

# 5-9 Gordon Avenue, Chatswood

## Clause 4.6 Variation Request

Clause 6.25 Shop top housing in Zone MU1 – Non-residential floor space

Willoughby Local Environmental Plan 2012

PREPARED FOR

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# 1 Introduction

This Clause 4.6 Variation Request accompanies a Development Application (DA) for a shop-top housing development at 5-9 Gordon Avenue, Chatswood (the site). The development proposes to vary the development standard for non-residential floor space provision pursuant to clause 4.6 of the *Willoughby Local Environmental Plan 2012* (LEP 2012).

The objectives of clause 4.6 are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

This Clause 4.6 Variation Request demonstrates that strict compliance with the non-residential floor space development standard is unreasonable and unnecessary in the circumstances of the case, and there are sufficient environmental planning grounds to justify the contravention.

This Clause 4.6 Variation Request demonstrates that, notwithstanding the non-compliance, the proposed development:

- Will provide a suitable amount of non-residential floor space within the building podium to promote commercial and retail activity in the Chatswood CBD;
- Will provide high quality retail tenancies on ground level to activate street frontages to both Gordon Avenue and Hammond Lane;
- Will attract pedestrian traffic and contribute to the vibrancy of the public realm on Gordon Avenue and Hammond Lane;
- Provides a two level podium which is comprised entirely of non-residential uses;
- Will encourage a mix of retail and commercial uses across two floors, that will generate employment opportunities;
- Will contribute to the provision of employment floor space to one of the smaller sites in the Chatswood CBD;
- Has optimised the provision of non-residential floor space within the site's building envelope;
- Will create residential opportunities on the periphery of the Chatswood CBD whilst supporting the economic growth of the commercial core; and
- Will respond to the desired future character of the locality.

Therefore, the development application can be supported notwithstanding the breach of the clause 6.25 minimum non-residential floor space development standard in accordance with the flexibility afforded under clause 4.6 of LEP 2012.



## 2 Development Standard to be Varied

The development standard sought to be varied under this written request is clause 6.25 Shop top housing in Zone MU1 under the LEP 2012.

### 2.1 Clause 6.25 Shop top housing at certain sites at Chatswood

Clause 6.25 of LEP 2012 states:

*"Development consent for the purposes of shop top housing on land in Zone MU1 Mixed Use must not be granted unless the consent authority is satisfied **at least 17% of the gross floor area of the building will be used for non-residential purposes.**"*

The proposed development provides a total gross floor area (GFA) of **9,791.66m<sup>2</sup>** equivalent to an FSR of **6.43:1**. In accordance with the LEP definition of GFA, this includes 681.82m<sup>2</sup> carparking provided in excess of the maximum carparking rates in Part F of the *Willoughby Development Control Plan 2023* (the DCP). This non-compliance with the maximum floor space ratio (FSR) of 6:1 is addressed in the Clause 4.6 Variation Request to Clause 4.4 Floor Space Ratio dated 23 May 2024. In accordance with Clause 6.25, a total GFA of 9,791.66m<sup>2</sup>, requires a **minimum non-residential floor space of 1,664.6m<sup>2</sup>**.

We submit that calculating non-residential floorspace from GFA which includes 681.82m<sup>2</sup> of excess carparking does not align with the intent of clause 6.25 – which gives effect to the *Chatswood CBD planning and Urban Design Strategy 2036* (Chatswood CBD Strategy) – and never sought to leverage additional non-residential floorspace on the basis of excess car parking provision. When excess car parking is removed from the calculations, a GFA of 9,109.84m<sup>2</sup> is proposed, which complies with the **6:1** FSR standard and a minimum of non-residential floor space of **1,548.7m<sup>2</sup>** would be required.

Calculating total GFA inclusive of excess carparking would require an additional 115.9m<sup>2</sup> of non-residential floor space to be provided. This would require either a third storey podium or placement of non-residential floor space in the base of the tower form. Both outcomes would result in a sub-optimal urban design and amenity outcome. It would also be inconsistent with key objective of the Chatswood CBD Strategy (page 15), which envisages a satisfactory level of commercial in the B4 Mixed Use (now MU1 Mixed Use) zone to be provided within the podium levels of a development, typically resulting in two levels of commercial uses.

### 2.2 Is the Planning Control in Question a Development Standard?

The non-residential floor space requirement under clause 6.25 of the LEP 2012 is a development standard involving a measurable quantum that can be varied.

