

15.10 PLANNING PROPOSAL - 849, 853, 859 PACIFIC HIGHWAY 2 WILSON STREET AND LOT 1 DP 1189541 CHATSWOOD

ATTACHMENTS:	<ol style="list-style-type: none">1. IMPLICATIONS2. COUNCIL DETAILED ASSESSMENT3. COUNCIL ASSESSMENT OF DEPARTMENT OF PLANNING AND ENVIRONMENT'S 'LOCAL ENVIRONMENTAL PLAN MAKING GUIDELINE'4. PLANNING PROPOSAL CONCEPT PLANS5. DRAFT DEVELOPMENT CONTROL PLAN PROVISIONS6. PROPOSED AMENDMENTS TO WILLOUGHBY LOCAL ENVIRONMENTAL PLAN 20127. PROPOSED WILLOUGHBY LOCAL ENVIRONMENTAL PLAN 2012 LAND ZONING, HEIGHT OF BUILDINGS, FLOOR SPACE RATIO, SPECIAL PROVISIONS AREA, ACTIVE STREET FRONTAGES AND LOT SIZE MAPS8. WILLOUGHBY LOCAL PLANNING PANEL RECORD OF ADVICE 5 APRIL 2022 <p>(2 – 8 INCLUDED IN ATTACHMENT BOOKLET)</p>
RESPONSIBLE OFFICER:	HUGH PHEMISTER – PLANNING & INFRASTRUCTURE DIRECTOR
AUTHOR:	CRAIG O'BRIEN – STRATEGIC PLANNER
CITY STRATEGY OUTCOME:	3.5 – MAINTAIN QUALITY OF LIFE BY BALANCING POPULATION GROWTH WITH THE PROVISION OF ASSETS AND SERVICES 5.1 – BE HONEST, TRANSPARENT AND ACCOUNTABLE IN ALL THAT WE DO
MEETING DATE:	26 APRIL 2022

1. PURPOSE OF REPORT

The purpose of this report is to seek endorsement for the forwarding of Planning Proposal 2021/007 for 849, 853, 859 Pacific Highway, 2 Wilson Street and Lot 1 DP 1189541, Chatswood, to the Department of Planning and Environment for a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979* and proceed to public exhibition.

Members of the Sydney (North) Planning Panel should retire from Council Chambers during consideration of the Agenda Item.

2. OFFICER'S RECOMMENDATION

That Council:

1. Forward the Planning Proposal to the Department of Planning and Environment seeking a Gateway Determination under Section 3.34 of the Environmental Planning and Assessment Act 1979, with the following amendments to Willoughby Local Environmental Plan 2012:

- a) To amend Clause 6.25 as follows:

"6.25 Shop top housing at 58 Anderson Street, Chatswood

- (1) This clause applies to land at Chatswood-**
 - a) 58 Anderson Street, Lot 20, DP 1107551.**
 - b) 849, 853, 859 Pacific Highway, 2 Wilson Street and Lot 1 DP 1189541.**
 - (2) Development consent for the purposes of shop top housing must not be granted unless the consent authority is satisfied at least 17% of the building's gross floor area will be used for non-residential purposes."**
- b) To amend the Land Zoning Map (Sheet LZN_004) for 849, 853, 859 Pacific Highway, 2 Wilson Street and Lot 1 DP 1189541, Chatswood, to B4 Mixed Use (excluding the SP2 Infrastructure (Classified Road) land adjacent the Pacific Highway).
 - c) To amend the Height of Buildings Map (Sheet HOB_004) for 849, 853, 859 Pacific Highway, 2 Wilson Street and Lot 1 DP 1189541, Chatswood, to 90 metres (excluding the SP2 Infrastructure (Classified Road) land adjacent the Pacific Highway).
 - d) To amend the Floor Space Ratio Map (Sheet FSR_004) for 849, 853, 859 Pacific Highway, 2 Wilson Street and Lot 1 DP 1189541, Chatswood, to 6:1 (including affordable housing) (excluding the SP2 Infrastructure (Classified Road) land adjacent the Pacific Highway).
 - e) To amend the Special Provisions Area Map (Sheet SPA_004) to show 849, 853, 859 Pacific Highway, 2 Wilson Street and Lot 1 DP 1189541, Chatswood, as Area 9 and Area 12 (excluding the SP2 Infrastructure (Classified Road) land adjacent the Pacific Highway).
 - f) To amend the Active Street Frontages Map (Sheet ASF_004) to include for 849, 853, 859 Pacific Highway, 2 Wilson Street and Lot 1 DP 1189541, Chatswood, the Pacific Highway, O'Brien Street and Wilson Street frontages (excluding the SP2 Infrastructure (Classified Road) land adjacent the Pacific Highway).
 - g) To amend the Lot Size Map (Sheet LSZ_004) to include 849, 853, 859 Pacific Highway, 2 Wilson Street and Lot 1 DP 1189541, Chatswood, with a minimum lot size of 4,000 sq metres (excluding the SP2 Infrastructure (Classified Road) land adjacent the Pacific Highway).

