

SYDNEY PLANNING PANEL (NORTH)

Sydney Planning Panel Reference No.	2016/SYE024
DA Number	DA2016/18
Local Government Area	Willoughby City Council
Proposed Development	DEMOLITION OF STRUCTURES, TREE REMOVAL AND CONSTRUCTION OF 75 SHOP TOP APARTMENTS, BASEMENT CAR PARKING, COMMERCIAL FLOOR SPACE AND ASSOCIATED WORKS
Street Address	654 - 666 PACIFIC HIGHWAY, 1 FREEMAN ROAD, 2A OLIVER ROAD CHATSWOOD
Applicant/Owner	JL CHATSWOOD PTY LTD
Number of Submissions	12
Regional Development Criteria (Schedule 4A of the Act)	Capital Investment Value > 20 Million
List of All Relevant s79C(1)(a) Matters	SEPP(65) Design Quality of Residential Apartment Development SEPP(Basix) SEPP (Infrastructure) SREP (Sydney Harbour Catchment). SEPP 55 – Land Remediation Willoughby Local Environmental Plan 2012
List all documents submitted with this report for the panel's consideration	A. Schedule of Recommended Conditions B. Notification map & Notification Issues C. Development Statistics Table D. SEPP 65 – Apartment design guide assessment summary E. Voluntary Planning Agreement (as registered) F. RMS Letter G. Plans & Elevations (as amended)
Recommendation	Approval
Report by	Annie Leung
Report date	2 December 2016

ASSESSMENT REPORT – 654 - 666 PACIFIC HIGHWAY, 1 FREEMAN ROAD, 2A OLIVER ROAD CHATSWOOD

DA NO: DA-2014/510

SPP NO: 2014SYE143

ATTACHMENTS:

- A. Schedule of Recommended Conditions
- B. Notification map & Notification Issues
- C. Development Statistics Table
- D. SEPP 65: Apartment design guide assessment summary
- E. Voluntary Planning Agreement (as registered)
- F. RMS Letter
- G. Plans & Elevations (as amended)

RECOMMENDATION: APPROVAL SUBJECT TO CONDITIONS

APPLICANT: JL CHATSWOOD PTY LTD

OWNER: JL CHATSWOOD PTY LTD

PROPOSAL: DEMOLITION OF STRUCTURES, TREE REMOVAL AND CONSTRUCTION OF 75 SHOP TOP APARTMENTS, BASEMENT CAR PARKING, COMMERCIAL FLOOR SPACE AND ASSOCIATED WORKS.

DATE OF LODGEMENT: 28 JANUARY 2016

REPORTING OFFICER: ANNIE LEUNG – DEVELOPMENT PLANNER

RESPONSIBLE OFFICER: IAN ARNOTT - PLANNING MANAGER

DESCRIPTION OF PROPOSAL

Development Application seeks development consent for demolition of existing structures the construction of a mixed use development comprising 75 shop top housing units, commercial floor space, and three levels of basement car parking accommodating 114 car parking spaces. Vehicular accesses are provided from Freeman Road.

The proposed development is in the form of a commercial podium and two residential towers above that are 7 and 10 storeys in height respectively.

Residential (Shop top housing units)	
1 bedroom	27 units
2 bedroom	44 units
3 bedroom	4 units
	75 units
Commercial units	
Lower commercial RL102.1	565 m ²
Ground floor RL98.10	1714 m ²

Neighbour Notification

The application was notified in accordance with the requirements of the Willoughby Development Control Plan from 4 February 2016 to 25 February 2016. A map identifying properties notified of the application is provided in **Attachment B** to this report.

Submissions objecting to the application were received from the following properties:

- 8 Centennial Ave
- 57 Centennial Ave
- 71 Centennial Ave
- Chatswood Public School
- 6/ 1-3 Eddy Road Chatswood
- 47 Wilfred Ave Chatswood
- 42/14 -16 Freeman Road Chatswood
- 40/ 5 Freeman Road Chatswood
- 307 / 10 Freeman Road Chatswood
- 2/ 14 – 16 Freeman Road Chatswood
- Lyn & Akey Delaguiado
- 18 / 6 Eddy Road Chatswood

The submissions mainly object to the impacts of further higher density developments to the western side of Pacific Highway this was previously highly restricted. In this respect, the proposed development is considered to be an undesirable precedent in allowing higher density development outside the Chatswood CBD area located to the east of Pacific Highway. These include traffic impacts as well as general impacts on infrastructure, including but not limited to local school, transport, and road.

The issues raised in the submissions have been considered in the assessment of the application and are further discussed in **Attachment B – Notification Map & Notification Issues** to this report.

