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To: [Plan Comment Mailbox](#)
Cc: [John Lockard \(john_lockard@ozemail.com.au\)](mailto:john_lockard@ozemail.com.au)
Subject: Planing Proposal Submission - 65 Albert Avenue, Chatswood
Date: Tuesday, 17 November 2020 12:36:33 PM
Attachments: [201490.1S.pdf](#)

Dear Sir/ Madam,

Please find attached an objection to this planning proposal.

Please contact me if the Panel requires any further information.

Yours faithfully

George Smith - Consultant

Design Collaborative

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Objection to Planning Proposal

2020SNH008 – Willoughby - PP_2020_WILLO_001_001

At

Mandarin Centre,
65 Albert Avenue, Chatswood

201490.1S

NOVEMBER 2020

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1. Introduction

This submission has been prepared on behalf of the Owners Corporation of Strata Plan No. 54893 which embraces the residential component of the building known as "The Sebel", situated at 31-37 Victor Street, Chatswood.

The Owners Corporation objects to the Planning Proposal on behalf of the owners of the 203 lots in the Strata Plan. These lots occupy the 21 levels of The Sebel building above RL 117 AHD which is, generally, the level of Level 7 in that building.

Levels 1 to 6 of that building (being Lot 24, DP868835, a lot created by a stratum subdivision) are occupied by the Willoughby City Council for its administrative offices and Council Chambers and by car parking spaces.

The submission has been prepared by George W Smith, B Surv. (Qld), MCP (MIT), Life FPIA, MRTPI, FAPI, Hon FAIUS, MIS Aust., a consultant to Design Collaborative, 304/105 Pitt Street, Sydney

2. Executive summary

- The exhibited documents, allegedly explaining the planning proposal, do not provide certainty about what amendments would be made to the Willoughby Local Environmental Plan 2012 should it be approved.

Because of that uncertainty:

- The current exhibition should be abandoned and, if the proponents wish to proceed with the planning proposal, it could be re-exhibited when the documents have been re-cast to provide certainty
- The planning proposal should be refused
- The exhibited documents confuse the planning proposal with the design concept included in them. That concept is but one example of what might emerge if the planning proposal is approved and the LEP is amended.

This confusion is evident in the Gateway Determination Report and could have misled the delegate of the Minister when issuing the Gateway Determination. That confusion is likely to mislead members of the public about the planning proposal.

For that reason, the current exhibition of the planning proposal should be abandoned and, if the proponents wish to proceed with the planning proposal, it could be re-exhibited when the documents have been re-cast to provide certainty.

- The Gateway Determination Report contains errors which may have resulted in the delegate of the Minister being misled about the planning proposal when deciding to issue the Gateway Determination. Those errors have the capacity to mislead members of the public when considering making submissions on the planning proposal.

For that reason, the current exhibition should be abandoned and, if the proponents wish to proceed with the planning proposal, it could be re-exhibited when the documents have been re-cast to provide certainty.

- There are 106 apartments in The Sebel which overlook the Mandarin Centre. For sixty-six of them, their only view is across the Mandarin Centre. Any tall building on the Mandarin Centre site will impact on those views. Depending on the built form of any tall building, those impacts could range from severe to complete obstruction.
- The documentation on exhibition implies that the built form of the design concept is 'the best available solution' in terms of view sharing. However, there is nothing in the planning proposal which would ensure that built form would emerge.

Even if it did, it would have disastrous impacts on views, amenity and mental health of the residents of the apartments affected who include many who are elderly with limited command of English and include many who are largely confined to their apartments.

There would also be diminution of values, not only for the directly affected apartments but also for all 212 apartments in The Sebel including those managed by Accor and constituting the 4.5 star Sebel Hotel Chatswood.

- The Sebel was approved in 1994 while the Mandarin Centre was under construction and Willoughby City Council took pains to ensure that the latter would not interfere with views from the apartments in the former which was to be built on land which it owned. Its efforts to ensure expansive views from the apartments should be respected.
- The Mandarin Centre is poorly located for retailing and has never been very successful. It has been Asian-oriented since it opened in 1995. Much of its floor space is not, and has never been, occupied by retailing. It is said to require up-grading but there is little prospect of that overcoming its isolation from Victoria Avenue, Chatswood's main shopping strip.
- The Mandarin Centre has an FSR which is 80% above the maximum FSR for its site nominated in the Willoughby LEP 2012. Ever since that LEP was made, the owners of the Mandarin Centre have been seeking to increase the FSR by over 400% on that permitted by the LEP without advancing any sound planning reason to justify such an increase.
- The previous attempt was rejected by the Council on the grounds that:
 - *The increase in height and floor space would have an unacceptable impact on neighbouring properties in regard to view loss*
 - *The increase in height and floor space would have an unacceptable impact on Chatswood Park with regard to overshadowing*
 - *The increase in floor space will have an unacceptable impact on the surrounding road network*

Those reasons remain valid.

- Due to market conditions, approval of the planning proposal would not result in a 'shovel-ready project'. The 'Timeline' in the planning proposal report ends with the amendments to the LEP: It gives no indication of when a development application might be lodged or when construction might commence if the planning proposal were to be approved. It may be some years before any work on a project arising from the approval of the planning proposal would be likely to commence.
- Thus there is no reason why the planning proposal should be considered before the Council reviews the LEP to amend it to incorporate the provisions of the Chatswood CBD Planning and Urban Design Strategy 2036.
- An almost certain consequence of approval of the planning proposal would be demolition of the existing Mandarin Centre, something not mentioned in the documentation exhibited.
- With the impacts of on-line shopping and the COVID19 restrictions on retailing, it is unlikely that there would be any appetite for investing in a new Mandarin Centre retail centre.
- There is, and has been for several years, a large amount of office space available for lease in the Chatswood CBD. The recent granting of development consent to the site of the Chatswood RSL Club may result in a very large addition to that current surplus. Consequently, it is unlikely that there would be any demand for new office space, as proposed in the planning proposal, for several years.
- As the Minister has recently recognised, the demand for apartments in Greater Sydney will probably be greatly subdued for some years. Demand for small apartments, as envisaged in the design concept, could be the most adversely affected.
- The planning proposal does not conform to the provisions of the Chatswood CBD Planning and Urban Design Strategy 2036, a document which the Council has been honing for several years. Those departures from the Strategy are unjustified.
- The attempt to justify the impact of the design concept, which is but one possible built form if the planning proposal is approved, on views by resorting to the *Tenacity* principle underscores why the planning proposal should be rejected as good planning would avoid the need to resort to such principles.
- The view sharing report devalues the significance of the views enjoyed across the Mandarin Centre site by implying that they are confined to what can be seen from one point in each apartment by a person looking straight ahead when those views are very expansive and include important close views as well as distant views to the horizon.
- That report also contains errors which simply add to the confusion created by the exhibited documents, particularly, when what could be built if the planning proposal is approved, could have quite different impacts. That is because the planning proposal does not contain any provisions which would confine what emerged from it would resemble the design concept.



For these summarised reasons alone, at the least, the present exhibition of documents related to the planning proposal should be abandoned.

If it is re-exhibited at some later time, all mention of the design concept should be removed so that the present confusion between it and the planning proposal would be avoided.

However, there is no apparent reason why the planning proposal should be approved at this time. The appropriate time for its consideration will be when the Council reviews the LEP, something which is overdue since the current LEP was made in 2012.

3. Reasons why the planning proposal is defective due to uncertainty

3.1 What is the planning proposal?

The first issue confronting anyone wishing to understand, or to make a submission on, the planning proposal is to identify what the proposal is.

In the absence of any explicit identification of the proposal, one must assume it is what is set out in the [letter from Planning Panels](#) dated 13 October, 2020, sent to nearby property owners. [Alternatively, such persons may have been alerted to the planning proposal by sighting the undated [Public Notice](#) of the exhibition of the proposal (which, for some inexplicable reason, appears among the 'Proposal documents' on the LEPs Online website rather than among the 'Determination documents'). Presumably, that notice was placed in some newspaper circulating in Sydney.]

The planning proposal would be given effect by amending the Willoughby Local Environmental Plan 2012 (*LEP*) which is a statutory instrument, the provisions of which are subject to judicial interpretation. As such, clarity in wording is essential.

The substantive contents of the letter of 13 October and of the public notice, setting out the planning proposal, differ. Each is discursive rather than precise so that the reader is not able to identify what the proposed changes to the LEP are. That means that it is not possible to assess what the impacts of the planning proposal might be which is the purpose of the current exhibition – to afford public participation.

Both the letter and the public notice advised the public to visit the LEPs On-line website where the planning proposal may be viewed.

The matters set out in the letter of 13 October do not align with the [Gateway Determination](#), dated 6 June 2020, which is on the LEPs On-line website. However, that Gateway Determination is as vague as the letter and the public notice are about what changes the planning proposal would make to the LEP.

Some of the amendments proposed to the LEP entail changes to the maps incorporated in that instrument. Nothing in the letter of 13 October alerts any one attempting to examine the planning proposal, to those changes or points to any source where those draft amended maps might be viewed. Admittedly, those maps are available, amongst a number of other documents which do not form part of the planning proposal and which should not be included among the documents setting out that proposal, on the website.

The public who are being invited to make submissions on the planning proposal could delve deeper and examine the [Gateway Determination Report](#), dated April 2020, prepared by the Department of Planning, Industry and Environment. If they did so, they would be further confused because the 'Description of the planning proposal' at 1.1 in that report provides yet another version of what constitutes the planning proposal. However, the public notice employs

the wording provided in that Report despite it being prepared before the Urbis 'Planning Proposal' report dated August 2020.

At page 35 of that Urbis report, under the heading '*5.2 Explanation of Intended Provisions*', three proposed 'map amendments' are listed together with five amendments to clauses in the LEP. These proposed changes are internally inconsistent, e.g. that there is to be a maximum Floor Space Ratio for the site which is to be shown on the Floor Space Ratio map of the LEP but there is to be no maximum Floor Space Ratio for 'commercial premises ' or 'hotel and motel accommodation' land uses. There is also a redundant provision, that specifying a maximum Height of Buildings when overshadowing of Chatswood Oval is to be prohibited. Proposed Clause 4.4A- Exceptions to Floor Space Ratio would seem to permit a development which did not include shop-top housing to achieve a floor space ratio far in excess of the maximum 11.1:1 which is proposed to be shown on the relevant LEP map.

Nowhere in the letter of 13 October or the public notice is attention drawn to this section of the Urbis report which provides a more, but still deficient, version of what the amendments to the LEP might be.

Nowhere in the documents are the proposed changes to the LEP set out clearly.

Because of the uncertainty that the differences between these official documents creates, together with the imprecision of their wordings, the planning proposal - as currently being exhibited - should be withdrawn.

If it is to be pursued, it should be re-exhibited when it is re-cast in appropriate form and language, specifically identifying the proposed changes and setting out, precisely, the amendments proposed to each clause of the LEP to be amended by the proposal using the language of those clauses. In addition, the wordings in the notifications of the exhibition of the planning proposal should be consistent in their descriptions of what is proposed.

3.2 Confusion between the planning proposal and the concept design

The applicants' consultants have produced a concept design being a development which could emerge if the planning proposal is approved and the LEP is amended. The various documents posted on the LEPs On-line website relating to that design concept have nothing to do with the planning proposal. Their presence on the website appears intended to be to distract the public from what approval of the planning proposal might produce by way of development.

There is nothing in the planning proposal which would require a future development application to adhere to what the design concept portrays. Those design concept-related documents should not appear in the planning proposal because they are misleading, being likely to convey to members of the public that what those documents describe is what will emerge if the planning proposal is approved.

What those documents achieve is to illustrate how great the adverse impact on the residents of The Sebel would be since the consultants claim they illustrate the most benign form of development for view sharing that could emerge if the planning proposal is adopted..

The inherent danger of treating the design concept as if it were part of the planning proposal is illustrated by the requirement in the Gateway Determination for *'the preparation of a visual impact assessment, specifically from the residences of the 'Sebel' directly to the north of the site, to the Department's satisfaction.'* It appears that the delegate of the Minister, who made the Gateway Determination, was misled into believing that the design concept was part of the planning proposal.

In reality, it would be nigh on impossible to prepare a visual impact assessment of what the planning proposal would permit because there could be a myriad of possible built forms, each of which could have a different impact.

Because such misleading documents are being exhibited, seemingly as part of the planning proposal when they have nothing to do with it, the current exhibition should be abandoned.

If it is intended to pursue the planning proposal, it should be re-exhibited either without the misleading documents (which are, at least, those described as Attachments 1, 3, 4, 5, and 6 as well as Section 4. *'Proposed Concept'* in the Planning Proposal, prepared by Urbis, and dated August 2020) or with those documents separated from those constituting the planning proposal under a heading such as *'A Possible Outcome'*.

3.3 Errors

It is logical to assume that, when the delegate of the Minister made the Gateway Determination, reliance was placed on the Gateway Determination Report which, although its purpose is not overtly disclosed, was presumably prepared to enable the delegate to avoid having to delve through the mass of documents which had been accumulated prior to that point relating to the planning proposal.

The Gateway Determination Report contains errors such as:

- On page 3, *Summary, Lot and DP* (presumably intended to identify the property affected) is stated to be Lot 2, DP 1035379. Lot 2 is one lot in the four lots, stratum subdivision of the Mandarin Centre and is limited in height to RL91.9 AHD. It alone cannot be said to identify the properties to which the planning proposal relates.
- On page 7. 1.3, *Surrounding area*, contains the following sentence:

'The 'Sebel' building to the north of the subject site contains residential serviced apartments in addition to commercial for space...'

That building currently contains 38 serviced apartments, managed by Accor, and 164 residential flats with 106 of them overlooking the Mandarin Centre. Serviced apartments are treated as a commercial use in the administration of development. Preservation of their amenity is not assigned as high priority as that of dwellings (home units). Thus describing The Sebel as serviced apartments may have misled the delegate of the Minister when the Gateway Determination was being considered into down-grading the significance of the impact on The Sebel.

- On page 11, 1.5, *Summary of recommendation*. The reasons set out for concluding *'that there is sufficient strategic and site-specific merit in issuing a Gateway determination'* were incorrectly based since they took into account the design concept which, as set out above, does not form part of the planning proposal. For example, if the planning proposal is approved, the development which emerges on the site may not *'provide an increase of approximately 66% in employment floor space on the site'* or *'provide 158 dwellings and additional affordable housing'*. These are not outcomes which approval of the planning proposal could, or would, ensure. These errors arise from the apparent (and incorrect) assumption that the concept described in 3.4 of in the Urbis Report forms part of the planning proposal.
- On page 18, 3.4, *Concept*. Regardless of the incorrect assumption that the Concept formed part of the planning proposal, the regurgitation, in the table on that page, of data from what was, presumably, an earlier version of the Urbis 'Planning Proposal' report (since the Gateway Determination Report was prepared some months before the Urbis report on exhibition) is misleading. For example, the design concept does not envisage 15,088 sqm of gross retail floor space because a substantial part of it would be cinemas (which are not classified as retail premises in the Standard Instrument's definitions) and, apart from the basement supermarket, the balance of the space is designated *'retail/commercial'* on the drawings illustrating the concept. However, there is nothing in the planning proposals which would require any future development to achieve the suggested division of floor spaces set out in that table.
- Pages 21ff, *Strategic Assessment*. The assessment provided proceeds largely on the basis of the concept and the documents associated with it but they do not form any part of the planning proposal. They illustrate but one of a great many possible solutions to the land-use and built-form on the site.
- Page 38, *View sharing*. In the second paragraph. The following appears:
'The Chatswood CBD Strategy contemplates additional scale and density of development for the subject site which would result in some level of impact to view sharing.'

It is accepted that the Strategy envisages removing the limit on floor space ratio from the site of the Mandarin Centre, but achievement of that relaxation is conditioned by the following which appears on page 33 of the Strategy:

'Floor space ratio maximums are not necessarily achievable on every site, and will depend on satisfactorily addressing:

- *Site constraints,*
- *Surrounding context,*
- *Other aspects of the Strategy, including setbacks at ground and upper levels.*
- *SEPP65 and associated Apartment Design Guidelines.'*

To put to the Minister's delegate that the Mandarin Centre site is virtually un-constrained is not only misleading but also erroneous.

While such errors may, or may not, have misled the Minister's delegate, they could mislead members of the public inspecting the documents which could result in their forming incorrect impressions about the impact of the planning proposal. For that reason alone, the current exhibition of the planning proposal should be abandoned.

4. Merit assessment

4.1 The Sebel

Development consent for the building known as The Sebel was granted by Willoughby City Council on 25 May 1995 as DA94/663. The development it approved was described as:

“Construction of a 29 storey mixed use building comprising public offices, a serviced apartment complex and a residential dwelling complex together with car parking”.

The Sebel building was the last to be approved on a larger tract of Council-owned land extending to the Chatswood Railway Station, Victor Street and Albert Avenue, which Council had accumulated with the intention of creating a new town centre. The whole project was described as ‘The Interchange’.

Apart from a building at the Chatswood Railway Station which has since been substantially expanded to include tower blocks of apartments, by the time DA 94/633 had been approved, the Sage (now Sental) Building at 67 Albert Avenue had been erected as had the so-called ‘Water Board Building’ to the north of The Sebel.

From reading Council’s file on DA94/633, when that application was being assessed, the Mandarin Centre was under construction and Council and the applicant for DA 94/633 (Mirvac) went to considerable pains to ensure that the podium level of the proposed building would match that of the roof level of the Mandarin Centre so that apartments on higher levels would have unimpeded views to the south across the Mandarin Centre..

The Statement of Environmental Effects (JBA, August 1994) which accompanied DA94/633 noted:

‘A major element of the proposed building design is the very large number of windows on the north and south elevations at the serviced apartment and residential levels. With those facades being the longest, the effect would be dramatic’ (page 11) and

‘The upper, residential levels, by overlooking the Mandarin Centre, will have a high level of amenity in terms of views and daylight’. (page 24).’

The drawings referred to in Condition 1 of DA94/633 show that Levels 7 to 14 were described as ‘serviced apartments’ and Levels 15 to 28 were described as ‘home units’. There were to be 90 serviced apartments and 112 residential units according to the assessment report on DA94/633 prepared for Council by Paul Mitchell (Mitchell McCotter), dated 11 August 1994.

The Sebel building, then known as Chatswood Plaza, was subdivided into two stratum lots by DA94/677. One of those lots was re-subdivided into 203 lots by DA 94/678 which was approved on 25 August 1995 and was registered as SP 54893.

Since then, 202 lots in SP 54893 have been sold, mainly, to individual owners with one lot being held in common property. Accor currently manages 38 units in The Sebel on behalf of their

owners. It also operates meeting rooms on the seventh level. The remaining serviced apartments are largely owner-occupied or let on a long-term basis while a few apartments, above Level 14, are managed by Accor. Accor's managed apartments are used for short-term lettings.

One of the valued attributes of The Sebel is that most apartments enjoy views which add greatly to their amenity. The apartments on the southern side have the more attractive views not only to the distant skyline but also of the verdant vegetation of Chatswood Park and the nearby residential area.

Accor reports that many of its repeat guests request accommodation on the southern side of the building because they appreciate the views available from them.

There are 106 dwellings in The Sebel which enjoy views over the Mandarin Centre. Forty-two are located on the corners of The Sebel building and thus also enjoy additional views either to the east or to the west. Sixty-four only have views to the south. The amenity of all those dwellings would be adversely affected, as would their values, if the planning proposal is approved.

One of the striking aspects of The Sebel is that many of the occupants are older Chinese persons.

The photograph below, reproduced from the 'Chatswood CBD Planning and Urban Design Strategy 2036' (September 2020), shows very clearly the relationship between The Sebel and the Mandarin Centre.



Figure 1 –The Sebel building in the centre and the Mandarin Centre on the left with the Sage Building behind it (Source: Chatswood CBD Planning and Urban Design Strategy 2036)

4.2 The Mandarin Centre

The Mandarin Centre opened in 1995. It stands on the southern side of The Sebel between it and Albert Avenue. In 2002, the Centre was subdivided into four stratum lots.

While the Centre's tenants have changed over the last 24 years, the building has not been significantly altered. As a shopping centre, it has always had an Asian orientation.

The building contains three underground parking levels (containing 300 spaces and operated as a commercial parking station) and five upper floors. The ground and first floors are devoted to retail and allied professional service outlets. The second floor is a food court. Hoyts have a recently re-furbished multi-screen cinema on the third and fourth floors and the top floor is occupied by a ten-pin bowling alley which also provides entertainment and food. [The Chatswood Sports and Community Club (formerly the Gordon Rugby Club) which originally occupied the top floors was placed in liquidation in 2013 after amalgamating with the Mingara Club, based in Tumbi Umbi, in 2012. That Club ceased operations at the Centre very recently.]

The Centre contains some 5,500 sqm of lettable retail/commercial floor space with Hoyts occupying some 3,000 sqm and Strike Bowling, 2,800sqm, the total lettable area being about 11,500 sqm.

The major retail tenants are Daiso on the ground floor and TKMaxx and a small Asian grocery on the first floor. Most other tenancies are very small. Their occupants include medical, dental and other personal service providers and a child care centre. There is a noticeable level of vacancy. The Centre does not give the impression of being successful and has never been very successful as it has failed to attract any major anchor retail tenant.

Visitors to the Centre can enter it via either of two doorways on Victor Street (one being on the corner of Albert Avenue), a doorway opening to the second floor from the 'civic plaza' at the north-west corner of the building or by a pedestrian overbridge which links the Centre to the car park of the Westfield Centre on the southern side of Albert Avenue. The last connects into the TKMaxx store.

The Mandarin Centre is not integrated with the main retail development in Chatswood which lines Victoria Avenue despite being opposite the Westfield Centre, one of Chatswood's major retail attractions. The nearest entrance to Westfield is some 60 metres away with the main internal court of Westfield being about another 50 metres inside that Centre. That is to say, the Mandarin Centre is about 100 metres from the nearest significant tenancy in the Westfield Centre. In addition, the entire frontage of the Westfield Centre from that entry to Albert Avenue - the section opposite the Mandarin Centre - is blank and unattractive to shoppers.

On the western side of Victor Street, there is no shop between the Mandarin Centre and Post Office Lane, a distance of some 100 metres. Between the Centre and Post Office Lane, there are the very wide vehicle entrances and exits to the Mandarin Centre and The Sebel's car parks together with another six metre wide vehicular access as well as the entrances to the Council's offices and to The Sebel and the boarded-up, former Chatswood Post Office building which was recently devoted to selling merchandise to Chinese tourists and despatching their purchases to China. That frontage is totally un-inviting to shoppers.

The Mandarin Centre's frontage to Albert Avenue is equally dreary with no access to the Centre from that Avenue. There is no shop facing Albert Avenue near the Mandarin Centre.

Traffic conditions around the Mandarin Centre are congested during busier shopping periods due to the width of Victor Street, the short distance from Albert Street to the entry to the Mandarin Centre's carpark and the multiplicity of traffic movements and signals along Albert Avenue in its close vicinity. The area is also congested on most late afternoons as workers and shoppers depart from Chatswood.

One of the interesting aspects of the Planning Proposal is that the exhibited documents do not contain any plans or description of the existing Mandarin Centre or of its surrounds at street level. However, the Mandarin Centre is poorly located for retailing and redeveloping it would do little to improve that assessment.

Under the LEP, the Mandarin Centre site has a Floor Space Ratio of 2.5:1. However, the existing Centre has a Floor Space Ratio of 4.6:1, that ratio having been permissible when it was granted development consent circ.1990. The fact that the Council and the Minister awarded it a much lower Floor Space Ratio in the LEP suggests that the intention was to inhibit, if not to prevent, the Centre being redeveloped.

The LEP was made in December 2012. Within a few months, a planning proposal for the Centre's site was lodged seeking to increase the FSR to 10.5:1 and the maximum permissible building height from 27 metres to 89.95 metres. It would appear that proposal was an attempt to increase the value of the site. The reason given for that proposal was that the Mandarin Centre needed rejuvenation. That was to be financed from the proceeds of the sales of apartments. No additional office space was proposed because it was stated that there was no market demand for such space in Chatswood.

The Council initially supported that proposal but, in September 2015, it resolved not to support a modified proposal which had reduced the proposed FSR to 8.65:1. The reasons for refusal were:

- *The increase in height and floor space would have an unacceptable impact on neighbouring properties in regard to view loss*
- *The increase in height and floor space would have an unacceptable impact on Chatswood Park with regard to overshadowing*
- *The increase in floor space will have an unacceptable impact on the surrounding road network*

Seven months after that decision, the forerunner of the current proposal was lodged with Council. The justification for this new proposal included that it would 'satisfy the state government's objective to grow jobs, housing and infrastructure within strategic centres to enhance Chatswood's role as a major regional mixed-use centre providing housing, jobs and services in a genuine mixed-use development'.

The Council adhered to its earlier decision and declined to support that proposal in June 2016

As will be discussed below, there has been little change in the market for commercial space in Chatswood since 2013 when the proponents claimed there was no demand. Consequently, the current proposal is more a response to regional planning targets which were postulated before the COVID 19 pandemic and the associated economic down-turn, neither of which will stimulate the demand for commercial floor space in Chatswood.

In other words, the planning proposal does not deal with a 'shovel-ready project' which could attract investment and create jobs in the short-term. There is no good planning or economic reason why it should be supported ahead of the review of the LEP as a whole.

4.3 The Planning Proposal

As set out above, a planning proposal for the development of the Mandarin Centre was made in 2013. That proposal envisaged a residential tower being built above a re-furbished Centre. The justification advanced for it was that the Mandarin Centre was performing poorly and required re-furbishing. The absence of any commercial office space in that planning proposal was justified on the basis that there was no demand for such space and its provision would not be financially viable. That proposal advanced through the Gateway process but was finally rejected by Council, in September 2015, in part, on the basis of its adverse impact on views from The Sebel.

