

30 September 2013

Determination of Thomas Street Car Park Site Modification 6

1. DELEGATION TO THE COMMISSION

The above modification application lodged by Meriton Property Services Pty Ltd (the proponent) has been referred to the Planning Assessment Commission (the Commission) for determination under Ministerial delegation dated 14 September 2011. The delegation is authorised because more than 25 submissions in the nature of objections were received.

The Commission constituted to determine the application consists of Ms Donna Campbell (chair) and Mr Richard Thorp.

2. APPROVAL SOUGHT TO BE MODIFIED

On 28 September 2010, the then Minister for Planning approved a mixed use development on the site comprising 2 towers, one for residential purposes (Building 1) and the other for commercial offices (Building 2). The approval has since been modified five times. Among these modifications, Modification 3 (approved in February 2013) is the most significant allowing Building 2 to be used for serviced apartments instead of a commercial office tower.

The current approval with approved modifications comprises –

- a 29 storey residential building (building 1) with a height of 199.9 RL providing 233 apartments,
- a 29 storey commercial building (building 2) with a height of 197.2 RL providing 302 serviced apartments, and
- 508 underground car parking spaces in 5 levels.

3. THE SUBJECT MODIFICATION APPLICATION (MOD 6)

This modification seeks approval to:

- Increase the height of the residential tower from 29 storeys to 47 storeys (an additional 53.45m) and increase the number of residential apartments by 122 (from 233 to 355);
- Increase the height of the serviced apartment tower from 29 storeys to 37 storeys (an additional 24.75m) with an additional 57 serviced apartments (from 302 to 359); and
- Increase the number of car parking spaces from 508 to 660, with additional spaces provided above ground within a 3 storey podium.

The following is a brief summary of the changes to the proposal from its original approval to the current application:

	Original 2010 Approval	Current Approval (as modified)	This Application (Mod 6)
Use			
Building 1	Residential Apartments	Residential Apartments	Residential Apartments
Building 2	Commercial Offices	Serviced Apartments	Serviced Apartments
Height			
Building 1	199.9 RL (29 storeys)	199.9 RL (29 storeys)	253.35 RL (47 storeys)
Building 2	197.20 RL (21 storeys)	197.20 RL (29 storeys)	221.95 RL (37 storeys)
GFA	44, 491 m ²	45,148 m ²	58,621 m ²
FSR	10.4:1	10.94:1	13.56:1
Apartments			
Building 1	202 residential apartments	233 residential apartments	355 residential apartments
Building 2	N/A - commercial office	302 serviced apartments	359 serviced apartments
Car Parking	506 spaces (fully within the 5 basement levels)	508 spaces (fully within the 5 basement levels)	660 (in 5 basement levels and 3 podium above ground levels)

4. COUNCIL POSITIONS ON PROPOSALS

Willoughby City Council did not oppose approval of the original proposal granted in 2010.

In relation to the current proposal, Council strongly objected to it on grounds set out in a submission to the Department dated 27 March 2013. It urged refusal of the application and for the applicant to be advised to proceed with the project as then approved (which included the change of use in Building 2 to serviced apartments).

Council's letter noted that "the strategic and statutory planning context is established by publicly exhibited and adopted/ gazetted plans. Certainty for the public of the planning framework for an area is a fundamental security of a community..." It went on to note that "The proposed development as now modified is inconsistent with the planned strategic and statutory environment of the site, specifically in terms of building scale, density and use."

Council's key concerns in the March 2013 letter regarding the impacts of the proposal were additional overshadowing of community facilities by the proposed increase in height, further pressure on local infrastructure, disabled access to No 12 Thomas Street and a preference for all car parking to be provided underground.

Submissions accompanying the March letter set out Council's concerns in detail. The submissions also included a range of other concerns such as traffic, inadequate planning for increase in density and height, design issues such as the loss of the landscaped open space plaza, the mass and bulk of the towers on the southern edge of the Chatswood CBD and the lack of clarity at pedestrian scale to the entries to the development.

