



**City of
Norwood
Payneham
& St Peters**

13 March 2020

The Hon. Stephan Knoll MP
C/O Mr Robert Kleeman
Unit Manager Policy and Strategic Assessment
Planning & Land Use Services
Department of Planning, Transport and Infrastructure

by email: Robert.Kleeman@sa.gov.au
majordevadmin@sa.gov.au

Dear Minister Knoll

I refer to the Public Environment Report (PER) submitted by the Peregrine Corporation for a helicopter landing facility at 270 The Parade, Kensington, which has been referred to the Council for comment and report pursuant to Section 46C(5)(a) of the *Development Act 1993*.

The Council considered the PER at its meeting held on 2 March 2020 and resolved the following:

That pursuant to Section 46C(5)(a) of the Development Act 1993 and Section 63E(b) of the Development Regulations 2008, the Council provides the following comments to the Minister for Planning, the Hon. Stephan Knoll MP and the Department of Planning, Transport and Infrastructure, in respect the Public Environment Report submitted by the Peregrine Corporation for a helicopter landing facility at 270 The Parade, Kensington:

- 1. The Council considers that the public safety risks associated with the development are manifestly unacceptable and have not been adequately addressed in any of the documentation which has been provided by the applicant or the Department of Planning, Transport and Infrastructure.*
- 2. The Council considers that the proposed helicopter landing facility will have a significant adverse impact on the amenity for residents living in the surrounding residential area, through noise from helicopters using the landing facility.*
- 3. The Council considers that any authorisation which attempts to limit the use of the helicopter landing facility to ten (10) days per year is problematic and an improper use of a planning condition, as it would seek to limit the use of a facility that is clearly designed for far more intense usage and avoids dealing with the fundamental question of whether the use is appropriate in the first instance.*
- 4. That a copy of the staff report be provided to the Minister for Planning, to be considered in his assessment of the proposed helicopter landing facility.*
- 5. In the event that the Governor approves the development, the Council advises that it will give consideration to issuing an order to the owner of the land pursuant to Section 69 of the Development Act 1993, to not operate the facility due to a risk to safety arising out of the use of the helicopter landing pad.*

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In accordance with part 4. of the Council resolution, attached is a copy of the relevant section of the minutes of the Council meeting held on 2 March 2020, containing the staff report.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark Thomson', with a stylized flourish at the end.

Mark Thomson
MANAGER, DEVELOPMENT ASSESSMENT

Attach: Staff report to the Council meeting 2 March 2020

11.9 PEREGRINE CORPORATION HELICOPTER LANDING FACILITY PROPOSAL – 270 THE PARADE, KENSINGTON – FINAL DEVELOPMENT REPORT

REPORT AUTHOR:	Manager, Development Assessment
GENERAL MANAGER:	General Manager, Urban Planning & Environment
CONTACT NUMBER:	8366 4501
FILE REFERENCE:	S/04198
ATTACHMENTS:	A - B

PURPOSE OF REPORT

The purpose of this report is to provide information to the Council in respect to a proposal by the Peregrine Corporation for a helicopter landing facility at 270 The Parade, Norwood and to enable the Council to provide formal comments on the proposal to the Minister for Planning and the Department of Planning, Transport and Infrastructure (DPTI).

BACKGROUND

On 26 November 2015, the Chief Executive Officer of DPTI, acting as a delegate for the Minister for Planning, declared a mixed use development for 270 The Parade, Kensington, as a '*Major Development*', pursuant to Section 46 of the *Development Act 1993*. A *Major Development* is defined as a development or project of major environmental, social or economic importance.

On 16 May 2017, following the relevant assessment process, the Governor of South Australia approved the mixed use development.

On 19 September 2018, the Minister for Planning varied the Major Project declaration which was made on 26 November 2015, by amending it to include a helicopter landing facility on the roof of the building which was approved as a mixed use development on 16 May 2017.

