

15.11 PLANNING PROPOSAL - 753 PACIFIC HIGHWAY AND 15 ELLIS STREET CHATSWOOD

ATTACHMENTS:	1. IMPLICATIONS 2. GATEWAY DETERMINATION DATED 15 FEBRUARY 2021 3. PUBLIC EXHIBITION – PLANNING ASSESSMENT OF ISSUES 4. SUMMARY OF SUBMISSIONS AND COUNCIL RESPONSES 5. RESPONSES FROM STATE AGENCIES 6. CONCEPT PLANS 7. DRAFT AMENDMENTS TO WLEP 2012 8. DRAFT DEVELOPMENT CONTROL PLAN 9. WILLOUGHBY LOCAL PLANNING PANEL ADVICE
RESPONSIBLE OFFICER:	HUGH PHEMISTER – PLANNING & INFRASTRUCTURE DIRECTOR
AUTHOR:	CRAIG O'BRIEN STRATEGIC PLANNER
CITY STRATEGY OUTCOME:	5.4 – ANTICIPATE AND RESPOND TO CHANGING COMMUNITY AND CUSTOMER NEEDS
MEETING DATE:	2 MARCH 2022

1. PURPOSE OF REPORT

This report seeks Council's endorsement to forward the Planning Proposal post exhibition to the Department of Planning and Environment for finalisation, and support for the site specific draft Development Control Plan and draft Voluntary Planning Agreement.

2. OFFICER'S RECOMMENDATION

That Council:

- 1. Note the submissions and proposed responses to feedback on the Planning Proposal and draft site specific Development Control Plan for 753 Pacific Highway and 15 Ellis Street, Chatswood following the public exhibition period.**
- 2. Support the Planning Proposal for 753 Pacific Highway and 15 Ellis Street, Chatswood, on the basis of consistency with the Chatswood CBD Planning and Urban Design Strategy 2036, with particular regard to a two storey podium presentation to the Pacific Highway.**
- 3. Support amendments to Willoughby Local Environmental Plan 2012 relating to 753 Pacific Highway and 15 Ellis Street, Chatswood as outlined in Attachment 7 and forward to the Department of Planning and Environment for finalisation.**
- 4. Support the site specific draft Development Control Plan.**
- 5. Note the outcome of exhibition of the draft Voluntary Planning Agreement and authorise the Chief Executive Officer to execute the Deed.**

6. Delegate authority to the Chief Executive Officer to make any minor amendments to the final planning proposal and Development Control Plan which do not alter the intent.

3. BACKGROUND

At the meeting of 12 November 2018, Council resolved to support the Planning Proposal and draft Development Control Plan (DCP) for exhibition regarding 753 Pacific Highway and 15 Ellis Street Chatswood. The proposal sought to amend the current R4 High Density Residential zoning under *Willoughby Local Environmental Plan 2012* (WLEP) to B4 Mixed Use, and increase height to 60m (subject to the solar access plane) and the Floor Space Ratio to 6:1, in response to the *Chatswood CBD Planning and Urban Design Strategy 2036* (the CBD Strategy). Part of the site on the Pacific Highway frontage was also zoned SP2 Infrastructure, however Transport for NSW have indicated that this land is no longer required and may be considered as B4 Mixed Use. This is discussed further below.

The CBD Strategy was endorsed by Council on 26 June 2017, and supported by the Greater Sydney Commission on 18 May 2018. At the request of the Department of Planning and Environment (DPE) the CBD Strategy was further reviewed, with height and floor space ratio being reduced on some interface sites on the edges of the Chatswood CBD. The subject site was unaffected by the review.

The CBD Strategy was endorsed by DPE on 9 July 2020, and further noted by Council at the Council Meeting of 14 September 2020. DPE issued a Gateway Determination on 15 February 2021, with conditions, on the basis of a height of 60m and floor space ratio of 6:1, and permitting the Planning Proposal to proceed to public exhibition (**Attachment 2**).

The Planning Proposal was updated in accordance with the Gateway Determination, and together with the draft Development Control Plan provisions (DCP), exhibited from 21 May to 18 June 2021. A draft Voluntary Planning Agreement (VPA) was separately exhibited from 25 October until 22 November 2021.

This report provides information on submissions received on the Planning Proposal and DCP, as well as the VPA, during the public exhibition.

