



ATTACHMENT 1 – Council Submission

SSDA 44-52 Anderson Street Chatswood

1. Engagement prior to SSDA lodgement

Section 5 'Engagement' of the proponent's Environmental Impact Statement discusses engagement carried out. It states (p. 68):

Community and stakeholder engagement has been undertaken by Bridgestone in the preparation of the SSDA. This included direct engagement and consultation with ...

- *Willoughby City Council.*

It is unclear what discussions with Council are being referred to here.

There has been consultation in regards separate development applications, DA-2023/172 and DA-2023/219. Further discussion of both development applications is below.

This exhibition represents the first comprehensive review opportunity for Council.
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2. Consistency with 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.

Having regard to the *In-fill Affordable Housing Practice Note*, it is noted that in-fill affordable housing bonuses do not override any LEP height control.

Council seeks for the proposal on this site to have appropriate regard to the location on the boundary of the Chatswood CBD, opposite the low density residential North Chatswood Conservation Area. The impact on adjoining land (and the other side of Anderson Street) is considered excessive, taking into account the building's height, scale and bulk. Particular regard is drawn to the expectations of the CBD Strategy and WDCP.

3. Site Location on edge of Chatswood CBD

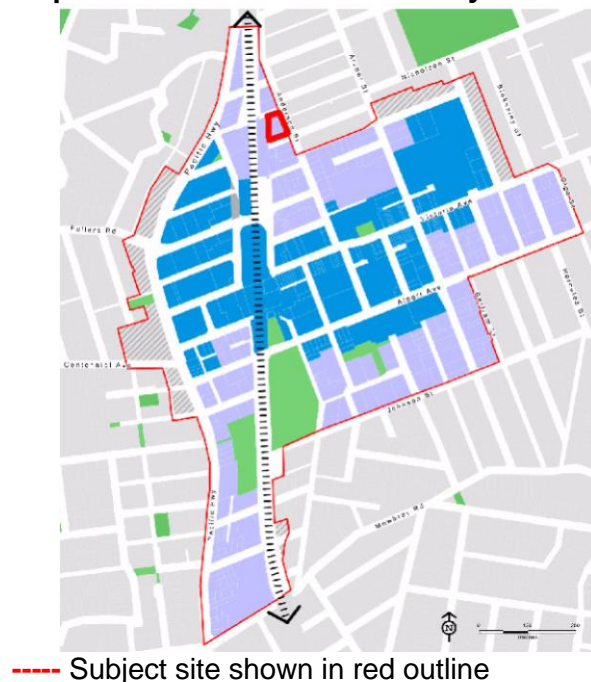
The subject site is located on the edge of the Chatswood CBD, opposite the residential low density North Chatswood Conservation Area. Refer below to **Map 1: Chatswood CBD boundary**.

Redevelopment on this site should have appropriate regard to the location of 44-52 Anderson Street within the Chatswood CBD.

The location of this site on the edge of the Chatswood CBD, opposite the residential low density North Chatswood Conservation Area, requires an appropriately sensitive redevelopment response.

WLEP 2012 controls and the site specific DCP (now part of WDCP, Part L: Place Based Plans, Section 13.1.10 and at **Attachment 2**) pertaining to the site were developed in recognition of the location and surrounding existing character.

Map 1: Chatswood CBD boundary



Redevelopment on this site should have appropriate regard to the location of 44-52 Anderson Street within the Chatswood CBD. The location of this site on the edge of the Chatswood CBD, opposite the residential low density North Chatswood Conservation Area to the east, and the publicly accessible pathway and landscaped area to the west, requires an appropriately sensitive redevelopment response.

4. Recent site history

As noted above, there have been two development applications (DA's) for 44-52 Anderson Street since 2023. These followed the Planning Proposal (PP-2021/1) that was supported by Council in June 2022 and made and notified on the NSW legislation website on 29 July 2022.

The DA's were:

- DA-2023/172
Consolidation of site, demolition of existing structures, construction of 26 storey mixed use development comprising commercial/retail, 95 residential units, publicly accessible through-site link, 4 levels of basement car parking, landscaping and associated works

Refused by Sydney North Planning Panel (SNPP)
Date of determination: 20 September 2024

- DA-2023/219– Early Works DA (approved on 11 October 2024)
Demolition of existing structures including tree removal, site cleaning and preparation of site.

Approved by Council
Date of determination: 11 October 2024

In regards DA-2023/172, the reasons for refusal were as follows:

1. *The DA breaches the FSR development standard in clause 4.4 of the WLEP and this contravention is not justified in accordance with the requirements of clause 4.6 of the WLEP. In particular:*
 - (a) *The Clause 4.4 of the WLEP imposes a maximum FSR of 6:1. The DA seeks consent for the construction of a mixed use building with a proposed FSR of 6.375:1 (gross floor area of 17,129.99m²), which is a breach of clause 4.4 of 1,007.64m² or 6.25%.*
 - (b) *The Applicant has submitted a written request for variation of the FSR development standard under clause 4.6 of the WLEP (**4.6 Request – FSR**). Development consent cannot be granted for the Proposed Development pursuant to clause 4.6(2) of the WLEP because:*

- i. *the 4.6 Request – FSR does not adequately address the matters required to be demonstrated by clause 4.6(3) – that is, it does not demonstrate:*
 - 1. *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and*
 - 2. *that there are sufficient environmental planning grounds to justify contravening the development standard, as required by clause 4.6(4)(a) (i); and*
 - ii. *it has not been demonstrated that the Proposed Development will be in the public interest because it is consistent with the objectives for the standard and the objectives for development within the zone in which the development is proposed to be carried out, as per clause 4.6(4)(a)(ii). This is including because:*
 - 1. *the Proposed Development is not consistent with the objectives for the standard in clause 4.4(1) of the WLEP, including objectives (b), (d).*
 - 2. *the Proposed Development is not consistent with the objectives for the MU1 Mixed Use Zone, including specifically the fifth dot point: “To allow for city living on the edges of the city centre of Chatswood, which encourages public transport use, shopping and the use of businesses and recreational services that contribute to the vitality of the city, without undermining its commercial role.*
2. *The proposal does not satisfy the minimum setback requirements of Willoughby Development Control Plan 2023 Part L 13.1.10 Built Form. The projection of the built form closer to Anderson Street than the DCP contemplates increases visual impacts to properties located within the adjoining Heritage Conservation Area.*
 3. *The proposal does not satisfy the maximum street frontage heights requirements of Willoughby Development Control Plan 2023 Part L 13.1.10 Setbacks and Street Frontage Heights. The exceedance of the DCP exacerbates visual impacts to properties located within the adjoining Heritage Conservation Area, and visual, privacy, and overshadowing impacts to 1 Day Street.*
 4. *The non-compliance with minimum DCP setbacks at the western side of the site reduces the ability to offer an adequate landscape embellishment to the existing publicly accessible pathway as required by Willoughby Development Control Plan 2023 Part L 13.1.10 Links.*
 5. *The non-compliance with minimum DCP setbacks at O’Brien Street reduces the ability for the development to provide planting on that frontage, which would otherwise serve to visually soften the built form. The three-storey built*

form on O'Brien Street (which is also non-compliant) enhances this need for this planting.

6. *The site is not suitable for the proposed development, evidenced by the proposed departure to the FSR standard where that departure is not supported by a satisfactory clause 4.6 request, and where departures to the Development Control Plan creates impacts to surrounding properties.*
7. *The Development Application is not in the public interest.*

The subject SSDA is a new application, however, in Council's view, a number of the SNPP 'Reasons for Refusal' in regards DA-2023/172 continue to apply in regards the subject DA. It is noted that, while the Panel's refusal of DA 2023/172 was made on 20 September 2024:

- SEARs were requested 2 September 2024.
- SEARs were issued on 4 September 2024.
- Environmental Impact Statement lodged with DPHI late 2024
- Exhibition between 31 January and 6 March 2025.

Particular regard is made to the following reasons for refusal:

3. *The proposal does not satisfy the maximum street frontage heights requirements of Willoughby Development Control Plan 2023 Part L 13.1.10 Setbacks and Street Frontage Heights. The exceedance of the DCP exacerbates visual impacts to properties located within the adjoining Heritage Conservation Area, and visual, privacy, and overshadowing impacts to 1 Day Street.*
4. *The non-compliance with minimum DCP setbacks at the western side of the site reduces the ability to offer an adequate landscape embellishment to the existing publicly accessible pathway as required by Willoughby Development Control Plan 2023 Part L 13.1.10 Links.*
5. *The non-compliance with minimum DCP setbacks at O'Brien Street reduces the ability for the development to provide planting on that frontage, which would otherwise serve to visually soften the built form. The three-storey built form on O'Brien Street (which is also non-compliant) enhances this need for this planting.*

The Reasons for Refusal also addressed the importance of the public interest, concluding the DA did not demonstrate the proposal was in the public interest.

