

## ATTACHMENT 1 – Council Submission

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

#### a) Engagement prior to SSDA lodgement

Section 6 'Engagement' of the proponent's Environmental Impact Statement discusses engagement carried out. Reference is made to engagement undertaken with Willoughby Council. The Engagement Report states on P. 7:

*"A meeting with Willoughby Council was held to discuss affordable housing contribution rates and the potential for negotiation of a contribution rate which does not affect feasibility of the proposed development under the SSDA noting that there is a further requirement for affordable housing under the Housing SEPP. This meeting occurred on the 27 August 2024."*

The SSDA documentation does not provide further detail regarding proponent discussion and Council feedback.

For the purposes of transparency in any discussion of engagement between the proponent and Council officers regarding affordable housing, it is considered pertinent to provide the following background.

Based on proponent discussion:

- It was Council's understanding that the SSDA being planned for the subject site would involve affordable housing under both the LEP and the SEPP.
- Council was advised a cash contribution would be proposed in response to the WLEP 2012 affordable housing requirement.
- The proponent was seeking an agreed, "negotiated position" with Council on the quantum of the contribution. It was outlined that the proponent's view was the calculation should be based on the value of the floor space as Affordable Housing, not as market housing.

To provide clarity to the proponent in order to assist SSDA preparation, Council officers advised:

- Council affordable housing requirements are outlined in Clause 6.8 of WLEP 2012, with 10% applicable to the site.
- Council's affordable housing policy is for dedication. While the LEP's wording is understood, the Council policy is clear.
- Notwithstanding, when monetary contributions are provided, market valuation is required with no discount rate for affordable housing.
- Any agreed condition on affordable housing as requested by the proponent is unlikely to be supported by Council.

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.

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.

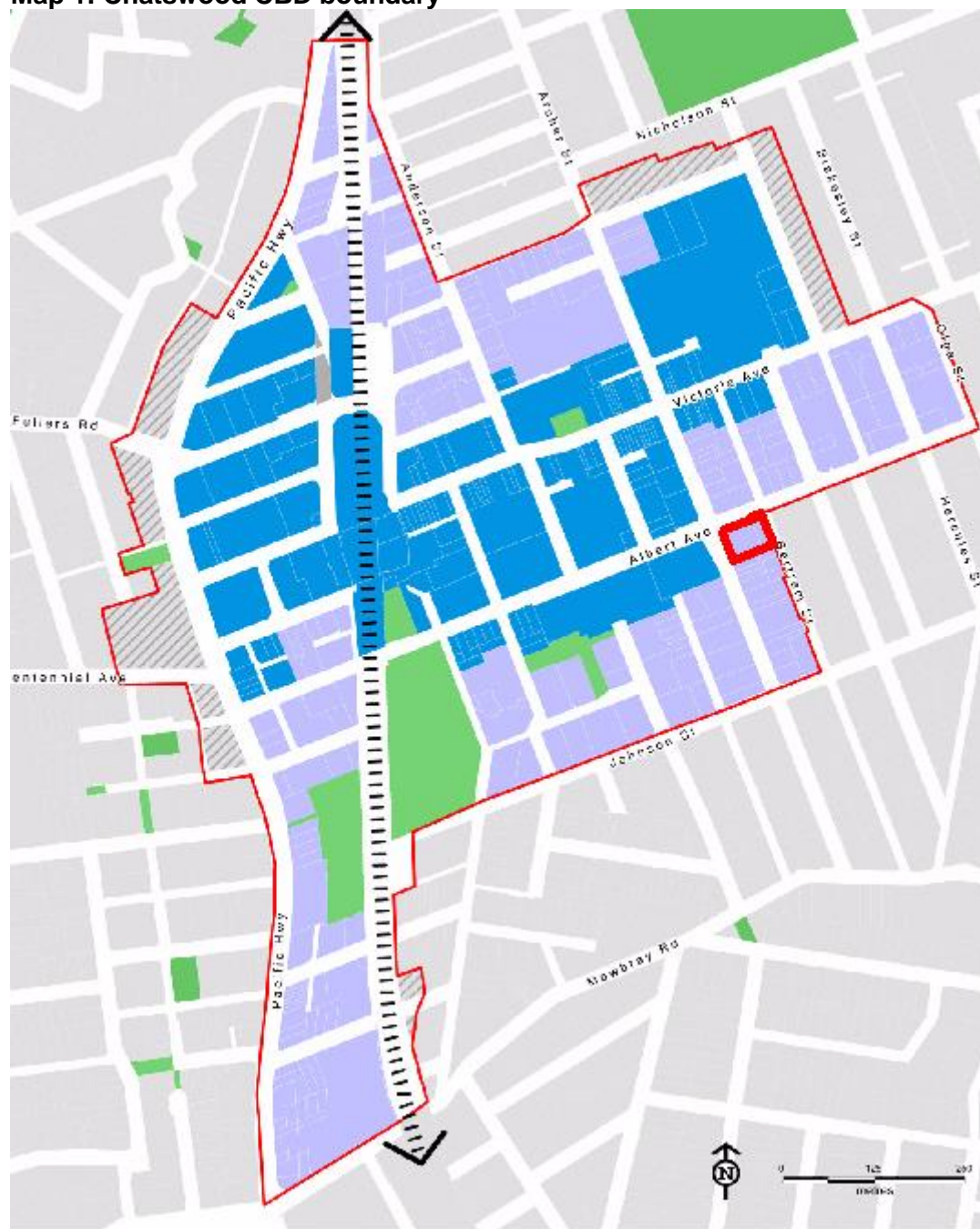
#### **b) What the SSDA proposes regarding affordable housing**

The SSDA 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 the WLEP 2012 to be increased by 30% if the affordable housing component is at least 15% of the GFA of the development.

Under WLEP 2012, affordable housing is addressed in Clause 6.8 based on Section 7.32 of the *Environmental Planning and Assessment Act 1979* (EP and A Act 1979). The full WLEP 2012 Clause 6.8 Affordable Housing, as well as a snapshot of the supporting Affordable Housing Map is provided at **Attachment 2**. The WLEP 2012 Affordable Housing Map identifies the subject site with Area 3 which is subject to a 10% affordable housing contribution.

Refer below to **Map 1: Chatswood CBD boundary**.

**Map 1: Chatswood CBD boundary**

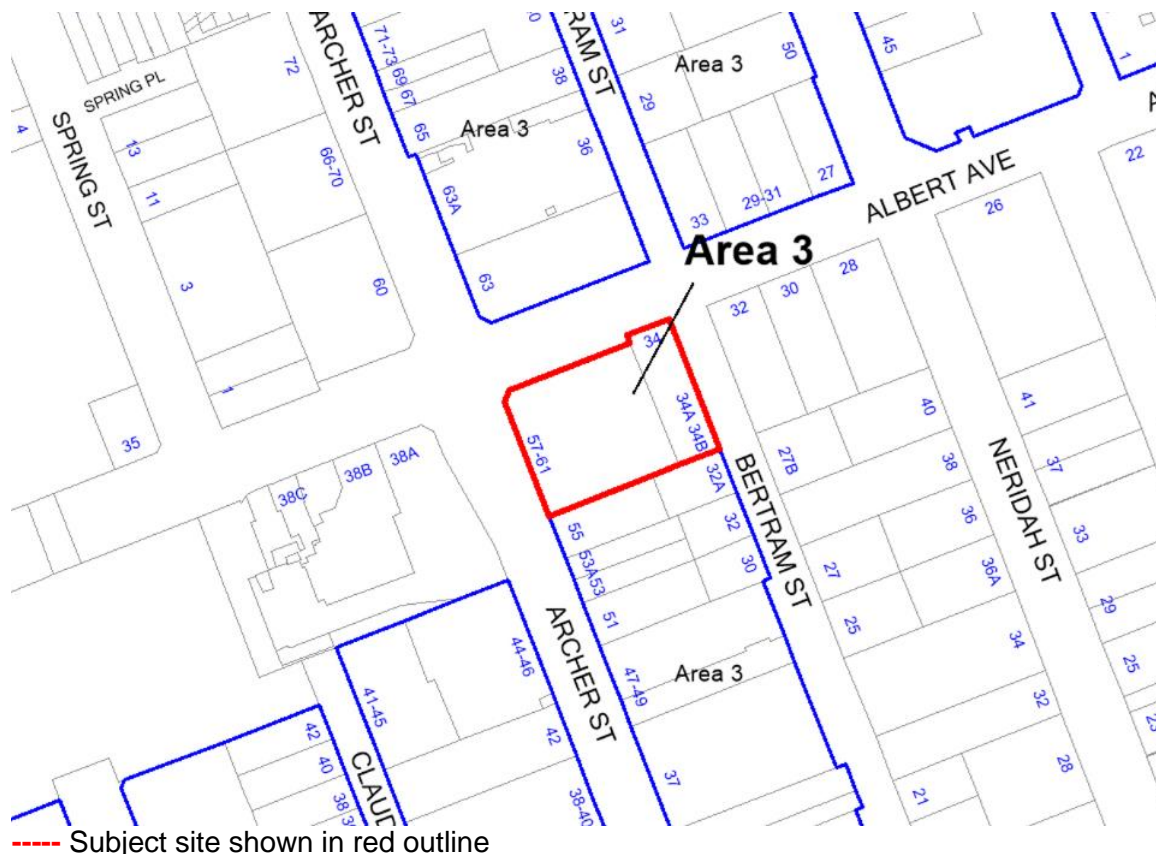


----- Subject site shown in red outline

Refer below to **Map 2: Majority of Chatswood CBD as shown on WLEP 2012 Affordable Housing Map** and **Map 3: Location of 57-61 Archer St and 34 Albert Avenue on WLEP 2012 Affordable Housing Map.**

[illegible]

**Map 3: Location of 57-61 Archer St and 34 Albert Avenue on WLEP 2012 Affordable Housing Map**



The supporting *Willoughby Affordable Housing Strategy 2020 to 2026* is at **Attachment 3** and *Willoughby Affordable Housing Policy* is at **Attachment 4**.