## 3 Extent of Variation Proposed

The proposed variation to the non-residential floor space development standard in LEP 2012 is summarised in **Table 1** below.



Table 1 LEP 2012 Variation Summary

Standard	Control	GFA of the building	Proposed non-residential GFA	Proposed non-residential %	Variation
Clause 6.25 Shop top housing at certain sites at Chatswood	At least 17% the building's GFA to be used for non-residential purposes	GFA <u>including</u> excess carparking: 9,791.66m <sup>2</sup>	1,455.74m <sup>2</sup>	14.87%	2.13% (208.84m <sup>2</sup> )
		GFA <u>excluding</u> excess carparking: 9,109.84m <sup>2</sup>		15.98%	1.02% (92.93m <sup>2</sup> )

The proposal seeks consent for **14.87%** of the total GFA to be used for non-residential purposes, which represents a **2.13%** variation (equivalent to **208.84m<sup>2</sup>**) to the minimum non-residential floor space provision of 17%. The extent of variation is based on a total GFA that includes the excess carparking, in accordance with the LEP definition for GFA:

***gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, ...*

*but excludes—*

...

*(g) car parking to meet any requirements of the consent authority (including access to that car parking), and*

...

The proposed variation to the non-residential floor space standard is minor in the context of a 90m shop-top housing development with a total GFA of 9,791.66m<sup>2</sup> including excess carparking which is entirely located within basement levels. Importantly, if the proposal did not involve excess carparking, the GFA of the building would be 9,109.84m<sup>2</sup> (compliant with 6:1 FSR control) and would provide 15.98% of non-residential floor space, with a smaller variation of just 1.02% (92.93m<sup>2</sup>) being sought.

With an entirely non-residential podium, the proposal has been designed to optimise the provision of non-residential uses whilst accommodating the spatial requirement of ground level loading and waste collection by Council's 10.5m MRV truck as well as the building services requirements and vertical circulation.

The proposed non-residential floor space includes the provision of active uses at ground level, which facilitates street activation and improves the amenity of the public domain. Combined with the commercial tenancies on Level 1, the proposed non-residential floor space will increase the supply of employment floor space in the Chatswood CBD and creates job opportunities close to home, contributing to the 30-minute city concept of the North District Plan.

The proposal also remains consistent with the intent of the non-residential floor space requirement under the Chatswood CBD Strategy as detailed in **Section 4.1.1** of this report.



## 4 Clause 4.6(3) Justification for Contravention of the Development Standard

Clause 4.6(3) of LEP 2012 provides that:

### 4.6 Exceptions to Development Standards

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating-*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the cases, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Furthermore, clause 4.6(4) of LEP 2012 allows for exceptions to development standards where it meets the following objectives:

- (a) to provide an **appropriate degree of flexibility** in applying certain development standards to particular development,*
- (b) to achieve **better outcomes** for and from development by allowing flexibility in particular circumstances.*

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court (LEC) in:

- *Wehbe v Pittwater Council* [2007] NSWLEC 827
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90

The relevant matters contained in clause 4.6 of WLEP 2012, with respect to the minimum non-residential floor space development standard, are each addressed below, including with regard to these decisions.

### 4.1 Clause 4.6(3)(a) Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

The LEC judgement in *Wehbe v Pittwater Council* [2007] NSW LEC 827 sets out five possible ways for strict application of a standard to be unnecessary or unreasonable. In applying the tests of *Wehbe* to the proposal, the '**first way**' is relevant to establishing that compliance with the minimum non-residential floor space development standard pursuant to clause 6.25 of LEP 2012 is unreasonable or unnecessary:

#### 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard.

##### 4.1.1 First way: The objectives of the standard are achieved notwithstanding non-compliance with the standard

Clause 6.25 does not include objectives for the non-residential floor space development standard. Notwithstanding, the intent of clause 6.25 is set out in the Chatswood CBD Strategy prepared by Willoughby City Council. The Chatswood CBD Strategy seeks to increase non-residential floor space within the Chatswood CBD to promote employment growth of the Strategic Centre. The boundary of the Chatswood CBD was expanded to the north and south under the Strategy and facilitates residential opportunities on the periphery



of the CBD as part of a B4 Mixed Use zone, whilst providing growth prospects for commercial at the core of the CBD, being the B3 Commercial Core zone.

