

PLANNING & INFRASTRUCTURE DIRECTORATE

PLANNING PROPOSAL FOR 45 VICTOR STREET AND 410-416 VICTORIA AVENUE CHATSWOOD

ATTACHMENTS:

- 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 APPRAISAL ADVICE, JLL ADDENDUM LETTER AND CBRE ADDENDUM LETTER**
- 6. WILLOUGHBY LOCAL PLANNING PANEL RECORD OF ADVICE 30 MARCH 2021**



ATTACHMENT 2

DETAILED ASSESSMENT

The Site

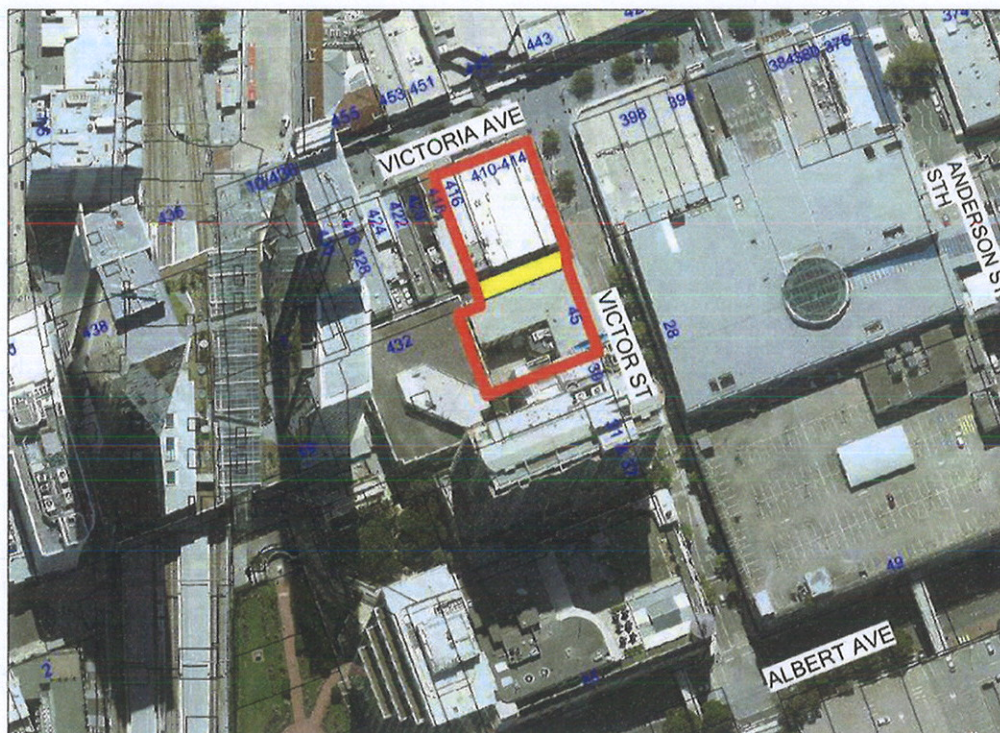
The site is located in a prominent position on the corner of Victoria Avenue, Victor Street and Post Office Lane, Chatswood, being Lot 1 DP569727 at 45 Victor Street (the old Post Office site and approximately 978.4m²), Lot A and B in DP406105 at 410-414 Victoria Avenue (approximately 834.66m²) and Lot 4 DP82303 at 416 Victoria Avenue, Chatswood (approximately 208.57m²). This site area is approximately 2021.72m².

Separating the two land parcels is Post Office Lane, owned by Willoughby City Council. This provides rear service access for the six retail tenancies on 420-430 Victoria Avenue, the former Sydney Water building and former Post Office site and serves as a pedestrian access way to the Chatswood Interchange, including retail tenancies such as Woolworths.

The Planning Proposal also involves part of Post Office Lane, approximately 230m², that connects with Victor Street.

The total site area of the Planning Proposal, including Post Office Lane, is approximately 2,252m².

Figure A – Site Plan



- Proposed Site
- Part of Post Office Lane

The land at 45 Victor Street is characterized by a three storey commercial building, previously occupied by Australia Post and is currently vacant. The land fronting Victoria Avenue is characterized by two, double storey retail buildings occupied by a number of small tenancies.

The site is not listed as a heritage item or within a conservation area and does not contain any significant trees.

The Locality

The subject site is located within the existing Chatswood CBD.

The immediate surrounding land uses are generally retail and commercial. To the north, 410-416 Victoria Avenue directly fronts Chatswood Mall. The 410-416 Victoria Avenue part of the site and the 45 Victor Street part of the site is divided by Post Office Lane. To the south, 45 Victor Street is adjacent Victor Street. To the east of the site is Victor Street and Westfield. To the west of the site is 420-430 Victoria Avenue and the Chatswood Transport Interchange (approximately 100m).

Background

Under *Willoughby Local Environmental Plan 2012* the site is zoned B3 Commercial Core consistent with surrounding land. The development standards for the site permit development to a height of 12 metres on 45 Victor Street and 14 metres on the properties fronting Chatswood Mall, and a floor space ratio of 2.5:1. In addition part of the site, being 410-416 Victoria Avenue, 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."*

This Clause means that after two levels of commercial use, then residential use is permitted up to a total height of 14 metres, along parts of Victoria Avenue, including Chatswood Mall. This would generally mean a development comprising 2 levels of commercial and then 2/3 levels of residential.

The part of the site being 410-416 Victoria Avenue is located within Area 5 on the WLEP 2012 Special Provisions Area Map.

Having regard to WLEP 2012, two previous Planning Proposals lodged in 2012 (PP 2012/2) and 2013 (PP 2013/3) for 45 Victor Street were considered by Willoughby Council. Both sought to add 'shop top housing' as an additional permitted use on the site and increase the maximum height. Council did not support either Planning Proposal and refused both. A major concern of Council was that proposed mixed use development, with residential floor space being dominant, was inconsistent with the city core location and strategic planning policy that seeks to reinforce the commercial role of the CBD core and encourage mixed use development outside but around that core.

The site is located within the Chatswood CBD boundary identified in the *Chatswood CBD Planning and Urban Design Strategy 2036* (referred to in this report as the CBD Strategy). This document was publicly exhibited in March 2017, endorsed by Council on 26 June 2017, supported by the Greater Sydney Commission on 18 May 2018, and fully endorsed with qualifications by the Department of Planning, Industry and Environment on 9 July 2020. Endorsement of the CBD Strategy was further noted by Council on 14 September 2020.

The CBD Strategy is intended to establish a strong framework to guide all future development in the Chatswood CBD over the next 20 years and to achieve exceptional design and a distinctive, resilient and vibrant centre.

Under the CBD Strategy, the site has been recommended as a B3 Commercial Core Zone, with a maximum height of 7m on the Victoria Avenue frontage and RL 246.8m for the remainder of the site. No maximum floor space ratio is proposed, subject to the satisfaction of other requirements. Residential development is not permitted in the Commercial Core under the CBD Strategy.

Planning Proposal

The Planning Proposal seeks to amend *Willoughby Local Environmental Plan 2012* (WLEP 2012) as follows:

- Allow shop top housing as an additional permitted use across the site.
- Increase the maximum height to RL 262m across the entire site and remove the 7m height limit fronting Victoria Avenue.
- Apply a maximum FSR of 20:1 and include a site specific control requiring a minimum FSR of 8:1 for non-residential uses.

The proposed amendments to WLEP 2012 are detailed in Table 1 below.

The Planning Proposal submitted seeks to utilise the adjacent Post Office Lane as part of the development.

Concept plans and supporting information submitted with the Planning Proposal show a development that would provide:

- A 6 level lower Podium containing non-residential uses:
 - Ground floor: Retail and vehicle access
 - Level 1-5: Commercial (requested amendment is for non-residential)
- A 8 level upper section containing commercial (requested amendment is for non-residential).
- A residential tower above upper section (up to RL 262m, being approximately 167.5m, comprising 32 residential storeys).
 - An additional 11.7m high roof feature zone is proposed making the total height RL 273.7m. This feature is proposed towards the Chatswood Mall frontage.
- Residential storeys are proposed to contain between 9 and 11 units.
- Total storeys including plant: 48 storeys (RL 262m, 167.5m).
- Total height is stepped from the Victoria Avenue part of the site down towards the southern boundary with 39 Victor Street (from RL 273.7m to RL 241.9m).
- Setbacks

<ul style="list-style-type: none"> - Victoria Ave / Chatswood Mall - Victor Street - Post Office Lane - 39 Victor Street 	<ul style="list-style-type: none"> - Ground Level - No setback - Above Level 2 – 6m setback - Above level 14 – 7.5m - Ground Level – No setback - Above Level 6 – 3m - Build over above Level 2 - Ground Level – No setback - Above Ground – 6m - Above Level 14 – 9m
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- Total floor space ratio 20:1, being a residential component of 12:1 and a non-residential component of 8:1.
- Approximately 310 apartments.
- All vehicle entry proposed via Victor Street.

The proponent has also provided economic advice in the form of an Economic Appraisal of the proposed redevelopment from Ernst and Young, reports and addendum letters from JLL and CBRE (Refer to Attachment 5 for the Economic Appraisal and addendum letters from JLL and CBRE) which discusses the economic benefits associated with the redevelopment of the subject site and viability as Mixed Use. These put forward the following arguments:

- The proposal will have significant contributions to the local and state economies (Ernst and Young).
- The current economic environment and commercial property trends are likely to place further downward pressure on commercial demand in the Chatswood CBD (JLL).
- Given the location and attributes of the site, it is considered that predominantly residential use, with ancillary retail or commercial on the ground or lower levels only, is the most appropriate use for the site (CBRE).

Council officers do not support these arguments which run counter to Council's own evidence and views for Chatswood CBD (refer to the discussion below).