Regard should be made to the Planning Proposal on 44-52 Anderson Street that was supported by Council in June 2022 and made and notified on the NSW legislation website on 29 July 2022, and the accompanying site specific development control plan now incorporated into WDCP (Part L: Place Based Plans, Section 13.1.10).

Following on from DA-2023/219 for early works (approved) and DA-2023/172 for construction of a 26 storey mixed use development (refused by the Sydney North

Planning Panel on 20 September 2024), the subject SSDA is a new application on this site (SEARs requested 2 September 2024). However, there are points in the previous Refusal of Development Application DA-2023/172 that should be noted in the assessment of the SSDA, with particular regard to the proposal not being in the public interest in its current form.

5. Design Excellence

The history of design excellence considerations on this site is explained in the proponent's Environmental Impact Statement as follows:

An Architectural Design Competition (ADC) was undertaken for the site between 28 January 2022 and 9 May 2022 ... The Jury unanimously considered that the Make Architects scheme provided the best response to the Design Competition Brief and concluded it could achieve design excellence ...

Since the competition, a Bridging Design Excellence Strategy (BDES) has been developed and owing to exceptional circumstances, Turner Studio have taken on the detailed design development of the scheme

The Design Excellence Competition Report states that the proposal has the potential to achieve design excellence. However, the design excellence process does not include consideration of the merits of compliance or non-compliance with Council controls.

The Bridging Design Excellence Strategy and exemption granted by GANSW on 8 November 2024 confirmed that a new competitive design process is not required for the SSDA. Notwithstanding this, further design resolution is required to meet WLEP 2012 Clause 6.23 Design Excellence, in particular noting that no further review was undertaken.

It is also Council's understanding that there is a significant discrepancy in the extent of deep soil planting between the Design Excellence awarded scheme and the SSDA submitted. Deep soil planting to Anderson Street is discussed further below in Section 6. Amendments required for development to be in the public interest, e) Ground level setbacks and public domain embellishment.

Council officers are of the opinion that a fulsome review of development on this site should have appropriate regard to the vision of the CBD Strategy, WLEP and WDCP, and the matters raised in this submission. The design excellence process does not address all matters that need to be assessed in an application (for example, the appropriateness of the proposed height on the CBD boundary opposite low density residential conservation areas, the proposed variation to the non-residential floor space component, proposed car parking rates, inconsistency with WDCP setbacks and public domain embellishment, as well as more technical open space, engineering and waste matters).

The design excellence process informs an application and a consent authority, among a number of elements to be assessed – with any scheme subject to change under the SSDA and in response to the exhibition and subsequent submissions. It does not presume

approval of the competition scheme and it is Council's view, that in this case, the scheme requires significant amendments.

Noting the role of the design excellence process, Council officers request that appropriate regard be given by the consent authority (DPHI) to the issues raised in this submission. The Design Excellence Competition Report states that the proposal has the potential to achieve design excellence. However, the design excellence process does not comprise of a fulsome assessment against the planning controls and does not presuppose that the application warrants approval.

Subsequent to the design excellence competition, a comprehensive assessment has been undertaken having regard to the CBD Strategy, WLEP and WDCP, covering issues including height on the CBD boundary, non-residential floor space, car parking rates, ground level setbacks and public domain embellishment, podium street wall heights, tower setbacks, access for service vehicles to basement level, as well as other open space, engineering and waste matters. Amendments are requested as discussed in this submission, as well as the provision of additional information.

6. Amendments required for development to be in the public interest

In the proponent's Environmental Impact Assessment (p.125), the proposed development is stated as being in the public interest as it:

- *is wholly consistent with relevant State and local strategic plans and complies with the relevant State and local planning controls including the relevant provisions in the WLEP 2012 and WDCP 2023.*
- *predominantly complies with the relevant State and local planning controls including the relevant provisions in the WLEP 2012 and WDCP 2023;*
- *delivers much needed housing supply that will contribute towards the NSW Government's housing targets under the Housing Accord and that is suited to the housing needs of in this part of Sydney;*
- *will deliver commercial/retail uses within the podium levels to service the community and provide new potential job opportunities for the LGA.*
- *has been comprehensively assessed as outlined in this EIS, which demonstrates that the development will not have any adverse environmental impacts on nearby land uses and where required, appropriate mitigation measures are proposed;*
- *The site will facilitate the orderly and economic use and development of the land.*

The above is high level and does not show adequate regard for local context and character, and established carefully considered design parameters, to ensure the optimum outcome on this particular site and for the development to be in the public interest.

Below is an assessment of the proposal, with amendments required for the proposed development to be considered in the public interest.

a) 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. The subject site is opposite the North Chatswood Conservation Area, opposite an Individual Item of Local Heritage Significance at 20 Tulip Street and within close proximity to the Individual Item of Local Heritage Significance at 21 Daisy Street. Refer below to **Map 2: Snapshot from WLEP 2012 Heritage Map**.

Map 2: Snapshot from WLEP 2012 Heritage Map



----- Subject site shown in red outline

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. The block immediately to the north of the subject site was provided with heights of 53m at 54 Anderson Street and 90m at 56 Anderson Street. The subject site 44-52 Anderson was the first block on Anderson Street given a 90m height across the block. This meant that height on the subject site was significantly increased (by 750%) from 12m to 90m.

Based on this review, DPHI subsequently endorsed the CBD Strategy in 2020.

It should be noted that the North Chatswood Conservation Area has a maximum height of 8m.

The complexity around the surrounding height (as supported by DPHI) is shown below in **Map 3: Snapshot from WLEP 2012 Height of Buildings Map**.

Map 3: Snapshot from WLEP 2012 Height of Buildings Map



----- Subject site shown in red outline

Council planned for housing provision by significantly increasing height on the subject site 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 117m or 34 storeys, being an increase of 27m above the recently increased 90m maximum.

Having regard to the circumstances of this site and its location on the CBD boundary, Council is supportive of a shop top housing development consistent with WLEP 2012 controls – referred to as Option 2 on p. 6 of the proponent's Environmental Impact Statement. In Council's view, heights above 90m should not be located on the CBD boundary adjacent low density residential conservation areas.

It is considered important to further state that a reduction in height by removing positive ground level public domain embellishment 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 (and are discussed below).

A height of 117 and 110m for the two towers 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 this section of Anderson Street was supported at 90m (from 12m, resulting in a 750% increase). 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 27m 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.

b) Non-residential floor space

The proposed development provides a total Gross Floor Area (GFA) of 20,959m² which is equivalent to an FSR of 7.8:1. In accordance with Clause 6.25, a total GFA of 20,959m², requires a minimum non-residential floor space of 3,563m².

The proposal provides a non-residential floor space of 2,741m² which equates to 13.08% of the total GFA proposed or 821m² less than that required. The extent of this variation is 23%.

A Clause 4.6 Variation Request has been prepared to provide justification for the variation, stating (Appendix F, p. 5):

clause 4.6(1) of LEP 2012 allows for exceptions to development standards where it meets the following objectives:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court (LEC) in:

- *Wehbe v Pittwater Council [2007] NSWLEC 827*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90*

The proponent's Variation Request provides justification headings, discussion and follows with Council comment:

Proponent heading:

4.1 Clause 4.6(3)(a) Compliance with the development standard is unreasonable or unnecessary in the circumstances” (Appendix F, p. 6)

Proponent discussion:

the Chatswood CBD Strategy states that the objective of the recommended 1:1 minimum non-residential floor space standard (later converted to 17%) is:

- The objective of this Key Element is to achieve a satisfactory level of commercial in the B4 Mixed Use zone to deliver a reasonable amount of employment floor space, typically to be within the podium levels of a development. This will be moderated depending on the overall FSR ...*
**Note: the B4 Mixed Use zone is now referred to as MU1 Mixed Use under the LEP 2012.*

The proposed development responds to a number of site-specific constraints which compete for, or constrain space within the podium:

- LEP - Clause 6.7 (Active Frontages), which are required to Anderson Street, O'Brien Street, and Day Street, as well as western boundary.*
- DCP – Part L (Place Based Plans): 44-52 Anderson Street Chatswood 7*
- Minimum 6m ground floor setbacks and Street wall height limits of 7m or two storeys*
- Minimum 6m ground floor setbacks and Street wall height limits of 7m or two storeys to Anderson Street to the east boundary.*
- Minimum 1.15m ground floor setbacks and Street wall height limits of 7m or two storeys to O'Brien Street to the north boundary;*
- Nil ground floor setbacks and Street wall height limits of 7m or two storeys to Day Street to the south boundary;*
- Minimum 2m ground floor setbacks with additional stepped 2m setback at Podium Level, and street wall height limits of 7m or two storeys to Western (rear publicly accessible pathway) boundary;*
- Active street frontages to Anderson Street, O'Brien Street and Day Street, as well as western boundary; and*
- On-site loading and unloading.*

While the proposed non-residential floor space provision is below the minimum 17% requirement, the extent of variation (being a shortfall of just 821m²) is relatively minor in the context of a development comprising 20,959m² of GFA.