In order to support jobs growth in the CBD, the CBD Strategy initially proposed a minimum non-residential floor space ratio of 1:1 to be provided in the podium levels of a development achieving 6:1 FSR. The requirement was subsequently moderated to 17% to accommodate sites subject to lower FSR controls due to site constraints, surrounding context and the applicable built form controls, such as the Sun Access Planes affecting large areas of the CBD.

At page 33, the Chatswood CBD Strategy states that the objective of the recommended 1:1 minimum non-residential floor space standard (later converted to 17%) is:

- *The objective of this Key Element is to achieve **a satisfactory level of** commercial in the B4 Mixed Use zone to deliver a reasonable amount of **employment floor space**, typically to be **within the podium** levels of a development. This will be moderated depending on the overall FSR.  
(our emphasis)*

Response: The proposal responds to a number of site-specific constraints which compete for, or constrain space within the podium:

- LEP clause 6.7 (Active Frontages) required to Hammond Lane and Gordon Avenue
- DCP clause E3.7 (5-9 Gordon Avenue):
  - 3m ground floor setbacks to Gordon Avenue, Hammond Lane and to the north;
  - Street wall height limits of 6-14m (2-4 storeys) to Gordon Avenue and Hammond Lane;
  - Active street frontages to Gordon Avenue and Hammond Lane; and
  - On-site loading and unloading.
- DCP clause E.1.11 (Service Facilities and Amenities)
  - Requirements relating to substations, fire egress and building services

The proposal will provide a suitable level of employment floor space with a total of 1,455.74m<sup>2</sup> of non-residential floor space within the two-storey podium of the development. While the proposed non-residential floor space provision is below the minimum 17% requirement, the extent of variation is numerically small, being a variation of just 2.13% (208.84m<sup>2</sup>). Based on a total GFA excluding the excess carparking, the variation would be 1.02% only (92.93m<sup>2</sup>). In accordance with the above objective, no habitable residential floorspace is proposed within the building podium.

The proposed non-residential floor space includes two retail tenancies on ground level, a commercial floor plate on Level 1 and end of trip facilities in the basement level, promoting commercial and retail activities in the southern part of the Chatswood CBD. The proposed non-residential uses on ground and first level are illustrated in **Figures 1 and 2**.

The retail tenancies on ground level have been positioned to address the street frontages of Gordon Avenue and Hammond Lane, facilitating street activation and social interaction between the residents and the local community. It is worth noting that the layout of