On the 18 April 2013, Council made a further submission to the Department advising that Council officers had met with the proponent to try and resolve Council concerns. In response, the proponent had revised the proposal and provided additional information including additional shadow diagrams.

While the April 2013 letter withdrew Council's objection to the proposal, it did not support it unconditionally. The Council requested the Department to take into account those matters raised in Council's previous submission "except where the latest revisions have addressed (its) concerns "

The Department's assessment report summarises those revisions as reinstatement of the child care facility, and changes to the podium, ground floor uses and disabled access and car parking. In particular, the report notes that the revisions did not change the "form and height of the towers" and retained "above ground parking".

The council further qualified its support for the proposal by requesting the Department to address a range of specific matters in its report to the PAC. The Council requested that the report address the planning context issue mentioned in its earlier letter:

The scale, proposed use and density of the proposal is contrary to the planning for the location having regard to its context and the role of Chatswood CBD as a major employment centre.

At its meeting with Council officers, the Commission asked for clarification of Council's current position on the proposal and the extent of its support. The officers advised that Council's position is neutral. It neither supports nor is opposed the proposal. This was confirmed by Council's representative at the public meeting.

5. THE ASSESSMENT REPORT

The Department's assessment report for this modification proposal has identified the following key issues:

- Height;
- Podium design;
- Car parking;
- Access to 12 Thomas Street;
- Traffic;
- Contributions; and
- Voluntary Planning Agreement (VPA)

The report assesses the proposal in the context of the State, metropolitan and subregional planning. It does not consider or mention the relevant local planning controls. Willoughby Local Environmental Plan 2012 is Council's comprehensive LEP applying to Chatswood and came into effect on 31 January this year.

After assessing the key impacts mentioned above, the Department has recommended approval of the proposal subject to the following key changes.

It has concluded that the tower buildings would achieve a more sympathetic relationship with the existing skyline of Chatswood CBD with a reduced height. To achieve this it recommended that the height of the residential tower (building 1) be reduced by five storeys, noting that this will reduce the overshadowing impact on residential property.

The Department also has concerns with the above ground parking and in particular, the flow on effects to the podium design at the base of the two towers. These included adverse effects on streetscape appearance and activation, and on pedestrian safety around the large driveways. To address these concerns, the Department has recommended design changes including increased "sleeving" of the above ground car parking by apartments.

6. SITE VISIT

On 19 August 2013, the Commission visited the site and its surrounding areas.

7. MEETINGS

On 19 August 2013, the Commission met with officers of Willoughby City Council followed by a meeting with the Proponent. A public meeting was held on 27 August 2013 at the Zenith Theatre, Chatswood. The Commission also met with the Department on two occasions to seek clarification on issues raised at the meetings with stakeholders. A brief summary of the issues raised at these meetings are discussed below and further detail regarding these meetings can be found in attachment 1.

7.1 Willoughby City Council

Key issues discussed at the Commission's meeting with Council included:

- Long term plan for Chatswood;
- VPA;
- Access and car parking;
- Building height; and
- Design of podiums.

7.2 Proponent

Key issues discussed at the Commission's meeting with the proponent included:

- Building height;
- Design of podiums;
- VPA; and
- Overshadowing and solar access.

7.3 Public Meeting

On Tuesday 27 August the Commission held a public meeting at the Zenith Theatre, Chatswood to hear community comments on the assessment and recommended conditions. Thirteen people spoke at the meeting; including representatives of a number of special interest groups (see attachment 2).

Issues raised at the public meeting included:

- The size and scale of the development after the changes, particularly building height;
- Overshadowing and loss of solar access for community open spaces and for residential properties;
- Significant non-compliance with the recently made Willoughby Local Environment Plan 2012;
- Urban design;
- Access, traffic and car parking;
- Increased demands on already stretched community infrastructure;
- The continuing assessment of such significant changes under the modification provisions of the repealed Part 3A process;
- Loss of commercial land uses and impacts to retailers;
- Property values.

