

PLANNING PROPOSAL FOR 9 - 11 NELSON STREET CHATSWOOD

ATTACHMENTS:

1. IMPLICATIONS
2. COUNCIL DETAILED ASSESSMENT
3. COUNCIL ASSESSMENT OF DEPARTMENT OF PLANNING AND ENVIRONMENT'S 'A GUIDE TO PREPARING PLANNING PROPOSALS'
4. PLANNING PROPOSAL CONCEPT PLANS
5. DRAFT DEVELOPMENT CONTROL PLAN PROVISIONS
6. PROPOSED WRITTEN AMENDMENTS TO WILLOUGHBY LOCAL ENVIRONMENTAL PLAN 2012
7. PROPOSED WILLOUGHBY LOCAL ENVIRONMENTAL PLAN 2012 LAND ZONING, HEIGHT OF BUILDINGS, FLOOR SPACE RATIO, SPECIAL PROVISIONS AREA, ACTIVE STREET FRONTAGES AND LOT SIZE MAPS
8. WILLOUGHBY LOCAL PLANNING PANEL RECORD OF ADVICE 17 AUGUST 2021
9. IMAGE OF PROPOSED DEVELOPMENT FROM GORDON AVENUE

RESPONSIBLE OFFICER:

HUGH PHEMISTER – PLANNING & INFRASTRUCTURE DIRECTOR

AUTHOR:

CRAIG O'BRIEN – STRATEGIC PLANNER

CITY STRATEGY OUTCOME:

3.5 – MAINTAIN QUALITY OF LIFE BY BALANCING POPULATION GROWTH WITH THE PROVISION OF ASSETS AND SERVICES
5.1 BE HONEST, TRANSPARENT AND ACCOUNTABLE IN ALL THAT WE DO

MEETING DATE:

13 SEPTEMBER 2021

1. PURPOSE OF REPORT

The purpose of this report is to seek endorsement for the forwarding of Planning Proposal 2020/012 for 9-11 Nelson Street, Chatswood, to the Department of Planning, Industry and Environment for a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979* and proceed to public exhibition.

Members of the Sydney (North) Planning Panel are to assess whether they should retire from Council Chambers during consideration of the Agenda Item.

2. OFFICER'S RECOMMENDATION

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.

3. BACKGROUND

The proposal for a commercial podium and residential tower development is located on a site within the extended Chatswood CBD boundary in the *Chatswood CBD Planning and Urban Design Strategy 2036* (referred to in this report as the CBD Strategy).

Council endorsed the CBD Strategy on 26 June 2017, the Greater Sydney Commission supported it on 18 May 2018, and the Department of Planning, Industry and Environment (DPIE) fully endorsed it on 9 July 2020 with qualifications regarding residential land use within the B3 Commercial Core on the eastern side of the North Shore Rail line. Council noted the DPIE endorsement of the CBD Strategy on 14 September 2020.

The site is recommended to be B4 Mixed Use, with a maximum height of 90m and a Floor Space Ratio of 6:1. This is subject to the satisfaction of other CBD Strategy requirements.

This Planning Proposal has not previously been considered by Council.

