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753 Pacific Highway and 15 Ellis Street, Chatswood - Gateway Determination Report

Greater Sydney, Place and Infrastructure

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1 Summary

LGA	Willoughby
Planning Proposal Authority	Willoughby City Council
Dwellings and Jobs	55 dwellings, 50-55 jobs
LEP to be Amended	Willoughby Local Environmental Plan 2012
Address	753 Pacific Highway and 15 Ellis Street, Chatswood
Lot and DP	SP 6576 and SP 53910
File Number	IRF21/237
Political Donations	There are no donations or gifts to disclose and a political donation disclosure is not required
Lobbyist Code of Conduct	There have been no meetings or communications with registered lobbyists with respect to this proposal

2 Introduction

2.1 Description of planning proposal

The planning proposal (**Attachment A1**) seeks to amend the Willoughby Local Environmental Plan (LEP) 2012 for the subject site by:

- rezoning the site from part R4 High Density Residential and part SP2 Infrastructure to B4 Mixed Use;
- an increase of the maximum building height from 34m to 90m;
- an increase of the floor space ratio (FSR) control from 1.7:1 to 6:1; and
- the introduction of a minimum non-residential FSR of 1:1.

A concept design has been provided alongside the planning proposal (**Attachment A3**), which depicts a 17-storey mixed-use development comprising a 13-storey residential tower positioned above a four storey podium containing two storeys of commercial/retail uses and two storeys of residential uses.

If the concept development proposes to deliver:

- 55 new dwellings including 4% affordable housing;
- 1112m² of commercial/retail floor space (approximately 50-55 jobs); and
- 62 Parking spaces.

2.2 Site Description

The subject site comprises two properties being 753 Pacific Highway and 15 Ellis Street, Chatswood. The properties are legally described as SP 6576 and SP 53910 respectively. The site encompasses a total area of approximately 1112m² and has three road frontages. Access to the site is currently provided from the east via Crispe Lane (**Figure 1**).

The existing developments at the site comprise two residential flat buildings with a total of 14 residential units (**Figure 2**).

Existing Developments	
Property	Description
753 Pacific Highway, Chatswood (SP 6576)	3 storey 1960s red brick residential flat building.
15 Ellis Street, Chatswood (SP 53910)	3 storey 1940s residential flat building with a fourth storey attic level.



Figure 1: Site Map (Source: Nearmap)



Figure 2: View of existing developments at the site from Pacific Highway (Source: Ingham Planning Proposal)

2.3 Surrounding Area

The site is located within the Chatswood CBD being approximately 250m south west of Chatswood Station and transport interchange. The CBD also hosts three major shopping centres including Westfield, Chatswood Chase and the Mandarin Centre.

Chatswood Station was upgraded in 2019 to include the new Sydney Metro network. The upgrade provided access to new trains operating between Rouse Hill and Chatswood, with trains running every four minutes at peak times. Chatswood Station is an integrated transport exchange and includes direct links to the strategic centres of Macquarie Park, North Sydney and the Sydney CBD.

The upgrades will also connect Chatswood to Sydney Metro City and South West. This network is due to be completed in 2024 and will provide an extension of Sydney Metro Northwest from Chatswood under Sydney Harbour, through new CBD stations and southwest Bankstown, with the capacity to provide trains every two minutes in each direction.

To the north of the site is a mix of mid-rise and high-rise commercial buildings. The site is bounded by a mixture of low-rise and mid-rise residential buildings to the east, south and west. Chatswood Park is also located in close proximity to the east of the site.



Figure 3: Context Map (Source: Nearmap)

2.4 Current Planning Controls

Under the Willoughby LEP 2012 the following planning controls apply:

- R4 High Density Residential zoning (**Figure 4**).
- A 34m maximum building height (**Figure 5**).
- A 1.7:1 maximum floor space ratio (FSR) (**Figure 6**).
- A 98m² portion of the site identified for acquisition for future road widening. (**Figure 7**).

A comparison of the current and proposed controls has been provided at the table below.

Control	Current	Proposed	CBD Strategy
Zone	R4 High Density Residential Part SP2 Infrastructure	B4 Mixed Use	B4 Mixed Use
Height	34m	90m	90m

Control	Current	Proposed	CBD Strategy
FSR	1.7:1	6:1 (1:1 minimum commercial)	6:1 (1:1 minimum commercial)
Affordable Housing	No provisions for the site	4% included within FSR calculation	4% included within FSR calculation

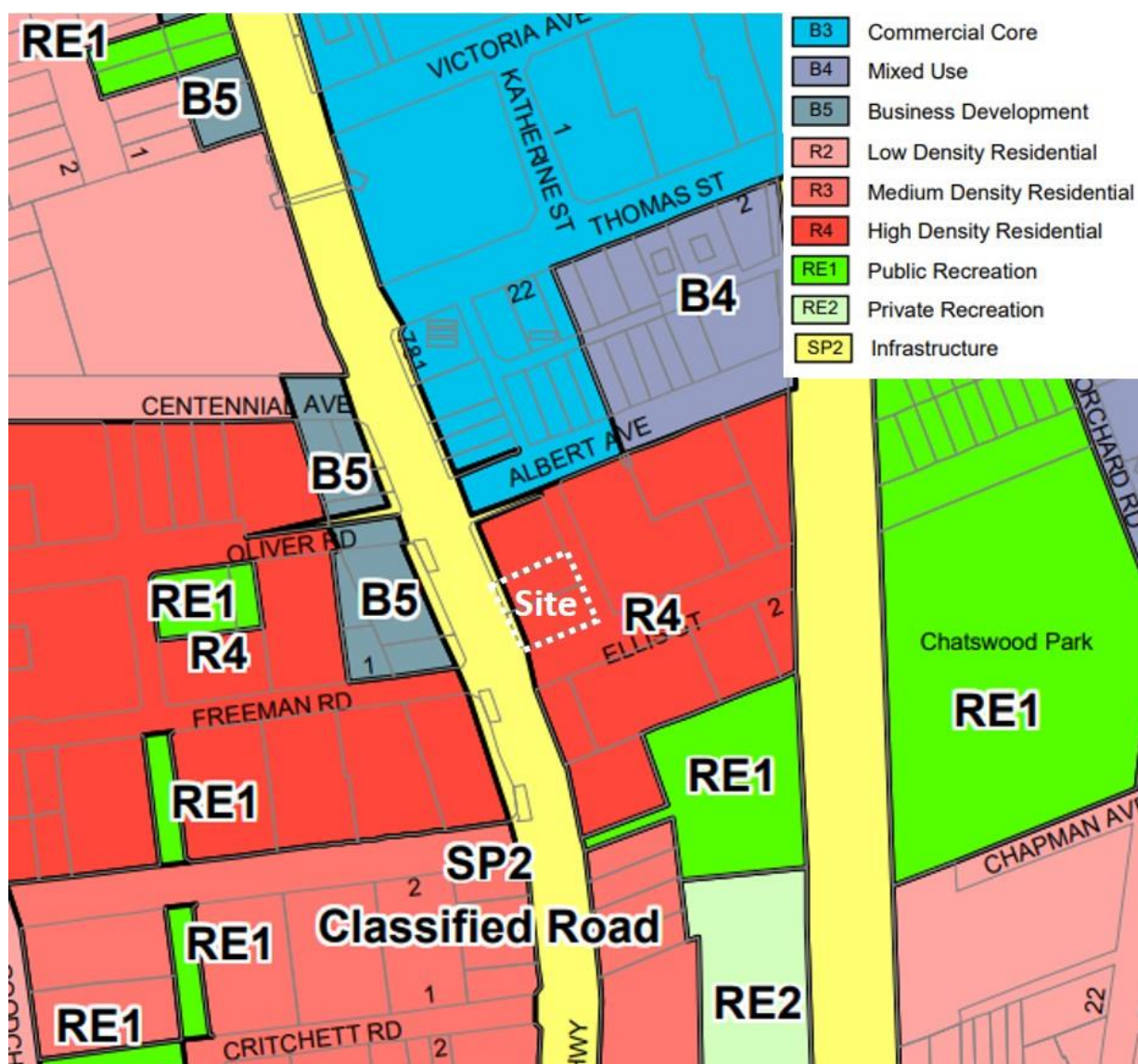


Figure 4: Existing Land Zoning Map (Source: Willoughby LEP)

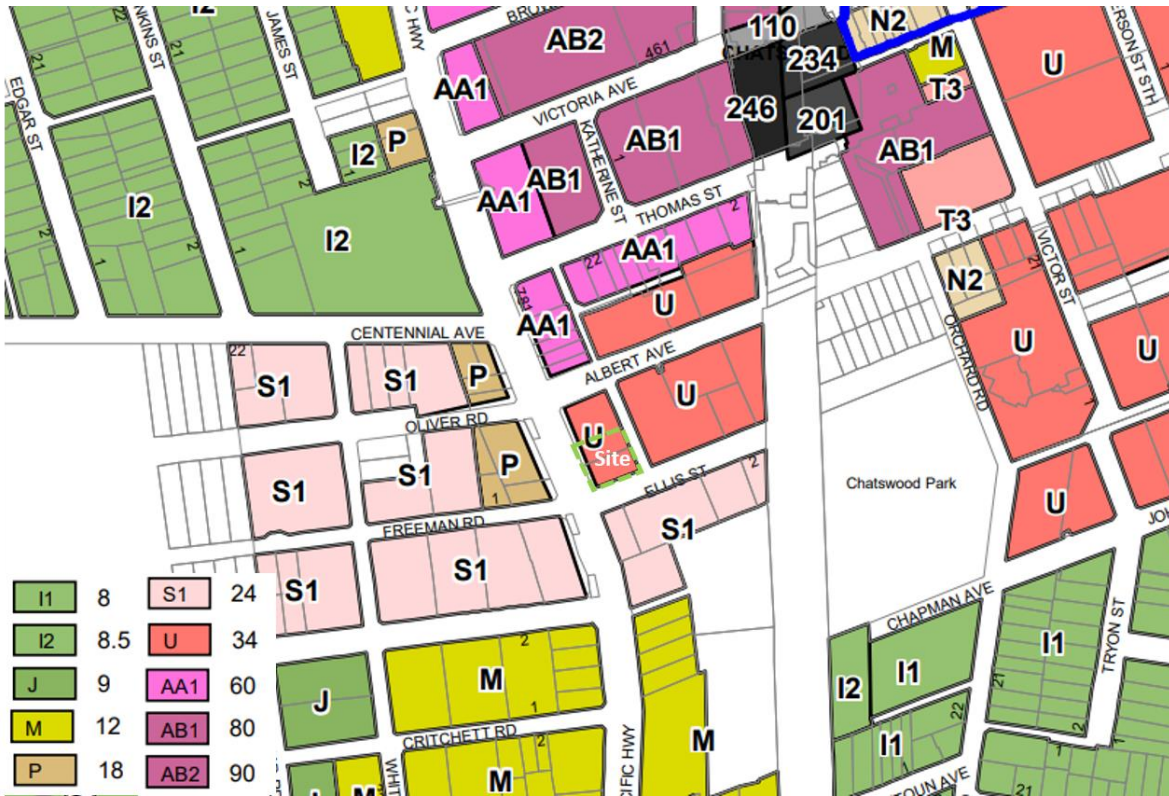


Figure 5: Existing Height of Buildings Map (Source: Willoughby LEP)