7.4 Meeting with the Department

On 29 August 2013 the Commission met with the Department. The following key issues were discussed:

- Acceptability of the proposed building height;
- Land use and zoning;

- Residential demand in Chatswood;
- Pedestrian access and safety; and
- Wind Impacts.

On 12 September 2013 the Commission met with the Department again. The following issues were discussed:

- Amenity impacts on the local community;
- Discrepancies in shadow diagrams;
- Extent of overshadowing;
- Building height – height controls for the site and general planning principles for CBD
- Dwelling targets for Willoughby Council;
- Justification for serviced apartments;
- The application of s75w and whether the proposal should be treated as a new application under Part 4 rather than a modification of a Part 3A approval ;
- Pedestrian safety;
- Lack of weekend traffic impact study; and
- Impacts on streetscape including lack of street trees.

8. COMMISSION’S ROLE AND APPROACH

8.1 Commission’s role

A number of submissions at the public meeting urged the Commission to refuse the application and undo Modification 3 which approved the change of use of building 2 to serviced apartments.

It may be helpful at this point to explain the scope of the Commission’s role in determining this application.

The Commission cannot revisit the merit of prior approved modifications. Rather, its job is to determine whether the further changes proposed in this application (Mod 6) should be approved. If the Commission rejects this application, the earlier approved modifications continue, including the change of use to serviced apartments for building 2 under Modification 3.

8.2 Commission’s approach to assessment of the application

Whilst the Commission must confine itself to the impacts of the changes proposed in this application, this does not mean that it must confine itself to considering those impacts in isolation. Rather, the Commission has considered the cumulative impacts of those changes in the context of the whole development, incorporating all the approved modifications to date.

To do otherwise would subvert the assessment process by avoiding assessment of the cumulative impact of the final development.

This observation is particularly relevant to the impacts of overshadowing. The Commission has assessed the cumulative impacts of the height of the whole building after the proposed increase in height under this application. It has not viewed the overshadowing impact of the increase in height in isolation.

8.3 Legal issue – Is this application a modification?

Concern was expressed by some members of the community that the proposal is now so changed that it cannot be described as a modification of the first approval. As a result, they argue it must be

assessed as a new application in accordance with the requirements of Part 4, instead of the repealed Part 3A.

A concern was also expressed that the modification process is being used as a way of keeping Part 3A alive long after its repeal. (The transitional arrangements continuing the operation of Part 3A only apply if the proposed changes are a modification.)

The assessment report notes that *section 75W of Part 3A* of the Act defines a modification to mean “changing the terms of a Minister’s approval, including revoking or varying a condition of the approval or imposing an additional condition of the approval” The report recognises that the scale of the changes to the original approval are significant including changes to land uses, apartment numbers and terms of approval. It concluded however that the proposal remains a high rise development accommodating previously approved residential and commercial development.

The Commission raised the matter with the Department which confirmed its view that the proposal is indeed a modification. The Department noted that the definition for the purposes of Part 3A is broader than for modifications assessed under Part 4, where there is a requirement for the proposal be “*substantially the same development*” as the one originally approved. However, the Department did agree that the meaning of the term in Part 3A is not unlimited.

In the case of this application, the Commission has carried out a merit assessment in accordance with Part 3A relying on the Department’s advice. Given the significance of the changes, the Commission also notes the Department’s assurance that it has consulted the community and assessed the application as comprehensively as it would for a new proposal.

9. COMMISSION’S CONSIDERATION OF KEY IMPACTS

The Commission has carefully considered the Department’s assessment report, documents provided, written submissions and views expressed at the public meeting and in meetings with the proponent, Council and the Department. The significant issues of concern to the Commission that emerged from this and from its site visit are discussed below.

