

28 October 2020

Mirvac  
C/- FPD Pty Ltd  
PO Box H219  
Australia Square NSW 1215  
SYDNEY NSW 2000

ATT: Michael File

Dear Mr File,

**RE: Planning Proposal 2016/7/A**  
**45 Victor Street, and 410-416 Victoria Avenue, Chatswood**

I am writing to you regarding the Planning Proposal 2016/7/A submitted on 25 September 2020 for 45 Victor Street, and 410-416 Victoria Avenue, Chatswood.

The Planning Proposal seeks to amend *Willoughby Local Environmental 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 documentation submitted with the Planning Proposal has been the subject of preliminary review.

At this stage, the Planning Proposal is unlikely to be supported as:

- The proposed residential component is not consistent with the existing B3 Commercial Core zoning under *WLEP 2012* or the envisioned future B3 Commercial Core zoning under the *Chatswood CBD Planning and Urban Design Strategy 2036* (the *Strategy*).
- The proposed height of RL 262 metres is above the specified maximum of 7 metres on the Victoria Avenue frontage and RL 246.8 metres under the *Strategy*, which is only to be considered if the other aspects of the *Strategy*, in particular land use, are satisfactorily addressed.
- In the same way, the proposed floor space ratio of no maximum under the *Strategy* is only to be considered if the other aspects of the *Strategy* are satisfactorily addressed.

## Willoughby City Council

The fundamental issues identified above, as well as the other issues identified with this Planning Proposal, having regard to the 35 Key Elements contained in the *Strategy* and Council's internal referral process, are discussed in Attachment 1 – Response to Planning Proposal. It is emphasized that the assessment of a Planning Proposal on this site will be based on the *Strategy* and the vision expressed therein.

An amended Planning Proposal, consistent with the *Strategy*, would be welcomed on such a key site within the Chatswood CBD B3 Commercial Core zone.

You are invited to review your Planning Proposal and respond to Attachment 1 with amendments and accompanying documentation, which demonstrates how the proposal will help deliver the vision for Chatswood CBD. Council Officers look forward to working with you to facilitate the progress of this amended Planning Proposal to the point it may be supported for a Gateway Determination.

We sincerely hope you will respond positively to the advice in this letter and provide a proposal that will deliver on the Council's vision for Chatswood CBD.

Should you have any questions regarding the contents of this letter, please contact Craig O'Brien on (02) 9777 7647.

Yours sincerely,



Ian Arnott  
PLANNING MANAGER



# Attachment 1 - Response to Planning Proposal

45 Victor Street, and 410-416 Victoria Avenue, Chatswood

## Discussion

Council is supportive of the amalgamation of sites to create consolidated sites within the Chatswood CBD, in order to achieve the optimum redevelopment outcomes envisioned under the *Chatswood CBD Planning and Urban Design Strategy 2036* (September 2020) as endorsed by DPIE.

The site represents a large site in an important location within the Chatswood CBD, and consolidation is encouraged under the *Strategy* and supported.

The subject Planning Proposal was initially lodged with Council on 22 December 2016 with a land use split of 23% non-residential land uses and 77% residential. The Planning Proposal was not consistent with the existing controls for the site under *Willoughby Local Environmental Plan 2012 (WLEP)* and the *Strategy* in terms of the fundamental issue of land use, and on this basis a report to Council was prepared in June 2017 with a recommendation to not support further progress. A full Council assessment was not carried out at this time due to the fundamental land use issue. At the request of the proponent, the matter was not reported to Council while options were explored to address the fundamental land use concern of Council. It was the expectation of Council that any resubmitted proposal would be consistent with the *Strategy* and the 35 Key Elements.

The Amended Planning Proposal 2016/7/A, submitted 25 September 2020, has now been the subject of a full assessment. The issues and concerns with the Planning Proposal are based on an inadequate response to the vision within the *Strategy*, and the 35 Key Elements.

The Planning Report (August 2020), prepared by FPD Pty Ltd, submitted with the Planning Proposal states as an objective and intended outcome:

*"To implement the draft Chatswood CBD Strategy as it relates to the site ..."*

The Urban Design Study (August 2020), prepared by Mirvac Design and submitted with the Planning Proposal, states

*"The new Proposal is underpinned by a series of planning principles informed by Council's Draft Planning and Urban Design Strategy which aims to deliver 'a distinctive, resilient and vibrant CBD.'"*

The *Strategy* was endorsed by Council on 26 June 2017, part endorsed by the Department of Planning, Industry and Environment (DPIE) on 9 August 2019 and fully endorsed on 9 July 2020. The *Strategy* was further noted by Council on 14 September 2020. The point is emphasized that the *Strategy* ceased being a draft on 26 June 2017.