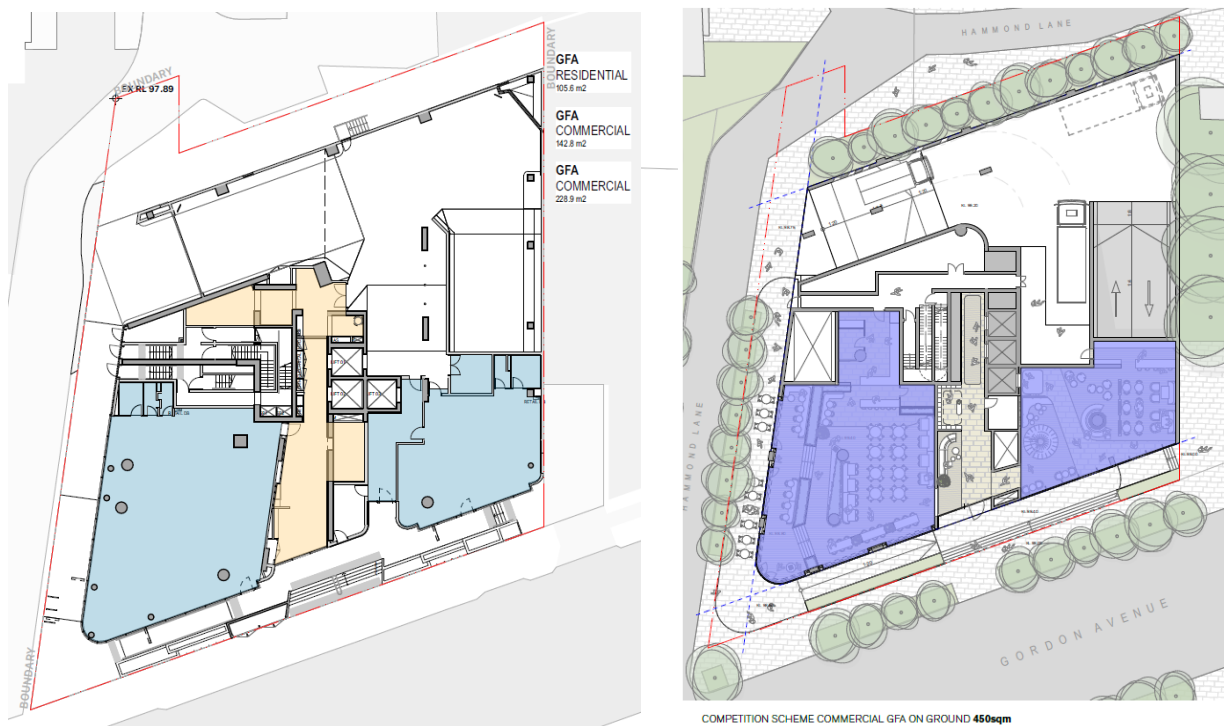


commercial space has not been significantly altered since the design competition jury identified: 'The clarity, flexibility and highly function arrangement of the commercial spaces is strongly supported'.

Level 1 of the proposed development has been dedicated as 100% commercial floorspace, providing flexibility for a variety of employment uses. The floorplate can be divided into multiple tenancies to meet the operational needs of the future businesses occupying the level. Combined, the proposed commercial floor space will create employment opportunities in an accessible location close to homes, contributing to a 30-minute city.

Additionally, detailed design refinements have been required to be made following the conclusion of the design competition in December 2023. The competition scheme proposed a shared commercial and residential access which has now been split to provide improved security. Design progression and input from building services and vehicular access specialists has required additional ground floor space for services and access. Refer to the competition entry ground floor scheme provided at **Figure 1**. The Level 1 floorplate has also been modified to optimise the provision and flexibility of commercial floorspace (refer to **Figure 2**).

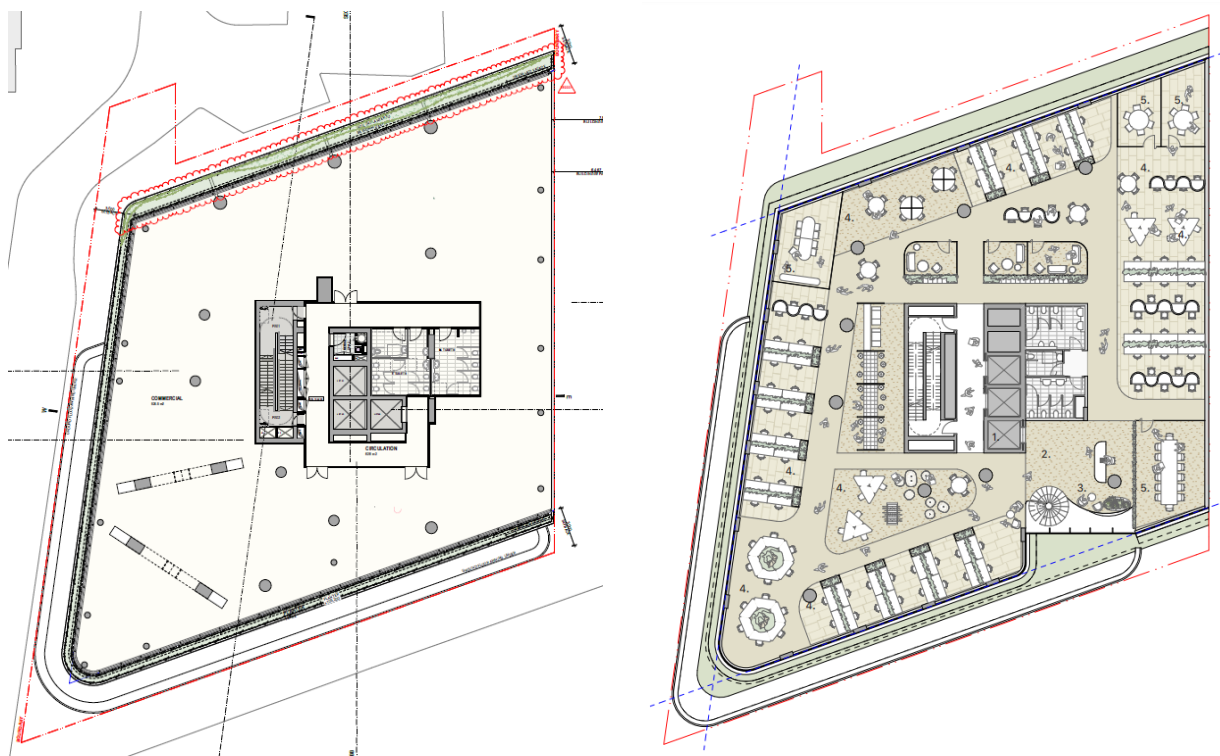
Therefore, despite the minor non-compliance, the proposed development optimises the provision of employment floor space within the constraints of the site.