9.1 Overshadowing

The proposed changes to substantially increase the height of both tower buildings on the site will further increase overshadowing of public and private open space, as well as overshadowing nearby residential properties. This is echoed in the many public submissions (74 %) objecting to the proposal on the grounds of “overshadowing/loss of sunlight”. It was also a major concern expressed at the public meeting.

The Commission closely reviewed the shadow diagrams submitted by the proponent and found inconsistencies. It requested additional detailed shadow diagrams (weekly diagrams on hourly base between 31 March to 30 June) to clarify the extent of the impacts (between April and September) and these were supplied by the proponent on 19 September 2013.

Following detailed review of these and the previously provided shadow diagrams, the Commission finds that:

Chatswood Oval

As noted in section 8.2, the Commission considers that any further partial loss of sunlight at the Oval must be considered in the context of the extent to which the existing approval already overshadows it.

The shadow diagrams show that there are already shadows being cast over the Oval by the approved development and other existing buildings. They also show the impact of this application (Mod 6) during the period from around 7 April to around 23 September, commencing at approximately 2.15pm. During this period, there are new shadows cast over the oval in locations that were previously sunlit.

These new shadows are essentially removing much of the limited sunlight that does reach the oval in the afternoon and would make the oval mostly shaded. The Commission considers this to be a very negative outcome, and is of view that just because the oval receives relatively good morning exposure in the period, this does not offset the negative impact in the afternoons.

Whilst, the Council has advised the Commission that the Oval is less used during the afternoons during most of this period, the Commission notes the increasing importance of the Oval in the future given the proposed significant increases in the population living or working in or near the Chatswood CBD

Chatswood Croquet Club and Tennis Centre

The Commission notes from the assessment report that the approved development “will not alter existing shadow impacts on any of the lawns until 1.30pm and will affect one of the three croquet greens until 3pm...”.

This application, if approved, will result in additional shadowing of the northern lawn in the winter period between April and August between 12.30pm and 2pm.

This means that between April and August this development if modified will result in shadowing from 12.30 pm until 3pm. It is noted after 3pm much of the facilities is overshadowed by existing buildings.

The additional shadow diagrams provided to the Commission confirm the concern expressed in Council’s first submission that the overshadowing as a result of “modification 6 will result in a significant impact on the quality of that open space”

Residential properties in proximity to the site

A wider residential area will be subjected to new overshadowing as a result of the proposed increase in height of the towers. This occurs both during the mornings and afternoons, and is greatest in the months from April to September. The Commission agrees with the Department that these new shadows are moving quite quickly over the properties that are impacted.

The assessment report concludes that the impact of the overshadowing can be mitigated by a reduction of 5 storeys to the residential tower. The Commission has reviewed the result of such a reduction in height and does not consider the overshadowing outcome is adequately mitigated. The recommended height reduction would only reduce the impact to a minor extent. The Commission notes that Council expressed a similar view at the public meeting.

The proposed Voluntary Planning Agreement, discussed at section 11.3, will provide for improvements to be made to Chatswood Oval, including replacing existing turf with artificial grass to off-set one of the negative impacts of the overshadowing. However, the Commission observes that there is virtually no support for this from the community as represented at the public meeting and notes that it is customary for people to prefer natural turf rather than a manufactured surface.

9.2 Pedestrian Safety

The proposed increase in number of parking spaces requires additional vehicular entry and exit points on Albert Avenue and Thomas Street to allow access to the above ground (podium level) parking area in addition to the already approved access points to the basement parking area. As a result, the width of the combined entry/exit for both basement and podium parking is about 16m for Thomas Street and about 13m for Albert Avenue. Pedestrian refuges are proposed to address the issue of pedestrian safety when crossing these entry/exit points.

Pedestrian safety is a key concern to the community and in Council's submission. The Commission's attention was directed to the neighbours of the site which includes medical services for the disabled including eye specialists and the headquarters of Guide Dogs NSW. Pedestrian safety in using the footpaths to access these services are of paramount importance to the community. They questioned whether the proposed refuges are a practical and safe solution.

