

ATTACHMENT 3

COUNCIL ASSESSMENT OF DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT'S 'A GUIDE TO PREPARING PLANNING PROPOSALS'

The Planning Proposal is considered inconsistent with the requirements under Clause 3.33(2) of the *Environmental Planning and Assessment Act 1979* and the Department of Planning, Industry and Environment (DPIE) - December 2018 'A Guide to Preparing Planning Proposals'. This document establishes six parts for consideration of a Planning Proposal:

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The Planning Report submitted in support of the Planning Proposal addresses the issue of objectives or intended outcomes as follows:

"To amend the planning controls to facilitate a viable mixed use development scheme which achieves a high portion of employment generating uses to align with State and local objectives for the Chatswood Strategic Centre."

The proponent states the proposed amendments to the development standards aim to facilitate development which delivers a commercial floor plate which meets the requirements for A grade office space, provides high quality design outcomes and urban renewal including Post Office Lane, and support public transport patronage and reduce private car use by locating a mix of retail, commercial and residential uses in a highly accessible location.

PART 2 – EXPLANATION OF PROVISIONS

The proponent seeks to amend *Willoughby Local Environmental Plan 2012* as follows:

- a) Amend the Height of Buildings Map (Sheet HOB_004) to provide:
 - A maximum height of RL 262m (excluding roof features) for 45 Victor Street and 410-416 Victoria Avenue, Chatswood.
- b) Remove Clause 4.3A.
- c) Amend the Floor Space Ratio Map (Sheet FSR_004) to provide:
 - A floor space ratio of 20:1 for 45 Victor Street and 410-416 Victoria Avenue, Chatswood.
- d) Require a minimum non-residential FSR of 8:1.

PART 3 – JUSTIFICATION

Questions to consider when demonstrating the justification

Section A - Need for the Planning Proposal

1) Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal refers to the *Chatswood CBD Planning and Urban Design Strategy 2036* (referred to in this report as the CBD Strategy). The CBD Strategy

recommends land use, increased building height and development density for land within the Chatswood CBD as well as expanded CBD boundaries.

The site is located on Victoria Avenue and Victor Street Chatswood within land Zoned B3 Commercial Core, which does not permit residential development subject to the limited residential permitted in Schedule 1 Clause 31 of *Willoughby Local Environmental Plan 2012* (referred to in this report as WLEP 2012) – which applies to the 410-416 Victoria Avenue component of the site.

Under the CBD Strategy, the site is proposed to be B3 Commercial Core which does not permit any residential, with no maximum floor space ratio and maximum height of RL 246.8m. The Planning Proposal submitted proposes to permit residential as an additional land use. The additional residential land use is incompatible with the Strategic vision of the endorsed CBD Strategy for the Chatswood CBD, as discussed below.

The fundamental objective of the B3 Commercial Core Zone is the protection and encouragement of the commercial core, in order to ensure future employment opportunities and Chatswood CBD's role as a complete centre with a mix of land uses. In this regard the CBD Strategy has been designed with a CBD boundary that includes within it a commercial core that permits commercial uses (office and retail) and non-residential land uses, surrounded by a substantial mixed use (residential and commercial) area. The Key Element regarding land use, the importance of the commercial core and the position of DPIE in its letter of 9 August 2019, is further discussed in the Council Detailed Assessment at Attachment 2 (refer to Key Element 2 in the Discussion section).

The Planning Proposal is fundamentally inconsistent with the CBD Strategy on the issue of land use. It is further considered that the Planning Proposal is not consistent with the Strategic vision for the Chatswood CBD and this is discussed further below, as well as height.

2) Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

It is considered that the Planning Proposal is not the best means of achieving Key Element 2 of the CBD Strategy. The purpose of the CBD Strategy is to establish a strong framework to guide all future development in the CBD over the next 20 years. The CBD Strategy was based on considerable background work, which:

- Reviewed the current planning framework that controls the development of the Chatswood CBD.
- Identified the opportunities and constraints that are impacting on development in the Chatswood CBD.
- Developed and recommended a planning framework that Council could implement to ensure Chatswood sustainably grows as a competitive strategic centre of Sydney

Allowing residential floor space within the commercial core as proposed will remove potential floor space from future commercial use and will set a precedent for further residential development.