Following the variation of the Major Project declaration, a Development Application for a mixed use development was lodged by the Peregrine Corporation with the Minister for Planning. The Application was forwarded to the State Commission Assessment Panel (SCAP), to determine what level of detailed assessment (assessment pathway) would be required for the proposal.

The three levels of detailed assessment, which can be required by the SCAP, are:

An Environmental Impact Statement (EIS) - required for the most complex proposals, where there is a wide range of issues to be investigated in depth;

A Public Environmental Report (PER) - sometimes referred to as a 'targeted EIS', required where the issues surrounding the proposal need investigation in depth but are narrower in scope and relatively well known;

A Development Report (DR) - the least complex level of assessment, which relies principally on existing information.

In this instance, the SCAP determined that the development proposal would be subject to the preparation of a Public Environment Report and subsequently issued Development Guidelines, which set out the level of assessment required and what issues that assessment should address.

The Development Guidelines for the Public Environment Report, were subject to public consultation in January 2019.

On 27 September 2016, the Council received a letter from DPTI, advising that consultation on the Public Environmental Report (PER) for the helicopter landing facility proposal, would undergo public consultation from 29 January 2020 until 13 March 2020. The letter also requested that the Council consider the PER and provide any comments by 13 March 2020. A copy of this letter is contained in **Attachment A**.

At the conclusion of the public consultation period, the Applicant will be provided with an opportunity to respond to the submissions, following which, the Minister for Planning (or his delegate), will prepare an Assessment Report, taking into account:

- (a) any submissions made; and
- (b) the proponent's response; and
- (c) any other comments provided by the Council, or other Authority or body; and
- (d) other comments or matters as the Minister thinks fit.

The final determination of the proposed development rests with the Governor of South Australia, pursuant to Section 48 of the Development Act 1993. In addition and importantly, the Application is not assessed against the relevant provisions of the Council's Development Plan. Rather, it must be assessed against Development Guidelines, which have been prepared and released by the SCAP, following public consultation on the draft Guidelines.

That said, as part of determining the Application, the Governor must have regard to, among other things, the extent to which the proposal is consistent with the relevant provisions of the Council's Development Plan. However, that is not the only consideration of relevance in the assessment. The Governor must also give regard to:

- the Development Act and Regulations;
- If relevant, the Building Code of Australia;
- the South Australian Planning Strategy;
- the *30-Year Plan* for Greater Adelaide;
- the Integrated Land Use and Transport Plan;
- the Public Environment Report (PER) and the Minister's Assessment Report, following the public consultation period; and
- where relevant, any other government policy and/or legislation.

A copy of the Public Environment Report, including plans and associated technical reports, is contained in **Attachment B**.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Not Applicable. This matter relates to the consideration of a development proposal, against prescribed criteria.

FINANCIAL AND BUDGET IMPLICATIONS

Not Applicable.

EXTERNAL ECONOMIC IMPLICATIONS

With respect to economic effects of the proposed helicopter landing facility, the PER states:

"The overall economic contribution from the development is made up from the sum of many small parts, and the helipad is one of those parts.

Located on the roof of the new building, the helipad is an important component for Peregrine to service its business needs. The need for quick, accessible transport is paramount to ensuring a pleasurable experience for overseas and interstate business guests."

It is understood that the proponent intends for overseas and interstate business guests to be flown to regional destinations of South Australia, including The Bend Motorsport Park, which is owned by the Peregrine Corporation. It is difficult to understand how there would be an advantage to the experience of those guests, in those flights departing from or arriving at Kensington, as opposed to the Adelaide Airport.

In any event, as it is proposed that the helicopter landing facility would be operated only up to ten (10) days per year, the economic benefit gained from any improvement to the experience of guests is difficult to understand or quantify.