4. DISCUSSION

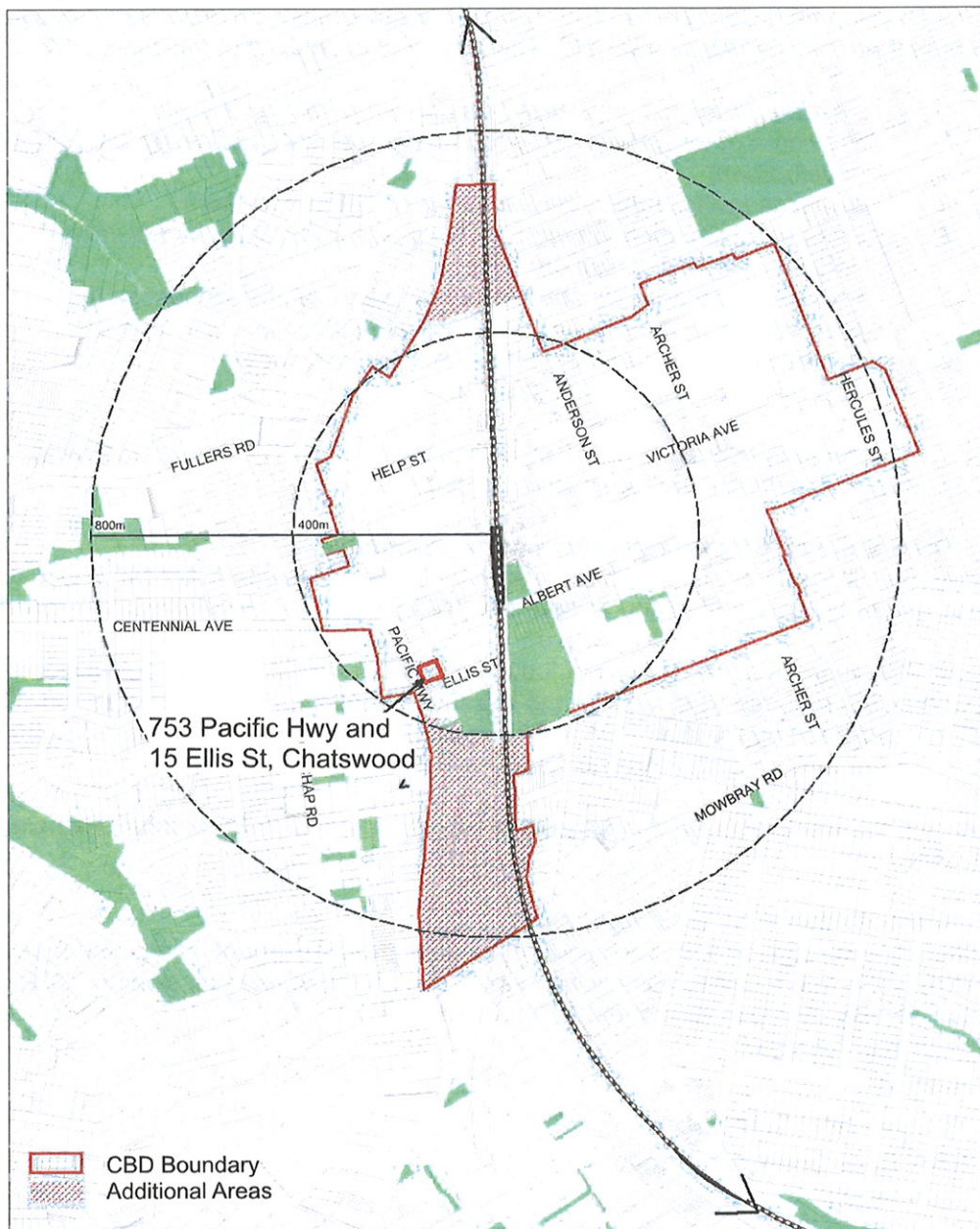
4.1 Location

The site comprises Strata Plan 6576 (753 Pacific Highway) and Strata Plan 53910 (15 Ellis Street Chatswood), bounded by Pacific Highway to the west, Ellis Street to the south, Crispe Lane to the east and 755-759 Pacific Highway to the north. The site is 1,211m² in area, with a portion zoned SP2 Infrastructure fronting the Pacific Highway (98m²) and the remainder zoned R4 High Density Residential (1,113m²).

The site is located 250m from the Chatswood Railway Station and Transport Interchange and within the existing Chatswood CBD boundary identified in the CBD Strategy. Refer to **Figure 1: Location** below.

The CBD Strategy is intended to establish a strong framework to guide all future development in the Chatswood CBD over the next 20 years and to achieve exceptional design and a distinctive, resilient and vibrant centre. The subject site has been recommended as a Mixed Use Zone with a maximum height of 60 metres (subject to the solar access plane) and floor space ratio of 6:1.