The SSDA submitted addresses the issue of affordable housing by:

- Utilising the Housing SEPP.
  - Providing 15% affordable housing for a period of 15 years. After 15 years, these will no longer be affordable housing units and become available to the owner for market rent or sale.
- Providing no affordable housing contribution in accordance with WLEP 2012 Clause 6.8, meaning no 10% dedicated to Council in perpetuity or equivalent contribution.

The proponent's Environmental Impact Statement states (P. 69):

*"Clause 6.8 of WLEP 2012 will be challenged by the Proponent on the following grounds:*

- *Willoughby City Council's Affordable Housing Contribution Rate is an outlier at a rate of 10%. No other Council within the Greater Sydney Region has a rate that high for affordable housing.*

- *In consideration, the Housing SEPP rate of 15% will translate into a generous proportion of affordable housing for this project, when compared to the need identified in the Willoughby Housing Strategy 2036 released by Council in May 2020 (which is 70 affordable housing units by 2026).*
- *The amount of affordable housing contributions is onerous, particularly when the State Government's Housing and Productivity Contribution and was not considered as part of Council's feasibility testing to implement a generous 10% contribution.*
- *There is a significant Section 7.12 Contribution payable of 3% of the total development cost."*

Council's comments on the four dot points above are provided in section 1. c), d), e) and f) below.

Refer to **Table 1** for an affordable housing comparison between the SSDA and Council position.

**Table 1: Affordable Housing comparison between SSDA and Council position**

Proposed in SSDA			Council position		
SEPP			WLEP and SEPP		
Total residential GFA	14,939m <sup>2</sup>	<b>22.4 (15 years)</b>	Residential GFA	12,354m <sup>2</sup>	<b>12.4 (in perpetuity)</b>
			Infill affordable housing	2,585m <sup>2</sup>	<b>3.88 (15 years)</b>
<b>Total units</b>		<b>22.4</b>	<b>16.28</b>		

In discussion of Willoughby Council affordable housing contributions, P. 52 of the proponent's Environmental Impact Statement states:

*"The Proponent will work with Willoughby Council and the Department to achieve a reasonable outcome."*

Further Council comments regarding this statement are provided in the section 1. g) below.

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) Proponents WLEP 2012 Clause 6.8 challenge: Dot Point 1**

- *“Willoughby City Council’s Affordable Housing Contribution Rate is an outlier at a rate of 10%. No other Council within the Greater Sydney Region has a rate that high for affordable housing.”*

**Discussion**

Willoughby Council recognises affordable housing as a vital element of social and economic infrastructure and was one of the first metropolitan councils to plan for more. *Willoughby Local Environmental Plan 1995* was amended in 1999 to require 4% of the total floor space of new dwellings within identified Willoughby local housing precincts to be provided as affordable housing dedicated to Council in perpetuity.

The Willoughby Council affordable housing web page discusses ‘what is affordable housing’ as follows:

*“Housing is affordable for essential workers if housing costs are less than 30% of gross household income. Households spending more than 30% of income on housing costs are described as being in housing stress. Housing stress impacts on quality of life and the ability to afford other living costs.*

*Affordable housing is designed for the needs of low to moderate income households and is priced so families are able to meet other basic living costs such as food, clothing, transport, medical care and education. affordable housing differs from social housing. Social housing is a form of affordable housing that caters to households experiencing high levels of housing stress and social disadvantage.*

*As Council cannot directly influence affordability in the local housing market, or reasonably provide the required volume of affordable rental housing within the LGA, Council adopted a policy position to prioritise affordable housing for moderate*

*income households that are vital to the prosperity of the local economy. Council defines these families as key and essential worker households.”*

The Willoughby Council affordable housing web page discusses ‘who are essential workers’ as follows:

*“In Australia and internationally, workers whose wages are typically set at a national or state level, including teachers, nurses, police and fire and emergency personnel, are considered essential workers. This also includes support/ancillary workers in healthcare, education and emergency services; workers who support the labour force (e.g., childcare and aged care workers and ICT support professionals and technicians); and low paid workers who are important for local economies, such as hospitality and retail workers.”*

The Willoughby Council affordable housing web page discusses the ‘benefits of affordable housing’ as follows:

*“The primary benefit of affordable housing programs is a social one, providing low to moderate income renters with an affordable, secure housing option, leading to improved health and employment outcomes, a greater sense of safety, independence and social connectedness.*

*An increased supply of affordable housing also provides opportunities for local young people to continue to live and work in their community.*

*Affordable housing also delivers significant benefits to the local economy through diversification of the labour market, increased job retention and increased productivity.”*

The Willoughby Council affordable housing web page discusses ‘how can we provide affordable housing’ as follows:

*“We do this by requiring the dedication to Council of complete dwellings or their cash equivalent equalling 10% of the accountable total floor space of new multi-unit dwellings in identified zones within the Willoughby local government area.*

*These essential worker assets are then strategically managed to optimise social outcomes and financial sustainability.”*

This web page is accessible via the following link:

<https://www.willoughby.nsw.gov.au/Community/Community-services/Affordable-housing>

The page contains a document titled ‘Housing Data Summary (12 December 2024’, which when opened has the heading ‘Housing affordability in Willoughby Local Government Area (LGA) (2024).

This document is summarised as follows:

*“Housing affordability in Willoughby LGA is decreasing and this is impacting on provision of essential services to the local community:*

- The lack of affordable accommodation in Willoughby means that fewer essential workers are choosing to live in the LGA.*
- In Chatswood CBD, over 40% of households are experiencing housing stress due to rental costs and over 30% of households are experiencing mortgage stress.*
- In Willoughby LGA there are half as many affordable housing dwellings than the average for NSW.*
- Rental affordability continues to diminish in Willoughby LGA.*
- There has been no real growth in the number of affordable rental properties available within the LGA for 15 years.*
- The lack of affordable housing for key workers is impacting on the level and cost of providing essential services to the local community.”*

The *Willoughby Affordable Housing Policy*, adopted 1 December 2023, states as its purpose (P. 1):

*“To guide decision making by defining Council’s role in relation to affordable housing. The policy includes Council’s commitment to increasing the level of affordable housing for moderate income key and essential workers in the Willoughby Local Area and outlines its role in advocating for local, social and affordable housing needs.”*

The *Willoughby Affordable Housing Policy* states in regards affordable housing contributions (P.2):

*“Council’s policy is to obtain affordable housing contributions principally through the allocation of complete dwellings, resorting to monetary contributions only in cases where the remaining portion of that contribution falls below the dimensions of the smallest dwelling within the approved development” (50m<sup>2</sup>).*

Council has committed to increase the supply of affordable rental housing through affordable housing targets and policy. This is achieved by requiring the dedication to Council of complete dwellings or their cash equivalent equalling 10% of the accountable total floor space of new multi-unit dwellings in identified zones within the Willoughby local government area. Council’s affordable housing requirements are not based on a limited time frame, as such an approach is considered a short term response to a significant issue that requires long term solutions.

Council’s affordable housing to date has generated a total of 63 units. This number is expected to rise in response to the significant uplift in WLEP 2012 Amendment 34. These affordable housing assets are strategically managed to optimise social outcomes and financial sustainability over the long term, becoming available to different occupants as existing and new units become available.

Significant emphasis has been placed since 2017 in ensuring that strategic planning for the future of WLGA, and in particular the Chatswood CBD, included affordable housing in

perpetuity with floor space and height uplift. The following is a recent history of Council's affordable housing controls, having particular regard to the Chatswood CBD.

- The *Chatswood CBD Planning and Urban Design Strategy 2036* (the CBD Strategy) was endorsed by Council on 26 June 2017, supported by the Greater Sydney Commission on 18 May 2018, and endorsed by the Department of Planning and Environment (now Department of Planning Housing and Infrastructure, DPHI) on 9 July 2020. Endorsement of the CBD Strategy was further noted by Council on 14 September 2020. The CBD Strategy proposed significant residential uplift within the Chatswood CBD, which was to be accompanied by affordable housing “to be provided within the maximum floor space ratio, and throughout a development rather than in a cluster” (Key Element 14).
  - In February 2020, the *Willoughby Local Strategic Planning Statement* (LSPS) was formalised, setting a 20-year vision with priorities and actions for land-use planning in the Willoughby. The Willoughby LSPS sets a baseline of 4% of GFA with housing uplift as affordable housing, with a target increase to 7%-10% with new housing uplift by 2036.
  - In May 2020, the *Affordable Housing Strategy 2020 to 2026* established the vision for affordable housing in Willoughby. This Strategy aimed to increase the LEP affordable housing requirement to 10% by 2026 and is guided by *Our Future Willoughby 2028* (published June 2018) and the *Willoughby Housing Strategy 2036* (dated May 2020). *Our Future Willoughby 2028* was updated by *Our Future Willoughby 2032* (published June 2022).
  - At the meeting of 14 December 2020, Council resolved to forward a Planning Proposal, which contained a comprehensive review of *Willoughby Local Environmental Plan 2012*, to DPHI for a Gateway Determination and exhibition. The comprehensive review was informed by a number of strategies and supporting work, including the CBD Strategy. A Gateway Determination was received on 24 December 2021.
  - Affordable housing was proposed to be increased in new residential developments, from 4% of Gross Floor Area (GFA) to a maximum of 10%, in line with aspirations in the *North District Plan*, in response to significant uplift with particular regard to the Chatswood CBD and in recognition of the urgent need for more affordable rental housing in all parts of Sydney.
  - SGS Economics undertook a study on behalf of Council to test the feasibility of having a general 10% rate across the Local Government Area.
    - In regards the Chatswood CBD it was found that:
      - “Higher contribution rates are likely to be more feasible in Chatswood centre, as a larger scale of development is permitted under the proposed controls
      - “The feasibility analysis has shown that sites in Chatswood centre are likely to be able to be developed with at least a 10 per cent contribution, consistent with the target under the NSW Government’s district strategic plan.”
- This information was provided in the subsequent public exhibition.
- Exhibition took place for 3 months from Tuesday 15 March until Tuesday 7 June 2022.
  - Following consideration of submissions, it was resolved at the Council Meeting of 12 December 2022 to forward the Planning Proposal for the comprehensive local environmental plan to DPHI for finalisation.