SOCIAL ISSUES

Amenity related impacts of the proposed development are considered in the Discussion section of this report.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Environmental impacts associated with the helicopter landing facility are likely to primarily relate to noise and air emissions associated with helicopter movements to and from the site. The PER includes an Environmental Noise Report and a Sustainability Assessment. Environmental impacts of the proposed development are set out in the Discussion section of this report

Clause 8(3) of Schedule 1 of the *Environmental Protection Act 1993* prescribes the following as an activity of environmental significance, with certain exclusions:

Helicopter Landing Facilities

the conduct of facilities designed for the arrival and departure of helicopters, but excluding—

- (a) facilities at an aerodrome licensed under Part 6; or*
- (b) facilities at which helicopter arrivals or departures take place on not more than 10 days per year; or*
- (c) facilities that are situated more than 1 kilometre from residential premises not associated with the facilities; or*
- (d) facilities at the site of an activity authorised under the Mining Act 1971, the Petroleum Act 2000, the Petroleum (Submerged Lands) Act 1982 or the Roxby Downs (Indenture Ratification) Act 1982.*

Therefore, as it is proposed that the helicopter landing facility will not be operated more than ten (10) days per year, it does not involve a prescribed activity of environmental significance, as defined by the *Environmental Protection Act 1993*.

In addition, the *Environment Protection (Noise) Policy 2007* does not apply to the proposed helicopter landing facility, as Clause 6(a) of the Policy provides that the Policy does not apply to a noise of a class set out in Schedule 1. Item 3 of Schedule 1 lists "aircraft or railway noise" as noise excluded from the Policy.

RESOURCE ISSUES

Not Applicable.

RISK MANAGEMENT

The PER includes a report which has been prepared by an Aviation Specialist. The report considers the impacts of the Helicopter Landing Facility on the locality, including safety risks. These risks are set out in the Discussion section of this report.

CONSULTATION

- **Elected Members**

The Council has until 13 March 2020 to comment on the PER.

- **Community**

The Public Environment Report was subject to public consultation from 29 January 2020 until 13 March 2020. This process was managed by DPTI staff.

- **Staff**

Manager, Development Assessment

- **Other Agencies**

Not Applicable.

DISCUSSION

The following commentary on the Development Application is not a comprehensive assessment of the proposal, as the Council is not considering this matter, as the relevant planning authority, charged with assessing and determining the Development Application. Rather, the commentary is focussed on key issues and impacts arising from the development proposal.

Procedural Concerns

It has been proposed that the helicopter landing facility will be operated for up to ten (10) days per year. In lieu of any other explanation for applying a limit of ten (10) days, it is most likely that this limitation has been chosen to avoid the proposal constituting an activity of environmental significance pursuant to the *Environmental Protection Act 1993*.

DPTI staff have foreshadowed that in the event that an approval is granted to the helicopter landing facility, a condition will be imposed, purporting to limit the use of the facility to ten (10) days per year, with an onus on the Applicant to keep record of the usage. No limitation has been proposed for the number of times per day that the landing facility may be used on each of those ten days.

There are several legal authorities which are critical of planning authorities granting an approval to a development, whereby the obvious operating capacity of the development is sought to be 'capped' by way of condition. Whilst these legal authorities relate to assessments under the regular planning scheme (as opposed to the Major Development scheme), the criticism is in staff's view equally applicable.

In *McKenzie Constructions P/L v DAC and Others* No. SCGRG-98-1429 Judgment No. S386 [1999] SASC 386 (24 September 1999), the full court of the Supreme Court said:

"The primary question with which planning authorities are concerned is the question of land use, whether a proposed development, including a change of use, is compatible with the relevant provisions in the Development Plan and the orderly and proper planning of the locality. It is only when that question has been answered in the affirmative that the authority should concern itself with questions of management, and indeed there has been an alarming trend on the part of some planning authorities to use planning conditions to bring the management of the land, once planning approval has been given, under planning control and in some cases thereby to usurp the functions of other government or semi-government authorities."

In *Remove-All-Rubbish Pty Ltd v City of Salisbury* (*supra*), the Supreme Court said:

"The primary concern of a planning authority is to control land use and the first question to be addressed should always be whether in the circumstances the proposed development is at least prima facie a suitable and appropriate use of the subject land having regard to the provisions of the Development Plan. To approach a planning decision by framing conditions designed to make a proposal suitable and appropriate is to bypass the primary question."

