

3-5 Help Street, Chatswood – Gateway Determination Report

Greater Sydney, Place and Infrastructure

November 2020



NSW Department of Planning, Industry and Environment | dpie.nsw.gov.au

Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: 3-5 Help Street, Chatswood - Gateway Determination Report Greater Sydney, Place and Infrastructure

Department reference number: IRF20/5071

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Glossary

Abbreviation	Reference
ADG	Apartment Design Guide
Council	Willoughby City Council
DA	Development Application
DCP	Development Control Plan
Department/DPIE	Department of Planning, Industry and Environment
DP	Deposited Plan
FSR	Floor Space Ratio
GFA	Gross Floor Area
LEP	Local Environmental Plan
LHS	Local Housing Strategy
LSPS	Local Strategic Planning Statement
PANS-OPS	Procedures for Air Navigation Services – Aircraft Operations
PPA	Planning Proposal Authority
RMS	Roads and Maritime Services
SEPP	State Environmental Planning Policy
SNPP/Panel	Sydney North Planning Panel

Summary

Local Government Area	Willoughby	
Planning Proposal Authority	Willoughby City Council	
Planning Proposal Name	PP_2020_WILLO_002_00	
Dwellings and Jobs	128 dwellings, 92 jobs	
LEP to be Amended	Willoughby Local Environmental Plan 2012	
Address	3-5 Help Street, Chatswood	
Lot and DP	SP 134 and SP 52320	
Date Received	24 September 2020	
File Number	IRF20/5071	
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.	

1. Introduction

1.1 Description of planning proposal

The planning proposal **(Attachment A)** seeks to amend the Willoughby LEP 2012 for the subject site by:

- Increasing the maximum permitted building height from part 20m and 25m to 90m.
- Increasing the maximum floor space ratio (FSR) from 2.7:1 to 6:1.
- Including a minimum commercial FSR component of 1:1.

A concept design has been provided with the planning proposal depicting a mixed-use development comprising of a part 2 and 3 storey commercial/retail podium with 26-storey a residential tower above.

The concept development could deliver approximately:

- 128 total dwellings including 4% as affordable housing.
- 2,290sqm of commercial/retail floor space.

1.2 Site description

The site is located at 3-5 Help Street, Chatswood (**Figure 1**) and has a total area of 2,290sqm comprising two lots with a primary frontage of 48m along Anderson Street and secondary frontages of 66m and 11m to Cambridge Lane and McIntosh Street respectively. Vehicular access is currently obtained from Help Street and McIntosh Street.

The site is currently occupied by two buildings (**Figures 2-4**), one being a three-storey residential flat building (3 Help Street) the other being a two-storey residential flat building (5 Help Street). Combined, these buildings contain 57 dwellings. The site has a fall of approximately 4m from north to south.

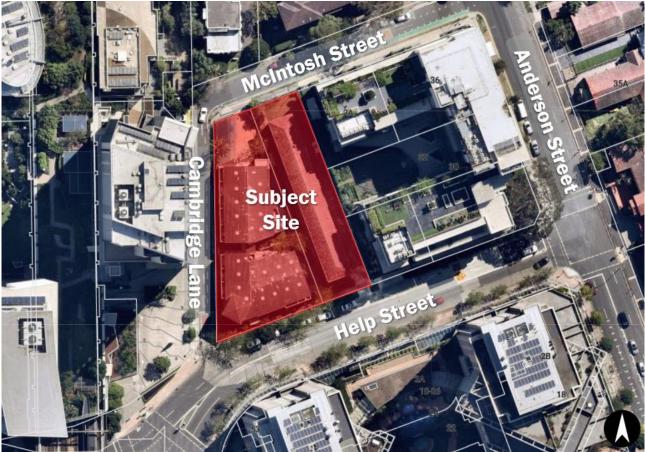


Figure 1: Site map (source: Nearmap).



Figure 2: Existing site as viewed from Help Street looking north (source: Google Maps).



Figure 3: Existing site as viewed from McIntosh Street looking south (source: Google Maps).



Figure 4: Existing site as viewed from Cambridge Lane looking south east (source: Google Maps).

1.3 Surrounding area

The site is located within the Chatswood CBD which includes Chatswood Station and transport interchange and three major shopping centres including Westfield, Chatswood Chase and the Mandarin Centre (**Figure 5**).

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, on the opposite side of McIntosh Street are two four-storey residential flat buildings.

To the south of the site, on the opposite site of Help Street is a part 19, part 28 storey mixed-use development known as the 'Regency Towers'.

To the east of the site, is a part 7 storey, part 12 storey mixed-use development, known as the 'Wyndel Apartments Chatswood' which comprises serviced apartments.

To the west of the site, on the opposite site of Cambridge Lane are several high-rise buildings including the 25-storey 'Cambridge Apartments', the 43-storey 'ERA' tower, the 32-storey 'EPICA' apartments and the 25-storey 'Altura' apartments.

The site adjoins land zoned R3 Medium Density Residential to the north, which permits a maximum building height of 12m (equivalent to three storeys) and an FSR of 0.9:1.

The site adjoins other B4-zoned land to the south, which permits a maximum building height of RL 172m AHD (equivalent to 24 storeys) and an FSR of 7:1.

The site adjoins other B4-zoned land to the east, which permits the same building height and FSR as the subject site.

The site adjoins land zoned R4 High Density Residential to the west, which permits a maximum building height of part RL 100m AHD, part RL 172m AHD (equivalent to one to 24 storeys) and an FSR of part 5:1 and part 7:1.

There is no minimum lot size required under the Willoughby LEP 2012 for the site.



