



**PLANNING AND INFRASTRUCTURE**  
Planning Unit

6 February 2025

Director Housing Delivery  
Housing Supply and Infrastructure  
Department of Planning, Housing and Infrastructure  
Locked Bag 5022,  
Parramatta NSW 2124  
Att: Adela Murimba

Dear Adela,

Re: State Significant Development Application Number SSD-72891212  
Mixed-use development with in-fill affordable housing  
57 - 61 Archer Street and 34 Albert Avenue, Chatswood

I am writing to you regarding the State Significant Development Application Number SSD-72891212 at 57-61 Archer Street and 34 Albert Avenue, Chatswood.

The project is a State Significant Development (SSD) pursuant to Section 26A of Schedule 1 of *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP). The SSDA seeks to use infill affordable housing incentives inserted into the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) in December 2023, enabling the maximum permissible floor space ratio and building height under *Willoughby Local Environmental Plan* (WLEP 2012) to be increased by 30% if the affordable housing component is at least 15% of the gross floor area (GFA) of the development.

The SSDA includes:

- 32 storey shop top development, comprising a three storey podium and 29 storey tower (113m (RL 201.1)).
- Floor space ratio of 6.5:1
- A total Gross Floor Area of 17,186m<sup>2</sup> involving:
  - Residential: 14,939m<sup>2</sup> including 2,585m<sup>2</sup> of infill affordable housing.
  - Non-residential: 2,247m<sup>2</sup>.
- Additional non-residential use of the heritage building at 34 Albert Street: 129m<sup>2</sup> (not counted as GFA pursuant to Clause 4.4(2A) (b) of the LEP).
- 150 residential apartments.
- 169 car parking spaces in basement levels accessed via Bertram Street.
- Loading via a driveway access from Archer Street.

Council retains a number of reservations with respect to the infill affordable housing incentives inserted into the Housing SEPP in December 2023 and their applicability to the Chatswood CBD, noting the significant housing provided in the *Chatswood CBD Planning and Urban Design Strategy 2036* (the CBD Strategy) which became part of WLEP 2012 Amendment 34 (30 June 2023); notwithstanding, the concerns provided in this letter and attachments respond to the SEPP that is now in force.

The Council submission is provided at **Attachment 1** and is summarised as follows:

## **1. The SSDA is not in the public interest**

### **a) Engagement prior to SSDA lodgement**

The submitted and exhibited SSDA does not address affordable housing in a manner anticipated by Council in engagement prior to SSDA lodgement. The point is also made that any engagement prior to lodgement has been on the basis of what the proponent wanted to discuss and share with Council. Council has not had the opportunity to consider all aspects of this proposal, including variations, prior to lodgement. This exhibition represents the first comprehensive review opportunity for Council.

### **b) What the SSDA proposes regarding affordable housing**

The SSDA proposes to provide 15% affordable housing for 15 years over the entire development, and challenges Clause 6.8, providing four dot points as justification. If the average unit size is assumed to be 100m<sup>2</sup>, this equates to approximately 22.4 units as affordable housing for 15 years, based on total residential GFA being 14,939m<sup>2</sup> (including infill affordable housing).

The WLEP 2012 affordable housing requirement of 10% GFA dedicated to Council in perpetuity is not proposed in the SSDA.

Based on the proposed residential GFA of 12,354m<sup>2</sup> (which excludes infill affordable housing), this equates to approximately 12.4 affordable housing units in perpetuity if the average size is assumed to be 100m<sup>2</sup>. Added to this figure would be approximately 3.88 infill affordable housing units if the average size is assumed to be 100m<sup>2</sup>.

For the purposes of comparison, the SSDA proposes 22.4 affordable housing units for 15 years, while under WLEP 2012 Clause 6.8 (and the 10% dedication requirement) and the Housing SEPP, a combined total of 16.28 affordable housing units would be expected (with 12.4 being in perpetuity). Council requests that the SSDA comply with WLEP 2012 Clause 6.8.

### **c) WLEP 2012 Clause 6.8 challenge: Dot Point 1**

The appropriateness of Council's 10% in perpetuity affordable housing requirement is based on the significant uplift within the Chatswood CBD as a result of the CBD Strategy – with both being part of the comprehensive review of WLEP 2012 made on 30 June 2023 as Amendment 34.

