

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2017SNH051
<b>DA Number</b>	DA-2017/157
<b>Local Government Area</b>	Willoughby City Council
<b>Proposed Development</b>	New commercial tower – construction of sixteen (16) storey commercial building, plaza, landscaping, car parking and associated works.
<b>Development description</b>	The application includes demolition of the existing podium level, removal of 18 trees and construction of a new commercial tower and associated public domain improvements. The proposed new tower comprises a 16 storey commercial office with a lobby retail space level and 2 levels of existing basement car parking. The site is setback from the street and bounded by similar commercial buildings, Chatswood train station and Garden of Remembrance. The proposal is permissible in the B3 Commercial Core zoning and the proposal complies with WLEP 2012 height control of 80m, however, it exceeds the FSR control of 8:1. A Clause 4.6 variation request has been submitted with the application.
<b>Street Address</b>	67 Albert Avenue, Chatswood NSW 2067
<b>Owner</b>	Willoughby City Council
<b>Applicant</b>	CorVal Partners Limited (long-term lease holders)
<b>Date of DA lodgement</b>	12 May 2017
<b>Number of Submissions</b>	19 submissions and 3 petitions (totalling 565 signatures)
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Capital Investment Value (CIV) of the proposal is \$57,187,146.00
<b>List of all relevant s79C(1)(a) matters</b>	Willoughby LEP 2012; Deemed SEPP–Sydney Harbour Catchment 2005; SEPP Building Sustainability Index: BASIX 2004 (The BASIX SEPP); SEPP 65; NSW Apartment Design Guide (NSW ADG); Willoughby DCP 2017 (WDCP); Chatswood Central Business District S94A Plan.
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>– Report</li> <li>– Schedule of recommended conditions (Attachment 1)</li> <li>– Architectural plans (Attachment 2)</li> <li>– Clause 4.6 Exceptions to development standards (Attachment 3)</li> <li>– Connectivity concept (Attachment 4)</li> </ul>
<b>Recommendation</b>	Deferred Commencement
<b>Report prepared by</b>	Architectus – appointed as independent planning consultant by Willoughby City Council
<b>Report date</b>	9 May 2018

<b>Summary of s4.15 matters (previous s79C)</b>	<b>Yes</b>
Have all recommendations in relation to relevant s4.15 matters been summarized in the Executive Summary of the assessment report?	
<b>Legislative clauses requiring consent authority satisfaction</b>	<b>Yes</b>
Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 – Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	
<b>Clause 4.6 Exceptions to development standards</b>	<b>Yes</b>
If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	
<b>Special Infrastructure Contributions</b>	<b>Not Applicable</b>
Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	
<b>Conditions</b>	<b>No</b>
Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report.</i>	

## 67 ALBERT AVENUE, CHATSWOOD NSW 2067

**DA NO:** DA-2017/157  
**ATTACHMENTS:** SCHEDULE OF RECOMMENDED CONDITIONS  
ARCHITECTURAL PLANS  
**DATE:** 9 MAY 2018

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<b>RECOMMENDATION:</b>	Deferred Commencement
<b>LOCATION:</b>	67 Albert Avenue, Chatswood NSW 2067
<b>APPLICANT:</b>	CorVal Partners Limited (long-term lease holders)
<b>OWNER:</b>	Willoughby City Council CorVal Partners Limited are long-term lease holders
<b>PROPOSAL:</b>	New commercial tower – Construction of sixteen (16) storey commercial building, plaza, landscaping, car parking and associated works.
<b>DATE OF LODGEMENT:</b>	12 May 2017
<b>VALID APPLICATION DATE:</b>	12 May 2017
<b>REPORTING OFFICER:</b>	ANA VISSARION (DEVELOPMENT PLANNER)

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### EXECUTIVE SUMMARY

The site is located at 67 Albert Avenue, Chatswood within the Retail precinct of the Chatswood CBD.

The proposal seeks consent for demolition of some landscaping elements at the existing podium level, including removal of 18 trees, and construction of a new commercial tower and associated public domain improvements. The proposed new tower comprises a 16 storey commercial office with a lobby retail space level and 2 levels of existing basement car parking.

The site is an irregularly shaped lot fronting Albert Avenue. The lot contains the existing 'Sage' building on the southern part of the site, which is a commercial office building (approx. height of 66 metres) with two levels of basement car parking. The site is bounded by similarly scaled commercial buildings, as well as Chatswood Train Station to the north-west and the Garden of Remembrance to the west. Vehicle access is provided from Albert Avenue via Orchard Road, an internal access road at ground level that is partly covered by the existing commercial building on the site. The site has an area of 3,006m<sup>2</sup>.

The proposal is permissible in the B3 Commercial Core zoning and the proposal complies with WLEP 2012 height control of 80m, however, it exceeds the FSR control of 8:1 by 10% (FSR of 8.8:1 is proposed). A Clause 4.6 variation request has been submitted with the application.

The application DA-2017/157 is reported to Sydney North Planning Panel (SNPP) for determination as it meets the relevant criteria to be considered regionally significant development, as outlined under Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011*, as it comprises a Capital Investment Value (CIV) that is estimated to exceed \$30 million (\$57,187,146) and the site being Council owned land.

### DESCRIPTION OF PROPOSAL

The proposal seeks development approval for the following:

- Demolition of the following existing structures on site:
  - Terrace structures and stairs at upper ground level (podium);
  - 18 trees at upper ground level (podium);
  - Walls, stairs and traffic structures at ground level;
  - Removal of bicycle parking and seven (7) car parking spaces at ground level to make way for new

- substation and end of trip facilities;
  - Removal of 20 car parking spaces at Basement Level 1 to make way for new structural columns; and
  - Removal of nine (9) car parking spaces at Basement Level 2 to make way for new structural columns.
- Construction of a new commercial tower comprised of:
  - 16 storey commercial office building;
  - 2 storeys of plant rooms; and
  - Lobby retail space at upper ground level (podium level).
- New bicycle parking and end of trip facilities at ground level;
- Renovation and utilisation of the two levels of existing basement car parking;
- Public domain improvements, including:
  - Landscaping to the ground level and upper ground level; and
  - New stairs, escalator and lift between ground level and upper ground level.