The current proposal was submitted to Council in April 2016. Council indicated that it would not support the proposal.

The planning proposal was submitted for a pre-Gateway determination at the Department and its progress since then is set out in 2. *Background* in the Gateway Determination Report (April 2020) prepared by the Department.

The development concept for the use and massing of buildings on the site, prepared by Bates Smart, the description and assessment of which forms a major part of the documentation exhibited, is simply an example of what might emerge if the proponents' original planning proposal was to be adopted. It is said to offer the '*best solution*' which could emerge. However, it might be better described as '*the least worst solution*' insofar as the residents of The Sebel are concerned. That concept does not form part of the planning proposal.

Despite what is set out in 3. *Planning Proposal* in the Gateway Determination Report, a major source of those concerns is that it is unclear, from the exhibited documents, just what is being proposed.

As discussed in Part 3, the proposed amendments to the Willoughby Local Environmental Plan 2012, as set out in the letter from Planning Panels dated 13 October 2020, do not provide any certainty about what might be developed on the site.

The amendments proposed to the LEP should be set out in full so that their impacts can be assessed. Because they are not, the Planning Proposal on exhibition should either be withdrawn (to be re-exhibited when it is properly formulated) or abandoned.

The one control discussed in the various documents exhibited which provided certainty (but which is not included in the proposed amendments listed in the letter of notification) is that development should not over-shadow the Chatswood Oval. However, its inclusion would not reduce our client's opposition to the Planning Proposal.

No real justification is advanced in support of the Planning Proposal. The Urbis report sets out (at page 13) a long list of what are said to be '*Benefits of the Planning Proposal*' but they are largely illusory. They centre on how the Planning Proposal would advance matters raised in planning documents prepared before the COVID 19 pandemic and about which little information is available, publically, to support their conclusions. Moreover, those benefits are based on the Development Concept prepared by Bates Smart which may never become a reality and which does not form part of the planning proposal as it simply illustrates a built form which might emerge if the planning proposal were to be adopted.

Examples of claimed benefits which may never materialise include:

- The 66% increase in employment floor space
- Maintaining the net lettable retail floor space
- The inclusion of a substantial supermarket
- Enlarged internal circulation spaces
- Provision of boutique office spaces
- Additional space for community use

None of these are required by the planning proposal as are the separation of towers on the site and other features of the design concept and so cannot be ensured.

One aspect which the Urbis report does not mention is that the existing Mandarin Centre building would need to be demolished before the planning proposal could proceed because, as the design concept shows, there would be a need to excavate below the present basement to accommodate additional car parking spaces.

Similarly, in that section of its report, Urbis claim that the design concept (not the planning proposal) would protect views and visual privacy from The Sebel when, in reality, the design concept – said to be the best solution to built-form – would completely destroy views from some units in The Sebel and severely restrict those from the rest of the south-facing units.

4.4 The Chatswood Planning and Urban Design Strategy 2036

This Strategy was adopted by Council in September 2020 after the planning proposal set out in the Urbis report was finalised.

The Strategy has been endorsed by the Department and interprets relevant policies set out in regional planning strategies, such as the North District Plan 2018, insofar as they relate to the planning of the Chatswood CBD.

The assessment of the design concept – not of the planning proposal – set out in the Urbis report does not address the currently adopted Strategy.

The Strategy lists 35 key elements which should be met in order for a development proposal to be deemed to conform to it. A number of those key elements were changed when the Council adopted the current Strategy in September 2020.

Most of those key elements deal with detailed design matters which can only be addressed at the development application stage. Nevertheless, the planning proposal does not conform to the Strategy's Key Element 2 a) which is to:

'protect the CBD core around the Interchange as commercial, permitting retail throughout to promote employment opportunities':

By permitting shop-top housing on the Mandarin Centre site which might otherwise become commercial space, the planning proposal erodes compliance with this key element, particularly, since the applicant makes much of that site being only 70 metres from the Interchange.

In its letter of 9 August 2019, the Department listed three conditions relating to development in the B3 Commercial Core zone (which applies to the Mandarin Centre's site). Two are of relevance to the planning proposal:

- *Residential development can be permitted within the Commercial Core east of the North Shore Railway Line only where this results in demonstrable, significant and assured jobs growth*
- *Planning proposals are not to result in significant traffic or transport impacts*

Neither of these matters appears to have been addressed satisfactorily in the planning proposal.

Taking the first, there is nothing in the planning proposal about when advantage might be taken of the planning proposal if it is approved and the LEP is amended. There is no foreseeable market demand for the proposed re-development. The planning proposal appears to be an ambit claim aimed at increasing the value of the site. There is nothing to justify why its future development potential should be determined in advance of the required review of the Willoughby LEP which appears to be overdue.

Considering current economic conditions and conditions in Chatswood, in particular, it is difficult to see any early start being made on construction on the site because:

- Retailing is suffering from the impact of the COVID19 pandemic and the growth of on-line retailing, something which was developing before the pandemic. The poor location of the Mandarin Centre would not encourage investment in new retail space, something which would be exacerbated by the changes afoot in retailing
- There is, and has been for some years, a surfeit of office space in Chatswood. Most of the larger office buildings contain vacant spaces and have had such space for some years. Examples include:
 - The Zenith Centre which is advertising more space to lease than would be provided by the concept design.
 - The Sental Building, adjoining the site, is largely empty and has been for some years.
 - The Water Board building is vacant for more than a decade although there is a Woolworths supermarket beneath it, accessible from the railway station and Post Office Lane.
 - The former Post Office Building is largely vacant.

The RSL Club has just received development consent for a new office building containing some 28,000 square metres of floor space, right next to the railway station, which is likely to absorb any demand for new office space in the foreseeable future.

Adding to that, it appears that 'working from home' is likely to reduce further the demand for office and similar space.

These conditions suggest that there will be little demand for new office space for some years, at least.

- The future of migration from East Asia is in doubt due to the pandemic and current strained relations between China and Australia. Migration from East Asia accounted for about 70% of the increase in the population of the City of Willoughby between 2011 and 2016 and that probably continued to be the situation until 2020. Those countries are unlikely to provide large numbers of migrants for some years.

That view is reinforced by an article in the Sydney Morning Herald of 9 October 2020, where the Minister warned of the likely impact of reduced migration on the housing market with apartments being the sector most likely to be adversely affected. In that article, it was reported that SGS Economics and Planning forecast that, instead of Greater Sydney's

population expanding by 92,000 in the next 12 months, it might only expand by 500 and that it could be 2028 before its growth returns to its historical trends. That suggests that the market for apartments will shrink dramatically for the next few years..

As a result of reduced Asian migration, it is probable that the future demand for small apartments, such as proposed in the design concept, may be subdued for the foreseeable future.

All the regional plans, upon which the planning proposal claims to be based, were prepared before the COVID 19 pandemic or those strained relations emerged. Their estimates and targets will either need to be revised downwards or to be extended over much longer time frames.

Consequently, it is reasonable to assume that the planning proposal is unlikely to result in demonstrable, significant and assured growth which should result in it being refused.

If the planning proposal is approved, for residents of The Sebel – who would be adversely affected - that would probably mean years of anxious waiting to see what might emerge, literally, just in front of their eyes. Such uncertainty is not a hallmark of good planning and should be avoided.

Insofar as traffic is concerned, in any list of the more congested streets in Chatswood, the Albert Avenue/ Orchard Street/Victor Street area would be included, especially, during peak shopping times. The Transport Impact Assessment Addendum, prepared by GTA Consultants, the only document exhibited with the planning proposal dealing with traffic, is an unsatisfactory document in many ways. It relies on earlier documents which are not exhibited. It postulates that residents and the workers who might, one day, occupy the floor spaces which the planning proposal would allow on the site, would adhere to a 'green travel plan' to reduce their use of cars. That is based on the assumption that people who live near railway stations do not need to use cars because public transport provides them with an alternative mode of travel. There is little evidence to support that theory. For example, all the apartments in The Sebel (which is close to the railway station) have cars and they use them regularly.

The approval of the planning proposal would result in increased traffic on a part of Chatswood's street system which is already regularly congested. Thus the planning proposal breaches the second condition set by the Department.

For its failure to satisfy either of the two pre-conditions imposed by the Department, the planning proposal should be rejected.

4.5 The View Sharing Report

The Gateway Determination required *'the preparation of a visual impact assessment, specifically from the residences of the 'Sebel' building directly to the north of the site, to the Department's satisfaction.'* That led to Urbis being given access to a number of dwellings in The Sebel in order to take photographs and to the production of the View Sharing Report which was prepared by Urbis, based on a photographic survey undertaken by Virtual Ideas.



As the planning proposal has progressed to exhibition, it is assumed that the Department was satisfied with the visual assessment provided despite there being no indication of this in the documents on exhibition.

As a general comment, the view sharing report is of little value in assessing the planning proposal because it does not assess its impact on views but rather the impact on views of the design concept. However, there is nothing in the planning proposal which would require any future development of the Mandarin Centre site to conform to the design concept if the planning proposal is approved.

On the basis that the design concept is said to be the best solution for the site in terms of view sharing, the report provides strong evidence that the planning proposal should not proceed because the impact would be unacceptable.

The contents of the view sharing report can be divided into two parts that:

- describe the photographic survey and its underlying methodology ; and
- Interpret the results.

No issue can be taken with the photographic survey or with the methodology used to impose the built form of the design concept (which is not part of the planning proposal but what is described as the best solution of what might emerge if the proposal is approved) on the photographs apart from:

- The views from all south-facing apartments in The Sebel are very broad, commanding some 150 degrees or more whereas the photographic survey confined those views to about 50 degrees from one place in each of the apartments from which the views were surveyed. It makes no allowance for residents looking anywhere other than straight ahead from one place in their apartments, in order to assess the impact (which is almost an absurdity)
- The undue emphasis placed on distant views which are not the only important parts of the views to residents. Closer views to trees and activities at ground level, particularly, around Chatswood Oval, are equally, if not more, important - primarily - because they change

However, it is difficult to understand how the impacts on the views from identical units (Nos. 2409 and 2508 shown on pages 33 and 35 of the report where No. 2409 is directly below No. 2508 in the same locations on the floors of The Sebel) could be so vastly different. Further, the descriptions of the two units given in the accompanying text are incorrect. Thus, the assessments of those impacts are wrong. Similar discrepancies appear elsewhere. It seems that there may be dis-connects between some photographs and the text which accompanies them. That depreciates the worth of the View Sharing Report.

The impacts on views resulting from the erection of a development based on the design concept was assessed by Urbis by reference to the planning principle, adopted by the Land and Environment Court, which was set out in *Tenacity Consulting v Warringah*. [204] NSWLEC 140, where Commissioner Roseth wrote:

'25 The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, I have adopted a four-step assessment.

26 The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

27 The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

28 The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

29 The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.'

The principle was advanced to resolve an issue which arose in an appeal about a development which complied with the prevailing controls. That is to say, it was intended to arbitrate in a situation which arose under existing controls. The admonition set out in paragraph 29 above about the difference between developments which comply with controls and those that do not should not be overlooked.

Applying the Tenacity principle to assess the impact of a planning proposal is ironic because good planning, with appropriately formulated controls, would avoid the necessity to resort to the principle.

Its use to assess the impact on views in this case is an admission that, if a development based on the design concept emerged, it would have unacceptable impacts on views from the 106 dwellings in The Sebel which enjoy views across the Mandarin Centre. For the majority of those dwellings, the view over the Mandarin Centre is their only view.

There are other deficiencies in the View Sharing Report but, irrespective of that, it shows that a development based on the design concept prepared by Bates Smart would have devastating impacts on the only views which most of the residents of south-facing apartments in The Sebel have. Many of those residents are elderly and spend much of their times enjoying their views since they lack the mobility to venture out. Losing that amenity could have serious impacts on their mental health.

The loss of views would also seriously affect the values of apartments in The Sebel. While those overlooking the Mandarin Centre would suffer the greatest fall in value, the values of all apartments in the building would be adversely affected. The serviced apartments would also be affected which would result in lower room rates and probably to the downgrading of the Accor-managed accommodation.

There is another aspect of the View Sharing Report which warrants mention. It is that the author failed to appreciate the difference between the planning proposal and the design concept, something evident in the opening paragraphs of the report. That is, its author was as confused by the documentation as the Minister's delegate when the Gateway Determination was issued.

4.6 Wind Effects

In DA 94/633, which granted consent for The Sebel, numerous conditions were imposed addressing likely wind effects on the balconies of dwellings in the building.

In the documentation being exhibited with the planning proposal there is scarcely a mention of wind effects – one brief paragraph in the Urbis report assessing the design concept dealing with wind effects at ground level. That paragraph does not mention the probability of wind affecting The Sebel. However, the construction of tall buildings in close proximity is almost certain to produce increased wind velocities. In this instance, they could render balconies of apartments in The Sebel almost un-usable.

Unlike many matters concerning the proposed development of tall buildings which can only be thoroughly addressed at the development application stage, potential wind effects should be considered at the planning proposal stage as they rank alongside overshadowing and view-loss as inevitable consequences.

Before the planning proposal is advanced, the applicant should be required to have prepared a study of potential induced wind effects on, and around, The Sebel and any tall buildings proposed on the Mandarin Centre site (which could rise to RL 192), particularly, if those building were set at (or less than) the separation required by the Apartment Design Guidelines. That study should show that any adverse wind effects would be within recognised reasonable limits to the satisfaction of Council and the Department.

From: [Michael Thompson](#)
To: [Plan Comment Mailbox](#)
Subject: SUBMISSION TO PLANNING PROPOSAL FOR 65 ALBERT AVENUE, CHATSWOOD (MANDARIN CENTRE) - PP_2020_WILLO_001_00
Date: Wednesday, 18 November 2020 3:58:03 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image006.jpg](#)
[WTJ20-531 - Submission 65 Albert Street Chatswood.pdf](#)

ATTN: Nick Armstrong

Dear Nick,

Please find the attached on behalf of:

SP88677 – 69 Albert Avenue, Chatswood;

SP88678 – 1 Post Office Lane, Chatswood;

SP88679 – 438 Victoria Avenue, Chatswood.

Regards,

Michael Thompson
Senior Strata Manager

D: (02) 8567 6431

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[COVID-19 OWNER UPDATE](#)

298 Railway Parade,
CARLTON NSW 2218

After Hours Emergency:
1300 663 760



17th November 2020

Department of Planning, Infrastructure and Environment
12 Darcy Street
Parramatta, NSW 2150

Attention: Nick Armstrong

SUBMISSION TO PLANNING PROPOSAL FOR 65 ALBERT AVENUE, CHATSWOOD (MANDARIN CENTRE) – PP_2020_WILLO_001_00

1. OVERVIEW

This submission has been prepared on behalf of the Owners Corporation of SP88677 – 69 Albert Avenue, Chatswood; SP88678 – 1 Post Office Lane, Chatswood; and SP88679 – 438 Victoria Avenue, Chatswood.

Following a detailed review Planning Proposal **PP_2020_WILLO_001_00** (the planning proposal) for **65 Albert Avenue, Chatswood**, otherwise known as the Mandarin Centre (the Site), a number of matters of concern have been identified in relation to the potential adverse impacts the proposed amendments to the *Willoughby Local Environmental Plan 2012* (WLEP 2012) may have on the area and more specifically, the residents of the aforementioned Owners Corporation.

Based on the matters identified and discussed further in the ensuing sections of this submission, there is not considered to be sufficient grounds to support the planning proposal in its current form.

2. KEY FINDINGS AND CONTENTIONS

The key findings and contentions identified from the review of the proposed development under D/2020/350 are summarised as follows which are discussed further in **section 4** of this submission:

- Incorrect and misleading information
- Viability of future commercial growth
- Housing demand
- Traffic and Transport
- View sharing and impacts
- Building separation
- Strategic merit

3. PLANNING PROPOSAL

3.1 Proposed amendments to WLEP 20112

It is understood that Planning Proposal PP_2020_WILLO_001_00 seeks the following amendments to the WLEP 2012:

- Amend the **Floor Space Ratio** (FSR) Map to include a new FSR of **11.11:1** and new Area XX (TBC) to be subject to specific exceptions relating to 65 Albert Avenue.
- Amend the **Height of Buildings** Map to increase the maximum permissible building height to **RL192.90**.
- Amend the **Special Provisions Area Map** to show 65 Albert Avenue as Area XX (TBC) to be subject to additional site specific local provisions.

- Amend Schedule 1 – to include **'shop-top housing' as an additional permitted use.**
- A new provision within Clause 4.4A - **Exceptions to Floor Space Ratio:**
 - Ensure that any shop top housing development provides a minimum non-residential FSR of 7.68:1
 - Ensure that no maximum FSR applies to any development seeking consent for 'commercial premises' or 'hotel or motel' accommodation, consistent with the approach within the Chatswood CBD Strategy.
- Provide a new provision with clause 4.6 which provides that consent cannot be granted for development that contravenes the maximum residential FSR for the Site for any development application seeking consent for shop top housing.
- Provide new additional local provisions which relate to the area shown on the amended special provisions area Map as follows:
 - Provide a **minimum of 4% of GFA as affordable housing** in addition to the maximum residential FSR of 3.43:1.
 - Include new **design excellence objectives** consistent with Council's intended wording.
 - New provision which ensures that that development must not result in additional **overshadowing of the playing surface of 'Chatswood Oval'** between 11am and 2pm mid winter.
 - Prohibit development for the purpose of serviced apartments.

3.2 Background

It is understood that in June 2016, Willoughby City Council (Council) advised that they would not support the Planning Proposal which proposed the following:

- Increase the height limit to 125.6m (RL217.6).
- Increase the FSR to 11.37:1.
- Add shop top housing as an additional permitted use.

A pre-gateway review of Council's decision was subsequently submitted to the Department of Planning, Infrastructure and Environmental (DPI&E). DPI&E determined the proposal to have strategic merit, given the **supply of additional housing in close proximity to jobs and in a location well serviced by public transport.** The DPI&E report however noted the following site-specific concerns:

- The proposed height, bulk and scale should be considered in relation to the potential **overshadowing on Chatswood Park** based on the proposed building; and
- Non-compliance with **SEPP 65.**

On 26 October 2016, the Sydney East Joint Regional Planning Panel (JRPP) resolved that it could not determine the pre-gateway review until the Chatswood CBD Planning and Urban Design Strategy (Urban Design Strategy) was made public. The JRPP also noted that specific concerns needed to be address before any decision could be made including:

- Analysis of the cumulative **shadow impact on Chatswood Oval** determining that the oval should not receive any additional overshadowing between 11am and 2pm mid-winter.
- The **reduction in employment floor space is undesirable** and that more floor space should be devoted to employment uses in line with the CBD Strategy.

In 2019, the DPI&E issued partial endorsement of the Urban Design Strategy for the areas within the CBD Core subject to the following conditions:

- That no residential development is to be permitted in those areas of the CBD Core area where this land is located west of the North Shore railway line. The reason for this is that this part of the CBD is currently characterised at as commercial core and still has opportunity for office space growth.
- That mixed used development can be permitted within appropriate parts of the remaining CBD Core area (i.e. east of the North Shore rail line), but only where this results in demonstratable, significant and assured job growth, thereby aligning with the key objective of the District Plan to support job growth.

- That any planning proposals for the CBD Core area do not result in significant traffic or transport impacts, as sites in this part of the CBD are highly accessible to Chatswood rail and bus interchange.
- Council is to only utilise appropriate mechanisms within the parameters of the *Environmental Planning and Assessment Act 1979* for the provision of local infrastructure to support new development such as revisions to its Section 7.12 or Section 7.11 Plans or inserting a new clause in Willoughby LEP 2012 for the delivery of on-site essential infrastructure. No value capture mechanism or the like will be supported by the Department.

Whilst the amendment planning proposal goes a long way to addressing these matters, it still fails to fully address the conditions imposed by the DPI&E and those within the Chatswood CBD Strategy for the outcomes under the planning proposal to proceed and be supported. These matters are discussed further in the ensuing sections of this submission.

3.3 Justification provided by proponent

In their report, dated August 2020, Urbis outlines the changes made to the Planning Proposal in response to the key matters raised by DPI&E and the JRPP being:

- *The proposed scheme provides 69% of the overall GFA as employment floorspace which includes 11,085 sqm of new commercial office GFA within the podium and Tower B.*
- *The employment floor space will have the potential to create 920 additional office jobs, 737 retail jobs and 6 child care jobs. This will contribute 1,664 jobs to the 20 year employment targets for Chatswood set within the revised North District Plan. This increases the number of jobs currently provided within the Mandarin Centre by 65.89%.*
- *The retail shopping centre will be upgraded with significant additional area to be devoted to enlarged internal public areas and circulation spaces.*
- *The proposal will provide 860sqm of floor space for future community use such as childcare, after school care, other education related uses and health and wellness.*
- *There will be no additional overshadowing of Chatswood Oval as illustrated within the CBD Strategy between 11am and 2pm consistent with both the JRPP and CBD Strategy recommendations.*
- *The proposed residential tower building envelope is capable of consistency with SEPP 65 and the ADG including:*
 - *Acceptable building separation building separation between the residential tower and 'Sebel' noting that the separation was increased such that half the recommended building separation measured to the boundary (9m) can be achieved,*
 - *Acceptable building separation between the proposed residential tower A and commercial office tower to maximise views and amenity from the adjacent Sebel tower, and*
 - *Compliant solar access and cross ventilation.*
- *Commercial tower setbacks are generally consistent with the recommendations of the CBD Strategy (between 3m/6m for office areas).*
- *The proposed development concept provides two slender towers which are less than the maximum floorplate sizes under CBD Strategy for both commercial and residential uses.*
- *The proposal maintains a balanced approach to view sharing whilst still providing significant additional employment floor space as intended by the CBD Strategy.*

It is acknowledged that a version of the potential redevelopment options associated with the proposed LEP amendments *may* result in some benefits, the justification is not considered to be well-founded given the uncertainty around the potential redevelopment of the Site and associated impacts with the LEP amendments. These matters are considered in further detail below.

4. MATTERS OF CONTENTION

Upon a comprehensive review of the planning proposal documentation made available on the DPI&E's LEP Tracking website, numerous matters of contention have been identified which are of particular concern. These matters are discussed in further detail below.

4.1 Incorrect and misleading information

4.1.1 Proposed development concept

It is acknowledged that to properly consider the potential impacts and benefits of LEP amendments sought under a planning proposal requires consideration of a development concept which reflects the potential development outcomes for a site. A concept development has been prepared by Bates Smart for the planning proposal and has been relied upon for consideration of a raft of potential environmental impacts which may be associated with the future development of the Site. Consideration of a concept development outcome is crucial particularly in a scenario such as this given the array of potential environmental impacts associated with the planning proposal which have been well documented throughout.

Unfortunately, in this scenario, the planning proposal, including technical studies and justifications provided within, relies on a development concept which provides only one potential development outcome for the Site. In this respect, it could reasonably be said that this concept reflects the 'least-worse' outcome for the Site which has the least amount of environmental impact.

Whilst it is acknowledged that there is typically a level of flexibility between a planning proposal development concept and a development application, in this scenario, there appears to be numerous potential development outcomes available under the proposed LEP amendments which have not been appropriately considered as part of the planning proposal or by the Minister during the gateway determination process. As aforementioned, this is a significant oversight in the planning proposal process due to the outcomes of the planning proposal being heavily contingent on the technical studies carried out which have relied on the development concept prepared by Bates Smart.

The LEP amendments sought under the planning proposal ultimately do not require the future development of the Site to adhere to what the development concept illustrates. In this respect, the planning proposal is grossly misleading in its representation of the potential development outcomes and likely environmental impacts associated with it.

For example, as explained further below, the development concept results in significant and unacceptable visual impacts, particularly from 'The Sebel' residential apartments at 31-37 Victor Street. The proponent deems these impacts acceptable through consideration of the *Tenancy* planning principle however, regardless of the outcomes of this analysis and application of this threshold test, the actual visual impacts associated with the potential development of the Site are far reaching and not accurately represented in the visual impact analysis prepared by Urbis.

It is acknowledged that a condition of the Gateway Determination was to prepare a visual impact assessment from the residents of The Sebel building directly north to the DPI&E's satisfaction. However, it is respectfully submitted that the outcome of a planning proposal should not be determined by the hypothetical environmental impacts demonstrated by the proponent which do not in fact represent the most impactful potential outcomes associated with the amendments sought under the planning proposal. It is acknowledged that this in itself is a difficult task given the array of potential development outcomes available under the planning proposal however, if visual impact is in fact a matter of consideration in determining a planning proposal, which is evidently the case here, then it is considered reasonable to conclude that these impacts should not be measured solely on *one* potential development outcome as presented by the proponent.

Given the misleading nature of the documentation provided as part of the planning proposal and its representation of the likely impacts associated with it, the planning proposal should be withdrawn or amended to provide an more comprehensive and accurate analysis of the potential development outcomes associated with the LEP amendments sought.

Further to the above, the planning proposal contains incorrect information which is further misleading. This is particularly evident in the DPI&E's Gateway Determination Report which it appears they have been misinformed about certain particulars of the planning proposal and/or the Site context. Most notably, section 1.3 of the report identifies The Sebel as containing residential serviced apartments in addition to commercial floor space. Where in fact, The Sebel contains 90 serviced apartments and 112 residential flats with 106 of them overlooking the Mandarin Centre. This distinction in land use is critical in the context of the planning proposal and matters raised to date. In this respect, in consideration of potential environmental impacts, serviced apartments are treated as a commercial use and preservation of their amenity is not assigned a high priority like that of a dwelling or residential apartment. It is therefore unknown as to what extent the Minister, or their delegate, was fully aware of the nature of the surrounding land uses.

