

**15.10 PLANNING PROPOSAL FOR 282-284 VICTORIA AVENUE CHATSWOOD****ATTACHMENTS:**

1. IMPLICATIONS
2. COUNCIL DETAILED ASSESSMENT
3. COUNCIL ASSESSMENT OF DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT'S 'A GUIDE TO PREPARING PLANNING PROPOSALS'
4. PLANNING PROPOSAL CONCEPT PLANS
5. PLANNING PROPOSAL ECONOMIC IMPACT ASSESSMENT
6. WILLOUGHBY LOCAL PLANNING PANEL RECORD OF ADVICE 1 FEBRUARY 2021

**RESPONSIBLE OFFICER:**

CHRIS BINNS – ACTING 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:**

8 FEBRUARY 2021

**PURPOSE OF REPORT**

The purpose of this report is to seek endorsement to not forward the Planning Proposal for 282 – 284 Victoria Avenue, Chatswood, to the Department of Planning, Industry and Environment for a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979* and public exhibition.

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

**MOTION****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 which prohibit residential land use apart from limited shop top housing with development consent if the ground level and first level of the development are used for the purpose of retail premises or business premises.
  - b) Is inconsistent with the Council endorsed *Chatswood CBD Planning and Urban Design Strategy 2036* which identifies this site as B3 Commercial Core and prohibits residential land use.

- c) Is inconsistent with the strategic objectives of the *Greater Sydney Region Plan* and the *North District Plan* which encourages protection of the Chatswood CBD commercial core for employment purposes.
- d) Is inconsistent with the Council endorsed *Chatswood CBD Planning and Urban Design Strategy 2036* which identifies this site as having a maximum height of 7m on the Victoria Avenue frontage, for a minimum setback of 6m, with a possible maximum height of 90m.

2. Notify the proponent of Council's decision.

MOVED COUNCILLOR NORTON

SECONDED COUNCILLOR SAVILLE

**CARRIED**

The Motion being put to the meeting was **CARRIED** to become the resolution of Council.

**Voting**

**For the Motion:** Councillors Coppock, Eriksson, Fernandez, Mustaca, Norton, Rozos, Saville, Tuon, Wright and Zhu.

**Against:** Nil

**Absent:** Councillors Giles-Gidney and Campbell

**Note:**

The Mayor Councillor Giles-Gidney and Deputy Mayor Councillor Campbell declared a non-pecuniary significant interest on this item and did not participate in the discussion or voting.

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**PROCEDURAL MOTION**

That Council resume the standing order of business in accordance with the Code of Meeting Practice.

MOVED COUNCILLOR NORTON

SECONDED COUNCILLOR MUSTACA

**CARRIED**

**Voting**

**For the Motion:** Councillors Coppock, Eriksson, Fernandez, Mustaca, Norton, Rozos, Saville, Tuon, Wright and Zhu.

**Against:** Nil

**Absent:** Councillors Giles-Gidney and Campbell



**PLANNING & INFRASTRUCTURE DIRECTORATE****15.10 PLANNING PROPOSAL FOR 282-284 VICTORIA AVENUE CHATSWOOD**

<b>ATTACHMENTS:</b>	<b>1. IMPLICATIONS 2. COUNCIL DETAILED ASSESSMENT 3. COUNCIL ASSESSMENT OF DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT'S 'A GUIDE TO PREPARING PLANNING PROPOSALS' 4. PLANNING PROPOSAL CONCEPT PLANS 5. PLANNING PROPOSAL ECONOMIC IMPACT ASSESSMENT 6. WILLOUGHBY LOCAL PLANNING PANEL RECORD OF ADVICE 1 FEBRUARY 2021</b>
<b>RESPONSIBLE OFFICER:</b>	<b>CHRIS BINNS – ACTING PLANNING &amp; INFRASTRUCTURE DIRECTOR</b>
<b>AUTHOR:</b>	<b>CRAIG O'BRIEN – STRATEGIC PLANNER</b>
<b>CITY STRATEGY OUTCOME:</b>	<b>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</b>
<b>MEETING DATE:</b>	<b>8 FEBRUARY 2021</b>