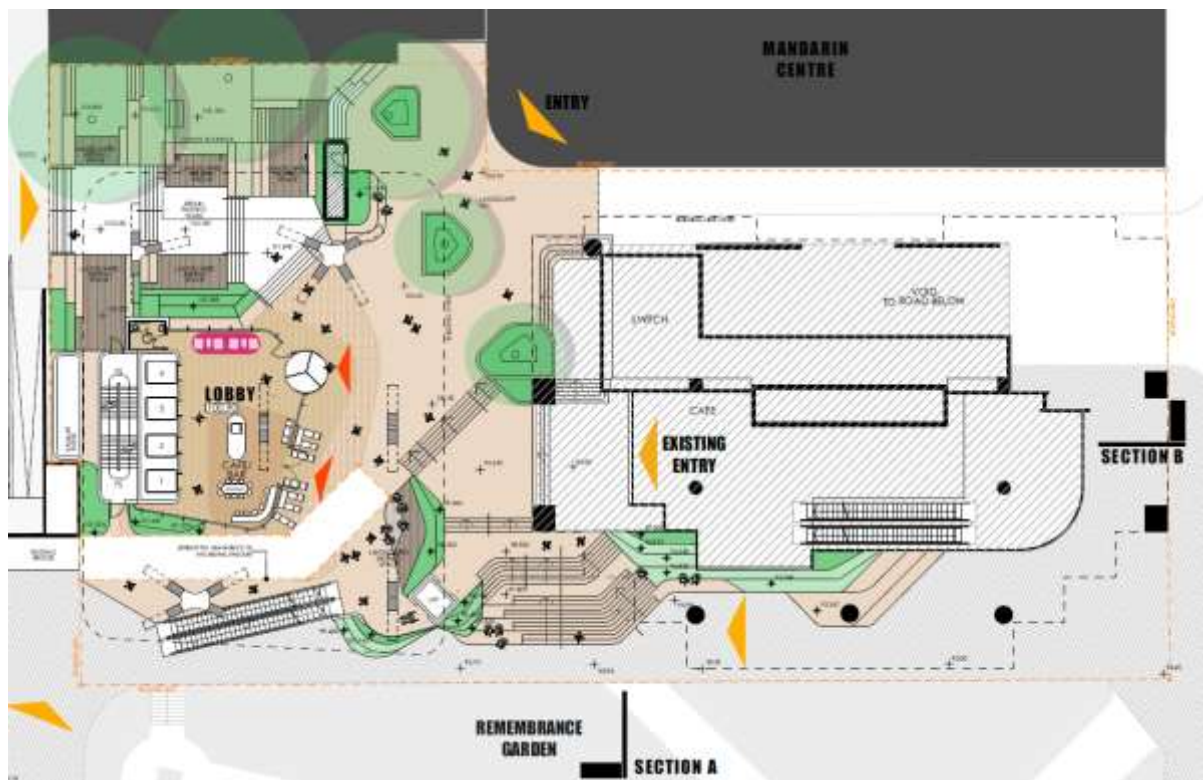


Figure 1: Upper Ground Level Plan at Entry Lobby  
 Source: Fitzpatrick + Partners, plan dated 2 March 2018, stamped by Council 12 March 2018.

Sections and Elevations of the application including supporting documents can be viewed online via Council's Website – Application Tracking using the modification application number DA-2017/157 or the property address 67 Albert Avenue: <https://eplanning.willoughby.nsw.gov.au>.

## KEY ISSUES

### Podium and Ground Plane

The podium in its current form is complex with respect to level changes and integration with surrounding building entries and public spaces.

The upper ground podium level is proposed to be significantly altered as part of the development. Redevelopment of the site provides the opportunity to rationalise the complexities of the podium and pedestrian access through it. The proposed development provides new stairs, escalator and lift between the ground level adjacent to the Gardens of Remembrance and the landscaped podium level.

The stairs at the podium level of the proposed new building shall be consolidated and rationalised further to reduce the number of level changes from the southern corner to the northern corner of the site. Refer to the Conditions of Consent at Attachment 1.

#### Excluded lot

The proposal, as amended, provides corrections to the site boundary to reflect the boundary of the current leasehold arrangement and excludes the stratum lot (Lot 105 of Deposited Plan 1094273) at podium level that projects into the site with limited width and height.

The excluded lot is comprised of the existing pedestrian bridge link between the Chatswood Railway Interchange building and the upper ground level (podium). As the lot does not form part of the site, no construction is proposed.

The proposed landscaping and paving treatment to the excluded lot shall be provided to ensure a high amenity environment is provided and to ensure compliance with BCA, DDA and relevant accessibility standards. Refer to the Conditions of Consent at Attachment 1.

#### Overshadowing

Additional shadow studies were requested by Council and were provided by the applicant. The additional shadow analysis demonstrates the proposed development satisfies the provisions of Clause 4.3A(8) of the Willoughby LEP as there will be no increased overshadowing impacts on the Garden of Remembrance at mid-winter between 12.00pm and 2.00pm.

#### Car parking

The existing basement carpark comprises a total of 193 car parking spaces, of which 38 car parking spaces are proposed to be removed to make way for new structural columns, resulting in a total of 155 car parking spaces. Of these 155 spaces, a total of 131 car parking spaces are required to be provided for the exclusive use by tenants of the commercial developments on the site, of which 51 car spaces to be dedicated for the proposed new development) to comply with the requirements of the Willoughby DCP. Refer to the Conditions of Consent at Attachment 1.

Details of the agreement between the lease holder, CorVal, and sub-lease holder, Secure Parking, shall be provided to ensure that the required number of car parking spaces can be provided to comply with the DCP.

#### Vehicle circulation and access

The arrangement of the subject site's ground level vehicle circulation and loading (including Orchard Road) should be constructed in such a way so that future ground level access to adjacent sites for loading is not precluded.

Refer to the Conditions of Consent at Attachment 1 and the proposed Connectivity Concept (prepared by Architectus) at Attachment 4.

### **BACKGROUND**

A pre-development application meeting was held on 22 March 2017 with the applicant and Willoughby City Council officers. The plans discussed during the meeting were similar to the plans submitted for the current development application. The issues highlighted during the meeting included integration of public domain works, easements and access, built form, building design and setbacks, overshadowing, traffic and parking, and impacts on rail infrastructure.

The development application that is the subject of this report was lodged with Council on 12 May 2017.

A briefing was provided to the Sydney North Planning Panel regarding assessment of the subject Development Application on 26 July 2017. The key issues discussed regarding the application included floor space ratio exceedance by approximately 10%; pedestrian links through the site; and, proposed reduction in car parking spaces, noting the development will still comply with car parking requirements. It was noted that Council were to engage an independent planning consultant to assess the application due to the site being Council owned land. The applicant was advised of these key issues.

## NEIGHBOUR NOTIFICATION

The development application was notified in accordance with Part B of the Willoughby Development Control Plan (WDCP) for a 21 day period from 24 May 2017 to 15 June 2017.

Council received 19 submissions plus three (3) petitions in response to the notification.

### Key Issues

The key issues raised in these submissions are summarised below.

#### Privacy and overlooking

*Issue:* Concern was raised relating to the potential for privacy impacts on the adjoining residential buildings located to the north (17 metre building separation proposed) and to the east (12 metre building separation proposed).

*Response:* The proposed development has been designed to minimise amenity impacts to the residential neighbours to the north by providing the building core facing north to minimise overlooking. Additional drawings demonstrating the proposed building separation were requested by Council and were provided by the applicant. As provided by the applicant, the drawings “demonstrate that although the proposed development is likely to have an impact on the views from the neighbouring buildings, this impact is materially consistent with the impact that could be expected from a building that does comply with the building separation distanced recommended by the ADG”.

It is noted that *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* (SEPP 65) is not directly applicable to the subject development application as the development is for a commercial development in the commercial core of Chatswood and therefore additional building separation is not required.

Additionally, it is noted that the Sebel building is predominantly occupied by serviced apartments, rather than residences.

#### View loss

*Issue:* Concern was raised relating to the potential for view loss from the adjoining residential buildings.