The Commission shares their concern and considers the excessive widths of entry/exit points on Thomas Street and Albert Avenue to be not acceptable. Pedestrian safety will increasingly become a significant issue given the increased development density in the area.

9.3 Design

The Commission notes Council's submission (March 2013) raised significant design issues including compromises to the landscaped open space plaza, mass and bulk of the podium, street activation, urban design quality and scale of the development in the context of the CBD. The assessment report has addressed these issues in various sections. However, the Commission finds that:

- Both the Department and Council indicated that it is preferable that car parking should be provided below ground. The Department also considered the justification for the podium car parking to be inadequate.
- One of the key design outcomes of the original approval was to provide a landscaped open space plaza between the two towers to connect the two streets. The most recent approval (Modification 3) has already changed the design of the connection. This application, if approved, will "enclose" the connection, turn it into a "private walkway", and inhibit public use. Although the connection remains, the benefit of a "public" open landscaped plaza is lost.
- The viability of the narrow retail strip is questioned and therefore the ability to achieve the objective of providing an active frontage link.
- The podium will be built from boundary to boundary which will adversely impact on streetscape. The mass and bulk of the podium will dominate the streetscape on both Albert Avenue and Thomas Street. This is in significant contrast to Council's requirements on other developments in the Chatswood CBD area where street trees are an essential element in these developments to enhance the public footpath, provide shade, mitigate wind impacts and soften the scale and mass of buildings for pedestrians.

The Commission acknowledges that the current approval (as modified) does not provide any street tree except for the one in a planter just outside the entrance to the walkway on Albert Avenue. This application, if approved, will further reduce the already very minimal street

landscaping on Albert Avenue and provide nothing on Thomas Street. The resultant streetscape will be dominating by the podiums of these two buildings.

Having regard to these findings, the Commission concludes that the proposed podium is not acceptable in terms of its design and impacts on streetscape and amenity, notwithstanding the Department's recommended design modification and increase in apartment use in level 3.

9.4 Building Height

The assessment report considered the proposed 47 storey height (building 1) excessive in the Chatswood CBD context. It recommended the height be reduced by 5 storeys.

In its March 2013 submission, Council disagreed with the proponent's justification for the increase in height based on the Chatswood Interchange Towers. Those towers are located in the centre of the Chatswood CBD and are an identifier to the public bus-rail interchange. The subject site is located on the south-western edge of the CBD. Council expressed the view that development on the fringes of the CBD should be scaling down from the core to the 8-storey and 3-4 storey residential development to the south of Albert Avenue.

10. LOCAL PLANNING PROVISIONS

As noted in section 4 of this report, Council, in its March 2013 submission to the Department considered "the proposed development as now modified is inconsistent with the planned strategic and statutory environment of the site, specifically in terms of building scale, density and use."

In its April letter to the Department, the Council requested that the Department to address the following matter in its report to PAC:

The scale, proposed use and density of the proposal is contrary to the planning for the location having regard to its context and the role of Chatswood CBD as a major employment centre.

In determining an application under Part 3A, the legislation provides that consideration may be given (but is not required to be given) to the local planning provisions. The Commission has determined that it is appropriate to do so in this case as a comprehensive LEP for the area has only very recently come into effect on 31 January this year.

Whilst the Commission does not consider that there must be strict compliance with the new LEP's controls, it does consider that it is appropriate to have regard to whether the impacts of the proposal are consistent with the broad objectives expressed in the LEP.

For urban design, the LEP aims to ensure that development contributes positively to, and wherever possible facilitates improvements to, the public domain. For amenity, it aims to maintain and enhance existing amenity of the local community and reduce adverse impacts from development on nearby residential properties.

For the commercial core, the LEP's aims include improving Chatswood's public domain and pedestrian links and protecting and encouraging safe and accessible blocks by providing active land uses on street and pedestrian frontages.