Table 1 – Summary of Planning Proposal Amendments

Site	Zoning			Height			Floor Space Ratio		
	WLEP	Proposed	CBD Strategy	WLEP	Proposed	CBD Strategy	WLEP	Proposed	CBD Strategy
45 Victor St,	B3 Com Core	B3 Com Core	B3 Com Core	12m	RL 262m (48 storeys, 167.5m)	7m for Victor Street and Victoria Ave Corner (being the 7m Victoria Ave frontage)	2.5:1	20:1	No max (based on commercial land use)
	No residential	Residential as an additional permitted use	No Residential			RL 246.8m for rest of site (based on commercial land use) This equates to 152.3m		Include a site specific control requiring 8:1 for non-residential purposes.	
						Site affected by sun access protection			
					Plan shows an additional 11.7m high roof feature zone proposed making the total height RL 273.7m. This equates to 179.2m	Roof feature to be within height max			

Site	Zoning			Height			Floor Space Ratio		
	WLEP	Proposed	CBD Strategy	WLEP	Proposed	CBD Strategy	WLEP	Proposed	CBD Strategy
410-416 Victoria Ave	B3 Com Core	B3 Com Core	B3 Com Core	14m	RL 262m (48 storeys, 167.5m)	7m for Victoria Ave Frontage	2.5:1	20:1	No max (based on commercial land use)
	Limited residential on Victoria Ave frontage	Residential as an additional permitted use	No Residential			RL 246.8m for rest of site (based on commercial land use) This equates to 152.3m		Include a site specific control requiring 8:1 for non-residential purposes.	
						Site affected by sun access protection			
					Plan shows an additional 11.7m high roof feature zone is proposed making the total height RL 273.7m. This equates to 179.2m	Roof feature to be within height max			

Discussion

Discussion of the Planning Proposal is based on the 'Key Elements of Future LEP and DCP Controls' contained in the CBD Strategy dated September 2020, listed 1 to 35, with comments provided. Where relevant, the Key Elements have been addressed, however a comprehensive analysis of the Planning Proposal has not been undertaken by Council staff, with particular regard to detailed design issues, as the development does not succeed on fundamental merit issues being rezoning, land use, strategic planning grounds, height and minimum allotment size.

It is noted that the proponent's discussion of the 35 Key Elements in its December 2020 documentation does not correctly address the CBD Strategy dated September 2020 – but rather an earlier version.

CBD Boundary

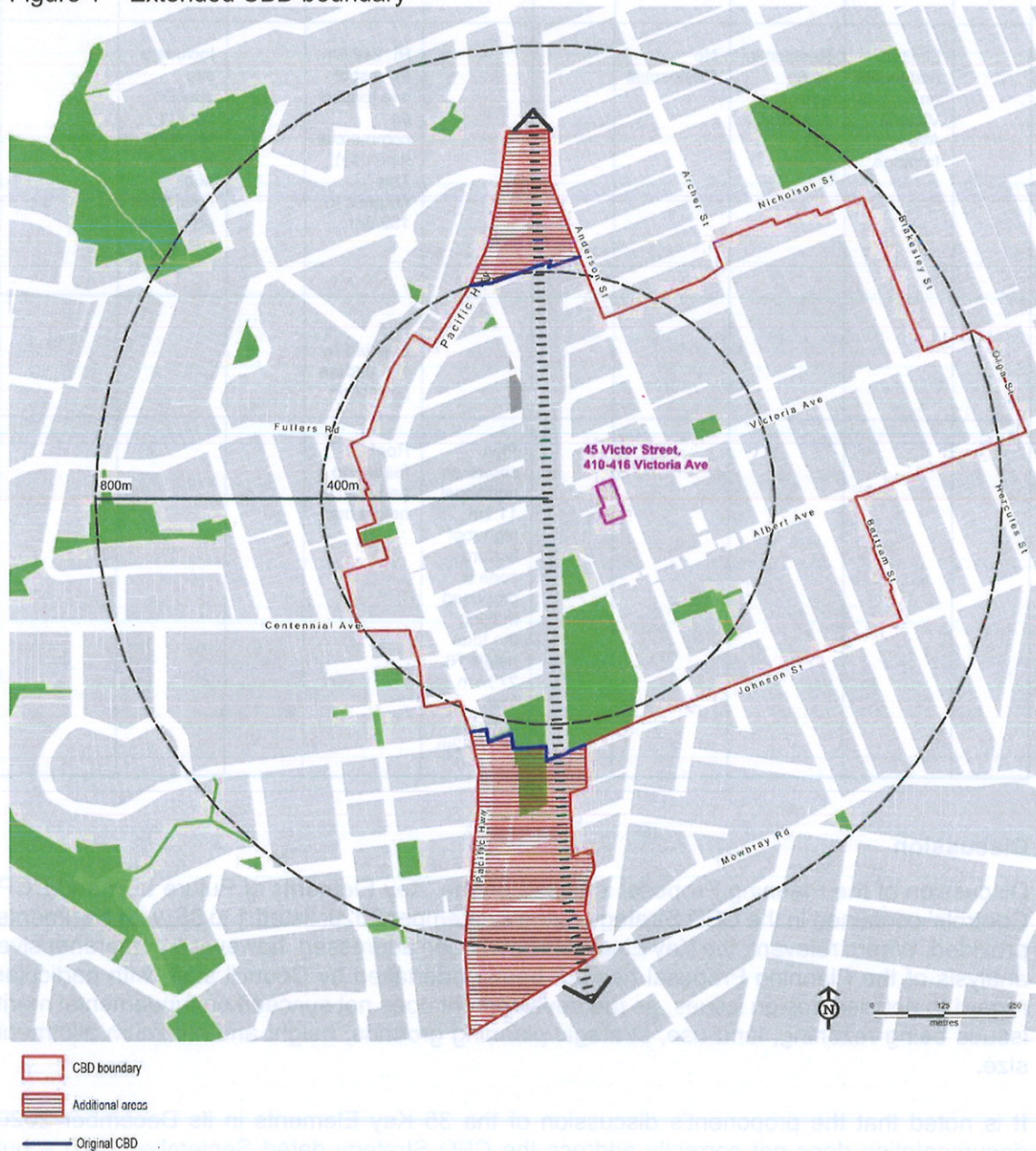
Key Element 1.

The Chatswood CBD boundary is expanded to the north and south as per Figure 3.1.1. to accommodate future growth of the centre.

Comment

The subject site is located within the existing Chatswood CBD boundary, and the boundary proposed in the CBD Strategy, as shown below in Figure 1.

Figure 1 – Extended CBD boundary



Land Use

- Key Element 2.** Land uses in the LEP will be amended as shown in Figure 3.1.2, to:
- (a) Protect the CBD core around the Interchange as commercial, permitting retail throughout to promote employment opportunities.
 - (b) Enable other areas to be mixed use permitting commercial and residential.

Comment

The subject site is located in the B3 Commercial Core zone under WLEP 2012 and is located in that part of the Chatswood CBD identified as Commercial Core under the CBD Strategy, as shown below in Figure 2.