Council comment:

The CBD Strategy did not anticipate that all non-residential floor space had to be within podium levels, and there is no reason that non-residential floor space cannot be provided within tower forms. To be clear, non-residential floor space is not exclusive to podium levels or restricted from tower levels. Non-residential land use within tower levels is encouraged where necessary to meet non-residential land use expectations established in the CBD Strategy and WLEP 2012.

In Council's view, the site specific DCP are carefully considered requirements:

- Responding to the location of the site opposite a heritage conservation area and publicly accessible pathway and landscaped area at 1 Day Street.
- Providing setbacks to embellish public domain as expected under the CBD Strategy.
- Servicing the development.
- Bringing activity to the site at ground level.

The proponent is also seeking to vary a number of the site specific DCP requirements and these are discussed below.

In Council's view, the loss of 821m² of non-residential floor space is not minor and the justification is not sufficient.

Proponent heading:

4.2 Clause 4.6(3)(b) Sufficient environmental planning grounds to justify contravention of the development standard" (Appendix F, p.8)

Proponent discussion:

Strict compliance with the non-residential floor space would require either: provision of non-residential floor space within the tower component (i.e. top of podium) thereby reducing the quantum of housing, and/or

- *Substantially less deep soil and landscaping to the northern and eastern parts of the site; and/or*
- *Increase in waste collection and loading bay requirements.*

All of these options would result in a poorer design outcome as they would either diminish the top-of-podium residential amenity and podium articulation, remove landscape area, deep soil and street setbacks, as well as surrounding sites, and result in on-street waste loading.

Furthermore, they would undermine the design excellence of the scheme and be inconsistent with the merits of the design competition scheme which were identified by the design competition jury. These options would result in outcomes which would be inconsistent with the future desired character of the area.
(Appendix F, p.9)

Note: Any proponent discussion already covered is not repeated.

Council comment:

As previously stated, Council supports non-residential floor space within tower forms and does not consider the floor plates within the tower to be prohibitive of successful non-residential activity.

Consistency with the 17% WLEP 2012 requirement over the whole development should not be viewed as a reduction in housing as it is reflective of the expected WLEP 2012 land

use mix for redevelopment in the MU1 zone in the Chatswood CBD (based on the floor space proposed) and is not contrary to the Housing SEPP.

In Council's view, achieving the 17% non-residential component does not necessarily result in loss of setbacks, less deep soil planting or have significant implications for loading and unloading such as on-street loading. Council seeks high level architectural solutions that address the challenges and opportunities around a 17% non-residential land use, rather than a reduction of the amount via limitation to podium forms.

The following suggestion is provided to assist the proponent, however, Council would consider other solutions in achieving the 17% based on the content of this submission. It is noted that in this SSDA there are two tower forms and, therefore, two top of podium / podium roof top spaces. The opportunity exists to utilise this arrangement to have non-residential floor space located within one tower form, and utilisation of one podium roof top for residential amenity.

Proponent heading:

4.3 Future Vision for Chatswood CBD (Appendix F, p. 10)

Proponent discussion:

The aims of the Chatswood CBD Strategy include:

- *Achieve a sustainable balance between commercial, retail, residential, education, cultural and other uses to ensure on-going vibrancy*

The proposed mix of residential and non-residential floor space is appropriate as it will provide a suitable level of commercial floorspace to support the ongoing vibrancy of the surrounding area.

- *Ensure Chatswood's future as an employment centre is protected whilst allowing capacity for strong residential growth at the edge of the CBD.*

The proposed development will preserve the role of the Chatswood commercial core as an employment centre whilst supporting the growth of residential opportunities beyond the core of the Chatswood CBD.

- *Deliver sufficient floorspace appropriate to the projected growth requirements for Chatswood CBD.*

the proposed 2,741m² non-residential floor space provision still represents a significant contribution to the employment floor space and provision of high-quality residential accommodation would support the vitality of the Chatswood CBD and respond to the market conditions that favour residential uses.

(Appendix F, p. 10)

Council comment:

Chatswood's success as a true mixed use centre will require a mix of non-residential spaces, not just large floor plates in podiums. In addition, it is crucial that persistent local

employment opportunities are provided to maximise local employment and minimise traffic congestion arising from commuter movement.

The argument that the SSDA as proposed, with a reduced non-residential mix, will ensure the future of Chatswood commercial core as an employment centre, is not accepted.

While it is acknowledged that the market is currently exhibiting a strong preference for residential uses, as Chatswood CBD grows so too will demand for non-residential space to service the larger community and capitalise on local workers.

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 17% requirement and the desired mix is based on the floor space provided on a site.

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.

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 ... 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 for non-residential development has been reduced. This makes the expected minimum non-residential component (17%) in the MU1 Mixed Use zone of even greater importance to ensure the necessary mix of land uses required to deliver a functioning and vibrant CBD. 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.

In Council's view it is considered that consistency with the WLEP 2012 Clause 6.25, 17% non-residential minimum floor space requirement, is entirely achievable noting that Council planning controls are accepting of non-residential land uses within a tower form.

The 17% requirement and the desired mix is based on the floor space provided on a site.

The SSDA is requested to be amended to comply with this standard requirement.

c) Car parking rates

The proponent's Environmental Impact Statement states (p. 9):

A Transport Impact Assessment has been prepared by JMT Consulting ... It concludes:

- *The proposed provision of 256 residential carparking spaces satisfies the minimum carparking requirements for affordable and market housing under the Housing SEPP.*
- *The proposed non-residential (retail and commercial) spaces are consistent with the carparking requirements of WDCP 2023. Sufficient accessible car spaces and bicycle spaces will be provided within the site.*
- *The proposed parking layout is consistent with the requirements in AS 2890 series.*
- *The loading area has been designed to accommodate a Medium Rigid Vehicle (MRV) and Council's 10.5m waste collection truck, as shown in the swept path analysis.*

The proponent's Environmental Impact Statement refers to 296 car spaces (p. 2).

For the purposes of clarity car parking as required and as proposed is broken down in the **Tables** below.

Table: Car parking as proposed in SSDA

Type		Number of Units	SEPP Requirements		Proposed Parking
			Minimum Parking Rate	Minimum number of spaces	
Non-Affordable Housing	1 Bed	0	0.5	131	256
	2 Bed	0	1.0		
	3,4 Bed	87	1.5		
Affordable Housing	1 Bed	9	0.4	22	
	2 Bed	18	0.5		
	3,4 Bed	9	1.0		
Sub Total		123		153	
Visitor car spaces			0	0	18
Retail/Commercial			Floor space breakdown not provided	Floor space breakdown not provided	22
Total				193 (not incl non-res	296

Table: Council calculations

Type		Number of Units	Parking Requirements				Parking (min + aff H)	Parking (max + aff H)
			Minimum Parking Rate	Maximum parking rate	Minimum number of spaces	Maximum number of spaces		
Non-Affordable Housing (WDCP 2006 dev. f)	1 Bed	0	0.1	0.5	21.75	43.5 + 12.4 visitor parking= 55.9	43.35	77.5
	2 Bed	0	0.2	0.5				
	3, 4 Bed	87	0.25	0.5				
Affordable Housing (SEPP)	1 Bed	9	0.4		21.6			
	2 Bed	18	0.5					
	3, 4 Bed	9	1.0					
Sub Total		123						
Retail			1 per 70m ²	1 per 200m ²	Depends on floor space	Depends on floor space		
Commercial			1 per 400m ²	1 per 670m ²	Depends on floor space	Depends on floor space		
Total					43.35 plus relevant retail/com parking	77.5 plus relevant retail/com parking		



To understand Council's approach to car parking rates, the WDCP, Part F 'Transport and Parking Management', Section 1 'Introduction', is provided:

Willoughby City Council is committed to promoting Travel Demand Management by encouraging the use of active and public transport and minimising the adverse effects of car use in a way that sustains and enhances the economic and environmental qualities of the local government area.

