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October 6, 2023

By Email to SouthCoast@coastal.ca.gov

South Coast District Office
California Coastal Commission
301 E. Ocean Blvd, Suite 300
Long Beach, CA 90802
SouthCoast@coastal.ca.gov

Re: Supplemental and Expert Comments in Support of Supporters Alliance for Environmental Responsibility's California Coastal Commission Appeal No. A-5-LOB-23-0032 (Holland Partner Group, Long Beach), October 12, 2023 Coastal Commission Meeting Agenda Item 12c

Dear South Coast District Office of the California Coastal Commission:

PLEASE TAKE NOTICE THAT, on behalf of **Supporters Alliance for Environmental Responsibility** ("SAFER" or "Appellant"), a California nonprofit benefit corporation, this supplemental comment letter provides additional grounds for SAFER's appeal to the Coastal Commission of the City of Long Beach's ("City") decision to approve the Local Coastal Development Permit ("LCDP" or "CDP") for the proposed mixed-use residential and commercial retail development at 6700 East Pacific Coast Highway (APNs: 7242-012-006 and 7242-012-007) in Long Beach, California ("Project"). The Coastal Commission's substantial issue hearing for SAFER's appeal is scheduled to be heard on October 12, 2023 as Agenda Item 12c.

I. INTRODUCTION AND PROJECT DESCRIPTION

The proposed Project involves the demolition of all structures on site to facilitate development of a new mixed-use project consisting of: 281 residential dwelling units, 3,100 square feet of commercial retail space in a building with 592,100 square feet of total area, including parking and an overall building height of 85 feet 6 inches (6 levels over 2 levels of parking). The project includes 507 parking spaces, 143 bicycle parking spaces and approximately 27,534 square feet of common and private open space areas on the property within the Mixed-Use Community Core Zoning District.

The Project would be located in the Coastal Zone, and therefore requires a Local Coastal Development Permit. It is adjacent to the open space area known as the "Pumpkin Patch," and

the San Gabriel River, very close to whether the river empties into San Pedro Bay. The Project is immediately adjacent to the sensitive Los Cerritos Wetlands Complex (LCWC). The San Gabriel River contains Environmentally Sensitive Habitat Areas (ESHA). The Project would be located on the scenic Pacific Coast Highway ("PCH"). The Project would replace an existing 2-story building with a 6-story, 85 to 105-foot tall building. The Project site is also contaminated with several toxic chemicals.

On April 27, 2023, SAFER appealed the City Planning Commission's April 20, 2023 decision to recommend that the City Council approve the Project (Local Permit No. 2208-36), including the Site Plan Review (SPR 22-093) and Local Coastal Development Permit (LCDP 22-051). SAFER also appealed the Planning Commission's determination that the Project was exempt from the requirement for preparation of environmental documents pursuant to Sections 15162, 15168, and 15183 of the California Environmental Quality Act ("CEQA") and that the Project was adequately analyzed in the environmental impact report prepared for the Southeast Area Specific Plan (SCH No. 2015101075), certified in 2017 ("SEASP EIR").

On July 18, 2023, the City Council denied SAFER's appeals and thereby approved the Project, Local Permit No. 2208-36, including SPR 22-093 and LCDP 22-051, and the CEQA determination. SAFER submitted written comments, along with expert comments by wildlife biologist Shawn Smallwood, Ph.D., opposing Applicant Holland Partner Group's request for approvals of the Project, SPR, LCDP, and CEQA determination to the City Planning Commission on April 20, 2023 and the City Council on July 17, 2023, and testified at the City Council appeal hearing for the Project on July 18, 2023. At the City Council hearing, many community groups and organizations also filed written or oral comments opposing the approval of the Project, SPR, LCDP, and/or CEQA determination. SAFER and Dr. Smallwood's written comments that were submitted to the City Council in support of its appeal on July 17, 2023 are also included as Exhibit B, Attachment 3.