*Response:* As provided above, additional drawings were provided by the applicant that demonstrate that the potential loss of views is consistent with the impact that could be expected from a building that provides additional building separation.

#### Height and scale

*Issue:* Concern was raised relating to the building height and size of the development.

*Response:* The proposed development complies with the maximum building height limit of 80 metres and is considered to be of an appropriate bulk and scale.

A Clause 4.6 variation request to increase the Floor Space Ratio development standard was submitted with the development application. The environmental impacts of the proposed FSR variation are unlikely to be significant and are considered supportable. Refer to further discussion relating to this below.

#### Building separation

*Issue:* Concern relating to building separation between the adjoining residential buildings.

*Response:* *Response:* To the north, building separation is proposed to be 17 metres. It is noted that this proposed façade is largely core and service areas, and therefore impacts from the building separation on the residential apartments are likely to be minimal.

To the east, the building is separated 12 metres from the adjacent Sebel Building. As provided above, additional drawings were provided by the applicant that demonstrate that additional building separation would not significantly improve amenity concerns such as privacy and overlooking.

#### Solar access and overshadowing

*Issue:* Perceived loss of solar access and overshadowing to surrounding buildings and open space.

*Response:* Additional shadow studies were requested by Council and were provided by the applicant. The

additional shadow analysis demonstrates the proposed development satisfies the provisions of Clause 4.3A(8) of the Willoughby LEP (refer below) as there will be no increased overshadowing impacts on the Garden of Remembrance at mid-winter between 12.00pm and 2.00pm.

Building separation is provided to the adjoining residential buildings, including 17 metre building separation to the north and 12 metre building separation to the east to provide for solar access.

#### Light spill

*Issue:* Concern relating to light spill from the proposed commercial building to the adjoining residential buildings.

*Response:* The proposed building will be used for the purpose of a commercial office and will be occupied during regular business hours.

#### Construction impacts

*Issue:* Potential for amenity impacts during construction.

*Response:* A Preliminary Construction Management Plan (CMP) has been prepared by the applicant and demonstrates that through-site access to the Mandarin Centre, the Sebel Hotel, the 'Sage' building at 67 Albert Avenue, and the Chatswood Railway interchange will be maintained throughout construction staging. Noise, dust and pollution impacts will be managed through the conditions of consent.

#### Traffic

*Issue:* Potential for local traffic and parking impacts.

*Response:* The proposed development will not result in an additional car parking spaces, but rather will include the removal of 38 car parking spaces to make way for new structural columns. The new commercial building will utilise existing basement car parking. A total of 131 car parking spaces will be made available for the existing and proposed developments on the site in accordance with the provisions of the Willoughby DCP.

#### Garden of Remembrance

*Issue:* Perceived detrimental effect on Garden of Remembrance as a result of loss of solar access and overshadowing.

It is noted the Garden of Remembrance is identified as an item of Landscape Heritage under the Willoughby LEP 2012 (Item Number I236). The objectives of Clause 5.10 Heritage conservation of the WLEP include "to conserve the environmental heritage of Willoughby" and "to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views".

*Response:* Additional shadow studies were requested by Council and were provided by the applicant. The additional shadow analysis demonstrates the proposed development satisfies the provisions of Clause 4.3A(8) of the Willoughby LEP (as below) as there will be no increased overshadowing impacts on the Garden of Remembrance at mid-winter between 12.00pm and 2.00pm.

- 8) *Development consent must not be granted to the erection of a building within 50 metres of The Concourse, Garden of Remembrance, Chatswood Park and Oval, Chatswood Mall and the Angophora costata on the Chatswood Police Station site if the development would cause increased overshadowing impacts on the space used by the public, or the tree canopy in the case of the Angophora costata, at mid-winter between 12.00 pm and 2.00 pm.*

## Notification Plan

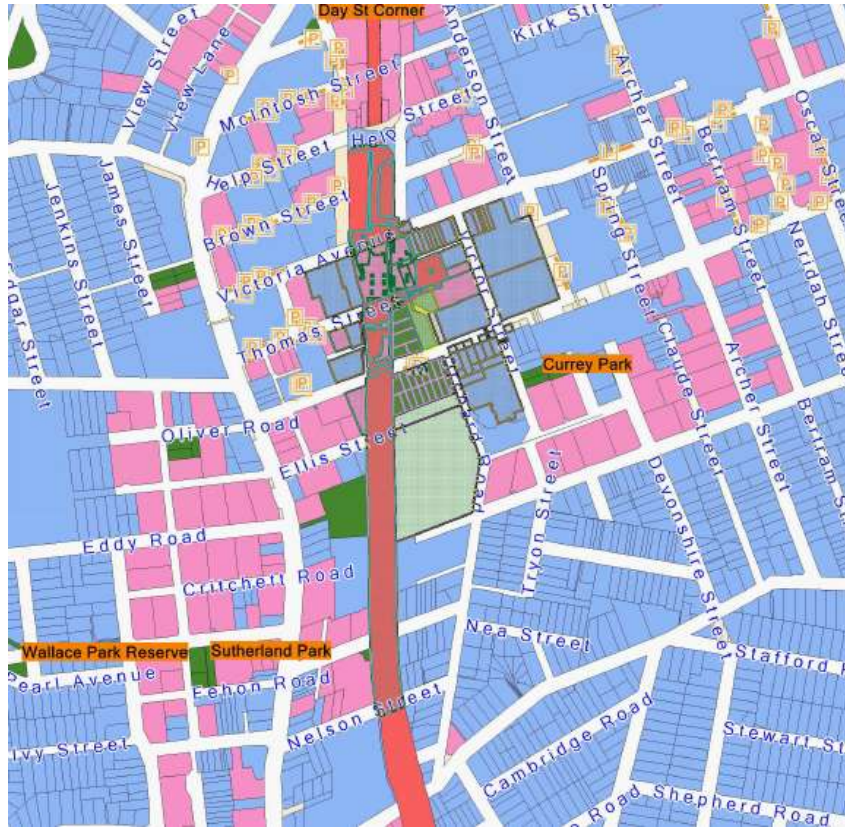


Figure 2: Notification Plan

## Amended Plans

Following a letter sent to the applicant on 20 September 2017, amended plans were received by Council on 14 December 2017 and revised further on 12 March 2018 to address concerns raised.

The key issues for further consideration and discussion included:

- Podium ground plane;
- Easements;
- Landscaping strategy;
- Signage and wayfinding strategy;
- Safer by design;
- Traffic, access and parking;
- Plant rooms;
- Design quality;
- Building separation;
- Construction staging; and
- Other matters including overshadowing, wind impacts, tree removal, and levels.

The proposal, as amended, provides corrections to the site boundary to reflect the boundary of the current leasehold arrangement; realignment to the escalators, steps and landscaping at podium level to enable improved access to the site; and excludes the stratum lot (Lot 105 of Deposited Plan 1094273) at podium level that projects into the site with limited width and height (the lot does not form part of the subject site). The lot is comprised of the existing pedestrian bridge link between the Chatswood Railway Interchange building and the upper ground level (podium). As the lot does not form part of the site, no construction is proposed.