Council seeks Planning Proposals within the Chatswood CBD that are consistent with the *Strategy*, and the vision contained within as outlined in the 35 Key Elements. Planning principles underpin the *Strategy*, and the vision and 35 Key Elements are clearly established for proponents to use as a guideline for planning proposals that are welcomed in the Chatswood CBD. Whilst the *Strategy* has been subject to amendments from both Council and DPIE, it has been in place and largely unchanged since the 26 June 2017 Council endorsement.



A letter submitted with Planning Proposal by Mirvac dated 25 September 2020 is accompanied by a summary table titled 'Achieving the Vision and Objectives', which address the 35 Key Elements of the *Strategy*.

With regard to the abovementioned table and concept plans, Council does not recognize an appropriate level of consistency with the vision set out in the *Strategy* – which is the basis for amending current planning controls within the Chatswood CBD. A different vision is proposed.

In line with the above, Council has assessed the Planning Proposal having regard to the 35 Key Elements in the *Strategy*.

## 1) Land Use

Key Element 2 'Land Use' of the *Strategy* states:

*"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."*

A fundamental requirement within the *Strategy* is the prohibition of residential land use within the commercial core.

The subject site is located within the commercial core.

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 demonstratable, 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."*

As noted above, the entire *Strategy* was endorsed by DPIE on 9 July 2020.

The Planning Proposal involves a land use split of 40% non-residential land uses and 60% residential.

The following 'case for change' has been provided by the proponent:

- "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.*
- To implement the draft Chatswood CBD Strategy as it relates to the site, noting DPIE's comments on the potential for residential uses to the east of the train line.*



- *To facilitate development of a consolidated site with the potential to deliver a commercial floor plate which meets requirements for A grade office space.*
- *To ensure solar access is retained to key areas of open space by establishing appropriate maximum building heights.*
- *To deliver a contextually appropriate building which delivers high quality design outcomes.*
- *To support public transport patronage and reduce private vehicle travel demand by locating a mix of retail, commercial and residential uses in a highly accessible location within the Chatswood CBD with direct access to Chatswood Interchange.*
- *To enhance street activation through the location of ground floor retail uses along Victor Street, Victoria Avenue and Post Office Lane.*
- *To enhance vibrancy within the Chatswood CBD and in particular the Victoria Avenue Mall through the increase of the worker and residential populations and an improved public domain.*
- *To improve connectivity through the upgrade of Post Office Lane enhancing pedestrian access to Chatswood Interchange whilst maintain access for landholdings to the west of the site.*
- *To deliver affordable housing at a rate of 4% of the total residential floor space.*
- *To facilitate the delivery of a high quality proposal which will result in the renewal of the subject sites and laneway."*

The quantum of residential land use in this Planning Proposal 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. 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. 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 (car parking is discussed below in Key Element 35).

It is requested that the proponent review the floor space allocation and increase the commercial / non-residential floor space percentage for the site, to satisfactorily reflect its location in the B3 Commercial Core zone and Key Element 2, which should be in the order of 70% of the developable floor space.

The Planning Proposal report discusses previous consultation with Key Stakeholders including Council. It is anticipated that the abovementioned Council concern regarding the commercial / non-residential floor space percentage for the site, related in previous discussions with the proponent, will be taken on board and result in amendments to the proposal.

## 2) Planning Agreements to Fund Public Domain

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 made to the expectation outlined in Key Elements 6 and 7.



### 3) Design Excellence and Building Sustainability

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.

### 4) Floor Space Ratio

The site is satisfactory with regard to Key Element 12 and the 1800m<sup>2</sup> minimum site area.

It is unclear how the Planning Proposal intends to address Key Elements 13 and 14, which state:

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

The abovementioned Key Elements are standard requirements for Planning Proposals seeking to utilise the *Strategy* and would apply to the subject site. This existing 4% affordable housing requirement under *Willoughby Local Environmental Plan 2012* is in addition to any planning agreement offer.

Please confirm that affordable housing is to be provided within any proposed residential floor space component (not in addition to) and separate to any VPA (as per Key Element 6).

Council would be interested to hear from the proponent in regards any increased affordable housing provision with the residential component, with 4% being the minimum requirement.

### 5) Built Form

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 700m<sup>2</sup>, with this being a maximum floor plate figure, reflective of the slender tower form envisioned under the *Strategy*. Residential tower floor plates of 870m<sup>2</sup> are not supported. The proposed height of the building is not an acceptable argument for increasing the floor plate size.