4.1.2 Clarity around proposed amendments

The amendment proposed to the LEP are not clear in the planning proposal report prepared by Urbis. Section 5.2 (Explanation of Intended Provision) of the report provides three (3) proposed map amendments being:

- *Amend FSR Map to increase the FSR to 11.11:1 and include a new **Area XX (TBC)***
- *Amend the Height of Buildings Map (Sheet HOB_004) for 65 Albert Avenue to RL192.5.*
- *Amend the Special Provisions Area Map (Sheet SPA_004) to show 65 Albert Avenue as **Area XX (TBC)**.*

These map amendments are listed together with five (5) amendments to clauses within the LEP. However, there are some inconsistencies between the proposed mapping and clauses. For example, the maximum Floor Space Ratio (FSR) proposed within the FSR map is 11.11:1 however, pursuant to Clause 4.4A(b), there is to be no maximum FSR for 'commercial premises' or 'hotel and motel accommodation'. Whilst it is understood this is to incentivise commercial floor space and cap the amount of residential floor space, this approach is fundamentally flawed as it effectively allows for development which is not for shop top housing to exceed the proposed maximum FSR for the Site of 11.11:1.

Whilst it is acknowledged that the removal of FSR limitations on commercial land uses is in line with the Chatswood CBD Strategy, the outcomes and determination of the planning proposal are subject to a raft of technical studies based on a set FSR under the development concept presented as part of the planning proposal. Where in fact, as is evident under proposed Clause 4.4A(b), the built form and amount of floor area which could result from the proposed LEP amendment could result in an outcome far more excessive than those considered under the planning proposal and technical studies which accompany this. Accordingly, the planning proposal amendments are considered to be flawed in their application and as such, the planning proposal has not appropriately considered or presented the real environmental impacts which might occur as a result of these amendments.

In light of the above, it is considered reasonable to request that the proposed LEP amendments be set out in full, including the potential development outcomes (not just the 'least-worse' scenario) so that their impacts can be assessed appropriately and considered in full by the public and relevant authorities.

4.2 Viability of future commercial growth

Following the pre-gateway review determination hearing with the SNPP on 10 September 2019, the SNPP accepted the recommendations of the DPI&E provided the proposal included a development standard that ensures a minimum non-residential development FSR of 7.68:1. The planning proposal was subsequently amended to include a minimum non-residential FSR of 7.68:1 for shop top housing pursuant to Clause 4.4A(a)(i) of the LEP.

A planning proposal was lodged in 2013 for the redevelopment of the Mandarin Centre. That proposal envisaged a residential tower being built above a re-furbished Mandarin Centre. The justification provided for it was that the Mandarin Centre was performing poorly and required re-furbishing. The absence of any commercial office space in that planning proposal was justified on the basis that there was **no demand for such commercial space** and its provision would not be financially viable. That proposal advanced through

the Gateway process but was finally rejected by Council, in September 2015, in part, on the basis of its adverse impact on views from The Sebel.

The Mandarin Centre currently contains ~5,500m² of lettable retail/commercial floor space and the total lettable area being ~11,500m². There is a noticeable level of vacancies within the building and the Centre does not give the impression of being successful and has never been very successful as it has failed to attract any major anchor retail tenant.

The planning proposal does not adequately address the market demand for the proposed redevelopment of the Site. In consideration of the current economic conditions and status of Chatswood, it is difficult to see how there would be a demand for such commercial floor space, particularly at an existing commercial centre which has been performing poorly and is poorly located.

There is currently an oversupply of office and retail floor space within Chatswood and this trend is likely to continue for some time now due to the current global pandemic and the shift towards alternative working arrangements.

The planning proposal claims that the redevelopment of the Site would result in an additional 675 office jobs which is used to justify how the proposal satisfies employment and resources considerations of the Section 9.1 Directions. However, this justification is not considered to be well-founded given the failure to appropriately consider the market demand for retail/commercial floor space.

In light of the above, the planning proposal is not considered to represent sufficient strategic merit in achieving the relevant priorities of the North District Plan and LSPS (refer to **section 4.6** of this submission).

4.2 Housing Demand

The planning proposal makes a bold claim that that increasing housing capacity within the Chatswood CBD will assist in the retention of the existing medium-low density character outside of the CBD and that the proposal would contribute to the provision of housing in line with Council's five-year target of 1,250 dwellings. Whilst additional housing of any kind in any place could contribute to reaching housing targets, this does not mean that the location of housing in the context of the entire LGA should not be a matter of consideration. This is recognised in Council's CBD Strategy which rightfully seeks to restrict residential development within the Chatswood CBD.

Current housing stock in Willoughby ranges from high-rise apartments in Chatswood and St Leonards to modest and historic single storey dwellings. In 2016 Willoughby contained 30,367 dwelling, of which 44% were apartments, 14% were attached and 41% were detached.

The Willoughby Local Strategic Planning Statement (LSPS) acknowledges that high concentrations of apartments around Chatswood CBD has increased congestion and strains on local infrastructure in Chatswood. Apartments made up 83% of the increase in dwellings between 2011-2016. Medium density dwellings made up the remaining 17%, while the number of separate houses declined.

Further, the LSPS acknowledges that there *is currently enough capacity under current and proposed changes to planning controls to accommodate forecast housing development over the next 20 years, with the addition of potential major development sites which could add to this capacity*. The LSPS goes on to say that any changes to the planning controls for additional housing should meet strategic objectives and be well aligned with the location infrastructure and services. In relation to the planning proposal for additional housing at the Site, it is important to note that the LSPS identifies the high concentrations of apartments provided around Chatswood CBD has increased congestion and strains on local infrastructure in Chatswood.

The LSPS identifies three focus areas for new housing in the LGA including medium to high-density zones (R3 and R4); proposed B4 mixed use zone which surrounds the B3 commercial core of Chatswood; and local centres of Artarmon, Northbridge, East Chatswood, Penshurst Street, Castlecrag, Naremburn and Willoughby South. Finally, the LSPS states that *it is not foreshadowed that additional housing intensification will be required outside of Willoughby's housing diversity areas to meet strategic planning aspirations*.

In light of the above, it is considered reasonable to assert that additional housing within the Chatswood commercial core does not demonstrate strategic merit and does not align with the targets and priorities of the LSPS. In this respect, supporting the planning proposal for housing within the Chatswood CBD would set a dangerous precedence and significantly undermine the findings and priorities of the LSPS.

4.3 Traffic and Transport

As aforementioned, the LSPS identified the strain on local infrastructure existing high concentrations of apartments around Chatswood CBD has had in relation to increased congestion within and around the CBD. Particularly during existing peak hour and shopping periods, the Albert Avenue/Orchard Street/Victor Street area experiences significant congestion.

The Transport Impact Assessment Addendum report prepared by GTA Consultants suggests that residents and workers of the future development of the Site would need to adhere to a Green Travel Plan. Reliance on such a mechanism to control traffic volumes from the development at the planning proposal stage is concerning. Such reliance on a Green Travel Plan should be subject to future development applications specific to the ultimate development outcome proposed. To suggest that future development would be reliant on a Green Travel Plan is an admission that the future development resulting from the proposed LEP amendments could in fact result in unacceptable traffic impacts unless appropriate measures under a Green Travel Plan are imposed and followed by residents and workers at the Site.

The potential traffic implications of the proposed LEP amendments have not been appropriately considered as part of the planning proposal, particularly in the context of the existing traffic congestion experienced in the locality. Whilst it is acknowledged that the Site is located in close proximity to public transport services, this does not mean that works and residents would not demand the use of private vehicle. Accordingly, the proposal is deficient in terms of transport and parking justification and should not be supported on this basis.

4.4 View sharing and impacts

The DPI&E's Gateway Determination required the preparation of a visual impact assessment, specifically from the residences of The Sebel building directly to the north of the Site. This was also a requirement of the SNPP endorsement for the planning proposal to proceed to Gateway Determination which required a detailed analysis to clearly illustrate and assess view sharing.

A View Sharing Report has been prepared by Urbis which considers the view impacts from the residences of The Sebel. Currently, the residences of The Sebel enjoy views to the south which include views of the Sydney city skyline which greatly add to their amenity. Approximately 106 apartments from The Sebel enjoy views over the Mandarin Centre.

As demonstrated in the View Sharing Report, many of these residences would be significantly impacted by the potential future development of the Site as a result of the proposed LEP amendments. It is important to note however that this report only considers the impacts of the development concept which supports the planning proposal. As established earlier in this submission, the development concept only presents one potential development outcome for the Site as a result of the proposed LEP amendment. Urbis' justification in relation to view loss is that *the proposal has been designed to minimise view impacts from the adjacent 'Sebel' tower. This has been achieved through increased separation between the residential and commercial tower.* It is unclear however how the future development of the Site would need to deliver two towers similar to what has been presented in the development concept under the proposed LEP amendments. Accordingly, it must be acknowledged that the view impacts could in fact be far more severe than those currently presented in the View Sharing Report.

Whilst it is acknowledged that the Chatswood CBD Strategy contemplates additional scale and density of development for the Site which would result in some level of impact to view sharing, the strategy also envisages additional scale and density being conditional upon satisfactorily addressing a raft of matters including site constraints and surrounding context. In this respect, additional density and scale at the Site is considered to be highly constrained due to the potential view sharing impacts which are would inevitably arise from a redevelopment of the Site in accordance with the proposed LEP amendments.

The DPI&E's assessment of view sharing in its assessment dated 20 August 2019 stated:

While the proposal would have some impact on the current view of the Sebel tower, it is considered that it would be unreasonable and inequitable to expect that redevelopment of the site would be precluded indefinitely to preserve an unimpeded outcome from the Sebel tower.

Whilst it is acknowledged that a view loss to some extent is a natural consideration and reality of planning and development which often cannot be avoided, in this scenario, the DPI&E's assessment has not properly considered impacts that such an outcome would have on residents, nor has it considered the actual need and demand for a development of this nature which result in significant and avoidable impacts on amenity of existing residents. In this respect, reference is made to the demand and strategic merit for both additional retail/commercial floor space and housing in the Chatswood CBD as discussed in **sections 4.2 and 4.3** respectively of this submission.

In consideration of the above, whilst a level of view loss may be deemed acceptable for new development, it must firstly be asked why the development needs to occur in the first place. The level of view loss in this scenario was found to be severe and devastating as is evident in the View Sharing Report prepared by Urbis. Assuming such a severe impact *may* in some cases be deemed acceptable, this would only be in scenarios whereby there is a clear nexus in relation to the development and need for this to occur in terms of strategic merit and contribution. In this respect, there is not identifiable need for additional retail/commercial floor space or housing in this part of the LGA as is established in the relevant strategic plans. Accordingly, the burden the future development would have on existing surrounding residences would far outweigh any perceived strategic or public benefits/contributions in relation to commercial floor space or housing.

In the View Sharing Report, Urbis considers and applies the *Tenacity* planning principle for view loss. In *Tenacity*, Roseth SC discusses the notion of view sharing and establishes that taking a view away a view entirely from a property cannot be called view sharing, although it may, in some circumstances, be quite reasonable. It is this part of the assessment which fails to properly consider what is reasonable. Views from The Sebel comprise of iconic and highly valued and whole (not partial) views of the Sydney city skyline. The application of the *Tenacity* planning principle and test in this scenario is questionable in the first instance however, the application of this within the View Sharing Report and responses to each of the four (4) steps are not adequate or acceptable. In this respect, the four-part test has not been applied with detailed consideration of those apartments which would experience 'severe' to 'devastating' view loss of iconic and whole views. Rather, the test has been applied with a more general approach to The Sebel residents and it is assumed the intent of this was to diminish the perceived view loss impacts.

In light of the above, the View Sharing Report and consideration of the *Tenacity* four-part test should be amended to properly consider the potential view loss and acceptability of this for each affected apartment in relation to this planning principle. The View Sharing Report should also consider the potential development outcomes for the Site afforded by the proposed LEP amendments, not just the development concept presented as part of the planning proposal.

Further to the above, it is considered appropriate that the View Sharing Report considers view sharing and impact from other residential towers located to the north of the Site. In this respect, proposed development would likely result in view loss from the residential towers located at 438 Victoria Avenue (Metro Grand Residences); 1 Post Office Lane (Metro Spire Apartments); and 69 Albert Avenue (Metro View Residences) and their views to the Sydney city skyline. Based in the view analysis provided in the View Sharing Report, it is anticipated that the western tower within the development concept of the planning proposal would block views from these residences.

4.5 Building separation

It is understood that the proposed Tower A (residential building) concept comprises a building separation to The Sebel residential building of **15-17m**. The planning proposal report prepared by Urbis provides that an 18m separation distance is required to The Sebel building for compliance with Objective 2F (Building separation) of the Apartment Design Guide (ADG). Which is not achieved in this scenario.

However, Levels 8-26 of Tower A appear to contain balconies and/or habitable rooms facing north towards The Sebel building with a separation to The Sebel of 15m. At this point of The Sebel building where this encroachment exists, it is understood that there are habitable rooms and balconies facing toward the Site. In this respect, **Objective 2F of the ADG required a building separation of 24m between habitable rooms/balconies for levels 9 storeys and above.** Accordingly, it is unclear why the 24m building separation requirement under Objective 2F of the ADG has not been considered in this scenario. Further clarification around this matter should be provided.

Regardless of whether an 18m or 24m separation is required between these two residential towers, there is significant concern with the building separation which may ultimately result, and the amenity impacts to the residents of The Sebel. This is particularly the case given the view loss impacts which would arise as a result of the development. Objective 2F of the ADG provides the following aims and considerations in relation to this matter:

- *Assist in providing **residential amenity** including visual and acoustic privacy, natural ventilation, sunlight and daylight access and **outlook**.*
- *Increase building separation proportionally to the building adequate to the building height to achieve amenity and privacy for building occupants and a desirable urban form.*
- *Required setbacks may be greater than required building separations **to achieve better amenity outcomes**.*

In relation to the above considerations of Objective 2F of the ADG, the concept building forms as presented in the planning proposal are not considered to have satisfied the aims of the ADG as they would not result in an acceptable level of residential amenity and outlook for residents of The Sebel. At the very least, compliance with Objective 2F of the ADG should be achieved at the planning proposal stage without reliance on alternative design measures which cannot be proven at this stage of the development.

Whilst ADG compliance, including building separation, are matters for consideration as part of any future development application, it is poor planning practice to amend LEP controls for a site which prior to any future development application even being lodged, would result in a non-compliance with other planning controls, such as the ADG. This is a significant concern for the residents of The Sebel and one which desperately needs to be reconsidered by the proponent.

For the reasons outlined above, it is recommended that the planning proposal not be supported in its current form due to the inevitable ADG non-compliances which will arise as part of any future development application for the Site.

4.6 Strategic merit

The **North District Plan** does, amongst other things, identify and encourage the protection and growth of the Chatswood commercial core. Unquestionably, the delivery of additional retail/commercial floor space would, to some extent, contribute to the District Plan's job targets and further promote the role of the CBD. However, the planning proposal fails to identify the current performance of the Mandarin Centre and demand for additional commercial opportunities, particularly in the context of the current global pandemic and subsequent changes to retail behaviours and working arrangements. In this respect, the planning proposal has not been properly informed by an economic analysis to determine the need for the redevelopment of the Site. Accordingly, it is difficult to identify how the planning proposal demonstrates strategic merit in relation to job creation and growth of the Chatswood CBD.

Urbis' report claims that the proposal is generally consistent with the relevant priorities of the endorsed **Willoughby LSPS**. As discussed in **section 4.2** of this submission, the LSPS identifies a high concentration of apartments around the Chatswood CBD, with apartment making up 83% of the increase in dwellings between 2011-2016. Further, the LSPS acknowledges that there *is currently enough capacity under current and proposed changes to planning controls to accommodate forecast housing development over the next 20 years, with the addition of potential major development sites which could add to this capacity.*

The LSPS goes on to identify three focus areas for new housing in the LGA including medium to high-density zones (R3 and R4); proposed B4 mixed use zone which surrounds the B3 commercial core of Chatswood; and local centres of Artarmon, Northbridge, East Chatswood, Penshurst Street, Castlecrag, Naremburn and Willoughby South. Finally, the LSPS states that *it is not foreshadowed that additional housing intensification will be required outside of Willoughby's housing diversity areas to meet strategic planning aspirations.*

In light of the above, it is considered reasonable to assert that additional housing within the Chatswood commercial core does not demonstrate strategic merit and does not align with the targets and priorities of the LSPS. In this respect, supporting the planning proposal for housing within the Chatswood CBD would set a dangerous precedence and significantly undermine the findings and priorities of the LSPS.

In relation to the **Chatswood CBD Strategy**, whilst it is acknowledged that the Strategy permits mixed use/residential development in the commercial core each of the North Shore rail line, this is only to be considered within "appropriate" parts of the CBD Core area. When considering the 'appropriateness' of the planning proposal for residential development for the Site, the demand; strategic merit; and potential impacts are all matters of consideration. As aforementioned, the LSPS has identified sufficient capacity to accommodate housing development over the next 20 years. Further, where there is a need for new housing, a number of locations within the LGA have been identified to provide for this. Accordingly, if the LSPS is in fact strategic plan to be considered for planning proposal, there is currently no demand identified for additional housing to be provided within the Chatswood CBD and thus doing so does not demonstrate strategic merit. In relation to potential impacts, as discussed in **section 4.4** of this submission, the proposed LEP amendment would result in severe and devastating view loss impacts to existing surrounding residents. For these reasons, we fail to understand how the Site is an 'appropriate' location for residential mixed-use development.

Further, the Strategy provides that any planning proposal for the CBD Core area must not result in significant traffic or transport impacts. As discussed in **section 4.3** of this submission, this area of the CBD currently experiences high traffic volumes and congestion. Whilst it is acknowledge that numerous measures may be put in place to try and mitigate traffic impacts, a redevelopment of the Site to this extent would no doubt have severe traffic implications to the local road network which have not been appropriately considered as part of the planning proposal.

In light of the above, the proposal has not satisfied the conditions required to be met to deliver additional residential development in the CBD and therefore should not be supported for these reasons.

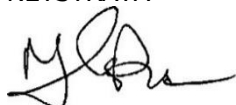
5. CONCLUSION

For the reasons outlined in this submission, the planning proposal for the Site should not be supported in its current form. Most notably, concern is raised in relation to the actual need for the planning proposal and its strategic merit, this is particularly the case in relation to the environmental impacts associated with the potential future development of Site including view loss and traffic.

Further, the outcomes and potential impacts presented in planning proposal and the technical studies which accompany this are based on one potential development outcome. In this respect, it is unknown how the proposed amendments to the LEP would restrict the future development of the Site in accordance with the development concept provided as part of the planning proposal.

In light of the above, it is requested that the planning proposal be withdrawn or be amended to address the matters raised within this submission.

Sincerely,
NETSTRATA



Michael Thompson | Direct Line: 02 8567 6431 | Email: michael.thompson@netstrata.com.au

Senior Strata Manager

From: [Lydia Peng](#)
To: [Plan Comment Mailbox](#)
Subject: Planning Proposal Submission: Planning Proposal 2020SNH008 - Willoughby - PP_2020_WILLO_001_001 at 65 Albert Avenue, Chatswood
Date: Tuesday, 17 November 2020 10:37:58 PM

Attention: The Planning Panels Secretariat

Re: Planning Proposal 2020SNH008 - Willoughby - PP_2020_WILLO_001_001 at [65 Albert Avenue](#), CHATSWOOD

Taigani Court Pty Limited formally submits its objection to the proposal based on the increase in traffic density and pedestrian hazard. Please note the current daily traffic congestion caused by vehicles entering & exiting the parking station at [65 Albert Avenue](#), Chatswood is unacceptable and continues to create risk of car accidents & cause risk of pedestrian injuries.

Taigani Court Pty Ltd has never made any political donations.

Yours sincerely
Taigani Court Pty Limited
The Sebel Chatswood
Unit 1605 / [37 Victor Street](#), Chatswood

From: [Billy Yung](#)
To: [Plan Comment Mailbox](#); [Bailey Williams](#); [Nick Armstrong](#)
Cc: [Amanda Broderick](#); [Rachel Davis](#)
Subject: Planning Proposal Submission for PP-2020-323 65 Albert Avenue, Chatswood
Date: Monday, 23 November 2020 2:28:06 PM
Attachments: [image002.png](#)
[CD20 08289 Chatswood PP-2020-323 - 65 Albert Ave-signed.pdf](#)

Hi Bailey and Nick

Thank you for referring the subject proposal to us for review. Apologise for our delayed response.

Please find attached our submission for consideration.

Many thanks,
Billy

Billy Yung
Senior Transport Planner | Land Use Planning & Development
Customer Strategy & Technology
Transport for NSW

M 0481 905 670



SENSITIVE: NSW GOVERNMENT

From: NSW Planning [mailto:planning.apps@planning.nsw.gov.au]
Sent: Wednesday, 21 October 2020 4:30 PM
To: development <development@transport.nsw.gov.au>
Cc: DM_Council@planning.nsw.gov.au
Subject: Your agency has received an agency referral Ref-48 for the Planning Proposal Application PP-2020-323

A dark blue banner with white text. The text reads 'Planning Proposal Online' in a large, bold font. Below this, a red horizontal line is followed by the URL 'planningportal.nsw.gov.au'. On the right side of the banner, there are two logos: the NSW Government logo (red flower and 'NSW GOVERNMENT') and the Planning, Industry & Environment logo (text 'Planning, Industry & Environment').

Your agency has received an Agency Referral request Ref-48 for the Planning Proposal Application PP-2020-323.

Related cases

RR-2020-58

This application relates to:

65 ALBERT AVENUE CHATSWOOD 2067
Willoughby

Please log into the [NSW Planning Portal](#) to progress your assessment of this request.

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Nick Armstrong
Senior Planning Officer
Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Mr. Armstrong

Planning Proposal PP-2020-323 – 65 Albert Avenue Chatswood

Thank you for requesting Transport for NSW (TfNSW) review and comment on the subject matter via NSW Planning Portal (RR-2020-58) on 21 October 2020. The Planning Proposal and other accompanying documents were retrieved from the LEPs Online website for review.

The subject site is located within the CBD Core area as identified in the Chatswood CBD Planning and Urban Design Strategy (The Strategy). The Strategy provides a platform for growth, management and direction of the Chatswood CBD for next 20 years and our review of the subject proposal has taken into consideration the directions outlined in the Strategy.

Willoughby City Council has recently completed a Strategic Transport Study (The Study) that evaluates the impact resulting from the population and employment uplifts as proposed in the Strategy from a strategic transport demand perspective. The Study examined the future year scenarios of the targeted uplifts based on the land use zoning proposed in the Strategy. Of relevance, the subject site is located within the B3 Commercial Core, which does not permit residential accommodation. As such, the Study has not specifically included increased residential yield from the subject proposal, which seeks to include 'shop-top housing' as an additional permitted use that deviates from the land use assumptions proposed in the Strategy.

The subject proposal is accompanied by a transport impact assessment addendum to support the proposed amendment to the planning controls. It is noted that the addendum makes reference to a mesoscopic model that was prepared for a development application for another site and which is stated that the mesoscopic model included travel demand assumptions of an anticipated redevelopment at the subject site. It is however not evident whether the mesoscopic model included the broader CBD land use assumptions proposed in the Strategy. On this note it is considered that the addendum does not adequately present the subject proposal in the context of the cumulative impact resulting from the development uplifts as envisaged in the Strategy.

Considering the above, the following recommendations are offered for consideration prior to determination of the proposal:

- The Transport Impact Assessment should be reviewed to present the transport impact of the subject proposal in the context of cumulative impact resulting from the development uplifts as envisaged in the Strategy. Subject to the availability and agreement by Council, it is recommended that the output of the Study should be referenced such that deviations from the Strategy's land use assumptions as proposed by the subject proposal can be assessed in a consistent manner;

- The Study provided a range of recommendations that are linked to the Strategic Direction in the Willoughby City Council Integrated Transport Strategy (WCCITS). It is recommended that the subject proposal should give effect to these recommendations, noting that its site location could potentially support the realisation of some of these recommendations;
- List of actions have been identified to support the Transport Strategic Directions of the WCCITS. Action No. 54 states that “*Continue the revision of Part C.4 ‘Transport Requirements for Development of Council’s Development Control Plan (DCP) to reduce car parking rates for new developments close to railway stations...*”. In the event that the subject proposal is approved prior to the aforesaid reduction of DCP car parking rates to be undertaken by Council, it is recommended that a site-specific clause of capped car parking rates, consistent with Council’s endorsed rates, should be included to the proposed amendments to the Willoughby Local Environmental Plan 2012 of which the subject proposal is seeking; and
- Based on the review of the concept design attached to the subject proposal, further consideration might be required for the proposed access arrangement. Consideration should be given to preparing a site-specific Development Control Plan outlining access issues, (as detailed in **Attachment A**), to be addressed during the preparation of any development application for the site.

Thank you again for the opportunity of providing advice for the above Planning Proposal. If you require any further information, please don’t hesitate to contact Billy Yung, Senior Transport Planner, via email at billy.yung@transport.nsw.gov.au.

I hope this has been of assistance.

Yours sincerely



23/11/2020

Mark Ozinga
Principal Manager Land Use Planning & Development
Customer Strategy & Technology

CD20/08289

Attachment A:

Preparation of a site-specific Development Control Plan (DCP)

Issues

Based on the review of the concept design attached to the subject proposal, it is noted that access arrangement for redevelopment is proposed to include vehicular entry via Victor Street and exit at the traffic control signal via the intersection of Albert Avenue/Orchard Street. The matters in relation to the design elements of proposed vehicle access points and service vehicle provisions are identified below:

- **Vehicle Access Points:**

Existing vehicle access points, on both Victor Street and at this intersection of Albert Avenue/Orchard Road associated with 65 Albert Avenue Chatswood, should be wide enough to allow for the size of vehicles anticipated to use the site to enter and exit safely.