The proposal, as amended, is considered to have similar or lesser impact than the lodged scheme, and therefore re-notification is not considered to be necessary.

A detailed assessment of the proposed development in accordance with 'The Matters for Consideration' under Section 4.15 (previous 79C) of the Environmental Planning & Assessment Act 1979, is provided in below.



## **SITE DESCRIPTION AND HISTORY**

The site is located at 67 Albert Avenue, Chatswood, within the Retail precinct of the Chatswood CBD.

The site is an irregularly shaped lot fronting Albert Avenue and has an area of 3,006 m<sup>2</sup>.

The legal description of the site is Lot 135 of Deposited Plan 1111762. The land is owned by Willoughby City Council and is subject to a long-term lease to CorVal Partners Limited (CorVal).

The site is bounded by similarly scaled commercial buildings, as well as Chatswood Train station to the north-west and the Garden of Remembrance to the west. Refer to the 'site and surrounds map' below.

The 'Garden of Remembrance' is a Local heritage item listed under Schedule 5 Environmental Heritage of the WLEP 2012 (Item no I236).

The site currently contains the following structures:

- The existing 'Sage' building on the southern part of the site (a commercial office building (approx. height of 66 metres) with two levels of basement car parking), which will be retained;
- Two levels of basement car parking which will be retained. There are currently a total of 193 car parking spaces, 38 car parking spaces are proposed to be removed to make way for new structural columns, resulting in a total of 155 car parking spaces;
- An internal access road (known as Orchard Road) at ground level that is covered by the existing commercial building and upper ground podium and utilities rooms, which will be retained;
- End of trip facilities, car parking and bicycle parking at ground level, which will be demolished. Replacement end of trip facilities, bicycle parking and a new substation will be constructed in this location; and
- A landscaped podium at upper ground level which will be demolished to make way for the proposed commercial building, including removal of landscaping elements at the existing podium level and 18 trees.

The site includes a number of level changes, with the internal access road being at ground level and the existing podium being at upper ground level. The podium at upper ground level also changes level with a series of terraces stepping up from the south-west corner of the site to the north-east corner of the site (approximately 3 metres level change).

The summary of relevant history of the subject site is:

- The development application DA-2017/157 was lodged on 12 May 2017.
- The Sydney North Planning Panel was briefed on the application on 26 July 2017.
- Additional information was requested on 20 September 2017.
- Additional information was provided on 14 December 2017 and 12 March 2018, comprising a revised set of Architectural Drawings and consultant reports, prepared in accordance with Clause 55 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).

Within the last ten years, a number of Complying Development Certificates and development applications have also been approved in relation to the 'Sage' building, including various alterations and fitouts to its tenancies and modifications to its lower ground floor level and external façade.

No other development applications have been made to the northern portion of the site.

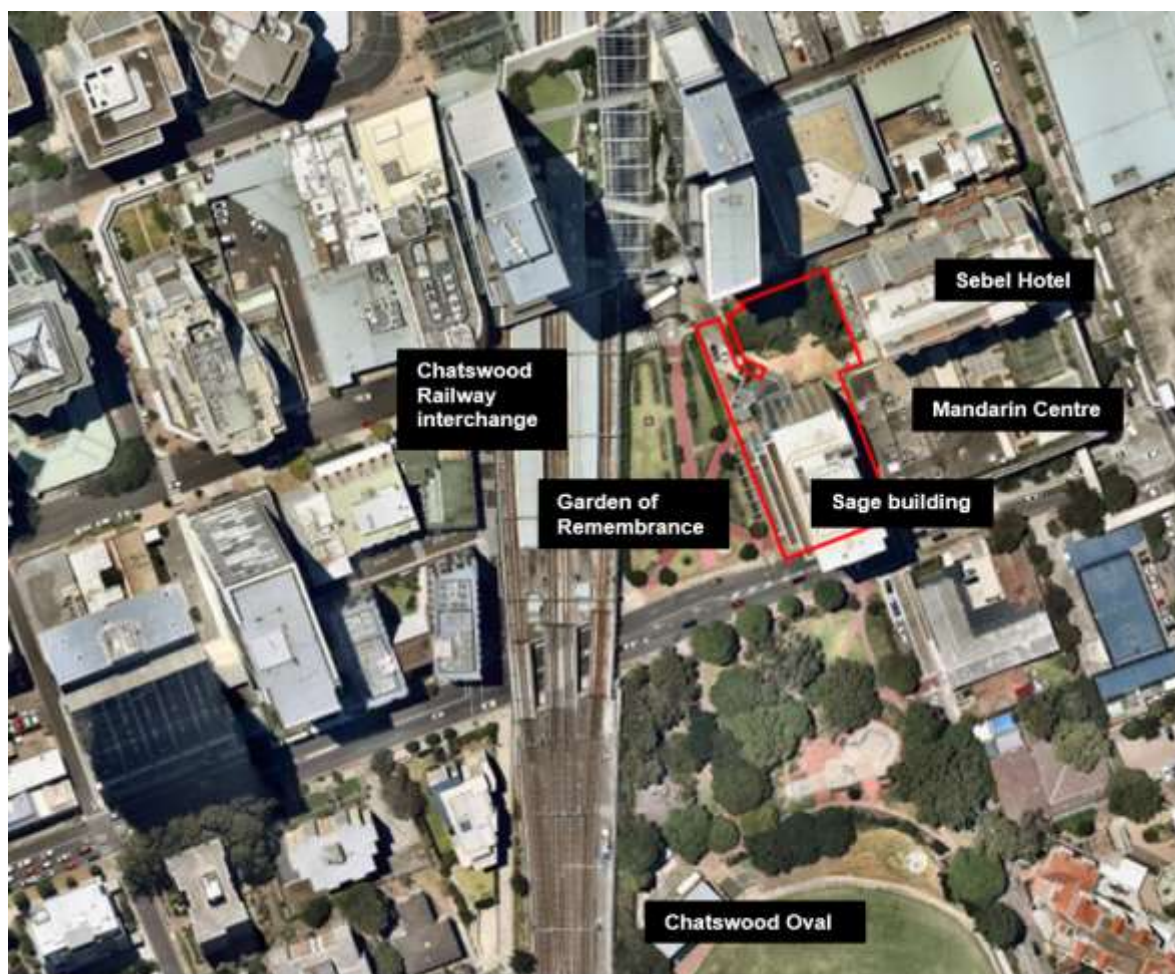


Figure 3: The site and surrounds  
Source: NearMap, image dated 11 Feb 2017

## CONTROLS AND CLASSIFICATION

Controls that apply to the subject site:

### Willoughby Local Environmental Plan 2012 (WLEP 2012)

- **Zoning:** B3 Commercial Core
- **Height:** 80 metres, with exceptions to height of buildings – refer to Clause 4.3A.
- **FSR:** 8:1
- **Heritage Item:** The 'Garden of Remembrance' is a Local heritage item listed in Schedule 5 of WLEP 2012 (Item no I236). The Garden adjoins the site to the west.

### Applicable DCP (SEPPs, REPs)

- Deemed SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- SEPP Building Sustainability Index: BASIX 2004 (BASIX SEPP);
- SEPP 65;
- Apartment Design Guide (NSW ADG);
- Willoughby DCP 2016 (WDCP).