For its building height limits, the LEP aims, among others:

- a) *To ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,*
- b) *To minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
- c) *To ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,*
- d) *...*
- e) *To set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,*
- f) *To use maximum height limits to assist in responding to the current and desired future character of the locality;*
- g) *...*
- h) *To achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.*

The Commission notes the building heights at the time of approval (in 2010) were consistent with the then draft LEP 2009, an earlier version of the current LEP. The current LEP restricts building height for the site to 60m (Building 1) and 34m (Building 2). The Commission sought advice but was not informed of the reasons for the reduction in height limits between the 2009 LEP and the current LEP.

The Commission agrees with the Council that in general planning term, the highest buildings should be located in the core of the CBD and scale down to the edge. Under the LEP, the subject site is located at the edge of the CBD. To allow excessive height at the edge will detract the focus of the CBD to the fringe and impacts on the adjoining residential zone.

In this case, the Commission concludes that the proposed extra height is inconsistent with the general planning principles for the CBD and with the strategic direction for development of the CBD as set out in the LEP.

The existing approval already allows the development to be well over the LEP controls. The question for this application is whether its public benefits out-weigh its impacts in the context of the objectives of the LEP.

11. COMMISSION'S ASSESSMENT OF PUBLIC BENEFITS OF THE PROPOSAL

11.1 Increase in number of dwellings

This application, if approved, would provide an additional 122 residential apartments in a highly accessible location and in close proximity to an employment centre. It is consistent with the NSW 2012, Draft Metropolitan Strategy for Sydney and Draft Inner North Subregional Strategy.

Council has advised that it has already made provisions for the dwelling targets required for Willoughby in the Metropolitan Plan for Sydney. However, the Commission considers the question is not whether Council meets the dwelling targets in the Metropolitan Plan for Sydney but rather, whether the benefits of the 122 additional apartments in that location outweigh the potential impacts of the proposal on existing residents/workers and the environment.

11.2 Serviced apartments

The Commission finds limited justification for additional serviced apartments contained in the EA. The reasons given included:

- Growing demand for affordable tourist and business accommodation; and
- Generate employment opportunities in a variety sectors.

The Commission agrees with Council's view that serviced apartments will provide significantly less jobs when compared with a commercial office development. The proposed increase of 57 serviced apartments will generate limited additional jobs.

11.3 Voluntary planning agreement

There was considerable community disquiet about the voluntary planning agreement to pay the Council approximately \$12million for community benefits if the changes are approved. In particular, there was a concern that increased floor space was being traded for the maintenance of community facilities which should fall within Council's normal responsibilities.

The planning legislation provides for voluntary planning agreements with safeguards designed to ensure transparency. The Commission, like other consent authorities, is required to take them into account in making its decision.

The benefits to be provided under the agreement include upgrades to Chatswood Oval, Chatswood High Oval and Beauchamp Oval and CBD streetscape improvements where required.

In the case of this modification application, the Commission's approach is to weigh and compare the public benefits provided by the voluntary agreement with the impacts of the proposed changes.

12. Commission's Determination

The Commission has carefully considered the assessment report and associated documents, views expressed at various meetings with stakeholders and information provided before, at or after these meetings and its findings detailed in previous sections of this report.

The Department's assessment report has identified the key impacts of the proposal that are of concern and has recommended further changes to the proposal to mitigate those impacts. The Commission shares the Department's concerns, but does not agree that the recommended changes will adequately address those adverse impacts.

As requested by the Council, the Commission has also considered whether the scale and density of the proposal is contrary to the planning for this location having regard to its context and the role of Chatswood CBD as a major employment centre

The Commission has determined therefore that the modification application (mod 6) should be refused for the following reasons:

1. The additional overshadowing impacts on public and private open spaces and nearby residences are not acceptable and reducing the height by 5 storeys makes little difference. The proposed improvements of the Chatswood Oval via the Voluntary Planning Agreement do not outweigh the additional loss of sunlight in the afternoon.
2. The proposed vehicular entry/exit points on Thomas Street (about 16m) and Albert Avenue (about 13m) are excessive and not acceptable on pedestrian safety ground, notwithstanding

the proposed pedestrian refuges. The site is located in a high density development area with increased pedestrians over time, particularly those who use the footpath to access the adjacent medical services and Guide Dogs NSW.

