

7. Delegate authority to the Chief Executive Officer to make any minor amendments to the Planning Proposal which do not alter the policy intent.

MOVED COUNCILLOR MUSTACA /SECONDED COUNCILLOR WRIGHT

**CARRIED**

**Voting**

**For the Motion:** Councillors Campbell, Eriksson, Fernandez, Mustaca, Norton, Rozos, Tuon, Wright and Zhu.

**Against:** Councillor Saville

**Absent:** Councillor Giles-Gidney

*Note:*

*Councillor Giles-Gidney declared an interest in this item.*

**16.1 NOTICE OF RESCISSION MOTION 02/2021 - PLANNING PROPOSAL - 3 ELLIS STREET, CHATSWOOD**

|                               |                                                                                                                                                                                                          |
|-------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>RESPONSIBLE OFFICER:</b>   | <b>HUGH PHEMISTER – PLANNING &amp; INFRASTRUCTURE DIRECTOR</b>                                                                                                                                           |
| <b>AUTHOR:</b>                | <b>IAN ARNOTT – PLANNING MANAGER<br/>CRAIG O'BRIEN – STRATEGIC PLANNER</b>                                                                                                                               |
| <b>CITY STRATEGY OUTCOME:</b> | <b>3.5 – MAINTAIN QUALITY OF LIFE BY BALANCING POPULATION GROWTH WITH THE PROVISION OF ASSETS AND SERVICES CITY STRATEGY OUTCOME:<br/>5.1 – BE HONEST, TRANSPARENT AND ACCOUNTABLE IN ALL THAT WE DO</b> |

**MOTION**

That Council pursuant to notice, rescind the following resolution of Council, made on 15 June 2021, relating to Item 15.9: Planning Proposal – 3 Ellis Street, Chatswood:

*“That Council not forward the Planning Proposal to the Department of Planning, Industry and Environment seeking Gateway determination on the basis of overshadowing and non-compliance with lot size and floor space ratio.”*

MOVED COUNCILLOR NORTON / SECONDED COUNCILLOR TUON

**CARRIED**

**Voting**

**For the Motion:** Councillors Campbell, Eriksson, Fernandez, Mustaca, Norton, Rozos, Tuon, Wright and Zhu.

**Against:** Councillor Saville

**Absent:** Councillor Giles-Gidney

**MOTION**

That Council:

1. Forward the Planning Proposal to the Department of Planning, Industry and Environment seeking a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*, with the following amendments to *Willoughby Local Environmental Plan 2012*:
  - a) To add Clause 4.4B 'Minimum non-residential floor space in the Mixed Use Zone' as follows:

**"4.4B Minimum non-residential floor space in the Mixed Use Zone**

Land zoned B4 Mixed Use is to contain a minimum non-residential floor space component. This is calculated at 17% of FSR as indicated on the Floor Space Ratio Map."
  - b) To add Clause 5.6 'Architectural roof features', (2A) as follows:

**"(2A) Despite subclause (2), development within Area 8 on the Special Provisions Area Map may only be carried out in accordance with the maximum height of Clause 4.3."**
  - c) To amend Clause 6.7 'Active street frontages' as follows:
    - (1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre, Zone B3 Commercial Core and Zone B4 Mixed Use.
    - (2) This clause applies to land identified as "Active Street Frontages" on the Active Street Frontages Map.
    - (3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.
    - (4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following—
      - (a) entrances and lobbies (including as part of mixed use development),
      - (b) access for fire services,
      - (c) vehicular access.
    - (5) In this clause, a building has an active street frontage if:
      - a) In the Zone B3 Commercial Core, all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.

- b) In the Zone B1 Neighbourhood Business, B2 Local Centre, B4 Mixed Use, B5 Business Development and B7 Business Park, all premises on the ground floor of the building facing the street are used for the purposes of non-residential premises.”
- d) To amend Clause 6.8 (2) to include “Area 3 or Area 8 or Area 9” on the Special Provisions Area Map.
- e) To amend Clause 6.23 (2) to include “Area 8” or “Area 12” on the Special Provisions Area Map.
- f) To add Clause 6.25 as follows:

“6.25 Sun access

  - (1) The objective of this clause is to:
    - (a) protect certain public space in Chatswood CBD from excessive overshadowing.
    - (b) Protect properties in South Chatswood Conservation Area from a reduction in solar access
  - (2) The consent authority must not grant consent to development on land zoned B3 or B4 if the consent authority is satisfied that:
    - (a) the development will result in additional overshadowing in mid winter between 12 noon and 2pm, on:
      - Victoria Avenue between the interchange and Archer Street
      - Concourse Open Space
      - Garden of Remembrance
      - Tennis and croquet club
    - (b) the development will reduce solar access to any individual property within the South Chatswood Conservation Area to less than 3 hours between 9.00am and 3.00pm mid winter.
- g) Add to Schedule 1 Additional Permitted Uses:

“75. Use of certain B4 land in Chatswood

  - (1) This clause applies to land zoned B4 in the Chatswood CBD.
  - (2) Development for the purpose of residential flat building is permitted with development consent if the consent authority is satisfied that:
    - (a) the ground level is used for non-residential purposes and
    - (b) A minimum of 17% of the total FSR is provided for non-residential purposes and
    - (c) No residential dwelling is located at the ground floor.”
- h) To amend the Land Zoning Map (Sheet LZN\_004) for 3 Ellis Street, Chatswood, to B4 Mixed Use.
- i) To amend the Height of Buildings Map (Sheet HOB\_004) for 3 Ellis Street, Chatswood, to 44 metres.



- j) To amend the Floor Space Ratio Map (Sheet FSR\_004) for 3 Ellis Street, Chatswood, to 4.5:1 (including affordable housing).
  - k) To amend the Special Provisions Area Map (Sheet SPA\_004) to show 3 Ellis Street, Chatswood, as Area 8.
  - l) To amend the Active Street Frontages Map (Sheet ASF\_004) to include 3 Ellis Street, Chatswood, to include the Ellis Street frontage.
  - m) To amend the Lot Size Map (Sheet LSZ\_004) to include 3 Ellis Street, Chatswood, with a minimum lot size of 800 sq metres.
2. Subject to 1. above, endorse for public exhibition the Planning Proposal as amended.
3. Endorse for public exhibition the Planning Proposal, with the accompanying draft site specific Development Control Plan provisions, subject to the following amendments:
- a) Section 4 'Street Frontage Heights and Setbacks'
    - i. Add Performance Criteria 4 as follows:  
"Adequate building separation to neighbouring properties must be provided."
    - ii. Add Control 2 as follows:  
"Building separation to neighbouring properties is to be consistent with the Apartment Design Guidelines."
  - b) Section 5 'Building Exterior'
    - i. Amend Performance Criteria 1 to read:  
"Buildings are to demonstrate a high visual quality of development when viewed from the public domain and the surrounding area, including the Frank Channon Walk."
    - ii. Amend Controls 1 to read:  
"Façade designs must be sensitive to the pedestrian environment in terms of wall height finishes and setbacks from planting."
    - iii. Amend Controls 2 to read:  
"Extensive blank walls will not be supported."
  - c) Section 6 'Amenity'
    - i. Amend Control 3 to read:  
"Residential amenity is to be in accordance with the Apartment Design Guidelines."
  - d) Section 9 'Traffic and Transport'
    - i. Add Control 4:  
"Two car share spaces are to be provided in Basement Level 2 close to lifts. Public access to be detailed at development application stage."
  - e) Section 11 'Design Excellence and Building Sustainability'
    - i. Amend heading to read:  
"Design Excellence"

- f) **Add Section 15 'Sustainability'**
  - i. **Add Performance Criteria**  
"Achievement of design excellence shall include achievement of higher building sustainability standards."
  - ii. **Add Control:**  
"A minimum 5 star GCBA building rating is expected. A report is to be submitted at development application stage."
- 4. **Subject to 1, 2 and 3 above, prior to public exhibition, concept plans are to be provided that clearly show that at no point the proposed mixed use building encroaches on the sun access protection plane determining height on this site.**
- 5. **Note that following public exhibition the Planning Proposal will be reported back to Council detailing the outcome of the public exhibition period at which time Council may resolve:**
  - a) **To proceed as recommended.**
  - b) **To not proceed with the Planning Proposal.**
- 6. **Request that the Department of Planning, Industry and Environment nominate Council as the Planning Authority to finalise the Planning Proposal and that the Department of Planning, Industry and Environment delegate authority to the Council Planning Manager, Mr Ian Arnott to process and finalise the Planning Proposal documentation for the purposes of Section 3.36 of the Environmental Planning and Assessment Act, 1979.**
- 7. **Delegate authority to the Chief Executive Officer to make any minor amendments to the Planning Proposal which do not alter the policy intent.**

**MOVED COUNCILLOR MUSTACA / SECONDED COUNCILLOR ERIKSSON**

**CARRIED**

**Voting**

**For the Motion:** Councillors Campbell, Eriksson, Fernandez, Mustaca, Norton, Rozos, Tuon, Wright and Zhu.

**Against:** Councillor Saville

**Absent:** Councillors Giles-Gidney

**Note:**

*Councillor Giles-Gidney declared an interest in this item.*