- **Service Vehicles:**

Service vehicle parking for building maintenance, garbage collection and removalists should be adequately provided and accommodated on site.

- **Transport for NSW Requirements at the intersection of Albert Avenue/Orchard Street**

The proposed access arrangement may require changes at the signalised intersection of Albert Avenue/Orchard Road. Any such changes would require approval from TfNSW in accordance with Section 87 of the *Roads Act 1993*.

Recommendation

It is suggested that a site-specific DCP be prepared to include the aforementioned requirements, which would help manage any impact to the surrounding road network.

From: [O'Brien, Craig](#)
To: [Plan Comment Mailbox](#)
Cc: [Nick Armstrong](#); [Shankie-Williams, Norma](#); [Arnott, Ian](#); [Bailey Williams](#)
Subject: Willoughby Council submission regarding Planning Proposal PP_2020_WILLO_001_00 (2020SNH008) - 65 Albert Avenue Chatswood (The Mandarin Centre)
Date: Wednesday, 18 November 2020 5:02:54 PM
Attachments: [WCCSIG_CMM_371e4473-f132-4af5-bd83-5a6aee451d74.jpg](#)
[1. Council letter dated 18 November 2020.pdf](#)
[2. Attachment 1 - Response to Planning Proposal.pdf](#)
[3. Example of draft DCP provisions.pdf](#)

Re: Willoughby Council submission regarding Planning Proposal
PP_2020_WILLO_001_00 (2020SNH008)

65 Albert Avenue Chatswood (The Mandarin Centre)

Exhibition period 22 October to 18 November 2020

Planning Proposal Submission

Hello Bailey

Please find attached the Willoughby Council submission on this Planning Proposal for
65 Albert Avenue Chatswood (The Mandarin Centre).

Council objects to the Planning Proposal in its current form.

Regards

Craig O'Brien

Strategic Planner

Willoughby Council

9777 7647

Craig O'Brien - Strategic Planner

WILLOUGHBY CITY COUNCIL

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P +61 2 9777 7647 | M

E Craig.Obrien@Willoughby.nsw.gov.au

willoughby.nsw.gov.au | visit chatswood.com.au | theconcourse.com.au



18 November 2020

Planning Panels Secretariat
GPO Box 39
Sydney NSW 2001

To whom it may concern,

**RE: Planning Proposal Submission
PP_2020_WILLO_001_00 (2020SNH008)
65 Albert Avenue, Chatswood**

I am writing to you regarding Planning Proposal PP_2020_WILLO_001_00 for 65 Albert Avenue, Chatswood, where the Sydney North Planning Panel has been appointed as the Planning Proposal Authority.

Following Gateway Determination dated 9 June 2020, this Planning Proposal has now been placed on public exhibition between 22 October and 18 November 2020.

The Willoughby Council submission is contained in this letter and accompanying Attachments.

The Planning Proposal seeks to amend *Willoughby Local Environmental 2012 (WLEP 2012)* as follows:

- Increasing the maximum permitted building height from 27m to RL 192.90 (30 storeys).
- Increasing the maximum floor space ratio (FSR) from 2.5:1 to 11.11:1 and a new Area XX* to be subject to specific exceptions relating to the subject site.
- Establishing a minimum non-residential FSR of 7.68:1.
- Amending the Special Provisions Area Map to show 65 Albert Avenue as Area XX* subject to specific local provisions.
- Amending Schedule 1 to include 'shop top housing' as an additional permitted use for the subject site.
- Include a new provision within Clause 4.4A Exceptions to floor space ratio:
 - Ensuring that any shop top housing development provides a minimal non-residential FSR of 7.68:1.
 - Ensuring that no maximum FSR applies to any development seeking consent for 'commercial premises' or 'hotel or motel accommodation', consistent with the approach within the Chatswood CBD Strategy.
- Including a new provision within Clause 4.6 which provides that consent cannot be granted for development that contravenes the maximum residential FSR for the site for any development application seeking consent for shop top housing.
- Providing new additional local provisions which relate to Area XX* shown on the Special Provisions Map as follows:
 - Providing a minimum 4% GFA as affordable housing in addition to the maximum residential FSR of 3.43:1.

Willoughby City Council

- Including design excellence objectives consistent with Council's intended wording.
- Including a new provision which ensures that development must not result in additional overshadowing of the playing surface of 'Chatswood Oval' between 11am and 2pm during mid-winter.
- Prohibiting development for the purposes of serviced apartments.

This strategic vision for the Chatswood CBD has been based on a substantial body of work, public exhibition and consultation with government agencies. The *Chatswood CBD Planning and Urban Design Strategy 2036* (the *Strategy*) was originally prepared by Architectus at the request of Council in late 2016, publicly exhibited in early 2017 and endorsed by Council on 26 June 2017, supported by the Greater Sydney Commission on 18 May 2018, part endorsed by the Department of Planning, Industry and Environment (DPIE) on 9 August 2019 and fully endorsed on 9 July 2020. The *Strategy* was again noted by Council on 14 September 2020 and subsequently updated to be date referenced September 2020.

Council seeks Planning Proposals within the Chatswood CBD that are consistent with the *Strategy*, and the strategic vision contained within as outlined in the 35 Key Elements, with the only variation being any specific condition identified by DPIE. Planning principles underpin the *Strategy*, and the vision and 35 Key Elements are clearly established for proponents to use as a guideline for planning proposals in the Chatswood CBD.

While amendments have occurred to the *Strategy* in response to DPIE endorsement, the majority of the 35 Key Elements applicable to the subject site remain essentially unchanged (endorsed as put forward) and the proponent has had opportunity to prepare a Planning Proposal consistent with what is expected under the *Strategy*. The Planning Report, dated August 2020, submitted with the Planning Proposal contains a table and discussion of the *Strategy* and the 35 Key Elements prior to the updating of the *Strategy* in September 2020. As the 35 Key Elements are the basis of any assessment of planning proposals within the Chatswood CBD it is considered appropriate and reasonable for an updated Planning Report and discussion of the *Strategy* and the 35 Key Elements to be provided in this case.

Notwithstanding this concern with documentation, Council recognizes that the Planning Proposal has strategic merit based on the broad objectives of the *Strategy* as endorsed by DPIE. This B3 Commercial Core site is suitable for significant increases in height and floor space, providing it results in substantial employment growth in line with Chatswood's Strategic Centre status. A limited residential component has been conceded in accordance with DPIE parameters, the site being close to transport and other infrastructure and services.

However at the same time the Planning Proposal does not provide a satisfactory level of site specific (or Key Element) merit in accordance with the *Strategy* – which is also the basis for amending current planning controls within the Chatswood CBD. In Attachment 1, Council has assessed the 35 Key Elements in the *Strategy* with regard to the site specific merit of this Planning Proposal. It is requested the proponent respond to Attachment 1 with amendments and accompanying documentation, which demonstrates

Willoughby City Council

how the proposal will help deliver the expected vision for Chatswood CBD as outlined in the *Strategy*. It is considered that the requested amendments are achievable.

Attachment 1 identifies:

- 1) Site specific (or Key Element) merit issues of concern for Council requiring amendments in order for consistency with the *Strategy* (or DPIE endorsement and Gateway Determination), in particular:
 - a) Land use
 - b) Voluntary Planning Agreements and public benefit
 - c) Affordable Housing
 - d) Design Excellence and building sustainability
 - e) Setbacks
 - f) Street wall heights
 - g) Internal vehicle access, loading / servicing provision
- 2) Other site specific (Key Element) merit issues requiring greater clarification to ensure consistency with the *Strategy*.
- 3) Further documentation requirements as follows:
 - a) Documentation updated to reflect the *Chatswood CBD Planning and Urban Design Strategy 2036* (September 2020).
 - b) Amendments and further information in line with the issues of concern and other Key Elements identified in this Attachment.
 - c) Conceptual elevation and section plans that refer to detailed RL heights, metres and storeys.
 - d) All concept plans accompanying a Planning Proposal should show on plan how the numerical requirements contained in the *Strategy* 35 Key Elements are addressed and satisfied. Particular reference is made to height, setbacks (ground, podium and upper levels) and street wall heights.
 - e) It is requested that Planning Proposals should be accompanied by draft Development Control Plan provisions that are site specific, addressing the *Strategy's* 35 Key Elements and at the same time consistent with the template approach taken with other Planning Proposals – as Council is seeking consistency in the approach to Planning Proposals within the Chatswood CBD. In order to assist, an example of draft DCP provisions is attached (already forward to DPIE with another Planning Proposal for a Gateway Determination).
 - f) Conceptual landscape plans that address soft landscaping on-site (on any relevant level).
 - g) Conceptual basement plans and traffic analysis showing and explaining all vehicle manoeuvring including loading/unloading and servicing vehicles.

The 35 Key Elements in the *Strategy* provide for an expected redevelopment of the Chatswood CBD to 2036, which considers an acceptable outcome for the public domain and neighbouring properties. Amenity to neighbouring properties has been a previous issue of redevelopment proposals on the subject site. Separate to the issue of the public domain and the very important issue of place making within the Chatswood CBD,

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variation of Key Elements on this site are not supported due to impacts on neighbouring properties with regard to visual amenity, building separation, view loss and traffic impacts.

Council is in a position where a planning proposal consistent with the *Strategy* represents appropriate development that has been endorsed by Council and DPIE. It is understood that DPIE as the Planning Proposal Authority will further consider in more detail amenity issues of neighbouring properties having regard to submissions received. Furthermore it is noted that, in line with Council's requirements, there will be the design excellence process and of course the DA process involving further public exhibition to refine the final outcome.

An amended Planning Proposal that both addresses strategic merit, as well as site specific merit (the 35 Key Elements), supported by the requested additional information, is encouraged on such an important site within the Chatswood CBD B3 Commercial Core zone.

Council seeks the opportunity to review the additional information provided in response to this letter and Attachment, and make further comment as necessary.

Should you have any questions regarding the contents of this letter, please contact Craig O'Brien on (02) 9777 7647.

Yours sincerely,



Ian Arnott
PLANNING MANAGER

Attachment 1 - Response to Planning Proposal

65 Albert Avenue, Chatswood

Discussion of *Chatswood CBD Planning and Urban Design Strategy 2036*

Council has assessed the Planning Proposal having regard to the 35 Key Elements in the *Chatswood CBD Planning and Urban Design Strategy 2036* (the *Strategy*) as applicable.

As noted in the covering letter, Council recognizes that the Planning Proposal has strategic merit based on the broad objectives of the *Strategy* as endorsed by DPIE. The B3 Commercial Core site is suitable for significant increases in height and floor space, providing it results in substantial employment growth in line with Chatswood's Strategic Centre status. A limited residential component has been conceded in accordance with DPIE parameters, the site being close to transport and other infrastructure and services.

However at the same time the Planning Proposal does not provide a satisfactory level of site specific (or Key Element) merit in accordance with the *Strategy* – which is also the basis for amending current planning controls within the Chatswood CBD. Refer to the discussion below for detailed discussion.

Where appropriate draft *Willoughby Local Environmental Plan (WLEP 2012)* clauses have been included. Draft *DCP* provisions, based on the 35 Key Elements of the *Strategy*, are a standard requirement for any Planning Proposal seeking to utilise the uplift under the *Strategy* and are required in this instance. An example of site specific draft *DCP* provisions is provided for assistance.

1) Land Use

Key Element 2

Key Element 2 states:

“Land uses in the LEP will be amended as shown in Figure 3.1.2, to:

- a) Protect the CBD core around the Interchange as commercial, permitting retail throughout to promote employment opportunities.*
- b) Enable other areas to be mixed use permitting commercial and residential.”*

A fundamental requirement within the *Strategy* is the prohibition of residential land use within the commercial core.

The subject site is located within the commercial core.

The Department of Planning, Industry and the Environment (DPIE) stated in its letter of 9 August 2019:

- *“That mixed used development can be permitted within appropriate parts of the remaining CBD Core area (i.e. east of the North Shore rail line), but only where this results in demonstratable, significant and assured job growth, thereby aligning with the key objective of the District Plan to support job growth.*

- *That any planning proposals for the CBD Core area do not result in significant traffic or transport impacts, as sites in this part of the CBD are highly accessible to Chatswood rail and bus interchange.”*

The entire *Strategy* was endorsed by DPIE on 9 July 2020.

The Planning Proposal involves a land use split of 69% non-residential or employment land uses and 31% residential.

Benefits of the Planning Proposal, provided by the proponent, include:

- The proposal will increase employment floor space by 66% over the current Mandarin retail shopping centre.
- Whilst there is a minor reduction in overall retail floor space, it is important to note that the upgrade will maintain a similar quantum of Net Lettable Area (NLA).
- Some 69% of floor space provided on the site will be for employment land uses and will increase the number of jobs currently provided within the Mandarin Centre by 65.89 %.
- The proposal provides employment and housing growth to support an integrated land use and transport approach and walkable.
- A significant renewal of Chatswood’s third largest retail shopping centre. The centre provides enlarged public mall and circulation areas and retail spaces to attract specialty retail. The centre provides sufficient floor space for an additional metro style supermarket and will complement the existing offering within the other major centres including Westfield and Chatswood Chase.
- The enlarged circulation spaces within the centre will improve public pedestrian links through the site to Chatswood Station.
- The proposal provides boutique commercial office suites within the upper podium levels consistent with the demand identified within the Chatswood CBD Competitive and Comparative Analysis by AEC. This report identified that these smaller spaces are required to attract emerging technology and creative occupiers and professional services firms.
- The proposal will provide a new 20 storey commercial tower complementing the adjacent ‘Sage’ Commercial Building.
- The proposal will provide additional space for community uses including child care, after school care and flexible spaces for other education related uses.

References to the Sage building should be updated to reflect the ‘Sentral’ building (It is Council’s understanding this building name change happened in 2019).

It is noted that the Sydney North Planning Panel Pre – Gateway Review Advice Report referred in its ‘Advice and Reasons for the Recommendation’ that:

“The PP is consistent with the remainder of the CBD Strategy save for the inclusion of 30% of the GFA being residential.”

Council continues to emphasize that the subject site being located within the Commercial Core, very close to the Chatswood Transport Interchange and other services, is not an appropriate location for residential development in place of commercial development as strategically planned by Council. Notwithstanding this fundamental issue for Council, the conditions of the DPIE endorsement of the *Strategy* are acknowledged. Furthermore the parameters for consideration of a residential component in a development located within the Chatswood CBD B3 Commercial Core on the east side of the North Shore Rail Line by the Sydney North Planning Panel is also acknowledged.

A limited component of residential land use in this Planning Proposal of 30% is prepared to be accepted. The current Planning Proposal involving 31% should be reduced to 30%.

It is requested that the proponent review the floor space allocation and increase the commercial / non-residential floor space percentage for the site to 70% of the developable floor space, with residential being a maximum of 30%. A reduction in the residential component is possible by adhering to the required setbacks in the *Strategy* – as discussed below.

Council would seek for the 70% non-residential and 30% residential land use split to be applied as a control for this site within *WLEP 2012*.

Key Element 4

Key Element 4 states:

“Serviced apartments to be removed as a permissible use from the B3 Commercial Core zone.”

The proponent has agreed to this Key Element.

Council has an existing approach to serviced apartments within the B3 Commercial Core zone in the Chatswood CBD, being to amend the Land Use Table, Zone B3 Commercial Core, as follows:

In Permitted with consent, delete serviced apartments
In prohibited, insert serviced apartments

It is requested that this approach to amending *WLEP 2012* be utilised.

2) Planning Agreements to Fund Public Domain

To address Key Elements 5, 6 and 7, which are standard considerations for Planning Proposals seeking to apply the *Strategy* and would relate to the subject site, a Letter of Offer is requested with reference to Council’s draft VPA Policy recently on exhibition. The relevance of planning agreements to fund public domain improvements is considered both relevant and reasonable for this Planning Proposal, having regard to the significant uplift proposed involving a residential land use and the increased demand this places on public infrastructure and services.

Key Element 5

Key Element 5 states:

“Planning Agreements will be negotiated to fund public domain improvements.”

The discussion by the proponent of Key Element 5 refers to base FSR, which is not correct.

Documentation submitted with this Planning Proposal should be based on the current *Strategy*.

Key Element 6

Key Element 6 states:

“A new Planning Agreements Policy will apply and be linked to a contributions scheme that will provide the public and social infrastructure in the Chatswood CBD necessary to support an increased working and residential population. The scheme would:

- a) Apply to residential uses.*
- b) Apply to commercial uses above 10:1 FSR.*
- c) Operate in addition to any adopted Section 7.11 or 7.12 contributions scheme and separate from Affordable Housing requirements within Willoughby Local Environment Plan (WLEP 2012).*
- d) Contribute to public domain improvements in the centre (including streets and parks) that would enhance amenity and support residential and commercial uses.”*

In regards Key Element 6, the proponent’s Planning Report states:

“N/A - DPIE has advised WCC that it does not support the value capture scheme and has recommended that alternate methods for the delivery of infrastructure to support uplift. On this basis any future DA will be required to provide contributions based on the current applicable s7.12 rate for the Chatswood CBD of 3% of the development cost.”

The discussion by the proponent of key Element 6 refers to value capture, which is no longer part of the *Strategy*.

Council seeks an approach to contributions consistent with Key Element 6, not a separate approach considered appropriate by the proponent. The above approach from the proponent to only provide s7.12 contributions is not considered to be adequate, consistent with what is expected or in the public interest. An affordable housing requirement of 4% for residential development (including within a shop top development) is already a standard requirement under *WLEP 2012*. Under the *Strategy*, there is no change to this standard requirement. As noted above contributions are intended to *“operate in addition to any adopted Section 7.11 or 7.12 contributions scheme and separate from Affordable Housing requirements within Willoughby Local Environment Plan (WLEP 2012).”*

Key Element 7

Key Element 7 states:

“All redevelopments in the Chatswood CBD should contribute to public art in accordance with Council’s Public Art Policy”

The proponent’s Planning Report concludes that *“contribution to public art will be considered at the DA stage.”*

Council seeks a commitment to working with Council’s *Public Art Policy* at Planning Proposal stage. In this regard Council seeks public art to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council’s standard site specific *DCP* template approach.

3) Design Excellence and Building Sustainability

Council seeks an approach to design excellence and building sustainability that is consistent with Key Elements 8, 9 and 10, which are standard requirements for Planning Proposals seeking to apply the *Strategy* and which would relate to the subject site, and Council’s *Design Excellence Policy*.

Key Element 8

Key Element 8 states:

“Design excellence is to be required for all developments based on the following process:

- a) A Design Review Panel for developments up to 35m high.*
- b) Competitive designs for developments over 35m high.”*

In regards Key Element 8, the proponent’s Planning Report states:

“Noted, a site specific provision is proposed to ensure design excellence.”

Council has a design excellence clause that it consistently applies to Planning Proposal sites within the Chatswood CBD as follows:

- “1) The objective of this clause is to deliver the highest standard of architectural, urban and landscape design.*
- 2) This clause applies to development that is the erection of a new building on land shown in Area X of the Special Provisions Area Map.*
- 3) Development consent, including modification of development consent, must not be granted to development to which this clause applies unless:*
 - a) Where a building will be above 35 metres in height*
 - i) an architectural design competition that is consistent with the Willoughby Design Excellence Policy and Guidelines for Design Excellence Review and Competitions has been held in relation to the development, and*
 - ii) the design of the development is the winner of the architectural design competition, and*
 - iii) the consent authority considers and acknowledges that the development exhibits design excellence.*
 - b) Where a building is or will be higher than 12 metres but not above 35 metres in height*
 - i) The design is subject to review by a Design Excellence Review Panel, that is consistent with the Willoughby Design Excellence Policy and Guidelines for Design Excellence Review and Competitions, who consider that the design exhibits design excellence to a sufficient level to recommend that the project proceed to consideration by the consent authority*
 - ii) the consent authority considers and acknowledges that the development exhibits design excellence.*
- 4) An architectural design competition is not required under subclause (3) if the Planning Secretary or their delegate is satisfied that:*
 - a) such a process would be unreasonable or unnecessary in the circumstances,*
- 5) In deciding whether to grant development consent to development to which this clause applies, the consent authority must take into consideration Clause 3)a)iii) and 3)b)ii).*
- 6) In this clause:*

Design Excellence is a process and an outcome which follows a rigorous procedure including evaluation to achieve subclause (1).

Architectural Design Competition means a competitive process conducted in accordance with the Willoughby Design Excellence Clause and Guidelines for Design Excellence Review and Competitions.

Design Excellence Review Panel means a Council selected and appointed Panel or a Panel endorsed by the NSW Government Architects Office (Planning Secretary).

Guidelines for Design Excellence Review and Competitions mean Willoughby City Council Guidelines for Design Excellence Review and Competitions 09/12/2019.

Design Excellence Policy means the Willoughby City Council Design Excellence Policy 09/12/2019."

It is requested that this approach to amending WLEP 2012 be utilised.

Key Element 9

Key Element 9 states:

"Achievement of design excellence will include achievement of higher building sustainability standards."

In regards Key Element 9, the proponent's Planning Report states:

"Noted – this will be a matter required to be addressed in the detailed DA/Design Excellence process."

Council seeks a minimum GBCA rating or the like of 5 star in residential and commercial buildings. A higher GBCA rating is encouraged in commercial buildings.

In this regard Council seeks design excellence and building sustainability to be addressed in draft DCP provisions consistent with the Strategy and Council's standard site specific DCP template approach.

4) Floor Space Ratio

Key Element 12

Key Element 12 states:

"Minimum site area of:

- a) 1800sqm for commercial development in the B3 Commercial Core zone.
- b) 1200sqm for mixed use development in the B4 Mixed Use zone.

to achieve maximum FSR as indicated in Figure 3.1.4 (page 34). Site amalgamation is encouraged to meet this minimum requirement. In addition sites should not be left isolated.

The objective of this Key Element is to enable a site to be redeveloped to achieve an optimum outcome as envisioned under the Strategy and detailed in the other Key Elements. In particular, to enable:

- a) Provision of required setbacks to achieve slender towers and building separation whether on-site or with neighbouring sites,
- b) Provision of ground level public realm or areas accessible by public on private land,

- c) *Appropriate vehicle entry / exit point,*
- d) *Provision of parking and loading in basement with adequate on-site manoeuvrability,*
- e) *Maximising commercial floor space and street activation at ground level,*
- f) *Maximising landscaping and deep soil planting.”*

The site is satisfactory with regard to Key Element 12 and the 1800sqm minimum site area. The objective of the minimum lot size in the B3 Commercial Core is to enable a site to be redeveloped to achieve an optimum outcome as envisioned under the *Strategy* and detailed in the other Key Elements. While the numerical requirement is achieved, this submission has regard to the abovementioned optimum outcome as envisioned under the *Strategy* and detailed in the other Key Elements.

Council has an approach to minimum site area that it consistently applies to Planning Proposal sites within the Chatswood CBD as follows:

To add Clause 4.1D ‘Minimum lot size for Zone B3.

- “1) *The objective of this clause is to ensure a site is of sufficient size to achieve an optimum development outcome in the Chatswood CBD.*
- (2) *This clause applies to land in Zone B3 Commercial Core in the Chatswood CBD, identified as Area X on the Lot Size Map.”*

It is requested that this approach to amending *WLEP 2012* be utilised.

Key Element 13

Key Element 13 states:

“The FSRs in Figure 3.1.4 (page 34), should be considered as maximums achievable in the centre subject to minimum site area and appropriate contributions, and are as follows:

- a) *No maximum FSR for commercial development in the B3 zone ...*

Floor space ratio maximums are not necessarily achievable on every site, and will depend on satisfactorily addressing:

- a) *Site constraints,*
- b) *Surrounding context,*
- c) *Other aspects of this Strategy including setbacks at ground and upper levels,*
- d) *SEPP 65 and the associated Apartment Design Guidelines.”*

The subject site is in a location identified as having No Maximum for commercial development.

The following points are made that impact on the final FSR arrived at on this site:

- In the B3 Commercial Core zone, a No Maximum FSR was created to encourage commercial development (not mixed development). Under the *Strategy*, Council does not accept that the FSR achievable on this site would be the same for a sole commercial development as it would be for a mixed development.
- The Key Element is a standard requirement for Planning Proposals seeking to utilise the *Strategy* and would apply to the subject site. The FSR of 11.11:1 does not satisfy Key Elements 13 c) and d) above, and should be revised accordingly to be consistent with the envisioned outcome. This will have an impact on FSR.

Key Element 14

Key Element 14 states:

“Affordable housing is to be provided within the maximum floor space ratio, and throughout a development rather than in a cluster.”

The abovementioned Key Element is a standard requirement for Planning Proposals seeking to utilise the *Strategy* and would apply to the subject site.

The proponent’s Planning Report states:

“The proposal maintains that given the significant non-residential floor space being provided, affordable housing should be excluded from the maximum FSR consistent with approach under clauses 4.4 and 6.8 of the current LEP.”

The Council response to this different approach is that if the proponent seeks to utilise the uplift under the *Strategy* for this site, then all relevant Key Elements apply. An approach of choosing which Key Elements apply and then relying on existing *WLEP 2012* clauses (that will be changed in response to the *Strategy*) is not considered reasonable or in the public interest.

Therefore, Council seeks affordable housing to be provided within any proposed residential floor space component (not in addition to, which would result in an FSR more than 11.11:1) and separate to any VPA (as per Key Element 6).