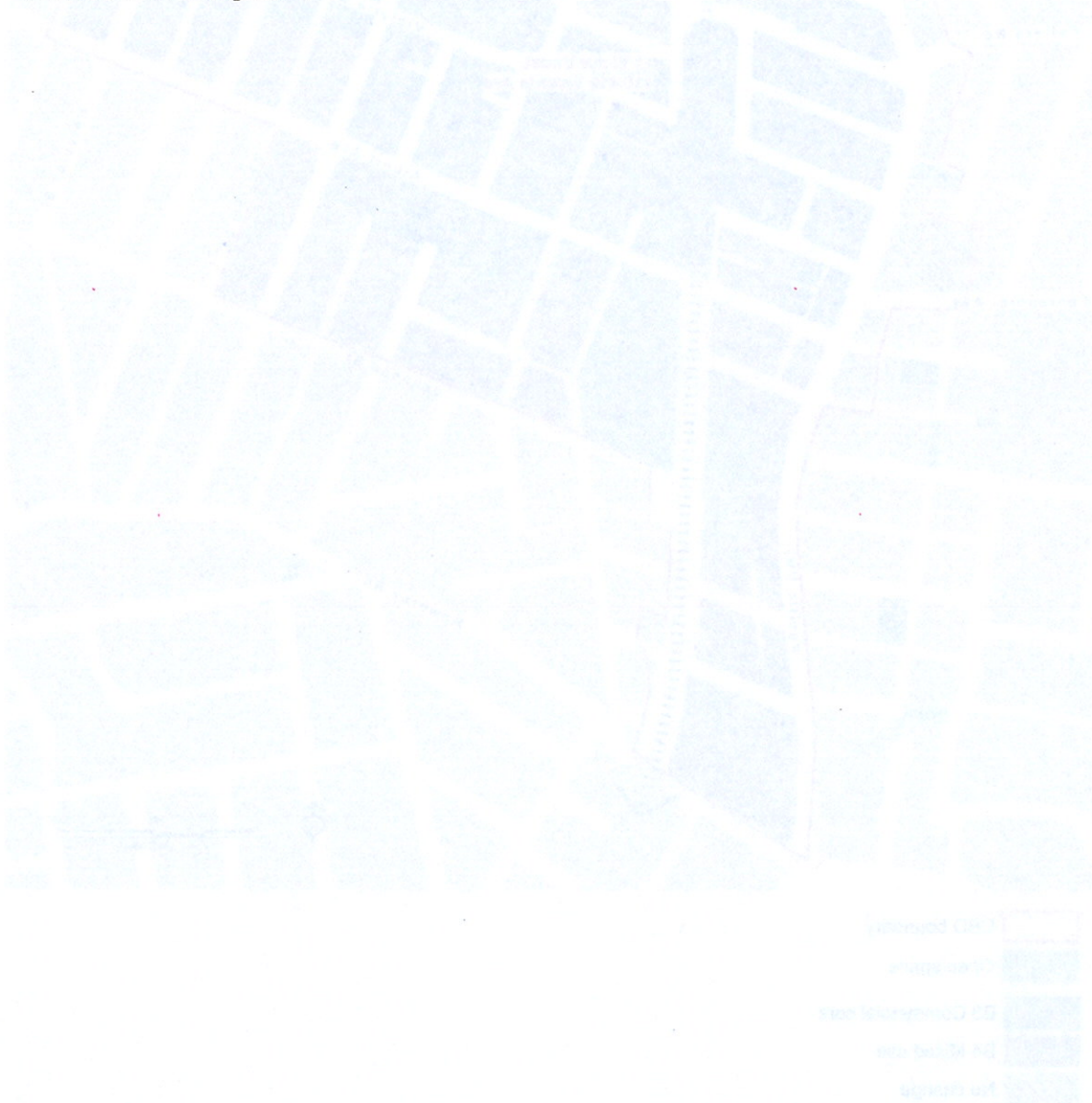
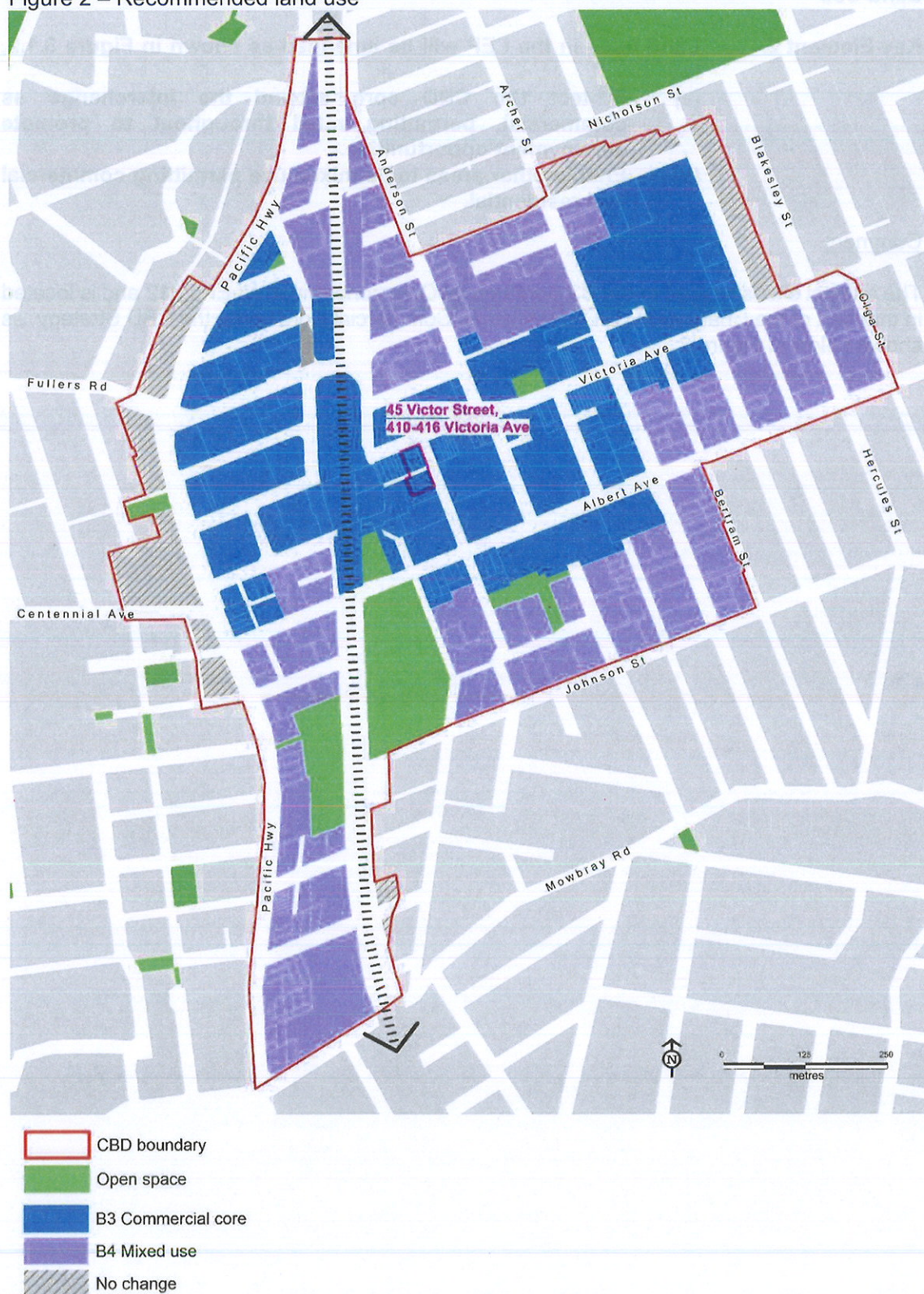


Figure 2 – Recommended land use



The Planning Proposal seeks to retain the B3 Commercial Core zoning and allow shop top housing as an additional permitted use across the site. To support the rezoning, the proponent has also provided economic advice in the form of an Economic Appraisal of the proposed redevelopment from Ernst and Young, reports and addendum letters from JLL and CBRE (Refer to Attachment 5 for the Economic Appraisal and addendum letters from JLL and CBRE) which discusses the economic benefits associated with the redevelopment of the subject site and viability as Mixed Use.

Allowing shop top housing as an additional permitted use across the site is not supported.

Residential land use for the site, which is limited under WLEP 2012 (explained further below), is not permitted under Key Element 2 contained in the CBD Strategy.

Residential use in the B3 Commercial Core zone is not reflected in the WLEP 2012 zone objectives. The permissible uses in the B3 zone include all forms of commercial premises, community, educational and entertainment facilities as well as hotels and clubs, and medical centres.

The objectives of the B3 Commercial Core zone relevant to the site are:

- *To provide a wide range of retail business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To strengthen the role of Chatswood as a major centre for the inner north sub-region and to improve its public domain and pedestrian links.*
- *To protect and encourage safe and accessible city blocks by providing active land uses on street and pedestrian frontages.*

WLEP 2012 does permit limited residential under Schedule 1, Clause 31, as follows:

"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."*

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).

In regards Area 5, part of the subject site is within (410-416 Victoria Avenue) and part is outside (45 Victor Street).

The proponent is currently able to lodge a development application based on the above relevant WLEP 2012 controls.

The CBD Strategy does not suggest retaining Schedule 1, Clause 31. The preparation of a comprehensive Council Planning Proposal to amend WLEP 2012 and implement the CBD Strategy would involve the deletion of this clause.

The site has been identified as B3 Commercial Core and the envisioned future development involves commercial and other non-residential uses.

The above position is based on a Council initiated review in 2016 of the Chatswood CBD land uses with regard to the Greater Sydney Commission strategic planning reports the *Greater Sydney Region Plan* and the *North District Plan*. The review also had regard to economic based reports initiated by Willoughby Council including the *Willoughby Economic Development Study*, March 2016, prepared by SGS and *Chatswood CBD Competitive and Comparative Analysis*, May 2016, prepared by AEC Group.

The Analysis section of the CBD Strategy discussed land use and concluded that Chatswood's commercial core is suffering a lack of confidence due to a range of factors including:

- A general lack of investment over the past 10-15 years, which has led to a decline in the overall standard of office accommodation and a lack of building stock which satisfies modern standards.
- The growth of Macquarie Park having an impact on Chatswood as well as competition with other North Shore centres of North Sydney and St Leonards.
- The erosion of the office core by residential uses particularly due to State-led Part 3A approvals. This has led to both qualitative issues with residential uses not being preferred neighbours for office towers, and concerns over whether Chatswood's office core has the 'critical mass' to succeed in the future or will dissipate over time.
- Centralisation of employment is an issue for many secondary office centres in Sydney, with many losing their 'critical mass'.

Economic advice from BIS Oxford Economics highlighted protection of offices as a vital part of Chatswood's land use mix. The office core is considered to provide benefits to subsidiary uses (including retail and residential with jobs close to living areas) and is vital in Chatswood competing with similar high-order centres as a diverse and 'complete' centre. The CBD Strategy viewed the current lack of confidence in Chatswood as a CBD as needing to be addressed to give confidence to both existing tenants and future investors, and this has led to the CBD Strategy approach to the commercial core. The key issues for encouraging the future of office uses in Chatswood include:

- Ensuring adequate capacity for the future, with capacity assumptions demonstrating that there is very little capacity in the current Commercial Core.
- Allowing for larger floor plate buildings, to attract A grade offices.
- Providing high environmental quality.
- Protecting the Commercial Core from residential encroachment.
- Encouraging smaller offices.

The CBD Strategy has attempted to find a balance of land uses to best plan for the future. In this regard the approach to land use is based on promoting office growth and promoting residential growth in the right locations, and this has resulted in the B3 Commercial Core zone and the surrounding B4 Mixed Use zone all within the CBD boundary.

The peripheral B4 Mixed Use zone will allow for considerable increase in density and height of residential development to ensure that sufficient residential development is located within the Chatswood CBD and close to infrastructure. This is based on residential not being permitted in the B3 Commercial zone. This land use mix and density approach to the B3 and B4 zones within the Chatswood CBD is considered consistent with and a response to strategic planning documents the *Greater Sydney Region Plan* and the *North District Plan*. It is considered that the CBD Strategy has provided capacity for additional mixed use development in Chatswood in appropriate locations, being the strategically planned Mixed Use zone.

The CBD Strategy has been further informed by *Chatswood CBD Strategy-Market Feasibility Testing*, March 2019, prepared by BIS Oxford Economics, and *Advice on Chatswood CBD Mixed Use Zone*, February 2020, prepared by SGS Economics and Planning.

The subject Planning Proposal request is not consistent with the identified land use mix in the Council endorsed CBD Strategy, as it seeks to allow a residential land use on this site that is outside the Mixed Use zone. Mixed use development is catered for in nearby mixed use zones, and is very much part of the envisioned future of the Chatswood CBD.

Council is aiming to promote and encourage commercial development within the commercial core, and the subject Planning Proposal is contrary to this objective. The CBD Strategy is seeking to provide certainty within the commercial core in order to encourage commercial development. Allowing residential as a permitted land use as proposed on this site within the commercial core will create uncertainty within the commercial core, discouraging commercial investment.