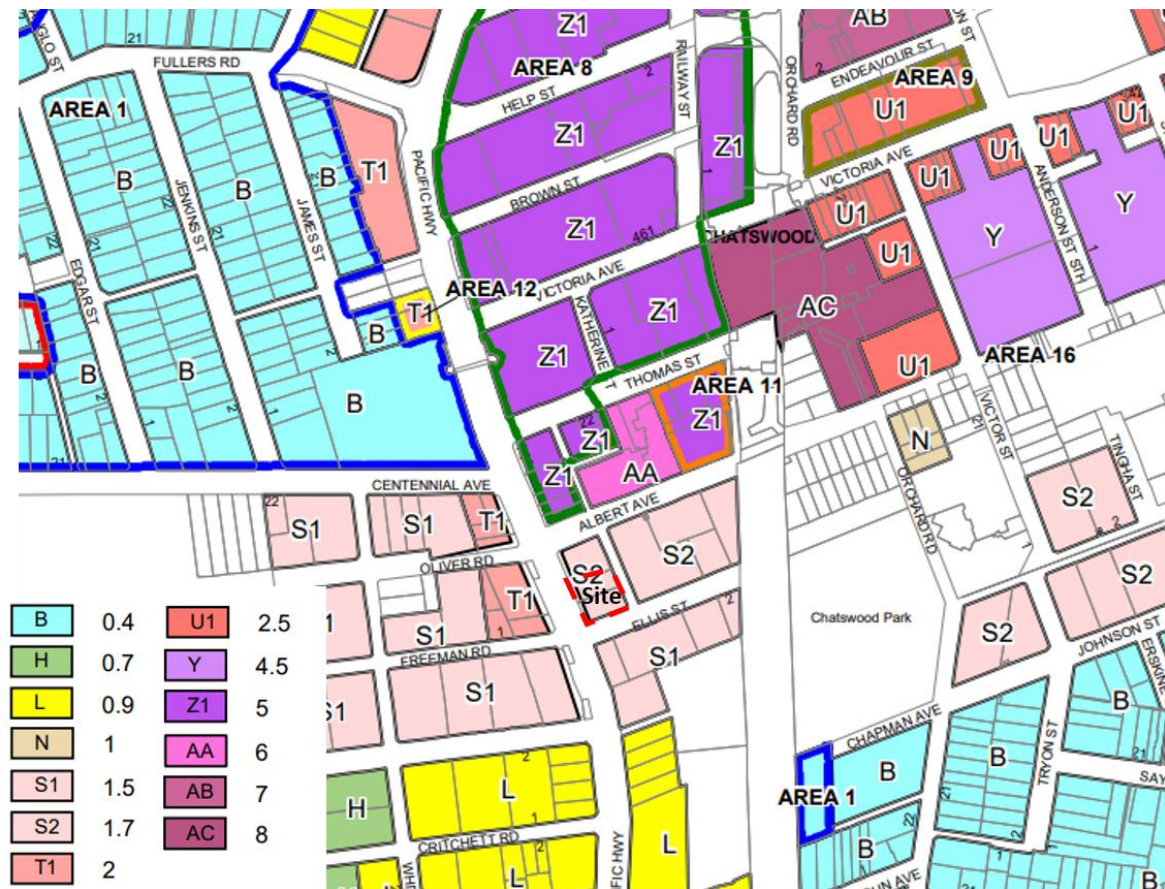


Figure 6: Existing FSR Map (Source: Willoughby LEP)

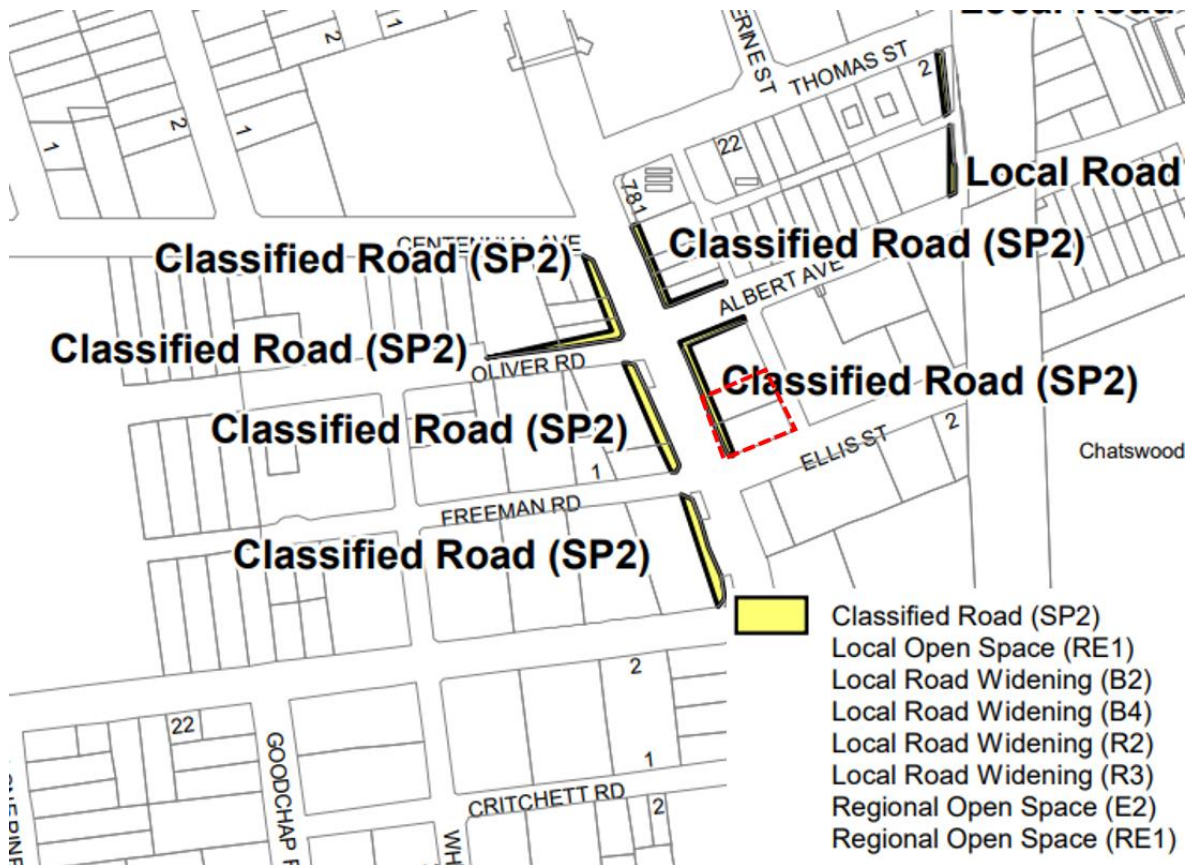


Figure 7: Land Reservation Map (Source: Willoughby LEP)

3 Planning Proposal

3.1 Background

On 12 November 2018, Council resolved to support the planning proposal for the site to facilitate a mixed-use development.

On 9 August 2019, the planning proposal was returned to Council along with seven other planning proposals within the B4 Mixed Use areas of the Chatswood CBD Strategy as part of the Department's partial endorsement letter.

Attachments E1-E4 include the finalised Chatswood CBD Strategy and the Department's partial and full endorsement letters. The planning proposal was forwarded back to the Department without amendment by Council on 1 October 2020, noting that no changes were required to the subject proposal (**Attachment D1**).

3.2 Objectives or Intended Outcomes:

The planning proposal identifies that it seeks to achieve the following development objectives:

- Provide a floor space and building height yield that is commensurate with the site's strategic location along the Pacific Highway corridor, accessible to the Chatswood CBD and transport interchange and in a manner consistent with the maximum development density and building height recommended in the Chatswood CBD Planning and Urban Design Strategy.

- Provide an increased floor space and building height that improves viability of redevelopment and reflects enhanced site capability for accommodating higher density development, arising from site consolidation and current planning strategies.
- Encourage consolidation of existing allotments to facilitate enhanced urban design and development outcomes on larger development parcels.
- Ensure that environmental and amenity impacts associated with increased development yield are not unreasonably increased having regard to the desired future character of the locality and likely future redevelopment of neighbouring properties in accordance with the CBD Strategy.
- Enable more economic and efficient use of land in a location that is highly accessible to retail, public transport and other services.
- Provide affordable housing on a site that currently is not required to provide affordable housing.
- Provide for developer levies, in addition to Council's standard Section 7.12 levies, to assist with funding of infrastructure and community facilities and services required to meet demand for such infrastructure, facilities and services, arising from proposed increased development density in and near the Chatswood CBD.
- Maintain reasonable solar access between the hours 12 noon to 2pm, to the croquet and tennis court facility located nearby to the southeast of the site.
- Remove an existing development that does not make a positive contribution to the character and amenity of the area.
- Increase the amount of public domain and contribute to the landscaped character of the Chatswood CBD.
- Provide enhanced opportunities for walking and cycling.
- Achieve design excellence and high building sustainability standards.

The objectives of the planning proposal are considered to be accurate and concisely demonstrate its intent. As such, the intended outcomes of the proposal are considered to be adequate for the purpose of public exhibition.