- A provision was included for maintaining the Affordable Housing contribution at 4% for those site specific Planning Proposals lodged prior to exhibition end. Any PPs seeking to utilise the uplift of the CBD Strategy and lodged after 7 June 2022 was required to provide 10% affordable housing dedicated to Council in perpetuity.
- DPHI supported the proposed 10% affordable housing controls for the Chatswood CBD, as expressed in the Plan Finalisation Report June 2023. The Planning Proposal was made on 30 June 2023 as Amendment 34 to WLEP 2012.

In regards 57-61 Archer St and 34 Albert Avenue a comparison of pre-Amendment 34 and Amendment 34 height, floor space ratio and affordable housing is provided in **Table 2** below to highlight the significance in uplift and the appropriateness of Council's affordable housing requirements:

**Table 2: Comparison of pre-Amendment 34 and Amendment 34 height, floor space ratio and affordable housing**

<b>57-61 Archer St 34 Albert Ave</b>	<b>Pre-Amendment 34</b>	<b>Amendment 34</b>	<b>% increase</b>
<b>Floor Space Ratio</b>	0.7:1	5:1	614.3%
<b>Height</b>	9m	34 Albert Ave: 23m 57-61 Archer St: 90m	155.6% 900%
<b>Affordable housing</b>	4% on PP sites in Chatswood CBD	10%	150%

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) Proponent WLEP 2012 Clause 6.8 challenge: Dot Point 2**

- *“In consideration, the Housing SEPP rate of 15% will translate into a generous proportion of affordable housing for this project, when compared to the need identified in the Willoughby Housing Strategy 2036 released by Council in May 2020 (which is 70 affordable housing units by 2026).”*

Discussion

Willoughby Affordable Housing Strategy 2020 to 2026 states regarding ‘Affordable housing assets’:

*“Outcome 2: Council’s Affordable Housing Program and assets are strategically managed to optimise social outcomes and financial sustainability.”*

Under ‘Measures’, is further states:

*“By 2023:*

- *Increase Council provided affordable housing properties to 50.*

*By 2026:*

- *Increase Council provided affordable housing properties from to 70”*

The figures of 50 and 70 are not a definition of need but rather a target for units owned and managed by Council (subject to ongoing change), and were identified prior to recent planning reforms providing for more housing.

As noted above, Council currently has 63 affordable housing units in perpetuity and therefore is below targets identified and anticipated. The proponents approach to affordable housing is contrary to Council expectations.

Council’s vision for affordable housing in not based on a short term timeframe. Council emphasizes that the value of 10% affordable housing in perpetuity significantly outweighs the provision of 15% affordable housing for a period of 15 years.

Putting to the side DPHI support to date for WLEP 2012 affordable housing controls, including the 10% requirement, it is noted that affordable housing provision has been an important component of the Transport Orientated Development (TOD) program and in particular the Crows Nest Precinct that covers Willoughby, North Sydney and Lane Cove LGA’s. The importance of affordable housing in perpetuity was acknowledged in the DPHI Crows Nest TOD Finalisation report, November 2024. Sites involving significant uplift were required to provide between 5% and 18% in perpetuity, with the contribution to be administered through each affected Council’s LEP. The LEP Clause allows the consent authority to impose, as a condition of consent for development applications, the collection of an affordable housing contribution on floor space. The WLEP 2012 Clause 6.8 was utilised by DPHI in the preparation of this amending Clause. Having regard to land within the Willoughby LGA, the site known as Lot 4B Herbert Street St Leonards is now required to provide an affordable housing component of 15% in perpetuity.

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.
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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) Proponent WLEP 2012 Clause 6.8 challenge: Dot Point 3**

- *"The amount of affordable housing contributions is onerous, particularly when the State Government's Housing and Productivity Contribution and was not considered as part of Council's feasibility testing to implement a generous 10% contribution."*

The *Housing and Productivity Contribution Guideline* is dated May 2023, with Housing and Productivity Contributions (HPC) coming into effect on 1 October 2023. As noted above, following due process of the comprehensive WLEP 2012 review (including exhibition), Council resolved on 12 December 2022 to support the 10% affordable Housing requirement. In line with the Council resolution, the Planning Proposal was forwarded to DPHI in early 2023 and made on 30 June 2023.

All required Council information, including feasibility testing, was provided to DPHI prior to the HPC Guideline and subsequent commencement.

The point is made that Council's WLEP 2012 Clause 6.8 addresses the issue of affordable housing. In regards the question 'What types of infrastructure will the HPC fund?', the Guideline states:

*"Contributions will go towards the provision of state and regional infrastructure needed to unlock development and support forecast growth, such as roads, parks, hospitals and schools. Infrastructure investment will align with timeframes for land use planning, rezoning and forecast development."*

*The Housing and Productivity Contribution can contribute towards the following growth-enabling types of infrastructure:*

- *Active transport*

- *Transport*
- *Education*
- *Health*
- *Emergency*
- *Justice*
- *Open Space and conservation*

*Funds will also be provided to support councils in delivering infrastructure that supports housing and productivity.”*

Based on the above, the purpose of the HPC is not to provide affordable housing.

In Council’s view the purpose of contributions must be kept clear, and where appropriate, separate.

Furthermore, with particular regard to the Chatswood CBD, established affordable housing contributions must not be seen as developer costs to be reduced, but rather the minimum and expected contributions accompanying significant uplift with related significant positive outcomes.

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

- *“There is a significant Section 7.12 Contribution payable of 3% of the total development cost.”*

The *Willoughby Local Infrastructure Contributions Plan 2019*, which came into effect 4 July 2019, states:

*“The area will accommodate further urban development into the future. This development is expected to cater to over 11,000 additional residents and 8,000 additional workers up to 2031.*

*The development will be spread throughout the area with most residential development concentrated in Chatswood, St Leonards and Willoughby.*

*This level of development can only be sustained by the provision of new and upgraded Local Infrastructure, including open space and recreation facilities, and active transport and public domain. Existing libraries and community facilities, such as The Concourse at Chatswood, will also cater for the demands of future populations.*

*Contributions of land, works and money from the developers of land in the Willoughby LGA will be a key source funding for this infrastructure.*

*Sections 7.11 and 7.12 of the Environmental Planning and Assessment Act 1979 (EP&A Act) authorises councils and other consent authorities to require contributions of land or money from developments toward the provision, extension or augmentation of Local Infrastructure (or towards recouping the cost of their provision, extension or augmentation)."*

In regards to the subject site, mixed use development will be subject to either section 7.11 or 7.12 contribution whichever yields the greater amount.

The proponent has identified a Section 7.12 Contribution as the greater in regards the proposed development.

It is Council's view that the section 7.11 or 7.12 contribution is intended to provide new and upgraded local infrastructure including what is described above. Appendix A of the *Willoughby Local Infrastructure Contributions Plan 2019* details the Infrastructure Schedule, and in particular what infrastructure requires funding and expected costs. This Plan and Schedule does not address affordable housing and is not expected to replace affordable housing provision, which is addressed in WLEP 2012 Clause 6.8.

<p>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.</p>
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#### **g) What is a reasonable affordable housing outcome**

It is not entirely clear what is meant by the statement on P. 52 of the EIS, regarding 'Willoughby City Council Affordable Housing Contributions', which states:

*"The Proponent will work with Willoughby Council and the Department to achieve a reasonable outcome."*

The SSDA proposes no affordable housing dedicated to Council in perpetuity or contribution consistent with WLEP 2012 Clause 6.8.

It is uncertain whether the proponent is saying the SSDA as submitted is reasonable or whether this 'working with Council and the Department' is an indication that negotiation is sought.

The disregarding of Council's 10% affordable housing requirement as sought by the proponent would set a precedent for all SSDAs seeking to utilise the infill affordable housing provisions. This would be an unreasonable outcome in that previous strategic planning would be undone which deliberately linked significant uplift in the Chatswood CBD with increased affordable housing in perpetuity, as well as the lost benefits of long term affordable housing (perpetuity) when compared with short term affordable housing (15 years).