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 conditions of the DPIE endorsement of the Strategy are acknowledged, however it is not considered that the extent of residential proposed aligns with the intent of the DPIE direction. The quantum of residential land use in this Planning Proposal, being 12:1 (approximately 27,563m²) and 32 storeys compared to the non-residential land use of 8:1 (approximately 18,376m²) and 13 storeys is not supported based on strategic planning reasons. Council continues to emphasize that the subject site being located within the Commercial Core, very close to the Chatswood Interchange and other services, is not an appropriate location for this scale of additional residential floor space and associated residential related vehicle movement. It is also considered that the extent of residential related vehicle movement in Victor Street that would result, on a site with such immediate access to the Chatswood Interchange, is also at odds with the intent of the DPIE direction.

In conclusion, the Planning Proposal is not considered consistent with strategic planning documents *Greater Sydney Region Plan* and the *North District Plan*, 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.

Key Element 3. The existing DCP limits on office and retail use in parts of the Commercial Core to be removed.

Comment

As the Planning Proposal is not supported, there is no need to address this Key Element.

Key Element 4. Serviced apartments to be removed as a permissible use from the B3 Commercial Core zone.

Comment

This Key Element is applicable to the Planning Proposal as the site is located within the B3 Commercial Core zone.

It is noted that serviced apartments are not proposed.

As the Planning Proposal is not supported, there is no need to amend the WLEP 2012 to address this Key Element.

Planning Agreements to fund Public Domain

Key Element 5. Planning Agreements will be negotiated to fund public domain improvements.

Comment

As the Planning Proposal is not supported, planning agreements have not been negotiated.

Key Element 6. A new Planning Agreements Policy will apply and be linked to a contributions scheme that will provide the public and social infrastructure in the Chatswood CBD necessary to support an increased working and residential population.

The scheme would:

- a) Apply to residential uses.
- b) Apply to commercial uses above 10:1 FSR.
- c) Operate in addition to any adopted Section 7.11 or 7.12 contributions scheme and separate from Affordable Housing requirements within Willoughby Local Environment Plan (WLEP).
- d) Contribute to public domain improvements in the centre (including streets and parks) that would enhance amenity and support residential and commercial uses.

Comment

Council wrote to the proponent in regards planning agreements to fund public domain in its letter of issues dated 28 October 2020 stating:

"To address Key Elements 5, 6 and 7, which are standard considerations for Planning Proposals seeking to apply the Strategy and would relate to the subject site, a Letter of Offer is requested with reference to Council's draft VPA Policy recently on exhibition. Particular reference is to be made to the expectation outlined in Key Elements 6 and 7."

The proponent responded in the Response to Council letter dated 28 October 2020 and amended Planning Proposal, dated 18 December 2020:

"We understand Council's draft VPA Policy has not yet been finalised and that there are significant objections to the policy which still have a process to go through. We attach ... the Mirvac submission dated 19 October 2020. Importantly, attached to

that submission is DPIE's draft Planning Agreements Practice Note which highlights the following:

Planning agreements should not be used explicitly for value capture in connection with the making of planning decisions. For example, they should not be used to capture land value uplift resulting from rezoning or variations to planning controls. Such agreements often express value capture as a monetary contribution per square metre of increased floor area or as a percentage of the increased value of the land. Usually the planning agreement would only commence operation as a result of the rezoning proposal or increased development potential being applied.

Notwithstanding the above, and considering the challenging financial viability of providing any new commercial floor space in the Chatswood CBD, we note the following public benefit offer ...:

- Establishment of a minimum 8:1 FSR for non-residential employment generating GFA.
- Arrangements with council for the upgrade and embellishment of Post Office Lane.
- Delivery of 4% of the total residential floor space as affordable housing."

As the Planning Proposal is not supported planning agreements have not been negotiated.

Key Element 7. All redevelopments in the Chatswood CBD should contribute to public art in accordance with Council's Public Art Policy.

Comment

It is noted that the proponent has not directly addressed this Key Element.

As the Planning Proposal is not supported, the provision of public art has not been negotiated.

Design Excellence and Building Sustainability

Key Element 8. Design excellence is to be required for all developments based on the following process:

- a) A Design Review Panel for developments up to 35m high.**
- b) Competitive designs for developments over 35m high.**

Comment

Council wrote to the proponent in regards design excellence and building sustainability in its letter of issues dated 28 October 2020 stating:

"Council seeks an approach to design excellence and building sustainability that is consistent with Key Elements 8, 9 and 10, which are standard requirements for Planning Proposals seeking to apply the Strategy and which would relate to the subject site, and Council's Design Excellence Policy.

Acknowledgement of consistency with the required approach is requested. Any other suggested approach is not supported."

The proponent responds to design excellence and building sustainability in the Response to Council letter dated 28 October 2020 and amended Planning Proposal, dated 18 December 2020 as follows:

"Section 5.5 of the Planning Report that was lodged on 25 September 2020 outlines the extensive design work already undertaken on the subject site. It also outlines an approach whereby a competitive design process is proposed to be undertaken that is consistent with the City of Sydney competitive design alternatives process which has been used with success to deliver truly excellent design outcomes."

Council again states that it is seeking consistency with CBD Strategy Key Elements 8, 9 and 10 and Council's Design Excellence Policy.

No further discussion is provided as the Planning Proposal is not supported.

Key Element 9. Achievement of design excellence will include achievement of higher building sustainability standards.

Comment

Council requires sustainability to be addressed in accordance with the CBD Strategy, in draft DCP provisions accompanying a Planning Proposal.

No further discussion is provided as the Planning Proposal is not supported.

Key Element 10. The Architects for design excellence schemes should be maintained through the development application process and can only be substituted with written agreement of Council.

Comment

No further discussion is provided as the Planning Proposal is not supported.

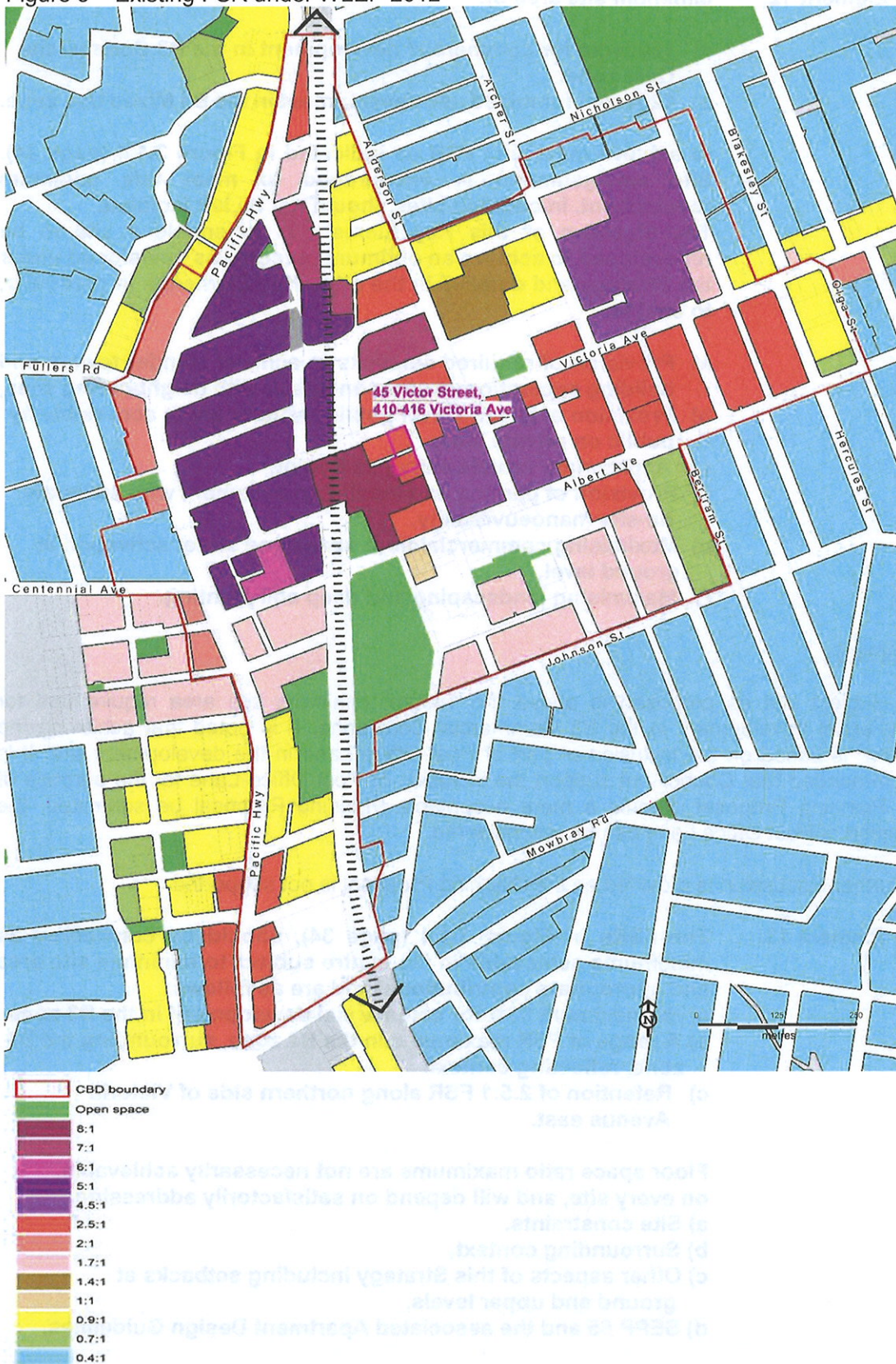
Floor Space Ratio (FSR)

Key Element 11. Figure 3.1.3 shows the existing FSR controls under WLEP 2012.

Comment

The subject site is in a location with a maximum floor space ratio under WLEP 2012 of 2.5:1 as shown below in Figure 3.