Considerable other strategic planning work over a number of years, involving community participation, has contributed to the current Council position on affordable housing.

It is further noted that when implementing its affordable housing bonus scheme, the state government clearly indicated that it was in addition to existing affordable housing schemes such as Willoughby's.

It is requested that the importance placed on affordable housing by Willoughby Council and the linked significant increases in uplift and LEP controls with the achievement of affordable housing in perpetuity continue to be supported by the state government.

### **d) WLEP 2012 Clause 6.8 challenge: Dot Point 2**

It is Council's view that the existing WLEP Clause 6.8 continues to apply to this SSDA site having regard to the development permitted under the existing Council controls (ie. 10% of GFA). It is Council's understanding that following

on from recognition of the existing controls, the provision of 15% affordable housing for 15 years under the SEPP applies to the 30% bonus uplift. The proponent misrepresents the need for affordable housing, confusing the estimated delivery of units under the scheme with the overall need. The 70 units estimated to be received by 2026 is merely an estimate as at May 2020 and is not a quantitative reflection of the larger underlying need. It is noted that Council is currently on track to achieve close to the 70 properties estimated by 2026, indicating that the scheme is operating as intended and should continue to be applied. The affordable housing sought by Council is reflected in the requirements under WLEP 2012 Clause 6.8. The argument that affordable housing for 15 years outweighs affordable housing in perpetuity is not accepted.

**e) WLEP 2012 Clause 6.8 challenge: Dot Point 3**

In Council's view the WLEP 2012 10% affordable housing requirement is not onerous but rather a carefully planned approach to affordable housing over a number of years that has accompanied significant uplift, been supported by DPHI and involved feasibility testing. While Council's affordable housing scheme pre-dates the state government housing productivity contribution, the feasibility assumptions used by Council with respect to infrastructure and other government charges are not inconsistent with the current HPC. It is further understood that when implementing the HPC the state government did not do so with a view that it would replace other existing infrastructure and affordable housing contributions.

**f) WLEP 2012 Clause 6.8 challenge: Dot Point 4**

The feasibility calculations undertaken when establishing Council's affordable housing contribution rates included consideration of infrastructure contributions. The contributions attracted by the development are well within the anticipated range and consistent with the adopted affordable housing strategy.

**g) What is a reasonable affordable housing outcome**

It is Council's view that a reasonable outcome is the provision of the established 10% affordable housing provision as strategically planned by Council and supported by both the Willoughby community and DPHI. The SSDA should satisfactorily address s 7.32 (3) (a) of the Environmental Planning and Assessment Act 1979 and s 15 of the SEPP (Housing) 2021, and s 7.32 (1) and (3) (c) of the Environmental Planning and Assessment Act 1979, in regards the affordable housing proposed (both in regards WLEP 2012 and the SEPP). This information should be submitted as part of this SSDA.

The full WLEP 2012 Clause 6.8 Affordable Housing is provided at **Attachment 2**. The supporting *Willoughby Affordable Housing Strategy 2020 to 2026* (dated May 2020), is at **Attachment 3** and *Willoughby Affordable Housing Policy* (dated 11 December 2023) is at **Attachment 4**.

Affordable housing conditions are provided at **Attachment 5**.

**2. Proposal inconsistent with affordable housing under Housing SEPP**

It is noted that in-fill affordable housing bonuses do not override any LEP affordable housing control.

Noting the importance of realising more affordable housing, Council seeks the application of the WLEP 2012 Clause 6.8 10% affordable housing control, noting that this is in perpetuity (and beyond a limited period such as 15 years).

Flexibility is shown by Council with a monetary provision able to be provided, noting that built units is Council's preference.

**3. Design excellence**

Council officers request that appropriate regard be given by the consent authority, being DPHI, to the issues raised in this submission. The Design Excellence Competition Report states that the proposal has the potential to achieve design excellence. This process does not address all matters which need to be assessed in the SSDA and the Design Excellence Competition documentation does not represent the views of Council.

