

## ATTACHMENT 1 – Council Submission

### 1. Engagement prior to SSDA lodgement

Section 5 'Engagement' of the Mecone Environmental Impact Statement discusses engagement carried out. It states (p. 63):

*feedback was provided by Council in relation to the development application (DA-2023/170), noting it was ultimately approved by the Sydney North Planning Panel on 9 October 2024.*

The current SSDA represents a new application that is different to what has been previously considered and approved.

There has been no consultation with Council in regards the current SSDA.

This exhibition represents the first comprehensive review opportunity for Council regarding the subject SSDA.
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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. The Practice Note states that:

*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.*

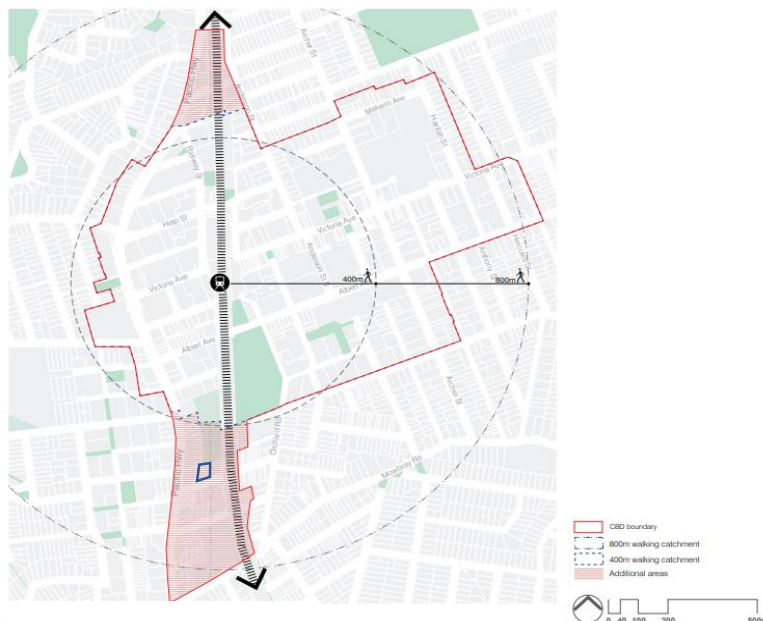
Council seeks for any proposal on this site to have appropriate regard to the location within the southern extension of the Chatswood CBD, the site specific DCP in WDCP Part L: Placed Based Plans (refer to **Attachment 2**) and other relevant provisions of the WDCP with particular regard to car parking.

### 3. Site location in southern extension of Chatswood CBD

The site has a total area of 1,522m<sup>2</sup>, bounded by Gordon Avenue to the south, Hammond Lane to the west, Chatswood Bowling Club to the north and 1-3 Gordon Avenue featuring a flat building to the east. Also 30m to the east is the Frank Channon Walk.

The subject site is located within the southern extension of the Chatswood CBD, being a relatively thin area of land in terms of width between the Pacific Highway and North Shore Rail Line, ending at Mowbray Road. The extension of the CBD boundary was part of the CBD Strategy, endorsed by Council in September 2020. Prior to this endorsement, the CBD boundary ended at the southern point of the tennis and croquet greens. **Refer to the map below.**

#### Map: Site within southern extension of Chatswood CBD



----- Subject site shown in blue outline

Redevelopment on this site should have appropriate regard to the location of 5 - 9 Gordon Avenue within the southern extension of the Chatswood CBD.

Density on this site should reflect what has been planned for the southern CBD extension, noting the constrained road network. With the Pacific Highway to the west, the North Shore Rail Line to the east, and no north / south road options, the traffic largely is heavily reliant on Gordon Avenue and Nelson Street to enter and leave the area. In regards to the subject site, all vehicle access and egress is via Hammond Lane, Gordon Avenue and the Pacific Highway.

In addition, the location of this site, particularly with respect to the residential low density South Chatswood Conservation Area directly adjacent, requires an appropriately sensitive redevelopment response in regards to its presentation to the east.