In regards the public interest, Council would be interested to hear from the proponent if there is an opportunity to increase the affordable housing provision within the residential component, with 4% being the minimum requirement and future increases being considered.

5) Built Form

Key Elements 16, 17 and 18, are standard requirements for Planning Proposals seeking to apply the *Strategy* and would relate to the subject site.

If residential land use is proposed in a mixed use approach to a site within the B3 Commercial Core zone, then requirements for mixed use development in the B4 Mixed Use zone would apply.

Key Element 17

Key Element 17 states:

*“In pursuit of the same goal of slender tower forms, the width of each side of any tower should be minimised to satisfactorily address this objective. To the same end, design elements that contribute to building bulk are not supported, and should be minimised.
Setbacks are considered an important part of achieving slender tower forms.”*

The proponent’s Planning Report states:

“Sides of both towers have been minimised.”

Setbacks consistent with the *Strategy* reflect the built form envisioned for redevelopment – not retaining existing setback approaches. Floor plates below numerical standards and

minimisation of the sides of towers are not the sole requirements to be addressed. Setbacks are discussed further below.

Key Element 18

Key Element 18 states:

“If there is more than one residential tower on a site, sufficient separation is to be provided in accordance with setbacks required in this Strategy, SEPP 65 and the Apartment Design Guidelines, to ensure that the slender tower form objective is achieved. Council will seek to avoid an outcome where two towers read as one large tower. Towers are not to be linked above Podium and should operate independently regarding lifts and services.”

The proponent’s Planning Report states:

“Building separation between the residential Tower A and commercial office Tower B is between 21/24m, all but the separation provided at level 10 is consistent with the ADG.

Two separate slender tower forms are provided which read clearly as two towers. The two towers will operate independently in terms of lift cores and services.”

Council seeks consistency with building separation and the *Apartment Design Guidelines*. The slender tower outcome has positive implications from the public domain as well as in regards to the amenity of neighbouring properties. In regards Key Element 18, amendments should be made with regard to building separation, with particular reference to Level 10.

Council seeks built form to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council’s standard site specific *DCP* template approach.

6) Sun access to Key Public Spaces and adjacent Conservation Areas

Key Element 19

Key Element 19 proposes to establish sun access protection and heights in Figure 3.1.5 in Local Environmental Plan controls, to ensure no additional overshadowing and protection of certain areas in mid winter.

Three key public spaces are located within close proximity to the subject site, and to the south:

“c) Garden of Remembrance 12pm - 2pm.

d) Tennis and croquet club 12pm - 2pm.

e) Chatswood Oval 11am - 2pm (which in turn also protects Chatswood Park).

In addition,

f) Heights adjoining the South Chatswood Conservation Area will provide for a minimum 3 hours solar access between 9am and 3pm mid winter.”

It should be noted that Chatswood Park (which includes Chatswood Oval) is within the South Chatswood Conservation Area.

In regards Key Element 19, the proponent’s Planning Report states:

“Proposed height of both towers will ensure no additional shadow to Chatswood Oval

between 11am and 2pm. An additional local provision is proposed to ensure that no additional sunlight will impact on the 'playing surface' of Chatswood Oval consistent with Figure 3.1.5 of the CBD Strategy."

The discussion of overshadowing on Page 49 of the proponent's Planning Report is noted. However the shadow diagrams provided (Appendix 1) do not clearly show the overshadowing directly related to the subject concept plans development, with all overshadowing shown in the same colour. Shadow diagrams are requested that clearly show:

- Overshadowing for what is proposed, together with any other overshadowing from other development. For clarity purposes, if the overshadowing is within existing shadowing, this still should be highlighted on the plans. Any additional overshadowing should also be shown.
- Pre and post development shadow diagrams for a comparison.

The above information is to clearly indicate the impact of overshadowing from the subject Planning Proposal on the three key public spaces abovementioned, with particular regard to Chatswood Oval (and Chatswood Park).

7) Building Heights

Key Element 20

The subject site is identified in Figure 3.1.6 'Recommended height' as located in the area protected by sun protection within the Chatswood CBD.

Key Element 20 states:

"Maximum height of buildings in the CBD will be based on Figure 3.1.6, based on context and up to the airspace limits (Pans Ops plane), except as reduced further to meet:

a) Sun access protection.

Achievement of nominated height maximums will depend on addressing site constraints, surrounding context and other aspects of this Strategy in addition to satisfying SEPP 65 and Apartment Design Guidelines."

This Key Element is a standard requirement for Planning Proposals seeking to utilise the *Strategy* and would apply to the subject site. The subject Council submission has had regard to the *Strategy* vision with regard to proposed height as affected by sun access protection and the other matters abovementioned.

In regards Key Element 20, the proponent's Planning Report states:

"Maximum height has been provided in accordance with the sun access protection diagram."

There are three RL's that affect the subject site, with the most southern RL being RL 160m (boundary where Albert Avenue meets Orchard Road), the middle section being RL 180 m and the most northern being RL 200 m (boundary where 65 Albert Avenue meets 31 Victor Street).

The Planning Proposal seeks a height control over the entire site of RL 192.9 m.

Council has no objection to the concept plans height provided it is in accordance with Figure 3.1.6 and the reduced height for sun access protection. The plans provided do not clearly indicate how compliance is achieved. Detailed plans should be provided showing how the heights proposed satisfactorily address the contours and RL heights shown on Figure 3.1.6 of the *Strategy*.

Council seeks building heights to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council's standard site specific *DCP* template approach.

Key Element 21

Key Element 21 states:

"All structures located at roof top level, including lift over runs and any other architectural features are to be:
a) *Within the height maximums.*
b) *Integrated into the overall building form."*

In accordance with Key Element 21, all structures located at roof level are to be within the height maximum (including roof features). Roof features are encouraged however the height uplift under the *Strategy* has made allowance for such provision. In addition, these maximum heights are only achievable provided the other aspects of the *Strategy*, with particular regard to land use, are addressed.

For clarity purposes and to assist any reader, it is requested that elevation and section plans refer to RL heights, metres and storeys.

Council has an approach to architectural roof features and height that it consistently applies to Planning Proposal sites within the Chatswood CBD as follows:

To add Clause 5.6 'Architectural roof features', (2A) as follows:

"(2A) Despite subclause (2), development within Area X on the Special Provisions Area Map may only be carried out in accordance with the maximum height of Clause 4.3."

It is requested that this approach to amending *WLEP 2012* be utilised.

8) Links and Open Space

Key Element 22

Key Element 22 states:

"The links and open space plan in Figure 3.1.7 (page 36) will form part of the DCP. All proposals should have regard to the potential on adjacent sites. Pedestrian and cycling linkages will be sought in order to improve existing access within and through the CBD. New linkages may also be sought where these are considered to be of public benefit. All such links should be provided with public rights of access and designed with adequate width, sympathetic landscaping and passive surveillance."

Analysis is required to clearly identify how the requirements in Figure 3.1.7 have been addressed. How is this space to be managed and public access guaranteed ?

Key Element 23

Key Element 23 states:

“Any communal open space, with particular regard to roof top level on towers, should be designed to address issues of quality, safety and usability.”

The proponent’s Planning Report refers to an incorrect Key Element in regards Key Element 23 communal open space. Analysis of the *Strategy* should be updated to accurately reflect the 35 Key Elements.

It is also noted that the Planning Proposal provides for a commercial tower, a residential tower, a retail commercial podium and basement supermarket, as well as a podium level child care / education facility. The communal open space allocated to each use should be identified and satisfactorily serve each respective use. Particular concern is raised in regards the Level 5 Podium and the relationship between residential communal open space and the child care / education facility. It is considered that residential communal open space should be divided between podium level and roof top level for an acceptable outcome.

Council seeks links and open space to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council’s standard site specific *DCP* template approach.

9) Public realm or areas accessible by public on private land

Key Element 24

Key Element 24 states:

“Public realm or areas accessible by public on private land:

- a) Is expected from all B3 and B4 redeveloped sites.*
- b) Is to be designed to respond to context and nearby public domain.*
- c) Should be visible from the street and easily accessible.*
- d) Depending on context, is to be accompanied by public rights of way or similar to achieve a permanent public benefit.”*

The proponent’s Planning Report refers to an incorrect Key Element in regards Key Element 24. Analysis of the *Strategy* should be updated to accurately reflect the 35 key Elements.

It is noted that the concept plans show a Ground Level setback of 3m to Albert Avenue, and 2m to Victor Street. These setbacks are supported and encouraged in regards to the provision of public realm, but are not considered reasons for variation of other *Strategy* or setback requirements.

Further explanation is requested on how the proposal has been designed to maximise public benefit and encourage public use – in accordance with this key Element. Council also requests detail on how the permanent public benefit is to be achieved (KE 24d)).

Council seeks public realm to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council’s standard site specific *DCP* template approach.

It is noted that Planning Proposal 2013/4 for the subject site was accompanied by improvements to the surrounding road network, provision of additional public open space and footpath widening in a draft Voluntary Planning Agreement (VPA) as follows:

- A 3m wide road dedication to Council along Albert Ave (unencumbered by any building above) to enable adequate traffic access to and from the site.
- A publicly accessible landscaped open space area (minimum area 97.8sqm) connecting with the interchange public open space terrace precinct.
- The provision of a two metre building setback at the ground level of the proposed development along the full length of the Victor St frontage of the site providing an active street frontage with a widened public footpath and street planting.

Council would be interested to discuss the possibilities of any of the above items being included in a Voluntary Planning Agreement. In regards Victor Street, Council would be interested in the provision of a two metre setback unencumbered by any building above to improve the pedestrian experience leading to and from Chatswood Mall and the Transport Interchange (via Post Office Lane).

10) Landscaping

Key Element 25

Key Element 25 states:

“All roofs up to 30 metres from ground are to be green roofs. These are to provide a green contribution to the street and a balance of passive and active green spaces that maximise solar access.”

Although the incorrect Key Element number is used, in regards this issue the proponent’s Planning Report states:

“Design for green roofs, open space etc. can be resolved through the design excellence process and detailed DA.”

Council seeks green roofs to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council’s standard site specific *DCP* template approach.

Key Element 26

Key Element 26 states:

“A minimum of 20% of the site is to be provided as soft landscaping, which may be located on Ground, Podium and roof top levels or green walls of buildings.”

Although the incorrect Key Element number is used, in regards this issue the proponent’s Planning Report states:

“Soft landscaping can be resolved through the design excellence process and detailed DA.”

Although it is appreciated that the design is still in ‘concept’ stage, Council nonetheless requests landscape plans that address soft landscaping on-site, how the above two ‘Landscaping’ Key Elements are addressed, and how the proposal is consistent with the objective of greening the Chatswood CBD. In addition to concept landscape plans, Council seeks draft *DCP* provisions which address *Strategy* Key Elements related to landscaping, consistent with the *Strategy* and Council’s standard site specific *DCP* template approach.

An important objective of the *Strategy* is redevelopment being accompanied by a greening of the Chatswood CBD – which is applicable to the B3 Commercial Core. Soft landscaping is to

be provided within a site, and where possible, visible from the street. The location of the site within the Urban Core precinct is acknowledged. Podium levels should contain greening that is visible from Albert Avenue and Victor Street.

The Planning report refers to incorrect Key Element numbering in regards Key Elements 25 and 26. Analysis of the *Strategy* should be updated to accurately reflect the 35 key Elements.

11) Setbacks and Street Frontage Heights

Key Element 27

Key Element 27 identifies the subject site as being in the Urban Core Precinct with setback and street frontage heights as follows:

- i. Maximum 24 metre street wall height at front boundary.*
- ii. Minimum 6 metre setback above street wall to tower."*

The above applies to both Albert Avenue and Victor Street. This key Element is to be read in conjunction with other Key Elements, with particular reference to Key Elements 24 Public Realm and 28 (below).

In regards Key Element 27, the proponent's Planning Report states:

"A varied approach to street wall heights and setbacks has been taken to respond to existing context including the podium height of the adjacent Sebel (north). The Albert Ave podium height aligns with Westfield to the east. Above the street wall the residential tower is generally setback 6m from the street wall. The commercial tower setbacks align with the core and front setback of the adjacent 'Sentral' office tower to the west."

The above approach to setbacks is not consistent with the vision established in the *Strategy* and expected from all future development.

The concept plans are not consistent with the street wall height to Albert Avenue (for approximately 14 metres of the Albert Avenue frontage). The concept plans show a street wall height to Albert Avenue of approximately 72 metres from Ground to Level 18 (being the highest level). The street wall height to Albert Avenue should be no higher than 24 metres, with a 6 metre setback then provided for the commercial tower. As previously discussed, the provision of a Ground Level setback does not justify an increase in street wall height.

The concept plans are not consistent with the street wall height to Victor Street. The concept plans show a street wall height to Victor Street of 28.5 metres – from Ground to level 6 (for the majority of the Victor Street frontage). The street wall height to Victor Street should be no higher than 24 metres, with a 6 metre setback then provided. In this regard Levels 5 and 6 should be further setback. As previously discussed, the provision of a Ground Level setback does not justify an increase in street wall height.

Key Element 28

Key Element 28 states:

"All towers above podiums in the B3 Commercial Core and B4 Mixed Use zones are to be setback from all boundaries a minimum of 1:20 ratio of the setback to building height."

This means if a building is:

- e) A total height of 30m, a minimum setback from the side boundary of 1.5m is required for the entire tower on any side.*
- b) A total height of 60m, a minimum setback from the side boundary of 3m is required for the entire tower on any side.*
- c) A total height of 90m, a minimum setback from the side boundary of 4.5m is required for the entire tower on any side.*
- d) A total height of 120m, a minimum setback from the side boundary of 6m is required for the entire tower on any side ...*

The required setback will vary depending on height and is not to be based on setback averages but the full setback."

The proponent's Planning Report states:

"Application of this setback to the podium shopping centre is not a desired development outcome. Nevertheless, the ground floor has been setback 3m from Albert Avenue to provide an active street frontage."

Key Element 28 applies to both towers – whether commercial or residential. Attention is drawn to the Albert Street frontage, Victor Street frontage, the commercial tower to the 'Sentral' building and Level 6 to 31 Victor Street. Amendments to the concept plans are required to be consistent with the *Strategy*. This is the desired development outcome as envisioned under the *Strategy*, and will be required into the future when neighbouring sites are redeveloped. The provision of the Ground level setback and active street frontage are matters that are either encouraged or required under the *Strategy* and not the basis for substantial variation in setback requirements.

In regards Key Element 28, a staggered setback as you go up in height is not what is sought – unless it is in addition to the minimum required. What is sought is a minimum setback at the beginning of the tower (for the whole tower) based on height.

Key Element 29

Key Element 29 states:

"Building separation to neighbouring buildings is to be:

- a) In accordance with the Apartment Design Guide for residential uses.*
- b) A minimum of 6 metres from all boundaries for commercial uses above street wall height."*

In regards Key Element 29, the proponent's Planning Report states:

*"ADG separation distances are proposed for the residential tower:
- 9m to northern boundary with 'Sebel' (half minimum separation distance)
- 21/24m to commercial tower. Whilst level 10 is below the minimum separation distance the separation is greater than 18m required below Level 9 and is considered an appropriate response in this context."*

All buildings part of this Planning Proposal are to be in accordance with the abovementioned minimum setbacks. Particular regard is given to tower height above Podium.

In regards Key Element 29, if a residential component is proposed in the subject Planning Proposal, then it should be designed assuming that the neighbouring property may seek a residential component. On this basis clear analysis is to be shown on plans regarding how the Planning Proposal is able to satisfactorily address *SEPP 65* and the *Apartment Design Guide* for residential uses.

Council seeks setbacks and street frontage heights to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council's standard site specific *DCP* template approach.

The *Strategy* establishes clear parameters for future redevelopment of the Chatswood CBD in a manner that is consistent with the endorsed vision to 2036, respecting both the public domain and the amenity of adjoining buildings.

12) Active Street Frontages

Key Element 30

Key Element 30 states:

"At ground level, to achieve the vibrant CBD Council desires, buildings are to maximise active frontages. Particular emphasis is placed on the B3 Commercial Core zone. Blank walls are to be minimised and located away from key street locations."

In regards Key Element 30, Council seeks active street frontages to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council's standard site specific *DCP* template approach.

13) Floor Space at Ground level

Key Element 33

Key Element 33 states:

"Floor space at Ground level is to be maximised, with supporting functions such as car parking, loading, garbage rooms, plant and other services located in Basement levels."

In regards Key Element 33, Council seeks floor space at ground level to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council's standard site specific *DCP* template approach.

14) Substations

Key Element 34

Key Element 34 states:

"Substations are to be provided within buildings, not within the streets, open spaces or setbacks and not facing key active street frontages."

In regards Key Element 34, the proponent's Planning Report states:

"Noted and can be resolved at detailed design."

This is a matter that Council seeks to have addressed, consistent with the *Strategy*. In this regard Council seeks substations (services) to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council's standard site specific *DCP* template approach.

15) Traffic and Transport

Key Element 35

Key Element 35 states:

"The CBD Strategy employs a Travel Demand Management approach seeking to modify travel decisions to achieve more desirable transport, social, economic and environmental objectives consistent with Council's Integrated Transport Strategy ..."

The proponent's Planning Report states:

"All access and parking requirements are consistent with this approach ..."

The Planning Proposal concept plans show the following:

- Entry via Victor Street and exit via Orchard Road for basement parking, loading and servicing (referred to in documentation as Option 2).
- A physical loading solution in Basement 1.

It is noted that Victor Street ends in a road closure to Chatswood Mall, with a constrained vehicle turning capacity. In addition Victor Street intersects with Post Office Lane and is characterized on the eastern side by Westfield Shopping Centre.

Victor Street and its surrounds is highly pedestrianised, with Chatswood Mall being the pedestrian spine of the Chatswood CBD, Post Office Lane being an important pedestrian access / egress to / from the Chatswood Transport Interchange and Westfield having a pedestrian access/ egress from Victor Street.

The Council vision for Victor Street is to encourage pedestrian usage and manage vehicle impacts. This is consistent with the site's location close to the Chatswood Transport Interchange. It is acknowledged that the Council vision is required to be balanced with vehicle requirements for existing development and the vehicle requirements for future developments. A Planning Proposal (PP 2016/7/A, dated 25 September 2020) has already been submitted on a different site in Victor Street, being 45 Victor Street (the old Post Office site) and 410-416 Victoria Avenue – yet to be determined. Analysis of traffic implications should have regard to this Planning Proposal. Concern is also raised with SIDRA analysis dated April 2016.

With regard to optimum development outcomes in Victor Street, Council is seeking loading / servicing and car parking solutions to minimise streetscape impact – and seeks a consistent approach whether Council or DPIE is the Planning Proposal authority.

Key Element 35 a) states:

*"Vehicle entry points to a site are to be rationalised to minimise streetscape impact, with one entry area into and exiting a site. To achieve this objective loading docks, including garbage and residential removal trucks, are to be located within Basement areas.
Where possible, cars and service vehicle access should be separated."*

Council is prepared to consider entry via Victor Street, and exit via Orchard Road, provided the detail of the Basement arrangement is satisfactory to accommodate residential and commercial vehicles, as well as loading/unloading and servicing vehicles. It is noted that cars and service vehicles are proposed to be separated on Basement Level 1.

Key Element 35 c) states:

“All vehicles are to enter and exit a site in a forward direction. Physical solutions, rather than mechanical solutions are sought.”

It is understood that plans at this stage are conceptual in nature and it is accepted that detailed plans and solutions will be provided at DA stage, however Council is seeking a concept design that shows all on-site vehicle manoeuvrability including loading and servicing accommodated satisfactorily, without having adverse impacts on Victor Street, Orchard Road, as well as Albert Avenue. Under no circumstances are vehicles stopping on surrounding streets permitted.

A physical solution is supported in regards vehicle manoeuvring for loading/ unloading and service vehicles. Notwithstanding this support, concern is raised with the layout shown on Basement Level 1. The arrangement shown involves questionable manoeuvrability and suggests potential conflict between loading and servicing vehicles and other vehicles either accessing the lower Basement car park levels or seeking to exit the site via Orchard Road. A rethink of the Basement 1 Level is considered reasonable and justified at Planning Proposal stage (and not put off to DA stage), due to the important location of this site within the Chatswood CBD and its relationship with the surrounding road network.

In the interests of assisting the proponent, concept plans are requested showing:

- Within the basement, a separate commercial loading / garbage area and a separate residential loading / garbage area. It is noted that a supermarket and child care / education facility, in addition to other retail uses, and commercial and residential uses are proposed.
- Loading provision based on the maximum vehicle size required for the uses identified in the Planning Proposal, with particular regard to the supermarket, residential loading/unloading requirements and servicing vehicles.
- Child care / education facility vehicle movement provision, with particular requirements such as drop off and pick up addressed.

Plans and turning circles for a minimum medium rigid vehicle (or large if required) are requested for consideration, including entering and exiting the site, with particular regard to trucks exiting via Orchard Road.

Key Element 35 d) states:

“All commercial and residential loading and unloading is required to occur on-site and not in public streets.”

The request for additional information above is consistent with this Key Element. Council seeks the optimum outcome envisaged in the *Strategy* on this important site within the Chatswood CBD.

Key Elements 35 e) and f) state:

“Car parking should be reduced consistent with the objectives of Council’s Integrated Transport Strategy and in accordance with any future revised car parking rates in Councils DCP.

Other strategies for car parking reduction include reciprocal arrangements for sharing parking and car share.”

Concern is raised with the addition of 546 car spaces in this location (being 112 residential, 338 retail, 92 commercial and 3 child care / education). Council is in the process of reviewing car parking rates in the Chatswood CBD and requests the following rates are considered (being lower than the current *DCP* rates):

Land use		Parking rate
Office		1 space per 400 sqm GFA
Retail (<1000 sqm)		-
Retail (>1000 sqm)		1 space per 300 sqm GFA
Residential	Studio	0.5 spaces per dwelling
	1-bed	0.5 spaces per dwelling
	2+ bed	1 space per dwelling
	Visitor	1 space per 10 dwellings

Further reduction in car parking provision will have a positive impact on traffic volumes associated with this Planning Proposal, and therefore both Victor Street and Orchard Road.

Other matters where further detail is requested:

- Motorcycle / bicycle parking spaces and end-of-trip facilities.
Council would be interested to hear from the proponent if it would be possible to include a substantive end of trip cycle facility, serving the Chatswood CBD, as part of the proposal.
- Green Travel Plan (GTP)
- Car share and electric vehicle (EV) spaces

The following traffic and transport related amendments are requested to the Concept Plans:

- Reconsideration of Basement Level 1:
 - retaining a physical solution
 - enabling loading vehicles and garbage / servicing vehicles to enter and leave the site in a forward direction
 - showing no interference with internal traffic flows
- Car parking provision based on the abovementioned car parking rates.
- At the corner of Albert Avenue and Victor Street, a splay is to be provided that complies with the swept turning path of a minimum medium rigid vehicle (MRV).

Council seeks traffic and transport to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council’s standard site specific *DCP* template approach.

12th November, 2020

DRAFT SITE SPECIFIC DEVELOPMENT CONTROL PLAN

815 Pacific Highway & 15 Help Street Chatswood

1.0 General

The controls contained in this Site Specific Development Control Plan applies to land bounded by Pacific Highway to the west, Help Street to the south and McIntosh Street to the north as shown on the map below.

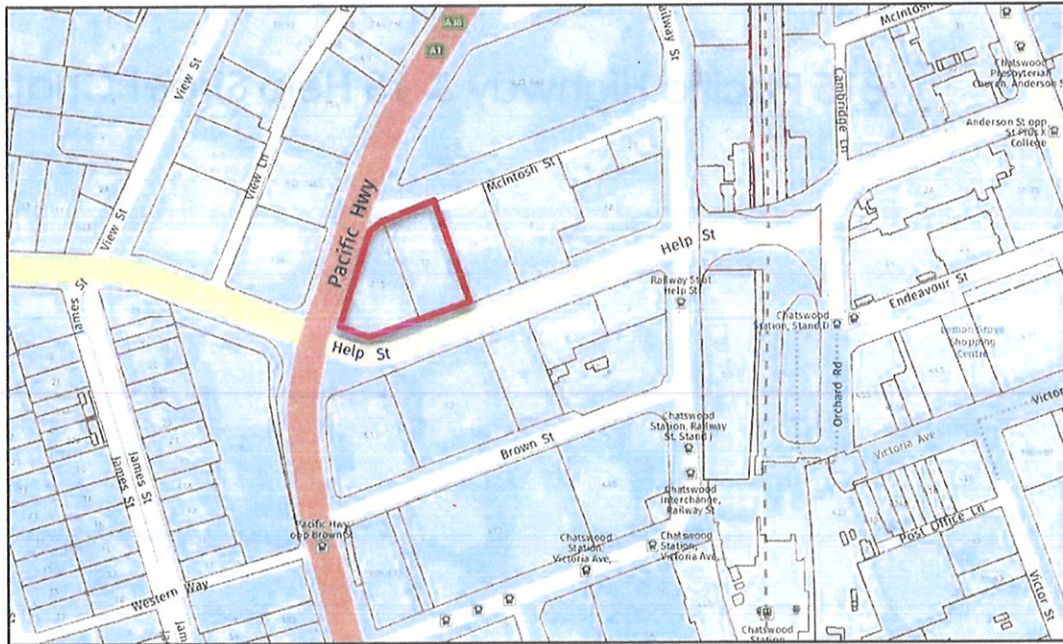


Figure 1: Land to which this Development control plan applies

Objectives of the Plan

The Objectives of the Plan are to:

1. Support the provision of commercial development at the western extent of Chatswood CBD.
2. Enable the development of the site without impacting the viability of adjoining land.
3. Provide an iconic building exhibiting design excellence in architectural form and materials.
4. Encourage a built form that presents the site as a landmark and gateway development for the Chatswood commercial centre.
5. Minimise traffic impacts on the surrounding road network.
6. Provide landscaping in and surrounding the site that enhances the presentation of the site as well as the amenity of the development.
7. Maximise street level activation.