Amended proposal

Amended plans and additional information have been received by Council during the assessment of the application. The amended proposal reduced the proposed residential Floor Space and made amendments to improve compliance with the requirements of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development and the Willoughby Development Control Plan.

The amended proposal will not cause additional impacts to adjoining and surrounding development when compared to the original design. As such, re-notification of the development is unnecessary.

The amended proposal and supporting documents are made available via Council's Website- Application Tracking using the application number DA2016/18 or the property address 666 Pacific Highway Chatswood:

<https://eplanning.willoughby.nsw.gov.au/Common/Common/terms.aspx>

Existing Building and Site Context

The site is land bounded by Pacific Highway, Freeman Road and Oliver Road, comprising four existing allotments as identified below:

			Site area (m ²)	Existing improvements
Lot 1 1068007	DP	654–656 Pacific Highway	524.80	Two storeys commercial building
Lot 1 121830	DP	658–666 Pacific Highway	1,581.00	Two storeys commercial building/ showroom
Lot 1 839309	DP	1 Freeman Road	439.50	Dwelling house with carport
Lot 2 839309	DP	2A Oliver Road	316.40	Dwelling house with carport
				Total area: 2855 m ²
				Site Area – SP2 zoned land (-247 m ²): 2608 m ²

The site is located on the western side of Pacific Highway, just outside of the Chatswood CBD area located to the eastern side of the highway. There are clear differences in permissible building height within the Chatswood CBD area on the eastern side of the highway when compared to developments along the western side of the highway directly opposite.

The immediate surrounds of the site mostly comprise low to medium rise residential buildings, as well as also highway commercial developments such as motor showrooms. Chatswood Public School is located within walking distance to the site to the north, and Chatswood High School further to the west.



Figure 1 - Aerial photo of the site and its surrounds (source: Council's GIS System)



Figure 2 – the site as viewed from Pacific Highway and the property to the south of the site on the opposite side of Freeman Road, No 640 – 650 Pacific Highway Chatswood (Photo by author)



Figure 3 – No 3 – 5 Freeman Road (adjoining western boundary of the site) as viewed from Pacific Highway at Freeman Road (Photo by author)

Relevant History

Planning Proposal

The subject site was subject of a planning proposal in 2015, which resulted in changes to both the Height of Building and Floor Space Ratio as outlined below:

	Previous standards	Amendment No 3
Height of Building	18m	RL 137.8 for Tower A and RL 128.8 for Tower B (up to 36.2m & 27.8m)

Floor Space Ratio	2:1	3:1 (with any shop top housing component not exceeding an FSR of 2.14:1)
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Amendment No 3 to WLEP 2012, which inserted Clause 6.21 to WLEP 2012 to give effect to the changes to Height of Building and Floor Space Ratio, was made on 18 December 2015. Amendments have also been made to the Willoughby Development Control Plan to incorporate site specific development controls based on the concept proposal considered with the planning proposal.

The planning proposal was accompanied by a Voluntary Planning Agreement, which has since been registered on the land titles of the development site. The material public benefits of the VPA involve the dedication of land along with all three street frontages of the site. These include a strip of land 4m wide along Oliver Road and a 1m wide strip along Freeman Road. The current proposal is consistent with these land dedications.

Revised RMS Concurrence

The site is affected by road widening along its frontage to Pacific Highway as required by the Roads and Maritime Services which is identified as that part of the land zoned SP2 (Infrastructure). At the time of the abovementioned planning proposal, the RMS has reviewed the concept design and raised no objection to a proposal which indicated a 4m road widening. This has been the subject of review by the RMS during the assessment process which caused the extensive delay in the assessment of the application.

Concurrence to the development from RMS was received by Council on 4 November 2016. See **Attachment 5 – RMS Letter** to this report.

ASSESSMENT

Controls and Classification	
Willoughby Local Environmental Plan 2012 (WLEP 2012)	
Zoning	B5 – Business Development and SP2 – Special Uses (Infrastructure).
Primary Development Standards	Floor Space Ratio – 3:1 (with any shop top housing component not exceeding an FSR of 2.14:1) Height of Building (up to RL 137.8 and RL128.8) (equivalent to 36.2m for Tower A - 10 storeys, and 27.8m for Tower B - 7 storeys) (See Clause 6.21)
Applicable DCP	Willoughby Development Control Plan (WDGP) – Site specific provisions in Part E3.4 consistent with Amd No 3 of the WLEP 2012.
Applicable SEPPs	<ul style="list-style-type: none"> • SEPP (infrastructure) • SEPP 55 – Remediation of land • SEPP(Basix) • SEPP 65 – Design qualities of residential apartment

	developments.
Relevant policies and resolutions	<ul style="list-style-type: none"> • VPA for Road dedication • Clause 6.8 (WLEP 2012) – Affordable Housing Contributions
Developer's Contributions	<ul style="list-style-type: none"> a. S94A/s94: Yes. S94A applies. b. Applicable rate (%): 1% c. The cost of development: d. Date of accepted cost of development: e. The total contribution payable (subject to Building Price Indexing (Enterprise Bargaining Agreement)): \$307,149.19