A comprehensive assessment has been undertaken, covering issues including affordable housing, height on the CBD boundary, non-residential floor space, car parking rates and flooding. Amendments are requested as discussed in this submission, as well as the provision of additional information.

It is not accepted that design excellence can be achieved with no affordable housing provision consistent with WLEP Clause 6.8.

**4. Concern regarding proposed height on CBD boundary**

A height of 113m was not anticipated for this location and represents a departure from recent DPHI direction (approximately 5 years ago during consideration of the CBD Strategy), where the height on the Bertram Street side of the block was supported at 23m and on the Archer side of the block at 90m. In accordance with the *In-fill Affordable Housing Practice Note*, December 2023 (P.13):

*"The full extent of the in-fill affordable housing bonuses may not be achieved on all sites, due to site constraints and local impacts. The in-fill affordable housing bonuses should not be treated as an entitlement."*

A nuanced approach to the Housing SEPP 30% bonus uplift is sought, with the proposed additional 23m height in this location considered inappropriate based on bulk and scale impacts on the CBD boundary to the adjacent low density residential conservation area, and undermines recent strategic planning and community faith in the NSW planning system. Unlike other centres, the heights in this location have recently been substantially increased (30 June 2023), indeed maximised. Council does not support any further increase in height above the existing height controls.

**5. Non-residential floor space**

In Council's view it is considered that compliance with the WLEP 2012 Clause 6.25, 17% non-residential minimum floor space requirement, is not unreasonable or unnecessary, with Council planning controls accepting of non-residential land uses within a tower form. The SSDA is requested to be amended to comply with this standard requirement.

## **6. Car parking rates**

Council seeks an approach to car parking in the Chatswood CBD consistent with the significant and highly successful investment in Metro, rather than an approach that would apply across NSW and outside other railway / transport precincts. It is requested that in considering this SSDA, emphasis be placed on the applicable planning document providing the lowest rate for car parking in the Chatswood CBD railway precinct (which would be the WDCP). Strategic planning modelling for the Chatswood CBD relies on the enforcement of low parking rates to ensure modal shift and to maximise state government investment in the Chatswood Metro and other transport infrastructure.

The SSDA exceeds Council's car parking requirement by 103 car spaces, (based on Council's maximum rate). The SSDA is requested to be amended to have car parking consistent with WDCP car parking rates.

## **7. Public Realm embellishment**

Confirmation is required that 3m frontage to 34 Albert Avenue is to be dedicated to Council at no cost, and any structures including the substation are to be removed from this space (trees not included).

Public rights of way are expected over ground level areas to accompany uplift and provide the optimum urban outcomes envisioned in the CBD Strategy, with the integrity of these areas to be enhanced through design measures to achieve maximised positive public realm outcomes.

Commentary is provided on the pocket park and through site links, how to further encourage through site access, how publicly accessible spaces are envisaged, and how the proposed shared functioning on the 6m wide 'laneway' on the southern boundary should function.

The SSDA is requested to be amended to show the 3m dedication fronting 34 Albert Avenue, confirmation of the ground level areas to be subject to public rights of way, and address Council concerns regarding the pocket park and through site links (in particular on the southern boundary).

## **8. Requested further amendments or information**

### **a) Open space comments**

Comments are provided on what tree removal and replacement has previously been approved (and required payment under Council's Tree Offset Payment Scheme), any additional tree removals proposed, street tree planting, screen planting along Bertram Street basement driveway, inappropriate location of the substation on the 34 Albert Avenue frontage, long term maintenance of balcony planting (to be conditioned in any approval as being a strata responsibility), further greening with particular regard to the Albert Avenue frontage and the 6m wide through site link / 'laneway' located on the southern boundary, provision of natural shade to the pocket park and the need for further public domain improvements such as suitable paving and street trees.

### **b) Engineering comments**

Comments are provided on traffic and further parking issues, flooding and stormwater management.

**c) Waste comments**

Comments are provided, with particular reference to accommodating waste collection trucks and adequate waste storage.

Should you have any question in regards this letter and attachment 1, or any of the other attachments, please contact Craig O'Brien – Acting Team Leader Strategic Planning on (02) 9777 7647.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dyalan Govender', with a stylized flourish at the end.

Dyalan Govender  
Acting Head of Planning