### Developer's Contribution Plans

- S94A Developers Contributions: Yes
- Applicable rate: 3% (Chatswood Central Business District)
- Cost of development: \$57,187,146

Proposal		Standard	Compliance
<b>Willoughby Local Environmental Plan 2012</b>			
<b>Site Area</b>	3,006m <sup>2</sup>		
<b>FSR</b>	8.8:1	8:1 (Clause 4.4)	No. A Clause 4.6 variation to the development standard has been submitted
	Existing site GFA: 16,055m <sup>2</sup> Proposed additional GFA: 10,295m <sup>2</sup> Proposed site total GFA: 26,350m <sup>2</sup>		
<b>Height</b>	80m	80m	Yes.
<b>Willoughby Development Control Plan 2016</b>			
<b>Car parking</b>	The existing basement carpark comprises a total of 193 car parking spaces, of which 38 car parking spaces are proposed to be removed to make way for new structural columns, resulting in a total of 155 car parking spaces.	Office/Business premises in Chatswood (Zone B3 under WLEP 2012) where access is only available from Pacific Highway, Albert Avenue, Victoria Avenue, Help or Railway Streets: <b>1 car parking space per 200m<sup>2</sup></b>	Yes. Of the total 155 car parking spaces, 131 spaces are to be dedicated to the existing and proposed commercial developments on the site, of which 51 car spaces to be dedicated for the proposed development. Refer to conditions of consent.
<b>Bicycle parking</b>	28 new bicycle spaces are proposed and will service both the existing and proposed buildings. Bicycle parking is located adjacent to the new end of trip facilities.	Office/Business premises: <b>Lockers provided at 1 per 600m<sup>2</sup> plus 1 rail/rack per 2,500m<sup>2</sup></b>	Yes. Given the proposed total GFA will be 26,350m <sup>2</sup> , 43.9 lockers and 10.5 bicycle parking spaces are required to comply with the DCP requirements for the site. 46 lockers and 28 bicycle spaces are proposed.
<b>Motorcycle</b>	9 new motorcycle spaces are proposed and are located on Basement Level 1.	<b>1 space per 25 car spaces</b>	Yes. Given there will be a total of 155 car parking spaces, 6 motorcycle spaces are required to comply with the DCP requirements, and 9 spaces are proposed.

## REFERRALS

Internal Referrals	
<b>Planning Services</b>	<p>Council's Planning Services Division made the following comments:</p> <ul style="list-style-type: none"> <li>– <i>"Chatswood is a Strategic Centre under the Metro Strategy;</i></li> <li>– <i>A draft CBD Strategy for Chatswood is currently being considered by Council;</i></li> <li>– <i>The draft CBD Strategy promotes offices in Chatswood's B3 core area to generate additional jobs;</i></li> <li>– <i>This DA being for offices is therefore in line with the direction council is promoting;</i></li> <li>– <i>Issues are likely to relate to loss of open space – a scarce commodity in Chatswood CBD; and</i></li> <li>– <i>Design and creation of new open space and improved green links is also a requirement under the draft Strategy."</i></li> </ul> <p>No additional conditions of consent are recommended.</p>

<b>Environmental Unit</b>	<p>Council's Environmental Unit raised no objection to the proposal and recommended a number of conditions.</p> <p>Refer to the conditions of consent at Attachment 1.</p>
<b>Waste Management</b>	<p>Council's Waste Management Division raised no objection to the proposal, recommended a number of conditions, and made the following comments:</p> <p><i>"This proposal plans to have 27 bins ranging from 1100ltr MGB to 120ltr MGBs with varying clearance rates of between 2 and 5 days. This will service 15 storeys of commercial office space with possible food/retail businesses occupying the ground floor/lobby area.</i></p> <p><i>Per the recommendations in the submitted Operational Waste Management plan, that once the development is fully operational, the number and size of bins being used would need a complete review."</i></p> <p>Refer to the conditions of consent at Attachment 1.</p>
<b>Open Space/ Landscaping Division</b>	<p>Council's Open Space/ Landscaping Division recommended a number of conditions and made the following comments:</p> <p><i>"Concern is raised regarding the impacts of the proposed development on the adjoining Garden of Remembrance, which may be addressed by the provision of additional information.</i></p> <p><i>It is requested that more detailed shadow diagrams be provided to assess the impact of the development on the ongoing viability of the garden via provision of shadow diagrams which indicate separately existing shadow impacts and proposed additional shadow impacts during spring, summer autumn and winter.</i></p> <p><i>This is particularly important as whilst sun access is important for public use in mid-winter, growth requirements for the memorial roses are also a consideration and as such, confirmation of acceptable impacts during the growing seasons will assist in ensuring that the Gardens can continue post construction.</i></p> <p><i>Similarly, the assessment of wind impacts also needs to provide information regarding the expected wind velocity changes across the Gardens as a result of the proposed development to assist in ensuring that the Gardens can continue post construction.</i></p> <p><i>Subject to the above information being satisfactory, conditions have been provided if approval is to be granted."</i></p> <p>The amended plans provided detailed shadow diagrams, consistent with the recommendation above.</p> <p>Further assessment of wind impacts regarding the expected wind velocity changes across the Gardens as a result of the proposed development is required and will be a condition of consent.</p> <p>Refer to the conditions of consent at Attachment 1.</p>
<b>Heritage</b>	<p>Council's Heritage Architect reviewed the plans, documentation, and recommended conditions, and made the following comments:</p> <p><i>"The subject site is adjacent to the Garden of Remembrance, a local heritage item under WLEP 2012. The proposal is for a 16 storey office tower with a podium and levels for services at 67 Albert Avenue directly adjacent to the Garden of Remembrance.</i></p> <p><i>The Garden of Remembrance has significance at a local level and is significant for its heritage plantings and a Boer War Memorial, having historic association as a war memorial, aesthetic significance as a garden designed to record and remember wartime losses. The Garden also has a social significance as a visible local memorial and garden, and it is representative of local memorials erected following both World Wars.</i></p> <p><i>As noted in the Willoughby Heritage Inventory, the garden and memorial although altered, retains its integrity.</i></p> <p><i>The proposal is considered not to significantly impact its heritage significance given the existing urban context of the site noting that it is surrounded by the high rise buildings of the Interchange to the north and existing commercial buildings to the east and west."</i></p> <p>It is noted that a Heritage Impact Statement was received from the applicant.</p>