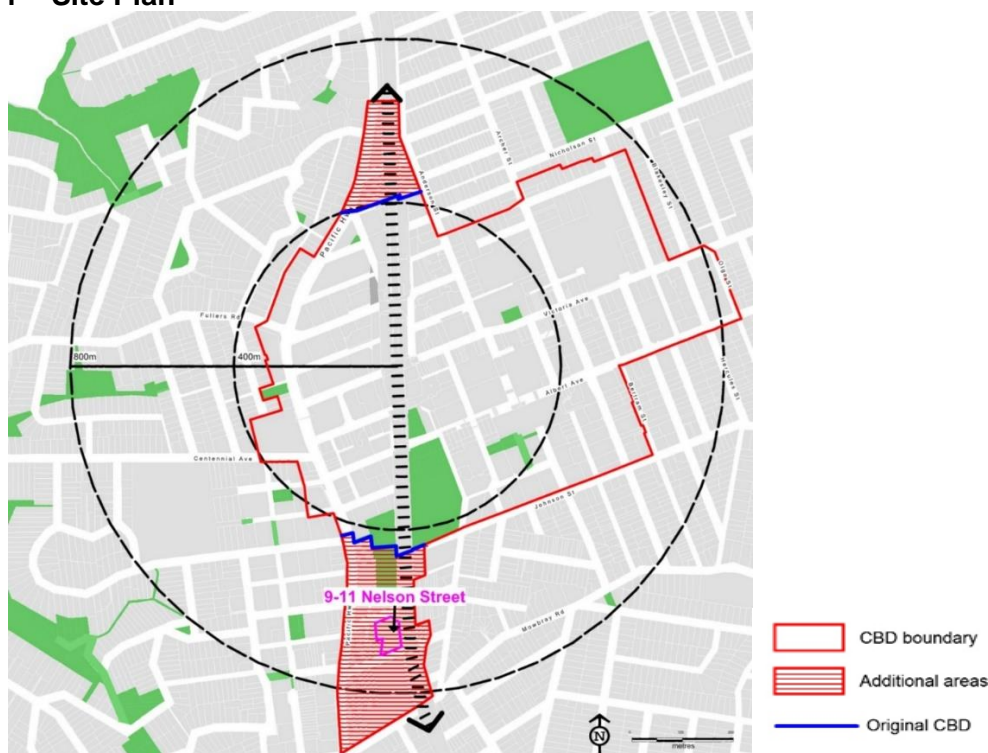
4. DISCUSSION

The Planning Proposal seeks to amend *Willoughby Local Environmental Plan 2012* (WLEP 2012) at 9-11 Nelson Street Chatswood as follows:

- Change the land use zone from R3 Medium Density Residential to B4 Mixed Use.
- Increase height on the site from 12m to 90m.
- Increase Floor Space Ratio on the site from 0.9:1 to 6:1.

The site has a total area of approximately 4,219m², bounded by Gordon Avenue to the north, Nelson Street to the south, the Frank Channon Walk, small public park and the North Shore Rail Line to the east and 10 Gordon Avenue and 15 Nelson Street to the west.

Figure 1 – Site Plan



The Planning Proposal for a commercial podium and residential tower development (comprising two towers) is consistent with the recommendations of the CBD Strategy as endorsed by Council.

Consistency with the CBD Strategy, as well as other issues, are discussed in the Detailed Assessment at **Attachment 2**. In addition, the Planning Proposal has been assessed with regard to the criteria contained in the Department of Planning, Industry and Environment's '*A Guide to Preparing Planning Proposals*' and is generally satisfactory (refer **Attachment 3**).

The above Council reports have considered the proponent's documentation supporting the Planning Proposal, including:

- Concept plans showing a conceptual redevelopment plan for the site (refer **Attachment 4**).
- Site specific Draft Development Control Plan provisions (refer **Attachment 5**).

The site specific *Development Control Plan* provisions are satisfactory. Where matters are not covered by site specific provisions, the remainder of the *Development Control Plan* will apply to the site.

For the purposes of this report and any public notification, Council Officers have prepared written and mapping amendments to *Willoughby Local Environmental Plan 2012* (refer **Attachments 6 and 7**).

An offer to enter into a voluntary planning agreement (VPA) is provided by the proponent. Detailed discussions regarding an agreement have not been held with Council officers. Following such discussions, this matter will be separately reported to Council with the inclusion of a draft VPA.

The Willoughby Local Planning Panel has provided advice on this matter dated 17 August 2021, concluding that the Planning Proposal is worthy of being forwarded to the Department of Planning, Industry Environment (DPIE) for a Gateway Determination having demonstrated strategic and site specific merit (refer **Attachment 8**).