As noted above, while Council's preference is for built units, Council's controls provide flexibility for payment of a monetary contribution. Although not Council's preference, the equivalent 10% monetary contribution is prepared to be accepted. In the event this option is chosen, the appropriate figure is determined as follows:

- A figure (mean) for the market value of dwelling sales in Willoughby is obtained from the most recent (recent at the time of payment) Rent and Sales Report issued by the Department of Communities and Justice.
- A date stamped screenshot of the relevant figure within the Rent and Sales Report must be provided.
- The most recent WCC average unit size as published by Council must be assumed for the purposes of the calculation - as at 1 Feb 2025 this figure is 100m<sup>2</sup>.

The SSDA should address the following in regards the affordable housing proposed (both in regards WLEP 2012 and the SEPP):

- 1) To ensure compliance with s 7.32 (3) (a) of the *Environmental Planning and Assessment Act 1979* and s 15 of the *State Environmental Planning Policy (Housing) 2021*, full details to be submitted to verify the following:
  - (a) how the affordable housing aims to create mixed and balanced communities,
  - (b) how the affordable housing is to be created and managed so that a socially diverse residential population, representative of all income groups, is developed and maintained in a locality,
  - (c) how the affordable housing is to be made available to very low, low and moderate income households, or a combination of the households,
  - (d) the methodology to ensure that affordable housing is rented to appropriately qualified tenants and at an appropriate rate of gross household income,
  - (e) that land provided for affordable housing must be used for the purposes of the provision of affordable housing,
  - (f) how buildings provided for affordable housing must be managed to maintain their continued use for affordable housing,
  - (g) in what way affordable housing must consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with other dwellings in the area.
- 2) To ensure compliance with s 7.32 (1) and (3) (c) of the *Environmental Planning and Assessment Act 1979*, details are required to verify the following:
  - (a) whether the proposed development will or is likely to reduce the availability of affordable housing within the area and the extent of the need in the area for affordable housing,

- (b) whether the proposed development will create a need for affordable housing within the area, or
- (c) whether the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site, or
- (d) whether the regulations provide for in this section apply to the application.

This information should be submitted as part of this SSDA.

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.

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

The *In-fill Affordable Housing Practice Note*, December 2023, states (P.13):

*“Responding to local standards*

*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. DAs that propose in-fill affordable housing will be subject to merit assessment by the consent authority. The application of the bonuses does not affect a consent authority's responsibility to consider the requirements of relevant EPIs, a development's likely impacts or the suitability of the site for the development. In applying the in-fill affordable housing bonuses, applicants and consent authorities should be flexible in the design response of the development having regard to:*

- *the Government's policy intent to deliver more affordable housing through the in-fill affordable housing provisions of the Housing SEPP, and*
- *the impact of the development on the amenity of the site and adjoining land, taking into account the building's height, scale and bulk.*

*The in-fill affordable housing bonuses do not override any provision in any LEP or other EPI. However, local development standards should be applied flexibly and need to be balanced against the need to realise more affordable housing.”*

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

The Design Competition Report prepared by Mecone was for a development application and acknowledges:

*"The Architectural Design Competition process has been undertaken in accordance with the endorsed Design Competition Brief and relevant planning provisions, including Clause 6.23 of the LEP, DCP Controls and Willoughby City Council Guidelines for Design Excellence Review and Competitions 2019."*

The proponent's Environmental Impact Statement noted (P. 58):

*The Design Integrity Panel's support "for the revised proposal as the design closely aligns with the original competition scheme and has the potential to achieve design excellence in accordance with WLEP 2012."*

The Bridging Design Excellence Strategy and exemption granted by GANSW on 8 November 2024 confirming that a new competitive design process is not required for the SSDA is also noted.

Notwithstanding the results of the Design Excellence competition, Council officers are of the opinion that a design excellence review of development on this site should have appropriate regard to vision of the CBD Strategy, WLEP and WDCP, and the matters 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 (for example affordable housing, the non-residential floor space component or appropriate car parking rates) and does not represent the views of Council. It is noted that the design excellence process informs an application and a consent authority, among a number of elements to be assessed.

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

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.

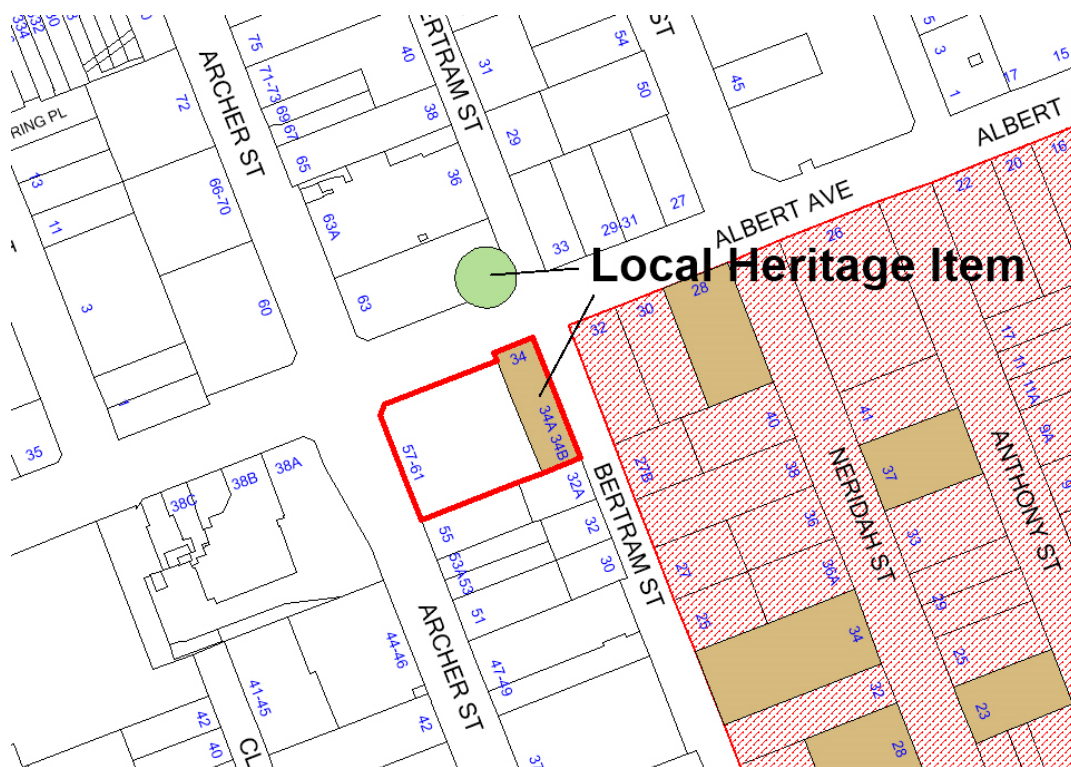
#### 4. Concern regarding proposed height on CBD boundary

Council officers acknowledge the NSW government's focus on housing provision and facilitating state significant development. However, there is concern around additional height above what has been recently strategically planned by Council and DPHI as discussed below.

In the preparation of the draft CBD Strategy, a height of 90m was proposed across the mixed use section of the Chatswood CBD.

In its review of the draft CBD Strategy in 2019, DPHI raised concerns with such a height on the CBD boundary, with particular regard to low density residential conservation areas (with a maximum height of 8m). DPHI required Council to undertake a review of heights along the CBD boundary. Refer below to **Map 4: Snap shot from WLEP 2012 Heritage Map**.

**Map 4: Snap shot from WLEP 2012 Heritage Map**

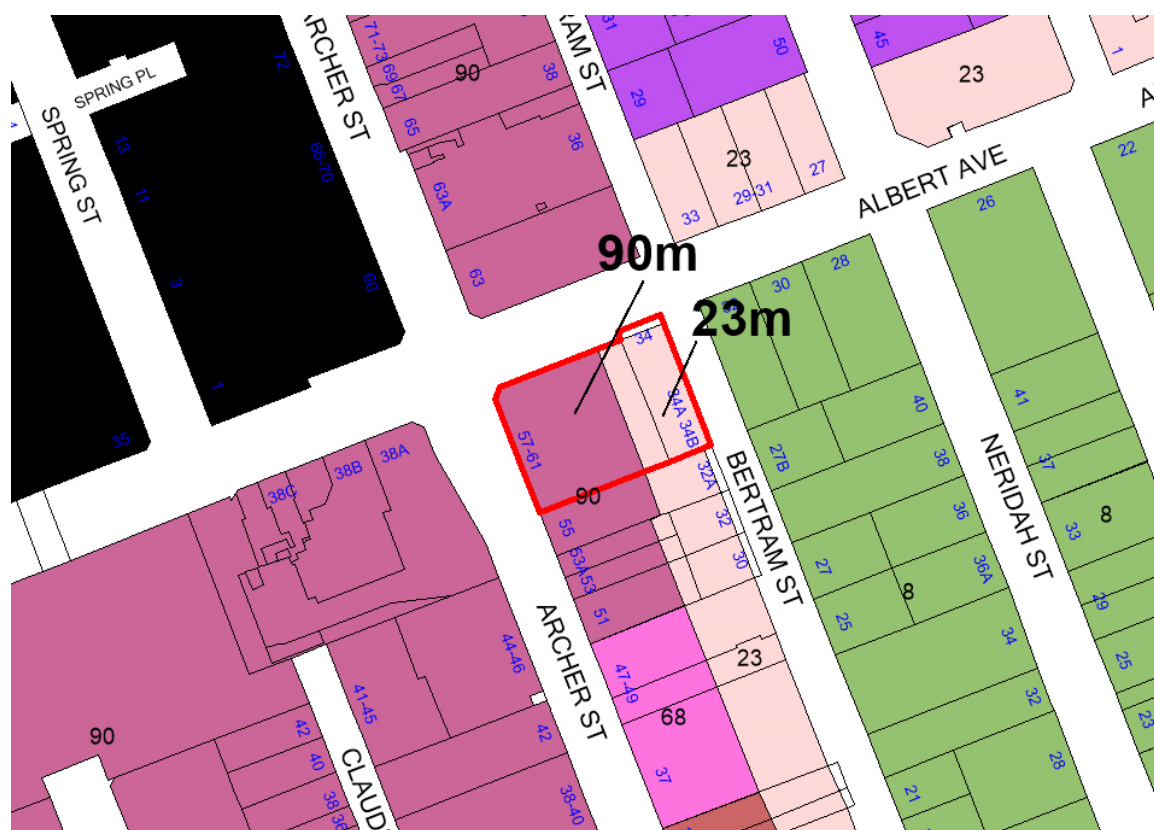


An independent review was undertaken (by GMU) concluding that reduced height was appropriate on the CBD boundary opposite low density residential conservation areas. A variety of maximum heights were identified, stepping down to the CBD edge, minimising bulk and scale as well as overshadowing impacts.