2.0 Built form

Performance Criteria

The built form of new development shall:

1. Achieve a slender tower form on the site
2. Achieve a site layout that provides a pleasant environment for the occupants and minimises impact on surrounding properties.
3. Ensure visual and acoustic privacy and sun access.
4. Provide suitable areas for communal open spaces, deep soil zones and landscaping

Controls

1. The ground floor shall incorporate retail/commercial uses that present and display their activity to the street
2. Building materials and finishes are to be predominantly comprised of a natural palette of steel, concrete, glass and timber

3.0 Height of Building

Performance Criteria

The built form of new development shall:

1. Be consistent with the permitted Height of Buildings development standard applicable to the site.

Controls

1. The maximum building height is to include all structures located at roof level, including lift over runs and any other architectural features.
2. All rooftop lift overruns or exposed structures are to be integrated with the building.
3. Flat roof areas shall incorporate useable outdoor recreation space where suitable.

4.0 Street Frontage Heights And Setbacks

Performance Criteria

Setbacks shall:

1. Contribute to deep soil areas, landscaping and open space at street level
2. Minimise the effects of adverse wind conditions at street level
3. To ensure the positioning of new buildings contribute to the existing or proposed streetscape character.

Controls

1. The building setbacks are to be in accordance with Figure 2 "Street Frontage Heights and Building Setbacks" as detailed in the *Willoughby Council Chatswood CBD Strategy 2036*

SETBACKS AND STREET FRONTAGE HEIGHTS

27 Setbacks and street frontage heights are to be provided based on Figure 3.1.8, which reflect requirements for different parts of the Chatswood CBD. With setbacks of 3 metres or more, including the Pacific Highway, deep soil planting for street trees is to be provided.

- a) **Victoria Avenue retail frontage:**
 - i. Maximum of 7 metre street wall height at front boundary.
 - ii. Minimum 6 metre setback above street wall to tower.
- b) **Urban Core:**
 - i. Maximum 24 metre street wall height at front boundary.
 - ii. Minimum 6 metre setback above street wall to tower.
- c) **Office core frontage:**
 - i. 4-12 metre street wall height at front boundary.
 - ii. Minimum 6 metre setback above street wall to tower.
- d) **Mixed use frontage with commercial Ground Floor:**
 - i. 6-14 metre street wall height at front boundary.
 - ii. Minimum 3 metre setback above street wall to tower.

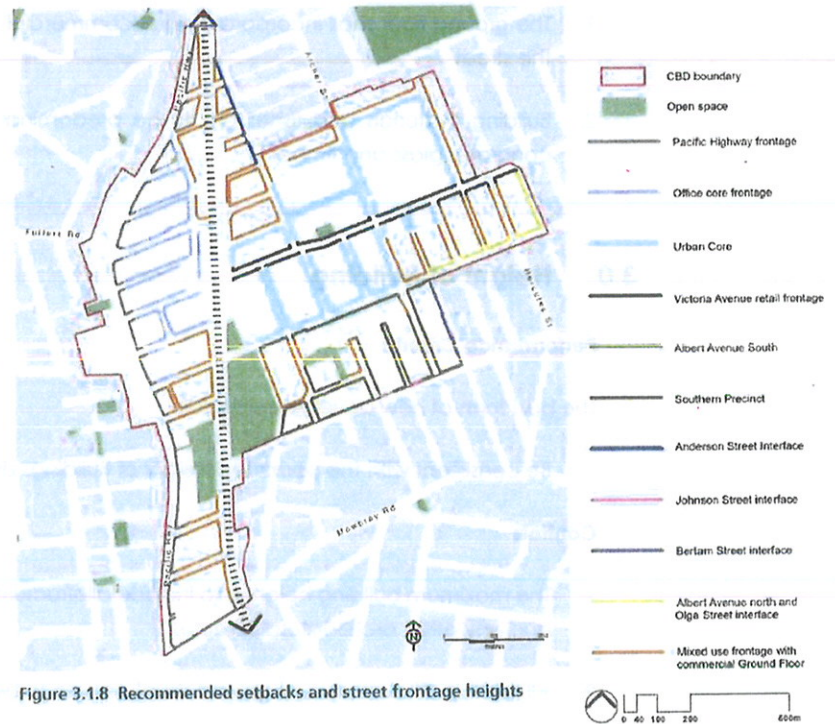


Figure 3.1.8 Recommended setbacks and street frontage heights

Figure 2: Street Frontage Heights and Building Setbacks

5.0 Building Exterior

Performance Criteria

1. Buildings are to demonstrate a high visual quality of development when viewed from the public domain and the surrounding area.
2. Building facades shall complement the character of the area and contribute to creating attractive pedestrian environments and streetscapes.
2. Facade design to encourage active street frontages to streets and their surrounding public domain.

Controls

1. The building façade is to be modulated and articulated to assist in softening the facades bulk and scale.
2. Facades are to be articulated and should incorporate recesses and projecting elements.
3. Extensive blank walls shall be avoided at street level.

6.0 Open Space and Landscaping

Performance Criteria

3. The development is to provide deep soil planting where green landscaping is located.
4. Green roof tops and usable rooftop areas shall be provided.

Controls

1. Open space at ground level shall be utilized as publicly accessible open space.
2. Public domain improvements shall be provided to all street frontages to Council requirements.
3. Ground floor open space areas are to incorporate landscaped areas that integrate with the surrounding public domain.
4. A minimum of 2 hours of sun access is to be provided to the public open space on the site.
7. A landscape plan is to be provided at Development Application stage detailing all vegetation proposed including species, container size at planting, spacing and approximate size of maturity.
8. All existing aerial cables which may include for electricity, communications and other cables connected to street poles and buildings around the site shall be removed and installed underground in accordance with the requirements of the relevant service authorities. Ausgrid lighting poles are to be provided to the requirements of Ausgrid for Street lighting and shall be positioned compatible to the landscaping design around the site

7.0 Links

Performance Criteria

1. The development shall provide publicly accessible links and open space.
2. Publicly accessible open space is to include green landscaping.

Controls

1. The development is to incorporate publicly accessible pedestrian links through the site to the adjoining road reserve level in accordance to figure 3 as detailed in the *Willoughby Council Chatswood CBD Strategy 2036*
2. All publicly accessible open space and linkages are to be the responsibility of the relevant ownership entity, with formal public access to be created over these areas.

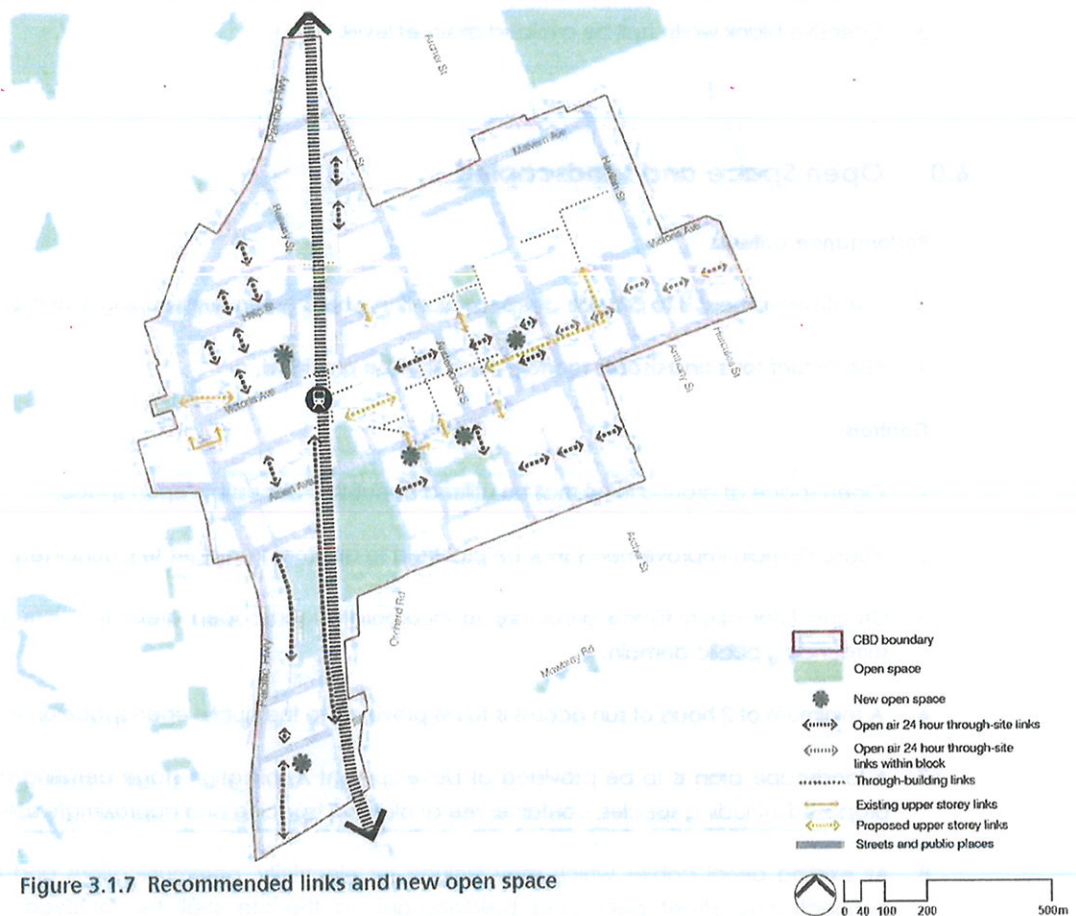


Figure 3: Pedestrian links

8.0 Traffic and Transport

Performance Criteria

1. The number of vehicle access points to the development are to be minimised.
2. Opportunities shall be explored to reduce on-site car parking.
3. Vehicle access points are designed to minimize their impacts on pedestrians.

Controls

1. Vehicle access points to the development are to be from McIntosh Street.
2. All car parking is to be located below ground level.
3. A loading dock screened from the public domain for delivery and service vehicles is to be provided which allows for vehicles to enter and leave in a forward direction.
4. All commercial/retail vehicle access points for the development are to occur via McIntosh Street.
5. All delivery and service vehicle access including waste points for the development are to occur via McIntosh street.
6. All loading/unloading to occur at basement level and screened from view from the public domain.

9.0 Waste Management and Loading

Performance Criteria

1. To ensure that adequate provision is made for waste storage and disposal.

Controls

1. A concealed waste storage and collection bay is to be provided within the basement parking level of the development. The waste storage and collection area is to be designed to ensure level and safe collection of all waste generated from the use of the development.
2. A Waste Management Plan shall be submitted at Development Application Stage.

10.0 Design Excellence and Building Sustainability

Design Excellence

1. Design excellence is to be required for all developments based on the following process:
 - a) A Design Review Panel for developments up to 35m high.
 - b) Competitive designs for developments over 35m high.

Sustainability

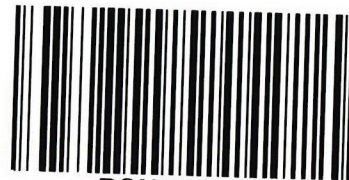
1. A minimum of 5.5 stars GBCA building rating is expected, with 6 stars GBCA building rating being encouraged. An assessment report is to be submitted at Development Application stage.
2. A detailed wind assessment report is to be provided at Development Application stage.

11.0 Public Art

1. Any Public Art is to be in accordance with Council's Public Art Policy.

12.0 Services

1. Substations are to be provided within buildings, not within the streets, open spaces or setbacks and not facing key active street frontages. Substations are to be designed to ensure protection of workers from Electro Magnetic Radiation (EMR) emissions.
2. All servicing conduits and reticulation are to be concealed and integrated into the building design.



PCU080335

PLANNING AND INFRASTRUCTURE
Planning Unit

18 November 2020

Planning Panels Secretariat
GPO Box 39
Sydney NSW 2001

To whom it may concern,

**RE: Planning Proposal Submission
PP_2020_WILLO_001_00 (2020SNH008)
65 Albert Avenue, Chatswood**

Department of Planning
Received
25 NOV 2020
Scanning Room

I am writing to you regarding Planning Proposal PP_2020_WILLO_001_00 for 65 Albert Avenue, Chatswood, where the Sydney North Planning Panel has been appointed as the Planning Proposal Authority.

Following Gateway Determination dated 9 June 2020, this Planning Proposal has now been placed on public exhibition between 22 October and 18 November 2020.

The Willoughby Council submission is contained in this letter and accompanying Attachments.

The Planning Proposal seeks to amend *Willoughby Local Environmental 2012 (WLEP 2012)* as follows:

- Increasing the maximum permitted building height from 27m to RL 192.90 (30 storeys).
- Increasing the maximum floor space ratio (FSR) from 2.5:1 to 11.11:1 and a new Area XX* to be subject to specific exceptions relating to the subject site.
- Establishing a minimum non-residential FSR of 7.68:1.
- Amending the Special Provisions Area Map to show 65 Albert Avenue as Area XX* subject to specific local provisions.
- Amending Schedule 1 to include 'shop top housing' as an additional permitted use for the subject site.
- Include a new provision within Clause 4.4A Exceptions to floor space ratio:
 - Ensuring that any shop top housing development provides a minimal non-residential FSR of 7.68:1.
 - Ensuring that no maximum FSR applies to any development seeking consent for 'commercial premises' or 'hotel or motel accommodation', consistent with the approach within the Chatswood CBD Strategy.
- Including a new provision within Clause 4.6 which provides that consent cannot be granted for development that contravenes the maximum residential FSR for the site for any development application seeking consent for shop top housing.
- Providing new additional local provisions which relate to Area XX* shown on the Special Provisions Map as follows:
 - Providing a minimum 4% GFA as affordable housing in addition to the maximum residential FSR of 3.43:1.

ENGLISH

If you do not understand this document, please visit Council's Administration Building to discuss it with Council staff who will arrange an interpreter service. The Administration Building is located at 31 Victor Street, Chatswood and open from 8.30am to 5pm, Monday to Friday. Alternatively, you may ring the Translating & Interpreting Service on 131 450 to ask for an interpreter to contact Council for you. Council's phone number is (02) 9777 1000.

ARABIC

إذا كنت لا تفهم هذه الوثيقة يُرجى زيارة مبنى إدارة مجلس البلدية لبحثها مع موظفي المجلس الذين سيتخذون ترتيبات للحصول على خدمة الترجمة الشفهية. يقع مبنى الإدارة على العنوان 31 Victor Street, Chatswood وهو يفتح من الساعة 8.30 صباحاً إلى 5 مساءً أيام الاثنين إلى الجمعة. يمكنك بدلاً من ذلك الاتصال بخدمة الترجمة الخطية والشفهية على الرقم 131 450 واطلب أن يقوم مترجم شفهي بالاتصال بالمجلس بالنيابة عنك. رقم هاتف المجلس هو: (02) 9777 1000.

ARMENIAN

Եթե չէք հասկնար այս փաստաթուղթը, խնդրեմ այցելեցեք Քաղաքային Խորհուրդի Վարչության Շենքը այդ մասին խոսելու Քաղաքային Խորհուրդի աշխատակիցներու հետ որոնք ձեզի համար թարգման մը կը կարգադրեն: Վարչության Շենքը կը գտնուի 31 Victor Street, Chatswood եւ բաց է կ.ա. 8.30 – կ.ե.5.00, Երկուշաբթիէն մինչեւ Ուրբաթ: Կարելի է նաեւ հեռաձայնել Թարգմանութեան Սպասարկութեան 131450 եւ խնդրել որ թարգման մը կապ հաստատէ Քաղաքային Խորհուրդին հետ ձեզի համար: Քաղաքային Խորհուրդի հեռախօսի համարն է՝ (02) 9777 1000:

CHINESE SIMPLIFIED

如果您不明白本文件，请前往市政府行政大楼，与市政府职员讨论，市政府职员会安排传译员提供服务。行政大楼位于31 Victor Street, Chatswood，上班时间是周一至周五上午8:30至下午5:00。此外，您也可以致电翻译传译服务处，电话131 450，请传译员为您联系市政府，市政府的电话是(02) 9777 1000。

CHINESE TRADITIONAL

如果您不明白本文件，請前往市政府行政大樓，與市政府職員討論，市政府職員會安排傳譯員提供服務。行政大樓位於31 Victor Street, Chatswood，辦公時間是週一至週五上午8:30至下午5:00。此外，您也可以致電翻譯傳譯服務處，電話131 450，請傳譯員為您聯絡市政府，市政府的電話是(02) 9777 1000。

CROATIAN

Ako ne razumijete ovaj dokument, molimo vas otidite u administrativnu zgradu općine i razgovarajte s osobljem općine koje će vam organizirati usluge tumača. Zgrada općine se nalazi na adresi 31 Victor Street, Chatswood i otvorena je od 8.30 izjutra do 5 poslije podne, od ponedjeljka do petka. Druga mogućnost je da nazovete Službu prevoditelja i tumača (Translating and Interpreting Service) na 131 450 i da ih zamolite da vam nazovu općinu. Broj telefona općine je (02) 9777 1000.

GREEK

Αν δεν καταλαβαίνετε αυτό το έγγραφο, παρακαλούμε επισκεφθείτε το Κτίριο Διοίκησης της Δημαρχίας για να το συζητήσετε με το προσωπικό της Δημαρχίας που θα οργανώσει διερμηνεία για την εξυπηρέτησή σας. Το Κτίριο Διοίκησης βρίσκεται στη διεύθυνση 31 Victor Street, Chatswood και είναι ανοιχτό από τις 08:30 π.μ. έως 5 μ.μ., Δευτέρα έως Παρασκευή. Διαφορετικά, μπορείτε να τηλεφωνήσετε στην Υπηρεσία Μεταφράσεων και Διερμηνείας στο 131 450 και να ζητήσετε από ένα διερμηνέα να επικοινωνήσει με τη Δημαρχία για λογαριασμό σας. Ο αριθμός τηλεφώνου της Δημαρχίας είναι (02) 9777 1000.

ITALIAN

Se avete difficoltà nel capire il presente documento, rivolgetevi all'Administration Building del Comune e gli addetti municipali provvederanno a richiedere l'assistenza di un interprete. L'Administration Building è situato al n. 31 di Victor Street, Chatswood ed è aperto dal lunedì al venerdì, dalle 8.30 alle 17. Oppure potete chiamare il Translating and Interpreting Service al 131 450 e chiedere loro di mettersi, per vostro conto, in contatto con il Comune. Il numero telefonico comunale è (02) 9777 1000.

JAPANESE

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KOREAN

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- Including design excellence objectives consistent with Council's intended wording.
- Including a new provision which ensures that development must not result in additional overshadowing of the playing surface of 'Chatswood Oval' between 11am and 2pm during mid-winter.
- Prohibiting development for the purposes of serviced apartments.

This strategic vision for the Chatswood CBD has been based on a substantial body of work, public exhibition and consultation with government agencies. The *Chatswood CBD Planning and Urban Design Strategy 2036* (the *Strategy*) was originally prepared by Architectus at the request of Council in late 2016, publicly exhibited in early 2017 and endorsed by Council on 26 June 2017, supported by the Greater Sydney Commission on 18 May 2018, part endorsed by the Department of Planning, Industry and Environment (DPIE) on 9 August 2019 and fully endorsed on 9 July 2020. The *Strategy* was again noted by Council on 14 September 2020 and subsequently updated to be date referenced September 2020.

Council seeks Planning Proposals within the Chatswood CBD that are consistent with the *Strategy*, and the strategic vision contained within as outlined in the 35 Key Elements, with the only variation being any specific condition identified by DPIE. Planning principles underpin the *Strategy*, and the vision and 35 Key Elements are clearly established for proponents to use as a guideline for planning proposals in the Chatswood CBD.

While amendments have occurred to the *Strategy* in response to DPIE endorsement, the majority of the 35 Key Elements applicable to the subject site remain essentially unchanged (endorsed as put forward) and the proponent has had opportunity to prepare a Planning Proposal consistent with what is expected under the *Strategy*. The Planning Report, dated August 2020, submitted with the Planning Proposal contains a table and discussion of the *Strategy* and the 35 Key Elements prior to the updating of the *Strategy* in September 2020. As the 35 Key Elements are the basis of any assessment of planning proposals within the Chatswood CBD it is considered appropriate and reasonable for an updated Planning Report and discussion of the *Strategy* and the 35 Key Elements to be provided in this case.

Notwithstanding this concern with documentation, Council recognizes that the Planning Proposal has strategic merit based on the broad objectives of the *Strategy* as endorsed by DPIE. This B3 Commercial Core site is suitable for significant increases in height and floor space, providing it results in substantial employment growth in line with Chatswood's Strategic Centre status. A limited residential component has been conceded in accordance with DPIE parameters, the site being close to transport and other infrastructure and services.

However at the same time the Planning Proposal does not provide a satisfactory level of site specific (or Key Element) merit in accordance with the *Strategy* – which is also the basis for amending current planning controls within the Chatswood CBD. In Attachment 1, Council has assessed the 35 Key Elements in the *Strategy* with regard to the site specific merit of this Planning Proposal. It is requested the proponent respond to Attachment 1 with amendments and accompanying documentation, which demonstrates

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how the proposal will help deliver the expected vision for Chatswood CBD as outlined in the *Strategy*. It is considered that the requested amendments are achievable.

Attachment 1 identifies:

- 1) Site specific (or Key Element) merit issues of concern for Council requiring amendments in order for consistency with the *Strategy* (or DPIE endorsement and Gateway Determination), in particular:
 - a) Land use
 - b) Voluntary Planning Agreements and public benefit
 - c) Affordable Housing
 - d) Design Excellence and building sustainability
 - e) Setbacks
 - f) Street wall heights
 - g) Internal vehicle access, loading / servicing provision
- 2) Other site specific (Key Element) merit issues requiring greater clarification to ensure consistency with the *Strategy*.
- 3) Further documentation requirements as follows:
 - a) Documentation updated to reflect the *Chatswood CBD Planning and Urban Design Strategy 2036* (September 2020).
 - b) Amendments and further information in line with the issues of concern and other Key Elements identified in this Attachment.
 - c) Conceptual elevation and section plans that refer to detailed RL heights, metres and storeys.
 - d) All concept plans accompanying a Planning Proposal should show on plan how the numerical requirements contained in the *Strategy* 35 Key Elements are addressed and satisfied. Particular reference is made to height, setbacks (ground, podium and upper levels) and street wall heights.
 - e) It is requested that Planning Proposals should be accompanied by draft Development Control Plan provisions that are site specific, addressing the *Strategy's* 35 Key Elements and at the same time consistent with the template approach taken with other Planning Proposals – as Council is seeking consistency in the approach to Planning Proposals within the Chatswood CBD. In order to assist, an example of draft DCP provisions is attached (already forward to DPIE with another Planning Proposal for a Gateway Determination).
 - f) Conceptual landscape plans that address soft landscaping on-site (on any relevant level).
 - g) Conceptual basement plans and traffic analysis showing and explaining all vehicle manoeuvring including loading/unloading and servicing vehicles.

The 35 Key Elements in the *Strategy* provide for an expected redevelopment of the Chatswood CBD to 2036, which considers an acceptable outcome for the public domain and neighbouring properties. Amenity to neighbouring properties has been a previous issue of redevelopment proposals on the subject site. Separate to the issue of the public domain and the very important issue of place making within the Chatswood CBD,

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variation of Key Elements on this site are not supported due to impacts on neighbouring properties with regard to visual amenity, building separation, view loss and traffic impacts.

Council is in a position where a planning proposal consistent with the *Strategy* represents appropriate development that has been endorsed by Council and DPIE. It is understood that DPIE as the Planning Proposal Authority will further consider in more detail amenity issues of neighbouring properties having regard to submissions received. Furthermore it is noted that, in line with Council's requirements, there will be the design excellence process and of course the DA process involving further public exhibition to refine the final outcome.

An amended Planning Proposal that both addresses strategic merit, as well as site specific merit (the 35 Key Elements), supported by the requested additional information, is encouraged on such an important site within the Chatswood CBD B3 Commercial Core zone.

Council seeks the opportunity to review the additional information provided in response to this letter and Attachment, and make further comment as necessary.

Should you have any questions regarding the contents of this letter, please contact Craig O'Brien on (02) 9777 7647.

Yours sincerely,



Ian Arnott
PLANNING MANAGER

Attachment 1 - Response to Planning Proposal

65 Albert Avenue, Chatswood

Discussion of *Chatswood CBD Planning and Urban Design Strategy 2036*

Council has assessed the Planning Proposal having regard to the 35 Key Elements in the *Chatswood CBD Planning and Urban Design Strategy 2036* (the *Strategy*) as applicable.

As noted in the covering letter, Council recognizes that the Planning Proposal has strategic merit based on the broad objectives of the *Strategy* as endorsed by DPIE. The B3 Commercial Core site is suitable for significant increases in height and floor space, providing it results in substantial employment growth in line with Chatswood's Strategic Centre status. A limited residential component has been conceded in accordance with DPIE parameters, the site being close to transport and other infrastructure and services.

However at the same time the Planning Proposal does not provide a satisfactory level of site specific (or Key Element) merit in accordance with the *Strategy* – which is also the basis for amending current planning controls within the Chatswood CBD. Refer to the discussion below for detailed discussion.

Where appropriate draft *Willoughby Local Environmental Plan (WLEP 2012)* clauses have been included. Draft *DCP* provisions, based on the 35 Key Elements of the *Strategy*, are a standard requirement for any Planning Proposal seeking to utilise the uplift under the *Strategy* and are required in this instance. An example of site specific draft *DCP* provisions is provided for assistance.