Figure 5: Site context map (source: Nearmap).

1.4 Current planning controls

Under the Willoughby LEP 2012 the site is subject to the following planning provisions:

- A B4 Mixed Use zoning (Figure 6).
- A maximum building height of part 20m and part 25m (Figure 7).
- A maximum FSR of 2.7:1 (Figure 8).
- Help Street is identified as an active street frontage (Figure 9).
- Located within Area 3 of the special provisions area map (Figure 10) requiring the delivery of affordable housing.

A comparison of the current and proposed controls has been provided at Table 1.

Control	Current	Proposed	CBD Strategy
Zone	B4 Mixed Use	B4 Mixed Use	B4 Mixed Use
Height	Part 20m and part 25m	90m	90m
FSR	2.7:1	6:1 (1:1 minimum commercial)	6:1 (1:1 minimum commerical)
Affordable housing	No provisions for the site	4%, included FSR calculation	4%, included FSR calculation

Table 1: Comparison between current and proposed planning provisions.

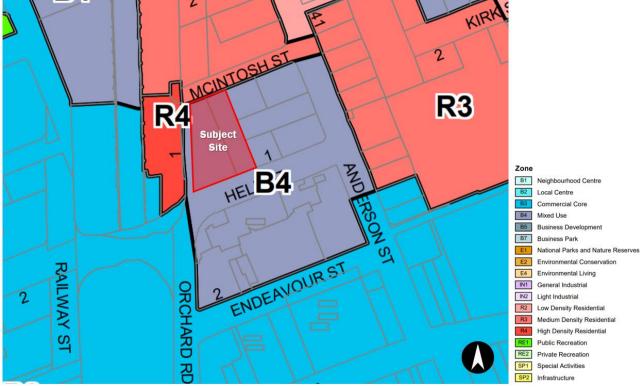


Figure 6: Willoughby LEP 2012 Land zoning map (source: DPIE).

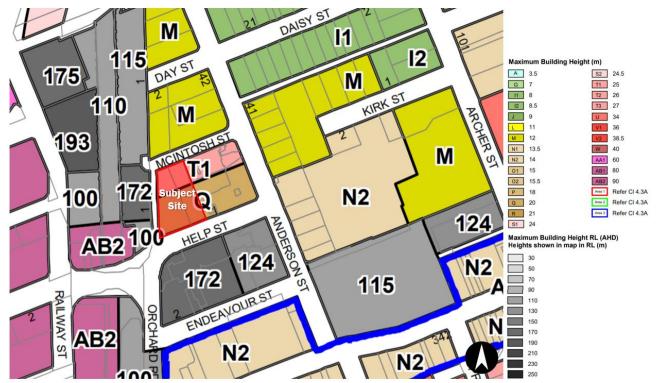


Figure 7: Willoughby LEP 2012 Maximum building height map (source: DPIE).

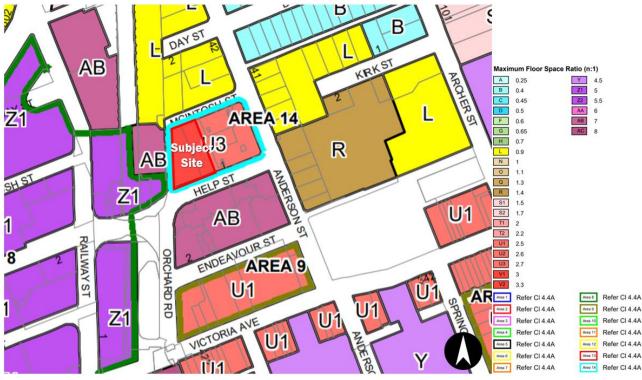


Figure 8: Willoughby LEP 2012 Maximum FSR map (source: DPIE).

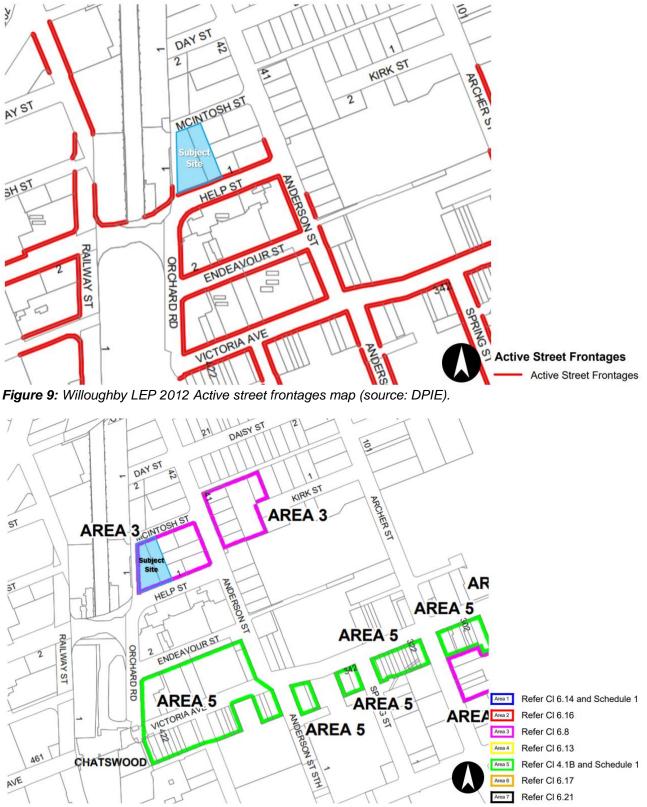


Figure 10: Willoughby LEP 2012 Special provisions area map (source: DPIE).