3.3 Explanation of provisions

The proposal seeks to amend the Willoughby LEP 2012 for the site by:

- Rezoning the site from R4 High Density Residential to B4 Mixed Use.
- Increasing the maximum permitted building height from 34 to 90m.
- Increasing the maximum FSR from 1.7:1 to 6:1.
- Modifying the Special Provisions Area Map to show the site as Area 8 (architectural roof features), Area 9 (affordable housing), Area 11 (minimum commercial FSR) and Area 12 (design excellence).
- Replacing Clause 4.4 Floor space ratio (2A)(b) with the following:
 - any part of the building that:
 - is to be used for community facilities, or

- is a heritage item, or
 - is to be used for affordable housing purposes if located within Area 3 of 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.
- Including Clause 5.6 Architectural roof features (2A) as follows:
 - Despite subclause (2), development within Area 8 of the Special Provisions Area Map may only be carried out in accordance with the maximum height of Clause 4.3 Height of buildings.
- Replacing Clause 6.8 Affordable housing (2) with the following:
 - 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:
 - The Willoughby Affordable Housing Principles,
 - The likely impact the development would have on the existing mix and likely future mix of residential housing stock in Willoughby,
 - 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 are set out in Schedule 2 to State Environmental Planning Policy No.70 – Affordable Housing (Revised Schemes) may also apply to the development.
- Replacing Clause 6.8 Affordable housing (7) with the following:
 - In this clause:
Accountable total floor space means:
 - If in Area 3 of 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.
 - 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 for the building that is used for affordable housing.
- Including Clause 6.23 Minimum commercial floor space as follows:
 - Clause 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.
- Including Clause 6.24 Design excellence as follows:
 - Clause 6.24 Design excellence
 - The objective of this clause is to deliver the highest standard of architectural, urban and landscape design.

- This clause applies to development involving the erection a new building on land shown in Area 12 on the Special Provisions Area Map.
- 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.
- To add Clause 4.3A (9) to read as follows:
 - 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.

Additionally, the amended proposal as prepared by the proponent also seeks to introduce a new subclause 6.10 (4) that seeks to ensure the amalgamation of the site. The inclusion of this proposed amendment is supported by the Department as it seeks to ensure that development occurs in accordance with the minimum lot size requirements sought under the CBD strategy.

The proposed provisions are generally consistent with the recommendations of the now finalised Chatswood CBD Strategy and Council's affordable housing and design excellence policies.

However, there remains to be a range of inconsistencies between the amendments sought by Council as resolved on 12 November 2018 and the amendments sought under the applicant prepared planning proposal. For example, the applicant prepared planning proposal seeks a maximum building height of RL 159.2 and includes references to the introduction of an incentives clause. It is recommended that prior to public exhibition the planning proposal documentation be updated to remove all references to the inclusion of the incentives clause.

Additionally, it is the Department's view that a 90m height limit is unreasonable with consideration of the solar access plane requirements under clause 4.3(A), as it indicates an exceedance of approximately 30m above what can be achieved at the site. A maximum permitted building height of 60m is considered appropriate for the site to comply with the solar access requirements.

The Department also notes the proposed building height presented in the proponent prepared planning proposal of RL 159.2 (approximately 59.6m). The Department considers the inclusion of an isolated RL height limit to be unnecessary as it may be confusing for the community.

The recommended conditions of the Gateway determination require the explanation of provisions to be updated to reflect the Department's supported maximum building height of 60m.

Furthermore, Council's resolution includes several clauses (e.g. affordable housing, design excellence, minimum non-residential FSR) which have been included within previous planning proposals which have already been exhibited (PP_2019_WILLO_001_00 and PP_2019_WILLO_002_00) it is recommended that these clauses be removed prior to public exhibition to avoid unnecessary duplication and confusion during exhibition.

3.4 Mapping

The planning proposal includes the following mapping amendments to Sheet_004 of the Willoughby LEP 2012 as detailed below:

Draft LEP mapping (**Attachment D3**) has been provided as part of Council's documentation to demonstrate the proposed changes to the Willoughby LEP 2012. The draft maps submitted include:

- An amended Land Zoning Map (sheet LZN_004) showing the site as B4 Mixed Use (**Figure 10**).
- An amended Maximum Height of Buildings Map (sheet HOB_004) showing the site as Area AB2 – 90m (**Figure 11**).
- An amended Maximum FSR Map (sheet FSR_004) showing the site as Area AA – 6:1 (**Figure 12**).
- An amended Special Provisions Area map (sheet SPA_004) showing the site as Area 8, Area 9, Area 11 and Area 12 (**Figure 13**).
- An amended Active Street Frontages Map (sheet ASF_004) showing the Pacific Highway and Ellis Street as active frontages (**Figure 14**).

Draft mapping amendments have been provided as part of Council's documentation. However, the maps are considered to be unclear as they do not contain legends. All of the proposed maps should be updated prior to the commencement of public exhibition to include legends and to meet the requirements of standard instrument mapping.

The proposed Special Provisions Area Map should also be updated prior to the commencement of exhibition to clearly identify the site in Area 8 (architectural roof features), Area 9 (affordable housing), Area 11 (minimum commercial FSR) and Area 12 (design excellence).

As discussed, the Department does not support the proposed height limit of 90m as it represents a gross exceedance of what is achievable at the site. Therefore, the Height of Buildings Map is to be updated prior to public exhibition to include the Department's supported height limit of 60m.

The required changes to the proposed mapping amendments are reflected in the conditions of the Gateway determination.