Based on this review, heights were lowered along the CBD boundary and DPHI subsequently endorsed the CBD Strategy in 2020.

It should be noted that a low density residential conservation area is opposite the subject site in Bertram Street (the South Chatswood Conservation Area with a maximum height of 8m). While the height on the Archer Street side of the block was made at 90m, the height on the Bertram Street side was reduced to 23m. The complexity around the height on the block bounded by Albert Avenue, Bertram Street, and Archer Street (as supported by DPHI) is shown below in **Map 5: Snap shot from WLEP 2012 Height of Buildings Map**.

**Map 5: Snap shot from WLEP 2012 Height of Buildings Map**



----- Subject site shown in red outline

The point is made that Council planned for housing provision by significantly increasing height of the subject site on the Archer Street side of the block, to a height considered appropriate both in the draft CBD Strategy and subsequent review (having regard to proximity to the low density residential conservation area).

The subject SSDA proposes a total height of 113m or 32 storeys, being an increase of 23m above the recently increased 90m maximum. Height is required to be reviewed, with Council seeking amendments.

A reduction in height by removing positive ground level public domain outcomes or reducing tower setbacks is not an acceptable approach, as these are expected in new development responding to WLEP 2012, WDCP and the CBD Strategy.

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

The proposed non-residential floor space is equivalent to 13% of the total building's GFA. The proposal therefore presents a shortfall of 674.62m<sup>2</sup> of non-residential floor space and seek a 23% variation to the standard. A Clause 4.6 Variation Request has been prepared to provide justification for the variation.

The proponent's Environmental Impact Statement provides justification for the variation on P. 69 and 70. Each justification is listed below with Council comment:

- *“While the density uplift under the Housing SEPP has allowed for additional market and affordable housing within the Chatswood CBD, this was not contemplated at the time of drafting the non-residential floor space standard under WLEP 2012.”*

Council comment: An important component of the CBD Strategy was to achieve an appropriate mix of residential and non-residential uses, to ensure the growth and vibrancy of the CBD into the future. The minimum non-residential component was identified as 1:1 or what effectively became 17% of the GFA. This left the vast majority of GFA (83%) available for residential uses. This 83% of residential GFA is now boosted by the additional housing available under the Housing SEPP.

- *“The Strategy states that the objective of the control 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”*

Council comment: The CBD Strategy did not anticipate that all non-residential floor space had to be within podium levels. To be clear, non-residential floor space is not exclusive to podium levels or restricted from tower levels.

- *“A strict interpretation of Clause 6.25 would require the minimum 17% of non-residential floor space to be calculated based on the total building’s GFA, including the 30% uplift under the Housing SEPP.”*

Council comment: The uplift under the CBD Strategy was based on a number of factors, including the 17% non-residential requirement. Any additional floor space should follow the same rationale to ensure the envisioned land use mix.

The WLEP 2012 contains the following definition of non-residential

*“non-residential purposes means land uses other than the following—  
(a) residential accommodation,  
(b) serviced apartments.”*

The non-residential floor space requirement provides considerable flexibility regarding available land uses.

- *“this results in excess employment floor space being required to be provided beyond the planned employment floor space under the Chatswood CBD Strategy. Therefore, in principle this does not align with the intent of the non-residential floor space control.”*

Council comment: Applying the 17 % requirement to additionally permitted GFA does not result in excess non-residential floor space. The intent of the non-residential floor space control is to ensure an expected mix of land uses in the CBD.

Following on from the CBD Strategy, WDCP, Part L, Section 4 Chatswood CBD, 4.1 Character Statement states:

*“The controls in this plan relating to the E2 Commercial Core zone are designed to increase investment confidence in office development and protect these employment hubs from residential incursions.*

*The MU1 Mixed Use zone provides a mix of commercial and residential around the E2 Commercial Core in line with Map 1 (Chatswood CBD Strategy Land Use Map). This is to help maximise returns on existing and planned investment in public infrastructure and ensure Chatswood remains a major employment centre in metropolitan Sydney.”*

With the provision of additional housing through state government pathways, in particular build to rent within the E2 Commercial Core, the potential non-residential development is

being reduced and is not being realised in the immediate term with developers drawn to residential possibilities. This makes the expected minimum non-residential component (17%) in the MU1 Mixed Use zone of even greater importance. It is further noted that it was envisioned in the Chatswood CBD under the CBD Strategy that the different zonings, locations and floor plate sizes would result in different types of non-residential uses. These different offerings were considered crucial for providing non-residential land use diversity within a growing CBD, which would work with the residential land use to provide for the overall well-being of Chatswood to 2036 and beyond.

- *“The provision of the excess employment floor space is also inconsistent with the principles in Section 3 of the Housing SEPP, including “promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services” and “encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability”*

Council comment: The same rationale may be used to justify non-residential land uses.

- *“Any increase in podium area would result in greater overshadowing impacts and would result in a bulky built form that would restrict the retention and integration of the heritage item within the development, as well as the provision of a pedestrian plaza and pocket park on ground level.”*

Council comment: Any non-residential component is able to be designed within the proposed tower form, and does not have to result in a larger podium form.

- *“The replacement of residential floor space would result in the loss of approximately eight units, thereby diluting the intent of the in-fill affordable housing provisions under the Housing SEPP in maximising the provision of additional housing opportunities.”*

Council comment: It is not considered good strategic planning practice to focus solely on one outcome, when there are other desired outcomes to be achieved.

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**

The proponent's Environmental Impact Statement states (P. 77):

*“The proposed development will comply with the minimum parking rates under Chapter 2 Division 1 of the Housing SEPP. The Willoughby DCP 2023 parking rates have been used to guide the provision of parking for retail and commercial purposes*

...

*The proposed residential carparking (market and affordable housing) has been provided in accordance with the Housing SEPP. As the Housing SEPP does not explicitly provide a rate for studios, it is viewed that there are no car parking requirements for studios. However, the studios have been included in the calculation as a conservative approach – also noting that WDCP also expects that studio apartments require car parking.”*

Car parking as required and as proposed is broken down in **Table 3**.

**Table 3: Car parking as required and as proposed**

Land use	Proposed FSR and units	Housing SEPP	WDCP Min	Max	Provided in SSDA
<b>Retail</b>	565m <sup>2</sup>	8	1	8	8
<b>Commercial</b>	1682m <sup>2</sup>	4	0	4	4
<b>Studio / One bedroom (Aff H)</b>	39	16	3.9	The minimum number of car parking spaces must comply with Housing SEPP 2021	16
<b>Two bedroom (Aff H)</b>	2	1	0.4	The minimum number of car parking spaces must comply with Housing SEPP 2021	1
<b>One bedroom (Market H)</b>	25	13	2.5	12.5	140
<b>Two bedroom (Market H)</b>	41	41	8.2	20.5	
<b>Three bedroom (Market H)</b>	43	65	10.75	21.5	
<b>Sub Total</b>	<b>150 res units</b>	<b>147</b>	<b>26.75</b>	<b>66.5</b>	<b>169</b>
<b>Visitor car spaces (1 per 7 car spaces)</b>		None	3.82	9.5	None
<b>Total</b>	<b>150 res units</b>	<b>147 car spaces</b>	<b>31 car spaces</b>	<b>76 car spaces</b>	<b>169 car spaces</b>

The following concerns are raised with the proposed parking:

- The SSDA proposes 169 car spaces and the proponent's analysis requires 147 car spaces under the Housing SEPP (for residential) and WDCP (commercial and retail). Car parking above the required amount in the Housing SEPP and WDCP for non-residential is not supported as it is contrary to Council's vision for lower car parking rates in the Chatswood CBD railway precinct as expressed in WDCP. The required amount is dependent on the points below.
- The Housing SEPP contains car parking rates in Part 2, Development for affordable housing, Division 1, Infill affordable housing, Clause 18 Non-discretionary standards. The rates are unchanged from the SEPP coming into force (28 November 2021) and now. Since the Housing SEPP, there have been two significant advancements in regards to planning for car parking in railway precincts
  - Willoughby Council has revised its car parking rates in railway precincts down, below the Housing SEPP, in order to minimise vehicle parking within highly dense urban environments.
  - The TfNSW *Guide to Transport Impact Assessment* applies to applications lodged after 4 November 2024. This document states:  
*"The parking controls specified in LEPs and/or DCPs take precedence over the parking rates set out in this Guide to the extent of any inconsistency. The exception to this are circumstances, as stated in Section 8.3.1, where other EPIs prevail."*
- The SSDA exceeds Council's car parking requirement by 103 car spaces (based on Council's maximum rate).

