



PLANNING AND INFRASTRUCTURE
Planning Unit

19 December 2024

Director Housing Delivery
Housing Supply and Infrastructure
Department of Planning, Housing and Infrastructure
Locked Bag 5022, Parramatta NSW 2124
Att: Manwella Hawell

Dear Manwella,

Re: State Significant Development Application Number SSD-78346486
Build to Rent: 815 Pacific Highway, Chatswood
Request for SEARS

I am writing to you regarding the State Significant Development Application Number SSD-78346486 at 815 Pacific Highway, Chatswood.

The Department of Planning, Housing and Infrastructure (DPHI) has received a request for *Secretary's Environmental Assessment requirements* (SEARs) for the 815 Pacific Highway Chatswood Build to Rent concept.

The Scoping Report states:

"Consent is sought for the building envelope, gross floor area (GFA) of each use and vehicular access location for build-to-rent (BTR) housing ... a separate detailed SSDA to be submitted for the construction of the BTR development following determination of the concept SSDA and completion of the competitive design process required under clause 6.23(6) of WLEP 2012."

The Concept SSDA seeks to use infill affordable housing incentives inserted into the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) in December 2023, enabling the maximum permissible building height of the land under the WLEP 2012 to be increased by to 30% if the affordable housing component is at least 15% of the GFA of the development.

The proposed concept envelope would allow:

- An Indicative Gross Floor Area involving:
Residential: 45,855 m².
Commercial: 3,685 m².
- Maximum Building Height: RL289.64m (approx. 54 storeys, plus rooftop plant).
- 494 residential apartments.
- Parking and loading via Help Street.

Council officers appreciate the opportunity to have input into the SEARs for the proposal. To date there has been no other consultation between the proponent and Willoughby Council.

While Council continues to have reservations regarding the permissibility of build to rent development in the E2 Commercial Centre zone, the concerns provided in this letter recognizes the state government direction. Similarly, Council retains a number of reservations with respect to the infill affordable housing incentives inserted into the Housing SEPP in December 2023; notwithstanding, the concerns provided in this letter and attachments respond to the SEPP that is now in force.

The emphasis on housing provision is recognised, however Council does not consider the proposal to provide an appropriate level of amenity for the future residents of the site and the surrounding precinct.

In Council's view, significant reconsideration is required in regards this proposal prior to the issuing of any SEARs. An amalgamated proposal with 15 Help Street is strongly encouraged, with a similar concept design to what has been previously considered appropriate ensuring an appropriate built form and traffic solution on this combined site. The issuing of SEARs at this point in time would be allowing progression to the next stage of a concept design that is a step back from what has been recently accepted and supported (Amendment 29 to WLEP 2012 commencing 30 January 2023).

The Council concerns are provided at **Attachment 1** and is summarised as follows:

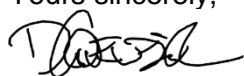
- A. Permissibility of bonus height on build to rent proposals
- B. Consistency with desired future character requirements of SEPP
- C. Proposal inconsistent with objectives and desired future character recently incorporated into Council controls
- D. Inability to achieve design excellence
- E. Insufficient infrastructure
- F. Traffic impacts and loss of an acceptable traffic solution
- G. Clarification of affordable housing provision

It is Council's view that addressing the issues raised above will require substantial changes to the proposal. It would be misleading to allow the proposal to proceed in its current form. Therefore, Council is recommending SEARs not be issued at this time and the proponent is asked to revise their scheme and resubmit.

With regard to height, previous Sydney Airport and CASA advice in regards WLEP 2012 and the Planning Proposal for 815 Pacific Highway and 15 Help Street is provided at **Attachments 2 and 3**. With regard to vehicle access, previous Transport for NSW advice on the previous Planning Proposal is provided at **Attachment 4**. The site specific Development Control Plan for 815 Pacific Highway and 15 Help Street (WDCP, Part L, Section 13.1.13) is provided at **Attachment 5**.

Should you have any question in regards this letter and the attached, please contact Craig O'Brien – Acting Team Leader Strategic Planning on (02) 9777 7647.

Yours sincerely,



Dyalan Govender
Acting Head of Planning

ATTACHMENT 1

A. Permissibility of bonus height on build to rent proposals

In regards build to rent in *State Environmental Planning Policy (Housing) 2021* (Housing SEPP), Chapter 3, Part 4, Clause 74 states:

- “(2) The following are non-discretionary development standards in relation to the carrying out of the development to which this Part applies—*
- (a) the building height of all proposed buildings is not more than the maximum building height permitted under Chapter 5 (Transport orientated development) or another environmental planning instrument for a building on the land”*

Council notes that the bonus height sought in the proposal refers to Chapter 2 Affordable Housing, which is not incorporated into the non-discretionary height standard for build to rent (Clause 74). It is, therefore, questioned as to whether the height of the proposal can exceed *Willoughby Local Environmental Plan 2012* (WLEP 2012) maximum building height. Under the *Chatswood CBD Planning and Urban Design Strategy 2036* (the CBD Strategy), the maximum building height was based on Pans-Ops requirements which established a maximum height at RL246.8m, and was incorporated into WLEP 2012.

Based on the information made available, Council officers object to the issuing of SEARs in this instance, with the concept proposal considered an overdevelopment of development of the site. It is Council's view that substantial changes to the concept should be sought prior to any SEARs being issued. In particular, the height should be reduced to comply with Council's maximum height as informed by the Pans Ops height (as per WLEP 2012).

