

**15.6 PLANNING PROPOSAL FOR 9 - 11 NELSON STREET CHATSWOOD**

**RESPONSIBLE OFFICER:** HUGH PHEMISTER – PLANNING & INFRASTRUCTURE DIRECTOR

**AUTHOR:** CRAIG O'BRIEN – STRATEGIC PLANNER

**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:
  - (1) 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."
  - (2) 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."**
  - (3) 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."
- (4) To amend Clause 6.8 (2) to include "Area 3 or Area 8 or Area 9" on the Special Provisions Area Map.
- (5) To amend Clause 6.23 (2) to include "Area 8" or "Area 12" on the Special Provisions Area Map.
- (6) 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.
- (7) 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."
  - (8) To amend the Land Zoning Map (Sheet LZN\_004) for 9 – 11 Nelson Street, Chatswood, to B4 Mixed Use.
  - (9) To amend the Height of Buildings Map (Sheet HOB\_004) for 9 – 11 Nelson Street, Chatswood, to 90 metres.
  - (10) To amend the Floor Space Ratio Map (Sheet FSR\_004) for 9 – 11 Nelson Street, Chatswood, to 6:1 (including affordable housing).
  - (11) To amend the Special Provisions Area Map (Sheet SPA\_004) to show 9 – 11 Nelson Street, Chatswood, as Area 8.
  - (12) To amend the Active Street Frontages Map (Sheet ASF\_004) to include 9 – 11 Nelson Street, Chatswood, to include the Gordon Avenue and Nelson Street frontages.
  - (13) To amend the Lot Size Map (Sheet LSZ\_004) to include 9 – 11 Nelson Street, Chatswood, with a minimum lot size of 4,000sq metres.
- 2. The easement for public access 3 metres wide along the eastern boundary of the site adjacent to the Frank Channon Walk contained in the Letter of Offer, is to apply to ground level and the airspace above. Following on from the Letter of Offer a progressed draft VPA is to be submitted to Council prior to Council forwarding the Planning Proposal to DPIE.
- 3. The following plans are to be submitted to Council, consistent with the submitted architectural plans Issue P3 and dated 27.05.2021, as one package prior to Council forwarding the Planning Proposal to DPIE:
  - (1) A full set of Elevation and section plans.
  - (2) Concept Landscape Plans.  
In particular, the concept landscape plans are to show the provision of a 3m wide easement for public access along the entire eastern boundary of the site between Nelson Street and Gordon Avenue, as well as dimensions for all setbacks.
  - (3) A full set of detailed shadow diagrams every 1 hour between 9am and 3pm, 21 June, showing existing overshadowing, overshadowing proposed by the development and overshadowing proposed by the development and future Chatswood envelope. The diagrams are to be based on 1 hour analysis, with supporting analysis also to be provided.
- 4. Subject to 1, 2 and 3 above, endorse for public exhibition the Planning Proposal as amended.

5. Endorse for public exhibition the Planning Proposal, with the accompanying draft site specific Development Control Plan provisions.
6. 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:
  - (1) To proceed as recommended.
  - (2) To not proceed with the Planning Proposal.
7. 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.
8. 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 ERIKSSON / SECONDED COUNCILLOR FERNANDEZ**

**CARRIED**

**Voting**

**For the Motion:** Councillors Eriksson, Fernandez, Norton, Rozos, Rutherford, Saville, Tuon, Wright and Zhu

**Against:** Nil

**Absent:** Councillors Giles-Gidney, Campbell and Mustaca

**Notes:**

1. *Councillors Giles-Gidney and Campbell left the meeting at 9:22pm having declared an interest in this item.*
2. *Councillor Rozos assumed the Chair.*
3. *Councillor Mustaca left the meeting at 8:54pm.*