

## Bolduan, Mark

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**From:** Simon Wilkes <swilkes@urbis.com.au>  
**Sent:** Tuesday, 10 December 2019 10:43 AM  
**To:** Bolduan, Mark  
**Cc:** David Brain; Siobhan Ryan  
**Subject:** (DWS Doc No 178880235) 475 Victoria Road, Chatswood - active frontage requirement (condition 102A)  
**Attachments:** Attachment 2- Pedestrian Movement Analysis.pdf; Attachment 1 - retail viability investigation chatswood CBD west side.pdf; Attachment 3 - frontage examples.pdf; Attachment 4 - office facade with planter boxes.pdf; Attachment 5 - office facade with planter boxes to cafe.pdf

Dear Mark,

In respect of 475 Victoria Ave, Chatswood – thanks again for your time recently to discuss matters. The opportunity to continue dialogue in the lead-up to the panel meeting is appreciated, with a view to clarifying any matters and where possible reaching in-principle agreement.

In respect of the 'active frontage requirement', we had understood from Pooja the matter remained the subject of live consideration, rather than having been fully agreed. We also note the commentary set out in the assessment report in respect of Condition 102A. Accordingly, please find below and attached additional detailed information for your consideration.

### **Active frontage matters – background**

The modification seeks the deletion of condition 102A – active street frontage, this email provides additional information and justification to support the deletion of this condition. Condition 102A of the existing consent conditions reads as follows:

#### ***"102A. Active Street Frontage***

*The Ground Floor Victoria Avenue frontage of the building in the south-western corner of the site is to be occupied for business or retail purposes. In this respect, use for the purposes of Office Premises is contrary to the Active Street frontage provisions and as such not permissible. (Reason: Ensure compliance)"*

This condition was included by the Sydney North Planning Panel on the advice of officers, when the application was determined in the context of clause 6.7 of the *Willoughby Local Environmental Plan 2012* (WLEP 2012). Clause 6.7 identifies a building as having an active frontage if all premises on the ground floor of the building as being used for the purposes of business or retail premises, to the satisfaction of the consent authority. As set out in the S4.55 submission, our client seeks to provide neither a business nor retail offering on the ground floor of the office building along Victoria Avenue, for reasons set out in below. The proposed works seek to have an office premises on the ground floor as a retail or business premises is neither viable nor appropriate and is a negative outcome. It is considered that the continued imposition of this condition would in fact be contrary to the underlying objective of cl 6.7 – being as follows:

*Cl 6.7 – "The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre, Zone B3 Commercial Core and Zone B4 Mixed Use."*

From a project delivery/commercial perspective, achieving a satisfactory outcome is critical to our client.

### **Summary of key points**

As stated in the s.4.55(2) Statement of Environmental Effects, deletion of condition 102A is sought for the following reasons:

- **Clause 6.7 of the WLEP** - provides for a discretionary decision to be made by the consent authority in determining an application for development consent in that a building will have active street frontage. It is not a mandatory requirement for the use to be 'business premises' or 'retail premises'
- **Upgrades to through-site link** – the proposal already seeks to deliver significant upgrades to the quality of the through-site link, enhancing the pedestrian experience, improvement safety and encourage foot traffic.
- **Appropriateness of retail activities** – the CBD strategy specifically seeks to facilitate the enhancement of the 'retail core', located between the railway station and Chatswood Chase. This does not include the subject site – which has been specifically identified for the protection of the 'office core'.
- **Avoidance of blank facades/maximising surveillance** – the Chatswood CBD Strategy specifically seeks to avoid the construction of blank walls, rather seeking to maximise passive surveillance through office activities, major openings and associated glazing treatment. Furthermore, a requirement for a specific frontage to the development has the potential to compromise the delivery of commercial activities. There is a high likelihood that a 'slim' tenancy along the frontage will remain vacant and would preclude the enjoyment (and passive surveillance) of the street frontage from the commercial.

### **Active frontages- key factors for success**

The objective of Clause 6.7 is to attract pedestrian movement along the ground floor frontage. Active frontages in the form of retail or business uses do not always result in the most active presentation to the street. Extensive work with retail operators and developers has allowed us to identify a range of factors that are critical to successful retailing. These include the following:

- **The size of surrounding market** – which should be commensurate with the size of the available spending market. Too many shops can create leasing problems regardless of the location, likewise too few shops diminish the critical mass of an area making it unsustainable.
- **Location** – the choice of location for a retail tenancy needs to have consideration for the likely trade area required for the type of offering. The competitive environment is a critical factor.
- **Accessibility** – a retail tenancy needs to be accessible to its catchment by a number of modes.
- **Exposure** – tenants need to have good exposure to customer foot traffic, with isolated sites that receive limited pedestrian traffic performing at lower levels.
- **Quality of design and management** – the quality of a retail premises will affect its attractiveness to potential customers and therefore its performance. As such consideration needs to be given to the choice of finishes that create a theme, differentiate the premises from its competitors and result in a character that will have enduring appeal.
- **Market mix and scale** - this factor is one of the strongest, if not the strongest driver of success within a retail environment. Large retail centres or office developments are the major driver of customer visitation, with the tenants needing to respond to the offers provided by nearby retail and business premises.