B. Consistency with desired future character requirements of SEPP

The Housing SEPP, Part 2, Clause 20 Design Requirements states:

- “(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with –*
- (a) the desirable elements of the character of the local area, or*
- (b) for precincts undergoing transition—the desired future character of the precinct.”*

The Chatswood CBD is a precinct undergoing transition, following the CBD Strategy, and inclusion of the future desired character into WLEP 2012 and *Willoughby Development Control Plan* (WDCP). In response to WLEP 2012, which incorporated the CBD Strategy through individual planning proposals and Amendment 34, development applications are being assessed and approved, with construction underway in some cases (for example the mixed use development at 753 Pacific Highway and 15 Ellis Street).

Strategic planning establishing desired future character

The subject site is located within the Chatswood CBD boundary identified in the CBD Strategy endorsed by Council on 26 June 2017, supported by the Greater Sydney Commission on 18 May 2018, and endorsed by the Department of Planning and Environment (now Department of Planning Housing and Infrastructure, DPHI) on 9 July 2020 after a two year period of consideration. Prior to endorsement, DPHI required further review work to be undertaken involving how the significant uplift would be accommodated with particular regard to sites bordering Chatswood CBD boundaries. Endorsement of the CBD Strategy was further noted by Council on 14 September 2020.

The Chatswood CBD and wider Willoughby LGA community has been taken on this strategic planning journey by Council with involvement from DPHI. Community and stakeholder engagement involving the draft CBD Strategy occurred between January and March 2017, and involved notification letters to CBD landowners, webinars, information and drop-in sessions. A number of planning proposals have been made to date, as well as development applications progressed and determined, consistent with the CBD Strategy. The progression of the CBD Strategy to WLEP 2012 and WDCP, and responding development, has involved substantial community participation and, while issues and concerns have been raised, this local strategic planning framework determining outcomes is now established. Concern is raised with state government development, introducing un-anticipated land uses in this location, without meaningful involvement of Council and community participation, have adequate regard to expectations and reduces faith in the planning system.

The CBD Strategy recommended that the site be zoned B3 Commercial Core (now E2 Commercial Centre), with a maximum height of RL246.8m and no maximum floor space ratio. The zone and maximum controls were subject to the satisfaction of other CBD Strategy key elements (a total of 35). The rationale behind the CBD Strategy key elements was to balance land use to ensure non-residential and residential growth, to ensure the significant uplift was accompanied by supporting controls to ensure an optimum high density urban environment within the Chatswood CBD, to achieve a high level of liveability for its workers, residents and visitors and to ensure that the Willoughby, Chatswood and CBD community were able to have the confidence that the necessary supporting infrastructure will be available in order to support the proposed change.

The CBD Strategy has been incorporated into the comprehensive WLEP 2012 review, endorsed for finalisation at the Council Meeting dated 12 December 2022, made by DPHI and notified on 30 June 2023 (being Amendment 34). The CBD Strategy has also been incorporated into WDCP.

<p>The SEPP clearly requires consideration of the desired future character and Council's LEP and DCP and underpinning CBD Strategy define that character and the associated requirements to achieve it. It is the position of Council officers that SEARS should not be issues in relation to the current proposal, which should be substantially amended to give greater regard to the rationale behind the CBD Strategy and associated controls now incorporated into WLEP 2012 and WDCP.</p>

Desired future character under WLEP 2012 – Height

In the E2 Commercial Centre zone, desired future character for the Chatswood CBD is established through written and mapping controls regarding height, lot size, design excellence, affordable housing and active street frontages.

Height within the Chatswood CBD was significantly increased under the CBD Strategy, with pre-CBD Strategy height on 815 Pacific Highway being 60m. The concept proposal concludes that a 30% increase in height on this site is appropriate, proposing RL289.64m, being an increase of 42.84m above the maximum WLEP 2012 height of RL246.8m. The proposed total building height would be 185.64m approximately, making this the highest building in the Chatswood CBD. In addition to the permissibility concerns raised above, the proposed building height is not consistent with the position of Casa or the Sydney Airport Corporation. See **Attachments 2 and 3**.

In addition, significant consideration was given to the desired CBD skyline in the CBD Strategy, this was subsequently implemented in the current WLEP. The CBD Strategy did not expect every site to achieve maximum height and floor space, or floor plate size, but rather for the development proposed to be appropriate having regard to the site location and circumstances, and being consistent with other CBD Strategy controls. The desired CBD skyline is envisaged to scale down to the edges and the maximum height controls have been adopted accordingly, noting that there is an upper limit to the permissible heights achievable in the CBD, being the pans-ops plane.

Height is also addressed in the site specific DCP for 815 Pacific Highway and 15 Help Street (WDCP, Part L, Section 13.1.13) as follows:

“Height of Building

Performance Criteria

The built form of new development shall:

- 1. Be consistent with the permitted Height of Buildings development standard applicable to the site.*
- 2. Minimise overshadowing of surrounding properties, key public spaces and public domain.*

Controls

- 1. The maximum building height is to include all structures located at roof level, including lift over runs and any other architectural features.*
- 2. All roof top lift over runs or exposed structures are to be integrated with the building.*
- 3. Flat roof areas shall incorporate useable outdoor recreation space where suitable, within the maximum building height.*

The SSDA proposes RL289.64m, being an increase of 42.84m. The total building height would be 185.64m approximately, making this the highest building in the Chatswood CBD.

Concern is raised in regards this unanticipated proposed increase in height as follows:

- The prominent location of this site having particular regard to the west, noting that the Pacific Highway acts as a ridgeline with land to the west falling away.

- Overshadowing impacts to key public spaces identified in WLEP 2012.
- Solar access maximisation within the CBD generally, with expectations having been established for building owners / occupants based on the existing established height maximum of RL246.8m.
- View sharing based on the existing established height maximum of RL246.8m.

In Council's view, the proposal in its current form should not progress to the granting of SEARs, with significant amendments sought reducing the height to ensure consistency with the desired future character of the Chatswood CBD.