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**1. PURPOSE OF REPORT**

The purpose of this report is to seek endorsement to not forward the Planning Proposal for 282 – 284 Victoria Avenue, Chatswood, to the Department of Planning, Industry and Environment for a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979* and 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. 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 which prohibit residential land use apart from limited shop top housing with development consent if the ground level and first level of the development are used for the purpose of retail premises or business premises.**

- b) Is inconsistent with the Council endorsed *Chatswood CBD Planning and Urban Design Strategy 2036* which identifies this site as B3 Commercial Core and prohibits residential land use.
- c) Is inconsistent with the strategic objectives of the *Greater Sydney Region Plan* and the *North District Plan* which encourages protection of the Chatswood CBD commercial core for employment purposes.
- d) Is inconsistent with the Council endorsed *Chatswood CBD Planning and Urban Design Strategy 2036* which identifies this site as having a maximum height of 7m on the Victoria Avenue frontage, for a minimum setback of 6m, with a possible maximum height of 90m.

2. Notify the proponent of Council's decision.

3. BACKGROUND

The site is located within the existing Chatswood CBD boundary which has been extended 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, part endorsed by the Department of Planning, Industry and Environment (DPIE) on 9 August 2019 and fully endorsed on 9 July 2020. Endorsement of the CBD Strategy was further noted by Council on 14 September 2020.

The site has been recommended to be retained as a B3 Commercial Core Zone, with a maximum height of 7m on the Victoria Avenue frontage and a possible maximum height of 90m for the remainder of the site, and a floor space ratio of 6:1. This is subject to the satisfaction of other CBD Strategy requirements. Residential development is not permitted in the Commercial Core under the CBD Strategy.

4. DISCUSSION

The Planning Proposal was lodged with Council on 6 March 2020. Council Officers subsequently identified issues which resulted in the proponent submitting an amended Planning Proposal on 15 December 2020. This amended Planning Proposal still did not meet the requirements identified by Council Officers and is now being reported to Council as there is a responsibility on Council to determine Planning Proposals in a timely manner.

The amended Planning Proposal seeks to amend WLEP 2012 as follows:

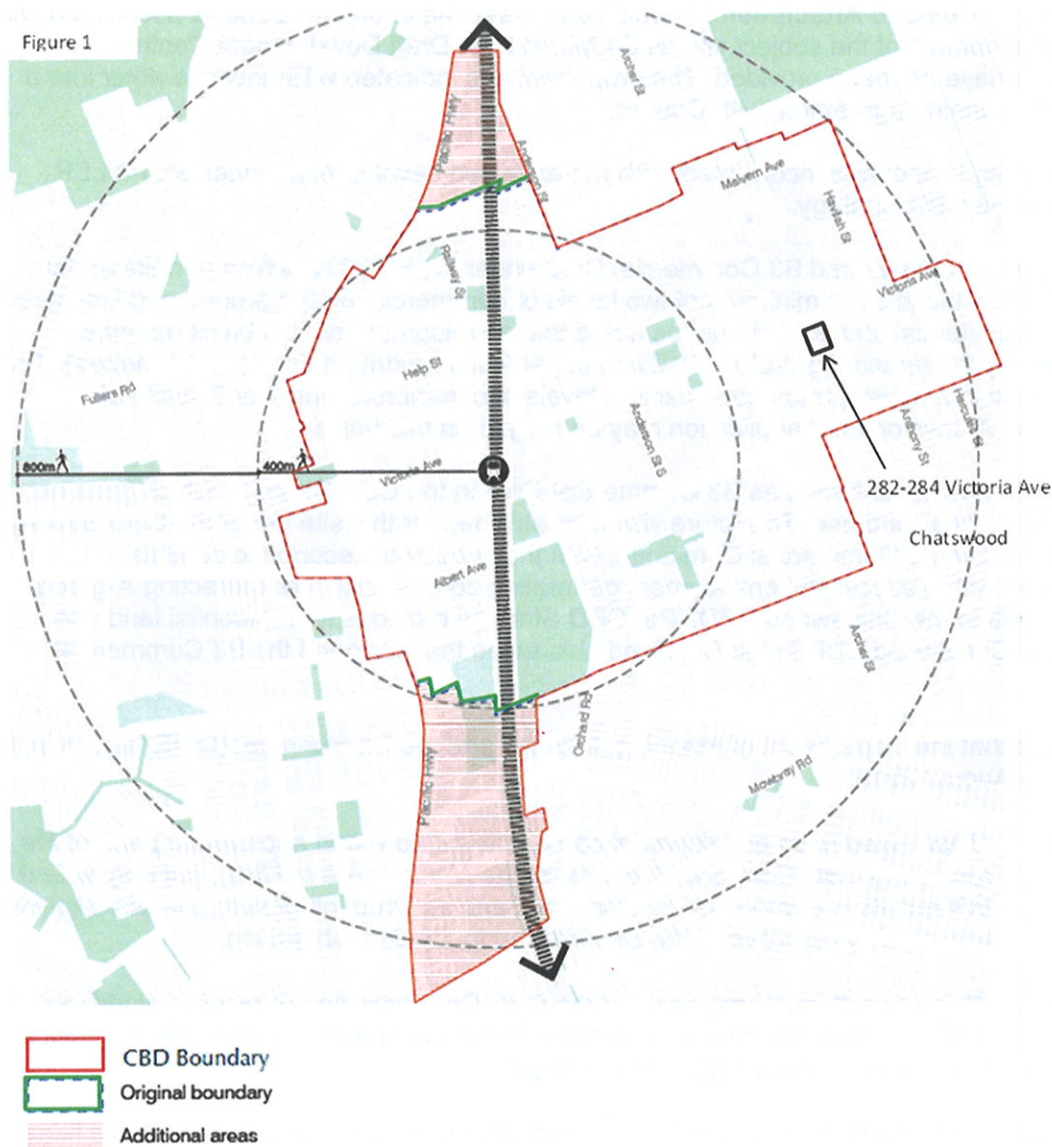
- Change the land use zone from B3 Commercial Core to B4 Mixed Use.
- Increase the height on the site to 90 metres.
- Increase the Floor Space Ratio on the site to 6:1, being 3:1 non-residential and 3:1 residential.

No other WLEP 2012 amendments are proposed.

The site is located on Victoria Avenue and Neridah Street, Chatswood, containing two parcels of land being Lot 1 DP 560914 (282 Victoria Avenue) and Lot 2 DP 549245 (284 Victoria Avenue). The site area is 2127m<sup>2</sup>.



Figure 1 – Site Plan



The site is currently Zoned B3 Commercial Core with a maximum permitted 14m height limit and FSR of 2.5:1 under WLEP 2012. In addition the site is affected by Schedule 1 'Additional permitted uses' Clause 31 which states:

*"Use of certain land at Victoria Avenue, Chatswood*

- (1) *This clause applies to land at Victoria Avenue, Chatswood, being "Area 5" on the Special Provisions Area Map.*
- (2) *Development for the purpose of shop top housing is permitted with development consent if the ground level and first level of the development are used for the purpose of retail premises or business premises."*

The site is located within Area 5 on the WLEP 2012 Special Provisions Area Map.

The Planning Proposal is accompanied by concept plans showing a conceptual redevelopment plan for the site (Refer to **Attachment 4**) and an Economic Impact Assessment (Refer to **Attachment 5**) which discusses the economic benefits associated with the redevelopment of the subject site as B4 Mixed Use. Draft Development Control Plan provisions have not been provided. The proponent has indicated willingness to enter into a voluntary planning agreement with Council.

The Planning Proposal is inconsistent with the expected development under both WLEP 2012 and the CBD Strategy.

