

18 REPORTS FROM OFFICERS – PLANNING AND INFRASTRUCTURE DIRECTORATE

18.1 753 PACIFIC HIGHWAY AND 15 ELLIS STREET, CHATSWOOD - PLANNING PROPOSAL

ATTACHMENTS:

1. IMPLICATIONS
2. COUNCIL DETAILED ASSESSMENT
3. COUNCIL ASSESSMENT OF DEPARTMENT OF PLANNING AND ENVIRONMENT'S "A GUIDE TO PREPARING PLANNING PROPOSALS"
4. PLANNING PROPOSAL CONCEPT PLANS (PROVIDED SEPARATELY)
5. DRAFT DEVELOPMENT CONTROL PLAN PROVISIONS
6. PROPOSED WRITTEN AMENDMENTS TO WILLOUGHBY LOCAL ENVIRONMENTAL PLAN 2012
7. PROPOSED WILLOUGHBY LOCAL ENVIRONMENTAL PLAN 2012 LAND ZONING, HEIGHT OF BUILDINGS, FLOOR SPACE RATIO, SPECIAL PROVISIONS AREA AND ACTIVE STREET FRONTAGE MAPS

RESPONSIBLE OFFICER: IAN ARNOTT - PLANNING MANAGER

AUTHOR: EMMA BROWN – STRATEGIC PLANNER

CITY STRATEGY OUTCOME: 5.1 – BE HONEST, TRANSPARENT AND ACCOUNTABLE IN ALL THAT WE DO

MEETING DATE: 12 NOVEMBER 2018

1. PURPOSE OF REPORT

To seek endorsement for the forwarding of Planning Proposal PP-2017/0007 for 753 Pacific Highway and 15 Ellis Street, Chatswood, to the Department of Planning and Environment for a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979* and proceed to public exhibition.

Members of the Sydney (North) Planning Panel should retire from Council Chambers during consideration of the Agenda Item.

2. OFFICER'S RECOMMENDATION

That Council:

1. Forward the Planning Proposal to the Department of Planning and Environment seeking a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*, with the following amendments to Willoughby Local Environmental Plan 2012:

a) To replace Clause 4.4 'Floor Space Ratio', (2A), (b) with the following:

"(b) any part of the floor area of a building that:

- (i) is to be used for community facilities, or
 - (ii) is a heritage item, or
 - (iii) is to be used for affordable housing purposes if located within Area 3 on the Special Provisions Area Map
- is taken not to be part of the gross floor area of the building for determining the maximum floor space ratio of the building."

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

"(2A) Despite subclause (2), development within Area 8 on the Special Provisions Area Map may only be carried out in accordance with the maximum height of Clause 4.3."

c) To replace Clause 6.8 'Affordable Housing', (2) with the following:

"(2) Development consent must not be granted to the erection of residential accommodation on land identified as "Area 3" and "Area 9" on the Special Provisions Area Map unless the consent authority has taken the following into consideration:

- (a) the Willoughby Affordable Housing Principles,
- (b) the impact the development would have on the existing mix and likely future mix of residential housing stock in Willoughby,
- (c) whether one of the affordable housing conditions should be imposed on the consent for the purpose of providing affordable housing in accordance with the Willoughby Affordable Housing Principles.

Note. The affordable housing principles set out in Schedule 2 to State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes) may also apply to the development."

d) To replace Clause 6.8 'Affordable Housing', (7) with the following:

"(7) In this clause:

accountable total floor space means:

- a) If in Area 3 on the Special Provisions Area Map, the gross floor space of the residential component of the development to which the development application relates, excluding any residential floor area of the building that is used for affordable housing purposes.
- b) If in Area 9 on the Special Provisions Area Map, the gross floor space of the residential component of the development to which the development application relates, including any residential floor area of the building that is used for affordable housing purposes."

e) To add Clause 6.23 as follows:

“6.23 Minimum commercial floor space within the Mixed Use zone

Land zoned B4 Mixed Use is to contain a minimum commercial floor space component of 1:1 if located within Area 11 on the Special Provisions Area Map.”

f) To add Clause 6.24 as follows:

“6.24 Design Excellence

- (1) The objective of this clause is to deliver the highest standard of architectural, urban and landscape design.
- (2) This clause applies to development involving the erection of a new building on land shown in Area 11 on the Special Provisions Area Map.
- (3) Development consent must not be granted to development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.”

g) To add Clause 4.3A (9) as follows:

“4.3A (9) Development consent must not be granted to the erection of a building on the land at 753 Pacific Highway and/or 15 Ellis Street, Chatswood if the development would cause increased overshadowing impacts on the Chatswood Tennis and Croquet Club at mid winter between 12pm - 2pm.”