1.5 Summary of recommendation

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 to the site is consistent with the existing zoning and would not be out of character with the local context, given that residential, office and retail development have all been developed on sites in the vicinity of the subject site.
- The introduction a genuine mixed-use development would helps to service the daytime and night-time economies of the retail precinct and further activates the CBD core area.
- The proposal can appropriately mitigate the potential overshadowing impact to Chatswood Mall/Victoria Avenue between 12-2pm during midwinter through a revised LEP provision.
- The proposal will provide 128 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 maximum building height and 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.
- The proposal will deliver a mix of uses on the site within 150m walking distance of the Chatswood transport interchange and CBD core.

2.Background

2.1 Original Planning Proposal

On 11 February 2019, Council at its meeting resolved to support a planning proposal for the subject site to facilitate a mixed-use development. Specifically, the proposal sought to amend the Willoughby LEP 2012 by:

- Increasing the maximum building height from part 20m and 25m to 90m.
- Increasing the maximum FSR from 2.7:1 to 6:1.
- Inclusion of Clause 6.23 requiring a minimum commercial FSR requirement of 1:1 on the subject site.

- Inclusion of a design excellence clause to adopt the Willoughby Design Excellence policy into the Willoughby LEP 2012.
- Modifying clause 6.8 Affordable housing.

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.

Attachment G1 provides an overview and background of the Chatswood CBD Strategy endorsement process. **Attachments G2-4** include the finalised Chatswood CBD Strategy and the Department's partial and full endorsement letters.

3. Planning Proposal

3.1 Objectives or intended outcomes

The planning proposal identifies that it achieves the following objectives and intended outcomes:

• The proposal intends to facilitate the redevelopment of the subject site in a manner that is consistent with the provisions of the Chatswood CBD Strategy. This includes the support of mixed-use development and amending the height and FSR controls.

While this is considered to be clear, the proposal should rely on more than just its alignment with the Chatswood CBD Strategy as an objective or intended outcome.

Therefore, it is recommended that prior to exhibition, the proposal is to be updated to include additional objectives and outcomes which include, but should not be limited to:

- Consistency with Willoughby Council's endorsed Local Strategic Planning Statement (LSPS).
- Consistency with Willoughby Council's Local Housing Strategy (LHS).
- Consistency with the character of the adjoining area.
- Chatswood's significance as a Strategic Centre in the North District.
- The proximity of the site to new Sydney Metro network.
- How the proposal will facilitate the delivery of a development to help Council achieve its medium and long term dwellings and jobs targets.

3.2 Explanation of provisions

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

- Increasing the maximum permitted building height from part 25m and 27m to 90m.
- Increasing the maximum FSR from 2.7:1 to 6:1.
- Modifying a provision within Clause 4.4A Exceptions to floor space ratio:
 - Development consent must not be granted for the purpose of erecting a building on land identified as 'Area 14' unless commercial floor space equating to at least 1:1 is included.
- Modifying the Active Street Frontages Map to include the Help Street, McIntosh Street and Cambridge Lane frontages.

- 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.
 - To replace 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.

- To replace 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:
 - o 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.

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

However, as Council's resolution includes several clauses (e.g. affordable housing, design excellence) 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.

It is noted that PP_2019_WILLO_002_00 was submitted back to the Department with a request that the plan be made on 24 September 2020 and includes both the affordable housing and design excellence clauses as sought under the subject planning proposal.

It is also noted that on page 11 of the planning proposal report that it incorrectly refers to the maximum FSR being 7:1. This is required to be updated prior to public exhibition.

3.3 Mapping

Draft LEP mapping (Attachment D) has been provided as part of the planning proposal to demonstrate the proposed changes to the Willoughby LEP 2012. The draft maps submitted include:

- 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 (SPA_004) showing the site as Area 8, Area 9, Area 11 and Area 12 (**Figure 13**).
- An amended Active Street Frontages Map (ASF_004) showing McIntosh Street, Help Street and Cambridge Lane as active frontages (**Figure 14**).

No changes are proposed to any other LEP maps.

The maps submitted are considered appropriate for Gateway assessment and public exhibition. The maps will be required to be consistent with Department standard should the plan proceed to finalisation.

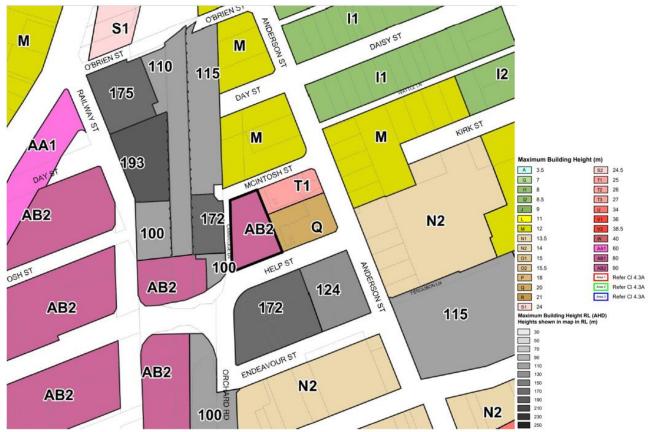


Figure 11: Draft Willoughby LEP 2012 Maximum height of buildings map (source: Ethos Urban).