Referrals	
Development Engineering	The amended proposal modified the layout of the car parking area to in response to concerns raised during preliminary assessment. The Deferred Commencement Conditions in Attachment A – Schedule of Recommended Conditions recommends further adjustments to the design and layout of the car parking and loading area to ensure compliance with the relevant Australian Standards.
Building Certification	Standard conditions of consent apply.
Environmental Health	Acceptable subject to recommended conditions.
Urban Design Consultant (external)	<p>The application has been reviewed by Council's external urban design consultant in respect to the requirements of SEPP 65.</p> <p>The issues raised in this review have been satisfactorily addressed by the amended proposal and are further discussed under the relevant sub-heading in the <u>Assessment</u> section of this report.</p>
Traffic /Transport Services	The submitted traffic study has been reviewed. The proposed development is considered to have acceptable impacts to the existing road network, including a moderate increase in traffic on Freeman Road. It is recommended that 'No Parking' restrictions apply along the Freeman Road frontage of the site between the two driveway entries to the site.
Waste Services	The proposal is acceptable subject to recommended conditions.
Roads and Maritime Services	Concurrence received on 4 November 2016.
Police (Chatswood / North Sydney LAC)	No comments received. Standard safer by design conditions recommended.

Matters for Consideration Under S.79C EP&A Act		
	Satisfactory? (Yes/No /N/A)	
(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> State Environmental Planning Policies (SEPP) 	Yes
	<ul style="list-style-type: none"> Regional Environmental Plans (REP) 	Yes
	<ul style="list-style-type: none"> Local Environmental Plans (LEP) 	Yes
	<p>WLEP 2012:</p> <p><i>Zoning:</i> With the exception of a 4m strip of land required for road widening by the RMS along the Pacific Highway frontage of the site, the subject land is zoned B5 – Business Development.</p> <p>Commercial premises and shop-top housing are permissible in the B5 Business Development zone. The proposed mixed-use development will assist in revitalising the existing commercial area and will provide additional residential accommodation at an accessible location consistent with the objectives of the B5 zone.</p>	
	<p><i>Road widening:</i> That part of the site zoned SP2 is subject to road widening. The RMS has reviewed the application and more specifically the proposed 4m road widening and has provided concurrence for the development. Please see RMS letter in Attachment F.</p> <p>Additional road widenings are proposed along Freeman Road and Oliver Road in accordance with the VPA registered on the land. The proposed road widening will be facilitating future traffic improvement works by Council and by the RMS.</p>	
	<p><i>Development Standards:</i> The development complies with the Floor Space Ratio and Height of Building development standards as provided in the Development Statistic Table in Attachment C to this report. The development site as consolidated is subject to bonus floor space ratio and building height as contained in <u>Clause 6.21</u> of WLEP 2012.</p>	
	<p><i>Affordable Housing Contributions:</i> The site is also subject to Affordable Housing provisions in accordance with <u>Clause 6.8</u> of WLEP 2012. The development will provide 4% of the total residential floor space as affordable housing contributions, including three affordable housing units and the remainder (24.44m²) in the form of monetary contributions.</p>	