Desired future character under WLEP 2012 – Lot size

When Council increased the height and floor space controls for the site, it implemented a lot size control. The height and floor space ratio allowed on the site was only considered justified at the minimum lot size specified. The density and intensity of use requires a range of mitigating outcomes that can only be delivered at the minimum lot size specified in full.

The objective of amalgamation in the CBD Strategy (as pursued via the minimum lot size control and associated DCP controls) seeks to ensure a coordinated development, comprehensively planned to achieve optimum design quality outcome such as:

- providing the required setbacks to achieve slender towers and building separation whether onsite or on neighbouring sites.
- providing ground level public domain or areas accessible by the public on private land.
- limiting and rationalising the number of vehicle entry/exit points.
- providing parking and loading facilities in the basement with adequate area for onsite manoeuvrability to enter and leave the site in a forward direction.
- maximising non-residential floor space and street activation at ground level.
- maximising landscaping and deep soil planting.

The CBD Strategy and associated controls seek to strike a balance between built form and the substantial benefits to the ground plane that are achieved with larger amalgamated sites. The role of amalgamation of 815 Pacific Highway with 15 Help Street is critical in achieving the above objectives.

In addition to the above rationale for amalgamation, there is specific need due to the unusual shape and the location of 815 Pacific Highway. While the site has an area of 1,657m², it is irregularly shaped, with:

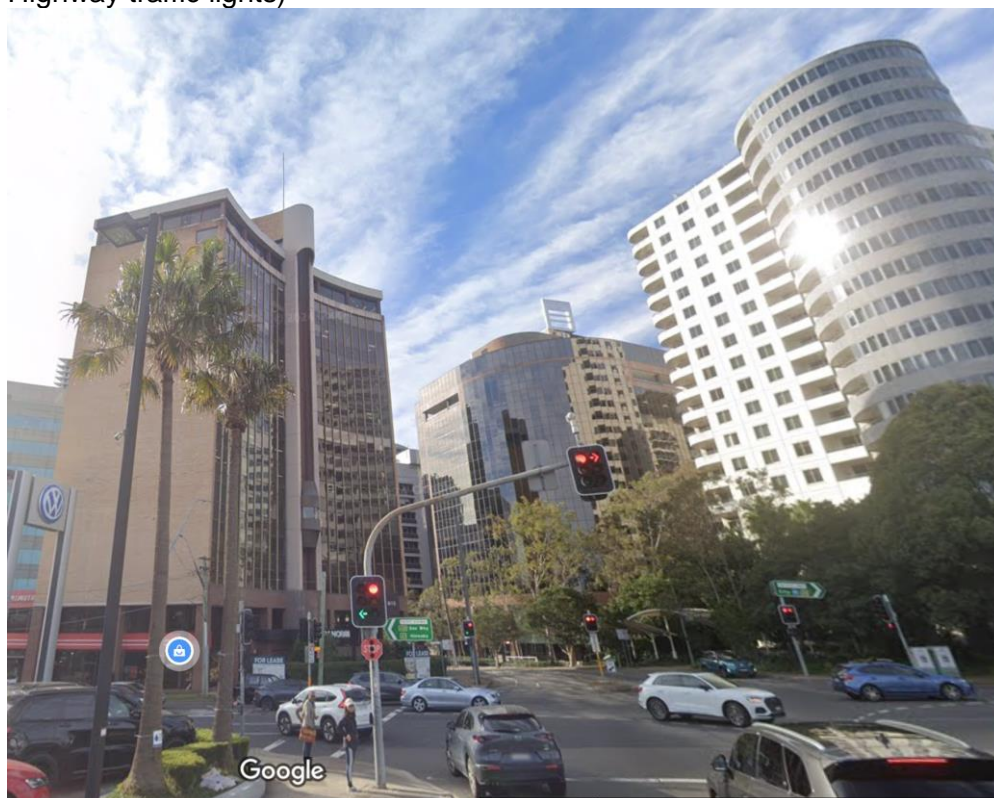
- The largest frontage being to the Pacific Highway (approximately 60m).
- In regards Help Street, a curved frontage (approximately 30m) leading into a straight frontage (approximately 21m).
- A predominantly curved frontage to McIntosh Street (approximately 9m).

Refer to **Figure 1: Locality Plan** and **Photo 1: 815 Pacific Highway and surrounds** (viewed from Fullers Road / Pacific Highway traffic lights) below.

Figure 1: Locality Plan



Photo 1: 815 Pacific Highway and surrounds (viewed from Fullers Road / Pacific Highway traffic lights)



Vehicle access to the site is constricted via McIntosh Street, is not supported via the Pacific Highway (being a State road) and is problematic from Help Street. The site is located on a significant intersection where the Pacific Highway meets Fullers Road from the west and Help Street to the east. Fullers Road is a significant road from the west bringing traffic into the Chatswood CBD via Help Street, and under the Help Street railway bridge into the Chatswood CBD on the eastern side of the North Shore Rail Line.

The original Planning Proposal was submitted only involving 815 Pacific Highway. This was assessed as unsatisfactory by Council officer's and in response an amended Planning Proposal was prepared by the proponent involving both 815 Pacific Highway and 15 Help Street. This amalgamated Planning Proposal addressed concerns with regard vehicle access / egress, public domain embellishment and built form. It was this amended planning proposal that was exhibited, supported by public agencies including Transport for NSW (TfNSW) and supported by Council. A copy of the TfNSW advice is attached. To ensure amalgamation of these two sites, the minimum lot size was addressed in the Lot Size Map as well as the site specific Development Control Plan (WDCP, Part L, Section 13.1.13).