Consistent with the Willoughby Local Planning Panel advice, it is recommended that the Planning Proposal be forwarded to DPIE for a Gateway determination following which the Planning Proposal and supporting documentation be placed on exhibition. The Planning Proposal will be reported back to Council and may include additional amendments following exhibition.

5. CONCLUSION

The Planning Proposal for a mixed use development at 9 - 11 Nelson Street, in the Chatswood CBD, is consistent with the strategic objectives of the *Greater Sydney Region Plan*, the *North District Plan* and Councils' *Local Strategic Planning Statement* (LSPS), as well as the *Chatswood CBD Planning and Urban Design Strategy 2036* (the CBD Strategy). It is considered that the relevant requirements under Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the matters identified in the Department of Planning, Industry and Environment's '*A Guide to Preparing Planning Proposals*' are adequately addressed and that the environmental impacts are acceptable for referral to Gateway and further consideration following public exhibition.

Following public exhibition and further assessment, additional amendments may be required.

Based on the above, it is recommended that Council 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*. It is further recommended that Council advise the Department of Planning, Industry and Environment that the Planning Manager, be nominated as delegate to process and finalise the Planning Proposal.

IMPLICATIONS	COMMENT
City Strategy Outcome	<p>3.5 – Maintain quality of life by balancing population growth with the provision of assets and services</p> <p>5.1 – Be honest, transparent and accountable in all that we do</p>
Business Plan Objectives, Outcomes / Services	To ensure this Planning Proposal is in line with the <i>Chatswood CBD Planning and Urban Design Strategy 2036</i> to accommodate future growth needs.
Policy	This Planning Proposal is in line with the <i>Chatswood CBD Planning and Urban Design Strategy 2036</i> , endorsed by Council on 26 June 2017. The amendment in the Planning Proposal will lead to amendments to <i>Willoughby Local Environmental Plan 2012</i> and <i>Willoughby Development Control Plan</i> .
Consultation	<p>Prior to endorsement by Council, the draft <i>Chatswood CBD Planning and Urban Design Strategy</i> was publicly exhibited between 4 February and 27 March 2017.</p> <p>This Planning Proposal would also be publicly exhibited following Gateway Determination.</p>
Resource	No additional operating resources used to prepare this report beyond budget.
Risk	Risk of not achieving the endorsed <i>Chatswood CBD Planning and Urban Design Strategy 2036</i> objectives and accommodating future growth requirements.
Legal	<p>The Planning Proposal should be consistent with the endorsed <i>Chatswood CBD Planning and Urban Design Strategy 2036</i>.</p> <p>Amendments are proposed to the <i>Willoughby Local Environmental Plan 2012</i>, which would provide the basis for future development application assessment.</p> <p>In addition, <i>Development Control Plan</i> provisions are proposed to further guide future development application assessment.</p> <p>The Planning Proposal is accompanied by a Letter of Offer for a voluntary planning agreement to provide for demands on Council services and infrastructure – which will be separately negotiated.</p>
Legislation	Under <i>Environmental Planning and Assessment Act 1979</i> provisions.
Budget/Financial	There are no budget/financial implications applicable to this report.

[Attachment 2 - Detailed Assessment - Planning Proposal for 9 - 11 Nels...](#)

[Attachment 3 - Council Assessment of Department Guidelines - Planning ...](#)

[Attachment 4 - Concept Plans - Planning Proposal 9 -11 Nelson Street C...](#)

[Attachment 5 - Draft DCP - Planning Proposal 9-11 Nelson St Chatswood....](#)

[Attachment 6 - Proposed Written Amendments to WLEP 2012 - Planning Pro...](#)

[Attachment 7 - Proposed Mapping Amendments to WLEP 2012 - Planning Pro...](#)

[Attachment 8 - WLPP Record of Advice - Planning Proposal 9-11 Nelson S...](#)

[Attachment 9 - Image of proposed development from Gordon Avenue - Plan...](#)