#### **4. Recent site history**

A Planning Proposal on 5-9 Gordon Avenue was supported by Council on 2 March 2022 and made and notified on the NSW legislation website on 25 March 2022.

Development Application (DA-2023/170) was approved by the Sydney North Planning Panel on 9 October 2024. This approval involved demolition of existing structures and the construction of a 27 storey shop-top housing development comprising a two-storey commercial podium and a 25-storey residential tower.

The subject SSDA is a new application, involving the following timeline:

- SEARs were requested 26 July 2024.
- SEARs were issued on 7 August 2024.
- Mecone Environmental Impact Statement lodged with DPHI late January 2025
- Exhibition between 25 February and 24 March 2025.

Following on from DA-2023/170, the subject SSDA is a new application on this site and requires a fresh and detailed assessment.

Regard should be made to the established controls including WLEP 2012, the site specific development control plan and other relevant sections of WDCP.

#### **5. Design Excellence**

The history of design excellence considerations on this site is explained in the Mecone Environmental Impact Statement as follows (p. 16):

*An Architectural Design Competition (ADC) was undertaken for the site between 23 September 2022 and 29 November 2022*

*Since the ADC, a Bridging Design Excellence Strategy (BDES) has been developed ... to establish the process to transition the locally completed ADC to a revised to a revised scheme, seeking to pursue IAH as part of an SSDA. The BDES was endorsed by GANSW on 24 September 2024.*

*By providing a bridging design excellence strategy, there is no requirement to run a new Design Competition for the site - a separate design competition waiver was granted by GANSW on 18 November 2024 which is provided as an addendum to the BDES*

*A design integrity process was ... undertaken with the DIP (Design Integrity Panel) to review the revised proposal capturing the 30% density bonus under the Housing SEPP.*

The DIP confirmed that the revised proposal closely aligns with the original competition scheme and has the potential to achieve design excellence. However, it should be noted that the design excellence process does not include consideration of the merits of compliance or non-compliance with Council controls and assumes a separate process will address these planning considerations.

Council officers are of the opinion that a detailed 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 process does not address all matters that need to be assessed in an application (for example, the proposed height and density in the southern extension of the Chatswood CBD, the proposed variation to the non-residential floor space component, the proposed car parking rates and loading / unloading issues, greening of the site at ground level, ground level setbacks, public domain and public benefit, deep soil planting and tower setbacks).

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.

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 detailed assessment against the planning controls and does not presuppose that the application warrants approval. Noting the specific role of the design excellence process, Council officers request that appropriate regard be given by the consent authority (DPHI) to the planning issues raised in this submission.

Subsequent to the design excellence competition, a comprehensive assessment has been undertaken having regard to the CBD Strategy, WLEP, site specific and other relevant sections of WDCP, covering issues including height on the CBD boundary, non-residential floor space, car parking rates, setbacks and public domain embellishment, greening of the site, deep soil planting and loading / unloading. Additional information and amendments are requested, as discussed in the attached submission.

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

In the Mecone Environmental Impact Assessment (p. 92), 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.*