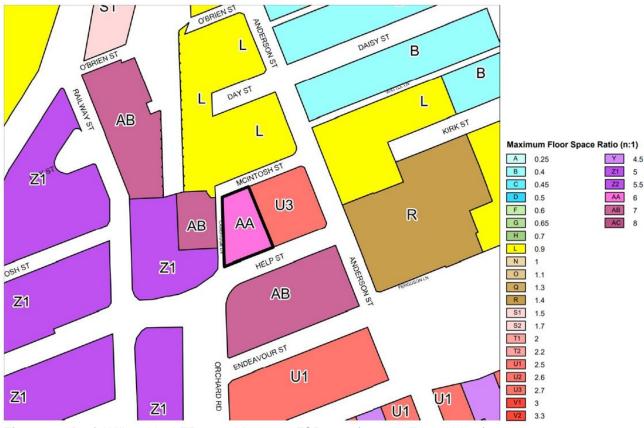


Figure 12: Draft Willoughby LEP 2012 Maximum FSR map (source: Ethos Urban).

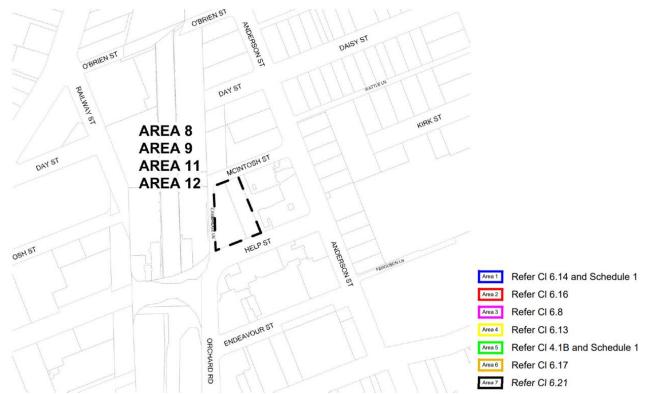


Figure 13: Draft Willoughby LEP 2012 Special Area Provisions map (source: Ethos Urban).



Figure 14: Draft Willoughby LEP 2012 Active street frontages map (source: Ethos Urban).

3.4 Concept Design

A concept design submitted with the documentation indicates that the proposal could potentially deliver a mixed-use development comprising a two-three storey commercial/retail podium a single 24 storey residential tower above (**Figures 15-16**).

The planning proposal states that the concept development could provide 128 dwellings and the delivery of 92 jobs.

The breakdown of GFA based on the type of land use has been provided in Table 2.

Table 2: Proposed GFA allocation of concept design.

Land use type	GFA
Commercial Office/Retail	2,290sqm
Residential	11,450sqm (excluding affordable housing)
Total	13,740sqm

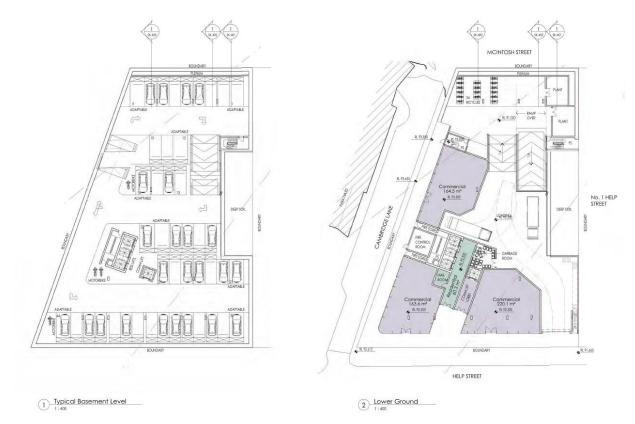
Drawings of the proposed concept development have been provided at Figures 15-20 and at (Attachment A5).



Figures 15 and *16:* Proposed concept development plan – Note: building in the foreground of figure 15 is an existing RFB not related to the subject proposal (source: KannFinch).



Figure 17: Proposed concept building envelope amongst existing Chatswood skyline – Note: building in the foreground is an existing RFB at 1-3 Help Street and not related to the subject proposal (source: KannFinch).



Figures 18 and 19: Proposed concept basement lower ground floor plan (source: KannFinch).



Figures 20 and *21:* Proposed concept floorplate above podium and higher-level floorplates (source: KannFinch).

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 4** 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 would rezone all land within the Chatswood CBD area being submitted to the Department for Gateway in late 2020.

5. Strategic Assessment

5.1 North District Plan

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 also 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 if this does not constrain the ongoing operation and expansion of commercial and retail activities.

The planning proposal documentation (Attachment A) estimates that based on the concept for the current proposal, development in accordance with the proposal has the capacity to deliver around 92 total jobs.

This translates to between 1.1% - 1.5% 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 2,290sqm. This is based on the proposed amendments and assuming the development is fully developed in accordance with the maximum FSR and minimum commerical FSR sought by the proposal.

In relation to the commercial offering, the proposal states it will provide boutique commercial office suites and that this is consistent with the demand identified in the Council-commissioned report *Chatswood CBD Competitive and Comparative Analysis* by AEC. The report provides the following comments on boutique commercial office suites in mixed-use buildings:

- The market appeal of commercial floor space within mixed-use residential buildings is less likely to convey a corporate image that is typically sought on the western side of the rail line. Large corporate occupiers are unlikely to seek space within a mixed-use residential building unless the space is innovative in design and finish.
- Commercial tenancies within mixed-use residential buildings can be well sought after by small businesses, e.g. professional services offices (lawyer, accountant, tax advisor, etc.) and other businesses who respond to local population growth. However, it is not uncommon that commercial suites remain vacant long after completion due to isolation and poor amenity.
- Commercial occupiers are generally drawn to attractive buildings near the train station and retail core.
- Demand for retail and commercial floor space has strengthened commensurate with the growth of residential uses in Chatswood.
- Retail and commercial suites within a mixed-use development that is dominated by residential uses need careful planning and design and astute market positioning to be sustainable.