2. The following amended concept plans are to be submitted to Council prior to Council forwarding the Planning Proposal to DPE:
 - a) Basement plans showing no intrusion of any basement level into the 4m ground level Pacific Highway setback.
 - b) A ground level plan clearly showing the pocket park within the site on the Pacific Highway and O'Brien Street corner, with no part of the pocket park being within that part of the site identified for road widening adjacent the Pacific Highway.
3. The following additional information is to be submitted to Council prior to forwarding the Planning Proposal to DPE:
 - a) The Traffic Impact Assessment prepared by GTA Consultants dated 19 October 2021 is to be updated to be consistent with the Revised Planning Proposal Planning Report, prepared by Gyde, dated 22 March 2022, with particular regard to vehicle and loading access to the site, location of loading and garbage services and car parking rates.
4. Endorse for public exhibition the Planning Proposal, with the accompanying draft site specific Development Control Plan provisions.
5. Note that following public exhibition the Planning Proposal will be reported back to Council detailing the outcome of the public exhibition period at which time Council may resolve:
 - a) To proceed as recommended.
 - b) To make amendments or proceed in an amended form.
 - c) To not proceed with the Planning Proposal.
6. Request that the Department of Planning and Environment nominate Council as the Planning Authority to finalise the Planning Proposal and that the Department of Planning and Environment delegate authority to the Council Planning Manager, to process and finalise the Planning Proposal documentation for the purposes of Section 3.36 of the Environmental Planning and Assessment Act, 1979.
7. Delegate authority to the Chief Executive Officer to make any minor amendments to the Planning Proposal which do not alter the policy intent.

3. BACKGROUND

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

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

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

A previous Planning Proposal for 849, 853, 859 Pacific Highway and 2 Wilson Street was considered at the Council Meeting 15 June 2021, where it was resolved:

"That Council:

1. *Not forward the Planning Proposal to the Department of Planning, Industry and Environment seeking a Gateway Determination under Section 3.34 of the Environmental Planning and Assessment Act 1979, as the Planning Proposal:*
 - a) *Is a departure from the current planning controls on the site with the proposal seeking to utilize the floor space ratio for the part of the site zoned SP2 Infrastructure (Classified Road) on the remainder of the site zoned R4 High Density Residential under Willoughby Local Environmental Plan 2012, in addition to the maximum floor space ratio permitted.*
 - b) *Is inconsistent with the Council endorsed Chatswood CBD Planning and Urban Design Strategy 2036 which does not change road widening requirements from Transport for NSW as expressed in Willoughby Local Environmental Plan 2012, with regard in this case to the Pacific Highway, or how such matters are processed.*
 - c) *Is inconsistent with the strategic objectives of the Greater Sydney Region Plan and the North District Plan which encourages development to be appropriate to its site.*
 - d) *Is inconsistent with the Council endorsed Chatswood CBD Planning and Urban Design Strategy 2036 which identifies this site as having a maximum floor space ratio of 6:1.*

2. *Notify the proponent of Council's decision"*

The proponent subsequently lodged a Rezoning review, where the Sydney North Planning Panel determined on 29 September 2021 that the Planning Proposal should not be submitted for a gateway determination because the proposal has not demonstrated strategic merit.

A fresh Planning Proposal has now been submitted which is the subject of this report. This Planning Proposal differs from the previous by the inclusion of Lot 1, DP 1189541 adjacent to the rear of the original site. It is also not reliant on the road widening land for floor space.

4. DISCUSSION

The Planning Proposal seeks to amend *Willoughby Local Environmental Plan 2012* (WLEP 2012) for 849, 853, 859 Pacific Highway, 2 Wilson Street and Lot 1 DP 1189541 Chatswood as follows:

- Change the land use zone from R4 High Density Residential and SP2 Infrastructure (at the rear of the site) to B4 Mixed Use whilst retaining the SP2 Infrastructure (Classified Road) zoning for the land fronting the Pacific Highway.
- Increase the height to 90m for the whole site (excluding the SP2 Infrastructure (Classified Road) land fronting the Pacific Highway) from 24 metres for the existing R4 zoned portion of the site noting that no height control currently applies to the existing SP2 portion at the rear of the site.

- Increase the Floor Space Ratio (FSR) to 6:1 for the whole site (excluding the SP2 Infrastructure (Classified Road) land fronting the Pacific Highway) from 1.5:1 for the existing R4 zoned portion of the site noting that no FSR control currently applies to the existing SP2 portion at the rear of the site.