**Figure 1 Proposed Ground floor plan (left – shaded blue) and competition winning ground floor plan (right)**

Source: FJC Studio 2023





**Figure 2 Proposed Level 1 floor plan (left) and competition winning Level 1 plan (right)**

Source: FJC Studio

## 4.2 Clause 4.6(3)(b) Sufficient environmental planning grounds to justify contravening the development standard

There are sufficient environmental planning grounds to justify the proposed variation to the minimum 17% non-residential floor space development standard under clause 6.25 because:

- The proposed non-residential floor space provision is consistent with the underlying objective of the standard as demonstrated in **Section 4.1.1** of this report.
- The proposed non-residential floor space provision is consistent with the objectives of the MU1 Mixed Use zone as demonstrated in **Section 5.2** of this report.
- The proposed non-residential floor space provision is consistent with the intent of the Chatswood CBD Strategy in that it provides a wholly non-residential podium with two levels of commercial uses, contributing to the supply of employment floor space in the Chatswood CBD.
- The proposal has optimised the provision of non-residential floor space within the constraints of the required setbacks in the site-specific DCP and the ADG, as well as the vehicular access requirements, specifically relating to the accommodation of Council's 10.5m MRV truck for onsite waste collection.
- Further design development following the design competition has required additional space for building services and access on ground level, which further reduces the potential area available for non-residential floor space provision.
- The ground floor layout has been designed to maximise active street frontages along Gordon Avenue and Hammond Lane, promoting retail uses that would attract pedestrian traffic and improve the visual amenity of the public realm.
- The provision of end of trip facilities in the basement will encourage the future users

of the commercial floorplate to use active transport modes (walking and cycling) to travel to and from the site and reduce reliance on private vehicles.

- A separate commercial lobby and dedicated lift will be incorporated to provide direct access to the commercial floor space for the future tenants, which will improve security for residents.
- The proposed variation to the non-residential floor space standard, does not affect the proposal's ability to provide a mixed use development that is of appropriate bulk and scale. Notably, the proposal is compliant with the 90m building height and maximum overall FSR of 6:1 development standards, which will deliver a high density mixed use development that is reflective of the desired future character of the Chatswood CBD.
- Strict compliance with the non-residential floor space standard would require either:
  - provision of non-residential floor space within the tower component (i.e. top of podium), or
  - Removal of the deep soil and landscaping to the north boundary and provision of nil setback; or
  - on-street waste collection and reduction of the ground level loading bay.

All of these options would result in a poorer design outcome as they would either diminish the top-of-podium residential amenity and podium articulation, remove landscape area and setback to sites to the north, or result in on-street waste loading.

All of these options would undermine the design excellence of the scheme and be inconsistent with the merits of the design competition scheme which were identified by the design competition jury. These options would result in outcomes which would be inconsistent with the future desired character of the area.

- The proposed 14.87% of non-residential floor space still represents significant contribution to employment floor space in the mixed use area, which will support the economic growth and reinforce the commercial role of the Chatswood CBD core.
- Despite the numerical departure, the extent of variation is numerically small and will be imperceptible in the context of the wider CBD.

## 5 Clause 4.6(4)(a)(ii) Consistency with objectives of the standard and the zone; and the public interest

### 5.1 Consistency with objectives of the development standard

As discussed in **Section 4.1**, clause 6.25 does not include objectives for the minimum non-residential floor space development standard. Notwithstanding, the proposed variation is consistent with the underlying objective interpreted in the Chatswood CBD Strategy.

### 5.2 Consistency with the B4 Mixed Use zoning

In accordance with clause 4.6(4)(a)(ii) the proposed development will be in the public interest because it is:

- Consistent with the underlying objective of the particular standard, as detailed in **Section 4.1**; and



- The objectives for development of the zone in which the development is proposed to be carried out, as detailed below.