After reviewing the Project, the LCDP Findings prepared for the Project, the Local Coastal Program Amendment including SEASP ("LCPA SEASP" or "LCP"), and the Coastal Act, SAFER concludes that the proposed mixed-use development at 6700 E. Pacific Coast Highway ("6700 PCH") is inconsistent with the certified LCP and Coastal Act public access and cumulative effects provisions. Specifically, the proposed development does not meet the LCP and Coastal Act provisions because the Project exceeds the building height limits, building story requirements, and maximum floor area ratio, fails to include coastal policies required by the LCPA SEASP, and does not conform with the Coastal Act's public access and cumulative effects provisions by failing to include overnight visitor-serving accommodations, as discussed below. (*See* Exhibit B, Attachment 1.) In addition, after reviewing the CEQA Section 15183 Compliance Checklist that the City prepared for the Project, and the SEASP EIR that the Project relied upon, SAFER also concluded that the Project did not meet the requirements for an exemption under CEQA Section 15183, nor did it satisfy CEQA Sections 15162 or 15168(c)(2). The Project fails to comply with the SEASP because it exceeds height and density limits. The Project fails to implement numerous mitigation measures required by the SEASP. The Project has significant impacts not analyzed in the SEASP. (*See* Exhibit B, Attachment 3.)

Notably, on July 13, 2023, wildlife biologist, Noriko Smallwood, M.S., conducted a site visit. Ms. Smallwood positively identified at least five special status species on the Project site. None of these species are identified in the SEASP EIR and there are no mitigation measures for the Project's impacts on these species. Dr. Shawn Smallwood concluded in his expert comments, which were included as Exhibit A to SAFER's July 17, 2023 comments to the City Council (at Exhibit B, Attachment 3), that the Project will have significant adverse impacts on these and other species. Also, the City failed entirely to analyze the cumulative impacts of the 6700 PCH project with the 6615 Pacific Coast Highway (6615 PCH) project which is proposed almost directly across the street. Dr. Smallwood concluded that the two projects will have significant cumulative impacts on sensitive species. Therefore, we urged the City Council on appeal to the City to require preparation of a CEQA environmental review document to analyze and mitigate the Project's environmental impacts prior to issuing any Project approvals. Regardless, the City Council denied our appeal, thereby issuing SPR and LCDP approvals for the Project and exempting the Project from subsequent CEQA review.

On August 3, 2023, SAFER appealed the City Council's decision to approve the Project and LCDP to the Coastal Commission. In that appeal, SAFER provides substantial evidence that the LCDP and related project approvals were inconsistent with the City's LCP and the Coastal Act for several reasons. SAFER's appeal therefore raises a substantial issue despite the Coastal Commission staff report's finding of no substantial issue. SAFER's appeal including the comment letter detailing the grounds for the appeal is attached hereto as Exhibit B. SAFER maintains that all comments raised in its August 3, 2023 appeal stand, continue to be accurate, are supported by substantial evidence, and raise a substantial issue, and refutes all claims made by the City and Applicant in response to its appeal. In addition, SAFER provides supplementary expert comments, attached as Exhibit A, supporting its argument that the Project will have significant adverse effects on coastal resources that were not properly analyzed or mitigated in the LCDP Findings for the Project or the SEASP EIR and CEQA Compliance Checklist that the Project relied on; specifically, as it relates to hazards and hazardous materials and air quality impacts. As evidence by environmental consulting firm Soil/Water/Air Protection Enterprise ("SWAPE"), the project and related LCDP approval is inconsistent with the LCP and Coastal Act because the City failed to adequately analyze and mitigate the significant adverse effects that the Project will have on coastal resources in the project area as a result of, among other things noted in SAFER's appeal, unmitigated soil contamination on the project site and cumulative air quality impacts. The City failed to provide substantial evidence that the Project would not result in significant effects to coastal resources in the project area due to, among other things noted in SAFER's appeal, soil contamination and cumulative air quality impacts from the Project's construction and operations.

Again, SAFER therefore respectfully requests that the Coastal Commission: (1) review this appeal; (2) find that the City's approval of the LCDP and/or development at 6700 PCH poses a substantial issue that is significant enough to warrant the Commission taking jurisdiction over the LCDP application; (3) determine that the proposed development is inconsistent with the applicable LCP and the Coastal Act's public access and cumulative effects provisions during the de novo review phase of the appeal; and as a result, (4) ultimately deny the LCDP until the Project complies with the certified LCP and Coastal Act provisions as well as perform

subsequent environmental review, whether it be a supplemental mitigated negative declaration or environmental impact report, as required by CEQA prior to CDP certification.