Based on the above and subject to a future detailed design at the development application stage, it is considered that the proposal can deliver a development that is consistent with the North District Plan. **Table 3** outlines the relevant priorities of the District plan and how the proposal demonstrates consistency with these priorities.

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 71 additional dwellings (128 total dwellings) including a 4% affordable housing component near 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. The Development will not impact upon any nearby heritage items or heritage conservation areas.
N8 Eastern Economic Corridor is better connected and more competitive	By growing employment generating development in the Eastern Economic Corridor that is highly accessible to the well-connected Chatswood public transport interchange.
N10 Growing investment, business opportunities and jobs in strategic centres	By providing the opportunity to contribute between 1.1%-1.5% 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 150m of the Chatswood transport interchange.

Table 3: Consistency of planning proposal with North District Plan priorities.

5.2 Chatswood CBD Strategy

The now finalised and endorsed Chatswood CBD Strategy (Attachment G4) 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 in regards to 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 4** includes the Department's assessment of the proposal's consistency with these key elements.

Table 4: Summary of proposal's consistency with Chatswood CBD Planning and Urban Design Strategy.

Key Element	Consistent	Assessment of Consistency
CBD Boundary	Yes	Proposal is within existing CBD boundary falls within the proposed expanded B4 Mixed Use area.
Land Use	Yes	The proposal maintains the existing B4 Mixed Use zoning.

Key Element	Consistent	Assessment of Consistency
Removal of DCP provisions for size of office and retail tenancies within B3 core	N/A	Not relevant to subject site.
Serviced apartments to be removed as a permissible use within B3 core	N/A	Not relevant to subject site.
Increased FSR above current controls are to be linked to a contributions scheme for the	Yes	The Council's proposed value capture scheme is not supported by the Department.
delivery of local infrastructure		Council has advised that they are no longer seeking to include value capture as a mechanism for development contributions.
		Council is currently exhibiting its revised contributions scheme.
		The proponent has included a letter of offer to enter into a Voluntary Planning Agreement (VPA) once Council finalises its contributions plan.
Design excellence required for all development above 35m	Yes	Council would require all development above 35m to be subject to a design excellence process. This would be undertaken at DA stage.
		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.
		Note: that 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.
Higher building sustainability standards	Yes	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.
Base FSR	Yes	The proposal would achieve an FSR above 2.5:1 the minimum (base) for this site.
Minimum site area	Yes	Site is approximately 2,290sqm which is above the minimum site area requirement of 1,200sqm for sites within the B4 Mixed Use areas.

Key Element	Consistent	Assessment of Consistency
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.
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.
Maximum tower floor plate sizes	Yes	The proposed tower is below the maximum recommended floor plate size of 700sqm for residential development.
Width of the side of each side of any tower to be minimised	Yes	The sides of the tower have been minimised to ensure Council's goal of creating slender tower forms.
Tower separation	N/A	The proposal only includes a single residential tower which has a minimum separation of 18m to the neighbouring building to the west.
Sun access to key public spaces and conservation areas	Yes	The proposal identifies a maximum building height of 90m to be applied to the site with the proposed concept plans including a height of RL 185.50m to the top of the lift overrun. The site is affected by the solar access plane within the height of buildings map which identifies that a maximum RL of approximately RL178-190m to protect sun access to Victoria Avenue. Council required that the proposed concept to updated to demonstrate compliance with this. The location of the tower is considered to comply with this solar access plane. It is also noted that Clause 4.3(A)8 of the Willoughby LEP 2012 currently includes solar access protections to Chatswood Mall (Victoria Avenue). Although this is only
		within 50m of Chatswood Mall and the site is approximately 150m away this clause would not apply. Therefore, it is recommended that additional solar access provisions are included within the subject

Key Element	Consistent	Assessment of Consistency
		planning proposal to ensure the protection of this valued public open space.
Building Heights	Yes	The maximum building height for the subject site is 90m which the proposal is consistent with the strategy. As discussed above there remains a concern regarding the proposed concepts consistency with the solar access plane. This is to be addressed prior to exhibition as conditioned in the Gateway determination by strengthening the existing solar access provisions in the LEP.
Lift over runs and architectural features integrated into building form	Yes – capable at DA stage	The proposed concept design integrates the lift over run and architectural features within the tower form.
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	The proposed concept design includes widened footpaths and landscaping which could be delivered as part of a future DA or within a VPA.
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 the roof above the podium form is intended to be a green roof.
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 podium form for the proposal shows that there is capability to achieve this outcome.
Roof top communal open space	Yes	Communal open space provided above the commercial/retail podium.
Street wall heights and setbacks	Yes – capable at DA stage	The strategy indicates a 6-14m street wall height with a minimum 3m setback above the street wall to the tower form above. The proposal includes a max street wall height of 13.3m and the tower is setback a minimum of 3m from the podium.

Key Element	Consistent	Assessment of Consistency
Active street frontages	Yes	Help Street, McIntosh Street and Cambridge Lane are all identified as active street frontages.
Site isolation	Yes	The site is not isolated and at 2,290sqm is well above minimum lot size of 1,200sqm for the B4 Mixed Use area.
Traffic and transport	Yes	All access and parking requirements are consistent with the strategy including a single entry and exit in a forward direction, basement loading and parking requirements.

5.3 Willoughby Local Strategic Planning Statement

Council adopted the final Willoughby Local Strategic Planning Statement (LSPS) at its meeting of 10 February 2020. The 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.

The Greater Sydney Commission (GSC) endorsed the LSPS on 20 March 2020 and the Department published it on the NSW Planning Portal on 31 March 2020.