#### Objectives of the MU1 Mixed Use zone

The objectives of the MU1 zone are:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To allow for city living on the edges of the city centre of Chatswood, which encourages public transport use, shopping and the use of businesses and recreational services that contribute to the vitality of the city, without undermining its commercial role.*

The proposed non-residential floor space provision is consistent with the MU1 zone objectives as it enables the provision of a mix of residential, retail and commercial uses within the building. The proposed non-residential uses will be located on ground floor of the building in a highly accessible location within the Chatswood CBD that is in close proximity to the Chatswood Transport Interchange, which will promote public transport patronage. The provision of end of trip facilities in the basement will also encourage the use of active transport modes by the commercial tenants travelling to and from the site.

The proposal will facilitate city living on the periphery of the Chatswood CBD and contribute to the vitality of the city centre. The provision of non-residential floor space within the development will support the economic growth of the Chatswood CBD without undermining the commercial role of the CBD core.

### 5.3 Public interest

*Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 emphasised that the proponent is to demonstrate that the proposed non-compliance with a development standard is in the public interest.

Clause 4.6(4)(a)(ii) requires the proposal to be in the public interest because it is consistent with the objectives of the particular standard and objectives for development within the zone in which the development is proposed to be carried out.

**Sections 4.1 and 5.2** demonstrate the proposal's consistency with the underlying objective of the standard and the MU1 zone objectives under LEP 2012.

In addition, the proposal is consistent with the aims and intent of the proposed controls with respect to non-residential floor space provision under the Chatswood CBD Strategy, and is addressed below.

The aims of the Chatswood CBD Strategy include:

- **Achieve a sustainable balance between commercial, retail, residential, education, cultural and other uses to ensure on-going vibrancy (p. 6).**

Response: The proposal provides a mix of residential, commercial and retail uses to create a high-density residential environment with convenient access to local services, shops and



employment opportunities for residents. The proposal includes the provision of retail uses and public domain works on ground level to create vibrant and active street frontages, and provide high levels of pedestrian amenity in the public realm on Gordon Avenue and Hammond Lane. In addition, the proposal will integrate with the future pedestrian through site link on Hammond Lane, providing north-south connection to and from the Chatswood CBD.

The proposed mix of residential and non-residential floor space is considered to be appropriate as it would provide a suitable level of commercial uses to support the ongoing vibrancy of the proposed development and the surrounding area. The proposed residential use will support commercial core of Chatswood by providing high density residential communities in close proximity to the commercial, cultural and community uses in the CBD, which will promote the use of active and public transport modes to the future residents and ensure sustainable outcomes for Chatswood.

At page 11, the CBD Strategy explains the intent of the various controls recommended. In relation to non-residential floor space control, the Strategy states:

- **Ensure Chatswood's future as an employment centre is protected whilst allowing capacity for strong residential growth at the edge of the CBD (p. 11).**

Response: The proposal will preserve the role of the Chatswood commercial core as an employment centre whilst supporting the growth of residential opportunities beyond the core of the Chatswood CBD. Importantly, the provision of non-residential floor space within the site seeks is contained wholly within the building podium. This will support the vitality of the proposed mixed-use development and activation of the street, which serves a different role (being an extension to the CBD) to the commercial core of Chatswood. The core Chatswood CBD will maintain its strong position as an employment hub with a variety of offices and major retail facilities, and will continue to be a vital component of the Eastern Economic Corridor.

Further, the proposed development will support residential growth on the periphery of the CBD, consistent with the principles of the Chatswood CBD Strategy. In particular, the proposal will provide a high-density residential environment and increase the supply of residential accommodation in Chatswood. Notably, the proposal will provide 50% of adaptable units in accordance with the DCP to cater to the changing needs and capabilities of the future occupants.

Affordable housing contributions will also be made in accordance with LEP 2012 to ensure the availability of accommodation for a diverse range of residential population. The proposed residential units will therefore support strong residential growth on the edges of the city centre of Chatswood.

Accordingly, the proposed shop top housing will not undermine the commercial role of the Chatswood city centre and will support mixed use development on the edges of the CBD to contribute to the vitality of the centre.

- **Deliver sufficient floorspace appropriate to the projected growth requirements for Chatswood CBD (p. 11).**

Response: Under the North District Plan, Chatswood has a baseline jobs target of 31,000 and a higher target of 33,000, requiring an additional 6,300 to 8,300 jobs by 2036. While the Chatswood CBD Strategy highlights the importance to meet the job targets set out by the North District Plan and maintain Chatswood's share of office employment amongst the strategic centres in Greater Sydney, it acknowledges that residential use is currently the most financially attractive land use which poses pressure on the existing stock and growth



potential of Chatswood's office market. Without the provision for mixed use development, most development would favour residential over commercial.