Additionally, SAFER respectfully requests that Long Beach City Councilmember and Coastal Commissioner Roberto Uranga recuse himself from this appeal, including voting on the substantial issue determination at the October 12, 2023 hearing, since the Long Beach City Council was the governing body responsible for approving the Project and LCDP, and therefore his involvement in the appeal would be a conflict of interest.

II. DISCUSSION

A. The City's Conclusions Regarding the Project and LCDP's Cumulative Air Quality Impacts Are Not Supported by Substantial Evidence.

In 1993, the Legislature amended the Coastal Act to recognize that "sound and timely scientific recommendations are necessary for many coastal planning, conservation, and development decisions . . . especially with regard to issues such as coastal erosion and geology, marine biodiversity, wetland restoration, the question of sea level rise, desalination plants, and the *cumulative impact* of coastal zone developments." (Coastal Act section 30006.5 [emphasis added].) As discussed in SAFER's August 3, 2023 appeal letter to the Coastal Commission, attached as Exhibit B, the City's failure to review the cumulative air quality effects of the new development project at 6700 PCH is inconsistent with the following provisions of the Coastal Act:

Coastal Act Section 30105.5: "Cumulatively" or "cumulative effect" means the incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

Coastal Act Section 30250(a): New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

The City did not make findings regarding cumulative effects. As per Coastal Act sections 30006.5, 30105.5, and 30250(a), the cumulative effect on, among other things, air quality needs to be analyzed with respect to how an individual project would impact an existing neighborhood in consideration of past projects, other current projects, and probable future projects. Specifically, in considering this definition, it should have been determined that the Project's

development at 6700 PCH would result in significant adverse impacts to this sensitive area of the coastal zone. An analysis of past projects, other current projects (as discussed in SAFER's August 3, 2023 appeal letter and below, there is a new development application for a similar mixed-use residential project at 6615 PCH that is across the street from this project), and probable future projects should have been a finding in the City's LCDP. The cumulative effects analysis required by Coastal Act section 30250 must be considered when deciding on individual residential projects (this is separate from CEQA regulations regarding cumulative impacts). Because the City failed to address the cumulative effects of past, current, and future new developments in its LCDP Findings, the Project is inconsistent with the Coastal Act.

In addition, the City's CEQA Section 15183 Compliance Checklist and the SEASP EIR failed to analyze or mitigate the cumulative effects of the 6700 PCH project. For example, at the same time as this Project was being considered, the City was also considering another Project almost immediately across the street, at 6615 E. Pacific Coast Highway ("6615 PCH"). Indeed, the Project was approved by the City Council only two days before the Planning Commission voted to recommend the approval of 6615 PCH on July 20, 2023. On September 19, 2023, the City Council approved the 6615 PCH project. The two projects will clearly have cumulative impacts. Yet, the environmental review for each project, similar to the LCDP Findings for both projects, failed to adequately discuss the other (despite the fact that the environmental review documents were prepared by the same consulting firm, Placeworks). 6615 PCH proposes 390 residential dwelling units in a six-story building with 5,351 square feet of commercial space, 576 vehicular parking spaces in an above-grade parking structure. 6615 PCH similarly sought to avoid CEQA review by relying on the SEASP EIR, and also failed to address cumulative effects on coastal resources in the project area related to, among other things, air quality as required under CEQA and the Coastal Act. The staff report and CEQA compliance checklist for 6615 PCH are available on the City's website at: <https://longbeach.legistar.com/LegislationDetail.aspx?ID=6291159&GUID=9ECA8957-8AEE-46A8-ACC5-63E0C29DFAB9>. By failing to consider the cumulative impacts of these two projects, the City has violated a fundamental requirement of CEQA, that a CEQA document must discuss significant cumulative impacts. (See CEQA Guidelines sections 15130(a), 15183(j); CEQA section 21083.)