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

The planning proposal does not include any commentary on the LSPS. It is therefore recommended that prior to public exhibition the proposal be updated to address and assess the proposal against all the relevant priorities and actions the published LSPS.

5.4 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.

The proposal is consistent with Council's finalised LHS as it supports the delivery of the key elements of the Chatswood CBD Strategy, however the actions and priorities within

the LHS are not addressed within the planning proposal at it was prepared prior to Council's LHS being finalised.

Therefore, a Gateway condition is recommended to be included which requires the planning proposal to be updated to include an assessment of the consistency of the proposal with Council's LHS.

5.5 Section 9.1 Ministerial Directions

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.

This direction applies to the planning proposal as the proposal seeks to alter an existing B4 Mixed Use zone by including a minimum commercial FSR requirement.

It is recognised that the existing site currently does not have a commercial use and that the proposal would encourage more employment generating uses on site.

The proposal is therefore considered consistent with this direction.

Direction 2.6 Remediation of Contaminated Land

Direction 2.6 aims to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered at the planning proposal stage.

This direction applies as there is intent to carry out residential development on land where there is no knowledge of whether the land is contaminated.

To the Department's knowledge there is no reason to expect that the subject site is contaminated as it has been used for residential purposes for an extended period.

Should any land contamination be identified during the detailed development application stage, a preliminary site investigation would be required to be prepared to determine the extent of the contamination and methods to remediate the site.

The proposal is considered to achieve consistency with this direction.

Direction 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.

The proposal will be increasing the potential residential yield in a strategic location in an existing B4 Mixed Use zone where residential uses are permissible. The proposal is considered to be consistent with this direction.

Direction 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 commercial and new residential purposes. The site which the proposal relates is located approximately 150m 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 near a major public transport interchange it is considered to be consistent with this direction.

Direction 3.5 Development Near Regulated Airports and Defence Airfields

Direction 3.5 aims at ensuring the effective and safe operation of airports and to minmise the impact of aircraft on noise sensitive land.

The maximum height of 90m (or RL 182m AHD) of the planning proposal falls below the Radar Terrain Clearance (RTCC) as prescribed by the PANS-OPS (Procedures for Air Navigation Services, Operations), which varies in Chatswood from RL 246.8m AHD to RL 300m AHD.

The proposal is considered consistent with this direction.

Direction 4.1 Acid Sulfate Soils

Direction 4.1 aims to prevent significant adverse environmental impacts from the use of land that is affected by acid sulfate soils.

Site is subject to Class 5 acid sulphate soils as indicated by the Willoughby LEP 2012. As a result there is minimum risk of encountering acid sulfate soils under a future development application.

The proposal is considered consistent with this direction.

Direction 6.3 Site Specific Provisions

This direction aims to discourage unnecessarily restrictive site-specific planning controls.

The direction applies to the planning proposal at 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.

5.6 State Environmental Planning Policies (SEPPs)

SEPP (Infrastructure) 2007

The planning proposal would likely result in a development application where substantial excavation would be required for the basement parking. As the site is in proximity of the T1 North Shore Rail Line corridor, concurrence to the rail authority may be required with a resulting development application.

The planning proposal is recommended to be referred to the Transport for NSW (TfNSW) to provide commentary on any potential impact to rail infrastructure.

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 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 options.

SEPP 55 Remediation of Land

The land has been used for residential purposes for an extended period and is therefore unlikely to be contaminated. Should a site contamination assessment be required, this would be conducted at development application stage.

SEPP 65 Design Quality of Residential Flat Building Development

SEPP 65 applies to the residential component of any future mixed-use building on the site.

A 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.

Part 2 of the ADG recommends developing the appropriate building height controls for a site, which include:

- Responding to the desired future scale and character of the street and local area;
- Considering the height of existing buildings that are unlikely to change (for example, a heritage item(s) or strata subdivided buildings);
- Providing adequate daylight and solar access to apartments within the development, but also adjoining properties and public domain; and
- Providing architectural roof design and roof-top communal open spaces, where appropriate.

The maximum scale of development proposed for the site is consistent with adjoining sites to the south and west and the future intention of the surrounding Chatswood CBD area.

6. Site-specific Assessment

6.1 Built Form

Building height

The proposed height increase would facilitate a concept development of approximately 28 storeys including a two-three storey commercial podium and residential tower above.

The concept design (**Figures 15-21**) for the proposal identifies that the residential tower could achieve a maximum height of RL 182m AHD.

The proposed residential tower is generally consistent with Council's desired maximum height of buildings for the site as recommended under the Chatswood CBD Strategy (**Figure 22**). Although it is noted that the southern portion of the site is affected by the proposed solar access plane which protects Chatswood Mall/Victoria Avenue from overshadowing between 12pm-2pm during mid-winter.

While the proposal is supported by a Development Control Plan (DCP) that includes solar access controls to protect Chatswood Mall, it is recommended that these provisions are better positioned within the LEP to reflect the intention of the Chatswood CBD Strategy and existing LEP provisions which identify this as a key public space.



Figure 22: Chatswood CBD Strategy proposed maximum height map (source: Willoughby City Council).

Building separation and setbacks

It is considered that the concept design demonstrates that sufficient building separation and setbacks can be achieved on the site under the proposed controls, subject to a detailed design at development application stage. The concept design and supporting DCP details that:

• The proposed residential tower can achieve compliance with the Apartment Design Guide for all neighbouring developments.

- Any commercial uses above street wall height will be setback a minimum of 6m from the site boundaries.
- Ground floor floorspace is intended to be maximise with a zero setback podium to allow for sufficient internal circulation, access and services.