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

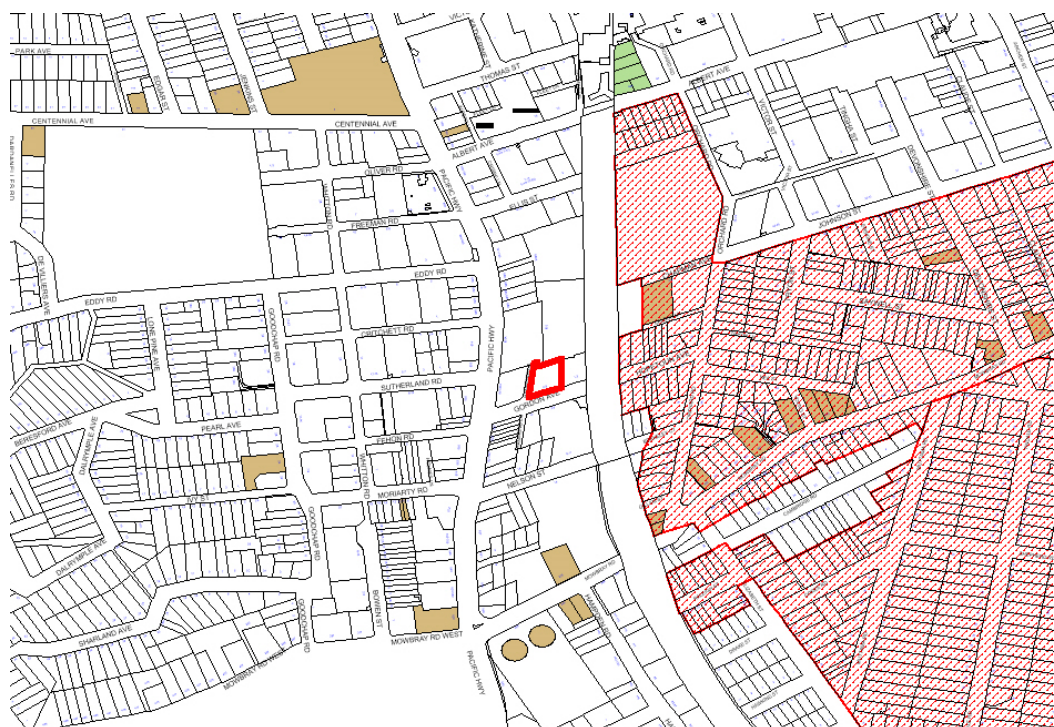
### **a) Height on CBD boundary**

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.

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.

### Map: Snap shot 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.

It was considered appropriate for the subject site to continue with a 90m height maximum, which represented a 750% increase above the WLEP 2012 12m height maximum.

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

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

To the east, the South Chatswood Conservation Area has an 8m height maximum. The dwellings outside the conservation area have a height maximum of 8.5m.

To the north, the Chatswood Bowling Club is zoned RE2 Private Recreation, and is characterized by a clubhouse and bowling greens.

To the west 641-653 and 655A Pacific Highway is zoned R3 with a height of 12m and floor space ratio (FSR) of 0.9:1.

To the south, properties have a MU1 zoning, with a height and FSR of 90m and 6:1. Further to the south the Metro Dive site, located on the Chatswood CBD border, has a height of 53m and FSR of 4.2:1.



### Map: Snapshot from WLEP 2012 Height of Buildings Map



----- Subject site shown in red outline

Council planned for housing provision by significantly increasing height of the subject site to a height considered appropriate both in the draft CBD Strategy and subsequent review.

The subject SSDA proposes a total height of 116.7m or 35 storeys, being an increase of 26.7m above the recently increased 90m maximum.

Having regard to the circumstances of this site and its location, Council is supportive of a 90m shop top housing development consistent with WLEP 2012 controls – referred to as Alternative 2 on P. 7 of the Mecone Environmental Impact Statement.

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 116.7 was not anticipated for this location and represents a departure from recent DPHI direction, where the height for the extended southern section of the Chatswood CBD was generally supported at 90m, transitioning down towards low density residential conservation areas. The establishment of the 90m height control on this site, under Amendment 34 dated 30 June 2023, represented a 750% increase above the previous WLEP 2012 12m height maximum.

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.*

The proposed additional 26.7m height in this location considered inappropriate due to the impacts on the CBD boundary close to the adjacent low density residential conservation area. The proposed increase in height undermines recent strategic planning and community faith in the NSW planning system. Council does not support any further increase in height above the existing height controls in this location above 90m.

#### **b) Non-residential floor space**

The proposed development provides a total Gross Floor Area (GFA) of 11,863.7m<sup>2</sup> which is equivalent to an FSR of 7.79:1. In accordance with WLEP 2012 Clause 6.25, a total GFA of 11,863.7m<sup>2</sup>, requires a minimum non-residential floor space of 2016.8m<sup>2</sup>.

The SSDA proposes 86.9% residential floor space over the whole development.

The proposal provides a non-residential floor space of 1,557.7m<sup>2</sup> which equates to 13.1% of the total GFA proposed or 459.1m<sup>2</sup> less than that required. The extent of this variation is 22.7% to the required minimum non-residential floor space provision.