There is substantial evidence that the Project will have significant cumulative air quality impacts. The CEQA Compliance Checklist for 6700 PCH states that the Project will have construction air quality NOx emissions of 41 pounds per day (ppd), which is below the CEQA significance threshold of 100 ppd. (6700 PCH Checklist, p. 51.) However, the CEQA Compliance Checklist for 6615 states that this project will have NOx construction emissions of 96 ppd. (6615 PCH Checklist, p. 53.) The cumulative emissions of the two projects is 137 ppd, which will obviously exceed the CEQA significance threshold.

Similarly, 6700 PCH will have operational daily CO emissions of 47 ppd, which is slightly less than the CEQA significance threshold of 55 ppd. (6700 PCH Checklist, p. 52.) The 6615 PCH CEQA checklist does not quantify operational CO emissions, but it is reasonable to assume that they will be more than 8 ppd, which would make the cumulative CO emissions

exceed the CEQA significance threshold of 55 ppd. But neither the CEQA Compliance Checklist nor the LCDP Findings for 6700 PCH addressed the Project's cumulative air quality impacts.

Cumulative impacts analysis is critical to CEQA and LCDP review. A CEQA document and the LCDP findings for a project must discuss significant cumulative impacts. (CEQA Guidelines sections 15130(a), 15183(j); Coastal Act sections 30250(a), 30105.5.) However, the City's CEQA and LCDP documentation entirely ignore the cumulative air impacts of the two projects and do not even attempt to analyze those impacts. As such, the City has failed to comply with CEQA Guidelines sections 15130(a) and 15183 as well Coastal Act sections 30105.5 and 30250(a), and may not rely on the SEASP EIR and LCDP Findings to approve the 6700 PCH project. Since the CEQA and LCDP documentation is devoid of any mention of the 6615 PCH project, there is no substantial evidence to support a finding that the 6700 PCH project does not have significant cumulative effects on air quality, as discussed below and in SWAPE's expert comment included as Exhibit A.

1. There is no evidence that the Project will not result in new significant and cumulative air quality impacts related to construction or operations.

In determining that CEQA's subsequent review provisions apply to the proposed Project, the City relied on emissions calculated with CalEEMod. 2022.1. (Ex. A, pp. 2-3; *see* 6700 PCH Checklist, Appendix B.) This model relies on recommended default values, or on site-specific information related to a number of factors. For example, SWAPE explains that "CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type." (Ex. A, p. 2.) When more specific project information is known, the user may change the default values and input project-specific values, but CEQA requires that such changes be justified by substantial evidence. The model is used to generate a project's construction and operational emissions. However, as SWAPE's expert analysis explains, the City's use of CalEEMod. 2022.1 "poses a problem as the currently available version of CalEEMod 2022.1 is described as a 'soft release' which fails to provide complete output files. Specifically, the 'User Changes to Default Data' table does not provide the quantitative counterparts to the changes to the default values." (*Id.* pp. 2-3; 6700 PCH Checklist, Appendix B, p. 330.) Therefore, "the output files associated with CalEEMod Version 2022.1 fail to disclose the exact parameters used to calculate Project emissions." (Ex. A, p. 3.) As a result, SWAPE states:

Without access to the complete output files, including the specific numeric changes to the default values, we cannot verify that the Checklist's air modeling and subsequent analysis is an accurate reflection of the proposed Project. As a result, an EIR should be prepared to include an updated air quality analysis that correctly provides the complete output files for CalEEMod Version 2022.1, or includes an updated air model using an older release of CalEEMod. (Ex. A, p. 3.)

Thus, without preparing either an updated air quality analysis that includes the complete output files for the CalEEMod 2022.1 used by the City, or preparing an updated air model using an older release of CalEEMod, the City fails to provide substantial evidence that the Project will

indeed not have new significant air quality impacts, including cumulative air quality impacts from project-generated emissions.