	<p>SEPP 65: The application was reviewed by Council's External Urban Design Consultant. Minor issues were raised during preliminary assessment of the application including separation distance between Tower A and Tower B, privacy and landscaping issues.</p> <p>The amended proposal satisfactorily addressed the issues raised including the provision of a 6m wide, deep soil zone being provided along the western boundary of the site. It is noted that separation distance and the provision of open space and landscaping are subject to site-specific requirements contained in Part E.3.4 of the WDCP.</p>	
	<p>SEPP (BASIX) & SEPP (Infrastructure): The proposed development has submitted a BASIX certificate to satisfy SEPP (BASIX), and can meet acoustic criteria as per Clause 102 of SEPP (Infrastructure) due to the site's frontage to an arterial road, Pacific Highway.</p> <p>SEPP 55: A preliminary site assessment report has also been submitted in respect to SEPP 55, and is considered satisfactory by Council's Environmental Health Officer subject to recommended conditions of consent.</p> <p>SREP (Sydney Harbour Catchment): There is no specific matter contained in SREP (Sydney Harbour Catchment) that applies to the proposed development.</p>	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> Draft State Environmental Planning Policies (SEPP) 	N/A
	<ul style="list-style-type: none"> Draft Regional Environmental Plans (REP) 	N/A
	<ul style="list-style-type: none"> Draft Local Environmental Plans (LEP) 	Yes
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> Development control plans (DCPs) 	
	<p>WDCP: The proposed development has been assessed against the relevant requirements of the WDCP, and is considered satisfactory. Specific non-compliances are identified and addressed in Attachment C - Development Statistics and by the recommended conditions of consent as relevant.</p>	
	<p><i>Site-specific provisions:</i> Part E.3.4 of the WDCP contains site specific development provisions prescribing a building envelope that was based on a concept proposal exhibited with the planning proposal. The current development proposes only minor adjustments to the concept proposal. The WDCP provisions adopt the exact building envelope presented in the concept proposal, leaving no latitude for flexibility in design development. In this respect, the proposed development does not fully comply with required setback requirements as detailed in Attachment C - Development Statistics.</p>	

	<p>The proposed variations to setbacks include a reduced setback to Oliver Road and minor encroachments on the required setback from Freeman Road by the proposed balconies. These encroachments on the prescriptive setbacks are the result of converting the concept proposal into the current development proposal after accommodating reasonable service spaces and the required 4% of the total residential floor space as affordable housing contributions (excluded from FSR calculations).</p>	
	<p>The proposed development is separated from adjoining properties on three sides of the site and complies with the respective separation distance from these properties as required by SEPP 65. The proposed variations in setbacks do not cause unreasonable external impacts to adjoining properties nor result in unacceptable visual bulk. There are sufficient separations between the proposed building and surrounding buildings.</p> <p>With respect to the western boundary adjoining No 3-5 Freeman Road, the proposed encroachments on the setbacks by Tower A are minor (on Level 4 by one bedroom along the length of approximately 3m and by ancillary structures on levels above) and are considered to improve building articulation along the rear elevation. The amended proposal also proposes privacy and landscaping measures with respect to the adjoining development to the western boundary of the site at No 3 -5 Freeman Road Chatswood consistent with the requirements of SEPP 65 and the WDCP.</p>	
	<p>The proposed towers will cause minor additional shadows to the property at 745 and No. 701-705 Pacific Highway (across the Highway to the south-east) at 3pm and properties at 6 -8 Freeman Road at 9am in mid-winter when compared to a compliant scheme. However, these additional shadowing impacts are negligible due to the overshadowing impacts of the proposed development being overlapped with shadows caused by other taller buildings to the north such as the Meriton Towers at Albert Ave and other developed sites along Pacific highway at the same times.</p>	
	<p>The amended proposal also addresses issues raised during preliminary assessment including removing intrusions into the required 12m separation between Tower A and Tower B, encroachment on the SP2 zoned land by a balcony and providing a 6m wide, deep soil planting zone along the western boundary of the site.</p> <p>The 6m wide, deep soil is required to be provided with screen planting of trees to a mature height of 20 metres and lower level shrubs. The landscaped zone is to maintain a reasonable level of privacy and landscaped outlook between the development and the adjoining building at No 3 – 5 Freeman Road Chatswood.</p>	

	<p><i>Car parking:</i> The proposed development provides a total of 114 car parking spaces. The amended proposal seeks to increase the amount of car parking spaces allocated to the proposed shop top housing units and less for the commercial premises and visitors. The amended allocation is not supported. It will encourage greater car ownership for residents despite the site's accessible location and at the same time, limit the future use of the proposed commercial premises due to the reduced availability of car spaces. This issue is addressed by recommended conditions which require the allocation of maximum 1 car space per shop-top housing unit.</p>	
	<p>The proposed development has also been assessed against the car parking, and stormwater requirements contained in Part C.4 and C.5 of the WDCP respectively by Council's Traffic Engineers and Development Engineers.</p> <p>Deferred Commencement Conditions contained in Attachment A – Schedule of Recommended Conditions will address the outstanding issues on the requirements of the WDCP, particularly adjustments to the design and layout of the car parking and loading area to ensure compliance with the relevant Australian Standards.</p>	
	<p><i>Adaptable housing units (C.6):</i> The amended proposal has increased the provision of adaptable housing units from 10.6% (8 Units) to 53% (40 Units) to comply with the requirements of this part of the WDCP.</p>	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> • Clause 92 EP&A Regulation-Demolition 	Yes
	<ul style="list-style-type: none"> • Clause 93 EP&A Regulation-Fire Safety Considerations 	Yes
	<ul style="list-style-type: none"> • Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings 	N/A
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"> • Context & setting 	Yes
	<ul style="list-style-type: none"> • Access, transport & traffic, parking 	Yes
	<ul style="list-style-type: none"> • Servicing, loading/unloading 	Yes, subject to conditions
	<ul style="list-style-type: none"> • Public domain 	Yes
	<ul style="list-style-type: none"> • Utilities 	Yes
	<ul style="list-style-type: none"> • Heritage 	N/A
	<ul style="list-style-type: none"> • Privacy 	Yes
	<ul style="list-style-type: none"> • Views 	Yes
	<ul style="list-style-type: none"> • Solar Access 	Yes
	<ul style="list-style-type: none"> • Water and draining 	Yes
	<ul style="list-style-type: none"> • Soils 	Yes