### 6) Building Heights

The Planning Proposal seeks a height control over the entire site of RL 262 m (excluding roof features).

The Planning proposal states that *"the proposal satisfies all suggested building height requirements."*



This statement is incorrect. Maximum height under the *Strategy* is 7m along the Victoria Avenue frontage (for a depth of 6m) and then RL 246.8 m (limit by Pans-Ops plane). In accordance with Key Element 21, all structures located at roof level are to be within the height maximum (including roof features). Roof features are encouraged however the height uplift under the *Strategy* has made allowance for such provision. In addition, these maximum heights are only achievable provided the other aspects of the *Strategy*, with particular regard to land use, are addressed.

The height in the *Strategy* is the height envisioned by Council and a redefinition of height by the proponent is not supported – this is a different vision. It is requested that height be revised to be consistent with the *Strategy* and the vision outlined by Council.

Conceptual elevation plans are requested in addition to the north-south and east-west sections. It is requested that elevation and section plans refer to RL heights, metres and storeys.

#### 7) Links and Open Space

It is unclear how the Planning Proposal intends to address Key Element 22, which states:

*“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.”*

Analysis is required to clearly identify how the requirements in Figure 3.1.7 have been addressed, with particular regard to the loss of an existing open air 24 hour through site link and the replacement with a covered link. How is this space to be managed and public access guaranteed ?

#### 8) Public realm or areas accessible by public on private land

Council officers are unaware of any formal application to Council in respect to use of air space above Post Office Lane. Council approval is required for any advancement of the Planning Proposal reliant on this space. Application for approval should indicate the terms proposed in any such agreement in order to allow Council to make an informed decision.

Urban design analysis is requested on how the proposed changes to Post Office Lane have been designed to maximise public benefit and encourage public use. Council also requests detail on how the permanent public benefit is to be achieved (KE 24d)).

There are a number of clear outcomes sought in regards the laneway:

- A height of minimum laneway to ceiling height of 10 metres at any one point.
- The laneway functions as an active lane (during and post construction).
- Formal legal agreement with Council regarding the retained ownership, continued public access, management and maintenance of the existing laneway easement.
- Public liability and security of the laneway easement and other ‘publicly accessible’ spaces within and adjacent to the development.



- The treatment of the laneway clearly establishes a desired character that has regard to its previous history as a 'service laneway' within the Chatswood CBD on the eastern side of the North Shore Railway Line.

In regards further consideration of Post Office Lane, Council requests that the proponent also explore possibilities in relation to:

- The other properties in Post Office Lane, which currently rely on that lane for parking access, loading / unloading and servicing such as garbage, having ongoing access for these purposes, using the proposed basement goods lift located within the subject site.
- The intent of this solution would be that there would be no further vehicle related parking movements, loading/unloading or servicing in Post Office Lane. It is acknowledged that loading/unloading and servicing would still be required by non-vehicle means.
- The improved public amenity such an arrangement would bring to Post Office Lane.

#### 9) Landscaping

It is unclear how the Planning Proposal intends to address Key Elements 25 and 26, which state:

- "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.*
- 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."*

An important objective of the *Strategy* is redevelopment being accompanied by a greening of the Chatswood CBD – which is applicable to the B3 Commercial Core. Soft landscaping is to be provided within a site, and where possible, visible from the street. The location of the site within the Urban Core precinct is acknowledged. Podium levels should contain greening that is visible from Victor Street and Victoria Avenue.

Although it is appreciated that the design is still in 'concept' stage, Council nonetheless requests landscape plans that address soft landscaping on-site and how the above two Key Elements are addressed.

#### 10) Setbacks and Street Frontage Heights

As noted above amended plans are required clearly showing that the setback and street wall requirements applicable to the Victoria Avenue retail frontage and Urban Core precinct have been satisfied.

Key Element 28 states:

- "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:*



- e) *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.*
- d) *A total height of 120m, a minimum setback from the side boundary of 6m is required for the entire tower on any side ...*

*The required setback will vary depending on height and is not to be based on setback averages but the full setback."*

Key Element 29 states:

*"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."*

All buildings part of this Planning Proposal and regardless of being commercial or residential, are to be in accordance with the abovementioned minimum setbacks – which are related to tower height above Podium.

In regards Key Element 28, a staggered setback as you go up in height is not what is sought – unless it is in addition to the minimum required. What is sought is a minimum setback at the beginning of the tower (for the whole tower) based on height.

In regards Key Element 29, if a residential component is proposed in the subject Planning Proposal, then it should be designed assuming that the neighbouring property may seek a residential component. On this basis clear analysis is to be shown on plans regarding how the Planning Proposal is able to satisfactorily address SEPP 65 and the *Apartment Design Guide* for residential uses. In this regard a review is requested of the setbacks facing neighbouring properties to the west and south.