Figure 1: Location



4.2 Planning Proposal as Exhibited

The exhibited Planning Proposal included the following amendments to the *Willoughby Local Environmental Plan 2012* (WLEP 2012):

- rezone the site from R4 High Density Residential to B4 Mixed Use
- increase the maximum floor space ratio control from 1.7:1 to 6:1
- increase the maximum height of building from 34 metres to 60 metres
- amend the special provisions area map to include the site in Area 9 (affordable housing) to provide 4% of the residential floor space as affordable housing units
- amend clause 6.8(2) to include Area 9 on the special provisions area map
- amend clause 6.8(7) 'affordable housing' to include reference to Area 3 and Area 9.

The draft written and mapping amendments to WLEP 2012 are at **Attachment 7**.

4.3 Draft Development Control Plan as Exhibited

The draft Development Control Plan (DCP) includes site specific provisions to guide future development on the site (**Attachment 8**). The aims and objectives of this plan are to:

- “1. Provide guidelines for a mixed-use development on the site.
2. Provide a development that ensures the viability of adjoining site for future development.
3. Minimise traffic impacts on the surrounding road network.
4. Ensure development on the site minimises impacts to the amenity of neighbouring residential properties.
5. Provide landscaping in and surrounding the site that enhances the presentation of the site as well as the amenity of the development.
6. Achieves architectural and urban design excellence.
7. Maximise activation to the street level. “

The draft DCP controls address the 35 Key Elements in the CBD Strategy, including setbacks, design excellence and open space provisions.

4.4 Draft Voluntary Planning Agreement as Exhibited

Pursuant to section 7.4 of the *Environmental Planning & Assessment Act 1979*, Council has received a draft Voluntary Planning Agreement (VPA) relating to this Planning Proposal.

The draft VPA secures a monetary contribution of \$2,639,479 for funding public works in the Chatswood CBD required as a result of the increased density in the neighbourhood. This contribution provided by the draft VPA will be applied towards the community infrastructure works under the revised draft Planning Agreement Policy.

No submissions were received in response to exhibition of the draft Voluntary Planning Agreement.

4.5 Consultation with State Agencies

Consultation was required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions and the Gateway determination dated 15 February 2021:

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

Agency written responses were received from Transport for NSW, Sydney Water, Ausgrid and NSW Health. Copies of the four written responses are at **Attachment 5**. Department of Education and Sydney Airport Corporation did not provide written responses other than a short comment on the NSW Planning Portal, raising no objection to the Planning Proposal.

Transport for NSW have advised that the current *Willoughby Local Environmental Plan 2012* (WLEP 2012) SP2 Infrastructure (Classified Road) zoned land on the Pacific Highway frontage of this site is no longer required. As a result, this Planning Proposal includes this land as part of the B4 Mixed Use zone and removes reference to this site on the WLEP 2012 Land Reservation Acquisition Map.

NSW Health have concluded:

“Overall, the Planning Proposal 753 Pacific Highway, Chatswood and 15 Ellis Street, Chatswood is considered to be beneficial because:

- 1. It provides for 4% of total private residential space as affordable housing which is to be available to low and middle income earners and is commended.*
- 2. It will allow for commercial/retail spaces which will activate the street frontage and contribute to employment in the Chatswood area.*
- 3. The mix of commercial, retail and residential development in this Proposal will contribute to a balance of land use in the Chatswood CBD Commercial area.*
- 4. The building design appears to consider the likely interests and concerns of its neighbours. The set-back will enable deep soil planting which will provide a green buffer from the Pacific Highway.*
- 5. The Proposal promises to replace aged commercial buildings with new buildings of the form, materials palette and general disposition compatible with the retail, commercial and residential buildings in the Chatswood area.”*

4.6 Community Consultation regarding Planning Proposal and draft DCP

In response to exhibition of the Planning Proposal and draft DCP, 2 submissions were received through Have Your Say. An additional 4 submissions were received by Council. These submissions raised issues with the Planning Proposal.

Community submissions against the proposal raised issues including:

- Against repurposing of croquet greens
- Overshadowing of croquet greens
- Excavation
- Where is Council's holistic plan
- Council motivated by contributions
- Height out of character with area
- Traffic and parking
- Overshadowing of 8-14 Ellis Street
- Support repurposing croquet greens and 8-14 Ellis Street

Details of the planning issues and outcomes of the public exhibition process are addressed further at **Attachments 3 and 4**.