The site specific Planning Proposal was supported by Council and became Amendment 29 to WLEP 2012, commencing 30 January 2023. The lot size created for this site in WLEP 2012 (being 3,500m² based on amalgamation with 15 Help Street) had regard to the unusual shape and location of 815 Pacific Highway, as well as the significant uplift. The amalgamated site has a frontage of approximately 36m to McIntosh Street, 85m to Help Street and 60m to Pacific Highway. The concept proposal involves significant variation in removing 15 Help Street.

The Council report to the 19 September 2022 Council Meeting stated in regards the amalgamation of 815 Pacific Highway and 15 Help Street:

"The subject site is 3,520m² in area and therefore above the B3 Commercial Core minimum site area identified in the CBD Strategy (1,800m²). Site amalgamation is considered an important consideration in this Planning Proposal, noting the irregular shape of 815 Pacific Highway and its location on the Pacific Highway, Help Street and McIntosh Street. In particular:

- The site is opposite Fullers Road, which is an important regional road bringing traffic into and out of the Chatswood CBD, including the eastern side of the North Shore Rail Line.*
- The importance of ensuring in any redevelopment of this site no vehicle access / egress from the Pacific Highway and Help Street.*
- The inability of McIntosh Street to provide vehicle access / egress due to its minimal and curved frontage."*

Amalgamation was proposed by the proponent, addressed in the Gateway Determination, exhibited and, in the supported and made Planning Proposal, incorporated into the amendment to WLEP 2012 on the Minimum Lot Size Map as 3,500m².

Part L, Section 4.3.1 (c) of WDCP addresses minimum site area as follows:

"This plan encourages site amalgamation to meet the minimum site requirements and ensure sites are not left isolated.

The objective of the minimum site area is to enable a development to achieve best outcomes by:

- providing the required setbacks to achieve slender towers and building separation whether onsite or on neighbouring sites*
- providing ground level public realm or areas accessible by the public on private land*
- limiting and rationalising the number of vehicle entry/exit points*
- providing parking and loading facilities in the basement with adequate area for onsite manoeuvrability to enter and leave the site in a forward direction*
- maximising commercial floor space and street activation at ground level*
- maximising landscaping and deep soil planting”*

Amalgamation is also addressed in the site specific DCP for 815 Pacific Highway and 15 Help Street (WDCP, Part L, Section 13.1.13) as follows:

“Site Amalgamation

Performance Criteria

- 1. Site amalgamation shall be provided to achieve the optimum development outcomes envisioned for the Chatswood CBD under the Chatswood CBD Planning and Urban Design Strategy 2036.*

Controls

- 1. 815 Pacific Highway and 15 Help Street are required to be amalgamated.”*

The concept SSDA seeks to deliver a compromise development without delivering the associated benefits from an amalgamated site such as:

- Absence of expected tower setbacks to the Pacific Highway and Help Street.
- Absence of CBD Strategy / WDCP expected ground setbacks to Help Street.
- Location of vehicle access via Help Street and loss of a solution having minimal impact on the surrounding road network via McIntosh Street.
- Absence of waste provision within the basement.
- A compromise waste provision at ground level, with how this is to occur being unclear.
- How are vehicles able to access the site and have sufficient turning capability to reach basement levels and enter / leave the site in a forward direction, noting that Council seeks physical solutions where possible.
- Absence of through site links.
- Minimal activation to Help Street.
- Loss of deep soil planting to Pacific Highway and through site link on eastern boundary.

While it is noted that the minimum lot size established in WLEP 2012 for the purposes of commercial premises in the E2 zone is 1,800m², this is merely because build to rent was not permissible in the zone at the time. The underlying rationale for the minimum lot size is equally relevant for the current build to rent proposal and ensuring that it meets the desired future character of the CBD.

It is Council's view that SEARs should not be issued on the current proposal as it does not satisfy Clause 20 of the Housing SEPP. The proposal should be amended to give appropriate consideration to the lot size controls applicable to the site and the underlying objectives.

Desired future character under WDCP – Aims and objectives

WDCP, Part L, Section 4 Chatswood CBD, 4.2 Performance Criteria, further elaborates on Council expectations:

“Proposed development in Chatswood CBD should: ...

- d. involve amalgamated sites for optimum development outcomes*
- e. create new publicly accessible spaces with links to existing public places*
- f. embellish and/or add to existing public spaces*
- g. adopt travel demand management to support active and sustainable transport*
- h. provide excellence in urban design*
- i. provide greening of the streetscape as well as green areas on and around new buildings to improve the visual quality, amenity for workers and visitors, and reduce the impacts of urban heat island effects*
- j. ensure sun access is provided to public places ...*
- n. ensure podium and roof top communal open spaces are designed to address issues of quality, safety and usability”*

The site specific Development Control Plan for 815 Pacific Highway and 15 Help Street (WDCP, Part L, Section 13.1.13) is provided at **Attachment 5**.

“The aims and objectives of this Plan are to:

- 1. Provide guidelines for a commercial and non-residential development on the site.*
- 2. Provide a development that ensures the viability of adjoining and surrounding sites for future development.*
- 3. Minimise traffic impacts on the surrounding road network*
- 4. Ensure development on the site minimises impacts to the amenity of neighbouring properties.*
- 5. Provide landscaping in and surrounding the site that enhances the presentation of the site as well as the amenity of the development.*
- 6. Achieves architectural and urban design excellence.*
- 7. Maximise activation to the Pacific Highway, Help Street and McIntosh Street.”*

It is Council's view that the proposed concept SSD does not satisfactorily address these aims and objectives of the site specific DCP (WDCP, Part L, Section 13.1.13).