<b>Traffic</b>	Council's Traffic Engineers reviewed the amended plans and recommended conditions to address relevant Australian Standards, Construction and Traffic Management Plans and pedestrian management.
<b>Stormwater</b>	<p>Council's Development Control Team Leader recommended conditions and made the following comments:</p> <p><i>"The revised stormwater plans for the above DA have been investigated with respect to aspects relevant to this Division. Assessment is based on the revised stormwater plans Drawing Nos. H02(P3), H03(P3), H04(P3), H14(P3), Revision P3, dated 13/12/2017, prepared by AJ Whipps Consulting Group.</i></p> <p><i>The stormwater issues which were previously raised by Council's Engineers have generally been addressed for the DA stage and are subject to more detailed plans required at the CC stage as per the conditions below."</i></p> <p>It is noted that this memo does not contain comments or conditions relating to traffic, construction traffic management and internal manoeuvring matters.</p>
<b>External Referrals</b>	
<b>Sydney Trains</b>	<p>The application was referred to Sydney Trains for comments.</p> <p>Sydney Trains makes the following comments in their referral letter dated 7 June 2017:</p> <p><i>"The proposed works fall under the provisions of Clause 86 of State Environmental Planning Policy (Infrastructure) 2007 which requires concurrence from Sydney Trains before approval can be granted by Council.</i></p> <p><i>As of 1 July 2014 the property functions of RailCorp have been transferred to Sydney Trains. Whilst RailCorp still exists as the legal land owner of the rail corridor, its concurrence function under the above SEPP has been delegated to Sydney Trains.</i></p> <p><i>Such as, Sydney Trains has undertaken an initial assessment of the relevant documentation as attached to the development application. Sydney Trains is not in a position to make a decision on the granting of concurrence until Geotechnical and Structural documentation that meets Sydney Trains requirements are prepared and submitted to Sydney Trains for review.</i></p> <p><i>Therefore, Sydney Trains requests that Council must 'stop-the-clock' on the assessment of this proposal, until such time the following initial information is submitted:</i></p> <ol style="list-style-type: none"> <li><i>1) Geotechnical and Structural report/drawings.</i></li> <li><i>2) Construction methodology with details pertaining to structural support during excavation.</i></li> <li><i>3) Cross sectional drawings showing ground surface, rail tracks, sub soil profile, proposed basement excavation including horizontal distance from closest point of excavation to the rail corridor boundary, and structural design of sub ground support adjacent to the Rail Corridor.</i></li> <li><i>4) Detailed Survey Plan showing the relationship of the proposed development with respect to RailCorp's land and infrastructure.</i></li> </ol> <p><i>In addition to the above, and subject to the outcome of Sydney Trains review of the above documentation, Sydney Trains may also require the preparation of a numeric modelling analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.</i></p> <p><i>Sydney Trains requests that the following items and development application documentation package be forwarded in pdf format on CD or portable USB drive to enable Sydney Trains to undertake the required internal review within the required statutory timeframe. If a file sharing system is available with council, a designated link to download the documents may be emailed to <a href="mailto:DA_sydneytrains@transport.nsw.gov.au">DA_sydneytrains@transport.nsw.gov.au</a> with the DA number and address in the subject line for actioning."</i></p> <p>In response to the above requirements, the applicant provided the following documentation on 3 October 2017:</p> <ul style="list-style-type: none"> <li>– Geotechnical Assessment dated 29 September 2017 by JK Geotechnics;</li> </ul>

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- Architectural sketches by Fitzpatrick & Partners dated 3 August 2017.
  - Deposited Plan 1111762 which indicates the area of which the proposed development is located, specifically Lot 135.

In an additional letter of correspondence dated 13 October 2017, Sydney Trains makes the following comments:

*“I refer to Council’s letter requesting RailCorp’s concurrence for the above development application in accordance with clause 86(1) of the above SEPP.*

*As of 1 July 2014 the property functions of RailCorp have been transferred to Sydney Trains. Whilst RailCorp still exists as the legal land owner of the rail corridor, its concurrence function under the above SEPP has been delegated to Sydney Trains.*

*As such, Sydney Trains now advises that the proposed development is being assessed in accordance with the requirements of Clause 86(4) being:*

- a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:
 
  - i. the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and*
  - ii. the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and**
- b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.*

*In this regard, Sydney Trains has taken the above matters into consideration and has decided to grant its concurrence to the development proposed in development application DA-2017/157 subject to Council imposing the deferred commencement condition provided in Attachment A and operational conditions listed in Attachment B that will need to be complied with upon satisfaction of the Deferred Commencement Condition.*

*Should Council choose not to impose the deferred commencement condition in Attachment A and the operational conditions provided in Attachment B (as written), then concurrence from Sydney Trains has not been granted to the proposed development.”*

The development application is therefore subject to Sydney Train’s concurrence for approval of the application to be granted, and as such is subject to Sydney Train’s deferred commencement conditions, applied in accordance with Section 4.16(3) of the Act.

Refer to the deferred commencement condition and operational conditions provided at Attachment 1.

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#### **RMS**

The application was referred to RMS for comments.

RMS raised no objection to the proposal and made the following comments:

*“Roads and Maritime has reviewed the submitted application and notes the following:*

- 1) No additional car parking spaces provided as part of this development; and*
- 2) No modification to the existing access off Albert Avenue is proposed.*

*Based on the above, Roads and Maritime raises no objection to the proposed development.”*

No additional conditions of consent are recommended.

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#### **Ausgrid**

The application was referred to Ausgrid for comments.

Ausgrid made the following comments:

*“Ausgrid owns parcels of land near the development and have a substation S6668 and underground cables within 67 Albert Avenue, and another substation S35214 with underground cables on the northern side of the proposed development. There are also existing underground assets that run directly under the proposal area as per the attached image.*

*Should the developer identify these assets will be affected and are unable to meet the clearance requirements, they will need to relocate these assets.*

*This is to be done via the contestability process at the developer expense.*

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*Please contact Ausgrid's [contestability@ausgrid.com.au](mailto:contestability@ausgrid.com.au) to discuss any Ausgrid asset relocation requirement.*

The specific conditions recommended by Ausgrid were incorporated in the conditions of consent (refer Attachment 1).

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## ASSESSMENT

The planning policies and development control documents of most relevance to the development were considered as required by Section 4.15 (previously S79C) of the Environmental Planning and Assessment Act 1979.

### **Matters for consideration under Section 4.15 (previously S79C) EP&A Act**

	Satisfactory ✓	Unsatisfactory ✗	Not Relevant N/A
(a)(i) The provisions of any environmental planning instrument (EPI)			
– State Environmental Planning Policies (SEPP)			✓
– Regional Environmental Plans (REP)			✓
– Local Environmental Plans (LEP)			✓
(a)(ii) The provision of any draft environmental planning instrument (EPI)			
– Draft State Environmental Planning Policies (SEPP)			N/A
– Draft Regional Environmental Plans (REP)			N/A
– Draft Local Environmental Plans (LEP)			N/A
(a)(iii) Any development control plans			
Development control plans (DCPs)			✓
(a)(iv) Any matters prescribed by the regulations			
Clause 93 EP&A Regulation – Fire Safety Considerations			✓
Clause 95 Deferred commencement consent			✓
(b) The likely impacts of the development			
– Context & setting			✓
– Access, transport & traffic, parking			✓
– Servicing, loading/unloading			✓
– Public domain			✓
– Utilities			✓
– Heritage			✓
– Privacy			✓
– Views			✓
– Solar Access			✓
– Water and drainage			✓
– Soils			✓
– Air & microclimate			✓
– Flora & fauna			✓
– Waste			✓
– Energy			✓
– Noise & vibration			✓
– Natural hazards			✓
– Safety, security crime prevention			✓
– Social impact in the locality			✓
– Economic impact in the locality			✓

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	– Site design and internal design	✓
	– Construction	✓
	– Cumulative impacts	✓
(c)	The suitability of the site for the development	
	– <i>Does the proposal fit in the locality?</i>	✓
	– <i>Are the site attributes conducive to this development?</i>	✓
(d)	Any submissions made in accordance with this Act or the regulations	
	– <i>Public submissions</i>	✓
	– <i>Submissions from public authorities</i>	✓
(e)	The public interest	
	Federal, State and Local Government interests and Community interests	✓

### **SEPP 65 Design Quality of Residential Apartment Development (SEPP 65) and NSW Apartment Design Guide (ADG)**

The proposed development is for the purpose of a commercial office building, and therefore SEPP 65 does not apply. It is noted however that SEPP 65 and the accompanying ADG state that commercial buildings should be separated from adjacent residential buildings in accordance with habitable room separation distances, being 12 metres up to 4 storeys, 18 metres up to 9 storeys, and 24 metres above 9 storeys.