Increasing the supply of car parking tends to encourage a greater number of vehicle trips. This increases congestion and impacts negatively on the city environment. We carefully consider when off-street car parking is allocated for developments and the amount of car parking allocated.

This part of Willoughby Development Control Plan (Willoughby DCP) outlines the transport requirements for off-street car parking, bicycle parking and end-of-trip facilities, loading/unloading facilities, and provisions for alternative transport modes.

WDCP, Part F, Section 2 'Strategies / studies references the Willoughby Integrated Transport Strategy 2036 (ITS), which is Willoughby City Council's overarching framework for transport planning and initiatives to 2036. WDCP aligns with the principles and intent of this important strategy for the local government area.

The ITS and subsequent WDCP review and reduction in car parking rates has followed on from the CBD Strategy, which stated in Key Element 35:

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

- e) Car parking should be reduced consistent with the objectives of Council's Integrated Transport Strategy and in accordance with any future revised car parking rates in Councils DCP.*

The CBD Strategy, being Section 3.2 'Studies in Support of this document', stated in regards transport (p. 42):

Council has recently approved an Integrated Transport Strategy to:

- Encourage public transport use*
- Promote walking and cycling*
- Manage growth in parking*
- Develop parking directional signage*
- Discourage private vehicle use*

The Future Conditions Report, September 2020, prepared by ARUP in consultation with Transport for NSW (TfNSW) that accompanied the CBD Strategy contained a number of recommendations including:

Undertake a review of parking rates that apply to developments within the precinct to support the Travel Demand Management approach and encourage shift to sustainable modes (ITS Strategic Direction 5)

The Cardno Review of Parking Rates, dated 9 February 2021, prepared for Willoughby Council, contained recommendations that included:

Reductions to car parking requirements are justified for local centres, in Railway Precincts and along MPTCs ... and based on the following characteristics:

- a. Proximity to public transport; and*
- b. Location (within a local centre or MPTC).*

The report recommended that parking rates may be reduced by employing the principles of travel demand management (TDM). This would generally need to be supported by a travel demand management plan. A second report investigated the inclusion of minimum parking rates for land uses in the Chatswood, St Leonards and the Artarmon railway precinct. This provided a 'banded rate' with a maximum and minimum rate for these railway precincts.

These reports have been the basis of the reduced WDCP car parking rates, and these reduced parking rates are necessary to ensure the anticipated density of residents and employees can be accommodated by the local transport network.

If all car parking was based on Council minimal rates within WDCP, Part F 'Transport and Parking Management', Section 3 'Parking provisions in the railway precincts of Chatswood, St Leonards and Artarmon, 'Table 1 Car parking rates (p. 22 and 23), parking would be substantially reduced. This is discussed further below.

The following concerns are raised with the proposed parking:

- The SSDA proposes 296 car spaces and the proponent's analysis requires 193 car spaces under the Housing SEPP (for residential) – with some additional spaces when the non-residential breakdown is provided, based on WDCP. 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.
- Clarification is required regarding retail and commercial car spaces (22 proposed) as the rate is substantially different:

	Minimum rate	Maximum rate
Retail	1 per 70m ²	1 per 200m ²
Commercial	1 per 400m ²	1 per 670m ²

- 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 those implemented applicable when the SEPP came into force (28 November 2021). 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 (being 78) by 218 car spaces (based on Council's maximum rate) – noting that this does not yet include non-residential spaces.
- The SSDA exceeds the Housing SEPP car parking requirement by 103 car spaces – noting that this does not yet include non-residential spaces.
- It is acknowledged that the Housing SEPP is a EPI. However, Council's WDCP parking rates are the more appropriate control in this instance given:
 - the location of this site in a CBD where density has been significantly increased,
 - public transport options have increased,
 - encouraging pedestrian and active transport was an important part of Council and TfNSW support for significant uplift,
 - enhancing 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.

As discussed above, WDCP purposefully seeks to decrease reliance on cars, minimise traffic congestion, encourage and increase active transport options and maximise amenity at street level for workers and residents.

TfNSW 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.

The reduction in car parking will also result in redesign opportunities to satisfactorily address other issues, including those identified in the setbacks and public domain embellishment section below (including the expected deep soil area within the front setback and subsequent significant planting to Anderson Street).

Council seeks an approach to car parking in the Chatswood CBD consistent with the significant and highly successful investment in Metro, rather than the approach that applies across NSW and outside metropolitan Sydney 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, Part F 'Transport and Parking Management'). Strategic planning and traffic 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 approximately 218 car spaces (based on Council's maximum rate), noting that this does not yet include non-residential spaces. The SSDA is requested to be amended to have car parking consistent with WDCP car parking rates.

d) Proponent's response to built form, massing, setbacks and street wall heights

The proponent's Environmental Impact Statement states (p. 75 and 76):

The built form massing, setbacks, and street wall heights proposed were carefully considered throughout the ADC process, with the building massing approach further supported by the DIP. The proposal provides an appropriate built form outcome as it:

- *Provides a well-articulated podium and tower form, relating to the future and existing neighbouring built forms characteristic of Anderson Street, Day Street, and O'Brien Street;*
- *Provides wide pockets for deep soil landscaping along Anderson Street, resulting in a considerable 6m deep soil zone buffer between the tower and conservation area to the east, thereby improving the public realm, providing visual amenity to residents, and softening the built form by screening the podium with new street trees;*
- *Promotes view-sharing and maintains visual privacy via the vertical elements of the built form that reduce the overall massing impacts of the development, thereby creating a comfortable human scale;*
- *The proposed site layout regularises the alignment of the two connected tower forms and creates a more regular through-site link with improved pedestrian legibility and improved public domain. The regularity of the podium also maximises active street frontage and improves the interface with the public domain;*
- *Provides a unique building footprint that can accommodate substantial ground floor public domain improvements with indiscernible visual impact to the Anderson Street interface;*
- *Continues to achieve the relevant DCP objectives, notwithstanding the minor non-compliance; and*
- *Results in a better outcome for planning and exhibits design excellence*

The above does not adequately explain why the proposed scheme is a better outcome when compared with the site specific development control plan being part of WDCP (WDCP, Part L, Section 13.1.10).

The potential for design excellence in regards the proposal, and the process undertaken to date, has been discussed in the Design Excellence section above. Any assertion of the proposed scheme achieving design excellence is from the proponent only and not from the Design Excellence Competition Report or GANSW exemption. Importantly, there has not been consideration of the merits of compliance or non-compliance with Council controls. This is addressed below in e), f) and g).

It is the view of Council that a more compliant scheme can remain consistent with the expectations of the Design Excellence Panel.

The SSDA seeks variation to Council's CBD Strategy and WDCP, Part L: Place Based Plans, Section 13.1.10, regarding the subject site.

The merits of compliance with Council's CBD Strategy and WDCP are addressed in a discussion of ground level setbacks and public domain embellishment, podium street wall heights and tower setbacks.

e) Ground level setbacks and public domain embellishment

A site specific development control plan was developed to accompany the Planning Proposal on this site, and was subsequently incorporated into WDCP, Part L. This document provided guidelines for what was expected in regards to the redevelopment of this site, with clear outcomes provided to accompany the increase in density. In particular, ground level public domain embellishment provided through ground level setbacks is required to accompany uplift to support the density on the site.

WDCP, Part L, Section 13.1.10 states:

4. Setbacks and Street Frontage Heights Performance Criteria

Setbacks shall:

- 1. Ensure the positioning of new buildings is consistent with the proposed streetscape envisioned for Chatswood CBD and contained in the Chatswood CBD Planning and Urban Design Strategy 2036.*
- 2. Be provided at Ground level to contribute to public realm.*
- 3. Contribute at Ground level deep soil areas, landscaping, and open space.*

The controls for WDCP, Part L, Section 13.1.10, 4.3.4, Setbacks and Street Frontage Heights, a, states:

Anderson Street frontage:

- 1. Minimum 6m setback at Ground Level*

2. Minimum 6.4m setback above street wall
3. Maximum street wall height of 7m or two storeys.

O'Brien Street frontage:

1. Minimum 1.15m setback at Ground Level
2. Minimum 4.35m setback above street wall
3. Maximum street wall height of 7m or two storeys.