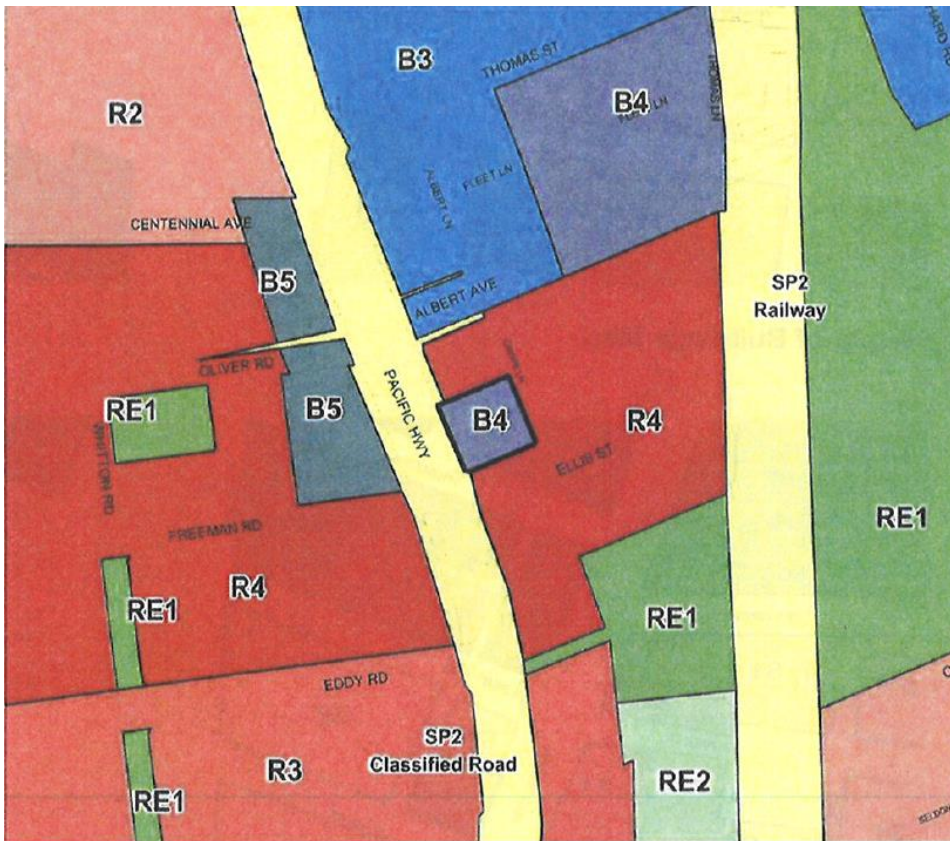


Figure 8: Proposed Land Zoning Map

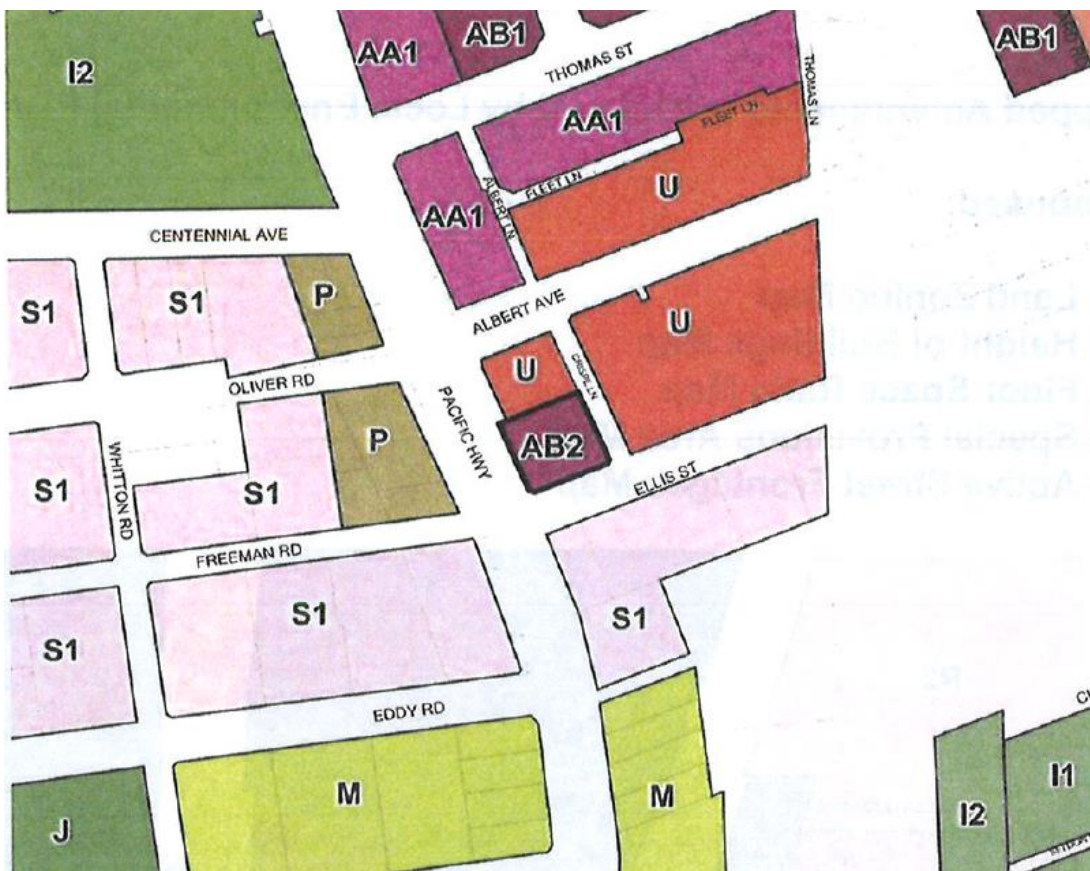


Figure 9: Proposed Height of Buildings Map

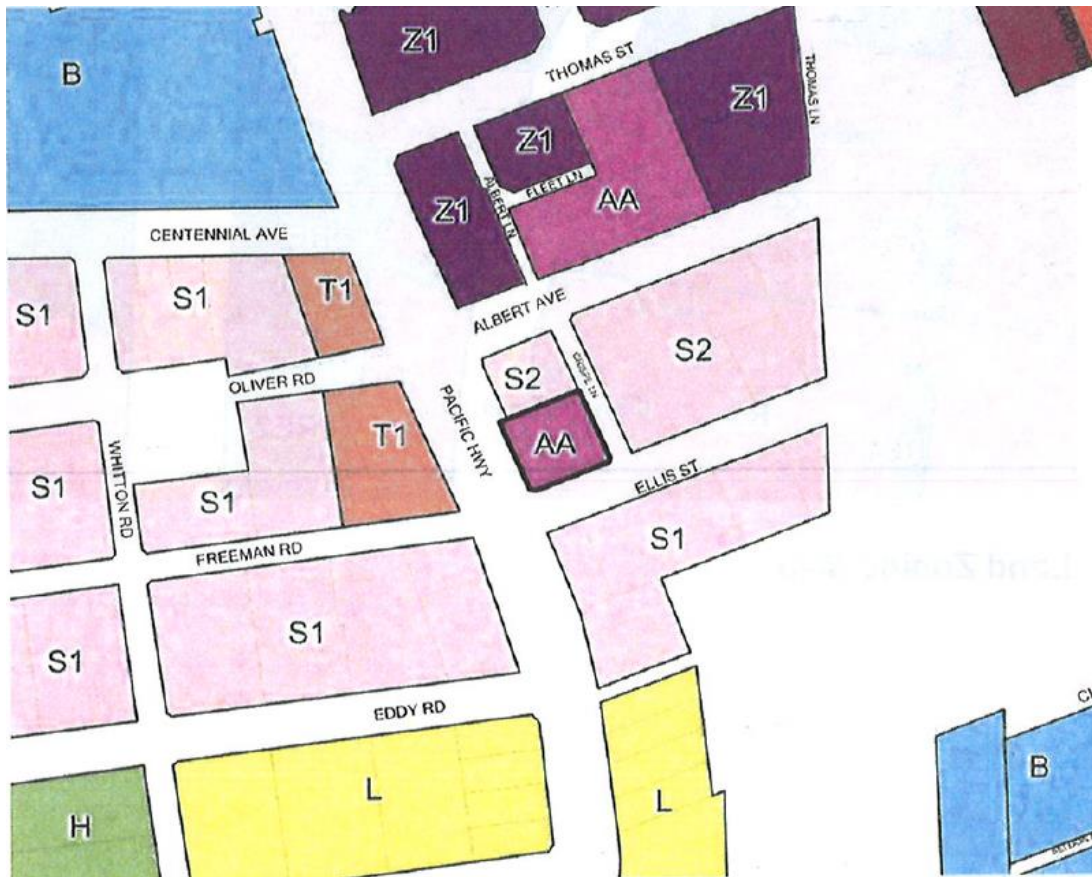


Figure 10: Proposed Floor Space Ratio Map

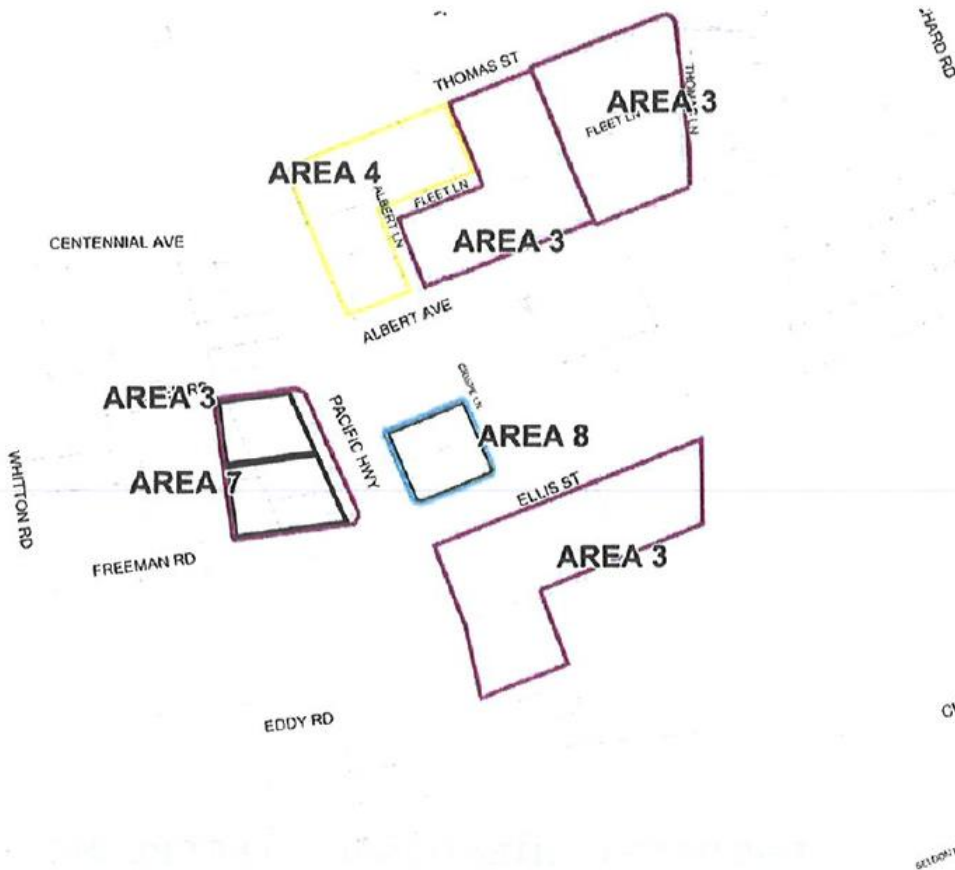
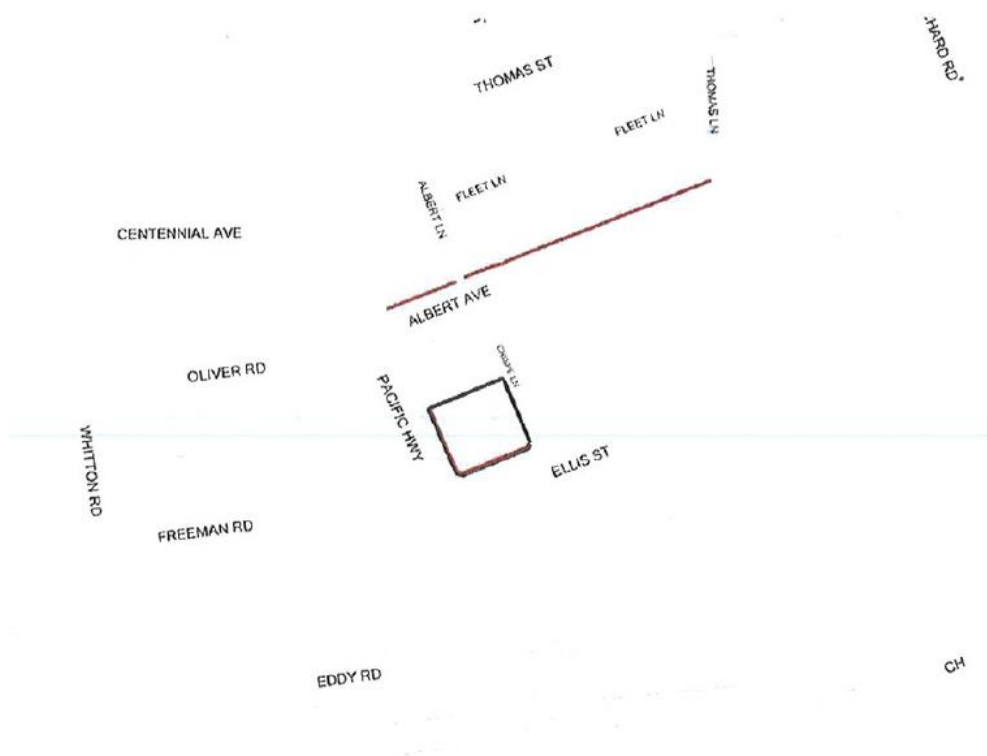


Figure 11: Proposed Special Provisions Area Map**Figure 12: Proposed Active Street Frontages Map**

3.5 Concept Design

The planning proposal is supported by a Concept Scheme prepared by Architecture Urbaneia (**Attachment A3**). The scheme depicts a 17-storey mixed-use development comprising a 13-storey residential tower positioned above a four storey podium containing two storeys of commercial/retail uses and two storeys of residential uses. The concept scheme also comprises four levels of basement carparking.

The planning proposal states that the concept scheme has the potential to deliver 55 new dwellings (including 4% affordable housing) and 1,112m² of commercial floor space (approximately 50-55 jobs).

The breakdown of GFA based on the type of land use has been provided in the table below.

Land use type	GFA
Commercial Office/Retail	1,113sqm
Residential	5,565sqm (including affordable housing)
Total	6,678m²

Drawings of the proposed concept development have been provided at **Figures 13-15** and at (**Attachment A3**).