	<ul style="list-style-type: none"> • Air & microclimate 	Yes
	<ul style="list-style-type: none"> • Flora & fauna 	Yes
	<ul style="list-style-type: none"> • Waste 	Yes
	<ul style="list-style-type: none"> • Energy 	Yes
	<ul style="list-style-type: none"> • Noise & vibration 	Yes
	<ul style="list-style-type: none"> • Natural hazards 	Yes
	<ul style="list-style-type: none"> • Safety, security crime prevention 	Yes
	<ul style="list-style-type: none"> • Social impact in the locality 	Yes
	<ul style="list-style-type: none"> • Economic impact in the locality 	Yes
	<ul style="list-style-type: none"> • Site design and internal design 	Yes
	<ul style="list-style-type: none"> • Construction 	Yes
	<ul style="list-style-type: none"> • Cumulative impacts 	Yes
	<p><i>Solar Access:</i> The proposed development will affect the property to the south at No 640-650 Pacific Highway. However, the extent of overshadowing is not unreasonable based on the permissible height and floor space ratio, and the specific building envelope prescribed by the site specific provisions contained in Part E.3.4 of the WDCP. The overshadowing impacts of the development based on these controls were considered during the planning proposal, and the current development proposal is consistent with these impacts. The proposed development will affect the north-east facing corner balconies of the building facing Freeman Road from achieving a full 3 hours of solar access. These balconies achieve approximately 2 hours of solar access between 9 am and 3 pm at the winter solstice.</p>	
	<p><i>Privacy:</i> Additional privacy screens are proposed in the amended proposal for dwellings facing the rear (western) boundary of the site to ensure a reasonable privacy is maintained between the proposed development and the adjoining building at 3 – 5 Freeman Road Chatswood.</p>	
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> • Does the proposal fit in the locality? 	Yes
	<ul style="list-style-type: none"> • Are the site attributes conducive to this development? 	Yes
	<p>Comments: the proposed development is consistent with the strategic planning framework that applies to the site as a result of Amendment No 3 to the WLEP 2012.</p>	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> • Public submissions 	Yes

	<ul style="list-style-type: none"> • Submissions from public authorities 	Yes
	Comments: Specific issues of concern raised in public submissions regarding the proposal are addressed in Attachment B - Notification Map & Notification Issues .	
(e)	The public interest	
	<ul style="list-style-type: none"> • Federal, State and Local Government interests and Community interests 	Yes

Conclusion

The development proposal is consistent with the strategic planning outcomes set by the site specific amendment to the Willoughby Local Environmental Plan 2012 to redevelop the site to higher density and building height subject to site consolidation. It complies with the development standards applicable to the land and includes road widening on all three frontages of the site to allow for future traffic and road improvements by Council and the RMS. The application was on hold for over 10 months for RMS to review the application and the proposed road widening to ensure it is satisfactory.

Amendments to the proposal during assessment included changes to the design and layout of the development to reduce the proposed residential floor space and design changes to improve compliance with the requirements of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development and the Willoughby Development Control Plan.

Development Application 2016/18 has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979, WLEP 2012, WDCP 2006 and other relevant codes and policies. Based on the assessment above, the proposed development for the demolition of existing structures the construction of a mixed use development comprising 75 shop top housing units, commercial floor space and basement car parking at 654 – 666 Pacific Highway, 1 Freeman Road and 2A Oliver Road is considered to be acceptable, and approval is recommended.

OFFICER'S RECOMMENDATION

That the Sydney Planning Panel (North) approves Development Application 2016/18 for demolition of existing structures the construction of a mixed use development comprising 75 shop top housing units, commercial floor space, and basement car parking at 666 Pacific Highway, 2A Oliver Road, and 1 Freeman Road Chatswood subject to the recommended conditions in Attachment A.