- h) To amend the Land Zoning Map (Sheet LZN_004) for 753 Pacific Highway & 15 Ellis Street, Chatswood, to B4 Mixed Use.
- i) To amend the Height of Buildings Map (Sheet HOB_004) for 753 Pacific Highway & 15 Ellis Street, Chatswood, to 90 metres.
- j) To amend the Floor Space Ratio Map (Sheet FSR_004) for 753 Pacific Highway & 15 Ellis Street, Chatswood, to 6:1.
- k) To amend the Special Provisions Area Map (Sheet SPA_004) to show 753 Pacific Highway & 15 Ellis Street, Chatswood, as Area 8, Area 9, Area 11.
- l) To amend the Active Street Frontages Map (Sheet ASF_004) to show 753 Pacific Highway & 15 Ellis Street, Chatswood to include the Pacific Highway and Ellis Street frontages.

2. Subject to 1. above, endorse for public exhibition the Planning Proposal as amended.

3. Endorse for public exhibition the Planning Proposal, with the accompanying draft site specific *Development Control Plan* provisions, subject to the following amendments:

a) Add under Built Form:

"The maximum tower floor plate that applies to this site for residential towers above a podium is 700m²."

b) Add under Street Frontage Heights and Setbacks:

"Building street frontage heights and setbacks are to be in accordance with Figure 2 "Street Frontage Heights and Setbacks" below.

Figure 2 "Street Frontage Heights and Setbacks" is to replicate what is shown regarding the subject site, in Key Element 27, Figure 3.1.8 of the *Chatswood CBD Planning and Urban Design Strategy to 2036*.

"All buildings are to be setback from all boundaries a minimum of 1:20 ratio of the set back to building height (eg. 3m setback for a 60m building, 4.5m setback for a 90m building)."

c) Add under Traffic and Transport:

Traffic shall be restricted to left in / left out on the Crispe Lane entrance, to be facilitated by the introduction of a median strip and constructed at the cost of the proponent and involving consultation with Councils Traffic Section."

4. Require an updated Letter of Offer to enter into a Planning Agreement, to be submitted to Council prior to referral to Gateway, as the basis for further negotiation.
5. Note that following public exhibition the Planning Proposal will be reported back to Council detailing the outcome of the public exhibition period at which time Council may resolve:
- a) To proceed as recommended.
- b) To not proceed with the Planning Proposal.
6. Request that the Department of Planning and Environment nominate Council as the Planning Authority to finalise the Planning Proposal and that the Department of Planning and Environment delegate authority to the Council Planning Manager, Mr Ian Arnott to process and finalise the Planning proposal documentation for the purposes of Section 3.36 of the *Environmental Planning and Assessment Act, 1979*.
7. Delegate authority to the General Manager to make any minor amendments to the Planning Proposal which do not alter the policy intent.