It is also noted that under a future development application a SEPP 65 Design Report will be required to be submitted to ensure that the subsequently development is consistent with SEPP 65.

Any amenity impacts such as visual privacy and view loss can be appropriately addressed as part any future development application, although considering the site is located in a regionally significant growing centre it is likely that there will be unavoidable amenity impacts to neighbouring properties.

Solar access

The proposal indicated that approximately 70% of apartments within a residential tower built in accordance with the proposal would be capable of receiving a minimum of two hours of solar access to living areas in midwinter. This is consistent with Part 4A of the ADG of SEPP 65 and is considerable acceptable for the purposes of this planning proposal.

Overshadowing

Clause 4.3A(8) of the Willoughby LEP 2012 requires that development consent must not be granted for the erection of a building within 50m of the Victoria Avenue/Chatswood Mall if that development would cause increased overshadowing impact in mid-winter between 12pm and 2pm.

The Chatswood CBD Strategy seeks to further refine these protections with the inclusion of a solar access plan within its maximum height of buildings map (**Figure 22**) which seeks to protect the key public spaces as identified within the strategy (**Figure 23**).

As mentioned previously the planning proposal includes a supporting site-specific DCP which includes the solar access controls as recommended within the Chatswood CBD Strategy. However, given the intention of the existing LEP clause and the strategy, it is recommended that these solar access protections are to be implemented within the written LEP instrument to heighten the importance of protecting these key public spaces.

The proposal is supported by concept shadow diagrams (Attachment A6) which indicate the potential extent of overshadowing to Victoria Avenue and surrounding development, noting that there is no increase in the level of overshadowing to nearby protected open spaces during 12-2pm during mid-winter.

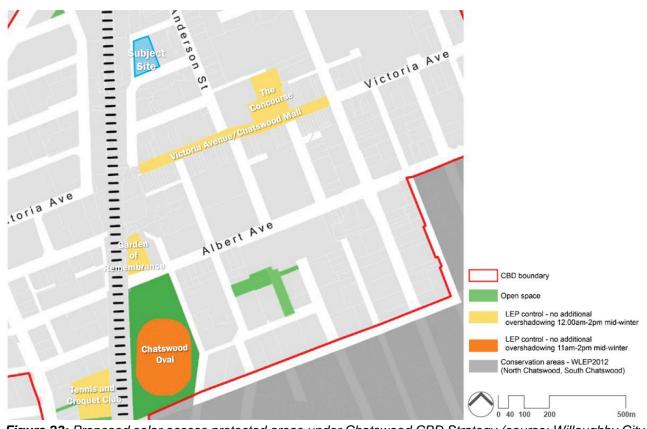


Figure 23: Proposed solar access protected areas under Chatswood CBD Strategy (source: Willoughby City Council).

View sharing

Any development on the site above the existing permitted building height would impact on the views currently obtained from the surrounding residential towers to the north, west and south of the site. The proposal states that the concept scheme has been designed to minimise impacts to views through the delivery of a slender tower form. While it is recognised that some views are likely to be lost as a result of a future development on site, the proposal is consistent with Council's desired uplift in this location.

The loss of regional and district views from existing development is considered inevitable within a regional strategic centre such as Chatswood that seeks uplift for both the height of buildings and maximum FSR. However, an assessment of the extent of view loss has yet to be carried out as part of the planning proposal.

Prior to exhibition, Council as the planning proposal authority should determine whether there are likely to be significant regional or district views lost as a result of the planning and proposal and whether a view loss analysis is to be prepared as part of the exhibition material. This is recommended to be included as a Gateway condition.

As the proposal would deliver a development in excess of 35m in height, any future development application would be required to progress through a design review panel which could recommend refinements to the design to reduce amenity impacts where appropriate.

6.2 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.

Public amenity

The concept design of the proposal intends to improve and activate the existing footpaths surrounding the site to improve connectivity through the Chatswood CBD towards nearby public spaces and the Chatswood transport interchange.

Council is currently developing its Section 7.11 and 7.12 Contributions plans for the provision of social infrastructure within the Chatswood CBD which is expected to be adopted by Council following its recent exhibition that ended in mid-October 2020.

6.3 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.

An arborist report has been prepared to support the proposal which recommends the removal and safe replanting of a 50-year old palm tree which is growing in less than idea conditions.

As the proposed concept intends provide a minimum 20% soft landscaped area as part of any future development (ground and above podium level) this loss of landscaping is considered acceptable.

6.4 Economic

Employment

The proposal is supported by a market feasibility report prepared by AEC, although the report has been based off an earlier proposal which indicated a maximum height of 100m and maximum FSR of 8.82:1 for the site which originally could have delivered approximately 190 dwellings and 2,296sqm of commercial floor space.

These figures have been refined since the proposal was amended to align with the Chatswood CBD Strategy which now indicates that the proposal will deliver approximately 120 dwellings, although maintains a similar amount commercial floor space as originally proposed.

The report identifies that when the feasibility analysis was prepared in 2017, there was a strong demand and falling vacancy rates for commercial floor space within mixed use developments and that Chatswood is one of the strongest markets for this type of development.

The planning proposal would result in a substantial commercial offering on the subject site to align more closely with its current and proposed future use as a B4 Mixed Use zone.

This outcome has considerable benefit as it 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 by supporting both retail, office and business development.

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.

6.5 Infrastructure

Public transport

The site is well serviced with public transport infrastructure as it is within 150m 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

A traffic impact assessment report, as prepared by GTA Consultants, has been submitted with the planning proposal and provides an assessment of the transport impacts resulting from the proposed concept development.