Development is sought within the Chatswood CBD and the commercial core that is consistent with the CBD Strategy.

Section B - Relationship to strategic planning framework

3) Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The *Greater Sydney Region Plan* is built on a vision of three cities where most residents live within 30 minutes of their jobs, education and health facilities, services and great places. Delivering a metropolis of three cities will be guided by 10 overarching directions, which provide interconnected infrastructure, productivity, liveability and sustainability benefits to all residents. The North District forms a large part of the Eastern Harbour City and its economy is focused on the Harbour CBD which includes North Sydney as well as the strategic centres such as Chatswood within the Eastern Economic Corridor.

The *Greater Sydney Region Plan* has informed, and is consistent, with the *North District Plan*. The *North District Plan* is covered in detail below.

In regards the theme of Infrastructure and collaboration, and ensuring infrastructure aligns and adapts with forecast growth, the planning priorities involve:

- Planning for a city supported by infrastructure.
- Working through collaboration.

In regards the theme of Liveability, in order to address housing supply, the planning priorities include:

- Providing services and social infrastructure to meet people's changing needs.
- Fostering healthy, creative, culturally rich and socially connected communities.
- Providing housing supply, choice and affordability with access to jobs, services and public transport.
- Creating and renewing great places and local centres.

The five year housing supply target for Willoughby is identified as 1,250. Emphasis is placed on more housing in the right locations, with urban renewal to have regard to location and the capacity of existing and proposed infrastructure.

In regards the theme of Productivity, in order to address jobs and skills for the city, the planning priorities include:

- Growing investment, business opportunities and jobs in strategic centres.

Chatswood is identified as a Strategic Centre where:

"Maintaining and growing a high quality commercial core will facilitate the continued growth of the centre as a major employment hub." (P. 74)

Action 36 refers to providing access to jobs, goods and services by:

- Attracting significant investment and business activity in strategic centres providing jobs growth.
- Creating the conditions for residential development within strategic centres and within walking distance (up to 10 mins) but not at the expense of the

attraction and growth of jobs, retailing and services; where appropriate, strategic centres should define commercial cores informed by an assessment of their need.

Action 42 includes the following approaches to strengthen the Strategic Centre of Chatswood:

- Protect and grow the commercial core.
- Maximise the land use opportunities provided by Sydney Metro.
- Promote the role of the centre as a location for high quality commercial buildings and a diverse retail offering.
- Enhance the role of the centre as a destination for cultural and leisure activities.
- Promote and encourage connectivity, and upgrade and increase public open spaces.

A baseline jobs target of 31,000 and a higher target of 33,000 are identified for 2036, above the 2016 estimate of 24,700, requiring some 6,300 - 8,300 additional jobs.

In regards the theme of Sustainability, and improving sustainability at the same time as addressing the other themes above, planning priorities include:

- Protecting and enhancing bushland and biodiversity.
- Protecting and enhancing scenic and cultural landscapes.
- Increasing urban tree canopy cover and delivering Green Grid connections.
- Delivering high quality open space.

The *Chatswood CBD Planning and Urban Design Strategy 2036* has been a response to the above strategic plans.

The Planning Proposal is considered inconsistent with the *Greater Sydney Region Plan* and the *North District Plan* for the following reasons:

- The proposal proposes residential floor space in a location not envisioned under the CBD Strategy, being the commercial core.
- Having regard to the *Greater Sydney Region Plan* and *North District Plan*, the CBD Strategy has carefully planned for a protected commercial core with a surrounding mixed use zone where substantial increases in residential dwellings are proposed. This land use arrangement meets the direction and numerical requirements of the Greater Sydney Commission strategic planning documents. Any changes to the land use arrangements threatens the envisioned land use mix, employment opportunities and access to goods and services.
- The residential floor space proposed on this site will be at the expense of commercial floor space envisioned over the next 20 years.
- It is Council's understanding that the commercial development industry seeks certainty in Chatswood CBD planning in order for commercial development to be stimulated. There is concern that permitting residential development in this location will discourage commercial development within the Chatswood CBD.
- Residential land use in the commercial core would have adverse implications for Chatswood's position as a Strategic centre and within the top ten office markets in Greater Sydney.