A Clause 4.6 Variation Request has been prepared to provide justification for the variation, stating (Appendix I, 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 is summarised below with Council comments:

#### **Proponent heading:**

*4.1 Clause 4.6(3)(a) Compliance with the development standard is unreasonable or unnecessary in the circumstances" (Appendix I, 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 Hammond Lane and Gordon Avenue.*
- *DCP - Section 4. (Setbacks and street frontage heights).*
- *3m ground floor setbacks to Gordon Avenue, Hammond Lane and to the north.*
- *Street wall height limits of 6 – 14m (2 – 4 storeys) to Gordon Avenue and Hammond Lane ...*
- *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 459.1m<sup>2</sup>) is relatively minor in the context of a development comprising 11,863.7m<sup>2</sup> 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.

It is noted that, in Council's view, the site specific WDCP was required:

- To provide setbacks to facilitate a slender tower form and embellish public domain as expected under the CBD Strategy.
- To achieve appropriate greening of the site at ground level
- To achieve deep soil planting and subsequent canopy planting
- To service the development.

It is also noted that, in Council's view, the WDCP car parking rates were required to minimise traffic congestion associated with this site and in regards the southern extension of the Chatswood CBD, to encourage use of public and active transport options and to promote amenity and liveability in an area that has responded to the changes in WLEP 2012 controls via a number of redevelopment applications.

In Council's view, the loss of 459.1m<sup>2</sup> 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 I, P.9)*

**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 I, P.10)*

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. Appropriately designed and located commercial land uses can enhance residential amenity and need not prevent top of podium amenity or articulation.

Consistency with the 17% WLEP 2012 requirement 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 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 or less deep soil planting, or have significant implications for loading and unloading. Any change to loading and unloading to meet the 17% non-residential land use is expected to be addressed in the design of any redevelopment within the Chatswood CBD. 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 proposed podium forms.

**Proponent heading:**

*4.3 Future Vision for Chatswood CBD (Appendix I, P. 11)*

**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 2,248m<sup>2</sup> 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 I, P. 12)*

**Council comment:**

Chatswood's success as a true mixed use centre will require a mix of commercial spaces, not just large floor plates in podiums. In addition, it is crucial that local employment opportunities are provided to maximise local employment, balance inward and outward flows, 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 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.

The SSDA proposes 86.9% residential floor space and 13.1% non-residential floorspace over the whole proposed development. This is not consistent with the land use mix Council has planned for the MU1 zone within the Chatswood CBD. In Council's view it is consistency with the WLEP 2012 Clause 6.25, 17% non-residential minimum floor space requirement is entirely achievable, noting that Council planning controls permit non-residential land uses within the tower form, not just in the podium.

The SSDA is requested to be amended to comply with this requirement, which is critical to ensuring the precinct meets its employment targets and continues to function as a mixed use centre.

### **c) Car parking rates and loading / unloading**

#### **i. Inconsistencies in documentation**

There are inconsistencies between the information prepared in the Mecone Environmental Impact Statement and the Varga Traffic and Parking Assessment Report.

**Table: P. 33 on the Varga Traffic and Parking Assessment Report**

**CUMULATIVE PARKING REQUIREMENTS**

<b>Affordable Dwellings (SEPP 2021)</b>	<b>Required</b>
1-bedroom (12 dwellings):	4.8 spaces
2-bedroom (12 dwellings):	6.0 spaces
<b>Sub-Total:</b>	<b>10.8 spaces</b>
<b>Standard Dwellings (SEPP 2021)</b>	<b>Required</b>
1-bedroom (6 dwellings):	3.0 spaces
2-bedroom (18 dwellings):	18.0 spaces
3-bedroom (34 dwellings):	51.0 spaces
4-bedroom (9 dwellings):	13.5 spaces
<b>Sub-Total:</b>	<b>85.5 spaces</b>
<b>TOTAL PARKING REQUIRED:</b>	<b>96.3 spaces</b>
<b>Visitor/Retail/Commercial (DCP 2023)</b>	<b>Maximum</b>
Visitor (91 dwellings):	13.0 spaces
Food and Drink (335.9m <sup>2</sup> ):	6.7 spaces
Commercial (934.3m <sup>2</sup> ):	2.3 spaces
<b>TOTAL PARKING REQUIRED:</b>	<b>22.0 spaces</b>

The Varga report concludes a total car parking figure of 118.3.