The report identifies that that based on Council's DCP guidelines and former Roads and Maritime's (RMS) Guide to Traffic Generating Developments:

- 174 car parking spaces (including visitor spaces) and 9 motorcycle spaces would be required to be provided on site with access via McIntosh Street and loading bay access via Help Street.
- 34 bicycle spaces will be provided.
- A maximum of 31 trips in the AM peak, 40 trips in the PM peak and 379 trips in total on any given day.

The number of parking spaces is based on the RMS guide as Council's DCP would require a higher provision of spaces at 198. The RMS guide is considered to be appropriate in the context of the site given its excellent accessibility to a major public transport node. Based on the SIDRA analysis, the assessment finds that based on the existing traffic volumes near the site, the additional traffic generated by the amended planning proposal is not expected to compromise the safety or function of the surrounding road network. All surrounding intersections (Orchard Road/Help Street, Anderson Street, Help Street and Anderson Street/McIntosh Street) would all continue to operate with a level of service at least C or higher indicating an acceptable operation.

It is noted that the Department's Chatswood CBD Strategy endorsement requires Council to engage TfNSW 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 been completed by Arup in conjunction with TfNSW and is currently with TfNSW for finalisation and adoption. As part of the Gateway determination it is recommended that a condition to consult with TfNSW is included to ensure that the planning proposal is consistent with the wider Chatswood CBD context and ongoing traffic and transport analysis.

Infrastructure and services

Any future development may require utility services to be upgraded and/or augmented to enable the future residential population to be accommodated.

As the proposal would intensify development on the site, it is recommended that relevant state infrastructure service providers are consulted as part of the Gateway determination, including Sydney Water, Ausgrid and the NSW Department of Education. These have been included as conditions.

7. Consultation

7.1 Community

The planning proposal has recommended a 28-day consultation. This is 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.

8. Timeframe

The planning proposal requires an updated timeframe given the report has not been updated since early 2019. It is recommended that a 12-month timeframe is appropriate for this planning proposal.

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 planning proposal seeks to redevelop the existing aged residential flat buildings for the purposes of a mixed-use development comprising 128 apartments, additional affordable housing, 2,290sqm of commercial floor space (92 jobs).

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 to the site is consistent with the existing zoning and would not be out of character with the local context, given that residential, office and retail development have all been developed on sites in the vicinity of the subject site.
- The introduction 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.
- The proposal can appropriately mitigate the potential overshadowing impact to Chatswood Mall/Victoria Avenue between 12-2pm during midwinter through a revised LEP provision.
- The proposal will provide 128 dwellings including affordable housing within the Chatswood CBD on a site that ascribes to the 30-minute city outcomes sought by the North District Plan.

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

- The proposed maximum building height and 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.

• The proposal will deliver a mix of uses on the site within 150m walking distance of the Chatswood transport interchange and CBD core.

11. Recommendation

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

- 1. Prior to community consultation the proposal is to be updated to include:
 - (a) An updated project timeline based on the issuing of this Gateway determination and the timeframe included.
 - (b) Removal of clauses 6.8 and 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.
 - (c) Material discussing A Plan for Growing Sydney and Draft Greater Sydney Region Plan is to be removed and updated to address the Greater Sydney Region Plan.
 - (d) Material discussing the draft North District Plan is to be updated to address the North District Plan.
 - (e) The objectives of the planning proposal are to be updated to include the proposals consistency with the Chatswood CBD Strategy, Local Strategic Planning Statement and Local Housing Strategy.
 - (f) Include an assessment of the proposal against the relevant priorities and actions of the endorsed Willoughby Local Strategic Planning Statement and the finalised Willoughby Local Housing Strategy.
 - (g) The planning proposal report is to be consolidated into a single document as opposed to several addendum reports supporting the original report.
 - (h) Willoughby LEP 2012 Clause 4.3A(8) is to be updated to be consistent with the recommendations of the now finalised Chatswood CBD Strategy regarding solar access protection to key public open spaces during 12pm-2pm during mid-winter.
 - (i) 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.
- 2. The planning proposal should be made available for community consultation for a minimum of 28 days.
- 3. Consultation is required with the following public authorities:
 - Transport for NSW.
 - Ausgrid.
 - Sydney Water.
 - NSW Department of Education.
 - NSW Department of Health.
 - Sydney Airport Corporation.
- 4. The time frame for completing the LEP is to be **12 months** from the date of the Gateway determination.

5. Given the nature of the planning proposal and its consistency with the Chatswood CBD Strategy, Council authorised to be the local plan-making authority to make this plan.

Goto

Brench Metcalp

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Attachments

Attachment Gateway – Gateway Determination

Attachment Letter – Letter to Council advising of decision

Attachment A – Planning proposal documentation

- A1 Planning proposal cover letter
- A2 Returning of planning proposal to Department for Gateway
- A3 Planning proposal consolidated report
- A4 Draft DCP
- A5 Concept plans
- A6 Shadow diagrams
- A7 Traffic report
- A8 Arborist report
- A9 Market feasibility report

Attachment B - Site map

Attachment C – Locality context map

Attachment D – Existing LEP maps

Attachment E – Proposed LEP maps

Attachment F – Council correspondence

- F1 Council report
- F2 Detailed assessment report
- F3 Willoughby Local Planning Panel minutes
- F4 Council resolution

Attachment G – Chatswood CBD Strategy

- **G1** Chatswood CBD Strategy background summary
- G2 Department's partial endorsement letter
- **G3** Department's full endorsement
- **G4** Final Chatswood CBD Planning and Urban Design Strategy