Experience has however shown that these outcomes are not always achieved where ground level retail and / or commercial uses are provided, nor are these outcomes always practical or desirable in every instance. The evidence from existing ground floor retailing elsewhere is that, in many cases, retail development has only been partially successful in achieving ground floor activation. Success has tended to be limited to providing signage and colour to the building façade in the form of opaque films to glass. It has been less successful in terms of creating 'active' areas with high foot traffic, shopper activity and al fresco dining. These opaque window treatments create no visual interest, result in little passive surveillance opportunities and undesirable streetscapes. This is because the types of tenants that can be attracted to areas outside of a 'core retail area' are not necessarily operators that will generate high levels of shopper activity. Further, in these locations away from core areas, the emphasis from the property owner will simply be on leasing the space to any business that is able to pay the rent. Willoughby Council defines the 'core retail area' of Chatswood to be the area east of Chatswood Station, with the western side has been identified as the 'office core'.

Specifically in respect of this project/development, there is additional information that may assist in finalising the assessment of the application/on-going dialogue in the lead up to the Panel meeting on 17 December. Research conducted by the applicant in the surrounding area (**refer attached – attachment 1**) found that retail demand is virtually non-existent on this side of Chatswood, with a large number of vacancies sitting on the market for over 2 years. The research into potential retailer interest involved speaking to nearby retailers and the recommendation was not to provide a retail premise on the ground floor of the new building as it won't work unless we were happy to have a vacant shop sitting there for potentially a number of years at a time. NB: *Some of the information contained within may be considered to be commercial sensitive and is therefore recommended only for internal reference/use only at this time.*

A Pedestrian Movement Analysis of the area was prepared by ARUP (**refer attached – attachment 2**) to establish whether there was sufficient foot traffic along Victoria Avenue to sustain a viable retail tenancy. The study found that the southern side of Victoria Ave is busier than the northern side with little attraction toward the west of the subject site. The report found that there was insufficient footfall to maintain a viable retail offering. Provision of commercial office development at the ground floor is expected to achieve greater activation than a shop front and will attract greater pedestrian movement along the street frontage. The office, in our view, would provide more consistent foot traffic at all times of the day and passive surveillance with people sitting at desks that are visible through the window.

There are examples across metropolitan Sydney where policies that have required street front activation, through the provision of a retail space, have resulted in tenancies that are difficult to let and which remain vacant for long periods of time. Typically, this is due to locations away from core retail areas and a lack of foot traffic to support shopping. A series of photographs from other similar locations is provided (**refer attached – attachment 3**). If the intent of the planning controls is indeed to create a more vibrant and 'activated' streetscape, with high levels of pedestrian traffic, our view is that this should be achieved through an appropriate land use outcome, combined with an urban design solution that maximises pedestrian movements, ensures passive surveillance and creates visual interests - rather than mandating retail / commercial land uses. There are significant market impediments to supporting retail and business premises uses.

In the context of the matters set out above, we are pleased to present additional detailed plans for the office façade, as a preferred development scenario (**refer attached – attachment 4**). It is our view that this solution would facilitate:

- an appropriate and effective land use outcome for a CBD environment, with a high level of pedestrian activity arising through a successful office tenancy; and
- an attractive streetscape, with a high level of visual interest in the form of a 'green wall solution' – consistent with the direction set out in the Chatswood CBD strategy and integration well with other vertical landscape elements through the central site link.

### **Alternative outcome**

In the instance that the submission set out to date and supported by the above-additional detail/background information still does not meet the expectations of Council staff (and ultimately secure support for the deletion of condition 102), our client is prepared to consider an alternative development scenario – should it be deemed necessary. This scenario involves the specific delineation of a café use for that portion of frontage of the development closest to Pacific Hwy (**refer attached – attachment 5**). Please note, however that for the reasons outlined above – including risk of business failure and vacancy – we do not believe this solution will best achieve the objectives of the WLEP.

As mentioned above, this is a critical project delivery consideration for our client and we look to preferably reach in-principle agreement about a suitable outcome ahead of the panel meeting.

Any questions or wish to discuss, please do not hesitate to let me know.

Kind regards,  
Simon

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