The Record of Advice dated 7 November 2018 from the Willoughby Local Planning Panel is at **Attachment 9**.

4.7 Assessment

The subject site is currently zoned R4 High Density Residential, with a height of 34m and Floor Space ratio of 1.7:1. The site is within the existing Chatswood CBD and approximately 250m from the Chatswood Transport Interchange and the Strategic Centre of Chatswood.

The main issues raised during public exhibition relate to any repurposing of the croquet greens, overshadowing of the croquet greens and 8-14 Ellis Street, height, traffic and parking, and a questioning of Council's reasons for approving high density.

The site's proximity to the strategic centre of Chatswood, with significant public transport infrastructure and commercial and other non-residential services, has resulted in the subject site being included within the Chatswood CBD boundary under the *Chatswood CBD Planning and Urban Design Strategy 2036* (the CBD Strategy). The CBD Strategy was the subject of detailed analysis in 2016, then went through a public exhibition period in early 2017 prior to endorsement by the Council on 26 June 2017, support from the Greater Sydney Commission on 18 May 2018, full endorsement by DPE on 9 July 2020 and further noting by Council on 14 September 2020.

The CBD Strategy is a well-considered and tested Strategic Planning document that aims to achieve:

- A reinvigorated commercial core area and economically buoyant CBD, to provide for future employment.
- A sustainable balance between commercial, retail, residential, education, cultural and other uses to ensure on-going vibrancy.
- A compact, walkable CBD.
- A city form and scale to accommodate future growth and change.
- A CBD of exceptional urban design, easy pedestrian linkages and good public domain, where local character and heritage are embraced, and the greening of the centre is achieved.

The CBD Strategy has deliberately changed zoning, and increased height and floor space within the Chatswood CBD boundary, to increase the supply of dwellings and employment for the future growth of Chatswood to 2036 and beyond. At the same time this approach of concentrating density and height within the Chatswood CBD enables the retention and protection of lower density residential conservation areas, particularly those surrounding the Chatswood CBD.

As noted above, the concerns identified in submissions are addressed in **Attachments 3 and 4**.

Concern was raised to references the proponent made in the Planning Proposal to repurposing the croquet greens. This was a suggestion from the proponent and does not reflect the position of Council. While Council periodically reviews public open space to meet the requirements of the community, there are no current plans to alter the use of the croquet greens.

Under the *Chatswood CBD Planning and Urban Design Strategy 2036* (the CBD Strategy) the height on this site is affected by the solar access plane which seeks to protect sun access to key public spaces. Limiting maximum building height to an RL of 159.2 (maximum 59.62m) along the northern elevation in combination with stepping down the height of the tower from north to south ensures there are no additional shadows cast into the "protected" sun access area of the public open space to the southeast, currently used for croquet greens and tennis courts, during the nominated hours of 12 noon to 2pm. There is no impact on Chatswood Oval as a result of this Planning proposal. In addition, overshadowing impacts on neighbouring properties from this Planning Proposal are reasonable for a site located within the Chatswood CBD under the CBD Strategy and consistent with *Willoughby Development Control Plan* requirements.

In regards to height being consistent with the local area, properties to the south of the subject site, on the southern side of Ellis Street, have also been changed under the CBD Strategy to B4 Mixed Use, with increased height (subject to the solar access plane) and FSR (6:1). It is anticipated that future development will be in accordance with the CBD Strategy.

In regards traffic and parking, the planning proposal is supported by a Traffic and Transport Assessment which concludes the development will have no discernible impact on the operation of the surrounding road network. Both Council's Traffic section and Transport for

NSW have raised no objection to traffic impacts or parking provision.

This Planning Proposal will not place a significant additional demand on infrastructure. There is open space and recreational infrastructure within walking distance of this site. In addition, Council seeks to embellish existing infrastructure through contributions arising from this Planning Proposal, including a draft Voluntary Planning Agreement, s7.11/7.12 contributions and an affordable housing contribution.

The draft Development Control Plan (DCP) provisions are intended to ensure an appropriate high density urban outcome on this site, and include required setbacks and street wall heights, as well as Council's endorsed design excellence process (already part of *Willoughby Local Environmental Plan 2012*). The Planning Proposal concept plans are consistent with the required setbacks and street wall heights for this site, being:

- Pacific Highway frontage
 - i. Minimum 4 metre setback at Ground level from front boundary
 - ii. Maximum 7 metre street wall height
 - iii. Minimum 6 metre setback above street wall
- 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

It is noted that the 7 metre street wall height envisions a two storey podium presentation to the Pacific Highway.