The DPIE 'A Guide to Preparing Planning Proposals' establishes specific assessment criteria to assist a Relevant Planning Authority.

Assessment Criteria

a) Does the proposal have strategic merit? Will it:

- give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment;

Comment: No. The Planning Proposal is inconsistent with the *Greater Sydney Region Plan* and the *North District Plan*.

- give effect to a relevant local strategic planning statement or CBD strategy that has been endorsed by the Department or required as part of a regional or district plan or local strategic planning statement;

Comment: The Willoughby Council *Local Strategic Planning Statement* (LSPS) was endorsed by DPIE in March 2020.

The CBD Strategy was endorsed by Council on 26 June 2017, supported by the Greater Sydney Commission on 18 May 2018, part endorsed by the DPIE on 9 August 2019 and fully endorsed on 9 July 2020 with qualifications. Endorsement of the CBD Strategy was further noted by Council on 14 September 2020.

The Planning Proposal is inconsistent with the endorsed Willoughby Council LSPS, and the CBD Strategy and its DPIE endorsement. This is discussed in the Council Detailed Assessment (Attachment 2).

- Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.

Comment: It is considered that the Planning Proposal is inconsistent with the envisioned land use mix within the Chatswood CBD, and the utilization of existing and upcoming infrastructure by different land uses. The CBD Strategy has been prepared with a careful allocation of commercial core and mixed use zones within an expanded Chatswood CBD, intended to utilise new infrastructure such as the rail metro and accommodate expected future residential demand.

b) Does the proposal have site-specific merit, having regard to the following:

- The natural environment (including known significant environmental values, resources or hazards)

Comment: Not applicable.

- The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal

Comment: No. The planning controls proposed are not consistent with the CBD Strategy and the envisaged future development within the B3 Commercial Core Zone.

- The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

Comment: This issue is discussed in the Council Detailed Assessment (Attachment 2) under Public Benefit.

4) Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Our Future Willoughby 2028 is the Council's community strategic plan for the future of the local government area to help guide decision making and planning.

Our Future Willoughby 2028 sets out five broad outcomes, with the relevant outcomes regarding this Planning Proposal being 'A City that is Liveable,' and 'A City that is prosperous and vibrant.'

- i) The outcome 'A City that is Liveable' contains the following 'Community Priority':

"3.5 Maintain quality of life by balancing population growth with the provision of assets and services."

- ii) The outcome 'A City that is prosperous and vibrant' contains the following 'Community Priorities':

- "4.1 Facilitate the development of all businesses.*
- 4.2 Build and support a night-time economy.*
- 4.3 Create memorable food destinations.*
- 4.4 Attract visitors and promote local, destination based tourism.*
- 4.5 Diversify our economy including creative and innovative industries.*
- 4.6 Facilitate the viability and vibrancy of our village centres."*

The CBD Strategy has been developed having regard to the *Our Future Willoughby 2028*, with a commercial core as well as a mixed use area identified within the Chatswood CBD. It is considered that the Planning Proposal is inconsistent with these two documents.

5) Is the proposal consistent with applicable State Environmental Planning Policies?

The following State Environmental Planning Policies (SEPPs) are applicable, with comment provided. This analysis is based on commercial development on the subject site, as residential development is not permitted in this location.

SEPP Title	Comment
------------	---------

SEPP No. 55 – Remediation of Land	The Planning Proposal is required to satisfy matters with regard to this SEPP and potential contamination of land.
SEPP (Exempt and Complying Codes) 2008	The Planning Proposal does not contain provisions that contradict the application of the SEPP.
SEPP (Infrastructure) 2007	Proposed commercial development would provide for jobs close to a commuter hub, consistent with the SEPP.

6) Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions?)

Section 9.1 Directions issued to councils require that a Planning Proposal does not conflict with the Directions. The following is a summary of the planning proposal against the relevant *Section 9.1 Directions* in this instance.