In *DAC v Lawry*, which involved a proposal to divide land comprising a tourist/caravan park, the key planning issue was whether, post division, if the allotments were sold to individual owners or investors, those persons would seek to use them as permanent holiday homes, which would take them out of the pool of available tourist accommodation (the land being in a zone that promoted tourist accommodation, and discouraged permanent dwellings).

To get around that issue, the ERD Court imposed a number of conditions, including the following:

3. *No community lot, except for Piece 90, shall be occupied by its owner for more than four weeks in any three-month period.*
1. *No community lot, except for Piece 90, shall be occupied by any person other than its owner for more than two weeks in any three-month period.*
7. *The operator and caretaker shall keep records of all rentals and occupation of community lots for inspection by the Development Assessment Commission and the Mid-Murray Council so as to ensure compliance with the foregoing conditions.*

On appeal, a single judge of the Supreme Court (Bleby J) found that the conditions were invalid: *DAC v Lawry* [2011] SASC 14. The Judge said:

While the ERDC also imposed a condition [7] requiring the operator and caretaker to keep records of all rentals and occupation of community lots for inspection by the DAC and the Mid-Murray Council "so as to ensure compliance with the foregoing conditions", such a condition is of doubtful validity. It purports to impose a personal obligation on a person who has no interest in the land. Furthermore, it places no obligation on the community lot holder to make any information available to the operator and caretaker. In short, the ability to police and enforce any of the above conditions becomes impracticable, quite apart from the validity of some of them

The Judge then went on to summarise some fundamental principles regarding conditions, including that:

- conditions can only regulate incidental aspects of a development;
- conditions can't restrain the very nature or essence of a development;
- the planning authority can't hedge a development with conditions which are unworkable, unenforceable and seek to confine the development in a kind of strait jacket which will constrain the development from being used in the ordinary way;
- the use of conditions should only be contemplated where the planning authority has first determined that the fundamental land use is appropriate; and
- conditions can't be used to make acceptable what would otherwise be an unacceptable development.

On further appeal, the Full Court of the Supreme Court agreed with the Judge that the ERD Court's approach involved impermissible use of conditions.

By analogy, a condition that seeks to limit the use of the helipad to ten (10) days would require someone to keep records of use and to make those records available to the SCAP and/or the Council. The impracticality of policing and enforcing is obvious.

Accordingly, it would be improper for the Governor to grant approval to the proposed helicopter landing facility, which comprises two (2) helipads on the building and represents a large investment by the applicant, on the strength of assessing the impacts of its use up to ten (10) days per year. Clearly, the facility has the capacity to be operated far more frequently than ten days per year. The primary question of whether the impacts of the use of the landing facility generally should first be considered. Only if those broad impacts are considered acceptable, should there be some attempt to apply management and/or operating conditions.

Safety Risk

Section 5.1.1 of the PER sets out the risks associated with operating the proposed helicopter landing facility and refers to a separate report prepared by an aviation specialist.

In the preamble to the Aviation Specialist Advice report (page 3), the author purports that the report will:

"Evaluate the impacts of the Helicopter Landing Facility to the locality, including key risks, and identify required management techniques to mitigate and suitably address those impacts and risks, including but not limited to the following."

However, nowhere in the report is there any overall evaluation of the risks associated with the proposed helicopter landing facility. Rather, the report documents the various risk management responses which are proposed, such as the design of the landing pad, emergency response plans, alternative landing facility options etc.

As the report does not constitute an objective evaluation of the resultant risk, it is considered that DPTI and ultimately the Governor, are not in a position to make an informed decision on the application based upon the information which has been provided.

Council representatives attended the public information session held at the Norwood Concert Hall on 18 February, where the author of the Aviation Specialist Advice report, Mr Colin Weir, advised that:

“there has only been one emergency landing in this area in the past five years”

and

“the majority of incidents involving helicopters occur in proximity to take off / landing”

Mr Weir was also asked to outline his experience with helicopter landing facilities in built-up residential areas and was only able to reference an example which was in fact within a major airport.