The Table below is based on Mecone Environmental Impact Statement information:

**Table: Based on EIS information, WDCP and Housing SEPP**

Type		Number of Units	WDCP Parking Requirements				Parking (min + aff H)	Parking (max + aff H)
			Minimum Parking Rate	Maximum parking rate	Minimum number of spaces	Maximum number of spaces		
Residential (WDCP 2006 dev. f)	1 Bed	18	0.1	0.5	18.55	45.4 + 6.14 visitor parking= 51.54	29.35	62.3
	2 Bed	30	0.2	0.5				
	3+ Bed	34	0.25	0.5				
	4+ Bed	7	0.25	0.5				
	Penthouse	2	0.25	0.5				
	Visitor		4	4				
<a href="#">Affordable Housing (SEPP)</a>	1 Bed	12	0.4		10.8			
	2 Bed	12	0.5					
Total		115						

Based on the above EIS information, the following is proposed:

- 11 affordable housing spaces

- 100 market housing spaces
- 4 residential visitor spaces
- 2 retail spaces
- 4 office / business spaces

Total: 121 car spaces

The EIS concludes that 105.3 car spaces required under the Housing SEPP (affordable housing and market housing) and WDCP (non-residential).

From the above tables, the following inconsistencies are noted:

- Mecone EIS states there are 18 one bed room apartments.  
Varga report states there are 6.
- Mecone EIS states there are 30 two bed room apartments.  
Varga report states there are 18.
- Mecone EIS report states 4 visitor car spaces required.  
Varga report states 13 visitor car spaces are required.
- There is inconsistency between P. 3 and P. 4 of the Mecone EIS in regards the total residential / commercial area (the difference is 292.3m<sup>2</sup>)

There needs to be consistency between documents to fully understand what car parking is required and what is proposed – to this end, amended documents are requested.

The following is noted in regards total car parking:

- Mecone: 121 car spaces are proposed
- Varga: 118 car spaces are proposed
- Mecone: 105 car spaces are required under the Housing SEPP (affordable housing and market housing) and WDCP (non-residential)
- Council's minimum DCP rate plus the affordable housing (Housing SEPP) rate: 29.35 car spaces are required
- Council's maximum DCP rate plus the affordable housing (Housing SEPP) rate: 62.3 car spaces are required

There is a substantial difference in what is proposed by Mecone and Varga, when compared to the Council total consistent with the maximum DCP rate.

ii. Council's approach to car parking in the Chatswood CBD railway precinct

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.*

P. 42 of the CBD Strategy, being Section 3.2 'Studies in Support of this document', stated in regards transport:

*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 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:

- There are inconsistencies between the Mecone Environmental Impact Statement and the Traffic and Parking Assessment Report. There needs to be consistency between documents to fully understand what car parking is required and what is proposed – to this end, amended documents are requested.
- The SSDA proposes either 121 (EIS) or 118 (Varga report) car spaces. The EIS concludes that 105 car spaces required under the Housing SEPP (affordable housing and market housing) and WDCP (non-residential).

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 those 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 62) by either 59 or 56 car spaces (based on Council's maximum rate).
- The SSDA exceeds the Housing SEPP (affordable housing and market housing) and WDCP (non-residential) car parking requirement by either 16 or 13 car 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:
  - 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, 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 deep soil planting (discussed below).

iii. Loading / unloading

A Traffic and Parking Assessment Report, prepared by Varga Traffic Planning, has been provided. It concludes:

- the proposed loading and manoeuvring area will satisfactorily allow Council's 10.5m long garbage trucks to enter and exit the site whilst travelling in a forward direction at all times

Loading and unloading is provided within the building, on the ground floor, with all vehicle access being via Hammond Lane.

Concerns are raised in regards the ability of the proposed loading solution to accommodate a 10.5m garbage truck. This is discussed further under Engineering comments.