Figure 3 – Existing FSR under WLEP 2012



Key Element 12. Minimum site area of:

- a) 1800sqm for commercial development in the B3 Commercial Core zone.
- b) 1200sqm for mixed use development in the B4 Mixed Use zone.

to achieve maximum FSR as indicated in Figure 3.1.4 (page 34). Site amalgamation is encouraged to meet this minimum requirement. In addition sites should not be left isolated.

The objective of this Key Element is to enable a site to be redeveloped to achieve an optimum outcome as envisioned under the Strategy and detailed in the other Key Elements. In particular, to enable:

- a) Provision of required setbacks to achieve slender towers and building separation whether on-site or with neighbouring sites,
- b) Provision of ground level public realm or areas accessible by public on private land,
- c) Appropriate vehicle entry / exit point,
- d) Provision of parking and loading in basement with adequate on-site manoeuvrability,
- e) Maximising commercial floor space and street activation at ground level,
- f) Maximising landscaping and deep soil planting.

Comment

The subject site as proposed is above the 1800m² minimum site area requirement for commercial development in the B3 Commercial Core zone. It is noted that achieving the 1800m² is based on the inclusion of part of Post Office Lane in the development site. It is recommended that Council not support the inclusion of Post Office Lane for the purpose of this Planning Proposal. Should a more acceptable Planning Proposal be submitted, the inclusion of Post Office Lane can be reconsidered.

No further discussion is provided as the Planning Proposal is not supported.

Key Element 13. The FSRs in Figure 3.1.4 (page 34), should be considered as maximums achievable in the centre subject to minimum site area and appropriate contributions, and are as follows:

- a) No maximum FSR for commercial development in the B3 zone.
- b) A range of FSR maximums in the B4 zone, surrounding the B3 zone, reflecting context.
- c) Retention of 2.5:1 FSR along northern side of Victoria Avenue east.

Floor space ratio maximums are not necessarily achievable on every site, and will depend on satisfactorily addressing:

- a) Site constraints,
- b) Surrounding context,
- c) Other aspects of this Strategy including setbacks at ground and upper levels,
- d) SEPP 65 and the associated Apartment Design Guidelines.

Comment

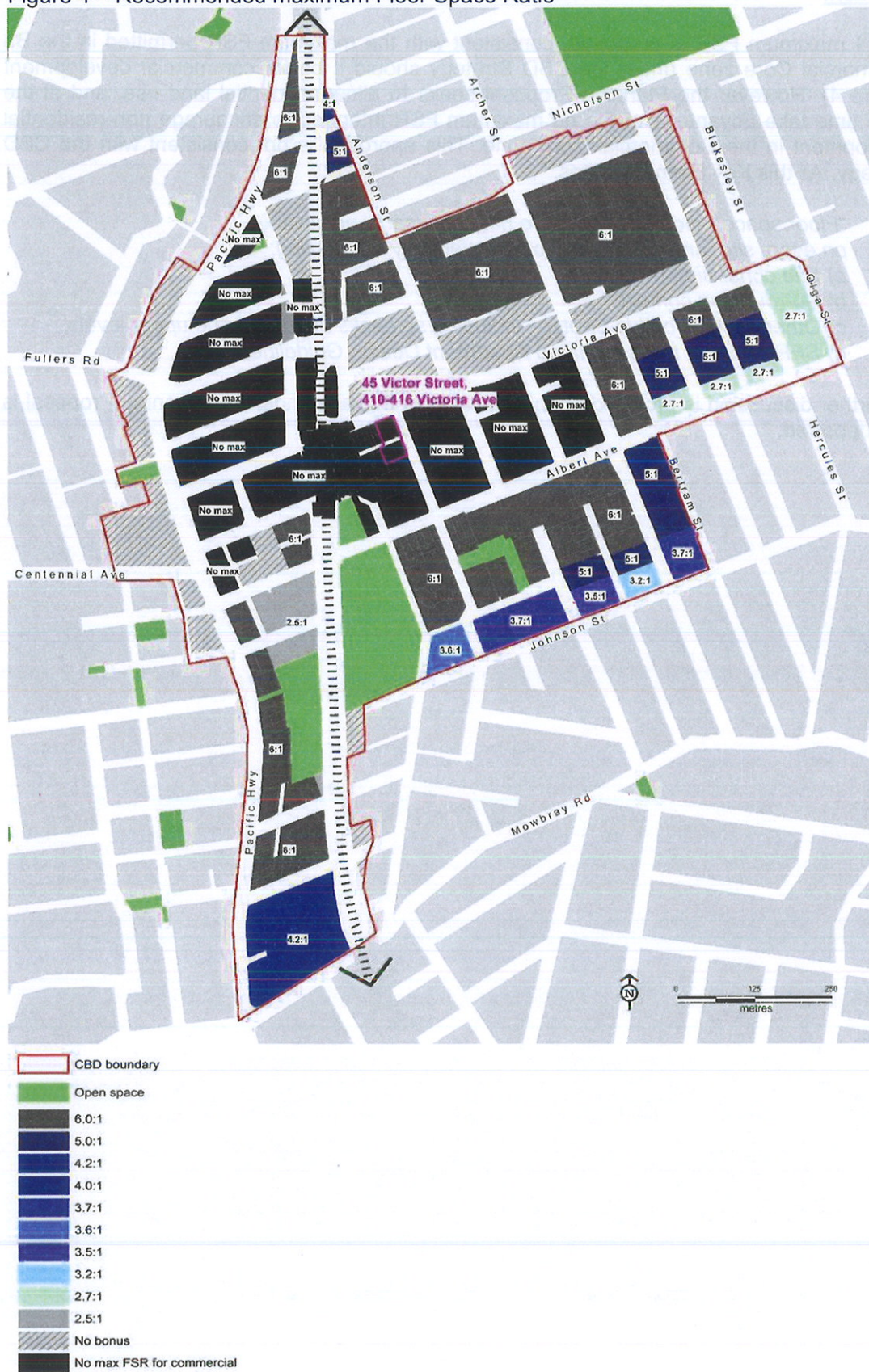
A 20:1 maximum FSR is proposed, consistent with the maximum FSR permitted in the B3 Commercial Core zone under the CBD Strategy should it be for commercial development (Figure 4). However the Planning Proposal seeks to allow residential land use, and at the same time take advantage of the no maximum FSR intended to encourage non-residential development in the Commercial Core zone. This approach is not consistent with the CBD Strategy. As this Key Element states:

"Floor space ratio maximums are not necessarily achievable on every site, and will depend on satisfactorily addressing:

- a) Site constraints,*
- b) Surrounding context,*
- c) Other aspects of this Strategy including setbacks at ground and upper levels,*
- d) SEPP 65 and the associated Apartment Design Guidelines."*

No further discussion is provided as the rezoning of this site under the Planning Proposal is not supported.

Figure 4 – Recommended maximum Floor Space Ratio



Key Element 14. Affordable housing is to be provided within the maximum floor space ratio, and throughout a development rather than in a cluster.

Comment

No discussion is provided as the Planning Proposal is not supported.

Key Element 15. Where the maximum floor space ratio of 6:1 is achieved, the minimum commercial floor space ratio sought in development in a Mixed Use zone is 1:1.

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

Comment

The site is located in the B3 Commercial Core zone, therefore Key Element 15 is not relevant.

Built Form

Key Element 16. In order to achieve the slender tower forms sought by Council the maximum floor plate at each level of a development should be no more than:

- a) 2000sqm GFA for office (to achieve this maximum a large site would be required).
- b) 700sqm GFA for residential towers above Podium within Mixed Use zones.

Comment

The Planning Proposal includes a residential tower component.

Council wrote to the proponent in regards built form in its letter of issues dated 28 October 2020 stating:

"Key Elements 16, 17 and 18 are standard requirements for Planning Proposals seeking to apply the Strategy and would relate to the subject site. If residential land use is proposed in a mixed-use approach to a site within the B3 Commercial Core zone, then requirements for mixed use development in the B4 Mixed Use zone would apply. Therefore, residential tower floor plates should not be greater than GFA 700sqm, with this being a maximum floor plate figure, reflective of the slender tower form envisioned under the Strategy. Residential tower floor plates of 870sqm are not supported. The proposed height of the building is not an acceptable argument for increasing the floor plate size."

The proponent responds to built form in the Response to Council letter dated 28 October 2020 and amended Planning Proposal, dated 18 December 2020 as follows:

"Noting that Council's CBD strategy makes no reference to a mixed use approach on a site within the B3 Commercial Core zone, it is logical that the built form controls specified for commercial buildings under Council's CBD Strategy within the B3 zone

should apply to all buildings within this zone, and that the use of the building should not be a consideration in determining its slenderness."

Council does not agree with the above position taken by the proponent, as residential development is not a permissible use under the CBD Strategy. Any change to land use permissibility within the B3 Commercial Core requires a comprehensive revision of the entire CBD Strategy – one aspect of the CBD Strategy should not be taken in isolation of the other 35 Key Elements in terms of achieving the expected vision for Chatswood. It is restated that the controls for B3 Commercial Core were intended for a commercial core urban environment and were intended to encourage commercial development. The controls for mixed use development were intended for a mixed use urban environment. Built form and this Key Element is not discussed further as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Key Element 17. In pursuit of the same goal of slender tower forms, the width of each side of any tower should be minimised to satisfactorily address this objective. To the same end, design elements that contribute to building bulk are not supported, and should be minimised.

Setbacks are considered an important part of achieving slender tower forms.

Comment

Built form and this Key Element is not discussed as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Key Element 18. If there is more than one residential tower on a site, sufficient separation is to be provided in accordance with setbacks required in this Strategy, SEPP 65 and the Apartment Design Guidelines, to ensure that the slender tower form objective is achieved. Council will seek to avoid an outcome where two towers read as one large tower. Towers are not to be linked above Podium and should operate independently regarding lifts and services.