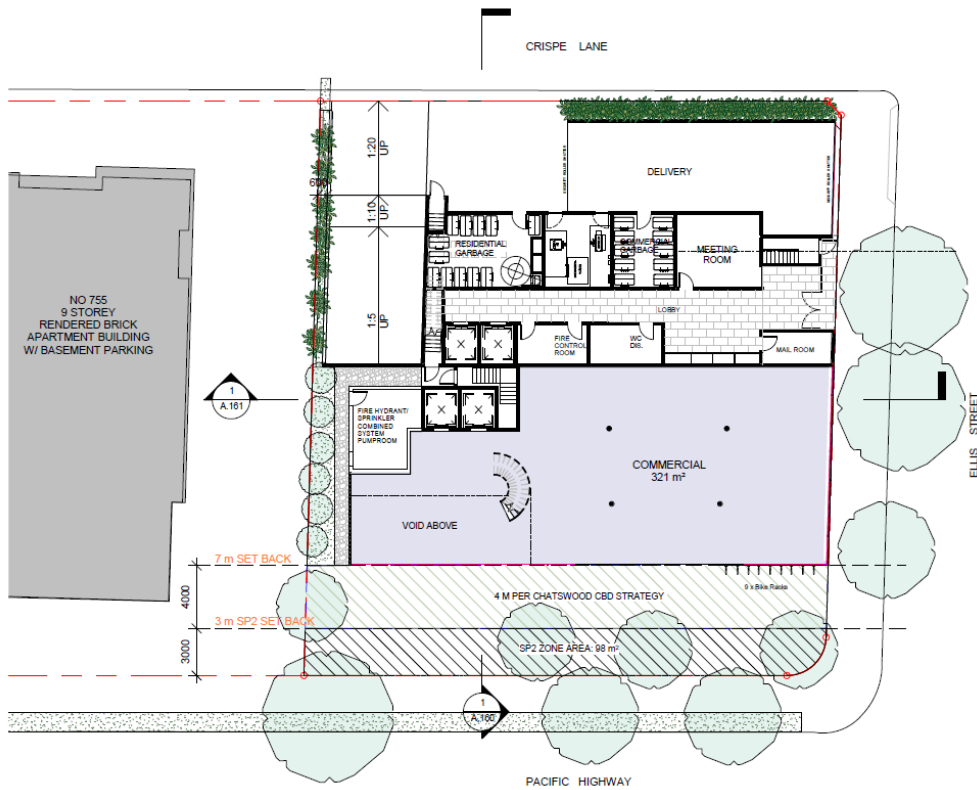


Figure 13: : Proposed concept ground floor plan (Source: Architecture Urbaneia)

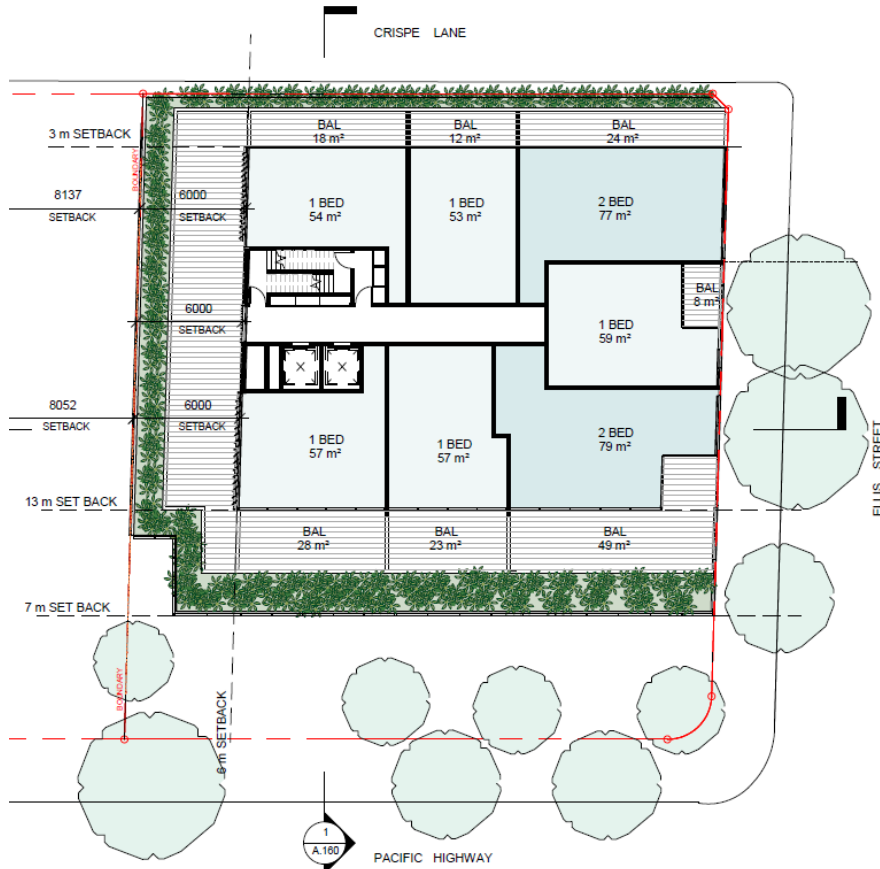


Figure 14: : Proposed concept plan podium level 3 (Source: Architecture Urbaneia)

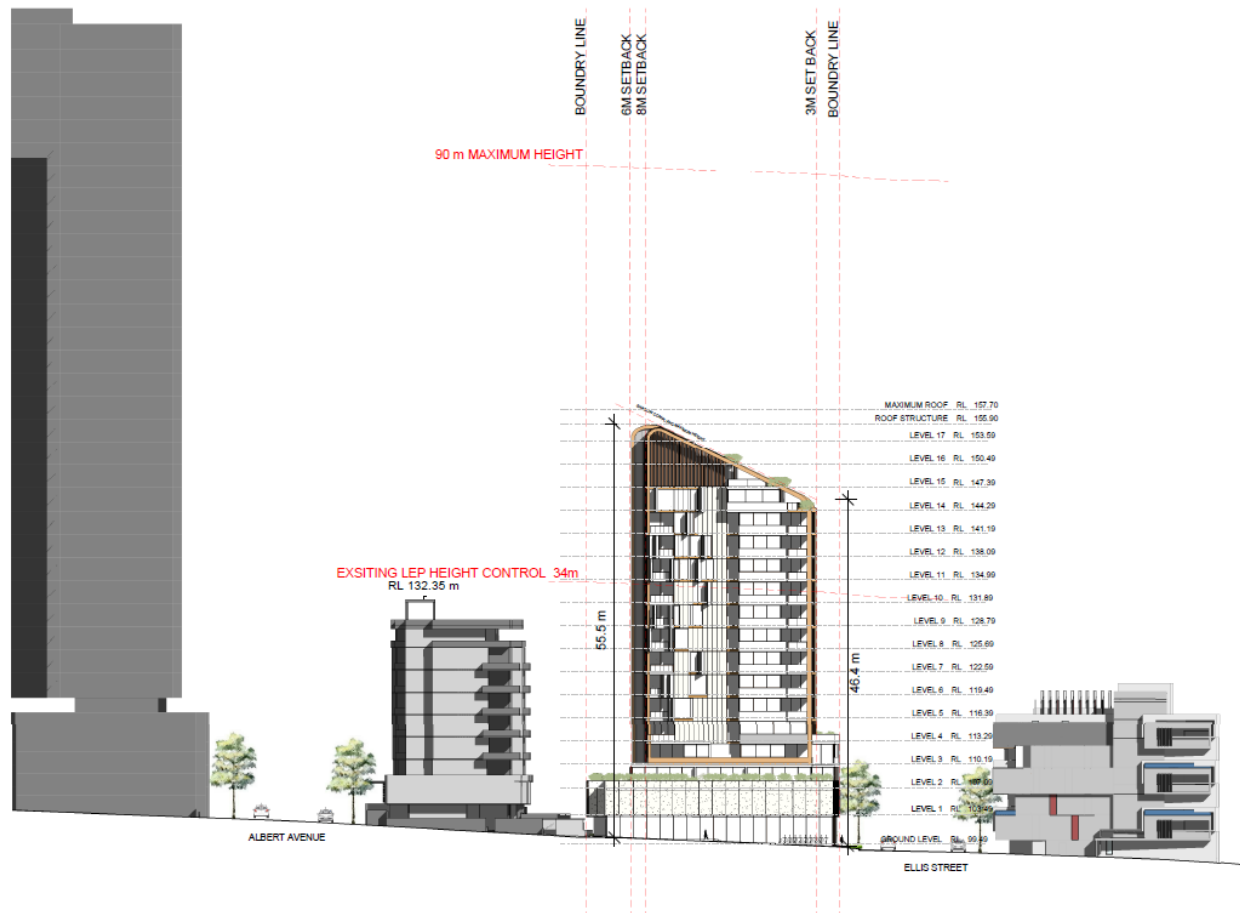


Figure 15: Proposed concept plan elevation from Pacific Highway (Source: Architecture Urbaneia)

4 Need for the planning proposal

The planning proposal is the result of Council's Chatswood CBD Strategy which has been endorsed by the Department and finalised by Council. An assessment of the proposal's consistency with the strategy's key recommendations has been included within **Table 5** of this report.

Council's intention is for site-specific planning proposals to be prepared to support the strategy's recommendations prior to its comprehensive LEP amendment, which has recently been submitted to the Department for Gateway determination and proposes to rezone all land within the Chatswood CBD area consistent with the Chatswood CBD Strategy. .

5 Strategic assessment

5.1 North District Plan

The site is within the North District and the Greater Sydney Commission released the North District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The North District Plan reinforces the desire to strengthen and grow Chatswood as a strategic centre. Relevant to the site and proposal, the District Plan recommends the following actions for Chatswood:

- Maximise land-use opportunities provided by the Sydney Metro.
- Promote the role of the centre as a destination for cultural and leisure opportunities.
- Promote and encourage connectivity, and update and increase public open spaces.
- Investigate interchange options on both sides of the railway line to increase capacity and efficiency of modal changes.
- Improve pedestrian connectivity between the eastern and western side of the railway line.