Inconsistencies have been found in regards the Mecone Environmental Impact Statement and the Varga Traffic and Parking Assessment – refer to **Attachment 1** discussion. Consistent documentation should be provided.

Notwithstanding the inconsistencies, there is a substantial higher car parking total proposed by the proponent when compared to the Council total consistent with the maximum DCP rate. The SSDA exceeds Council's car parking requirement by either 59 or 56 car spaces (based on Council's WDCP maximum rate).

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). Strategic planning and traffic 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 is requested to be amended to have car parking consistent with WDCP railway precinct car parking rates.

Concerns are also raised in regards the ability of the proposed loading solution to accommodate a 10.5m garbage truck. This is discussed further under Engineering comments, with amendments required.

d) **Greening of the site**

WDCP, Part L, Section 4 Chatswood CBD, 4.1 Character Statement states:

*The controls aim to maintain a compact, walkable city centre, and create exceptional urban design. They support easy pedestrian and bicycle linkages, a quality public domain that embraces the local character and heritage, and the greening of the centre.*

WDCP, Part L, Section 4 Chatswood CBD, 4.2 Performance Criteria states:

*Proposed development in Chatswood CBD should:*

- i. provide greening of the streetscape as well as green areas on and around new buildings to improve the visual quality, amenity for workers and visitors, and reduce the impacts of urban heat island effects*

WDCP, Part L, Section 4 Chatswood CBD, 4.3.2 Greening Chatswood CBD states:

*A range of approaches apply on a site-specific basis to provide permeability, publicly accessible open space and a 'green' ground plane.*

*These are designed to develop a comprehensive network for the centre of landscape and open space to create a green, well-connected CBD.*

The greening of the site is addressed in f) Ground level setbacks, public domain and public benefit, g) Deep soil planting and in 9. a) landscaping comments.

Concern is raised with the lack of greening to Gordon Avenue and Hammond Lane, and the minimal deep soil planting to the rear setback.  
The greening of the site is addressed in f) Ground level setbacks, public domain and public benefit, g) Deep soil planting and in 9. a) Landscaping comments.

#### **e) Ground level setbacks, public domain and public benefit**

The Mecone Environmental Impact Statement states in regards landscaping (p. 51):

*The proposed built form is defined by the integration of selected native tree and plant species at the podium level and integrated up between the narrow tower forms to create a new suburban and landscaped tower. On ground level, the integration of new landscape and podium helps generate a new and familiar natural environment within the suburban context of Chatswood.*

Concern is raised with the ground level landscaping proposed in this SSDA.

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 13.1.4 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 13.1.4, 4, Setbacks and Street Frontage Heights, Controls, states:

*1. ... Setbacks are as follows:*

- a) Gordon Avenue and Hammond Lane Frontage:*
  - i) 6-14 metre street wall height at front boundary (maximum two to four storeys).*
  - ii) Minimum 3 metre setback above street wall.*
- b) In regards the tower, a minimum of 1:20 ratio of the setback to building height above the podium (eg. tower to be setback 3 metre above podium for a 60 metre building, 4.5 metre setback for a 90 metre building).*