1) Land Use

Key Element 2

Key Element 2 states:

"Land uses in the LEP will be amended as shown in Figure 3.1.2, to:

- a) Protect the CBD core around the Interchange as commercial, permitting retail throughout to promote employment opportunities.*
- b) Enable other areas to be mixed use permitting commercial and residential."*

A fundamental requirement within the *Strategy* is the prohibition of residential land use within the commercial core.

The subject site is located within the commercial core.

The Department of Planning, Industry and the Environment (DPIE) stated in its letter of 9 August 2019:

- *"That mixed used development can be permitted within appropriate parts of the remaining CBD Core area (i.e. east of the North Shore rail line), but only where this results in demonstratable, significant and assured job growth, thereby aligning with the key objective of the District Plan to support job growth.*

- *That any planning proposals for the CBD Core area do not result in significant traffic or transport impacts, as sites in this part of the CBD are highly accessible to Chatswood rail and bus interchange.”*

The entire *Strategy* was endorsed by DPIE on 9 July 2020.

The Planning Proposal involves a land use split of 69% non-residential or employment land uses and 31% residential.

Benefits of the Planning Proposal, provided by the proponent, include:

- The proposal will increase employment floor space by 66% over the current Mandarin retail shopping centre.
- Whilst there is a minor reduction in overall retail floor space, it is important to note that the upgrade will maintain a similar quantum of Net Lettable Area (NLA).
- Some 69% of floor space provided on the site will be for employment land uses and will increase the number of jobs currently provided within the Mandarin Centre by 65.89 %.
- The proposal provides employment and housing growth to support an integrated land use and transport approach and walkable.
- A significant renewal of Chatswood’s third largest retail shopping centre. The centre provides enlarged public mall and circulation areas and retail spaces to attract specialty retail. The centre provides sufficient floor space for an additional metro style supermarket and will complement the existing offering within the other major centres including Westfield and Chatswood Chase.
- The enlarged circulation spaces within the centre will improve public pedestrian links through the site to Chatswood Station.
- The proposal provides boutique commercial office suites within the upper podium levels consistent with the demand identified within the Chatswood CBD Competitive and Comparative Analysis by AEC. This report identified that these smaller spaces are required to attract emerging technology and creative occupiers and professional services firms.
- The proposal will provide a new 20 storey commercial tower complementing the adjacent ‘Sage’ Commercial Building.
- The proposal will provide additional space for community uses including child care, after school care and flexible spaces for other education related uses.

References to the Sage building should be updated to reflect the ‘Sentral’ building (It is Council’s understanding this building name change happened in 2019).

It is noted that the Sydney North Planning Panel Pre – Gateway Review Advice Report referred in its ‘Advice and Reasons for the Recommendation’ that:

“The PP is consistent with the remainder of the CBD Strategy save for the inclusion of 30% of the GFA being residential.”

Council continues to emphasize that the subject site being located within the Commercial Core, very close to the Chatswood Transport Interchange and other services, is not an appropriate location for residential development in place of commercial development as strategically planned by Council. Notwithstanding this fundamental issue for Council, the conditions of the DPIE endorsement of the *Strategy* are acknowledged. Furthermore the parameters for consideration of a residential component in a development located within the Chatswood CBD B3 Commercial Core on the east side of the North Shore Rail Line by the Sydney North Planning Panel is also acknowledged.

A limited component of residential land use in this Planning Proposal of 30% is prepared to be accepted. The current Planning Proposal involving 31% should be reduced to 30%.

It is requested that the proponent review the floor space allocation and increase the commercial / non-residential floor space percentage for the site to 70% of the developable floor space, with residential being a maximum of 30%. A reduction in the residential component is possible by adhering to the required setbacks in the *Strategy* – as discussed below.

Council would seek for the 70% non-residential and 30% residential land use split to be applied as a control for this site within *WLEP 2012*.

Key Element 4

Key Element 4 states:

“Serviced apartments to be removed as a permissible use from the B3 Commercial Core zone.”

The proponent has agreed to this Key Element.

Council has an existing approach to serviced apartments within the B3 Commercial Core zone in the Chatswood CBD, being to amend the Land Use Table, Zone B3 Commercial Core, as follows:

In Permitted with consent, delete serviced apartments
In prohibited, insert serviced apartments

It is requested that this approach to amending *WLEP 2012* be utilised.

2) Planning Agreements to Fund Public Domain

To address Key Elements 5, 6 and 7, which are standard considerations for Planning Proposals seeking to apply the *Strategy* and would relate to the subject site, a Letter of Offer is requested with reference to Council’s draft VPA Policy recently on exhibition. The relevance of planning agreements to fund public domain improvements is considered both relevant and reasonable for this Planning Proposal, having regard to the significant uplift proposed involving a residential land use and the increased demand this places on public infrastructure and services.

Key Element 5

Key Element 5 states:

“Planning Agreements will be negotiated to fund public domain improvements.”

The discussion by the proponent of Key Element 5 refers to base FSR, which is not correct.

Documentation submitted with this Planning Proposal should be based on the current *Strategy*.

Key Element 6

Key Element 6 states:

"A new Planning Agreements Policy will apply and be linked to a contributions scheme that will provide the public and social infrastructure in the Chatswood CBD necessary to support an increased working and residential population. The scheme would:

- a) Apply to residential uses.*
- b) Apply to commercial uses above 10:1 FSR.*
- c) Operate in addition to any adopted Section 7.11 or 7.12 contributions scheme and separate from Affordable Housing requirements within Willoughby Local Environment Plan (WLEP 2012).*
- d) Contribute to public domain improvements in the centre (including streets and parks) that would enhance amenity and support residential and commercial uses."*

In regards Key Element 6, the proponent's Planning Report states:

"N/A - DPIE has advised WCC that it does not support the value capture scheme and has recommended that alternate methods for the delivery of infrastructure to support uplift. On this basis any future DA will be required to provide contributions based on the current applicable s7.12 rate for the Chatswood CBD of 3% of the development cost."

The discussion by the proponent of key Element 6 refers to value capture, which is no longer part of the *Strategy*.

Council seeks an approach to contributions consistent with Key Element 6, not a separate approach considered appropriate by the proponent. The above approach from the proponent to only provide s7.12 contributions is not considered to be adequate, consistent with what is expected or in the public interest. An affordable housing requirement of 4% for residential development (including within a shop top development) is already a standard requirement under *WLEP 2012*. Under the *Strategy*, there is no change to this standard requirement. As noted above contributions are intended to *"operate in addition to any adopted Section 7.11 or 7.12 contributions scheme and separate from Affordable Housing requirements within Willoughby Local Environment Plan (WLEP 2012)."*

Key Element 7

Key Element 7 states:

"All redevelopments in the Chatswood CBD should contribute to public art in accordance with Council's Public Art Policy"

The proponent's Planning Report concludes that *"contribution to public art will be considered at the DA stage."*

Council seeks a commitment to working with Council's *Public Art Policy* at Planning Proposal stage. In this regard Council seeks public art to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council's standard site specific *DCP* template approach.

3) Design Excellence and Building Sustainability

Council seeks an approach to design excellence and building sustainability that is consistent with Key Elements 8, 9 and 10, which are standard requirements for Planning Proposals seeking to apply the *Strategy* and which would relate to the subject site, and Council's *Design Excellence Policy*.

Key Element 8

Key Element 8 states:

“Design excellence is to be required for all developments based on the following process:

- a) A Design Review Panel for developments up to 35m high.*
- b) Competitive designs for developments over 35m high.”*

In regards Key Element 8, the proponent’s Planning Report states:

“Noted, a site specific provision is proposed to ensure design excellence.”

Council has a design excellence clause that it consistently applies to Planning Proposal sites within the Chatswood CBD as follows:

- “1) The objective of this clause is to deliver the highest standard of architectural, urban and landscape design.*
- 2) This clause applies to development that is the erection of a new building on land shown in Area X of the Special Provisions Area Map.*
- 3) Development consent, including modification of development consent, must not be granted to development to which this clause applies unless:*
 - a) Where a building will be above 35 metres in height*
 - i) an architectural design competition that is consistent with the Willoughby Design Excellence Policy and Guidelines for Design Excellence Review and Competitions has been held in relation to the development, and*
 - ii) the design of the development is the winner of the architectural design competition, and*
 - iii) the consent authority considers and acknowledges that the development exhibits design excellence.*
 - b) Where a building is or will be higher than 12 metres but not above 35 metres in height*
 - i) The design is subject to review by a Design Excellence Review Panel, that is consistent with the Willoughby Design Excellence Policy and Guidelines for Design Excellence Review and Competitions, who consider that the design exhibits design excellence to a sufficient level to recommend that the project proceed to consideration by the consent authority*
 - ii) the consent authority considers and acknowledges that the development exhibits design excellence.*
- 4) An architectural design competition is not required under subclause (3) if the Planning Secretary or their delegate is satisfied that:*
 - a) such a process would be unreasonable or unnecessary in the circumstances,*
- 5) In deciding whether to grant development consent to development to which this clause applies, the consent authority must take into consideration Clause 3)a)iii) and 3)b)ii).*
- 6) In this clause:*

Design Excellence is a process and an outcome which follows a rigorous procedure including evaluation to achieve subclause (1).

Architectural Design Competition means a competitive process conducted in accordance with the Willoughby Design Excellence Clause and Guidelines for Design Excellence Review and Competitions.

Design Excellence Review Panel means a Council selected and appointed Panel or a Panel endorsed by the NSW Government Architects Office (Planning Secretary).

Guidelines for Design Excellence Review and Competitions mean Willoughby City Council Guidelines for Design Excellence Review and Competitions 09/12/2019.

Design Excellence Policy means the Willoughby City Council Design Excellence Policy 09/12/2019."

It is requested that this approach to amending WLEP 2012 be utilised.

Key Element 9

Key Element 9 states:

"Achievement of design excellence will include achievement of higher building sustainability standards."

In regards Key Element 9, the proponent's Planning Report states:

"Noted – this will be a matter required to be addressed in the detailed DA/Design Excellence process."

Council seeks a minimum GBCA rating or the like of 5 star in residential and commercial buildings. A higher GBCA rating is encouraged in commercial buildings.

In this regard Council seeks design excellence and building sustainability to be addressed in draft DCP provisions consistent with the Strategy and Council's standard site specific DCP template approach.

4) Floor Space Ratio

Key Element 12

Key Element 12 states:

"Minimum site area of:

- a) 1800sqm for commercial development in the B3 Commercial Core zone.*
- b) 1200sqm for mixed use development in the B4 Mixed Use zone.*

to achieve maximum FSR as indicated in Figure 3.1.4 (page 34). Site amalgamation is encouraged to meet this minimum requirement. In addition sites should not be left isolated.

The objective of this Key Element is to enable a site to be redeveloped to achieve an optimum outcome as envisioned under the Strategy and detailed in the other Key Elements. In particular, to enable:

- a) Provision of required setbacks to achieve slender towers and building separation whether on-site or with neighbouring sites,*
- b) Provision of ground level public realm or areas accessible by public on private land,*

- c) *Appropriate vehicle entry / exit point,*
- d) *Provision of parking and loading in basement with adequate on-site manoeuvrability,*
- e) *Maximising commercial floor space and street activation at ground level,*
- f) *Maximising landscaping and deep soil planting.”*

The site is satisfactory with regard to Key Element 12 and the 1800sqm minimum site area. The objective of the minimum lot size in the B3 Commercial Core is to enable a site to be redeveloped to achieve an optimum outcome as envisioned under the *Strategy* and detailed in the other Key Elements. While the numerical requirement is achieved, this submission has regard to the abovementioned optimum outcome as envisioned under the *Strategy* and detailed in the other Key Elements.

Council has an approach to minimum site area that it consistently applies to Planning Proposal sites within the Chatswood CBD as follows:

To add Clause 4.1D ‘Minimum lot size for Zone B3.

- “1) *The objective of this clause is to ensure a site is of sufficient size to achieve an optimum development outcome in the Chatswood CBD.*
- (2) *This clause applies to land in Zone B3 Commercial Core in the Chatswood CBD, identified as Area X on the Lot Size Map.”*

It is requested that this approach to amending *WLEP 2012* be utilised.

Key Element 13

Key Element 13 states:

“The FSRs in Figure 3.1.4 (page 34), should be considered as maximums achievable in the centre subject to minimum site area and appropriate contributions, and are as follows:

- a) *No maximum FSR for commercial development in the B3 zone ...*

Floor space ratio maximums are not necessarily achievable on every site, and will depend on satisfactorily addressing:

- a) *Site constraints,*
- b) *Surrounding context,*
- c) *Other aspects of this Strategy including setbacks at ground and upper levels,*
- d) *SEPP 65 and the associated Apartment Design Guidelines.”*

The subject site is in a location identified as having No Maximum for commercial development.

The following points are made that impact on the final FSR arrived at on this site:

- In the B3 Commercial Core zone, a No Maximum FSR was created to encourage commercial development (not mixed development). Under the *Strategy*, Council does not accept that the FSR achievable on this site would be the same for a sole commercial development as it would be for a mixed development.
- The Key Element is a standard requirement for Planning Proposals seeking to utilise the *Strategy* and would apply to the subject site. The FSR of 11.11:1 does not satisfy Key Elements 13 c) and d) above, and should be revised accordingly to be consistent with the envisioned outcome. This will have an impact on FSR.

Key Element 14

Key Element 14 states:

“Affordable housing is to be provided within the maximum floor space ratio, and throughout a development rather than in a cluster.”

The abovementioned Key Element is a standard requirement for Planning Proposals seeking to utilise the *Strategy* and would apply to the subject site.

The proponent’s Planning Report states:

“The proposal maintains that given the significant non-residential floor space being provided, affordable housing should be excluded from the maximum FSR consistent with approach under clauses 4.4 and 6.8 of the current LEP.”

The Council response to this different approach is that if the proponent seeks to utilise the uplift under the *Strategy* for this site, then all relevant Key Elements apply. An approach of choosing which Key Elements apply and then relying on existing *WLEP 2012* clauses (that will be changed in response to the *Strategy*) is not considered reasonable or in the public interest.

Therefore, Council seeks affordable housing to be provided within any proposed residential floor space component (not in addition to, which would result in an FSR more than 11.11:1) and separate to any VPA (as per Key Element 6).

In regards the public interest, Council would be interested to hear from the proponent if there is an opportunity to increase the affordable housing provision within the residential component, with 4% being the minimum requirement and future increases being considered.

5) Built Form

Key Elements 16, 17 and 18, are standard requirements for Planning Proposals seeking to apply the *Strategy* and would relate to the subject site.

If residential land use is proposed in a mixed use approach to a site within the B3 Commercial Core zone, then requirements for mixed use development in the B4 Mixed Use zone would apply.

Key Element 17

Key Element 17 states:

*“In pursuit of the same goal of slender tower forms, the width of each side of any tower should be minimised to satisfactorily address this objective. To the same end, design elements that contribute to building bulk are not supported, and should be minimised.
Setbacks are considered an important part of achieving slender tower forms.”*

The proponent’s Planning Report states:

“Sides of both towers have been minimised.”

Setbacks consistent with the *Strategy* reflect the built form envisioned for redevelopment – not retaining existing setback approaches. Floor plates below numerical standards and

minimisation of the sides of towers are not the sole requirements to be addressed. Setbacks are discussed further below.

Key Element 18

Key Element 18 states:

"If there is more than one residential tower on a site, sufficient separation is to be provided in accordance with setbacks required in this Strategy, SEPP 65 and the Apartment Design Guidelines, to ensure that the slender tower form objective is achieved. Council will seek to avoid an outcome where two towers read as one large tower. Towers are not to be linked above Podium and should operate independently regarding lifts and services."

The proponent's Planning Report states:

"Building separation between the residential Tower A and commercial office Tower B is between 21/24m, all but the separation provided at level 10 is consistent with the ADG.

Two separate slender tower forms are provided which read clearly as two towers. The two towers will operate independently in terms of lift cores and services."

Council seeks consistency with building separation and the *Apartment Design Guidelines*. The slender tower outcome has positive implications from the public domain as well as in regards to the amenity of neighbouring properties. In regards Key Element 18, amendments should be made with regard to building separation, with particular reference to Level 10.

Council seeks built form to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council's standard site specific *DCP* template approach.

6) Sun access to Key Public Spaces and adjacent Conservation Areas

Key Element 19

Key Element 19 proposes to establish sun access protection and heights in Figure 3.1.5 in Local Environmental Plan controls, to ensure no additional overshadowing and protection of certain areas in mid winter.

Three key public spaces are located within close proximity to the subject site, and to the south:

"c) Garden of Remembrance 12pm - 2pm.

d) Tennis and croquet club 12pm - 2pm.

e) Chatswood Oval 11am - 2pm (which in turn also protects Chatswood Park).

In addition,

f) Heights adjoining the South Chatswood Conservation Area will provide for a minimum 3 hours solar access between 9am and 3pm mid winter."

It should be noted that Chatswood Park (which includes Chatswood Oval) is within the South Chatswood Conservation Area.

In regards Key Element 19, the proponent's Planning Report states:

"Proposed height of both towers will ensure no additional shadow to Chatswood Oval

between 11am and 2pm. An additional local provision is proposed to ensure that no additional sunlight will impact on the 'playing surface' of Chatswood Oval consistent with Figure 3.1.5 of the CBD Strategy."

The discussion of overshadowing on Page 49 of the proponent's Planning Report is noted. However the shadow diagrams provided (Appendix 1) do not clearly show the overshadowing directly related to the subject concept plans development, with all overshadowing shown in the same colour. Shadow diagrams are requested that clearly show:

- Overshadowing for what is proposed, together with any other overshadowing from other development. For clarity purposes, if the overshadowing is within existing shadowing, this still should be highlighted on the plans. Any additional overshadowing should also be shown.
- Pre and post development shadow diagrams for a comparison.

The above information is to clearly indicate the impact of overshadowing from the subject Planning Proposal on the three key public spaces abovementioned, with particular regard to Chatswood Oval (and Chatswood Park).

7) Building Heights

Key Element 20

The subject site is identified in Figure 3.1.6 'Recommended height' as located in the area protected by sun protection within the Chatswood CBD.

Key Element 20 states:

"Maximum height of buildings in the CBD will be based on Figure 3.1.6, based on context and up to the airspace limits (Pans Ops plane), except as reduced further to meet:

a) Sun access protection.

Achievement of nominated height maximums will depend on addressing site constraints, surrounding context and other aspects of this Strategy in addition to satisfying SEPP 65 and Apartment Design Guidelines."

This Key Element is a standard requirement for Planning Proposals seeking to utilise the *Strategy* and would apply to the subject site. The subject Council submission has had regard to the *Strategy* vision with regard to proposed height as affected by sun access protection and the other matters abovementioned.

In regards Key Element 20, the proponent's Planning Report states:

"Maximum height has been provided in accordance with the sun access protection diagram."

There are three RL's that affect the subject site, with the most southern RL being RL 160m (boundary where Albert Avenue meets Orchard Road), the middle section being RL 180 m and the most northern being RL 200 m (boundary where 65 Albert Avenue meets 31 Victor Street).

The Planning Proposal seeks a height control over the entire site of RL 192.9 m.

Council has no objection to the concept plans height provided it is in accordance with Figure 3.1.6 and the reduced height for sun access protection. The plans provided do not clearly indicate how compliance is achieved. Detailed plans should be provided showing how the heights proposed satisfactorily address the contours and RL heights shown on Figure 3.1.6 of the *Strategy*.

Council seeks building heights to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council's standard site specific *DCP* template approach.

Key Element 21

Key Element 21 states:

"All structures located at roof top level, including lift over runs and any other architectural features are to be:
a) *Within the height maximums.*
b) *Integrated into the overall building form."*

In accordance with Key Element 21, all structures located at roof level are to be within the height maximum (including roof features). Roof features are encouraged however the height uplift under the *Strategy* has made allowance for such provision. In addition, these maximum heights are only achievable provided the other aspects of the *Strategy*, with particular regard to land use, are addressed.

For clarity purposes and to assist any reader, it is requested that elevation and section plans refer to RL heights, metres and storeys.

Council has an approach to architectural roof features and height that it consistently applies to Planning Proposal sites within the Chatswood CBD as follows:

To add Clause 5.6 'Architectural roof features', (2A) as follows:

"(2A) Despite subclause (2), development within Area X on the Special Provisions Area Map may only be carried out in accordance with the maximum height of Clause 4.3."

It is requested that this approach to amending *WLEP 2012* be utilised.

8) Links and Open Space

Key Element 22

Key Element 22 states:

"The links and open space plan in Figure 3.1.7 (page 36) will form part of the DCP. All proposals should have regard to the potential on adjacent sites. Pedestrian and cycling linkages will be sought in order to improve existing access within and through the CBD. New linkages may also be sought where these are considered to be of public benefit. All such links should be provided with public rights of access and designed with adequate width, sympathetic landscaping and passive surveillance."

Analysis is required to clearly identify how the requirements in Figure 3.1.7 have been addressed. How is this space to be managed and public access guaranteed ?

Key Element 23

Key Element 23 states:

“Any communal open space, with particular regard to roof top level on towers, should be designed to address issues of quality, safety and usability.”

The proponent’s Planning Report refers to an incorrect Key Element in regards Key Element 23 communal open space. Analysis of the *Strategy* should be updated to accurately reflect the 35 Key Elements.

It is also noted that the Planning Proposal provides for a commercial tower, a residential tower, a retail commercial podium and basement supermarket, as well as a podium level child care / education facility. The communal open space allocated to each use should be identified and satisfactorily serve each respective use. Particular concern is raised in regards the Level 5 Podium and the relationship between residential communal open space and the child care / education facility. It is considered that residential communal open space should be divided between podium level and roof top level for an acceptable outcome.

Council seeks links and open space to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council’s standard site specific *DCP* template approach.

9) Public realm or areas accessible by public on private land

Key Element 24

Key Element 24 states:

“Public realm or areas accessible by public on private land:

- a) Is expected from all B3 and B4 redeveloped sites.*
- b) Is to be designed to respond to context and nearby public domain.*
- c) Should be visible from the street and easily accessible.*
- d) Depending on context, is to be accompanied by public rights of way or similar to achieve a permanent public benefit.”*

The proponent’s Planning Report refers to an incorrect Key Element in regards Key Element 24. Analysis of the *Strategy* should be updated to accurately reflect the 35 key Elements.

It is noted that the concept plans show a Ground Level setback of 3m to Albert Avenue, and 2m to Victor Street. These setbacks are supported and encouraged in regards to the provision of public realm, but are not considered reasons for variation of other *Strategy* or setback requirements.

Further explanation is requested on how the proposal has been designed to maximise public benefit and encourage public use – in accordance with this key Element. Council also requests detail on how the permanent public benefit is to be achieved (KE 24d)).

Council seeks public realm to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council’s standard site specific *DCP* template approach.

It is noted that Planning Proposal 2013/4 for the subject site was accompanied by improvements to the surrounding road network, provision of additional public open space and footpath widening in a draft Voluntary Planning Agreement (VPA) as follows:

- A 3m wide road dedication to Council along Albert Ave (unencumbered by any building above) to enable adequate traffic access to and from the site.
- A publicly accessible landscaped open space area (minimum area 97.8sqm) connecting with the interchange public open space terrace precinct.
- The provision of a two metre building setback at the ground level of the proposed development along the full length of the Victor St frontage of the site providing an active street frontage with a widened public footpath and street planting.

Council would be interested to discuss the possibilities of any of the above items being included in a Voluntary Planning Agreement. In regards Victor Street, Council would be interested in the provision of a two metre setback unencumbered by any building above to improve the pedestrian experience leading to and from Chatswood Mall and the Transport Interchange (via Post Office Lane).

10) Landscaping

Key Element 25

Key Element 25 states:

"All roofs up to 30 metres from ground are to be green roofs. These are to provide a green contribution to the street and a balance of passive and active green spaces that maximise solar access."

Although the incorrect Key Element number is used, in regards this issue the proponent's Planning Report states:

"Design for green roofs, open space etc. can be resolved through the design excellence process and detailed DA."

Council seeks green roofs to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council's standard site specific *DCP* template approach.

Key Element 26

Key Element 26 states:

"A minimum of 20% of the site is to be provided as soft landscaping, which may be located on Ground, Podium and roof top levels or green walls of buildings."

Although the incorrect Key Element number is used, in regards this issue the proponent's Planning Report states:

"Soft landscaping can be resolved through the design excellence process and detailed DA."

Although it is appreciated that the design is still in 'concept' stage, Council nonetheless requests landscape plans that address soft landscaping on-site, how the above two 'Landscaping' Key Elements are addressed, and how the proposal is consistent with the objective of greening the Chatswood CBD. In addition to concept landscape plans, Council seeks draft *DCP* provisions which address *Strategy* Key Elements related to landscaping, consistent with the *Strategy* and Council's standard site specific *DCP* template approach.

An important objective of the *Strategy* is redevelopment being accompanied by a greening of the Chatswood CBD – which is applicable to the B3 Commercial Core. Soft landscaping is to

be provided within a site, and where possible, visible from the street. The location of the site within the Urban Core precinct is acknowledged. Podium levels should contain greening that is visible from Albert Avenue and Victor Street.

The Planning report refers to incorrect Key Element numbering in regards Key Elements 25 and 26. Analysis of the *Strategy* should be updated to accurately reflect the 35 key Elements.

11) Setbacks and Street Frontage Heights

Key Element 27

Key Element 27 identifies the subject site as being in the Urban Core Precinct with setback and street frontage heights as follows:

- i. Maximum 24 metre street wall height at front boundary.*
- ii. Minimum 6 metre setback above street wall to tower."*

The above applies to both Albert Avenue and Victor Street. This key Element is to be read in conjunction with other Key Elements, with particular reference to Key Elements 24 Public Realm and 28 (below).