The District Plan sets a target increase of 6,300-8,300 jobs by 2036.

In relation to strategic centres, the District Plan states that housing contributes to a sense of vibrancy as long as this does not constrain the ongoing operation and expansion of commercial and retail activities.

The planning proposal documentation (**Attachment A1**) has estimated that based on the concept for the current proposal, development in accordance with the proposal has the capacity to deliver around 55 total jobs.

This translates to between 0.81 % - 0.66% of the low to high 2036 jobs targets set for Chatswood, established by the District Plan.

The floor area allocated to non-residential development would be at least 1,113m². This is based on the proposed minimum non-residential FSR of 1:1 and assuming the development is fully developed in accordance with the maximum FSR and minimum commercial FSR sought by the proposal.

Table 1 District Plan assessment

District Plan Priority	Consistency
N3 Providing services and social infrastructure to meet people's changing needs	By providing a land use mix that is co-located with a new retail shops and offices.
N5 Providing housing supply, choice and affordability, with access to jobs services and public transport	By providing 55 dwellings which includes a 4% affordable housing component within proximity of the Chatswood transport interchange.
N6 Creating and renewing great places and local centres, and respecting the District's heritage	By redeveloping aged housing stock and providing active street frontages within a strategic centre.
N8 Eastern Economic Corridor is better connected and more competitive	By growing employment generating development in the economic corridor that is highly accessible to the well-connected Chatswood public transport interchange.

District Plan Priority	Consistency
N10 Growing investment, business opportunities and jobs in strategic centres	By providing the opportunity to contribute between 0.81%-0.66% of the District Plan's 2036 job target for Chatswood as a key strategic centre.
N12 Delivering integrated land use and transport planning and a 30-minute city	By facilitating the delivery of a mix of land uses on a site that is within 250m walking distance of the Chatswood transport interchange.

5.2 Chatswood CBD Strategy

The now finalised and endorsed Chatswood CBD Strategy (**Attachment E3**) represents Council's 20-year development and land use vision for the future of the Chatswood CBD. The strategy has been designed to give strategic merit to site specific planning proposals and to align Council's strategic planning work regarding its LSPS, LHS and comprehensive LEP amendment with the actions and priorities of the North District Plan.

The strategy includes a series of 'key elements' to guide the assessment of planning proposals and development against the intention and goals of the strategy. **Table 5** includes the Department's assessment of the proposal's consistency with these key elements.

Table 2 Local strategic planning assessment

Key Element	Consistent	Assessment of Consistency
CBD Boundary	Yes	The site falls within the proposed expanded B4 Mixed Use area.
Land Use	Yes	The proposal intends to rezone the site from R4 High Density Residential to B4 Mixed Use as recommended by the strategy.
Removal of DCP provisions for size of office and retail tenancies within B3 core	N/A	Not relevant to subject site as the site is not located within the B3 commercial core.
Serviced apartments to be removed as a permissible use within B3 core	N/A	Not relevant to subject site as the site is not located within the B3 commercial core.

Key Element	Consistent	Assessment of Consistency
Increased FSR above current controls are to be linked to a contributions scheme for the delivery of local infrastructure	Yes	<p>The Council's proposed value capture scheme is not supported by the Department.</p> <p>Council has advised that they are no longer seeking to include value capture as a mechanism for development contributions.</p> <p>Council is currently exhibiting its revised contributions scheme.</p> <p>The proponent has included a letter of offer to enter into a Voluntary Planning Agreement (VPA) once Council finalises its contributions plan (Attachment A9).</p>
Design excellence required for all development above 35m	Yes	<p>Council requires all development above 35m to be subject to a design excellence process. This would be undertaken at DA stage.</p> <p>The proposal includes a design excellence clause and would be identified as Area 12 where the design excellence policy applies. This is consistent with Council's intended wording.</p> <p>Note: This clause is intended to be implemented under PP_2019_WILLO_002_00 which has been submitted to the Department with a request that the plan be made.</p>
Higher building sustainability standards	Yes	<p>This could be determined at the DA stage. Furthermore, recent changes to the National Building Code of Australia now require improved performance of new buildings such as may be constructed in accordance with the proposal.</p>
Base FSR	Yes	<p>The proposal would achieve an FSR above 1.7:1 the minimum (base) for this site.</p>

Key Element	Consistent	Assessment of Consistency
Minimum site area	Yes	<p>The site comprises a total site area of approximately 1211m² which is above the minimum site area requirements of 1,200m² for sites within the B4 Mixed Use zone.</p> <p>However, as discussed, it should be noted that a 98m² portion of the site is identified for acquisition for future road widening. The acquisition of this portion of the site would result in the site comprising a total area of 1,113m² which is below the minimum site area of 1,200m².</p> <p>At this stage further consultation/approval is required from Transport for NSW to remove the acquisition requirement from the LEP. However, the proposal also notes its intent to dedicate the parcel of land to Council for footpath and public domain improvements.</p> <p>Despite this, as the site is identified in the CBD Strategy as a potential amalgamation site, and the small discrepancy in minimum lot size will be caused for the purpose of public domain improvements, the minor inconsistency is considered to be acceptable.</p>
Maximum FSR	Yes	The site includes a maximum FSR of 6:1 which is consistent with the strategy.
Affordable Housing	Yes	The proposal seeks to include a local provision to ensure the site delivers a minimum of 4% affordable housing included within the total residential FSR component of 5:1 (5,565m ²).
Minimum commercial FSR in mixed use zones is to be 1:1	Yes	The proposal includes a clause to ensure the delivery of a minimum commercial FSR of 1:1. This is also reflected in the concept scheme which includes a total of 1,113m ² of commercial floor space over the first two podium levels (Attachment A3).
Maximum tower floor plate sizes	Yes	The proposed tower includes floorplates ranging from a minimum of 86m ² to a maximum of 384m ² which is below the maximum recommended floor plate size of 700m ² for residential development.

Key Element	Consistent	Assessment of Consistency
Width of the side of each side of any tower to be minimised	Yes	As outlined in the Key Elements Assessment accompanying the proposal (Attachment A4), the tower portion of the site has a maximum width of 25.5m, providing for a maximum floorplate 33% below the maximum permitted under the strategy. It should also be noted that as the tower component comprises 13 storeys which also assists in the delivery of a slim tower form.
Tower separation	N/A	The element does not apply as the proposed development only includes a single residential tower.
Sun access to key public spaces and conservation areas	Yes	<p>The proposal identifies a maximum building height of 90m to be applied to the site with the proposed concept plans indicating that the development will sit under this height limit at maximum of RL 159.2 (approximately 59.6m).</p> <p>The site is located north east of the Chatswood Tennis and Croquet Club which is identified as requiring sun access protection.</p> <p>The planning proposal includes a draft amendment to introduce clause 4.3A (9) that seeks to ensure no overshadowing impacts to the Chatswood Tennis and Croquet Club at mid-winter between 12pm-2pm.</p>

Key Element	Consistent	Assessment of Consistency
Building Heights	Yes	<p>The proposed maximum building height under the Council resolution for the subject site is 90m which is consistent with the strategy.</p> <p>The planning proposal also includes the introduction of a new clause that seeks to ensure that solar access is retained at the Chatswood Tennis and Croquet Club in the mid-winter between 12pm-2pm.</p> <p>As discussed in sections 3.3 and 3.4 of this report, it is the Department's view that a 90m height limit is unreasonable with consideration of the solar access plane requirements under clause 4.3(A), as it indicates an exceedance of approximately 30m above what can be achieved at the site. A maximum permitted building height of 60m is considered appropriate for the site to comply with the solar access requirements.</p> <p>The recommended conditions of the Gateway determination require the planning proposal and mapping to be revised to increase the maximum building height to only 60m.</p>
Lift over runs and architectural features integrated into building form	Yes – capable at DA stage	The concept design integrates the lift over run and architectural features within the maximum height limit.
Links and open space	Yes	While the site itself is not subject to the provision of through site links as part of the strategy, the proposal intends to improve accessibility around the site by upgrading the surrounding footpaths and public domain.
Publicly accessible open space and landscaping	Yes – capable at DA stage	<p>The 98m² portion of land that is identified for future road widening is expected to be dedicated to Council for the purpose of public domain improvements.</p> <p>Despite this intent, agreement will be required with Transport for NSW to determine whether the land will still need to be acquired for the purpose of road widening or can be removed</p>

Key Element	Consistent	Assessment of Consistency
All roofs up to 30m from the ground are to be green roofs	Yes	Detailed landscape drawings at a future DA stage would be able to consider and provide any desired planting requirements. The proposed concept identifies that a rooftop terrace will be incorporated to provide for a communal open space.
Soft landscaping is to apply to 20% of the site	Yes – capable at DA stage	Able to be resolved through the submission of a landscape plan at DA Stage. The concept design demonstrates that publicly accessible space will be provided along the Pacific Highway frontage.
Roof top communal open space	Yes	Communal open space provided on level 16.
Street wall heights and setbacks	Yes – capable at DA stage	<p>The strategy indicates a 6-14m street wall height with a minimum 3m setback above the street wall to the tower form above along Wilson Street and a 7m street wall height with a 4m setback to the Pacific Highway with a further 6m setback above the podium to the tower.</p> <p>The strategy indicates a maximum 7m street wall height of 7m. The concept includes a 4 storey (14m) podium which steps down in height to a maximum of 7m on the Pacific Highway frontage.</p> <p>The proposed concept also demonstrates a setback of 7m to the Pacific Highway frontage, which exceeds the 4m requirement. Council indicates in its detailed assessment that a 0m setback to the Ellis Street and Crispe Lane frontages is permitted.</p> <p>The proposal is able to comply with all setbacks and street wall heights.</p>
Active street frontages	Yes	The Pacific Highway and Ellis Street are both identified within the planning proposal as active street frontages. This is consistent with the strategy.
Site isolation	Yes	The site is not isolated and at 1,211m ² is above the minimum lot size of 1,200m ² for the B4 Mixed Use area.

Key Element	Consistent	Assessment of Consistency
Traffic and transport	Yes	All access and parking requirements are consistent with the strategy including a single entry and exit in a forward direction from Cripse Lane, basement loading and parking requirements.