*2. In addition to Control 1:*

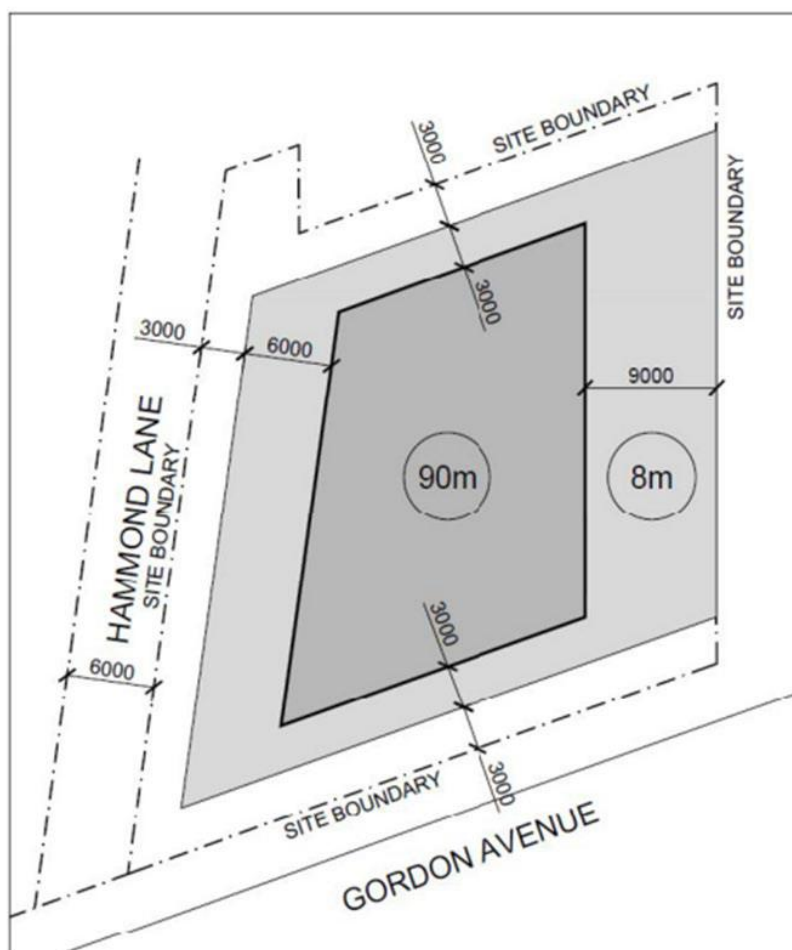
- a) Setbacks may be greater and street wall heights may be lower.*
- b) Additional ground level setbacks are sought that contribute to public realm.*

The Planning proposal included a 3m setback to Gordon Avenue and this was supported by Council.

Refer to **M Map: WDCP Part L, Section 13.1.4 Site Layout** for what was envisioned for future redevelopment on this site.



#### Map: WDCP Part L, Section 13.1.4 Site Layout



Ground level setbacks, public domain and public benefit was further addressed in WDCP, Part L, Section 13.1.4 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...
7. Street tree planting is to be provided.

#### Controls

1. Open space at ground level shall be utilised as publicly accessible open space
- ...
4. Public domain improvements shall be provided to all street frontages to Council requirements.

5. *A minimum of 20% of the site is to be provided as soft landscaping, which may be located on Ground, Podium and roof top levels or green walls of buildings.*
6. *Deep soil planting is to be provided within the setback to Gordon Avenue, Hammond Lane and setback to the northern (rear) boundary. 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, street tree planting*
8. *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.*
9. *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*

2. *Through site links and open space ... is required on a site by site basis.*
3. *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.*

**Image: Ground level setbacks proposed in SSDA**



An examination of the plans show inconsistencies. These plans should be made consistent, having regard to the amendments below which are based on the WDCP and site specific DCP.

The Landscape Plans, Architectural Plans, and Public Domain Works plans are inconsistent with regards to the ground level landscaping and public domain works:

- The Landscape Plan shows planting to the corner of Gordon Avenue and Hammond Lane, which is not shown in the Architectural plans or Public Domain Works plan.
- The Landscape Plan and Architectural plans are inconsistent in the layout of the raised garden beds fronting to Gordon Avenue. This includes the provision of a booster cabinet.
- The Public Domain Works plan has additional paved areas to the nature strip requiring additional street tree removals. This is not supported; all redundant driveway crossings to Gordon Street should be removed and replaced with landscape nature strip. The landscaped nature strip should extend the entire length of the site frontage between footpath and kerb.
- The plans are also inconsistent with regard to the reduction (or not) of the nature strip at the edge of the crossing into Hammond Land from Gordon Avenue.