It is acknowledged that the Housing SEPP is a EPI. However the question is raised that in an increasingly dense urban environment such as the Chatswood CBD (noting Amendment 34 to WLEP, made 30 June 2023) where:

- public transport options have increased,
- the encouragement of pedestrian and active transport was an important part of Council and TfNSW support for significant uplift,
- the enhancement of residential and worker amenity was an important part of Council support for significant uplift,
- the state government has permitted more pathways increasing density via the Housing SEPP,

why is more car parking for an infill affordable housing development under the SEPP available, contrary to the lower number in Council's DCP? Under WDCP 76 car spaces are required and under the SEPP 147 car spaces are required.

WDCP purposefully seeks to decrease reliance on cars, minimise traffic congestion, increase active transport options and maximise amenity at street level for workers and residents. Tens is generally supportive of lower parking rates within a transport precinct, and has been supportive of Council's reduced car parking rates in the Chatswood CBD as an accompaniment to significant increased density.

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 model 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**

In WDCP, Part F, Section 7 Laneway widening, Attachment 5: Laneway widenings, the 3m wide frontage of 34 Albert Avenue is required to be dedicated to Council in any redevelopment of the site. The intention is this land is provided to Council for a public purpose and the proponent benefits from inclusion of this land in site area calculations. This dedication is supported by Council.

The proponent's EIS states (P.71):

*"Consistent with Part F Section 7 of WDCP 2023 and Council's written response dated 4 August 2024, the 3m land has been included as part of the subject site for the purposes of calculating FSR and GFA."*

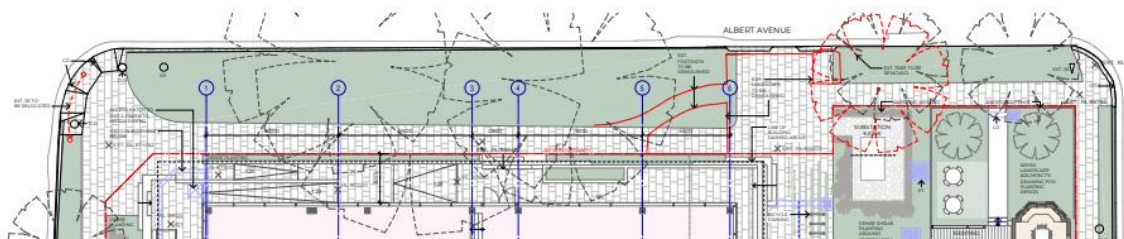
In Council's email with the proponent on 4 August 2024 it was stated:

*"This land ... is required to be dedicated to Council in any redevelopment of the site for the purposes of local road widening (Part F: Transport and Parking Management, Section 7 Laneway Widening, and Attachment 5: Laneway widenings).*

*Your letter states: "Coronation supports this approach on the assumption that the land would retain floor space potential."*

However it is noted on the architectural and landscape plans that this land is not shown as dedicated to Council, with the site boundary including this land. Moreover the proposed substation serving the subject site encroaches into this space.

**Map 6: Area in front of 34 Albert Avenue subject to dedication (however shown as part of site)**



In regards satisfactorily addressing public benefit, ground level public domain embellishment is expected to accompany uplift under WLEP 2012, WDCP and the CBD Strategy. The same logic is applied to state significant development applications.

Public rights of way are expected over ground level areas, and the integrity of these areas are to be enhanced through design measures.

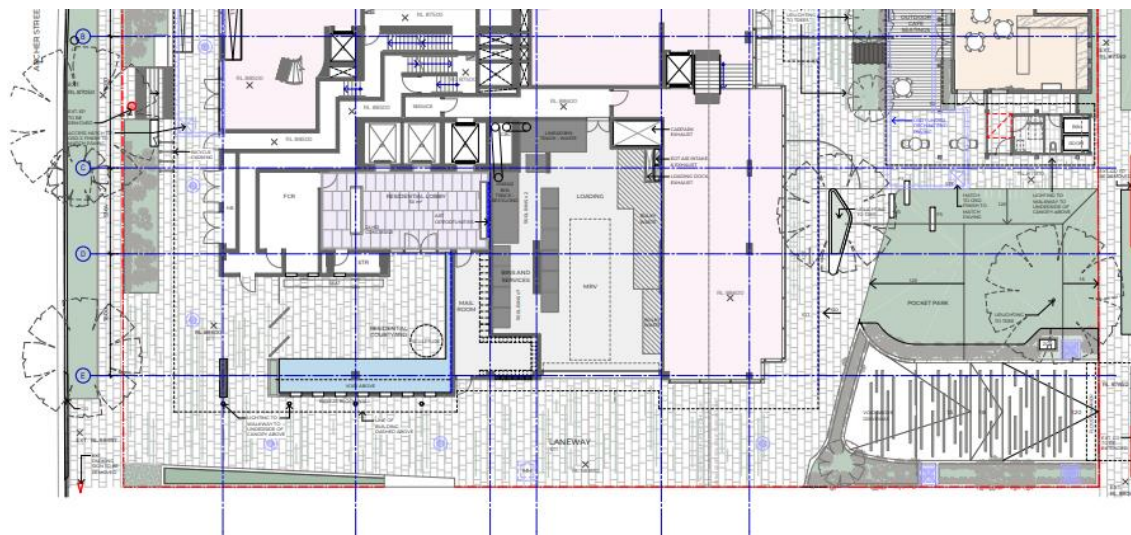
The proposed pocket park is supported subject to public rights of way, being open to the sky and mix of grass and planting (including deep soil planting) and no fencing being provided to enhance public access. However clear dimensions are to be provided for certainty around this public benefit outcome. The proposed pocket park is also addressed in the Open space comments below.

The through site links are generally supported subject to public rights of way and being open to the sky for at least 3m in width. Amended documentation is to be provided confirming dimensions and the other above requirements.

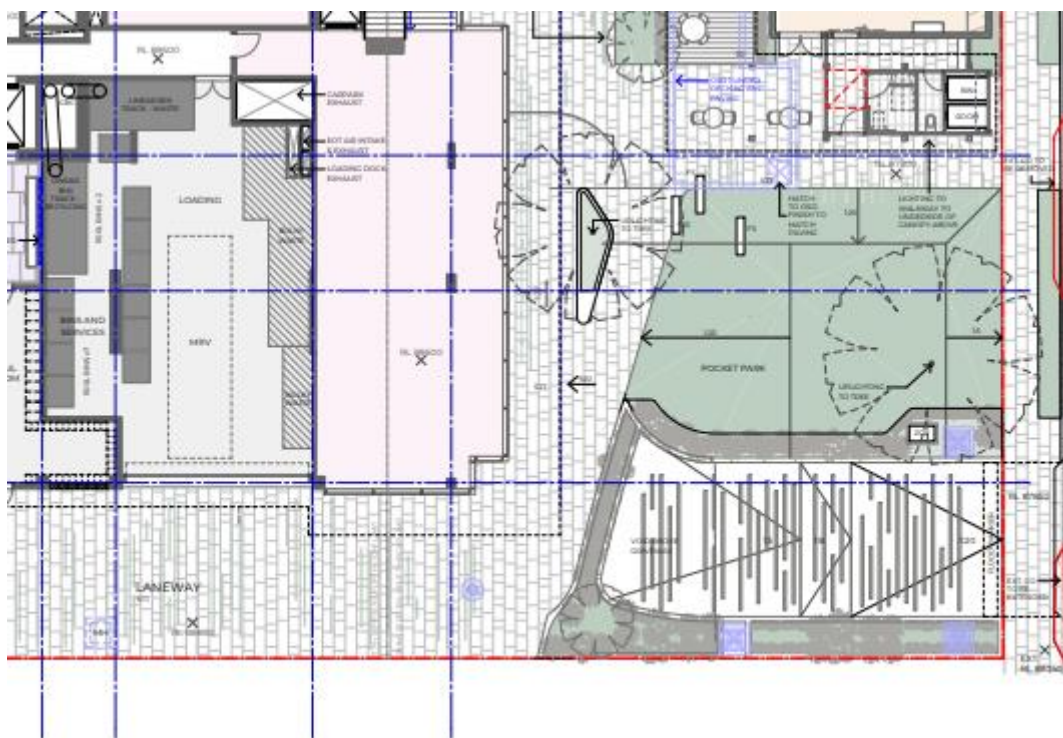
It should be noted that outdoor dining, while encouraged, is to be planned for at this early stage outside of areas subject to public rights of way.

Concern is raised with how the basement vehicle entry via Bertram Street interrupts the ground level 'laneway' from Archer Street and a direct connection with Bertram Street. Clear justification is required explaining this design choice, together with mitigation measures that address Council concern that through site access is not obvious to the average pedestrian because it is not direct or clearly visible for pedestrians coming from Archer Street, Bertram Street or Albert Avenue. Mitigation measures may include pulling back the southern corner of the building as it faces Bertram Street (and the proposed basement entrance), to increase sight lines for pedestrians coming from Bertram Street and Albert Avenue. Any balustrade above the basement entrance from Bertram Street should be clear in nature to encourage visibility and be inviting to pedestrians.