Day Street frontage:

1. Nil setback at Ground Level
2. Minimum 4.5m above street wall
3. Maximum street wall height of 7m or two storeys.

Western (rear publicly accessible pathway) boundary

1. Minimum 2m setback at Ground Level, with additional stepped 2m setback at Podium Level
2. Minimum 7.6m setback above street wall
3. Maximum wall height to rear pathway of 7m or two storeys.

Refer to **Map 4: Site Layout** for what was envisioned for future redevelopment on this site.

Map 4: WDCP Part L, Section 13.1.10 Site Layout



Ground level setbacks and public domain embellishment was further addressed in WDCP, Part L, Section 13.1.10 here:

7. Open Space and Landscaping

Performance Criteria

- 1. Landscaping is to soften and complement the development.*
- 2. Landscaping at street level shall improve the amenity and appearance of the pedestrian environment.*
- 3. The development shall provide publicly accessible links and open space.*
- 4. Publicly accessible open space is to include meaningful green landscaping...*

Controls

- 1. Open space at ground level shall be utilised as publicly accessible open space ...*
- 6. Deep soil planting is to be provided within the 6m setback to Anderson Street. Deep soil plantings include trees and shrubs, and are to be unimpeded by buildings or structures below ground.*
- 7. A Landscape Plan is to be provided at Development Application stage detailing all public domain at ground level ...*
- 8. Large canopy tree planting must be provided along the Anderson Street Frontage ...*
- 9. Street tree planting is at the cost of the proponent, with location and species to be determined in consultation with Council at Development Application stage.*
- 10. All existing aerial cables which may include for electricity, communications and other cables connecting to street poles and buildings around the site shall be removed and installed underground in accordance with the requirements of the relevant service authorities. Ausgrid lighting poles are to be provided to the requirements of Ausgrid for street lighting and shall be positioned compatible to the landscaping design around the site.*

8. Links

Performance Criteria

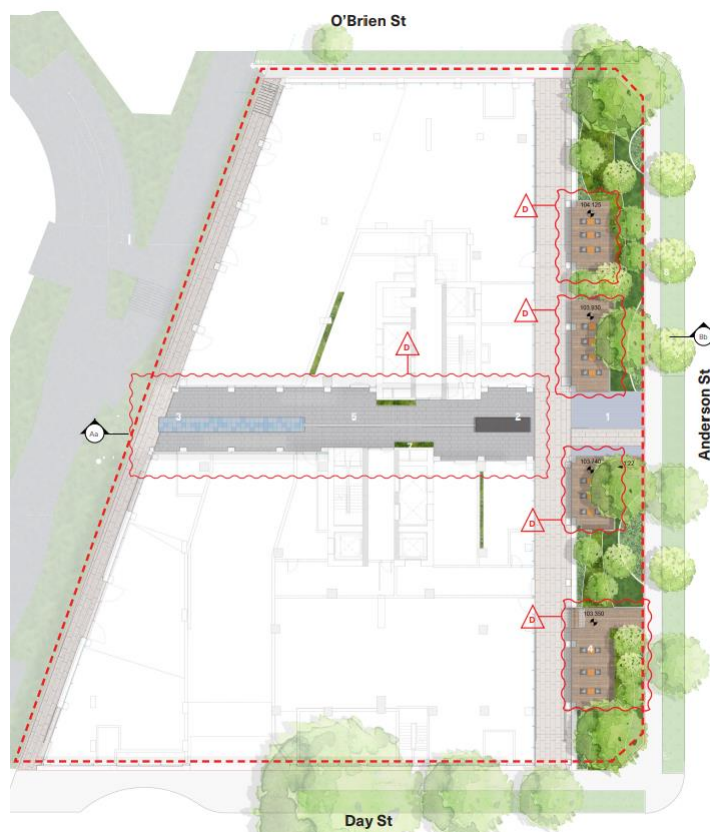
- 1. The development shall provide publicly accessible through site links and open space.*
- 2. Publicly accessible open space is to include green landscaping.*

Controls

- 1. The development is to incorporate publicly accessible through site links and open space in accordance with Map 4 below. In this regard a 2m wide publicly accessible through site link is required along the western boundary,*

- adjacent the existing publicly accessible pathway. This space is to function as a landscape embellishment to the existing publicly accessible pathway.*
2. *Through site links and open space in addition to Map 4 is required on a site by site basis.*
 3. *Public rights of way are to be provided on:*
 - *The 6m setback to Anderson Street*
 - *The 1.15m setback to O'Brien Street*
 - *The 2m setback to the western boundary with the adjacent existing publicly accessible pathway.*
 4. *All publicly accessible open space and links are to be the responsibility of the relevant ownership entity, with formal public access to be created over these areas.*

Map 5: Ground level setbacks proposed in SSDA



Having regard to the above, concern is raised in regards the SSDA and accompanying concept plans as follows:

- Public rights of way are expected over ground level areas, and the integrity of these areas are to be enhanced through design measures. Refer to WDCP, Part L, Section 13.1.10, Open Space and Landscaping, Control 1 above. Confirmation is sought regarding public rights of way to all ground level setbacks. Clear dimensions are to be provided for certainty around this public benefit outcome. Confirmation is also sought that no fencing is proposed to restrict public access, which should also be conditioned in any approval.

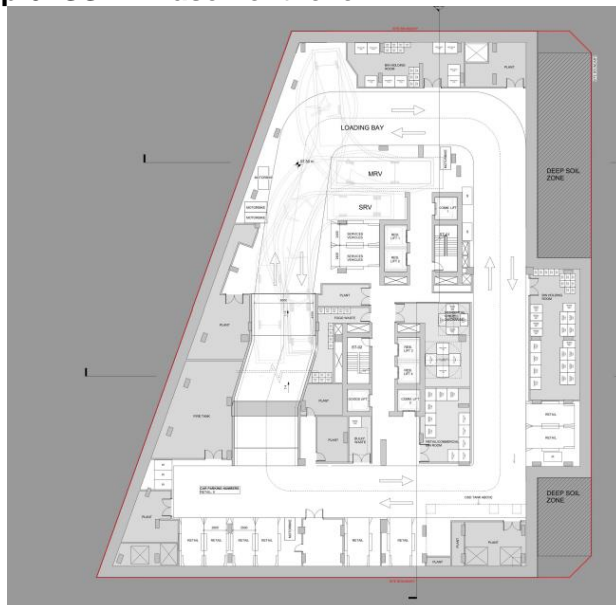
- The 6m Anderson Street front setback plays a critical role in providing significant planting opportunities to mitigate the 90m height permitted under WLEP 2012, having particular regard to the site being opposite the low density residential North Chatswood Conservation Area. Refer to WDCP, Part L, Section 13.1.10, Open Space and Landscaping, Control 6 above. Under the SSDA, height is proposed to be increased, and planting opportunities are reduced by the reduction in deep soil planting and the unanticipated provision of four large decked seating areas.

While it is reasonable for some hard paving within the Anderson Street setback for the purposes of access, this should be minimal as the intent for this area is for planting and soft landscaping. While minimal formal public seating is also supported, seating on the scale proposed is not considered appropriate for this setback location. If the proposed development seeks outdoor seating to serve restaurants, this should be designed outside the planned setback.

The reduction of deep soil planting opportunities within the 6m front setback to Anderson Street due to the encroachment of basements is not supported.

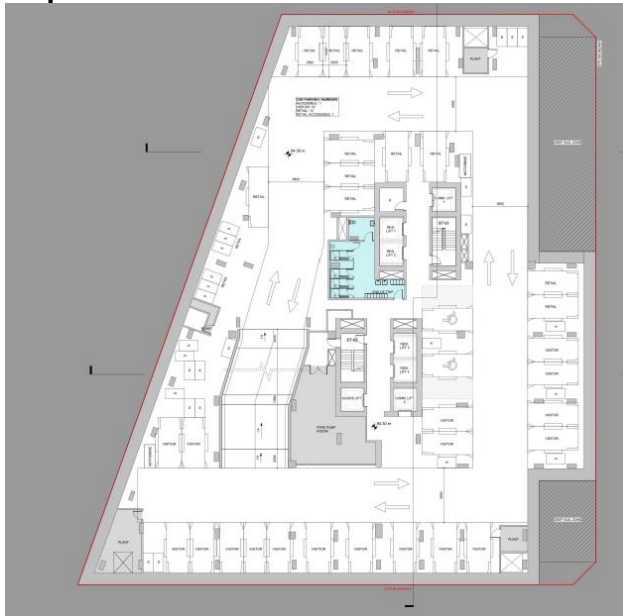
The encroachment of Basement level 1 provides for the bin holding room and car parking.