In regards Key Element 27, the proponent's Planning Report states:

"A varied approach to street wall heights and setbacks has been taken to respond to existing context including the podium height of the adjacent Sebel (north). The Albert Ave podium height aligns with Westfield to the east. Above the street wall the residential tower is generally setback 6m from the street wall. The commercial tower setbacks align with the core and front setback of the adjacent 'Sentral' office tower to the west."

The above approach to setbacks is not consistent with the vision established in the *Strategy* and expected from all future development.

The concept plans are not consistent with the street wall height to Albert Avenue (for approximately 14 metres of the Albert Avenue frontage). The concept plans show a street wall height to Albert Avenue of approximately 72 metres from Ground to Level 18 (being the highest level). The street wall height to Albert Avenue should be no higher than 24 metres, with a 6 metre setback then provided for the commercial tower. As previously discussed, the provision of a Ground Level setback does not justify an increase in street wall height.

The concept plans are not consistent with the street wall height to Victor Street. The concept plans show a street wall height to Victor Street of 28.5 metres – from Ground to level 6 (for the majority of the Victor Street frontage). The street wall height to Victor Street should be no higher than 24 metres, with a 6 metre setback then provided. In this regard Levels 5 and 6 should be further setback. As previously discussed, the provision of a Ground Level setback does not justify an increase in street wall height.

Key Element 28

Key Element 28 states:

"All towers above podiums in the B3 Commercial Core and B4 Mixed Use zones are to be setback from all boundaries a minimum of 1:20 ratio of the setback to building height."

This means if a building is:

- e) A total height of 30m, a minimum setback from the side boundary of 1.5m is required for the entire tower on any side.*
- b) A total height of 60m, a minimum setback from the side boundary of 3m is required for the entire tower on any side.*
- c) A total height of 90m, a minimum setback from the side boundary of 4.5m is required for the entire tower on any side.*
- d) A total height of 120m, a minimum setback from the side boundary of 6m is required for the entire tower on any side ...*

The required setback will vary depending on height and is not to be based on setback averages but the full setback.”

The proponent's Planning Report states:

“Application of this setback to the podium shopping centre is not a desired development outcome. Nevertheless, the ground floor has been setback 3m from Albert Avenue to provide an active street frontage.”

Key Element 28 applies to both towers – whether commercial or residential. Attention is drawn to the Albert Street frontage, Victor Street frontage, the commercial tower to the ‘Sentral’ building and Level 6 to 31 Victor Street. Amendments to the concept plans are required to be consistent with the *Strategy*. This is the desired development outcome as envisioned under the *Strategy*, and will be required into the future when neighbouring sites are redeveloped. The provision of the Ground level setback and active street frontage are matters that are either encouraged or required under the *Strategy* and not the basis for substantial variation in setback requirements.

In regards Key Element 28, a staggered setback as you go up in height is not what is sought – unless it is in addition to the minimum required. What is sought is a minimum setback at the beginning of the tower (for the whole tower) based on height.

Key Element 29

Key Element 29 states:

“Building separation to neighbouring buildings is to be:

- a) In accordance with the Apartment Design Guide for residential uses.*
- b) A minimum of 6 metres from all boundaries for commercial uses above street wall height.”*

In regards Key Element 29, the proponent's Planning Report states:

*“ADG separation distances are proposed for the residential tower:
- 9m to northern boundary with ‘Sebel’ (half minimum separation distance)
- 21/24m to commercial tower. Whilst level 10 is below the minimum separation distance the separation is greater than 18m required below Level 9 and is considered an appropriate response in this context.”*

All buildings part of this Planning Proposal are to be in accordance with the abovementioned minimum setbacks. Particular regard is given to tower height above Podium.

In regards Key Element 29, if a residential component is proposed in the subject Planning Proposal, then it should be designed assuming that the neighbouring property may seek a residential component. On this basis clear analysis is to be shown on plans regarding how the Planning Proposal is able to satisfactorily address *SEPP 65* and the *Apartment Design Guide* for residential uses.

Council seeks setbacks and street frontage heights to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council's standard site specific *DCP* template approach.

The *Strategy* establishes clear parameters for future redevelopment of the Chatswood CBD in a manner that is consistent with the endorsed vision to 2036, respecting both the public domain and the amenity of adjoining buildings.

12) Active Street Frontages

Key Element 30

Key Element 30 states:

"At ground level, to achieve the vibrant CBD Council desires, buildings are to maximise active frontages. Particular emphasis is placed on the B3 Commercial Core zone. Blank walls are to be minimised and located away from key street locations."

In regards Key Element 30, Council seeks active street frontages to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council's standard site specific *DCP* template approach.

13) Floor Space at Ground level

Key Element 33

Key Element 33 states:

"Floor space at Ground level is to be maximised, with supporting functions such as car parking, loading, garbage rooms, plant and other services located in Basement levels."

In regards Key Element 33, Council seeks floor space at ground level to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council's standard site specific *DCP* template approach.

14) Substations

Key Element 34

Key Element 34 states:

"Substations are to be provided within buildings, not within the streets, open spaces or setbacks and not facing key active street frontages."

In regards Key Element 34, the proponent's Planning Report states:

"Noted and can be resolved at detailed design."

This is a matter that Council seeks to have addressed, consistent with the *Strategy*. In this regard Council seeks substations (services) to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council's standard site specific *DCP* template approach.

15) Traffic and Transport

Key Element 35

Key Element 35 states:

"The CBD Strategy employs a Travel Demand Management approach seeking to modify travel decisions to achieve more desirable transport, social, economic and environmental objectives consistent with Council's Integrated Transport Strategy ..."

The proponent's Planning Report states:

"All access and parking requirements are consistent with this approach ..."

The Planning Proposal concept plans show the following:

- Entry via Victor Street and exit via Orchard Road for basement parking, loading and servicing (referred to in documentation as Option 2).
- A physical loading solution in Basement 1.

It is noted that Victor Street ends in a road closure to Chatswood Mall, with a constrained vehicle turning capacity. In addition Victor Street intersects with Post Office Lane and is characterized on the eastern side by Westfield Shopping Centre.

Victor Street and its surrounds is highly pedestrianised, with Chatswood Mall being the pedestrian spine of the Chatswood CBD, Post Office Lane being an important pedestrian access / egress to / from the Chatswood Transport Interchange and Westfield having a pedestrian access/ egress from Victor Street.

The Council vision for Victor Street is to encourage pedestrian usage and manage vehicle impacts. This is consistent with the site's location close to the Chatswood Transport Interchange. It is acknowledged that the Council vision is required to be balanced with vehicle requirements for existing development and the vehicle requirements for future developments. A Planning Proposal (PP 2016/7/A, dated 25 September 2020) has already been submitted on a different site in Victor Street, being 45 Victor Street (the old Post Office site) and 410-416 Victoria Avenue – yet to be determined. Analysis of traffic implications should have regard to this Planning Proposal. Concern is also raised with SIDRA analysis dated April 2016.

With regard to optimum development outcomes in Victor Street, Council is seeking loading / servicing and car parking solutions to minimise streetscape impact – and seeks a consistent approach whether Council or DPIE is the Planning Proposal authority.

Key Element 35 a) states:

*"Vehicle entry points to a site are to be rationalised to minimise streetscape impact, with one entry area into and exiting a site. To achieve this objective loading docks, including garbage and residential removal trucks, are to be located within Basement areas.
Where possible, cars and service vehicle access should be separated."*

Council is prepared to consider entry via Victor Street, and exit via Orchard Road, provided the detail of the Basement arrangement is satisfactory to accommodate residential and commercial vehicles, as well as loading/unloading and servicing vehicles. It is noted that cars and service vehicles are proposed to be separated on Basement Level 1.

Key Element 35 c) states:

“All vehicles are to enter and exit a site in a forward direction. Physical solutions, rather than mechanical solutions are sought.”

It is understood that plans at this stage are conceptual in nature and it is accepted that detailed plans and solutions will be provided at DA stage, however Council is seeking a concept design that shows all on-site vehicle manoeuvrability including loading and servicing accommodated satisfactorily, without having adverse impacts on Victor Street, Orchard Road, as well as Albert Avenue. Under no circumstances are vehicles stopping on surrounding streets permitted.

A physical solution is supported in regards vehicle manoeuvring for loading/ unloading and service vehicles. Notwithstanding this support, concern is raised with the layout shown on Basement Level 1. The arrangement shown involves questionable manoeuvrability and suggests potential conflict between loading and servicing vehicles and other vehicles either accessing the lower Basement car park levels or seeking to exit the site via Orchard Road. A rethink of the Basement 1 Level is considered reasonable and justified at Planning Proposal stage (and not put off to DA stage), due to the important location of this site within the Chatswood CBD and its relationship with the surrounding road network.

In the interests of assisting the proponent, concept plans are requested showing:

- Within the basement, a separate commercial loading / garbage area and a separate residential loading / garbage area. It is noted that a supermarket and child care / education facility, in addition to other retail uses, and commercial and residential uses are proposed.
- Loading provision based on the maximum vehicle size required for the uses identified in the Planning Proposal, with particular regard to the supermarket, residential loading/unloading requirements and servicing vehicles.
- Child care / education facility vehicle movement provision, with particular requirements such as drop off and pick up addressed.

Plans and turning circles for a minimum medium rigid vehicle (or large if required) are requested for consideration, including entering and exiting the site, with particular regard to trucks exiting via Orchard Road.

Key Element 35 d) states:

“All commercial and residential loading and unloading is required to occur on-site and not in public streets.”

The request for additional information above is consistent with this Key Element. Council seeks the optimum outcome envisaged in the *Strategy* on this important site within the Chatswood CBD.

Key Elements 35 e) and f) state:

“Car parking should be reduced consistent with the objectives of Council’s Integrated Transport Strategy and in accordance with any future revised car parking rates in Councils DCP.

Other strategies for car parking reduction include reciprocal arrangements for sharing parking and car share.”

Concern is raised with the addition of 546 car spaces in this location (being 112 residential, 338 retail, 92 commercial and 3 child care / education). Council is in the process of reviewing car parking rates in the Chatswood CBD and requests the following rates are considered (being lower than the current *DCP* rates):

Land use		Parking rate
Office		1 space per 400 sqm GFA
Retail (<1000 sqm)		-
Retail (>1000 sqm)		1 space per 300 sqm GFA
Residential	Studio	0.5 spaces per dwelling
	1-bed	0.5 spaces per dwelling
	2+ bed	1 space per dwelling
	Visitor	1 space per 10 dwellings

Further reduction in car parking provision will have a positive impact on traffic volumes associated with this Planning Proposal, and therefore both Victor Street and Orchard Road.

Other matters where further detail is requested:

- Motorcycle / bicycle parking spaces and end-of-trip facilities.
Council would be interested to hear from the proponent if it would be possible to include a substantive end of trip cycle facility, serving the Chatswood CBD, as part of the proposal.
- Green Travel Plan (GTP)
- Car share and electric vehicle (EV) spaces

The following traffic and transport related amendments are requested to the Concept Plans:

- Reconsideration of Basement Level 1:
 - retaining a physical solution
 - enabling loading vehicles and garbage / servicing vehicles to enter and leave the site in a forward direction
 - showing no interference with internal traffic flows
- Car parking provision based on the abovementioned car parking rates.
- At the corner of Albert Avenue and Victor Street, a splay is to be provided that complies with the swept turning path of a minimum medium rigid vehicle (MRV).

Council seeks traffic and transport to be addressed in draft *DCP* provisions consistent with the *Strategy* and Council’s standard site specific *DCP* template approach.

12th November, 2020

DRAFT SITE SPECIFIC DEVELOPMENT CONTROL PLAN

815 Pacific Highway & 15 Help Street Chatswood

1.0 General

The controls contained in this Site Specific Development Control Plan applies to land bounded by Pacific Highway to the west, Help Street to the south and McIntosh Street to the north as shown on the map below.

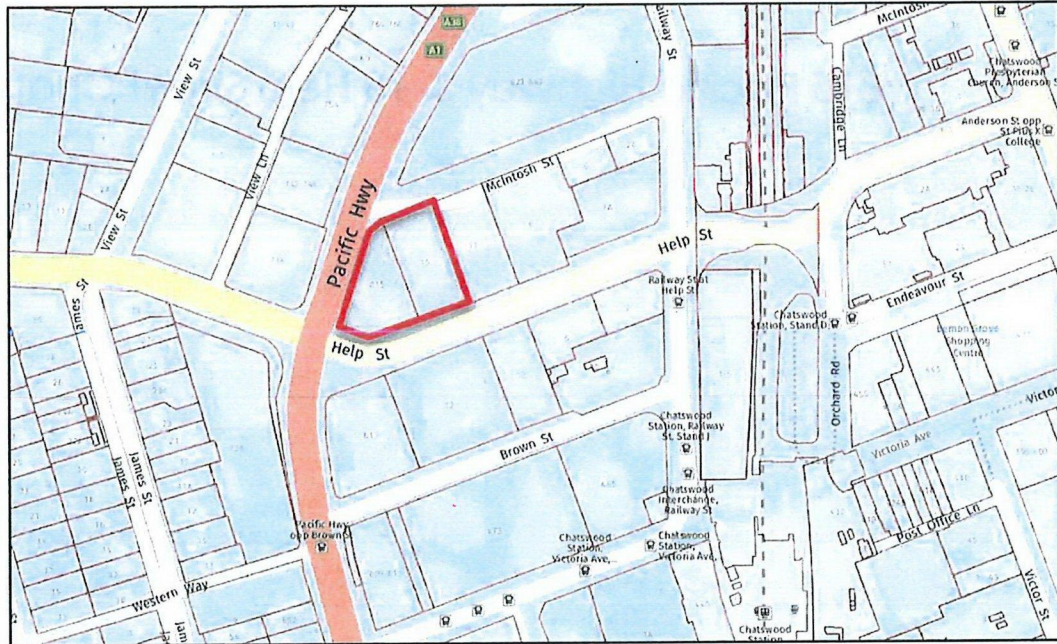


Figure 1: Land to which this Development control plan applies

Objectives of the Plan

The Objectives of the Plan are to:

1. Support the provision of commercial development at the western extent of Chatswood CBD.
2. Enable the development of the site without impacting the viability of adjoining land.
3. Provide an iconic building exhibiting design excellence in architectural form and materials.
4. Encourage a built form that presents the site as a landmark and gateway development for the Chatswood commercial centre.
5. Minimise traffic impacts on the surrounding road network.
6. Provide landscaping in and surrounding the site that enhances the presentation of the site as well as the amenity of the development.
7. Maximise street level activation.

2.0 Built form

Performance Criteria

The built form of new development shall:

1. Achieve a slender tower form on the site
2. Achieve a site layout that provides a pleasant environment for the occupants and minimises impact on surrounding properties.
3. Ensure visual and acoustic privacy and sun access.
4. Provide suitable areas for communal open spaces, deep soil zones and landscaping

Controls

1. The ground floor shall incorporate retail/commercial uses that present and display their activity to the street
2. Building materials and finishes are to be predominantly comprised of a natural palette of steel, concrete, glass and timber

3.0 Height of Building

Performance Criteria

The built form of new development shall:

1. Be consistent with the permitted Height of Buildings development standard applicable to the site.

Controls

1. The maximum building height is to include all structures located at roof level, including lift over runs and any other architectural features.
2. All rooftop lift overruns or exposed structures are to be integrated with the building.
3. Flat roof areas shall incorporate useable outdoor recreation space where suitable.

4.0 Street Frontage Heights And Setbacks

Performance Criteria

Setbacks shall:

1. Contribute to deep soil areas, landscaping and open space at street level
2. Minimise the effects of adverse wind conditions at street level
3. To ensure the positioning of new buildings contribute to the existing or proposed streetscape character.

Controls

1. The building setbacks are to be in accordance with Figure 2 "Street Frontage Heights and Building Setbacks" as detailed in the *Willoughby Council Chatswood CBD Strategy 2036*

SETBACKS AND STREET FRONTAGE HEIGHTS

27 Setbacks and street frontage heights are to be provided based on Figure 3.1.8, which reflect requirements for different parts of the Chatswood CBD. With setbacks of 3 metres or more, including the Pacific Highway, deep soil planting for street trees is to be provided.

a) Victoria Avenue retail frontage:

- i. Maximum of 7 metre street wall height at front boundary.
- ii. Minimum 6 metre setback above street wall to tower.

b) Urban Core:

- i. Maximum 24 metre street wall height at front boundary.
- ii. Minimum 6 metre setback above street wall to tower.

c) Office core frontage:

- i. 4-12 metre street wall height at front boundary.
- ii. Minimum 6 metre setback above street wall to tower.

d) Mixed use frontage with commercial Ground Floor:

- i. 6-14 metre street wall height at front boundary.
- ii. Minimum 3 metre setback above street wall to tower.

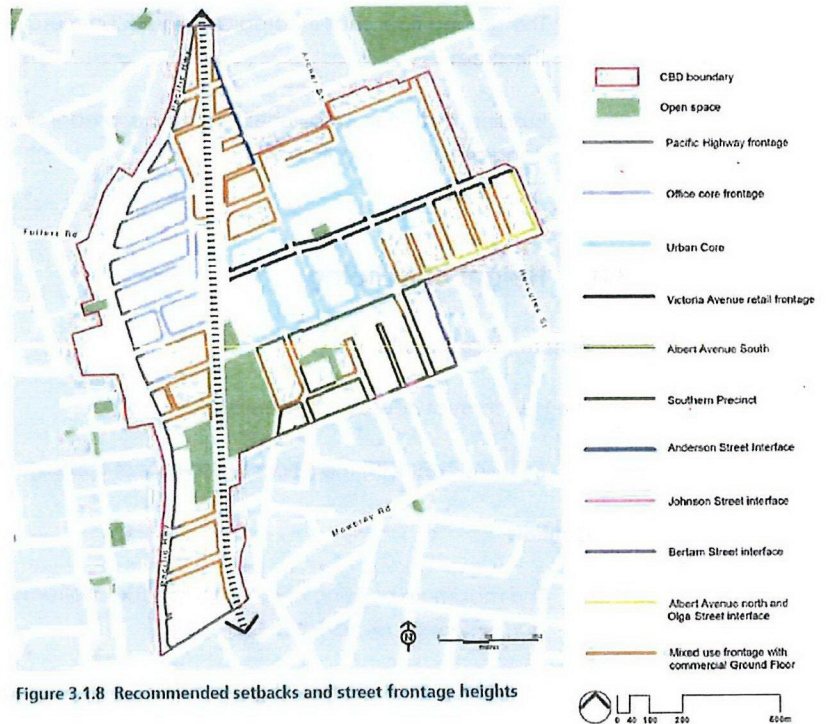


Figure 2: Street Frontage Heights and Building Setbacks

5.0 Building Exterior

Performance Criteria

1. Buildings are to demonstrate a high visual quality of development when viewed from the public domain and the surrounding area.
2. Building facades shall complement the character of the area and contribute to creating attractive pedestrian environments and streetscapes.
2. Facade design to encourage active street frontages to streets and their surrounding public domain.

Controls

1. The building façade is to be modulated and articulated to assist in softening the facades bulk and scale.
2. Facades are to be articulated and should incorporate recesses and projecting elements.
3. Extensive blank walls shall be avoided at street level.

6.0 Open Space and Landscaping

Performance Criteria

3. The development is to provide deep soil planting where green landscaping is located.
4. Green roof tops and usable rooftop areas shall be provided.

Controls

1. Open space at ground level shall be utilized as publicly accessible open space.
2. Public domain improvements shall be provided to all street frontages to Council requirements.
3. Ground floor open space areas are to incorporate landscaped areas that integrate with the surrounding public domain.
4. A minimum of 2 hours of sun access is to be provided to the public open space on the site.
7. A landscape plan is to be provided at Development Application stage detailing all vegetation proposed including species, container size at planting, spacing and approximate size of maturity.
8. All existing aerial cables which may include for electricity, communications and other cables connected to street poles and buildings around the site shall be removed and installed underground in accordance with the requirements of the relevant service authorities. Ausgrid lighting poles are to be provided to the requirements of Ausgrid for Street lighting and shall be positioned compatible to the landscaping design around the site

7.0 Links

Performance Criteria

1. The development shall provide publicly accessible links and open space.
2. Publicly accessible open space is to include green landscaping.

Controls

1. The development is to incorporate publicly accessible pedestrian links through the site to the adjoining road reserve level in accordance to figure 3 as detailed in the *Willoughby Council Chatswood CBD Strategy 2036*
2. All publicly accessible open space and linkages are to be the responsibility of the relevant ownership entity, with formal public access to be created over these areas.

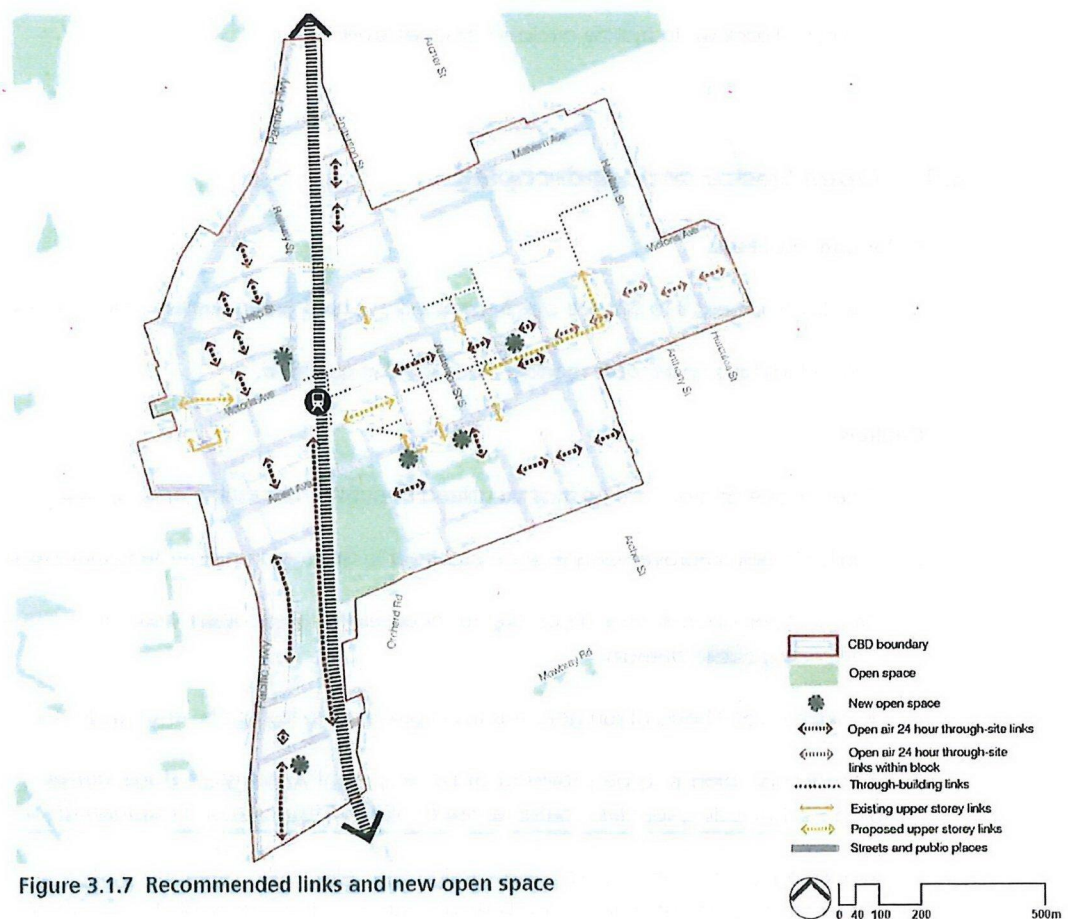


Figure 3.1.7 Recommended links and new open space

Figure 3: Pedestrian links

8.0 Traffic and Transport

Performance Criteria

1. The number of vehicle access points to the development are to be minimised.
2. Opportunities shall be explored to reduce on-site car parking.
3. Vehicle access points are designed to minimize their impacts on pedestrians.

Controls

1. Vehicle access points to the development are to be from McIntosh Street.
2. All car parking is to be located below ground level.
3. A loading dock screened from the public domain for delivery and service vehicles is to be provided which allows for vehicles to enter and leave in a forward direction.
4. All commercial/retail vehicle access points for the development are to occur via McIntosh Street.
5. All delivery and service vehicle access including waste points for the development are to occur via McIntosh street.
6. All loading/unloading to occur at basement level and screened from view from the public domain.

9.0 Waste Management and Loading

Performance Criteria

1. To ensure that adequate provision is made for waste storage and disposal.

Controls

1. A concealed waste storage and collection bay is to be provided within the basement parking level of the development. The waste storage and collection area is to be designed to ensure level and safe collection of all waste generated from the use of the development.
2. A Waste Management Plan shall be submitted at Development Application Stage.

10.0 Design Excellence and Building Sustainability

Design Excellence

1. Design excellence is to be required for all developments based on the following process:
 - a) A Design Review Panel for developments up to 35m high.
 - b) Competitive designs for developments over 35m high.

Sustainability

1. A minimum of 5.5 stars GBCA building rating is expected, with 6 stars GBCA building rating being encouraged. An assessment report is to be submitted at Development Application stage.
2. A detailed wind assessment report is to be provided at Development Application stage.

11.0 Public Art

1. Any Public Art is to be in accordance with Council's Public Art Policy.

12.0 Services

1. Substations are to be provided within buildings, not within the streets, open spaces or setbacks and not facing key active street frontages. Substations are to be designed to ensure protection of workers from Electro Magnetic Radiation (EMR) emissions.
2. All servicing conduits and reticulation are to be concealed and integrated into the building design.