In addition, SWAPE also reviewed the Project's CalEEMod output files provided in the Air Quality/Greenhouse Gas Analysis ("AQ & GHG Analysis") included as Appendix B to the 6700 PCH CEQA Compliance Checklist, and found that several model inputs used to generate a project's construction and operation emissions were not consistent with information disclosed in the Checklist. (*See* Ex. A, pp. 3-6.) As a result, SWAPE concludes that the Project's construction and operational emissions are underestimated. (*Id.*) Because the CEQA Compliance Checklist uses incorrect estimates for emissions, its air quality analysis cannot be relied upon to determine the Project's emissions, and the City's conclusions are not supported by substantial evidence. Specifically, SWAPE found that several values used in the CEQA Compliance Checklist and the AQ & GHG Analysis were either inconsistent with information provided in the Checklist or otherwise unjustified (*Id.*, pp. 4-6), including: "**Unsubstantiated Changes to Individual Construction Phase Lengths.**" (*Id.* [emphasis added].)

The City's failure to adequately analyze the 6700 PCH project's new significant air quality impacts and cumulative air quality impacts is inconsistent with the requirements of the Coastal Act, LCP, SEASP EIR, and CEQA.

2. There is no evidence that the Project will not result in a new significant health risk to nearby sensitive receptors as a result of cumulative air quality impacts.

Neither the LCDP Findings nor the SEASP EIR and CEQA Compliance Checklist for the 6700 PCH project evaluated the significant health risk impacts to individuals and workers from the Project and other nearby projects' operational and construction-related diesel particulate matter ("DPM") emissions, such as the project at 6615 PCH. According to SWAPE, the CEQA Compliance Checklist incorrectly concluded that the Project would have a less-than-significant health risk impact without conducting a quantified construction or operational health risk analysis ("HRA"). (Ex. A, pp. 6-8; *see* 6700 PCH Checklist, p. 54.) However, as discussed below, SWAPE found that the Checklist's evaluation of the Project's potential health risk impacts, and its subsequent less-than-significant impact conclusion, were incorrect for several reasons. (*See* Ex. A, pp. 6-8.) These errors should be corrected in a subsequent CEQA and LCDP document.

First, the 6700 PCH CEQA Compliance Checklist's use of a screening-level localized significance threshold ("LST") analysis to determine the health risk impacts posed to nearby, existing sensitive receptors as a result of the Project's operational toxic air contaminant ("TAC") emissions is incorrect. (Ex. A, p. 6.) SWAPE found that the Checklist's LST analysis only evaluates impacts from criteria pollutants. (*Id.*) Because the LST method cannot be used to determine whether emissions from TACs—specifically DPM, a known human carcinogen—would result in a significant health risk impact to nearby sensitive receptors, the City failed to analyze the health impacts of the exposure to TACs, such as DPM, from the Project. (*Id.*)

Second, by failing to prepare a quantified construction and operational HRA, the City failed to quantitatively evaluate construction and operational-related TACs, or make a reasonable effort to connect emissions to health risk impacts posed to nearby existing sensitive receptors from the Project and other nearby development projects, such as the 6615 PCH project. (Ex. A, pp. 6-7.) SWAPE identified potential emissions from both the exhaust stacks of construction equipment and daily vehicle trips. (*Id.*, citing 6700 PCH Checklist, pp. 18, 153 & Table 16.) As such, the City failed to meet the CEQA requirement that projects correlate increases in project-generated emissions to adverse impacts on human health caused by those emissions, and is inconsistent with the Coastal Act cumulative effects and environmental justice provisions.

Third, the CEQA Compliance Checklist's conclusion is also inconsistent with the most recent guidance published by the Office of Health Hazard Assessment ("OEHHA"), the organization responsible for providing guidance on conducting HRAs in California, as well as local air district guidelines.¹ (Ex. A, p. 7.) OEHHA recommends that projects lasting at least 2 months be evaluated for cancer risks to nearby sensitive receptors, a time period which this Project easily exceeds. (*Id.*) The OEHHA document also recommends that if a project is expected to last over 6 months, the exposure should be evaluated throughout the project using a 30-year exposure duration to estimate individual cancer risks. (*Id.*) Based on its extensive experience, SWAPE reasonably assumed that the Project will last at least 30 years, and therefore recommended that health risk impacts from the Project be evaluated. (*Id.*) A subsequent CEQA and LCPD document is therefore required to analyze these impacts. (*Id.*)