Map 6: SSDA Basement level 1



The encroachment on lower basement levels provides for car parking.

Map 7: SSDA Indicative other Basement levels



As discussed in this submission, excess car parking is provided in this SSDA. The removal of car parking within the front setback, being 66 car spaces over eight basement levels, is supported by Council as it is above the WDCP and WDCP / Housing SEPP car parking required – refer to car parking section. The further reduction of car parking would provide space for relocating the bin storage area, being 6 car spaces.

Deep soil planting is also discussed in the Landscape section below.

- In regards the front setback to Anderson Street, Council's WDCP makes provision for significant planting, grass and low level planting, with minimal paving for access and minimal formal seating.
- The reduction in width and hard paving for the entirety of the setback to the western boundary is considered unacceptable. Council's WDCP, Part L, Section 13.1.10, 8. Links, Control 1 states:

a 2m wide publicly accessible through site link is required along the western boundary, adjacent the existing publicly accessible pathway. This space is to function as a landscape embellishment to the existing publicly accessible pathway.

The proponent's Environmental Impact Statement states (p. 74):

The podium and tower setback along the western laneway includes non-compliant distances. At the ground level, there is a 1.5m setback from the laneway to the grid structure (noting the glass line is setback approximately 1.8m), which is a minor departure from the 2m setback identified in the DCP ... Furthermore, the reduced podium setback does not hinder the provision of sufficient space for the publicly accessible laneway to the west.

The proponent's plans (south elevation) also refers to this setback as a laneway.

Encroachments referred to as minor are questioned, as the setback required is only 2m wide. Encroachments should be designed outside of this area as they diminish the desired outcome.

Council requires an unimpeded 2m setback, with no intrusions, functioning as landscape embellishment to the existing publicly accessible adjacent land at 1 Day Street. The objective here is to increase the public domain and amenity of this overall space, as an accompaniment to density increase at 44-52 Anderson Street.

Council considers any paved area in this location as serving the site rather than public domain embellishment. If a rear pathway is sought as part of the development, it should be in addition to the required landscaped 2 metre setback. There is already a publicly accessible pathway on 1 Day Street, making the utility of a parallel public pathway questionable.

- Provision of no setback to O'Brien Street, reducing landscaping opportunities and integration with the required 2m landscape area along the western boundary of the site and its wider integration with the through site link and landscaping on 1 Day Street.

The proponent's Environmental Impact Statement states (p. 74):

The podium setback to O'Brien Street to the north has nil setback, which is a minor non-compliance with the site specific DCP which seeks a 1.15m setback. This allows for a wider through-site link within the site which represents a significantly improved urban design outcome.

a nominal 1.15m setback to the north would be insufficient to accommodate meaningful deep soil planting or similar landscaping features if implemented.

The use of the term minor non-compliance is questioned when the entire setback is proposed to be removed.

The proponent has internalised access arrangements at the expense of the public domain embellishment. The subject site covers the block, and access from Anderson Street to the publicly accessible link to the west is readily available via O'Brien Street or Day Street. While no objection is raised to an internal through site link across the centre of the site in principle, it must not be at the expense of more important external public domain embellishment outcomes.

In Council's view, having regard to the site location on the edge of the CBD and the importance of ground level planting to soften the presentation to public spaces and neighbouring properties, the public benefit associated with the O'Brien Street setback is of higher value than the width of the proponent proposed internal access. While this 1.15m may not involve deep soil planting, it still plays a softening role allowing space for planting – consistent with the CBD

Strategy and WDCP objective of a green CBD (Part L, Section 4.3 Controls for Chatswood CBD, 4.3.2 Greening Chatswood CBD), which has particular relevance in CBD boundary locations. As previously discussed above, any reduction in non-residential floor space at ground level is able to be accommodated within the tower form.

- Outdoor dining, while encouraged, is to be planned for at this early stage outside of areas subject to public rights of way.

In any consideration of public benefit, it is requested that the consent authority give appropriate weight to an existing site specific development control plan and the associated positive outcomes. In Council's view the public benefit contained in WDCP regarding the redevelopment of this site should accompany any benefit proposed in the current SSDA.

The SSDA is requested to be amended to show:

- Confirmation of the ground level areas to be subject to public rights of way,
- No basement intrusion into the Anderson Street 4m setback (noting that 2m of the 6m total is proposed as paved),
- The 2m setback on the western boundary landscaped and integrated with the adjacent public domain and the restoration of the expected setback to O'Brien Street as per the WDCP.

f) Podium street wall heights

The proponent's Environmental Impact Statement states (p. 74) states that all podium street wall heights comply with the WDCP requirement.

The WDCP, Part L, Section 13.1.10 requirement is 7m or two storeys. This was established having regard to the location of the site on the CBD boundary, adjacent the low density residential North Chatswood Conservation Area.

The control did not mean 7m or two storeys of any height.

In regards the presentation to Anderson Street (east elevation), the plans show:

- At the Day Street end, a podium street wall height of 11.04m (4.04m above the expected height).
- At the O'Brien Street end, a podium street wall height of 10.4m (3.4m above the expected height).

Map 8: Podium presentation to Anderson Street



In regards the presentation to 1 Day Street and the publicly accessible pathway and landscape area (west elevation), the plans show:

- At the Day Street end, a podium street wall height of 13.1m (6.1m above the expected height).
- At the O'Brien Street end, a podium street wall height of 10.4m (3.4m above the expected height).

Map 9: Podium presentation to western boundary (public pathway and landscape area on 1 Day St)



The Council expectation, and desired outcome, is further expressed in 4.3.4, a, dot point 4:

Street wall heights lower than the maximum are encouraged at the interface with low density residential conservation areas.

In addition, WDCP, Part L, Section 13.1.10, 4. Setbacks and Street Frontage Heights states in regards the western (rear publicly accessible pathway and landscape area) boundary:

Minimum 2m setback at Ground Level, with additional stepped 2m setback at Podium Level

There has been no stepping from the ground level to first level of the western facing podium, which presents to the publicly accessible pathway and landscaped area to the west.

In Council's view, the podium street wall height is not appropriate for the location, having particular regard to the low density residential North Chatswood Conservation Area to the east and the publicly accessible pathway and landscaped area to the west.

Podium street wall heights are sought that have greater sympathy to the location, having particular regard to the low density residential North Chatswood Conservation Area to the east and the publicly accessible pathway and landscaped area to the west. An appropriate response is outlined in the site specific WDCP.

g) Tower setbacks

The proponent has provided an inadequate assessment of tower setbacks required under WDCP, Part L, Section 13.1.10.

The controls for WDCP, Part L, Section 13.1.10, 4.3.4, Setbacks and Street Frontage Heights, b, states:

All towers above podiums in the E2 Commercial Core and MU1 Mixed Use zone are to be setback from all boundaries with a minimum 1:20 ratio of the setback to building height. This means if a building is:

...

- a total height of 90m, a minimum setback from the side boundary of 4.5m is required for the entire tower on any side*
- a total height of 120m, a minimum setback from the side boundary of 6m is required for the entire tower on any side*

The logic of this control is that the required setback of a tower will vary depend on the total height. The higher a tower, the greater the setback.

Compliance with Council's controls would require tower setbacks as follows:

- Regarding the north tower – O'Brien Street (110.7m): 5.535m
- Regarding the south tower – Day Street (117m): 5.85

The SSDA proposal setbacks are shown as follows:

Map 10: Proposed setbacks



The proposed tower is inconsistent with the required setbacks as follows:

- To the north boundary - O'Brien Street, by 1.035m.
- To the southern boundary - Day Street, by 1.35m
- To the western boundary and the publicly accessible pathway – having regard to the northern tower, by 1.035m.

The Council expectation, and desired outcome, is further expressed in 4.3.4, b, dot point 3:

Minimum setbacks and going beyond with additional setbacks where appropriate is considered an important way of achieving the desired outcome of slender towers.

The proposal is not consistent with the slender tower envisaged under the CBD Strategy, the Planning Proposal and WDCP and is not appropriate for the location.

Having regard to the sensitive site location, tower setbacks should be provided consistent with the site specific DCP to ensure a slender tower form.

7. 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 WLEP 2012 Affordable Housing Map identifies the subject site with Area 1, which is subject to a 4% affordable housing contribution.