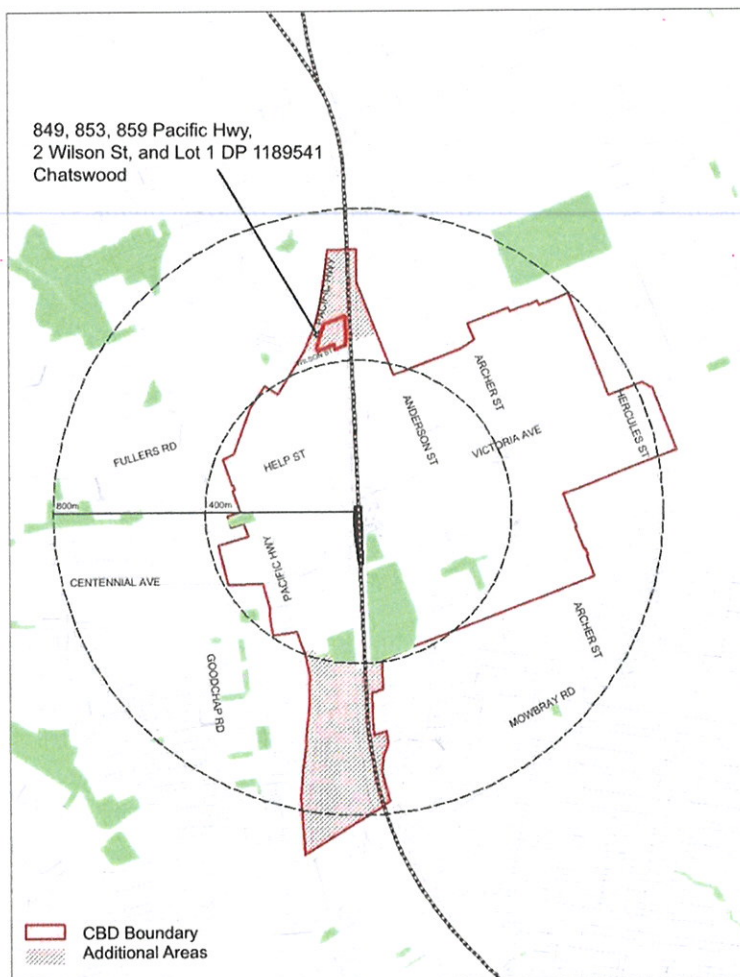
The site, excluding the SP2 Infrastructure (Classified Road) land fronting the Pacific Highway, has a total area of approximately 4,294m², bounded by Pacific Highway to the west, the North Shore Rail Line to the east, Wilson Street to the north and O'Brien Street to the south. Refer to **Figure 1 – Location Plan** below.

The subject Planning Proposal is different to the previous Planning Proposal not supported by Council and the Sydney North Planning Panel as follows:

- An additional lot has been added, being Lot 1 DP 1189541 owned by Transport Asset Holding Entity of NSW (TAHE).
- The proposed floor space of 6:1 is based on the site minus the SP2 Infrastructure (Classified Road) land identified for road widening adjacent the Pacific Highway.

The previous Planning Proposal sought to use the land identified as road widening to increase the floor space on the rest of the site, resulting in an FSR of 7.05:1 on the site upon which development would be achievable (i.e. excluding the road widening land). This approach has not been pursued under the current Planning Proposal.

Figure 1 – Location Plan



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

Consistency with the CBD Strategy, as well as other issues, are discussed in the Detailed Assessment at **Attachment 2**. The Planning Proposal has also been assessed with regard to the criteria contained in the Department of Planning and Environment's *Local Environmental Plan Making Guideline*, December 2021, and is generally satisfactory (Refer **Attachment 3**).

The Council assessment considered the proponent's documentation supporting the Planning Proposal, including:

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

The site specific *Development Control Plan* provisions are satisfactory being consistent with the CBD Strategy. It is also noted that, where matters are not covered by site specific provisions, the remainder of the *Development Control Plan* will apply to the site.

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

An offer to enter a voluntary planning agreement (VPA) has been made, and pending the conclusion of detailed discussions, this matter will be separately reported to Council with the inclusion of a draft VPA.

The Willoughby Local Planning Panel has provided Advice on this matter dated 5 April 2022, where it was concluded that the Planning Proposal is worthy of being forwarded to the DPE for Gateway consideration (Refer **Attachment 8**).

5. CONCLUSION

The Planning Proposal for a mixed use development at 849, 853, 859 Pacific Highway, 2 Wilson Street and Lot 1 DP 1189541, Chatswood, in the Chatswood CBD, is consistent with the strategic objectives of the *Greater Sydney Region Plan*, the *North District Plan* and Councils' *Local Strategic Planning Statement* (LSPS), as well as the *Chatswood CBD Planning and Urban Design Strategy 2036* (the CBD Strategy). It is considered that the relevant requirements under Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the matters identified in the Department of Planning and Environment's *Local Environmental Plan Making Guideline* are adequately addressed and that the environmental impacts are acceptable for referral to Gateway and further consideration following public exhibition.

It should be noted that following exhibition and further assessment, amendments may be required.

Based on the above, it is recommended that Council forward the Planning Proposal to the Department of Planning and Environment, seeking a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*. It is further recommended that Council advise the Department of Planning and Environment that the Planning Manager, be nominated as delegate to process and finalise the Planning Proposal.

ATTACHMENT 1

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