Comment

Built form and this Key Element is not discussed as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Sun Access to Key Public Spaces and adjacent conservation areas

Key Element 19. The sun access protection in Figure 3.1.5 will be incorporated into LEP controls, to ensure no additional overshadowing and protection in mid winter of:

- a) Victoria Avenue (between interchange and Archer St) 12pm - 2pm.
- b) Concourse Open Space 12pm - 2pm.
- c) Garden of Remembrance 12pm - 2pm.
- d) Tennis and croquet club 12pm - 2pm.
- e) Chatswood Oval 11am - 2pm (which in turn also protects Chatswood Park).

In addition,

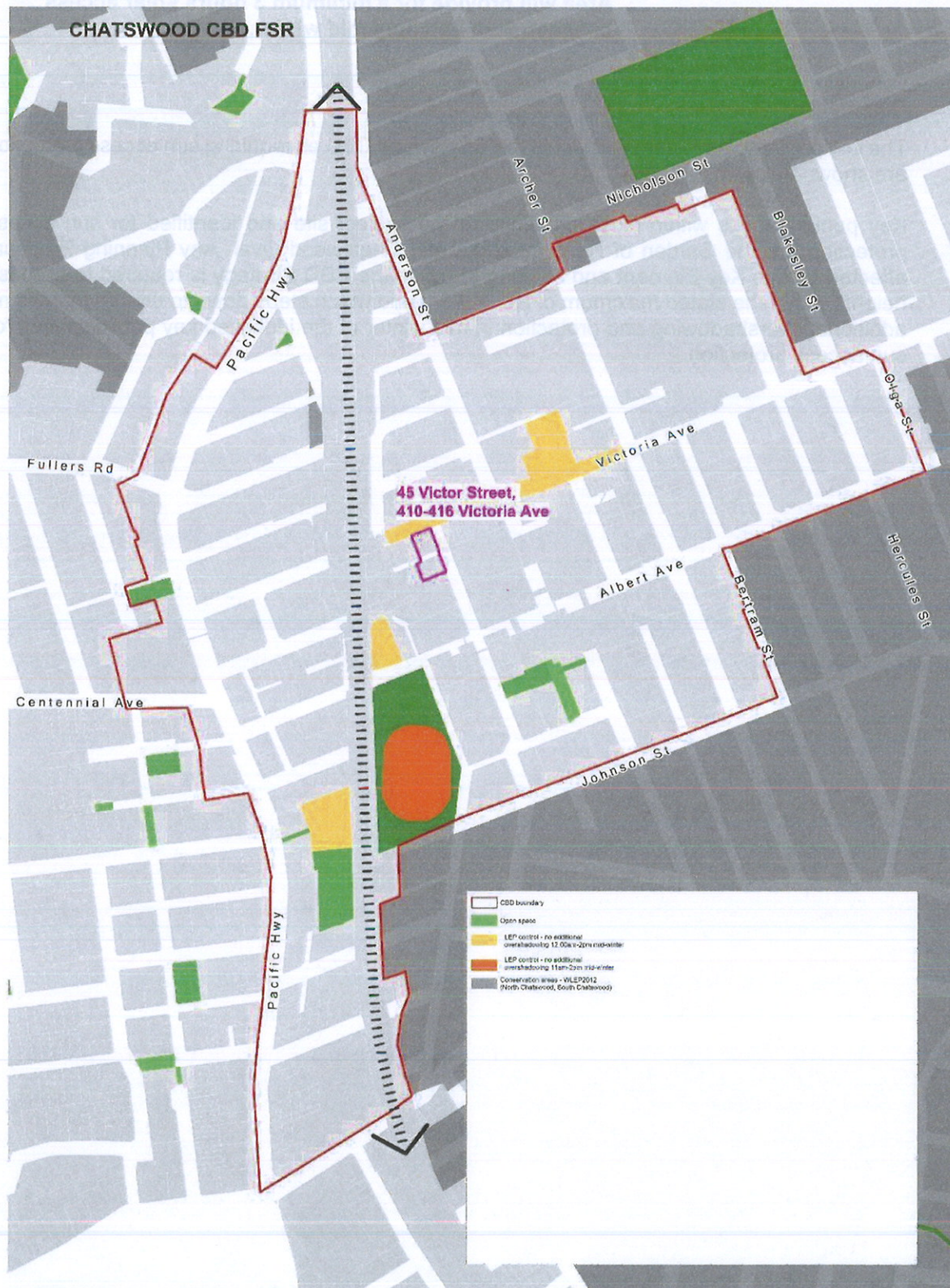
- f) **Heights adjoining the South Chatswood Conservation Area will provide for a minimum 3 hours solar access between 9am and 3pm mid winter.**

Comment

The key public spaces identified within the Chatswood CBD as requiring sun access protection are shown below in Figure 5.

Key public spaces within close proximity to the subject site and identified for sun access protection are the Garden of Remembrance and Chatswood Oval. Any Planning Proposal affected by this Key Element and seeking to utilise the CBD Strategy is required to propose heights within the stated maximum of RL 246.8m and which steps down to ensure there is no additional overshadowing and protection in mid winter of the identified key public spaces for sun access protection.

Figure 5 – Recommended sun access protection for public spaces



Sun access to key public spaces and this Key Element is not discussed further as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Building Heights

Key Element 20.

Maximum height of buildings in the CBD will be based on Figure 3.1.6, based on context and up to the airspace limits (Pans Ops plane), except as reduced further to meet:

a) Sun access protection.

Achievement of nominated height maximums will depend on addressing site constraints, surrounding context and other aspects of this Strategy in addition to satisfying SEPP 65 and Apartment Design Guidelines.

Comment

Figure 6 below shows the height maximums in the Chatswood CBD, including where height is to be reduced in order to achieve sun access protection to the public open space areas identified in Figure 5 (above).

As noted above, the subject site is located within the sun access protection area which reduces maximum height.

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 RL 246.8m on the remainder, is permitted (subject to other Key Elements such as land use, minimum lot size and setbacks being satisfactorily addressed). The Planning Proposal seeks a RL 262m height control over the entire site (with concept plans showing an additional 11.7m high roof feature zone making the total height RL 273.7m).

The proponent has justified a RL 262m height across the site as follows:

- Victoria Avenue frontage increase above 7m

"Whilst a 7-metre height limit might be appropriate for small scale single lot retail tenancies without activated roof terraces, it is insufficient and restrictive for the scale of high-quality commercial development envisaged by the strategy."

- Increase from RL 246.8m to RL 262m ((with concept plans showing an additional 11.7m high roof feature zone making the total height RL 273.7m)

"Following receipt of Council's 28 October 2020 letter, a specialist strategic airspace consultant was engaged to review the proposed maximum building height."

The letter summarises that "the maximum height of the proposed development is ~43m below the limiting RTCC surface height and 73m below the PANS-OPS MSA surface. As such there will be no need to gain prior height approval under the Airports (Protection of Airspace) Regulations (APAR)."

The Planning Proposal has also demonstrated that the proposed building height complies with Council's solar access requirements to surrounding open space.

The CBD Strategy references the Pans-Ops plane and relevant overshadowing controls as the determinants of height in the precinct, and it is therefore considered that the Proposal is consistent with the vision and requirements set by the strategy."

The approach to height is not supported by Council as it does not reflect the built outcome envisioned under the CBD Strategy.

In regards to the RL 246.8m height maximum on this site, Key Element 20 refers to context as well as air space limits. The envisioned height for the Chatswood CBD Commercial Core, and for development addressing satisfactorily the CBD Strategy, is RL 246.8m (which includes roof features). This involves an increase in height on this site of approximately 150 metres. The proponent is proposing a different vision with regarding to height by proposing to go even higher.

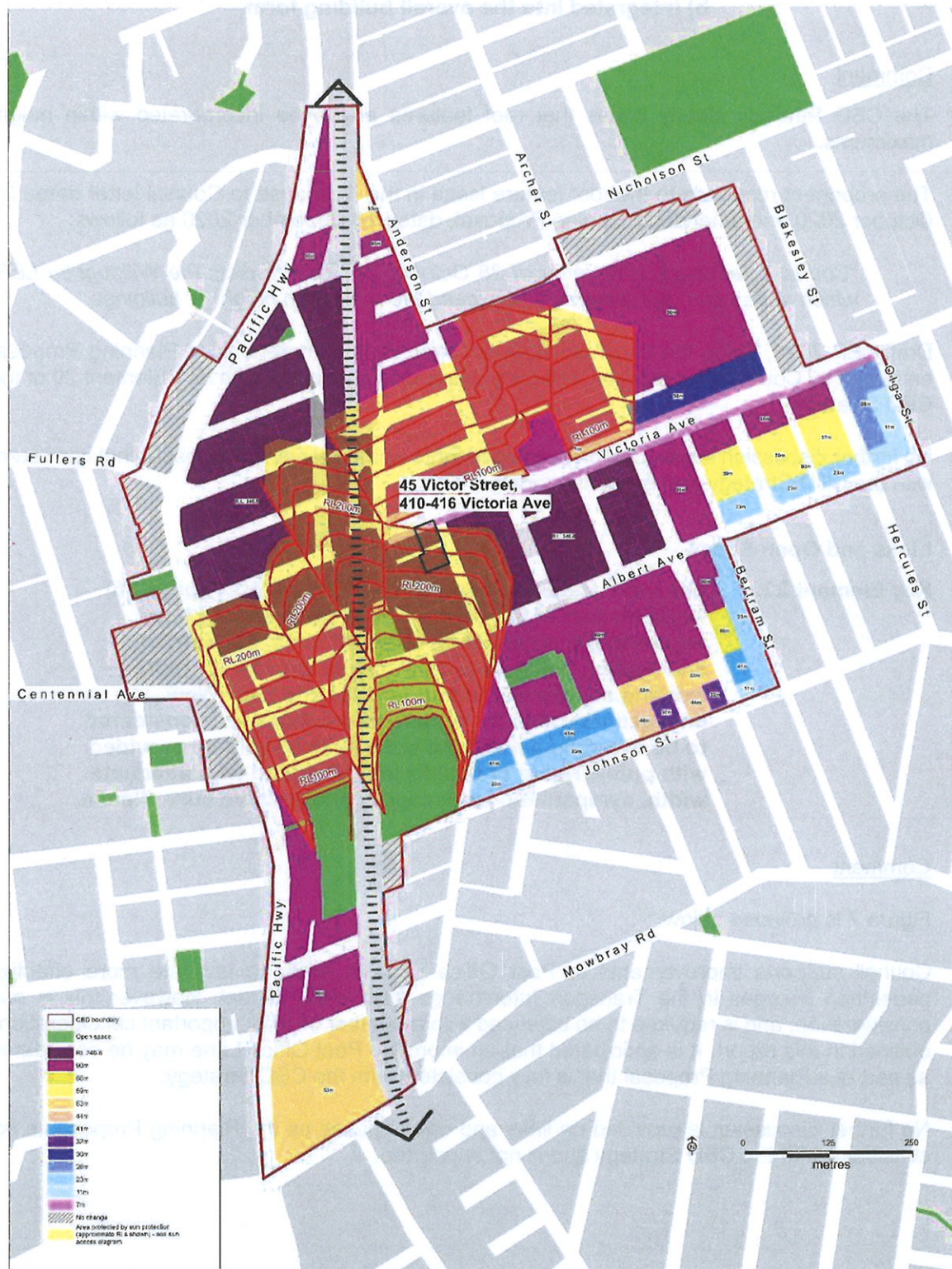
It is also noted that other Key Elements have not been satisfactorily addressed. As this Key Elements states:

"Achievement of nominated height maximums will depend on addressing site constraints, surrounding context and other aspects of this Strategy in addition to satisfying SEPP 65 and Apartment Design Guidelines."

This means that height maximums require consistency with other Key Elements. An approach of consistency with some Key Elements and non-consistency with other Key Elements is not encouraged under the CBD Strategy.

Figure 6 – Recommended height

CHATSWOOD CBD HEIGHT



- Key Element 21.** All structures located at roof top level, including lift over runs and any other architectural features are to be:
- a) Within the height maximums.
 - b) Integrated into the overall building form.

Comment

The CBD Strategy clearly states that roof features are to be incorporated within height maximums.

The proponent responds to the roof feature issue in the Response to Council letter dated 28 October 2020 and amended Planning Proposal, dated 18 December 2020 as follows:

"Council's feedback in its letter of 28 October 2020 contradicts the Willoughby LEP, which states that roof features can exceed the maximum height of buildings."

Draft LEP 2020, being the Local Government Area wide comprehensive Planning Proposal endorsed by Council for exhibition, removes this clause consistent with Key Element 20 of the CBD Strategy.

No further discussion is provided on building heights as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Links and Open Space

- Key Element 22.** The links and open space plan in Figure 3.1.7 (page 36) will form part of the DCP. All proposals should have regard to the potential on adjacent sites. Pedestrian and cycling linkages will be sought in order to improve existing access within and through the CBD. New linkages may also be sought where these are considered to be of public benefit. All such links should be provided with public rights of access and designed with adequate width, sympathetic landscaping and passive surveillance.

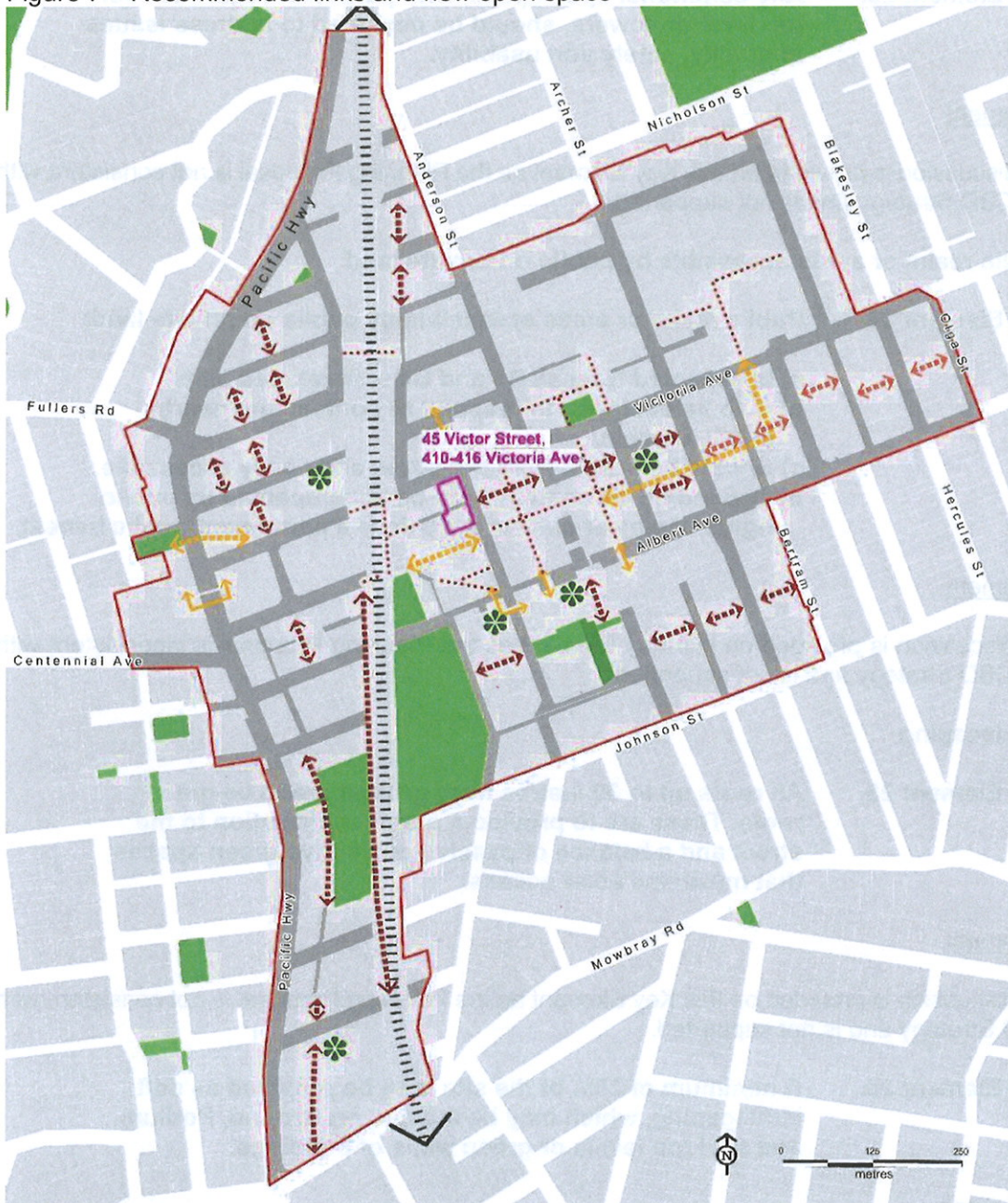
Comment

Figure 7 is provided below.

Council supports improvements to Post Office Lane in order to facilitate more effective pedestrian linkages to the Transport Interchange from Victor Street. However this is one consideration, and is required to be balanced with a number of other important considerations outlined in this report. It is anticipated that an improved Post Office Lane may be considered as part of a Planning Proposal that is fully consistent with the CBD Strategy.

No further discussion is provided on links and open spaces as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Figure 7 – Recommended links and new open space



- CBD boundary
- Open space
- New open space
- Open air 24 hour through-site links
- Open air 24 hour through-site links within block
- Through-building links
- Existing upper storey links
- Proposed upper storey links
- Streets and public places

Key Element 23. Any communal open space, with particular regard to roof top level on towers, should be designed to address issues of quality, safety and usability.

Comment

No discussion is provided on this Key Element as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Public realm or areas accessible by public on private land

Key Element 24. Public realm or areas accessible by public on private land:

- a) Is expected from all B3 and B4 redeveloped sites.
- b) Is to be designed to respond to context and nearby public domain.
- c) Should be visible from the street and easily accessible.
- d) Depending on context, is to be accompanied by public rights of way or similar to achieve a permanent public benefit.

Comment

No discussion is provided on this Key Element as the Planning Proposal is inconsistent with the CBD Strategy and is not supported.

Landscaping

Key Element 25. All roofs up to 30 metres from ground are to be green roofs. These are to provide a green contribution to the street and a balance of passive and active green spaces that maximise solar access.

Comment

No discussion is provided on this Key Element as the Planning Proposal is not consistent with CBD Strategy and is not supported.

Key Element 26. A minimum of 20% of the site is to be provided as soft landscaping, which may be located on Ground, Podium and roof top levels or green walls of buildings.

Comment

No discussion is provided on this Key Element as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Setbacks and street frontage heights

Key Element 27. Setbacks and street frontage heights are to be provided based on Figure 3.1.8, which reflect requirements for different parts of the Chatswood CBD. With setbacks of 3 metres or more, including the Pacific Highway, deep soil planting for street trees is to be provided.

- a) Victoria Avenue retail frontage

- i. **Maximum of 7 metre street wall height at front boundary.**
- ii. **Minimum 6 metre setback above street wall**
- d) **Urban Core**
 - i. **Maximum 24 metre street wall height at front boundary.**
 - ii. **Minimum 6 metre setback above street wall to tower.**

Comment

The site is located within the Victoria Avenue retail frontage precinct, on the southern side of Victoria Avenue within close proximity to the Chatswood Transport Interchange, with a 7m street wall and minimum 6m setback above street wall requirement. The Victor Street side boundary is within the Urban Core precinct, where a maximum 24 metre street wall height minimum 6 metre setback above street wall is required. In regards Post Office Lane, the requirements of the Urban Core precinct would apply.