As such, the proposed shop top housing enables the delivery of both residential and commercial uses in response to the increasing demand for residential accommodation and employment opportunities. While the proposal involves a minor variation to the minimum non-residential floor space standard, the proposed 14.87% non-residential floor space provision still represents a significant contribution to the employment floor space and provision of high-quality residential accommodation would support the vitality of the Chatswood CBD and respond to the market conditions that favour residential uses.

In summary, the proposal provides the following public benefits:

- The proposed development provides for strong residential growth at the edge of the CBD, ensuring the employment centre of Chatswood is protected.
- Notwithstanding a very minor shortfall in the required non-residential space, the proposed development will deliver floorspace appropriate to the projected growth requirements of the Chatswood CBD.
- The proposed built form will make a positive contribution to the Chatswood CBD and facilitate the delivery of mixed use development on the periphery of the city centre which will assist with delivery of public domain improvements.
- The proposal will add to the vitality of the Chatswood CBD through the provision of active frontages whilst providing for residential opportunities in close proximity to the city centre.

The proposal will not result in any public disadvantages relating to amenity or environmental impacts on the neighbouring properties or the locality.

The proposal is therefore considered to be in the public interest.

## 6 Clause 4.6(4)(b) Concurrence of the Planning Secretary

Planning Circular PS 20-002, issued on 5 May 2020, outlines that all consent authorities may assume the Secretary's concurrence under clause 4.6 of the *Standard Instrument (Local Environmental Plans) Order 2006* subject to conditions.

For regionally significant developments, Sydney district and regional planning panels may assume the Secretary's concurrence where development standards are contravened.

As the proposal constitutes regionally significant development, the Sydney North Planning Panel may assume the Secretary's concurrence for the proposed variation to the minimum non-residential floor space standard.

Notwithstanding, the matters for consideration by the Planning Secretary in deciding whether to grant concurrence are addressed in the ensuing sections.

### 6.1 Matters of State or regional significance

The proposed variation for clause 6.25 will not give rise to any matters of significance for State or regional environmental planning. Specifically, the proposed variation will not contravene any overarching State or regional objectives or standards.



## 6.2 Public interest in maintaining the standard

There is nominal public benefit in maintaining the minimum non-residential floor space development standard. As demonstrated in **Section 4.2**, strict compliance with Clause 6.25 will require either:

- provision of non-residential floor space within the tower component (ie. top of podium), or
- Removal of the deep soil and landscaping to the north boundary and provision of nil setback; or
- on-street waste collection and reduction of the ground level loading bay.

Strict compliance with the standard will also undermine the design excellence of the proposal as endorsed by the Jury in the design competition, ultimately preventing the proposal from delivering the best urban design outcome.

Therefore, there is no identifiable public benefit to be achieved in maintaining the minimum non-residential floor space development standard currently prescribed for the site.



## 7 Conclusion

This Clause 4.6 Variation Request is for a variation to the minimum non-residential floor space development standard under clause 6.25 of LEP 2012. The request justifies the contravention of the development standard in the terms required under clause 4.6 of LEP 2012.

As demonstrated throughout this Variation Request, the variation sought to clause 6.25 is well-founded in this instance and the granting of a Clause 4.6 variation to this development standard is appropriate because:

- Compliance with the development standard is unreasonable and unnecessary as explained in **Section 4.1**;
- There are sufficient environmental planning grounds to justify the contravention of the development standard as demonstrated in **Section 4.2**;
- The underlying objective of the standard is achieved notwithstanding the non-compliance with the standard, as demonstrated in **Section 4.1.1**;
- The proposed development is consistent with the zone objectives as addressed in **Section 5.2**;
- The proposal is in the public interest as demonstrated in **Section 5.3**;
- The public benefit in maintaining the standard would be negligible as demonstrated in **Section 6.2**;
- The extent of variation is considered minor and would be imperceptible in the context of the wider Chatswood CBD and the proposed development itself; and
- The proposal represents an optimal development outcome when compared to scenarios for achieving strict compliance.

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Accordingly, the proposed minor variation to the minimum non-residential floor space development standard is well-justified and warrants approval.