Desired future character under WDCP – Built form

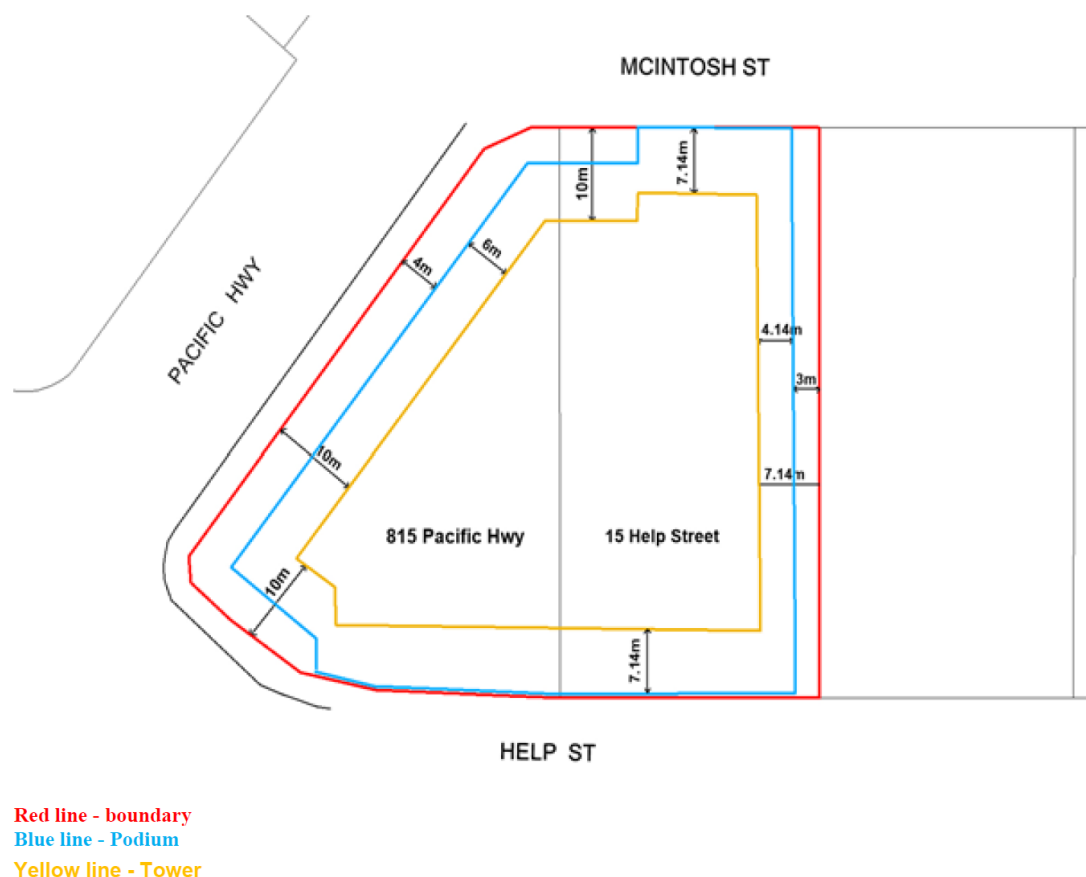
: Required and additional setbacks and street wall heights

The envelope sought in this concept proposal involves significant variation to expected ground level public domain and tower setbacks. A site specific Development Control Plan for 815 Pacific Highway and 15 Help Street accompanied the made Planning Proposal, which was fully compliant with the CBD Strategy including setbacks and public realm

embellishment (in particular a through site link to McIntosh Street), and has been incorporated into WDCP (Part L, Section 13.1.13).

The desired future character regarding redevelopment of this amalgamated site is illustrated in **Figure 2: Site Layout** below.

Figure 2: Site Layout below.



The Scoping Report states:

“The intent of this indicative reference scheme is to demonstrate how a building could be established within the proposed envelope while maintaining reasonable environmental amenity outcomes, achieving a practical floor plate that responds to relevant controls and guidelines and enables a positive streetscape presentation.”

The WDCP desired character regarding built form, and in particular required and additional setbacks, and street wall heights, is discussed below.

Although the Chatswood CBD does extend to part of the western side of the Pacific Highway, opposite the E2 Commercial Centre zone, significant increases in height and floor space (in accordance with the CBD Strategy and WLEP 2012) have been restricted to the eastern side. This means that the eastern side of the Pacific Highway is effectively the built form boundary of the CBD and presents in a highly visible manner to the west.

This visibility, and importance of the built form in this location, is magnified by the Pacific Highway acting as a state road leading towards the Sydney CBD and being on a ridgeline, which falls away to the west.

The CBD Strategy and subsequent WDCP seeks for a redeveloped site to contain a slender tower, or towers on a larger site, above podium, with this being achieved through setbacks.

Setbacks and street wall heights were carefully considered in the Chatswood CBD based on precincts (total of 11) with desired built form outcomes, regardless of whether in the E2 or MU1 zones. Additional setbacks were required for commercial or non-residential development as well.

The approach to slender towers, floor plates and setbacks are outlined below.

Part L, Section 4.3.1 (d) of WDCP addresses slender towers as follows:

“To achieve slender towers and adequate building separation, the maximum gross floor area at each level of a development should be no more than:

- *2000m² for office developments*
- *700m² for residential towers above the podium level in the mixed use zone*

Note:

- *The maximum gross floor area is to be read in conjunction with other controls for Chatswood CBD (such as maximum floor space, height and minimum setbacks), as well as the site size and shape.*
- *These maximum floor plates, together with maximum floor space and height, and minimum setbacks, require an unusually large site to be achieved. Lesser floor plates than the maximum would be expected on standard size lots ...*
- *The width is to be minimised on all sides to achieve a slender tower.”*

Part L, Section 4.3.4 (a) of WDCP addresses setbacks and street wall heights as follows:

Pacific Highway frontage:

- minimum 4m setback at ground level from front boundary
- maximum 7m street wall height
- minimum 6m setback above street wall to tower

Office core frontage (Help Street and McIntosh Street):

- 4m–12m maximum street wall height at front boundary
- minimum 6m setback above street wall to tower

The following relevant Notes are provided as follows:

- On corner sites where different setbacks and street frontage height precincts meet, the greater setback and lower street wall height required on the primary frontage is to continue around the corner for a minimum distance of 6m. This is to provide a satisfactory transition between the setbacks and wall heights.
- With setbacks of 3m or more, including the Pacific Highway, deep soil planting for street trees is to be provided.