The site is currently Zoned B3 Commercial Core under WLEP 2012, which permits under Schedule 1, Clause 31, a minimum of two levels of commercial on the ground and first levels, and then residential above. It should be noted that development on this basis remains governed by the remaining WLEP 2012 and in particular height (in this case 14 metres). This would result in a development comprising 2 levels of commercial and 2 or 3 levels of residential. A development application may be lodged on this basis.

The site has been confirmed as B3 Commercial Core in the CBD Strategy, which does not permit residential land use. The future vision established for this site under the CBD Strategy is based on the B3 Commercial Core zone, with the substantial economic benefits associated with a successful employment generating commercial core (attracting A-grade tenants) within the Chatswood CBD. The CBD Strategy provides for residential land use within the Chatswood CBD in the B4 Mixed Use areas that surround the B3 Commercial Core.

It is noted that the Department of Planning, Industry and the Environment (DPIE) stated in its letter of 9 August 2019:

- *"That mixed used development can be permitted within appropriate parts of the remaining CBD Core area (i.e. east of the North Shore rail line), but only where this results in demonstrable, significant and assured job growth, thereby aligning with the key objective of the District Plan to support job growth.*
- *That any planning proposals for the CBD Core area do not result in significant traffic or transport impacts, as sites in this part of the CBD are highly accessible to Chatswood rail and bus interchange."*

The DPIE endorsement did not require or encourage any rezoning of B3 Commercial Core land east of the North Shore rail line.

In regards this Planning Proposal, the rezoning of this site to facilitate residential development is not supported. The Economic Impact Assessment provided does not change the Council position.

Any future Planning Proposal for this site should be based on requirements within the B3 Commercial Core zone under the CBD Strategy. The subject site being located within the Commercial Core, close to the Chatswood Interchange and other services, is not an appropriate location for this scale of additional residential floor space. The conditions of the DPIE endorsement of the CBD Strategy are acknowledged, however it is not considered that the extent of residential indicated, being 50% of the floor space proposed, aligns with the intent of the DPIE direction.



The CBD Strategy encourages commercial development within the commercial core, by prohibiting erosion of commercial sites by residential development. The economic work carried out by BIS Oxford Economics, underpinning the CBD Strategy, emphasises the importance of Chatswood's office core in ensuring the future success of the centre. Architectus, who assisted in the preparation of the CBD Strategy, also noted that protection of the capacity and capability of the commercial core to grow will be fundamental to Chatswood's successful economic future.

The CBD Strategy aims to assist implementation of the Greater Sydney Commission *Greater Sydney Region Plan* and the *North District Plan*. Particular regard is given to the preservation of the commercial core and employment generation, as well as the provision of mixed use development around this core, all within the identified Strategic Centre of Chatswood. The Planning Proposal is not considered consistent with these strategic planning documents and the strategic planning work that has resulted in the CBD Strategy and endorsed in Council's Local Strategic Planning Statement (LSPS). An alternative vision has been proposed by the proponent which is not supported.

Height is also an issue. Under the CBD Strategy a maximum height of 7m on the Victoria Avenue frontage, for a minimum setback of 6m, with a possible maximum of 90m on the remainder, is permitted. The Planning Proposal seeks a 90m height control over the entire site. This approach to height is not supported by Council as it would create an unacceptable built outcome not envisioned under the CBD Strategy.

A detailed assessment of other aspects of the Planning Proposal has not been undertaken as the development is not supported on strategic planning grounds in relation to zoning and land use. However the following concerns are raised:

- No Draft *Development Control Plan* provisions addressing the 35 Key Elements of the CBD Strategy, and other site specific issues, have been provided.
- Lack of Basement loading and unloading.
- The Planning Proposal has the effect of isolating the adjacent property 298 Victoria Avenue, impacting on its future developability.

At its meeting of 1 February 2021, the Willoughby Local Planning Panel were also of the opinion that this planning proposal did not demonstrate strategic merit and could not therefore be supported for Gateway. See full advice at **Attachment 6**.