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 4% affordable housing contribution in accordance with WLEP 2012 Clause 6.8.

It is noted that a monetary contribution is proposed.

Council's preference is for built units, however Council's controls provide flexibility for payment of a monetary contribution. 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 100m².

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.

Having regard to any final decision on this matter, affordable housing conditions are provided at **Attachment 3**.

It is Council's preference that built affordable housing units be provided to Council in perpetuity.

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.

8. Infrastructure

Planning Proposal PP-2021/1 was supported at the Council meeting in June 2022, with the amendments to WLEP 2012 made on 29 July 2022. This Planning Proposal was accompanied by a voluntary planning agreement. The proponent states in the Environmental Impact Statement (p. 35) under Agreements with Other Parties:

A Voluntary Planning Agreement (VPA) has been in place for the site from 23 June 2022, under PP2021/1 (related to DA2023/172). Under the VPA, the developer is to provide a \$8,016,665 monetary contribution in three instalments towards Council's Community Infrastructure Contributions (CIC) scheme. Based on Council's records, the first instalment has been paid to Council, with the second instalment to be paid at least 7 days prior to the issue of the first Construction Certificate (CC) for the development.

This site was rezoned with an associated voluntary planning agreement put in place to ensure that the local infrastructure required to support the future residents of the site can be adequately serviced. It is critical that this approval retains the secured infrastructure contributions to be paid at the timing agreed under the voluntary planning agreement.

Although the VPA is currently registered on land title, Council seeks to have certainty that the payment of the remaining two contribution instalments, triggered by CC and OC of the DA (ie. DA2023/172 associated with PP-2021/1) will be satisfied at the respective timing of the payment triggers.

It is noted that HPC contributions and S. 7.11 contributions are also proposed.

This site was rezoned with an associated voluntary planning agreement put in place to ensure that the local infrastructure required to support the future residents of the site can be adequately serviced. It is critical that this approval retains the agreed infrastructure contributions under the voluntary planning agreement.

9. Requested further amendments or information

a) Anderson Street Public Domain

Any work external to the site shall be undertaken in accordance with the current Anderson St Public Domain Plan, and in liaison with Willoughby City Council's Traffic and Transport Manager, Urban Design Specialist, Open Space and Engineering sections. Redevelopment in Anderson Street is required to work with the Council objective of creating a bike lane on the western side of Anderson Street, leading in and out of the Chatswood CBD.

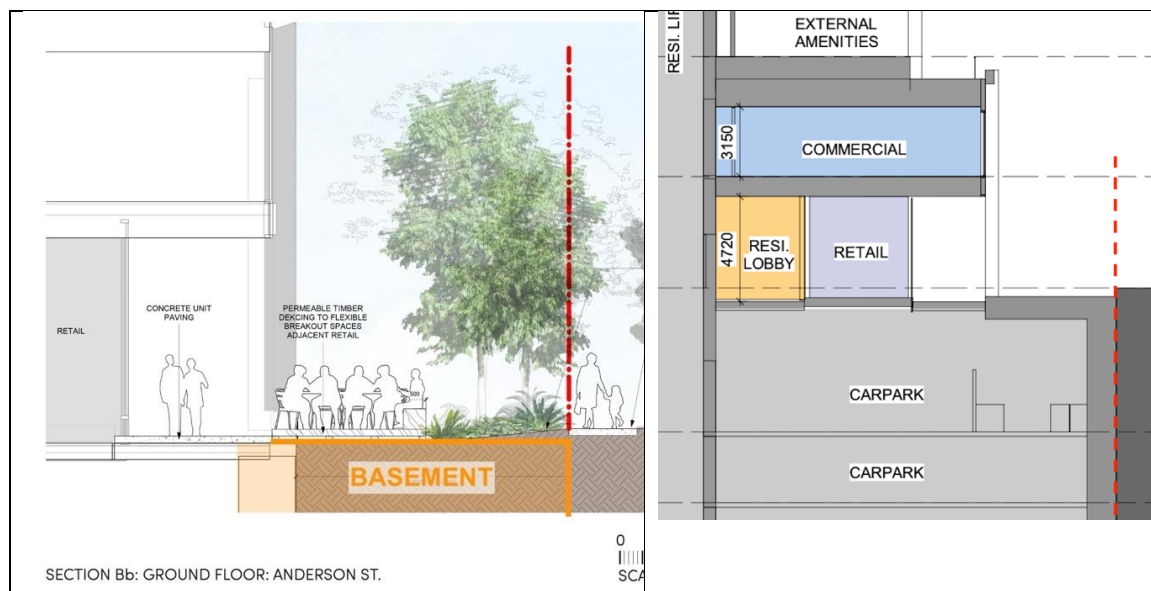
b) Open space comments

Amendments / additional information are required to address the following:

i. Deep soil to Anderson Street

- Deep soil is provided to only 58% of the 6m setback frontage to Anderson Street, with the remainder being impeded by basement parking levels below.
- In addition to the deep soil zone being impeded, the landscape plan indicates the area within 6m setback containing basement parking levels below will have a soil depth of 1.2m – 1.5m. This is contradictory to the sections in the architectural plans, which show less than 350mm soil depth (noting a minimum of 600mm of soil depth is required for inclusion in landscape area calculations). The soil depth over the basement parking area is insufficient to support planting.

Map 11: Section extracts from Landscape Plans (left) Architectural plans (right) showing soil depth from 0mm to <350mm.



ii. Canopy tree planting

The proposed tree planting within the 6m deep soil zone along Anderson Street will have a maximum height of 10m, which is less than the podium level. Larger canopy trees are preferred with layered understorey trees in deep soil to provide suitable screening and softening in consideration of the heritage conservation area opposite on Anderson Street.

The following is provided to inform amendments:

- Tree Selection: Opt for larger canopy trees that can reach at least 15m-20m in height with a 16m spread to ensure adequate coverage and visual softening.
- Understorey Planting: Incorporate small to medium-sized trees and shrubs to create a layered effect, enhancing both aesthetic and ecological value.
- Deep Soil Zone: Ensure that the entire landscape frontage includes deep soil planting to support the growth and health of the proposed vegetation.
- Screening & Softening: The goal is to effectively buffer the development from the heritage conservation area across Anderson Street, improving integration with the surrounding environment.

iii. O'Brien Street setback

No setback is provided; a 1.15m setback is required in the site specific DCP controls. A setback of 1.15m would allow for inclusion of some planting to provide greening to the streetscape level to improve the amenity and appearance of the pedestrian environment.

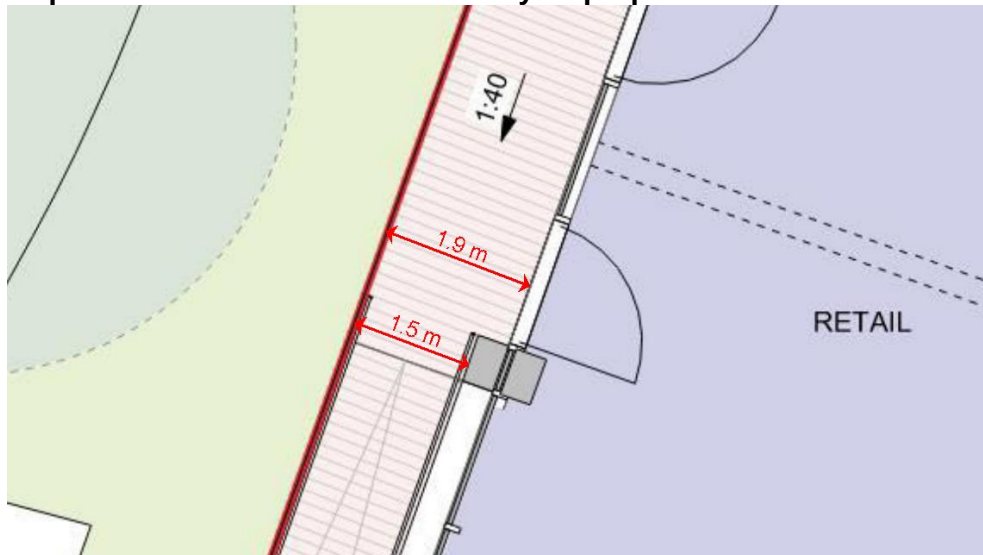
iv. Setback along western boundary

A 2m wide publicly accessible setback is required along the western boundary, adjacent the publicly accessible pathway and landscape area on 1 Day Street. This space on 44-52 Anderson Street is to function as a landscape embellishment to the existing public domain on 1 Day Street.