Despite the various responses to risk measures proposed in the Aviation Specialist Report, there is clearly an inherent risk of an incident, including a crash, occurring in proximity to the proposed helicopter landing facility. The consequences of such an incident would be catastrophic, given the significantly built-up surrounding residential area and the high volume of traffic along The Parade and Portrush Road. Applying a typical risk rating matrix, the resultant level of risk, based on a ‘possible’ likelihood and ‘severe’ consequences is extreme as set out in Table 1 below:

TABLE 1: RISK MATRIX

LIKELIHOOD	IMPACT				
	Catastrophic	Critical	Major	Moderate	Minor
Almost Certain	Extreme 1	Extreme 4	High 8	High 10	Substantial 15
Likely	Extreme 2	Extreme 5	High 9	Substantial 14	Medium 20
Possible	Extreme 3	High 7	Substantial 13	Medium 19	Low 23
Unlikely	High 6	Substantial 12	Medium 17	Low 21	Low 24
Very Unlikely	Substantial 11	Medium 16	Medium 18	Low 22	Low 25

Source: City of Norwood Payneham & St Peters Work Health & Safety Risk Management Aide Memoire

It is well established in the management of risk that where at all possible, the most appropriate response to an identified risk is to eliminate the risk. In this instance, elimination of the risk to the surrounding community is possible, by not constructing the helicopter landing facility. Alternative locations exist for the applicant to travel via helicopter, including the Adelaide Airport and the absence of a helipad on the approved building in no way impedes the proper and orderly use of the building for its intended commercial use as approved on 16 May 2017.

In the event that the Governor approves the helicopter landing facility, the Council should give careful consideration to implementing Section 69 of the *Development Act 1993* to order that the owner of the land not operate the facility. In this respect, Section 69 states the following:

An authorised officer may make an emergency order under this section if the authorised officer is of the opinion that the order is necessary—

- (a) because of a threat to safety arising out of the condition or use of a building or an excavation; or*
- (b) because of a threat to any State heritage place or local heritage place.*

An emergency order may require the owner of any building or land to do any one or more of the following things:

- (a) evacuate the building or land;*
- (b) not to conduct or not to allow the conduct of a specified activity or immediately terminate a specified activity;*
- (c) carry out building work or other work.*

Noise and Vibration

The PER includes a report by Sonus Acoustic Engineers, which compares the predicted noise levels from helicopters using the proposed landing facility with existing background noise levels. Background noise levels were recorded in Bowen Street over a one week period, showing average background daytime noise levels of approximately 70dB(A). On three (3) occasions during the one week survey, there were unusual spikes in noise to a level to approximately 95-100dB(A). No explanation is given in the report as to what may have caused those peaks.

The report states that the predicted noise levels from the proposed helicopter types (Eurocopter AS350B2 and Bell 206 Jetranger) would be 87dB(A), measured at the closest residences. However, BlueSkyRotor.com, a website which quotes data from the manufacturers datasheets, lists the three helicopter models proposed for use as having 'noise at takeoff, limit' levels ranging from 92-94 dB(A).

During the public information session held at the Norwood Concert Hall on 18 February 2020, the author of the Sonus report, Mr Chris Turnbull, stated that the 95-100dB(A) peaks in background noise which were recorded in Bowen Street, were likely associated with a car driving past. The inference from this comment, was that the noise expected from the operation of the helicopter landing facility would be akin to that of a car driving along Bowen Street.

In this respect, it is understood, based on previous acoustic advice received by the Council, that a car driving past would typically generate noise in the order of 70dB(A). It is also understood that noise is measured on an exponential scale and that a level of 90dB(A) is four (4) times louder than 70dB(A). It therefore would appear misleading to suggest that noise from the operation of the helicopter landing facility would be akin to that of a car driving along a street.