- Where a site adjoins a laneway and no footpath exists, a minimum ground level setback is to be provided to facilitate construction of a footpath.

Part L, Section 4.3.4 (b) of WDCP also states:

“All towers above podiums in the E2 Commercial Core and MU1 Mixed Use zone are to be setback from all boundaries with a minimum 1:20 ratio of the setback to building height. This means if a building is:

- *a total height of 30m, a minimum setback from the side boundary of 1.5m is required for the entire tower on any side*
- *a total height of 60m, a minimum setback from the side boundary of 3m is required for the entire tower on any side*
- *a total height of 90m, a minimum setback from the side boundary of 4.5m is required for the entire tower on any side”*

The following relevant Notes are provided as follows:

- The required setback of a tower will vary depend on the total height.
- Minimum setbacks and going beyond with additional setbacks where appropriate is considered an important way of achieving the desired outcome of slender towers.

Part L, Section 4.3.4 (c) and (d) of WDCP also state:

- *“c. Separation of buildings must be provided in line with the Apartment Design Guide (NSW Department of Planning and Environment, July 2015) for residential apartments within a mixed use development.*
- *d. Commercial uses must have a minimum 6m setback from all boundaries above the street level wall height.”*

The objectives behind setbacks are that they:

- Ensure the positioning of new buildings is consistent with the proposed streetscape envisioned for Chatswood CBD and contained in the *Chatswood CBD Planning and Urban Design Strategy 2036* (the CBD Strategy).
- Be provided at ground level to contribute to public realm.
- Contribute at ground level deep soil areas, landscaping, and open space.
- Contribute to slender tower forms.

Importantly, building intrusions into setbacks are not supported as they are considered to undermine the objectives of setbacks.

The SSD application proposes ground setbacks as follows:

- Pacific Highway – Podium setback provided at ground level but unspecified. Podium above ground level extends to boundary.
- Help Street – Setback provided for approximately half of the podium, with the remainder built to boundary. Podium above ground level extends to boundary.
- McIntosh Street – Podium setback provided but unspecified.
- 15 Help Street – No setback provided.

The SSD application proposes tower setbacks as follows:

- No setback to the majority of the Pacific Highway boundary to approximately RL 280m (175m).
- Help Street – No setback provided to approximately R 280m (175m).
- McIntosh Street – Unspecified setback.
- 15 Help Street – Unspecified setback provided.

Given that the proposal does not meet the minimum lot size requirements amendments should be made to ensure that an appropriate setback is provided to 15 Help Street to enable it to develop in a satisfactory manner in the future.

Podium street wall height is proposed of approximately 36.5m to the Pacific Highway (which includes a ground level setback).

The objective of street wall heights on the Pacific Highway are to give development a human scale. A 36.5m high street wall, effectively on the boundary notwithstanding the ground setback, is not considered consistent with this objective.

In Council's view, SEARs should not be issued until amendments are made. Any development of the site should address the objectives of the WDCP, in particular amendments should provide more appropriate setbacks and improve podium design and ensure a slender tower form. Amendments should ensure the proposal maintains a consistent setback on the Pacific Highway with neighbouring sites, and delivers the required pedestrian and public domain outcomes.

Desired future character under WDCP – A Green Chatswood CBD

With regard to the Pacific Highway frontage, WDCP, Part L, 4.4.2 states:

"The eastern side of the Pacific Highway must provide a 4m wide deep soil zone setback and the western side must provide a 6m wide deep soil zone setback.

Willoughby City Council is seeking an unobstructed shared pedestrian and cycle path along the eastern side of the Pacific Highway (within Chatswood CBD). This must be factored into redevelopment of any site fronting the Pacific Highway.

Dimensions for the path are to be based on a 1.5m wide landscape verge and 3m wide shared path. The shared path may encroach on the 4m wide deep soil zone setback on a site, but if this is the case, a public right of way will be required."

It is unclear based on the documentation provided how the SSDA addresses deep soil planting and the unobstructed shared pedestrian and cycle path along the Pacific Highway. It is noted that while an unspecified ground level setback is provided, there is proposed to be a podium above for 36.5m.

Council's vision for the Pacific Highway, through the CBD Strategy and WDCP, is for a more positive and balanced relationship than the existing between the built environment,

the state significant transport route, active transport and the natural environment, noting that this site is a key component of the western boundary of the Chatswood CBD and a major entry point to the CBD.

The Scoping Report states:

“A site-wide landscape plan which will detail any proposed planting will accompany a future application for the intended Build-to-Rent housing scheme on site.”

The concept plans provided show no planting at ground level within the site boundary. The only ground level planting shown is within public land between footpath and road on the Pacific Highway.

WDCP, Part L, Section 4.3.2 Greening Chatswood CBD states:

“A range of approaches apply on a site-specific basis to provide permeability, publicly accessible open space and a ‘green’ ground plane. These are designed to develop a comprehensive network for the centre of landscape and open space to create a green, well-connected CBD.”

The Pacific Highway setback is specifically identified in the Strategy and WDCP as a key component to achieving a green Chatswood CBD, with deep soil planting required to achieve this outcome.