3. The design of the podium as a result of the above ground parking will adversely impact on the through site access connecting Albert Avenue and Thomas Street, as well as on the practicality and viability of providing an active frontage link. It essentially removes the open air above the originally proposed open space landscaped plaza, an important feature of the original approval. The podium design will also adversely impact on streetscape and the visual amenity of adjacent residents and pedestrians.
4. The proposed building height and design result in impacts that are inconsistent with the objectives of very recent local planning provisions. Willoughby LEP 2012 only came into effect on 31 January 2013.
5. The public benefits of providing an additional 122 residential units in a highly accessible location and in close proximity of an employment centre and the voluntary planning agreement do not outweigh the environmental and amenity impacts on public infrastructures, nearby residents and pedestrians and workers who use the area.



Donna Campbell
Member of the Commission



Richard Thorp
Member of the Commission

Attachment 1

Meetings with Stakeholders

On 19 August 2013, the Commission visited the site and held a meeting with Willoughby City Council (Council) followed by a meeting with the Proponent. The public meeting was held on 27 August 2013 at the Zenith Theatre, Chatswood. A summary of the issues raised at these meetings is provided below.

Willoughby City Council (Council)

The Commission met with officers of the Council at the Council's office. Council stated that it does not support or object to the project;

Key issues discussed included the following:

- Council concerned with the loss of the commercial component and that the proposed serviced apartments will be modified for residential purposes. There are insufficient car spaces available at the proposed serviced apartment tower to serve a residential building;
- Residential use of the proposed serviced apartment tower is not permitted due to zoning;
- An additional five storeys on the residential tower will not substantially reduce the impacts;
- The voluntary planning agreement will be used to mitigate impacts from the development by improving recreation facilities, public domain, Chatswood oval and Chatswood High School;
- The design of the Chatswood skyline;
- Traffic issues at the Pacific Highway and Albert Avenue;
- Residential uses will result in a lower traffic generation compared to commercial.
- Multiple driveways on Thomas Street is a concern to Council;
- Car parking and the feasibility of share car services such as go get;
- Access to 12 Thomas Street.
- The through site link – safety and activation;
- Need for high quality painted finishes; and
- Requested a set of consolidated set of plans given all the modifications that have occurred.

Proponent

The Commission met with the Proponent at the Planning Assessment Commission's office. Key issues discussed included the following:

- Extra building height would result in additional pressure on public facilities. To mitigate this additional pressure a VPA was entered into.
- Request that the building height is not reduced as recommended by the Department;
- The design of the two towers as a pair that complement each other;
- Separation of the podium between the two towers;
- The through site link will include retail shops and active uses on either side of the link and will experience sunlight in the middle of the day;
- The childcare facility and swimming pool/gym will be placed on level 4;
- The design of the skyline and its consistency with the long term plan for Chatswood;
- Overshadowing;
- Finish guarantees (including the involvement of architects); and
- Council's request for a set of consolidated plans.

Public Meeting

On Tuesday 27 August the Commission held a meeting at the Zenith Theatre, Chatswood to hear from the community comments on the assessment and recommended conditions. Thirteen people spoke at the meeting; including representatives of a number of special interest groups (see attachment 2).

Key issues raised at the public meeting included:

Built Form and Design

- The size and scale of the development particularly the building height (which many community registered speakers objected to).
- Some support for the reduction of five storeys recommended by the Department;
- The modification does not comply with the Willoughby Local Environment Plan;
- Legal requirements for building separation;
- Lack of justification for an above ground car park;
- Poor architecture design;
- High rises are not energy efficient;
- Architectural drawings and shadow drawings are inadequate; and
- The modification does not fit with the local area plan (bell shaped curve/arc) for Chatswood.