5.3 Willoughby Local Strategic Planning Statement

On 10 February 2020, Council's Final Local Strategic Planning Statement (LSPS) was adopted at its meeting. The Willoughby LSPS sets out the 20-year vision for land use in the LGA, the special character and values that are to be preserved and how change will be managed into the future.

On 20 March 2020, the LSPS was endorsed by the Greater Sydney Commission (GSC) and published to the planning portal on 31 March 2020.

Relevant to the subject site, Council's LSPS supports the delivery of the key elements of the Chatswood CBD Planning and Urban Design Strategy as this is the key driver for housing, jobs and investment within the Willoughby LGA. An assessment of the proposal's consistency against the key elements of the strategy is provided under section 6.2 of this report.

The planning proposal provides commentary on its consistency with the Willoughby LSPS highlighting housing intensification principles contained within the LSPS. The proposal is considered to be generally consistent with the housing intensification principles as it is located within the Chatswood CBD which is identified to accommodate additional housing. Willoughby Local Housing Strategy

In May 2020, Council's Local Housing Strategy (LHS) was finalised and forwarded to the Department for endorsement.

Council's LHS targets three growth/focus areas for the delivery of its housing supply over the next 20 years including:

- Existing R3 Medium Density Residential and R4 High Density Residential zones which have not been developed to their full potential.
- The proposed expanded B4 Mixed Use area of the Chatswood CBD as identified in the Chatswood CBD Strategy.
- The local centres identified in Council's Local Centres Strategy.

Of relevance to the subject proposal, the site falls within the Chatswood CBD Strategy area and is expected to deliver the majority of Council's future dwelling capacity. As such, the proposal is considered consistent with Council's LHS as it supports the delivery of the key elements of the Chatswood CBD Strategy and is located within its proposed expanded B4 Mixed Use area.

5.4 Section 9.1 Ministerial Directions.

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Direction 1.1 Business and Industrial Zones

Direction 1.1 aims to encourage employment growth and protect industrial and employment lands. This direction applies when land within an existing or proposed industrial or business zone is altered.

Although the planning proposal states that Direction 1.1 is not applicable as the site is primarily zoned for residential purposes, the direction applies as the proposal seeks to amend the sites zoning from R4 High Density Residential to B4 Mixed Use which is a business zone. It should also be noted that the proposal seeks to include a minimum commercial FSR requirement.

It is recognised that the existing developments at the site do not currently comprise any commercial uses and that the proposal would encourage more employment generating uses in a strategic location. The inclusion of a minimum FSR requirement of 1:1 is also supported in this regard. The proposal is therefore considered consistent with Direction 1.1.

Direction 2.6 Remediation of Land

The site has a long history of residential uses evinced by the existing developments at the site. As such, the site is not considered to be at risk of land contamination. Any further assessment of contamination risk can be more appropriately completed at the development application stage.

The conditions of the Gateway determination require the planning proposal to be updated to address the Direction, rather than the former requirements under SEPP 55 Remediation of Land.

3.1 Residential Zones

Direction 3.1 aims to encourage a variety of housing types, make efficient use of infrastructure and service and minimise the impact of residential development on the environment and resource lands.

This direction applies to the planning proposal as the proposal seeks to enable the provision of residential development.

Although the proposal seeks to rezone the site from R4 High Density Residential. The proposed amendments seek to increase the potential residential density of the site. The site is considered to be located in a strategic location with excellent access to jobs, services and public transport. As such, the proposal is considered to be consistent with Direction 3.1.

3.4 Integrating Land Use and Transport

Direction 3.4 aims to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts:

- Improve active and public transport access to homes and jobs.
- Increase transport choices and reduce car dependency.
- Reduce travel demand.
- Support the operation of public transport services.

- Provide for the efficient movement of freight.

This direction applies to the planning proposal as the proposal seeks to alter a provision relating to urban land.

The proposal seeks to increase the overall density of the zone for both additional residential and new commercial purposes. The site which the proposal relates is located approximately 250m south west from the Chatswood transport interchange which includes rail, metro and bus services connecting Chatswood to the local area and nearby strategic centres of Macquarie Park, St Leonards, North Sydney and the Sydney CBD.

As the proposal will encourage the delivery of significant job and housing growth within close proximity to a major public transport interchange it is considered to be consistent with this direction.

Direction 6.2 Reserving Land for Public Purposes:

The direction seeks to facilitate the provision of public services through land reservations and facilitate the removal of reservations in cases where the land is no longer required for acquisition. The direction applies as the subject site includes a 98m² parcel of land identified for acquisition for the purpose of road widening. However, the planning proposal documentation does not include a discussion on its consistency with the direction.

In its cover letter the applicant advises that the Roads and Maritime Services division of Transport for NSW has indicated that the parcel of land is no longer required for road widening. However, no evidence of this communication is provided. The applicant also indicates its intent to dedicate the land to Council as part of a potential Voluntary Planning Agreement to be used for pedestrian and cycling public domain improvements.

As required by the direction, a planning proposal must not alter existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Secretary of the Department (or nominated delegate). To ensure consistency with the direction, it is requested that Council as the Planning Proposal Authority consult with Transport for NSW and provide evidence to the Secretary of the Department demonstrating that no land is no longer required for acquisition.

Additionally, as required by the direction, should Transport for NSW indicate that it no longer seeks to acquire the land, a further mapping amendment should be prepared to remove the identification of the site from the Land Reservation Acquisition Map. This is reflected in the recommended conditions of the Gateway determination.

As consistency with the direction is considered to be unresolved, the requirements discussed above must be completed and resubmitted to the Department for approval prior to the commencement of public exhibition.

Direction 6.3 Site Specific Provisions

This direction aims to discourage unnecessarily restrictive site-specific planning controls. The direction applies to the planning proposal as it seeks to implement additional specific provisions.

The planning proposal seeks to include site specific provisions as recommended by the Chatswood CBD Strategy in relation to minimum commercial FSR, affordable housing and design excellence. These requirements are not considered unnecessarily restrictive as they are reflective of the holistic strategy recommendations and will be implemented within future planning proposals and the wider comprehensive Willoughby LEP amendment.

5.5 State environmental planning policies (SEPPs)

SEPP (Affordable Rental Housing) 2009

Clause 4.4(2A)(b) of Willoughby LEP 2012 allows for any part of the floor area of a building that is to be used for affordable housing, not be included within the overall gross floor area for the purposes of calculating FSR. This allows the developer to contribute towards the additional affordable housing. Under Willoughby LEP 2012 affordable housing is to be provided in Area 3 as shown in the Special Provisions Area Map.

The proposal seeks to introduce a new area 'Area 9' within the existing affordable housing provisions of clause 6.8 which will include any additional residential floor space used for the purposes of affordable housing within the floor space ratio calculation and is consistent with the recommendations of the Chatswood CBD Strategy.

While affordable housing is generally provided and offered as a bonus floor space within Council's LEP, considering the substantial uplift that has been offered for the B4 Mixed Use sites within the strategy area, the inclusion of affordable housing within the FSR calculation is considered appropriate and can be successfully delivered in a future development.

Council has consistently supported the provision of affordable housing, in accessible locations where practical and this clause is considered to generate a positive social benefit for the community by contributing towards the delivery of affordable housing in area where there is critical need for more affordable housing and longer term options.

SEPP 65 Design Quality of Residential Flat Building Development

SEPP 65 will be applicable to any residential component of any future development application for the site.

As outlined under the planning proposal, the concept plan has been submitted having regard to the Apartment Design Guide (ADG) which provides detail on how residential development proposals can meet SEPP 65's design quality principles. The concept design achieves general compliance with this code in relation to site planning, overshadowing and building separation. Further consideration of the concept is provided below.

6 Site-specific assessment

6.1 Site Specific Assessment

6.1.1 Urban Design Considerations

The planning proposal is accompanied by a Concept Plan (**Attachment A3**) prepared by Architecture Urbaneia providing a concept design to support the proposal as discussed in section 4.4 of this report.

As discussed throughout the assessment of the Chatswood Strategy Key Elements table above, the concept development has been designed with appropriate setbacks, massing, floor plates, height and incorporates a design excellence process demonstrating its compliance with the principles for the desired character of the Chatswood CBD.

The concept envelope has been designed in a manner to ensure that it maintains compliant floor plate areas, whilst also minimising its impact on solar access. **Figure 16** below provides an extract from the Chatswood CBD Strategy depicting the areas protected

by solar access planes. The map shows the site (light blue) is located north west of the Chatswood Tennis and Croquet Club which is shown in yellow. The concept design is able to achieve no net increase in overshadowing between the hours of 12pm-2pm mid-winter through the provision of the eastern side setbacks and angling the eastern elevation of the development to optimise solar access provision.

The proposed development encounters some constraints regarding its internal solar access. The nearby Meriton development on Albert Avenue located north east of the subject site heavily overshadows the site. The concept design demonstrates that despite this constraint that if the hours are extended to 8am to 4pm then more than 70% of apartments are able to achieve the required solar access. With consideration of the sites location within the developing Chatswood CBD this constraint is not considered significant enough to halt the development at the planning proposal stage. It is considered that the matter can be better dealt with at the development application stage when detailed design has been undertaken.



Figure 16: Proposed solar access protected areas under Chatswood CBD Strategy (source: Willoughby City Council).

6.1.2 Wind

The planning proposal is supported by a Preliminary Wind Impact Assessment prepared by Windtech Consultants Pty Ltd (**Attachment A8**). The preliminary assessment provides a range of recommendations to minimise wind impacts to particular elements of the concept development that may be affected by wind tunnelling effects.

The preliminary wind assessment recommends the following mitigation measures:

- Installation of awnings along the Pacific Highway and Ellis Street frontages.
- Retention of existing trees at the site.
- The proposed tree and landscaping plan are recommended to include dense evergreen tree species capable of growing to a height of at least 3-5m with a minimum of a 3m wide canopy.

The corner balconies on levels 4-13 are anticipated to be exposed to winds. The wind impact assessment recommends that full height louvres are provided to mitigate impacts to these balconies.

The preparation of the Preliminary Wind Impact Assessment is considered to provide a range of appropriate measures that demonstrate the wind impacts deriving from the proposal can be mitigated. It is also considered that detailed wind testing can be undertaken at the development application stage when the detailed design is completed.