The proponent responds to the setback and street wall height issue in the Response to Council letter dated 28 October 2020 and amended Planning Proposal, dated 18 December 2020 as follows:

"We are aware of the setback desires under Key Elements 28 & 29 and the proposal complies with them wherever possible, however some departures are proposed to the specific dimensions based on viability and analysis of the site's relationship to its surrounding context. While the specific numerical requirements of the Key Elements aren't strictly adopted in every instance, the intent of the setback controls (i.e. providing adequate separation to existing or future neighbouring properties) is satisfied ..."

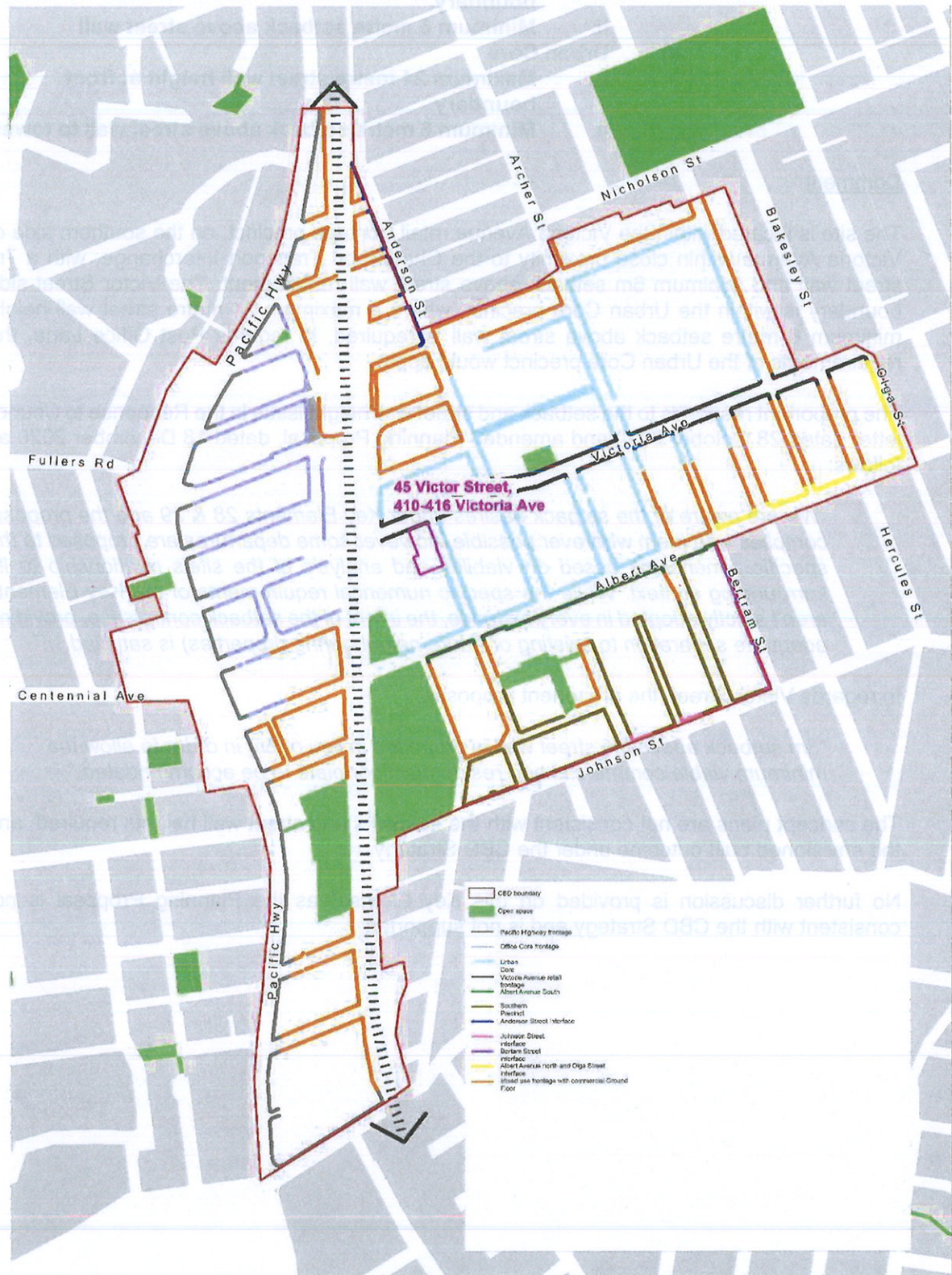
In regards Victor Street, the proponent proposes:

"3m setback above the street wall is proposed in lieu of 6m in order to allow the minimum viable commercial and residential floor plate to be accommodated."

The concept plans are not consistent with the setbacks and street wall heights required, and the envisioned built outcome under the CBD Strategy.

No further discussion is provided on this Key Element as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Figure 8 – Recommended setbacks and street frontage heights



Key Element 28. All towers above podiums in the B3 Commercial Core and B4 Mixed Use zones are to be setback from all boundaries a minimum of 1:20 ratio of the setback to building height.

This means if a building is:

- a) A total height of 30m, a minimum setback from the side boundary of 1.5m is required for the entire tower on any side.
- b) A total height of 60m, a minimum setback from the side boundary of 3m is required for the entire tower on any side.
- c) A total height of 90m, a minimum setback from the side boundary of 4.5m is required for the entire tower on any side.

Comment

It is noted that the commercial and residential tower above podium is setback from Victor Street by 3m. This setback is considerably less than what is anticipated under the CBD Strategy for a building of this height (over 8m). It is again restated that proposed height is required to have regard to other Key Elements, including setbacks and street wall heights, as well as the circumstances of a site.

No discussion is provided on this Key Element as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Key Element 29. Building separation to neighbouring buildings is to be:

- a) In accordance with the Apartment Design Guide for residential uses.
- b) A minimum of 6 metres from all boundaries for commercial uses above street wall height.

Comment

The Planning Proposal does not satisfy the applicable Apartment Design Guide setbacks.

It is also noted that the commercial and residential tower (above Level 6) is setback from Victor Street by 3m – not 6m. Also refer to Key Element 28.

No further discussion is provided as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Active Street Frontages

Key Element 30. At ground level, to achieve the vibrant CBD Council desires, buildings are to maximise active frontages. Particular emphasis is placed on the B3 Commercial Core zone. Blank walls are to be minimised and located away from key street locations.

Comment

Active street frontages are to be provided at ground level for Victoria Avenue, Victor Street and Post Office Lane.

No discussion is provided as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Further Built Form Controls

Key Element 31. Site Isolation will be discouraged and where unavoidable joined basements and zero-setback podiums should be provided to encourage future efficient sharing of infrastructure.

Comment

No further discussion is provided as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Key Element 32. Controls will be applied to ensure the traditional lot pattern along Victoria Ave east (building widths of between 6-12m) is reflected into the future.

Comment

The site is affected by this Key Element.

Any proposal on this site must adhere to the recommended traditional lot pattern arrangement along Victoria Avenue.

No further discussion is provided as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Key Element 33. Floor space at Ground level is to be maximised, with supporting functions such as car parking, loading, garbage rooms, plant and other services located in Basement levels.

Comment

Ground level floor space, including that adjacent laneways, is to be maximised in any redevelopment under the CBD Strategy.

No further discussion is provided as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Key Element 34. Substations are to be provided within buildings, not within the streets, open spaces or setbacks and not facing key active street frontages.

Comment

No discussion is provided as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Traffic and Transport

Key Element 35. The CBD Strategy employs a Travel Demand Management approach seeking to modify travel decisions to achieve more desirable transport, social, economic and environmental objectives consistent with Council's Integrated Transport Strategy. In addition, site specific traffic and transport issues

are to be addressed as follows:

- a) Vehicle entry points to a site are to be rationalised to minimise streetscape impact, with one entry area into and exiting a site. To achieve this objective loading docks, including garbage and residential removal trucks, are to be located within Basement areas. Where possible, cars and service vehicle access should be separated.
- b) In order to facilitate rationalisation of vehicle entry points on neighbouring sites, all development sites are to provide an opportunity within Basement levels to provide vehicle access to adjoining sites when they are developed.
- c) All vehicles are to enter and exit a site in a forward direction. Physical solutions, rather than mechanical solutions are sought.
- d) All commercial and residential loading and unloading is required to occur on-site and not in public streets.
- e) Car parking should be reduced consistent with the objectives of Council's Integrated Transport Strategy and in accordance with any future revised car parking rates in Councils DCP.
- f) Other strategies for car parking reduction include reciprocal arrangements for sharing parking and car share.

Comment

Traffic issues have not been fully reviewed, as they are secondary to the land use, strategic planning, height and setback issues, upon which the Planning Proposal is not supported.

No further discussion is provided as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Full consideration of traffic issues would be required, based on a proposal consistent with the CBD Strategy.

Other Issues

Site Specific Development Control Plan provisions

The proponent has submitted draft *Development Control Plan* provisions. Any future Planning Proposal requires draft provisions satisfactorily addressing the 35 Key Elements of the CBD Strategy as well as any other site specific issues.

No further discussion is provided as the Planning Proposal is not consistent with the CBD Strategy and is not supported.

Department of Planning, Industry and Environment Requirements

The Planning Proposal is considered not to be in accordance with the requirements under Clause 3.33(2) of the *Environmental Planning and Assessment Act 1979* and the Department of Planning, Industry and Environment (December 2018) '*A Guide to Preparing Planning Proposals*'. This document establishes six parts for consideration of a Planning Proposal

(Attachment 3).

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, and fully endorsed by the Department of Planning, Industry and Environment (DPIE) on 9 July 2020 with qualifications. This has been noted by Council on 14 September 2020.

Under WLEP 2012 and the Council endorsed CBD Strategy B3 Commercial Core zoning, residential development is not a permitted land use. The proponent has proposed a mixed use style development with a 60% residential, 40% commercial land use split.

The Planning Proposal is inconsistent with the Council endorsed CBD Strategy in regards land use and strategic planning. Other issues relate to height, setbacks and street wall heights.

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*. The economic analysis provided by the proponent does not change the Council position, that the preservation of the B3 Commercial Core will have important economic benefits for the future of the Chatswood CBD.

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

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*.