It is respectfully suggested that the noise peaks measured in Bowen Street were more likely caused by a very loud and unusual occurrence, such as emergency vehicle sirens or a loud motorbike passing in close proximity to the measuring device. In any event, this type of noise would be very brief in comparison to the duration of noise caused by a helicopter landing, passengers boarding or alighting and then the helicopter taking off.

The resultant noise would be highly disruptive to the residential amenity of dwelling occupiers in the locality.

The Sonus report also addresses vibration and states that for vibration from a helicopter to impact on sensitive land uses in the vicinity of the proposed development, the vibration would need to travel down the proposed building structure and through the ground to residences. It concludes that ground vibration from helicopters at the development will be insignificant. The report does not, however, address the potential for vibration caused by rotor wake, which is understood to be a potential issue in close proximity to a helicopter landing facility.

Air Emissions

The PER includes an Air Quality Impact Assessment by Air Quality Professionals. The assessment report concludes that the predicted concentrations of pollutants which are likely to result from the proposal at nearby sensitive receptors are all below the applicable design ground level criteria (DGLC) published in the South Australia Environment Protection (Air Quality) Policy 2016.

Property Damage / Heritage Impact

The Aviation Specialist Advice Report includes a section titled 'The impacts of rotor blade downwash and rotor wake on building cladding' (page 18). However, this section does not make any assessment of the potential impacts on surrounding buildings. Rather, it appears to describe the calculations which have been used to design the helipad.

During the public information session held at the Norwood Concert Hall on 18 February 2020, the author of the Aviation Specialist Advice report, Mr Colin Weir, responded to a question regarding the potential for damage to surrounding buildings from rotor downwash and/or rotor wake, advising that there was no cause for concern because those forces only occur during a 'hover' which occurs directly over the landing pad.

This concern does not, in staff's opinion, appear to have been adequately addressed in the PER. Whilst it may be the case that the forces only occur during a 'hover', it seems possible that for one reason or another (such as a delay in readiness at the landing pad), a helicopter may be required to hover in a location other than directly above the landing pad. In those circumstances, there could be significant risk to nearby buildings, including State and Local Heritage Places located adjacent the subject land.

The PER includes Buttery Reserve as one of the potential emergency landing site options. It is understood that the purpose of identifying Buttery Reserve and numerous other open space areas in the surrounding area within the PER, is to demonstrate that there are various locations available for an emergency landing, should the need ever arise. The use of those open space areas does not form part of the proposal and it is understood that pursuant to relevant aviation law, no approval from a land owner is required for the pilot of an aircraft to land in the event of an emergency. Notwithstanding, the open space areas which have been identified as potential emergency landing sites do not appear to be appropriate. Using sites such as school ovals and public parks and reserves as emergency landing sites would put the users of those spaces at significant risk.

OPTIONS

The Council can determine to provide or not provide comments on the development proposal. However, given the scale and intensity of the proposed development and the likely impacts to public safety, residential amenity, building damage and heritage detailed in the body of this report, it is recommended that the Council make a submission to DPTI and the Minister for Planning.

CONCLUSION

The Public Environment Report does not adequately address concerns regarding risk to the public or property associated with the proposed helicopter landing facility. In particular, the Aviation Specialist Advice Report simply outlines the measures which are proposed to manage risk, rather than containing an overall evaluation of the resultant risk. This is not a sound approach to assessing risk.

Helicopter crashes do happen and when they do, it is most often associated with take-off or landing. Locating a helicopter landing facility in a significantly built-up urban environment results in an inherently high risk, due to the catastrophic nature of the consequences in the event of a crash occurring.

The PER also does not adequately address the potential for property damage to nearby buildings, with the Aviation Specialist Advice Report seeming to only address the design of the landing pad.

The Sonus acoustic concludes that the proposal will not impact on residential amenity, as "*the predicted maximum levels are regularly exceeded in the existing noise environment*". This statement is made based on a survey of background noise levels which revealed three peaks in a week, with no information being provided in respect to what caused those peaks or the duration of those peaks. It would be very surprising if those peaks were sustained for any length of time comparable to a helicopter landing and taking off.