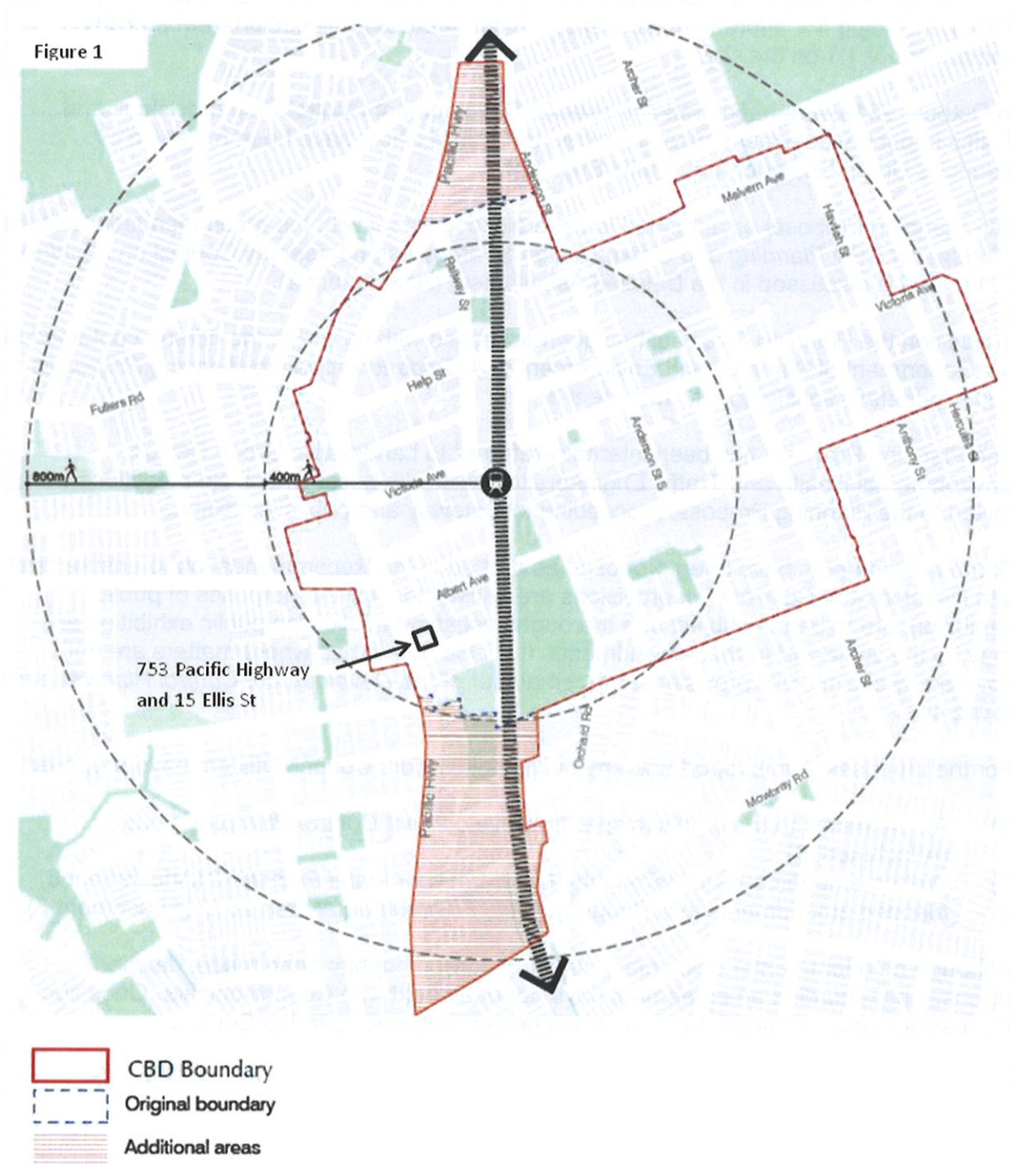
3. BACKGROUND

The site is located within the Chatswood CBD boundary identified in the *Chatswood CBD Planning and Urban Design Strategy* endorsed by Council on 26 June 2017 (Figure 1). The site has been recommended as a Mixed Use Zone with a maximum height of 90m and floor

space ratio of 6:1 subject to the satisfaction of other *Chatswood CBD Planning and Urban Design Strategy* requirements.

The Planning Proposal seeks to amend Willoughby Local Environmental Plan 2012 in accordance with the *Chatswood CBD Planning & Urban Design Strategy* to rezone the site to B4 Mixed Use, allow a building height of up to 90 metres and a Floor Space Ratio up to 6:1 (including 4% affordable housing), including a commercial podium on the site.

On 5 November 2018, the Planning Proposal was presented at a Councillor Briefing.



4. DISCUSSION

On 12 April 2018, Council Strategic Planners wrote to the proponent advising that the scheme presented significant issues in particular, the impact upon sun access to key public spaces, built form, setbacks to Pacific Highway, street frontage heights and commercial FSR. The proposal presented a range of non-compliances in relation to the controls countenanced under the Strategy and as such did not achieve the objectives of the Strategy.

On 1 June 2018, an amended Planning Proposal was submitted seeking to rezone the site to B4 Mixed Use, allow a building height of up to 53.5 metres and a Floor Space Ratio up to 5.75:1, including 4% affordable housing and a commercial/retail podium with an FSR component of 1:1 on the site.