The following is provided to inform amendments:

- There is an existing lapped and capped timber boundary fence that creates a solid screen. Removal of the fence will be required to allow at least a visual connection with the adjoining landscaping and pathway. The plans do not note removal of the boundary fence – this should be noted on plan and conditioned in any approval.
- A full 2m setback is required without encroachments on the western boundary. Measuring from the plans appear to show a 1.9m setback, with pillars and some elements encroaching on the setback reducing it some areas to 1.5m; (noting this is measured from the plans, and a dimension was not shown for the setback). Dimensions consistent with the site specific DCP are required on plan.
- The plans currently show no landscape embellishments within the 2m setback to the western boundary which are expected. Landscape embellishments may include planting and minimal bench seating (secondary to planting). The embellishments must consider the existing landscaping on the neighbouring to integrate the spaces to the public benefit.

Map 12: Setback to western boundary as proposed



v. Existing tree removal and replacement

- Trees on adjoining site (1 Day Street) are indicated for removal, and were not approved under demolition DA. They are on a neighbouring property and no consent from the property owner has been given.

- Tree 25; a group of *Syzygium sp.* Making up a hedge running along the boundary.
- Tree 1; a *Magnolia grandiflora* near the corner of the two sites on O'Brien Street.
- The landscape plans indicate 102 replacement trees:
 - 32 are palm trees; which are generally considered to be not suitable as canopy replacement trees.
 - 1 Frangipani; listed in WDCP Part G as an undesirable species and therefore not suitable as a replacement tree.
 - WDCP Part G Vegetation Management requires trees approved for removal to be replaced at a rate of 3:1.
- Street trees:
 - Two of the street trees in O'Brien Street (T2 & T3) are dead or significantly damaged and should be replaced.
 - Street tree species specified by Streetscape team:
 - Anderson Street frontage: 5 x 200L *Fraxinus* 'Raywoodi'
 - O'Brien Street frontage: 3 x 200L *Pyrus callieriana*
 - The existing trees on Day Street are to be retained and protected.

vi. Basix landscape requirements

- The BASIX certificate shows a requirement for 250m² of indigenous, low water use planting in common area landscape. The area of landscaping to comply with this requirement is not indicated on the plans.
 - The 250m² is to be clearly indicated on the landscape plans.

Comments are provided on deep soil planting to Anderson Street, canopy tree planting, the O'Brien Street setback, the setback along western boundary, the existing tree removal and replacement and basix landscape requirements.

c) Engineering comments

Amendments / additional information are required to address the following:

i. Traffic and further parking issues

Amendments / additional information are required to address the following:

- 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 2890.6, which could potentially allow these spaces to be associated with an adaptable unit.
- Plans do not 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

Amendments / additional information are required to address the following:

- 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

Amendments / additional information are required to address the following:

- 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 until failure, 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 local roads 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 that require amendment and additional information.

d) Waste comments

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 technical guide provides comprehensive information to achieve best practice design and construction of waste management and recycling systems.
- The development controls provide specific requirements for internal waste storage facilities, individual bin storage areas, communal bin storage areas, bin carting routes, and access for collection vehicles.
- All major residential developments must comply with the technical guide and the specific controls for multi dwelling housing, residential flat buildings, and mixed-use buildings.

There are a number of items that require amendments and clarification:

i. Residential waste collection

The development should meet Option 1 for high-rise RFBs (NSROC 2018, Section 5.3, p46) hence the collection takes place on-site; the following service is required:

Residential component bin type WDCP2023	Generation rate WDCP2023	L/week for 123 units	Bin size *	Council collection frequency for onsite collection with bulk bins ^^	No. of bins WDCP2023 ^
General waste	140L/unit/week	17,220 uncompacted OR 8,610 compacted 2:1	660L	Twice per week	13 uncompacted OR 7 compacted #
Recyclable waste	120L/unit/week	14,760	660L	Once per week	23
Organics waste	120L/unit/week (or 50L/unit/week <)	6,150	240L	Once per week	26
	Additional comments: The OWMP (Rev N, particularly Table 2, p9) does not align with this service: <ul style="list-style-type: none"> - Summing error on waste total line. - Incorrect general waste collection frequency which leads to an incorrect number of general waste bins. - Waste and recycling bin sizes do not match, although recycling bin number proposed (14x1,100L) is OK if 1,100L was used for both general waste and recycling. 				
	Notes: <ul style="list-style-type: none"> ^ Round decimal up to whole number. * Waste and recycling bins sizes should match; organics is always 240L bins. The Applicant can choose 660L or 1,100L for general waste and recycling bins. # A ratio of 2:1 is used if there is a general waste bin compactor and rotation system; again rounded up to a whole number of bins. < Instead of the WDCP requirement for 120L/unit/week. Council has considered other applications for organics bins in line with the NSW EPA (2019) Better practice guide for resource recovery in residential developments (Table F2). This requires a calculation based on: <ul style="list-style-type: none"> - Studio, 1-bed or 2-bed unit: 25L/unit/week. - 3+ bed unit: 50L/unit/week. ^^ Council's residential onsite collection service is twice per week for general waste and once per week for recycling and organics. 				

ii. HRV collection trucks for residential waste

The OWMP (Rev N, Appendix: A.1) and architectural plan (DA2009, Revision 6) indicates the loading area for MRV and SRV only. The Council requirement in the WDCP 2023 is for an HRV for residential waste collection (an SRV or MRV can be used for commercial waste).

- WDCP 2023 states clearly that a Council HRV specification is required. Council does not support private collection of residential waste.
- 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 a 4.5m height clearance and at least 0.5m side clearance either side of the vehicle for exit and entry.
- The residential bin storage areas for collection, for both bins and bulky waste, should be located within 2m of the parking space rear clearance.

iii. Waste storage area conditions (residential and commercial)

There is insufficient detail in the OWMP and architectural plans to show compliance with the waste storage area condition requirements from Table 8 Bin Storage Area – Communal (NSROC, 2018, Section 3.10.4). This includes, but is not limited to:

- Size of the bin room(s);
- Door clearance of 2.5m;
- Aisle spaces of 1.5m; and
- Hot and cold taps indicated on the architectural plans.

iv. Bin carting routes

Detail is required regarding the equipment (e.g., bin tugs) for caretakers or building managers to transport bins between the chute rooms and bin storage areas.

v. Commercial waste generation benchmarks and generation

The OWMP (Revision N, Table 5) sums the total generated commercial recycling incorrectly as 5,714L / week and presumably consequently the total recycling bins required is shown as 2 x 1,100L collected 3 times per week. It should be at least 3 x 1,100L collected 3 times per week. Ideally more recycling would be considered to improve the recovery rate of commercial waste. A positive response to commercial organics and other materials would be considered favourably.

Commercial bins	Bin size	Collection Frequency	Proposed generation	Expected generation	Bins proposed	Bins required
General waste	1,100 L	Three times a week	26,971.6L /week	26,971.6L /week	3	3
Recyclable waste	1,100 L	Three times a week	5,713.95L /week	7,013.2L /week	2	3

vi. Waste and recycling cupboard for each residential level

The waste chute hoppers should be located in a waste cupboard, which also has space for additional bin(s). This is required in the WDCP 2023 and serves to assist in the case of a bin for cardboard recycling that cannot be placed down the chute (which is a large

portion of Council's recycling), backup for the recycling chute and to future proof the development in the case of food organics collection.

vii. Operational Waste Management Plan Section 13 (Rev N, p25)

Review the contacts in the Operational Waste Management Plan - Section 13 (Rev N, p. 25). Suez Environmental no longer exists – taken over by Veolia. Documentation should be updated.

viii. Construction and Demolition Waste Management Plan

Based on review of the Demolition and Construction WMP (29/10/2024, v2 Final), please confirm:

- Overall demolition waste recovery rate, seeking at least 80% recovery with evidence of the methods of calculation for review e.g. an excavation plan for excavation waste.
- Current facility details (i.e. current name options) that operate for the lawful receipt and disposal or processing of each material proposed.
- Construction waste volume and recovery rate as well as the demolition waste details above, seeking at least 80% recovery.
- Location of waste facilities onsite during demolition and construction.
- Asbestos and hazardous materials survey with any applicable clearance certificate.

Comments are provided on residential waste collection, HRV collection trucks for residential waste, waste storage area conditions, bin carting routes, commercial waste generation benchmarks and generation, waste and recycling cupboard for each residential level, the operational waste management plan and the construction and demolition waste management plan.