Setback requirements and consistency with the *Strategy* is to be clearly shown in the concept plans.

#### 11) Active Street Frontages

Key Element 30 states:

*"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."*

In regards the subject site, active street frontages are required on Victor Street, Victoria Avenue and Post Office Lane.

It is requested that meaningful active street frontages be provided and maximised on Victor Street and Post Office Lane, by relocating switch room and meter room to a Basement level.

## 12) Site Isolation

Evidence is requested in regards the attempts to consolidate neighbouring properties into the subject Planning Proposal, with particular reference to 418 (to 430) Victoria Avenue, 432 Victoria Avenue and 39 Victor Street.

If the inclusion of immediate neighbouring sites at 418 Victoria Avenue, 432 Victoria Avenue and 39 Victor Street, are not possible within the Planning Proposal site, then a shared basement wall should be provided between the abovementioned three neighbouring sites enabling potential future sharing of basements.

## 13) Floor space at Ground Level

Key Element 33 states:

*“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.”*

Explore the possibility of moving services on the Ground Floor, to the south of Post Office Lane, to a Basement Level in order to more satisfactorily address Key Element 33 (see comments on Key Element 30 above).

## 14) Traffic and Transport

The Planning Proposal concept plans show the following:

- One entry/exit point for basement parking, loading and servicing.
- One turntable for loading in basement 1, located within the vehicle manoeuvring lane to lower basement levels.
- A one basement solution across the site (including under Post Office Lane).

Key Element 35 a) states:

*“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.”*

In regards Key Element 35, the vision for the development in the Chatswood CBD is for:

- Floor space at ground level to be maximised and services minimised.
- Active street frontages to be maximised.

Concern is raised with the proposed vehicle turn table located within the vehicle manoeuvring lane to lower basement levels. This has the unacceptable potential impact of blocking vehicle movement into the basement car parking levels.

In accordance with Key Element 35c), physical solutions are sought in regards loading and servicing. Turntables / mechanical solutions should only be used as a last resort and on constrained sites. The subject site is large at over 2,297m<sup>2</sup>, and therefore a comprehensive physical solution, with MRV truck manoeuvring areas, is considered both reasonable and appropriate. Council seeks the optimum outcome envisaged in the *Strategy* on this important site within the Chatswood CBD.



Concern is raised with the addition of 381 car spaces in this location (being 321 residential, 55 non-residential and 5 car share). Council is in the process of reviewing car parking rates in the Chatswood CBD and requests the following rates are considered (being lower than the current WDCP rates):

Land use		Parking rate
<b>Office</b>		1 space per 400 sqm GFA
<b>Retail (&lt;1000 sqm)</b>		-
<b>Retail (&gt;1000 sqm)</b>		1 space per 300 sqm GFA
<b>Residential</b>	Studio	0.5 spaces per dwelling
	1-bed	0.5 spaces per dwelling
	2+ bed	1 space per dwelling
	Visitor	1 space per 10 dwellings

The following traffic and transport related amendments are requested to the Concept Plans:

- A physical solution enabling loading vehicles and garbage / servicing vehicles to enter and leave the site in a forward direction.
- Car parking provision based on the abovementioned car parking rates.

Council would be interested to hear from the proponent if it would be possible to include a substantive end of trip cycle facility, serving the Chatswood CBD, as part of the proposal.

## Requested documentation

Regarding documentation to respond to this Attachment, the following is requested:

- 1) Amendments and further information in line with the issues identified in this Attachment.
- 2) Conceptual elevation plans in addition to the north-south and east-west sections. It is requested that elevation and section plans refer to RL heights, metres and storeys.
- 3) Landscape plans that address soft landscaping on-site.
- 4) All concept plans accompanying a Planning Proposal should show on plan how the numerical requirements contained in the *Strategy* (specifically the 35 Key Elements) are addressed and satisfied. Particular reference is made to height, floor plates, setbacks (ground, podium and upper levels) and street wall heights. Height should be shown in RLs, metres and storeys.
- 5) All documentation accompanying a Planning Proposal should include draft Development Control Plan provisions that are site specific, address the *Strategy* 35 Key Elements and at the same time be consistent with the template approach taken with other Planning Proposals – as Council is seeking consistency in its approach to Planning Proposals. In order to assist, an acceptable template is able to be provided on request.

Once the above information is submitted to Council, further assessment will be undertaken, with a view to reporting the proposal to the first available Council Meeting and ensuring the matter is dealt with promptly.