The site is located adjacent to residential apartments to the north (the 46 storey Chatswood Railway Interchange residential tower) and serviced apartments to the south (the 28 storey Sebel building).

To the north, building separation is proposed to be 17 metres. It is noted that this proposed façade is largely core and service areas, and therefore privacy impacts from the building separation on the residential apartments are likely to be minimal. To the east, the building is separated 12 metres from the adjacent Sebel Building. Additional drawings were requested from the applicant to demonstrate the visual impact of the proposed building on the Sebel building. Drawings were provided that showed any reductions in view impacts would be negligible.

Given that the apartments in the Sebel building are operated as serviced apartments and are not permanently occupied, and given the site's location within the B3 Commercial Core zone within Chatswood CBD, the proposed setbacks are considered appropriate to address the separation requirements in the ADG. As such, the proposal is considered to achieve acceptable outcomes in these areas and is considered supportable.

### **State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure)**

Clauses 85 and 86 of SEPP Infrastructure relate to development adjacent to rail corridors and apply due to the site's immediate proximity to the T1 Northern Line railway corridor. Clause 104 and Schedule 3 of SEPP Infrastructure relate to traffic generating development and proposed operation of the site as a commercial office building. In this regard, the proposal has been referred to Sydney Trains and Roads and Maritime Services (RMS) for comments.

Sydney Trains submitted a 'stop the clock' request and require additional information to be provided prior to assessment of the application. As such, the development will be subject to deferred commencement conditions. Refer to the conditions at **Attachment 1** below.

RMS note that no additional car parking spaces are provided as part of the proposed development and no modification is proposed to the existing access off Albert Avenue. As such, RMS raised no objection to the proposal.



## Willoughby Local Environmental Plan 2012 (WLEP 2012)

The table below provides a brief summary of the WLEP 2012 controls.

WLEP 2012	Control	Proposed	Complies	Extent of variation
Land use	B3 Commercial Core	The proposal is for a commercial premises.	Yes	N/A
Height of Building	80 metres	80 metres	Yes	N/A
Floor Space Ratio	8:1	8.8:1	No	10%

### Recommendations for the Clause 4.6 Exception

A Clause 4.6 variation request to the Floor Space Ratio development standard contained in Clause 4.4 of WLEP 2012 has been submitted with the application.

Clause 4.6 Exceptions to development standards of WLEP 2012 has the following objectives:

- a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Pursuant to Subclause (2) in Clause 4.6 of WLEP 2012, consent may be granted even though the development contravenes the development standards imposed by the environmental planning instrument.

Under Clause 4.4 of WLEP 2012, the maximum FSR for the site is 8:1. The applicant proposes to vary the FSR development standard by 0.8:1, or 10%, to achieve a maximum FSR of 8.8:1.

The principal reason for the proposed Clause 4.6 variation to the FSR development standard is to optimise the FSR of the proposed building given the site's location within the Chatswood CBD and immediately adjacent to the T1 Northern Line railway corridor. The proposed development, including the proposed 10% FSR exceedance, will deliver additional floor space within a new commercial building in the centre of Chatswood's CBD.

Under the WLEP 2012, objectives of the B3 Commercial Core zone that are relevant to the subject site include the following:

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- ***To strengthen the role of Chatswood as a major centre for the inner north sub-region and to improve its public domain and pedestrian links.***
- *To protect and encourage safe and accessible city blocks by providing active land uses on street and pedestrian frontages.*

It is considered that the proposed increase in FSR will contribute to achieving the relevant objectives of the B3 Commercial Core zone and as such, strict compliance with the development standard is considered unreasonable and unnecessary in this instance. The proposed increase of 10% over the FSR development standard is considered to be in the public interest as it will deliver additional floor space within a well located new commercial building in the centre of Chatswood's CBD without significant environmental impacts.

Under the WLEP 2012, objectives of Clause 4.4 Floor Space Ratio that are relevant to the subject site include the following:

- a) *to limit the intensity of development to which the controls apply so that it will be carried out in accordance with the environmental capacity of the land and the zone objectives for the land,*
- b) *to limit traffic generation as a result of that development,*

- c) *to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
- d) *to manage the bulk and scale of that development to suit the land use purpose and objectives of the zone,*
- e) *to permit higher density development at transport nodal points,*
- f) *to allow growth for a mix of retail, business and commercial purposes consistent with Chatswood's sub-regional retail and business service, employment, entertainment and cultural roles while conserving the compactness of the city centre of Chatswood,*
- g) *to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,*
- h) *to provide functional and accessible open spaces with good sunlight access during key usage times and provide for passive and active enjoyment by workers, residents and visitors to the city centre of Chatswood,*
- i) *to achieve transitions in building scale and density from the higher intensity business and retail centres to surrounding residential areas,*
- j) *to encourage the consolidation of certain land for redevelopment,*
- k) *to encourage the provision of community facilities and affordable housing and the conservation of heritage items by permitting additional gross floor area for these land uses.*

The Clause 4.6 variation request submitted demonstrates that the proposed increase of 10% over the FSR development standard will not detrimentally impact the environmental capacity of the site, will not increase traffic generation, will not significantly affect view impacts, privacy or overshadowing, and will positively contribute to the commercial office core of Chatswood. The proposed development will comply with the maximum building height limit, being 80 metres, and is considered to be of an appropriate bulk and scale. As such, the environmental impacts of the additional 10% FSR is unlikely to be significant.

It is considered that there are sufficient environmental planning grounds to justify the contravention of the Floor Space Ratio development standard contained in Clause 4.4 of WLEP 2012. It is recommended the submitted Clause 4.6 variation to the Floor Space Ratio development standard be supported in this instance for the following reasons:

- The proposed increase of 10% over the FSR development standard is consistent with the relevant objectives of the B3 Commercial Core zone and objectives of Clause 4.4, and therefore strict compliance with the development standard is considered unreasonable and unnecessary in this instance;
- The proposed increase of 10% over the FSR development standard will be in the public interest in terms of providing office floor space in an appropriate location that is well connected to public transport;
- The proposed increase of 10% over the FSR development standard will have minimal additional environmental impacts; and
- The proposed increase of 10% over the FSR development standard is considered supportable in the context of the *Draft Chatswood CBD Planning and Urban Design Strategy* and the need for employment floor space within the Chatswood CBD.