The outcome sought under the CBD Strategy is to be guided by draft site specific Development Control Plan provisions, the Council's design excellence policy and ultimately the development application process. An appropriate design response to the particular constraints of the site will be fully explored at design excellence and development application stage. The plans at this stage are conceptual in nature and do not reflect the final design. Notwithstanding, the concept plans sufficiently demonstrate that the site is capable of providing additional density consistent with the CBD Strategy

The draft Development Control Plan provisions are intended to ensure an appropriate high density urban outcome on this site, stipulating required setbacks and street wall heights. Council's endorsed design excellence process (already part of *Willoughby Local Environmental Plan 2012* (WLEP 2012) ensures the highest level of architectural design is achieved raising the quality of the urban fabric of Chatswood. In relation to sustainability, a minimum 5-star Green Building Council of Australia building rating is expected, with a report to be submitted at Development Application Stage. In regards building exterior, the draft DCP states:

- Buildings are to demonstrate a high visual quality when viewed from the public domain and the surrounding area.
- Facade treatment and design is to be used to break down the mass and bulk of buildings.
- High quality façade materials and finishes are to be used which contribute positively to the built environment.

Following any formal amending of WLEP 2012 based on this Planning Proposal, the subsequent development application will be satisfactorily guided by Council's design excellence process and the draft Development Control Plan provisions for this site.

The draft Voluntary Planning Agreement will contribute to the provision and maintenance of infrastructure in the Chatswood CBD, and is consistent with the draft *Planning Agreement Policy*.

There are many positives as a result of employment and high density living close to transport infrastructure and other services, and the CBD Strategy seeks to ensure such development provides healthy, walkable environments, a good quality of living for occupants and the wider Chatswood community.

5. CONCLUSION

In regards this Planning Proposal, Council has already supported rezoning of the subject site from R4 High Density Residential to B4 Mixed Use for public exhibition. It was then also supported by the Department of Planning and Environment for public exhibition following a Gateway Determination.

The main issues raised during public exhibition relate to any repurposing of the croquet greens, overshadowing of the croquet greens and 8-14 Ellis Street, height, traffic and parking, and a questioning of Council's reasons for approving high density.

Following consideration of the submissions received during exhibition together with the advice from State Agencies, it is considered that the development of the site for B4 Mixed Use, and accompanying controls, can be supported. The Planning Proposal is consistent with the objectives of the *Chatswood CBD Planning and Urban Design Strategy 2036*. Overall, the site's proximity to the strategic centre of Chatswood, public transport and existing infrastructure such as open space make it an appropriate location for increased residential and non-residential density. The proposed scale demonstrates appropriate regard to nearby key public spaces being the croquet greens and Chatswood Oval.

It is considered that the subsequent development application will be satisfactorily guided by Council's design excellence process and the draft Development Control Plan provisions for this site. It is also considered that the draft Voluntary Planning Agreement will provide support for local infrastructure in response to the increased density at the subject sit

ATTACHMENT 1

IMPLICATIONS	COMMENT
City Strategy Outcome	5.4 – Anticipate and respond to changing community and customer needs
Business Plan Objectives, Outcomes / Services	To ensure this Planning Proposal is in line with the <i>Local Strategic Planning Statement</i> (LSPS), the <i>Chatswood CBD Planning and Urban Design Strategy 2036</i> , <i>A Metropolis of Three Cities</i> and the <i>North District Plan</i> in that it accommodates future housing and employment growth needs.
Policy	<i>Willoughby Local Environmental Plan 2012</i> , <i>Willoughby Development Control Plan 2012</i> and the <i>draft Planning Agreement Policy</i>
Consultation	The Planning Proposal, together with the draft site specific DCP, was exhibited from 21 May to 18 June 2021. A draft Voluntary Planning Agreement (VPA) was separately exhibited from 25 October until 22 November 2021.
Resource	Operating resources with legal input in relation to preparation of VPA
Risk	Risk of not achieving the objectives of the <i>Chatswood CBD Planning and Urban Design Strategy 2036</i> and accommodating future growth requirements.
Legal	The Planning Proposal would amend <i>Willoughby Local Environmental Plan 2012</i> and <i>Willoughby Development Control Plan 2012</i>
Legislation	<i>Environmental Planning & Assessment Act 1979</i>
Budget/Financial	Future development following rezoning is subject to the <i>Environmental Planning and Assessment Act 1979</i> Section 7.4 Planning Agreements under the draft Voluntary Planning Agreement associated with this matter.