As the Planning Proposal is inconsistent with the CBD Strategy and not supported, discussions to progress negotiations regarding a planning agreement have not been held with the proponent.

## 5. CONCLUSION

The site has been confirmed as B3 Commercial Core in the *Chatswood CBD Planning and Urban Design Strategy 2036* endorsed by Council on 26 June 2017, supported by the Greater Sydney Commission on 18 May 2018, part endorsed on 9 August 2019 and then fully endorsed by the Department of Planning, Industry and Environment (DPIE) on 9 July 2020. This has been noted by Council on 14 September 2020.

Under WLEP 2012 and the CBD Strategy B3 Commercial Core zoning, residential development is not a permitted land use. The proponent has proposed a B4 Mixed use zone which permits residential land use, with a non-residential floor space ratio of 3:1 and residential floor space ratio of 3:1.

The Planning Proposal is inconsistent with WLEP 2012 and the CBD Strategy. It is also considered that the Planning Proposal is inconsistent with *the Greater Sydney Region Plan* and the *North District Plan*, as well as Council's *Local Strategic Planning Statement*.

Council officers have encouraged, and continue to encourage, a Planning Proposal that is consistent with the CBD Strategy, including in regards to height.

Based on the above, it is recommended that this Planning Proposal should not be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.



## ATTACHMENT 1

IMPLICATIONS	COMMENT
<b>CITY STRATEGY OUTCOME:</b>	<p>3.5 – Maintaining 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>
<b>Business Plan Objectives, Outcomes/ Services</b>	The Planning Proposal, which proposes to rezone the site from B3 Commercial Core to B4 Mixed Use, is not consistent with either <i>Willoughby Local Environmental Plan 2012</i> (WLEP) or <i>Chatswood CBD Planning and Urban Design Strategy 2036</i> (the Strategy). In addition, residential is not a permissible use in the B3 Commercial Core zone under either WLEP 2012 or the Strategy.
<b>Policy</b>	<p>The <i>Chatswood CBD Planning and Urban Design Strategy 2036</i> was endorsed by Council on 26 June 2017, supported by the Greater Sydney Commission on 18 May 2018, part endorsed on 9 August 2019 and then fully endorsed by the Department of Planning, Industry and Environment (DPIE) on 9 July 2020, and noted by Council on 14 September 2020.</p> <p>The Strategy aims to assist implementation of the Greater Sydney Commission <i>Greater Sydney Region Plan</i>, the <i>North District Plan</i> and the Willoughby Council <i>Local Strategic Planning Statement (LSPS)</i>, with particular regard to the strengthening of the commercial core and employment generation, as well as the provision of mixed use development around this core, all within the identified Strategic Centre of Chatswood.</p> <p>Any approval of this Planning Proposal would lead to amendments to <i>Willoughby Local Environmental Plan 2012</i> and <i>Willoughby Development Control Plan</i>.</p>
<b>Consultation</b>	This Planning Proposal has not been publicly exhibited. Furthermore, the Planning Proposal is not recommended for public exhibition as it is not supported.
<b>Resource</b>	No additional resources have been used to prepare this report beyond existing operational budgets.
<b>Risk</b>	The approval of this Planning Proposal would undermine the <i>Chatswood CBD Planning and Urban Design Strategy 2036</i> , which has been based on a commercial core without residential land use, supported by a surrounding mixed use zone where residential land use is allowed. Heights and floor space ratio have been designed to encourage commercial development in the commercial core. The development uplift in the surrounding mixed use zone, within the CBD, is on the basis of the future residential development being located in this part of the CBD, and not the commercial core.
<b>Legal</b>	The Planning Proposal should be consistent with the endorsed <i>Chatswood CBD Planning and Urban Design Strategy 2036</i> .
<b>Legislation</b>	Under <i>Environmental Planning and Assessment Act 1979</i> provisions.
<b>Budget/Financial</b>	This is within the approved budget.