In October 2018, amended draft site specific Development Control Plan provisions and Traffic Impact Assessment were submitted to Council which have been reviewed by Council's Urban Designer and Traffic Engineer.

The Planning Proposal as amended is generally consistent with the recommendations of the *Chatswood CBD Planning and Urban Design Strategy* as endorsed by Council on 26 June 2017. This is discussed in the Detailed Assessment (Attachment 2).

In addition the Planning Proposal has been assessed with regard to the criteria contained in the Department of Planning and Environment's '*A Guide to Preparing Planning Proposals*' and is generally satisfactory (Attachment 3).

The Planning Proposal has been internally referred to Landscape, Urban Design, Environmental Health and Traffic Engineers to assist with assessment. No objections were raised to the Planning Proposal proceeding to Gateway and public exhibition.

Some amendments have been proposed as drafted in the Recommendation to ensure draft site *Development Control Plan* provisions are satisfactory for the purposes of public exhibition, are to be the subject of a thorough assessment following public exhibition and may be the subject of further amendments. It is also noted that, where matters are not covered by site specific provisions, the remainder of the *Development Control Plan* will apply to the site.

For the purposes of this report and any public notification, Council Officers have prepared:

- 1) Amendments to the draft site specific *Development Control Plan* provisions (Attachment 5)
- 2) Written amendments to Willoughby *Local Environmental Plan 2012* (Attachment 6)
- 3) Mapped amendments to Willoughby *Local Environmental Plan 2012* (Attachment 7)

Although an offer to enter a voluntary planning agreement has been made, detailed discussions regarding an agreement have not been held with Council officers. Once such discussions have occurred, this matter will be separately reported to Council.

5. CONCLUSION

The Planning Proposal is consistent with the strategic objectives of *A Metropolis of Three Cities* and *North District Plan* as well as the more detailed requirements of the *Chatswood CBD Planning and Urban Design Strategy*.

It is considered that the relevant requirements under Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the matters identified in the Department of Planning and Environment's *A Guide to Preparing Planning Proposals* are adequately addressed and that the environmental impacts are acceptable for referral to Gateway and further consideration following public exhibition. This conclusion is subject to additional information being submitted prior to exhibition. It should be noted that following exhibition and further assessment, amendments to supporting documentation may be required such as the Draft *Development Control Plan* provisions provided by the proponent.

Based on the above, it is recommended that Council forward the Planning Proposal to the Department of Planning and Environment, seeking a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*. It is further recommended that Council advise the Department of Planning and Environment that the Planning Manager, Mr Ian Arnott, be nominated as delegate to process and finalise the Planning Proposal.

ATTACHMENT 1

IMPLICATIONS	COMMENT
City Strategy Outcome:	5.1: Be honest, transparent and accountable in all that we do.
Business Plan Objectives, Outcomes/ Services	To ensure this Planning Proposal is in line with the <i>Chatswood CBD Planning and Urban Design Strategy</i> to accommodate future growth needs.
Policy	This Planning Proposal is in line with the <i>Chatswood CBD Planning and Urban Design Strategy</i> , endorsed by Council on 26 June 2017. The Amendment in the Planning Proposal will lead to amendments to <i>Willoughby Local Environmental Plan 2012</i> and <i>Willoughby Development Control Plan</i> .
Consultation	Prior to endorsement by Council, the draft <i>Chatswood CBD Planning and Urban Design Strategy</i> was publicly exhibited between 4 February and 27 March 2017. This Planning Proposal would also be publicly exhibited following Gateway Determination.
Resource	No additional operating resources used to prepare this report beyond budget.
Risk	Risk of not achieving the endorsed <i>Chatswood CBD Planning and Urban Design Strategy</i> objectives and accommodating future growth requirements.
Legal	<p>The Planning Proposal should be consistent with the endorsed <i>Chatswood CBD Planning and Urban Design Strategy</i>.</p> <p>Amendments are proposed to the Willoughby Local Environmental Plan 2012, which would provide the basis for future development application assessment. In addition Development Control Plan provisions are proposed to further guide future development application assessment.</p> <p>The Planning Proposal is accompanied by an offer for a voluntary planning agreement involving value uplift to provide for demands on Council services and infrastructure – which will be separately negotiated.</p>
Legislation	Under <i>Environmental Planning and Assessment Act 1979</i> provisions.
Budget/Financial	Nil