Fourth, by failing to prepare a quantified construction and operational HRA for nearby, existing sensitive receptors, the City failed to compare the excess health risk impact of the Project to the SCAQMD's specific numeric threshold of 10 in one million. (Ex. A, pp. 7-8.) Without conducting a quantified construction and operational HRA, the City failed to evaluate the cumulative lifetime cancer risk to nearby, existing receptors from the Project's construction and operation together. This is incorrect, and as a result, the LCPD Findings and CEQA Compliance Checklist's evaluation cannot be relied upon to determine Project significance. OEHHA guidance requires that the excess cancer risk be calculated separately for all sensitive receptor age bins, then summed to evaluate the total cancer risk posed by all Project activities. Therefore, in accordance with the most relevant guidance, an assessment of the health risk posed to nearby, existing receptors from Project construction and operation should have been conducted and compared to the SCAQMD threshold of 10 in one million.

Subsequent CEQA and LCPD documentation is therefore needed to adequately address the new significant and cumulative air quality and health risk impacts of the proposed Project, and to mitigate those impacts accordingly. Not doing so is inconsistent with the Coastal Act, LCP, SEASP EIR, and CEQA.

¹ "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at*: <https://oehha.ca.gov/media/downloads/crn/2015guidancemanual.pdf>.

B. Inadequate Disclosure and Analysis of Soil Contamination Impacts at the Project Site.

According to the 6700 PCH CEQA Compliance Checklist, the Project site is located within the boundary of the Seal Beach Oil Field, and Phase I and Phase II Environmental Site Assessments were completed for the Project site. (*See* 6700 PCH Checklist, Appendix E.) The Phase I found no Recognized Environmental Conditions associated with the Project site. The Phase II found elevated total petroleum hydrocarbons (TPH) detections in soil. Soil vapor analytical results indicated that TPH (gasoline) and several volatile organic compounds exceeded screening levels, such as benzene and chloroform across the project site, and isolated detections of bromodichloromethane, ethylbenzene, tetrachloroethene, and trichloroethene. (*Id.*, p. 104.) After reviewing the CEQA Checklist and Phase I and Phase II ESAs, SWAPE concluded that the Project and related CEQA and LCDP documentation inadequately disclosed, analyzed, and mitigated the Project's hazards and hazardous waste impacts from soil contamination on the project site, stating:

To address the soil and soil vapor contamination, the Checklist calls for an additional Phase I, Phase II (if necessary), and human health risk assessment to be completed. If contamination is found, remediation under regulatory supervision will be conducted prior to the issuance of building permits. (Mitigation Measure HAZ-1). Any necessary cleanup will be conducted under the provisions of a soil management plan (Mitigation Measure HAZ-2).

This mitigation is deferred. To properly disclose impacts, an EIR is necessary to fully document subsurface contamination at the Project site. Impacts of any necessary cleanup also need to be estimated in an EIR to include air emissions from diesel powered vehicles needed for cleanup, the amount of truck traffic that would result from soil removal and offsite disposal, and particulate emissions that may impact the health of nearby residents.

(Ex. A, pp. 1-2.)

As such, the City's approval of the Project and the LCDP is inconsistent with the LCP, SEASP EIR, Coastal Act, and CEQA. A subsequent CEQA and LCDP document is therefore needed to adequately address soil contamination on the Project site and its related health risk impacts, and to mitigate those impacts accordingly.

III. CONCLUSION

In conclusion, the City of Long Beach, City Council, and Planning Commission all erred by approving the project at 6700 PCH. SAFER respectfully asks that the Coastal Commission find Substantial Issue for the proposed project at 6700 PCH and require that the City perform the appropriate subsequent CEQA review prior to approving the LCDP for the Project. Thank you for considering these comments.

Appellant SAFER's Supplemental Comment on October 12, 2023 Meeting Agenda Item 12c
Appeal No. A-5-LOB-23-0032 (Holland Partner Group, Long Beach)
October 6, 2023
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Sincerely,

A handwritten signature in cursive script that reads "Victoria Yundt". The signature is written in black ink and is positioned above the printed name.

Victoria Yundt
LOZEAU | DRURY LLP