**Map 7: 'Laneway' along southern boundary and dog leg to Bertram Street**



**Map 8: South eastern corner where building could be pulled back to increase site lines and increase pedestrian use**



The 6m 'laneway' setback to the southern boundary, and its proposed shared function, is prepared to be considered provided no loading occurs within this space. Access for HRV's via Archer Street and ground level loading, is prepared to be considered in this instance, however loading / unloading is to occur in the loading dock within the building. Design is to accommodate sufficient turning circles for HRV to access and exit the internal loading

dock, and splays are to be provided to enhance sight lines for the public accessible 'laneway.' HRV loading here is to be managed within suitable times of the day. Any other vehicle access, including loading for smaller vehicles is to be via Bertram Street. Measures to ensure the integrity of this arrangement should be conditioned in any approval. Loading is further discussed below in 8. b) Engineering comments and 8. c) Waste comments.

Confirmation is required that this land is to be dedicated to Council at no cost, and any structure including the substation is to be removed (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

#### i) Tree removal and replacement

- The majority of tree removals have been approved under two DAs as noted.
  - DA-2023/328 – Demolition works: Thirteen (13) trees were approved for removal under DA-2023/328 requiring thirty-nine (39) replacement trees. Two (2) Exempt trees were also to be removed. As the DA was for demolition works only with no replanting to be carried out under the DA it was conditioned for the thirty-nine (39) replacement trees to be paid for under Tree Offset Planting Scheme.
  - DA-2023/320 – Early works basement excavation and shoring: A further five (5) trees were approved for removal to be replaced at 3:1 per WDCP Part G. The conditions required a bond payment for twelve (12) trees to be planted on site as part of future development, and three (3) replacement trees to be paid for under Tree Offset Planting Scheme.
  - An error in the conditions noted six (6) trees to be paid for under the Tree Offset Payment Scheme instead of three (3). This is in the process of being corrected as part of a S4.55 modification.

ii) Additional tree removals

- The arborist's report indicates six (6) additional trees to be removed as part of the SSD application. Two (2) are noted to be weed species which are exempt from requiring approval; trees T20.
- Four (4) trees require approval for removal including tree T1, which is a large established street tree, a *Lophostemon confertus* (Brush box), on Archer Street. Tree T1 is to be removed to allow for construction of a new driveway and crossover for large vehicle access to the site.
- Tree T18 is a *Glochidion ferdinandii* (Chees tree) located within the setback from Albert Avenue of the heritage item to allow for installation of the substation. The tree has a high retention value rating, although it is in average condition, with mechanical damage to the trunk and foliage density less than typical for the species. Relocation of the substation could allow for the retention of the tree, which would also allow for an improved presentation and open view of the heritage item and sight lines for the through site link.
- A recent site visit indicated trees T30a & T30b have been removed already without consent during the demolition works.
- As per WDCP Part G, the four (4) additional non-exempt trees for removal require replacement at 3:1 for a twelve (12) additional trees.

Table: Trees approved for removal under DA and trees shown for removal in SSD.

DA-2023/328	T6, T10, T11, T12, T13, T14, T15, T16, T17, T22 (group of 4), T31 & T32
DA-2023/320	T5, T27, T28, T29 & T30
SSD	T1, T18, T20 (group of 2), T30a & T30b

iii) Replacement trees

- The landscape plans include twelve (12) trees to be planted in deep soil zones within the site on the ground floor, a further two (2) new street trees on Albert Avenue in front of the heritage item, and one (1) replacement street tree on Archer Street.
- An additional fifteen (15) trees are proposed to be planted in planters across levels 01, 02 and 03. This provides a total of thirty (30) replacement trees.

- Most of the proposed trees have not been labelled on the plans, so it is difficult to identify which species goes where and therefore properly assess suitability.
- It is assumed the *Eucalyptus saligna* (Sydney blue gum) is proposed for the park, and the species selection is supported by Council.
- Planting schedule lists pot size of new tree plantings as 300mm. This is considered inadequate for a development of this size, particularly for replacement tree planting in the deep soil zones. Large, advanced tree stock should be used for tree plantings within deep soil zones.

iv) Street tree planting

- The landscape plan shows street tree planting on Albert Avenue in-front of the heritage item at 34 Bertram Street to be *Pyrus calleryana* "Cleveland Select". Whilst this species is listed in Council's Street Tree Masterplan for the precinct it has not been used on Albert Avenue. The species should be changed to *Tristaniopsis laurina* (Water Gum) to be in keeping with existing street tree plantings along Albert Avenue. The trees shall be the straight species, and not a cultivar such as *Tristaniopsis laurina* "Luscious".
- The replacement street tree on Archer Street is a *Backhousia myrtifolia* (Grey myrtle) typically only grows to a height of 4 – 7 metres in an urban setting. This species selection is not considered suitable for this location. A larger growing native species should be used instead, such as *Lophostemon confertus* (Brush box), which are the existing street trees, or *Angophora costata* (Smooth-barked apple), *Angophora floribunda* (Rough-barked apple), or *Flindersia australis* (Australian teak).

v) Screen planting along Bertram Street basement driveway

- Appendix L - Landscape Design Report notes "screen planting along boundary" to the side of the basement car park entry from Bertram Street. The landscape plans show species with mature heights up to 1m, which would be insufficient to provide privacy screening to the adjoining property. It should be noted there are some plants symbols shown on the landscape plan in the planter along the boundary which have not been labelled with a species and therefore their mature height and potential screening capability is not known.

vi) Substation on 34 Albert Avenue frontage

- The location of the substation requires the removal of an existing native tree and is proposed to be screened with tall hedge planting around the substation. Whilst this may create a green look for the substation, the height and density of the planting will create a visual barrier at this key entry location. A more discreet location within the site is sought.

- In regards the link and public realm, the tall screen planting around the substation will create blind corners and concealed spaces, which reduces passive surveillance.
- Relocation of the substation is requested as it increases the possibility of retaining tree T18, and allowing for an improved presentation with softer plantings for a more open view of the heritage item and sight lines for the through site link. This current location also intrudes on land required in WDCP to be dedicated to Council.

vii) Maintenance of balcony planting

- The balcony and terrace planting across multiple levels with plants spilling from the balcony planters forms part of the buildings design, both visually and as part of its “Sustainable Community”, as noted in the Appendix I1 - Architectural Design Report, and with the verdant planting hanging from the balconies featured heavily in renderings throughout the report.
- The balcony/terrace plantings from level 3 upwards are accessed via private units. Ensuring the maintenance of the plantings across these areas should be considered.
- The report also notes “carefully selected plant species, to minimise water use”. As plants require ongoing care and occasional replacement, ensuring the correct species and plantings are maintained should not be left to individual unit owners.
- Conditions requiring the ongoing maintenance should be included in any approval, with the responsibility being placed on the body corporate with the garden care being part of the strata maintenance. Without such conditions, the meaningfulness of this greenery (ie long term survival and contribution to minimising urban heat and a green city) is compromised.

viii) Greening to streetscapes

- The performance criteria of WDCP Part L for the Chatswood CBD requires the provision of greening of streetscapes and surrounding the building for visual quality and amenity, as well as reducing urban heat. Whilst the frontages to Archer Street and Bertram Street provide greening to the streetscape that achieves this, most of the Albert Avenue frontage has minimal greening of the frontage at the streetscape ground level in front of the new building and relies heavily on the existing street trees and existing grass verge.
- There is minimal greening provided along the southern boundary between the new tower and the adjoining property, with the area occupied by paving to the boundary. Opportunities should be found for more greening within this space as it also will form part of a through site link.

ix) Natural shade to pocket park

- The pocket park will have minimal shading for much of the day until the tower provides shadowing in the afternoon. Small trees, perhaps some deciduous, should be located to provide shade.

x) Need for further public domain improvements

- The Landscape Plans and Landscape Design Report provide little detail on the public domain beyond existing street trees being retained and minor alterations to footpath layouts. Per WDCP Part D 4.5 Streetscapes the development should provide improvements to the quality of the public domain, such as suitable paving, street trees and landscaping. This should be provided in a manner suitable with the retention and protection of the existing street trees.

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**

i) Traffic and further parking issues

- The swept paths for the loading bay and access to the loading bay detail that access is for a MRV. This size vehicle is smaller than Council's 10.5m waste vehicle. As Council needs to be able to collect waste from residential units, the loading bay and access to it must be designed to cater for Council's 10.5m waste vehicle, with 4.5m headroom.
- The plans and associated Traffic Report have not demonstrated how vehicle / pedestrian conflicts will be managed for the loading bay and access to the loading bay, which is shown as a shared zone. A shared zone is not considered suitable where service vehicles need to manoeuvre, particularly reversing.
- All accessible parking, including adaptable parking, needs to comply with AS1890.6 and not AS 4299.
- It is not clear if the area between spaces 15&16, 53&53, 89&90 and 124&125 is a shared zone between accessible spaces or just an area to provide access to lifts. If it is intended to be a shared space, then it is non-compliant due to the column locations. Relocation of the columns

would allow these spaces to be compliant with AS 2890.6m which could potentially allow these spaces to be associated with an adaptable unit.

- Plans don't detail if any visitor parking is proposed. The size spaces documented are all only Class 1 long term / all day parking. Visitor parking needs to comply with the requirements for Class 2 Medium Term parking (as per AS/NZS 2890.1) as the spaces will have a higher turnover and will be used by people that are not as familiar with the area.
- It is not clear if any walls or landscaping are located within the 2.0 x 2.5m sight triangles adjacent to the main vehicle exit. To provide sight lines to the footpath, all structures and landscaping in this area must be less than 1.2m high.