The required 4m front setback with the Pacific Highway property boundary is to be green landscaped (and subject to public access via rights of way). Hard paving is to be minimised in this setback and deep soil planting is to be provided – with no basement intrusion. In particular, a green gateway into and out of Chatswood via Help Street is sought, with significant green planting provided close to this corner.

It is considered that the greening of the CBD objective is of sufficient importance to be addressed as part of any concept SSDA. Insufficient attention has been provided to this desired character for the Pacific Highway and the CBD generally. A redevelopment enjoying the uplift under the CBD Strategy and WLEP 2012 is expected to provide green landscaping at ground level and not rely on public land. While additional greening on public land is supported, this would need to be undertaken with consultation involving Council and TfNSW.

It is Council's view that SEARs should not be issued on the current proposal as it does not satisfy Clause 20 of the Housing SEPP. The current indicative reference scheme is not supported as it will not deliver a building envelope that is capable of delivering the existing strategic planning objectives and the expected future character as expressed in the CBD Strategy, WLEP 2012 and WDCP controls. Any approval of this scheme would establish inappropriate expectations around the possible redevelopment of this site. The proposal should be amended to give appropriate consideration to the objectives and desired future character as expressed in WDCP, Part L, Section 13.1.13.

C. Proposal inconsistent with objectives and desired future character recently incorporated into Council controls

At the Council Meeting of 19 September 2022, Council considered Planning Proposal 2018/12 at 815 Pacific Highway and 15 Help Street, Chatswood. It was resolved:

“That Council:

- 1. Note the submissions and responses to feedback on the Planning Proposal and draft site specific Development Control Plan for 815 Pacific Highway and 15 Help Street, Chatswood, following the public exhibition period.*
- 2. Support the Planning Proposal for 815 Pacific Highway and 15 Help Street, Chatswood, on the basis of:*
 - (a) Consistency with the Chatswood CBD Planning and Urban Design Strategy 2036;*
 - (b) Site amalgamation;*
 - (c) Provision of required and additional setbacks;*
 - (d) Public rights of way over the Pacific Highway ground level setback and the through site link along the eastern boundary from Help Street to McIntosh Street;*
 - (e) Basement loading;*
 - (f) Reduced car parking rates;*
 - (g) Deep soil planting to the Pacific Highway.*
- 3. Require the following amendments to the draft Development Control Plan for 815 Pacific Highway and 15 Help Street, Chatswood:*
 - (a) Car parking provision based on reduced car parking rates, consistent with the requirements for new developments in the Chatswood CBD as supported by Transport for NSW.*
 - (b) A minimum of 1 secure bicycle space per 100m² of commercial/retail floor space for the first 10,000m² of floor space, and then 1 secure bicycle space per 200m² of commercial/retail floor space above 10,000m².*
 - (c) Adequate end of trip facilities including lockers, showers, etc. for use by commercial and retail tenants.*
 - (d) A minimum of fifteen (15) freight and service vehicle spaces within the basement in addition to the three (3) Medium Rigid Vehicle space proposed within the basement loading dock.*
 - (e) Public access via public rights of way is to be provided over the Pacific Highway ground level setback and the ground level through site link along the eastern boundary connecting Help Street and McIntosh Street.*
- 4. Require the following additional information to be provided with any development application for 815 Pacific Highway and 15 Help Street, Chatswood:*
 - (a) Updated traffic analysis and modelling.*
 - (b) A Green Travel Plan.*

5. *Forward the amendments to Willoughby Local Environmental Plan 2012, relating to 815 Pacific Highway and 15 Help Street Chatswood as outlined in Attachment 7, to the Department of Planning and Environment for finalisation. This would include a requirement bring the plan into effect four (4) months after it has been made to allow time for the Planning Agreement to be finalised.*
6. *Support the making of the site specific draft Development Control Plan subject to the amendments above.*
7. *Delegate authority to the Chief Executive Officer to make any minor amendments to the final planning proposal and Development Control Plan which do not alter the intent.”*

Amendment 29 to WLEP 2012 was notified on 7 October 2022 and came into effect 30 January 2023. The Planning Agreement was resolved prior to 30 January 2023.

In Council's view, it is considered relevant and important that positive outcomes achieved in any previous proposal are identified and satisfactorily addressed in any new proposal, including:

- Consistency with the CBD Strategy.
- Site amalgamation.
- Provision of required and additional setbacks.
- Public rights of way over the Pacific Highway ground level setback and the through site link along the eastern boundary.
- Basement loading.
- Reduced car parking rates.
- Deep soil planting to the Pacific Highway.

The WLEP and WDCP was recently updated to ensure consistency with the desired future character and strategic outcomes required to support successful Chatswood CBD. While the subsequent permissibility of build to rent has been implemented by the SEPP, this should not undermine realisation of the outcomes envisaged in the WLEP and WDCP.

D. Inability to achieve design excellence

The Scoping Report states:

“A separate detailed SSDA is to be submitted for the construction of the proposed BTR development following determination of the concept SSDA and completion of the competitive design process required under clause 6.23(6) of WLEP 2012. Engagement with the State Design Review Panel (SDRP) prior to and following lodgement of the concept SSDA, plus the competitive design process will ensure that the development is capable of exhibiting design excellence and meeting the requirements of WLEP 2012 Clause 6.23. The EIS will incorporate a Design Excellence Strategy outlining the pathway and approach to design excellence for the future detailed SSDA. Principles relating to Crime Prevention through Environmental Design (CPTED) will also be included.”

Council officers are of the opinion that a design excellence review of development on this site should have appropriate regard to vision of the CBD Strategy, WLEP and WDCP. It is

further stated that Council officers strongly question whether design excellence can be achieved based on the information provided, with reconsideration of the proposal advocated in this Advice prior to the issuing of SEARs.