Overshadowing and Wind

- Overshadowing and loss of solar access in particular impacts to Chatswood oval, croquet field, pedestrians and nearby residents;
- Electricity cost increase due to loss of solar access (heating etc);
- Nearby properties de-valued due to overshadowing by the development; and
- Inadequate wind modelling conducted.

Access, Traffic and Car Parking

- Traffic impacts in particular along Albert Avenue;
- Traffic impacts on Fleet Lane;
- Poor access for people with disabilities; and
- Platform lift at 12 Thomas Street should be included in the development.

Land Use and Impacts to the Community

- Concern that the serviced apartments would be modified for residential purposes;
- The need for a commercial land use and impacts to retailers due to the loss of the commercial tower;
- Surrounding residents have purchased property in the area on the assumption that they will not be living next to high rise buildings;
- Impacts to ratepayers due to the need for facility upgrades as a result of the development;
- Lack of community consultation;
- The development overcrowds other development in the area;
- More open space will be needed in Chatswood;
- Education facilities will not have capacity for the additional population; and
- Contributions will not compensate for the loss to the community.

Other

- Council requested the following: a set of consolidated plans, a consultation role in the selection and position of the proposed art piece sculpture as an identifier for the through

site link, a consultation role with the design of the car park, a condition relating to affordable housing, pedestrian refuge points and that any future detailed strata plans are sent to Council for approval.

- Council stated that the five storey reduction recommended by the Department will make little difference to the apparent scale and mass of the towers;
- The community raised concern that Council changed their position on the project due to the VPA; and
- It was suggested that Part 3A projects should be removed from the planning system.

Meeting with the Department

On 29 August 2013 the Commission met with the Department. The following key issues were discussed:

- Building height and compliance with the Local Environment Plan (LEP)
- Serviced apartments are still considered a form of commercial land use and therefore permitted within the current zoning. Serviced apartments will not be able to be changed to residential apartments unless the site is re-zoned. Serviced apartments will generate some employment;
- Site specific provisions in the draft 2009 LEP were removed in the updated 2012 LEP. Original approval met the requirements of the 2009 LEP.
- The current Willoughby LEP does not reflect Chatswood's future residential needs. There is a need for further dwellings in Chatswood. Chatswood is a growing area, the current strategic controls are not a best fit for Chatswood;
- The Commission raised concern regarding wind impacts, driveway access points, room for pedestrian refuges and mitigation measures to ensure the safety of pedestrians;
- Landscaping will be used to minimise wind impacts;
- The proposed platform lift at 12 Thomas Street is not under consideration as part of this project (as it's not the project site);
- Overshadowing impacts on nearby residents is considered acceptable with the five storey reduction;
- The modification may set a precedent for future applications;
- The modification went through the full exhibition process;
- The third podium is a consequence of the additional height/apartments and therefore more car spaces are needed; and
- The Department will send through a consolidated instrument to Council, if approved.

Attachment 2

List of Speakers

Planning Assessment Commission Public Meeting

Thomas Street Car Park Modification 6

Date & Time: Tuesday 27 August 2013, 4pm

Place: Joe Ciantar Rehearsal Room, 8 McIntosh Street, Chatswood

1. Willoughby City Council – Greg Woodhams, Environmental Services Director
2. Chatswood West Ward Progress Association – Mr Bob Lawrence
3. Owners Corporation of Strata Plan 5804 – Ms Robyn Edwards
4. Strata Group (12 Thomas Street) – Ms Sheila Draper
5. Mr David Rodwell
6. Mr Max Menzies
7. Mr Ian Tanner
8. Mr Raymond Fung
9. Mr Charles Gowing
10. Mr Andrew Hecker
11. Councillor – Lynne Saville
12. Councillor – Wendy Norton
13. Mr Jonathan Gliksten