## ii) Flooding

- The flood report submitted details that the development results in increase in flood levels on adjacent properties of up to 300mm. Consequently, it does not meet the requirements of Section 5.2.1 of the Willoughby LEP, which requires that a development does not adversely impact flood behavior in a way that results in detrimental increases in the potential flood affectation of other development or properties. Any increase in flood level on the adjacent property needs to be less than 10mm, the maximum allowed to account for modelling inaccuracies. The claim in the report that the adjacent site is to be redeveloped and the changes can be managed with the redevelopment is not acceptable. The redevelopment may not proceed, may proceed at a later date or it may not be able to mitigate the effects of the rise in flood levels due to development on this site. The proposed development needs to demonstrate that any increase in flood level on surrounding properties and the road reserve is less than 10mm in the 1%AEP storm event.
- The partial mitigation measures proposed by the development includes a piped solution. The flood report has not detailed if this pipe solution includes a blockage factor as required by Council's Technical Standard 2, so we are unable to assess if the mitigation is less than proposed if blockage is taken into account.
- The development has not demonstrated that the basement has been protected from flooding. Council's Technical Standard 2 requires that basement areas are protected to a level of the 1%AEP flood level + 500mm or the PMF level, whichever is higher. For new developments, the protection needs to be passive measures, such as a crest on the driveway and walls around, and not mechanical measures that need to operate and which could be broken when needed during a flood event. Consequently, the proposed flood barrier at the basement driveway is not acceptable. The flood report only refers to protection up to the PMF level, and does not detail the 1%AEP + 500mm level, so we are not able to assess compliance with the Technical Standard. As the development is a new build, and not alterations to an existing site, the proposed flood protection measures must be passive and not active and must demonstrate that all access points to the basement parking area are protected to the 1%AEP + 500mm level or the PMF level, whichever is higher.

- We have not been able to confirm if the floor levels proposed for the development comply with the Flood Planning Levels for the site, including provision of the appropriate freeboard. The development needs to confirm that a minimum of 500mm freeboard is provided between the 1%AEP flood level and the ground floor level at all locations around the building. Details are to be provided to clearly show the 1%AEP flood level and PMF level at various locations around the site, along with the proposed floor levels in the building adjacent to the flood areas.
- It is not clear if any areas of the building are elevated above the flood zones. If so, details are to be provided to confirm that the underside of the structure is a minimum of 300mm above the 1%AEP flood level and the blockage factor used for the area in the flood analysis.

iii) Stormwater Management

- Council's requirements for on-site stormwater detention require that the system limits flows from the site to the permitted site discharge (PSD) in the 1%AEP storm event. To ensure that the system operates as designed and downstream water levels do not impact the operation of the outlet, the outlet level for the OSD tank must be above the downstream 1%AEP water level. The plans submitted do not demonstrate that this have been achieved. From review of the information, Tank 1 is located within the flood zone, so does not comply with this requirement. To demonstrate that the tank is above the downstream 1%AEP water level, long-sections are to be provided from the connection point to the Council system to each OSD tank. The sections are to include a hydraulic grade line (HGL) analysis to clearly demonstrate that the outlet from the tank is above the downstream water level. The adopted water level at the connection point to the Council system shall be the 1%AEP water level at the point, as determined by the Flood Study.
- Tank 2 includes an internal overflow weir. This is not permitted by Council's Technical Standard 1, as it does not alert the property that the tank is mis-performing and requires maintenance and also does not allow a controlled overflow in the event that the downstream piped is blocked. Overflow from the tank must be via the side or roof of the tank and to ground and not to an enclosed space.
- Tank 2 has a sealed cover over the outlet, which will impact maintenance. The access point over the outlet must be a grate, for ease of access and to allow inspection of the tank without lifting the grate / cover.
- Water quality section of stormwater report refers to Tweed Council requirements. The applicant needs to confirm that the modelling was undertaken in accordance with Willoughby Council requirements.
- The proposed pipe upgrades in Bertram Street do not comply with Council's requirements. Any new Council pipe is to be a minimum of Class 4 RCP or FRC. If the cover is less than 600mm, the pipe must be concrete encased. Precast pits are not permitted for Council infrastructure.

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

### c) Waste comments

#### i) General

- In the latest Willoughby DCP (WDCP 2023), Willoughby City Council has formally adopted the Waste Management Technical Guide and Development Controls by North Sydney Regional Organisation of Councils for multi-dwelling housing, residential flat buildings and mixed-use developments.
- The waste management plan (Version 1), seeks to comply with the WDCP 2023 including NSROC 2018 for residential flat buildings, but is not explicitly clear that is seeking to comply with NSROC 2018 Section 5.3 for high-rise. The waste plan partially complies with the WDCP 2023, but there are some key items that require clarification. The list of items may not be exhaustive in ensuring compliance with the WDCP 2023, but is based on an early review of the material.

#### ii) Residential waste collection bins and frequency

- The waste plan (Version 1, Table 7) suggests collection of residential bins incorrectly, such as with 4 times per week servicing. The required service is:

Residential bins	L/unit / Week	Bin size	Collection frequency	Expected generation for 150 units	Number of bins *
<b>General waste ^</b>	140	1,100 L	Twice per week	21,000L/week	10 uncompacted 5 if compacted 2:1
<b>Recyclable waste ^</b>	120	1,100 L	Once per week	18,000L/week	17 **
<b>Organics waste &lt;</b>	25-50	240L	Once per week	Up to 7,500L/week	Up to 31

Notes:

^ 660L is also an option for waste and recycling, choosing the same bin size for both types.

< See explanation below for organics at 25L to 50L per unit per week.

\* This informs the bin spaces required.

\*\* On-floor 240L bins would be additional to these bins.

iii) Organics requirements

- The waste plan (Version 1, Table 7) does not allow for sufficient bin capacity or space for organics bins, when considering the State Government mandate for Council to install FO or FOGO. Instead of the 120L/unit/week organics (Garden Organics [GO]) requirement in WDCP 2023, Council would consider the NSW EPA (2019) FOGO benchmarks (*Better Practice Guide for Resource Recovery in Residential Developments* (Appendix F) as follows:
  - 25L/unit/week for studios, 1-bedroom and 2-bedroom apartments; and
  - 50L/unit/week for 3 or more-bedroom apartments (or apply where unit sizes are unknown).

iv) Accommodating waste collection trucks

- The waste plan specifies an MRV, but the Council requirement in the WDCP 2023 is for an HRV for residential waste (an MRV can be used for commercial waste). WDCP 2023 states clearly that an HRV is required. WDCP 2023 requires at least a 12.5m parking space (parking for Council's 10.5m truck and 2m rear clearance of the truck for servicing bins and bulky waste safely). There should be a 4.5m height clearance and at least 0.5m side clearance either side of the vehicle for exit and entry.

v) Bin area spaces required

- The waste plan (Version 1, Table 5) does not show a buffer for manoeuvrability. The waste storage area locations and sizes have not been assessed yet due to higher level comments on the number of bins required and the need for an HRV collection truck.

vi) Waste chutes

- The waste plan (Version 1, Section 5.2.5) is unclear how residents will be able to recycle on each floor:
  - Is there a recycling bin located in each chute room for all recycling or only recycling that cannot be placed down the chute (e.g. cardboard).
  - Is there a recycling chute, usually suitable for containers and paper?

vii) Bulky waste

- The waste plan (Version 1, Table 6) has a column title volume "L/week", but presents an area (m<sup>2</sup>) value. The column title should say "Total area required (m<sup>2</sup>)". The area shown (36 m<sup>2</sup>) exceeds the requirement which is acceptable (Version 1, Section 5.2.7 states 33m<sup>2</sup>), but for clarity the minimum requirement for bulky waste for 150 units is 32m<sup>2</sup>.

viii) Charity waste / other recycling

- The waste plan does not provide for charity waste / other recycling. An area of at least 6m<sup>2</sup> is required in addition to the bulky waste area and in a separate room, also accessible for onsite collection by an HRV.

ix) Collection loading areas

- Gradient: The waste plan (Version 1, Section 6.4) states a maximum gradient of 1:24 for 1,100L bins; the WDCP 2023 requires a gradient of not more than 1:33 (3%).
- Travel path: The travel path for caretakers and Council's waste collection staff should be provided, such as the bin carting route ensuring compliance with the WDCP 2023.
- Distance: The waste plan (Version 1, Section 6.4) states a distance of 10m; Council requires bin room doors to be located within 2m of the rear clearance of the collection loading area.

x) Collection time

- The waste plan (Version 1, Table 11) presents collection times "in off-peak times to ensure minimal disturbance to pedestrians and visitors". This may suit commercial waste, but does not comply with residential waste collection times. Residential waste, including bins and bulky waste, may be collected Monday-Friday from 5am in the Chatswood CBD (the two days depending on area). The development needs to be designed in a way that provides safe and practical residential waste collection within Council's operating hours.

xi) Commercial waste generation

- The waste plan (Version 1, Table 8) should identify, if known yet, the area applied for office and retail should be separately identified because they may have different expected generation rates, particularly depending on the type of retail. This could affect the number of bins and size of commercial waste room. The waste plan could also consider commercial organics or other materials.

xii) Construction and demolition waste

- A subsequent waste plan should provide recovery locations by material type clearly showing that the facility accepts that material for recovery; options can be provided. It is noted that there are options supplied in this early waste plan (Version 1), but they are general without noting what can be accepted at each nominated facility.

Comments are provided generally, on residential waste collection bins and frequency, organics requirements, accommodating waste collection trucks, bin area spaces required, waste chute questions, bulky waste, charity waste / other recycling, collection loading areas, collection time, commercial waste generation and construction and demolition waste.