#### Interface with Gardens of Remembrance

The 'Garden of Remembrance' is identified as an item of Landscape Heritage under the Willoughby LEP 2012 (Item Number I236).

Additional shadow diagrams were requested by Council and were provided by the Applicant. The diagrams show the proposed development will cause no increase in overshadowing impacts on the Garden of Remembrance at mid-winter between 12.00pm and 2.00pm in accordance with WLEP 2012 Clause 4.3A(8).

#### **Willoughby Development Control Plan (WDCP)**

##### Car parking

A total of 193 car parking spaces are provided in the existing basement car park.

It is understood that a portion of the car park is operated as a commercial car park by Secure Parking and is utilised on a commercial basis for public parking, and a portion of the car park is operated under a separate lease arrangements for tenants of the existing commercial building.

As part of the proposed development 38 car parking spaces are proposed to be removed to make way for new structural columns. The resulting total number of car parking spaces will therefore be reduced to 155 spaces.

Part C.4 of the Willoughby DCP provides the following relating to car parking requirements:

*Office/Business premises in Chatswood (Zone B3 under WLEP 2012) where access is only available from Pacific Highway, Albert Avenue, Victoria Avenue, Help or Railway Streets:*

**1 car parking space per 200m<sup>2</sup>**

Given the proposed development will contribute an additional 10,295m<sup>2</sup> GFA, 51 car spaces are required to be made available for use by tenants of the new commercial building to comply with the WDCP.

As the GFA of the existing commercial building is 16,055m<sup>2</sup>, the total site GFA will be 26,350m<sup>2</sup> and will therefore require a total of 131 car parking spaces.

On 20 September 2017 Council requested further clarity on how the public parking is used by building occupants, and the arrangements for the parking demand generated by the existing and proposed development.

In the Response to Request for Information letter dated 14 December 2017, the applicant provided that the sub-lease of the car park has been renegotiated with Secure Parking so that "prior to the construction of the proposed building, Secure will cede control of 38 car spaces to allow for the required structural upgrades. Following this, prior to the occupation of the proposed building, Secure will cede control of a further 51 car spaces to enable the proposed building to comply with the car parking requirements of the Willoughby DCP".

Refer to the conditions of consent relating to parking.

#### Landscaping

The WDCP provides the following requirements relating to landscaping in Chatswood City Centre:

*Landscaping in the city centre shall consider and ameliorate the microclimatic circumstances of a site in particular adverse wind, noise and shadowing impacts.*

- a) *Street trees shall be provided in accordance with Council's Street Tree Policy for Chatswood City Centre.*
- b) *Planting selection shall give priority to species that are native to the Willoughby area. A list of species is available from Council. In addition selection shall consider the microclimatic circumstances of a site, ease of maintenance (including issues of leaf and branch litter and root penetration) and drought resistant qualities.*
- c) *Landscaping shall be used as an alternative to manage adverse microclimatic impacts such as wind or western sun. These potential adverse impacts shall be identified in the site context analysis required elsewhere in this Plan.*

Landscaping is proposed to be provided at podium level as part of the proposed development including six (6) new medium sized ornamental canopy trees.

Refer to the conditions of consent at Attachment 1 below.

#### **Vehicle circulation and loading**

The *Chatswood CBD Draft Planning and Urban Design Strategy* was on exhibition for community consultation until 17 March 2017. The Strategy provides broad recommendations relating to vehicular access locations for the Chatswood CBD. It is expected that these recommendations will be expanded as part of future LEP and DCP controls.

The following recommendation provided in the Strategy is relevant to the subject site:

- Recommendation 20: *Site isolation is to be discouraged and where unavoidable joined basements and zero-setback podiums should be provided.*

This recommendation describes the need to provide servicing to isolated sites, such as the sites to the north of the subject site, whilst minimising impact on the public domain.

The arrangement of the subject site's ground level vehicle circulation and loading (including Orchard Road) should be constructed in such a way so that future ground level access to adjacent sites for loading is not precluded.

It is considered that the development application for the site should positively address the circulation issues of the city block. This can be best achieved through the subject site providing an alternative access to the adjacent sites to the north, namely the Sydney Water site, that can be taken up when required by the Sydney Water site so that vehicular access via the Chatswood Railway Interchange plaza can be reduced or removed.

A condition of consent at **Attachment 1** of this assessment requires that the future ground level access to adjacent sites for loading purposes is not precluded.

Refer to the diagrams at **Attachment 2** of this assessment that demonstrate opportunities for future connectivity over time.

Additionally, the following recommendation provided in the Strategy relates to the provision of active frontages and is relevant to the subject site:

- *Recommendation 17: Controls for required active frontages should be developed describing key streets where no blank walls, servicing and non-retail uses are permitted.*

The subject site is located adjacent to the Chatswood Railway Interchange and Garden of Remembrance, which are both busy pedestrian areas. On this basis, it is anticipated that future DCP and LEP controls that are developed in line with the Strategy will aim to reduce vehicular access via the Chatswood Railway Interchange plaza and improve the provision of active frontages around the site.

The Strategy notes the pedestrian link to the Chatswood Railway Interchange is a key concern for Chatswood CBD and is a low amenity space at present. A concept image is shown for the streetscape which identifies ways of removing the dominance of vehicles in the plaza space and improving pedestrian outcomes. Refer to the diagram below.



Figure 4: Chatswood Railway Interchange plaza concept diagram  
Source: Chatswood CBD Draft Planning and Urban Design Strategy, December 2016

## CONCLUSION

The development application DA-2017/157 has been assessed in accordance with the provisions of Section 4.15 (previously S79C) of the EP&A Act, SEPP Infrastructure, Willoughby LEP 2012 and Willoughby DCP 2016. It is considered that the proposed development is in keeping with the future desired character envisaged for central Chatswood.

The proposal will result in acceptable impacts on the amenity and character of its surroundings and is supported given the site's location within the Chatswood CBD adjacent the Chatswood Railway Interchange.

As such, it is considered that the development will provide an acceptable planning outcome for the site. Approval is recommended subject to conditions.

## DEVELOPMENT PLANNER'S RECOMMENDATION

THAT the Sydney North Planning Panel (SNPP):

1. **Supports the submitted Clause 4.6 variation to the *floor space ratio* development standard in relation to Clause 4.4 of Willoughby Local Environmental Plan 2012 for DA 2017/157 (67 Albert Avenue, CHATSWOOD NSW 2067) for the following reasons:**
  - The proposed development is consistent with the relevant objectives of the B3 Commercial Core zone, and will be in the public interest in terms of providing retail, business and office land uses in an appropriate location.
  - The proposed variation to the maximum floor space ratio standard is considered supportable in the context of the *Draft Chatswood CBD Planning and Urban Design Strategy* and the need for employment floor space within the Chatswood CBD.
2. **Approves the development subject to the attached conditions and issue 'Deferred Commencement' consent for the application DA 2017/157 for the "*new commercial tower – construction of sixteen (16) storey commercial building, plaza, landscaping, car parking and associated works*" at 67 Albert Avenue, CHATSWOOD NSW 2067.**