1. EMPLOYMENT AND RESOURCES

Direction	Relevant?	Consistent?	Comment
1.1 Business and Industrial Zones	Yes	No	The Planning Proposal will not support employment generation to the extent envisaged under the CBD Strategy as it is proposed to allow residential use in the B3 Commercial Core. Concern is also raised that the approval of a mixed use development will further facilitate the decline of Chatswood as a Strategic Centre with a growing commercial core.

2. ENVIRONMENT AND HERITAGE

Direction	Relevant?	Consistent?	Comment
2.3 Heritage Conservation	No	Not Applicable	The site does not contain any local heritage items or conservation area.

3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT

Direction	Relevant?	Consistent	Comment
3.1 Residential Zones	Yes	No	The existing zone on this site is B3 Commercial Core. Residential land use is not permitted except in a limited form as per Schedule 1, Clause 31 of <i>Willoughby Local</i>

			<p><i>Environmental Plan 2012</i> (which applies to the 410-416 Victoria Ave part of the site).</p> <p>Under the CBD Strategy, within the CBD, Council has already planned to provide for employment generation in the B3 and B4 zones and residential in the surrounding B4 zone. Council does not need additional residential uses to meet its residential provision obligations.</p>
--	--	--	---

Direction	Relevant?	Consistent?	Comment
3.3 Home Occupations	Yes	No	The proposed zone is B3 Commercial Core under the CBD Strategy, with no residential permitted.

Direction	Relevant?	Consistent?	Comment
3.4 Integrating Land Use and Transport	Yes	No	The CBD Strategy has identified this site as commercial core in order to fully take advantage of the close public transport linkages and other services. The mixed development proposed in the Planning Proposal has been provided for outside of the commercial core, within close proximity.

4. LOCAL PLAN MAKING

Direction	Relevant?	Consistent?	Comment
6.1 Approval and Referral Requirements	Yes	Yes	The Planning Proposal does not contain any provisions which require concurrence, consultation or referral to the Minister.

5. METROPOLITAN PLANNING

Direction	Relevant?	Consistent?	Comment
7.1 Implementation of A Plan for Growing Sydney	Yes	No	The Planning Proposal is inconsistent with the <i>Greater Sydney Region Plan</i> and <i>North District Plan</i> , as discussed above.

Section C - Environmental, social and economic impact

- 7) Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The site and adjoining lands have not been identified as containing any areas of critical habitat or threatened species, populations or ecological communities or habitats.

- 8) Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

The following environmental impacts of the proposal and their proposed management are discussed in the Council Detailed Assessment (Attachment 2):

- CBD boundary
- Land use
- Public domain
- Design excellence
- Building sustainability
- Floor space ratio
- Built Form
- Sun Access to Key Public Spaces
- Building heights
- Links, open space and landscaping
- Street Frontage Heights and Setbacks
- Site isolation
- Traffic management
- Public Benefit

- 9) Has the planning proposal adequately addressed any social and economic effects?**

It is considered that the Planning Proposal has not adequately addressed social and economic effects. The protection and growth of the commercial core is seen as critical for the future social and economic well-being of the Chatswood CBD. Residential land use has an important role to play in the CBD Strategy, with the CBD boundary being extended and height and densities increased in an identified mixed use zone on the fringe in order to allow for substantial future growth.

Section D - State and Commonwealth interests

- 10) Is there adequate public infrastructure for the planning proposal?**

The site is located within an existing and proposed commercial core area serviced by existing utilities infrastructure and within walking distance from the Chatswood Transport Interchange.

- 11) What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Council has not notified any public authorities as there has not been a Gateway Determination.

PART 4 – MAPPING

The Planning Proposal is not supported.

PART 5 – COMMUNITY CONSULTATION

The Planning Proposal is not supported. On this basis it is not proposed to forward the Planning Proposal to the DPIE 'Gateway' process seeking endorsement for the proposal to be placed on public exhibition.

PART 6 – PROJECT TIMELINE

Planning Proposal Presented to Council PP 2016/7/A	September 2020
DPIE and Proponent advised of Council decision	April 2021