicant we formally request a review of the PP by an appropriate delegate, (considered in this instance to be the Planning Assessment Commission (PAC)), to determine if the proposal should be progressed for Gateway determination, and subsequently, if appropriate, the relevant planning authority is appointed. A copy of the Planning Proposal is provided at **Appendix 2**.

To supplement the PP documents and our subject request for review, a further report has been prepared by AEC Group (see attached as **Appendix 3**). The purpose of the report is to peer review the SGS 2004 and 2012 report prepared on behalf of Council for consideration of the PP and the basis upon which the Council choose to reject the PP. It's conclusions confirm our demonstrated view that Council's decision to reject the PP was wrong on fact and on merit.

It is clear from all parties' considerations that the area surrounding the site has a diminishing industrial nature and the subject site, in particular, has the potential to accommodate a supermarket which will contribute to the economic viability and employment opportunities in the area. The Economic Analysis submitted with the PP prepared by Duane Location IQ dated July 2011 demonstrates that: -

- of the 410 premises in the existing East Chatswood light industrial zone, 48% are offices and warehouses and only 3 premises (0.7%) are of an industrial nature;
- moreover, of the 410 premises above, 83 were vacant (20% vacancy rate);
- the proposed development would generate some 183 jobs given a jobs/sqm rate of 40/1000sqm;
- by comparison, manufacturing uses provide 20/1000sqm and warehouse/storage uses 5/1000sqm; and
- simply retaining the Industrial zoning will not achieve the objective of creating jobs whereas our proposal, in conjunction with a more flexible zoning of the whole of the East Chatswood, would create the catalyst for employment growth and be consistent with the s117 Directions.

SGS concedes that the current nature of the industrial area is insufficient to attract industrial uses and suggests that the current form of the industrial units needs to be redeveloped to have the potential to attract industrial occupancies in the future.

The PP seeks to bring to the attention of the Minister the changing nature of the 'East Chatswood industrial area' which shows there is demand for the introduction of a supermarket to this site.

Specifically, the PP for a supermarket will create economic and community benefits, as follows:-

- Creation of some 170-180 jobs in an area that has suffered from a lack of employment and investment
- A transitioning of traditional industrial areas where industrial development is highly unlikely due to its negative 16.5% return on investment to other non-industrial employment uses
- A catalyst for development by adding a retail amenity such as a supermarket
- Support from approx. 67% of the local community as evidenced by surveys and current news articles (see attached at **Appendix 4**)
- Reduced traffic to Chatswood CBD by having a 'local' supermarket
- Consumer choice – such choice being demanded by the community.

In response to the changing nature of the floor space demand in the area, the proposal demonstrates that an alternative zoning of the locality, generally, such as B5 Business Development would/could foster more flexible land uses which would/could reinvigorate the employment potential of the area.

More specifically, the introduction of a supermarket on this site would act as a catalyst which would have the potential to drive growth in the economic development of the area with the support of

existing uses such as Bunnings, The Good Guys, Petbarn, Fitness First, Subway and other non-traditional industrial land uses.

The PP demonstrates that the placement of a supermarket on this site is supported by planning merit. The proposal is seeking the introduction of an enabling clause which will allow a “*supermarket*” to be a permissible use within the **4(b) Light Industrial zone** for the subject site under Willoughby Local Environmental Plan 1995 (WLEP 1995) or the proposed **IN2 zone** under the draft Local Environmental Plan, if gazetted. The proposed supermarket is considered to be 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.

It is our view that the Council in its consideration of the PP were not fully informed of and /or mislead as to the economic and employment issues relating to the site and the area and to the consequences of maintaining a Light Industrial zone on the site and area generally. Even if Council (and Minister) choose to maintain the IN2 zone generally in the area, allowing an enabling clause on the subject site would not have a detrimental impact on the area in strategic land use or development terms. More importantly we contend it would have a positive impact. A view largely shared by the local community.

The PP thus has merit and in accordance with Section 56(5) (b) of the EP&A Act 1979, the Minister is requested to allow a review of the Planning Proposal by the PAC (or JRPP) and in accordance Section 54 of the EP&A Act 1979, to appoint the relevant planning authority, being the Director-General, PAC or JRPP to provide a recommendation on the PP.

We request that the above request be given appropriate consideration.

Should you have any further queries about this matter, please do not hesitate to contact me on 8270 3500.

Yours Sincerely,

Sue Francis
Executive Director
City Plan Strategy & Development Pty Ltd

APPENDIX 1
COUNCIL'S REPORT
CULTURAL & ENVIRONMENTAL COMMITTEE
21 MAY 2012

APPENDIX 2
PLANNING PROPOSAL
FOR Nos. 17-19 SMITH STREET
EAST CHATSWOOD

APPENDIX 4
LETTERS OF SUPPORT, NEWSPAPER ARTICLES,
WOOLWORTHS SURVEY

APPENDIX 3
PEER REVIEW REPORT FROM AEC GROUP
JULY 2012