It is Council's view that SEARs should not be issued until amendments are made to ensure that the proposed built envelope is able to achieve design excellence.

E. Insufficient infrastructure

The Scoping Report states:

“The provision of access to any public domain or spaces will be determined alongside a detailed design scheme at the detailed SSDA stage. A public domain plan and Crime Prevention through Environmental Design (CPTED) report will accompany the detailed SSDA at a later date.”

The CBD Strategy and the subsequent WDCP seeks for public realm embellishment at the ground level to accompany height and density. WDCP expects the provision of required ground level setbacks to be subject to public rights of way.

WDCP, Part L. Section 4.3.3 Links and public realm states:

- “a. All proposals must consider the potential for through links to public places. Pedestrian and cycling links are sought to improve existing access within and through the CBD ... New linkages are sought where these are considered to be of public benefit...”*
- b. Public realm or areas accessible by the public on private land is required to be included in all E2 and MU1 redeveloped sites. These must be:*
 - *designed to respond to context and nearby public domain*
 - *visible from the street and easily accessible*
 - *accompanied by public rights of way or similar to achieve a permanent public benefit”*

Based on the information available, there is no through site link proposed.

It is noted that a Voluntary Planning Agreement was executed in regards the Planning Proposal for 815 Pacific Highway and 15 Help Street, with a monetary contribution to be paid to contribute to infrastructure embellishment. The height and floor space ratio applicable to this site was delivered on the basis that sufficient supporting infrastructure would be available. The funding provided under the VPA is a key component of delivering the required supporting infrastructure. Council has not received any voluntary planning agreement associated with this SSD and therefore is unclear how the required supporting infrastructure for the proposed development is to be delivered.

SEARs should not be issued until such time as the proponent has confirmed how the infrastructure requirements set when the heights and updated planning controls were put in place will be delivered as required at that time.

F. Traffic impacts and loss of an acceptable traffic solution

The information provided shows a number of unsatisfactory and unexpected outcomes with regard to transport:

- Location of vehicle access via Help Street and loss of a solution having minimal impact on the surrounding road network via McIntosh Street.
- Absence of waste provision within the basement.
- A compromise waste provision at ground level, with how this is to occur being unclear.
- Uncertainty regarding how vehicles would be able, noting the geometry of the site, to have sufficient turning capability to reach basement levels, thereby having the capacity to enter / leave the site in a forward direction (noting that Council seeks physical solutions where possible and provided in regarding the amalgamated 815 Pacific Highway and 15 Help Street).

Consideration of the site location and the Council expectations around transport and waste provision have been established in the site specific DCP for 815 Pacific Highway and 15 Help Street (WDCP, Part L, Section 13.1.13) as follows:

“11. Traffic and Transport

Performance Criteria

1. *Development must be designed to provide adequate and safe access to the site.*
2. *Development on the site should not cause adverse traffic impacts on the surrounding road system.*
3. *Minimise the number of vehicular access points to the development.*
4. *All vehicles are to enter and exit the site in a forward direction.*
5. *Traffic and transport solutions are to be physical (rather than mechanical) on this site.*
6. *Minimise car parking and encourage alternative transport options.*

Controls

1. *Vehicle access to / egress from the development is to be from one access point in McIntosh Street.*
2. *Vehicle access and egress is to be designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create a high quality streetscape.*
3. *All car parking and loading facilities are to be located below ground level, in one consolidated basement over the site.*
4. *Other strategies for car parking reduction, such as reciprocal arrangements for sharing parking and car share, is to be included in any future Development Application.*
5. *The following is to be provided in any future development application:*
 - a) *Car parking provision based on reduced car parking rates, consistent with the requirements for new developments in the Chatswood CBD as supported by Transport for NSW ...*

- e) *A Green Travel Plan.*
- f) *Updated traffic analysis and modelling.*

12. Waste Management, Loading and Services

Performance Criteria

1. *All loading, unloading and servicing is required to occur on-site.*
2. *To ensure that adequate provision is made for waste storage and disposal.*
3. *Floor space at Ground level is to be maximised, with services located in Basement.*

Controls

1. *All loading and unloading services are required to occur at basement level on-site.*
2. *Other supporting functions such as garbage rooms, plant and other services are to be located in Basement levels."*

Council officers are of the opinion that redevelopment on this site should have appropriate regard to traffic impacts. Council officers strongly question whether a satisfactory traffic solution is achievable only on 815 Pacific Highway based on the information provided, with reconsideration of the proposal advocated in this Advice prior to the issuing of SEARs.

SEARs should not be issued until further information is provided in respect to the proposed access arrangements for the site. Early consultation with TfNSW and Council is suggested noting the likely impacts on the Pacific Highway and Help Street and to ensure Council and other vehicles can service the site.

G. Clarification of affordable housing provision

Council also notes that the introduction of Build to Rent is a significant change to the permissible land uses on the site and this should be accompanied by a requirement to provide Affordable Housing (in perpetuity), as is consistent with the LEP requirements for residential development elsewhere in the Chatswood CBD. While Council acknowledges that Build to Rent is an important part of the future mix of residential offerings required to support our community it does not in and of itself meet the critical and demonstrated need for affordable housing in this location. Council request that analysis of affordable housing provision be undertaken as part of the application to set an appropriate contribution to Council.

Any reconsidered proposal should provide clarity around how the building is to work, noting the proposed build to rent component, the proposed affordable housing component (being for a limited period) and the Council requested affordable housing component in perpetuity.

Conclusion

It is Council's view that addressing the issues raised above will require substantial changes to the proposal. It would be misleading to allow the proposal to proceed in its current form. Therefore, Council is recommending SEARs not be issued at this time and the proponent is asked to revise their scheme and resubmit.