Many of the impacts addressed in the PER are said to be acceptable due to the proposed infrequency of use. It is understood that there is an intention to attempt to ensure that the stated frequency will be adhered to by way of condition of approval. Based on the several legal authorities quoted in this report, such an assessment approach is fundamentally flawed and enforcement would be highly problematic.

COMMENTS

Nil

RECOMMENDATION

That pursuant to Section 46D(5)(a) of the *Development Act 1993* and Section 63E(b) of the *Development Regulations 2008*, the Council provides the following comments to the Minister for Planning, the Hon. Stephan Knoll MP and the Department of Planning, Transport and Infrastructure, in respect the Public Environment Report submitted by the Peregrine Corporation for a helicopter landing facility at 270 The Parade, Kensington:

1. The Council considers that the public safety risks associated with the development are manifestly unacceptable and have not been adequately addressed in any of the documentation which has been provided by the applicant or the Department of Planning, Transport and Infrastructure.
 2. The Council considers that the proposed helicopter landing facility will have a significant adverse impact on the amenity for residents living in the surrounding residential area, through noise from helicopters using the landing facility.
 3. The Council considers that any authorisation which attempts to limit the use of the helicopter landing facility to ten (10) days per year is problematic and an improper use of a planning condition, as it would seek to limit the use of a facility that is clearly designed for far more intense usage and avoids dealing with the fundamental question of whether the use is appropriate in the first instance.
 4. That a copy of the staff report be provided to the Minister for Planning, to be considered in his assessment of the proposed helicopter landing facility.
 5. In the event that the Governor approves the development, the Council advises that it will give consideration to issuing an order to the owner of the land pursuant to Section 69 of the *Development Act 1993*, to not operate the facility due to a risk to safety arising out of the use of the helicopter landing pad.
-

At 8.11pm Mayor Bria sought leave of the meeting to make a personal explanation. Mayor Bria declared that he had a perceived conflict of interest as his daughter is a student and his wife is a Volunteer at Mary MacKillop College which is situated in close proximity to the proposed Peregrine development. In addition, he also referred to comments he was quoted as making in The Advertiser on 23 October 2018, voicing his strong opposition to the proposed helipad. As such, Mayor Bria left the Chamber after calling for the appointment of an Acting Mayor for this item.

Cr Moore returned to the meeting at 8.11pm.

Appointment of Acting Mayor

At 8.12pm Cr Mex moved:

That Cr John Minney be appointed Acting Mayor for this Item.

Seconded by Cr Dottore and carried unanimously.

Mayor Bria left the meeting at 8.13pm.

Cr Minney assumed the Chair.

Cr Whittington moved:

That pursuant to Section 46D(5)(a) of the Development Act 1993 and Section 63E(b) of the Development Regulations 2008, the Council provides the following comments to the Minister for Planning, the Hon. Stephan Knoll MP and the Department of Planning, Transport and Infrastructure, in respect the Public Environment Report submitted by the Peregrine Corporation for a helicopter landing facility at 270 The Parade, Kensington:

- 1. The Council considers that the public safety risks associated with the development are manifestly unacceptable and have not been adequately addressed in any of the documentation which has been provided by the applicant or the Department of Planning, Transport and Infrastructure.*
- 2. The Council considers that the proposed helicopter landing facility will have a significant adverse impact on the amenity for residents living in the surrounding residential area, through noise from helicopters using the landing facility.*
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- 4. That a copy of the staff report be provided to the Minister for Planning, to be considered in his assessment of the proposed helicopter landing facility.*
- 5. In the event that the Governor approves the development, the Council advises that it will give consideration to issuing an order to the owner of the land pursuant to Section 69 of the Development Act 1993, to not operate the facility due to a risk to safety arising out of the use of the helicopter landing pad.*

Seconded by Cr Mex and carried unanimously.

Resumption of Chair

Mayor Bria returned to the meeting at 8.46pm and resumed the Chair.