6.1.3 Views

The planning proposal states that the proposed increased density sought by the planning proposal will not have any adverse impacts on existing significant views or outlooks, when compared to a building built to the maximum existing development standards at the site. It is noted that the proposal is not supported by any expert prepared view sharing analysis.

The southern frontage of the site located to the north of the subject site currently has views towards the North Sydney and Sydney CBD skylines towards the south east. Whilst the site to the south currently has views of the Chatswood CBD skyline from its northern facing apartments.

Although it is considered that the proposed controls are unlikely to have any impacts on existing views when compared to the existing underutilised controls for the site. Council should consider whether the preparation of a view sharing analysis should be prepared in support of the proposal prior to the commencement of public exhibition. This is reflected in the recommended conditions of the Gateway determination.

6.1.4 Acoustic

The planning proposal is supported by a Preliminary Acoustic Assessment prepared by Renzo Tonin Associates Pty Ltd (**Attachment A7**). The preliminary assessment considers the existing acoustic environment and identifies potential existing noise issues deriving from the adjoining Pacific Highway and nearby North Shore Railway Line. Noise intrusion associated with open windows has also been recognised as an issue. The preliminary report recommends that an appropriate ventilation system be installed so that residents can enclose their apartments when noise levels are high.

The preliminary assessment also notes that the highest noise exposure locations are at the ground and first floor levels fronting the Pacific Highway. It is noted that no residential uses are proposed in these parts of the concept development.

The preparation of the Preliminary Acoustic Assessment is considered to identify potential acoustics issues and provides a range of appropriate measures that can be utilised to mitigate impacts. It is also considered that detailed testing can be appropriately undertaken at the development application stage when the detailed design is completed.

6.2 Environmental

The site has previously been developed for urban purposes. No known critical habitat or threatened species populations or ecological communities or their habitats would be adversely affected by the proposal.

6.3 Social

Affordable Housing

Under clause 4.4(2A)(b) of Willoughby LEP 2012 any part of the floor area of a building that is to be used for affordable housing, is not calculated as overall gross floor area and does not contribute to FSR. This allows the developer to contribute towards the additional affordable housing. Under Willoughby LEP 2012 affordable housing is to be provided in Area 3 as shown in the Special Provisions Area Map.

The proposal however seeks to include a new area 'Area 9' within this clause to enable the delivery of additional affordable housing in accordance with clause 4.4 of the LEP, where any affordable housing floor area is included within the total FSR measurement.

While generally affordable housing is excluded for any floor space calculation, considering the extent of the proposed uplift above the existing base FSR for the site this outcome is still considered to generate a positive social benefit for the community by contributing towards the delivery of affordable housing in area where there is critical need for more affordable housing options.

6.4 Economic

Although it is noted that the proposal is not supported by an economic impact assessment, the proposal states that if realised will enable the delivery of approximately 50 dwellings and 55 FTE jobs at the site.

The rezoning of the site to B4 Mixed Use and inclusion of a minimum non-residential FSR of 1:1 seeks to create additional jobs, which is a key outcome for Chatswood CBD and a key objective of the North District Plan. The proposal will also ensure that the development can accommodate diverse forms of employment.

The increase in opportunities for the provision of employment floorspace is considered to have positive economic impacts and support the key objective of the Chatswood CBD Strategy to deliver new jobs in a strategic location.

The planning proposal would result in a substantial increase to the current residential offering at the site which comprises 14 residential dwellings. The provision of additional housing supply is also anticipated to have a positive impact on housing affordability within the area.

6.5 Infrastructure

Public transport

The site is well serviced with public transport infrastructure as it is within 250m walking distance of the Chatswood rail and bus interchange. The upgrading of the interchange to now accommodate the Sydney Metro has further enhanced Chatswood's status as a strategic centre and key public transport interchange. This will continue to improve when

the Metro network is extended to the Sydney CBD and Bankstown, which is due to open in 2024.

The planning proposal supports the principles of integrated land use and transport outcomes as it will:

- Rely upon existing and future transport capacity and services to support and encourage the use of public transport.
- Maintain good accessibility to the station and the associated interchange.
- Facilitate development that will deliver co-located housing and employment to provide opportunities to live and work in Chatswood.

Traffic

The planning proposal is supported by a Traffic Impact Assessment (**Attachment A6**) that was prepared by the Transport Planning Partnership. The report concludes that the proposal will not have any unacceptable traffic or parking implications.

The proposal concedes that it will generate a modest increase in vehicular traffic of approximately 15 vehicle trips during peak periods when compared to the existing traffic generation of residential dwellings at the site. However it is stated that no road upgrades will be required as a result of the development.

The development will comprise 4 levels of basement car parking including; 52 residential spaces, 4 commercial spaces and 6 visitor spaces. It should also be noted that the concept development has been designed to ensure that all vehicular access for the site is provided via Crispe Lane and can enter and leave in a forward direction as required under the CBD Strategy.

It is noted that the Department's Chatswood CBD Strategy endorsement required Council to engage Transport for NSW to establish if the strategy can accommodate the proposed growth and work out if a Transport Management Action Plan (TMAP) is required for all areas outside the CBD core. This was included as a condition of the endorsed strategy to ensure that the Chatswood road network could handle the proposed growth and future capacity within the CBD.

This analysis has now been completed by Arup and as of 18 September 2020 (**Attachment E4**) has been endorsed by Transport for NSW confirming that the increased capacity within the Chatswood CBD Strategy can be catered for.

As part of the Gateway determination it is recommended that a condition to consult with Transport for NSW is included to ensure that the planning proposal is consistent with the endorsed strategic transport study.

7 Consultation

7.1 Community

The planning proposal states that the level of community consultation required is tailored by the initial Gateway determination. A 28 day consultation period is considered adequate for the purposes of this plan.

7.2 Agencies

Consultation is to be undertaken with the relevant public agencies and adjoining landowners as per statutory requirements. It is recommended that consultation with the following agencies are recommended for the purposes of this Gateway:

- Transport for NSW.
- Ausgrid.
- Sydney Water Corporation.
- NSW Department of Education.
- NSW Department of Health.
- Sydney Airport Corporation.

Any consultation undertaken with Transport for NSW should seek to confirm its position in relation to the proposed removal of the acquisition requirement for the parcel of land fronting the Pacific Highway that is identified for future road widening, classified road

8 Timeframe

The planning proposal does not include a timeline as required under the Department's *A Guide to Preparing Planning Proposals*. As such, prior to the commencement of public exhibition the planning proposal is required to be updated to include a timeline.

The Department recommends a time frame of 9 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

9 Local plan-making authority

As the Chatswood CBD Strategy has been endorsed by the Department and the proposal is able to demonstrate consistency with all key elements of the strategy, Council is recommended to be the local plan making authority for this proposal.

10 Conclusion

The Department has considered the submitted documentation as part of the proposal and concludes that there is sufficient strategic merit in issuing a Gateway determination as:

- It is consistent with the actions of the North District Plan for Chatswood by providing additional commercial development capacity, maximises public transport patronage, promotes employment growth within an existing commercial zone and increases residential capacity in an accessible location;
- It is consistent with the key elements of the endorsed Chatswood CBD Strategy;
- The introduction of mixed uses is an improvement above the existing R4 High Density Residential zoning and would not be out of character with the future development context and aspirations for the expanded Chatswood CBD;

- Introducing a genuine mixed-use development would help to service the daytime and night-time economies of the retail precinct and further activates the CBD core area; and.
- The proposal will provide 55 dwellings and additional affordable housing within the Chatswood CBD on a site that supports the 30-minute city outcomes sought by the North District Plan.

The Department considers the proposal to have site-specific merit because:

- The proposed concept scheme is consistent with the desired future maximum building heights and solar access planes for the Chatswood CBD;
- It is considered that the proposal is capable of adequate building separation and solar access outcomes to existing and proposed future development;
- The proposal will enable the delivery of additional affordable housing and job growth in the Chatswood CBD; and
- The proposal will deliver a mix of uses on the site within 250m walking distance of the Chatswood transport interchange and CBD core.

11 Recommendation

It is recommended the delegate of the Secretary:

- Note that the consistency with section 9.1 Direction 6.2 Reserving Land for Public Purposes is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

The planning proposal is to be updated prior to public exhibition to:

- Ensure that the amendments requested in the explanation of provisions are consistent between all documentation forwarded to the Department.
- Ensure the explanation of provisions is to be updated to reflect the Department's supported height limit of 60m.
- Removal of duplicate clauses such as clause 6.8 and clause 6.24 relating to affordable housing and design excellence as planning proposal PP_2019_WILLO_002_00 includes these clauses and has been submitted to the Department for finalisation.
- All proposed LEP Maps are to be updated to meet the requirements of standard instrument mapping
- The proposed Height of Buildings Map is to be updated to reflect the Department's supported height limit of 60m.
- The proposed Special Provisions Map is to be updated to clearly demonstrate the "Areas" applicable to the site.
- Include a project timeline as required by A Guide to Preparing Planning Proposals.
- Council should consider whether the planning proposal is likely to impact upon significant regional or district views for neighbouring properties and if a view sharing analysis should be prepared to support the proposal during exhibition.

- Ensure all documentation associated with the Gateway determination is uploaded to the NSW Planning Portal.
- Address its consistency with section 9.1 Direction 2.6 Remediation of Contaminated Land

Consultation is required with the following public authorities:

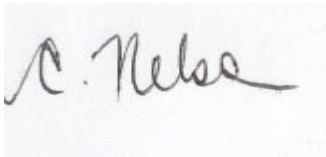
- Transport for NSW.
- Ausgrid.
- Sydney Water Corporation.
- NSW Department of Education.
- NSW Department of Health.
- Sydney Airport Corporation.

Any consultation undertaken with Transport for NSW should seek to confirm its position in relation to the requirement for acquisition and proposed deletion of this requirement from the parcel of land fronting the Pacific Highway that is identified for future road widening. Prior to public exhibition evidence of this consultation and subsequent actions must be resubmitted to the Department for approval to comply with Section 9.1 Direction 6.2 Reserving Land for Public Purposes.

The planning proposal should be made available for community consultation for a minimum of 28 days.

The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.

Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



5 February 2021

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15 February 2021

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