[illegible]

3/2x LO1  
9 x ERA  
1 x ACS  
2301-MIX 5  
33 x AJA  
37 x COS  
18 x DIC  
8 x PCC  
2301-MIX 19  
7 x CAA  
10 x DIC  
2 x LOH  
6 x VIOD  
9 x COS  
5 x DIC  
2 x PCC  
5 x COS  
2 x DIC  
1 x PCC  
11 x COS  
5 x DIC  
2 x PCC  
7 x COS  
4 x DIC  
2 x PCC  
9 x COS  
1 x DIC  
1 x PCC

T1  
T11  
T13

4  
6  
7  
8  
9  
10  
12

GORDON AVENUE

This technical drawing is a landscape plan. It features a red dashed line labeled 'BOUNDARY' on the left side. A blue line runs horizontally across the upper portion of the plan. Below this, a path or road is depicted with a cross-section profile showing a slope of 1:14. A series of green, stylized tree symbols are planted along a red line that runs parallel to the path. The drawing includes various other lines and symbols, such as a black line with a triangle pointing to it, and a black circle, likely representing specific features or materials in the landscape.



- The landscape plan and architectural plans have several minor inconsistencies in the layout of planter beds on level 02. These are minor variances in the finesse of the garden bed shape.

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

- As noted in the WDCP excerpts above, public domain embellishment is expected to accompany the increased height and density under the CBD Strategy, WLEP 2012 and WDCP. In the case of 5 – 9 Gordon Avenue, these publicly accessible areas are to balance pedestrian movement with amenity, as well as to provide green relief in an increasingly dense urban environment where the value of such areas to the public is expected to increase.
- 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 13.1.4, 7. 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.

- Areas subject to public rights of way are to be free of obstruction, with the only exceptions being green planting and reasonable / minimised paved areas or steps to access the site and development.
- While it is reasonable for some hard paving within the Gordon Avenue setback for the purposes of access, this should be minimal as the intent for this area is for planting and soft landscaping.
- Concern is raised with the proposed outdoor dining located in the Hammond Lane setback. This is contrary to the purpose of this setback which is intended to balance pedestrian movement with amenity (ie planting). If the proposed development seeks outdoor seating to serve cafes / restaurants, this should be designed outside the planned setback.
- The 3m Gordon Avenue and Hammond Lane setbacks play a significant role in providing planting opportunities to mitigate the 90m height permitted under WLEP 2012.
- In regards WDCP, Part L, 13.1.4 for 5-9 Gordon Avenue, emphasis is placed on landscaping and in particular soft or green landscaping being located at ground level and visible from the street. The following is restated from WDCP, Part L, 13.1.4:

#### *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.*

*4. Publicly accessible open space is to include meaningful green landscaping.*

- The Gordon Avenue and Hammond Lane setbacks (to be publicly accessible) are of particular importance when considering that the green ground level landscaping at the rear of the site, along the boundary with the Chatswood Bowling Club is not visible from Gordon Avenue and largely obscured from Hammond Lane (noting the restricted sightlines to this area from Hammond Lane and the location of the substation facing Hammond Lane in front of the landscaping).
- Council seeks for more green ground level landscaping on the Gordon Avenue frontage.

The landscaping to Gordon Avenue setback is limited to raised planters over the basement structure. The wide entry stairs dominate the frontage, which is further emphasised with the location of a booster cabinet adjacent to the stairs.

Narrowing of the stairs and utilities relocated out of the setback and integrated with the building (with their presence within the frontage visually minimised) is required to provide the expected presentation to Gordon Avenue.

In addition paving is shown from the subject site over Council's landscape verge both at the eastern end of the Gordon Avenue frontage as well as the western end adjacent Hammond Lane. This again is contrary to the objective of greening both the site and the surrounding public domain. The paving in Council's verge is required to be removed.

- Planting to the streetscape is non-existent to minimal on Hammond Lane, and is inconsistent between plans (more detail on this below).

Greening to the Hammond Lane setback is limited a narrow, 0.5m wide, planting strip that is located outside the site boundary.

The 3m setback should incorporate planting, ideally deep-soil, to provide meaningful green landscaping. This should occur adjacent to the boundary and embellish any planting outside the site boundary with Hammond Lane.

A minimum green planting width of 1m is required by Council, leaving 2m width for pedestrian movement.

An examination of the SSDA plans reveal inconsistencies. These plans should be consistent, having regard to the amendments below, which are based on the site specific DCP and WDCP.

The SSDA is requested to be amended to show:

- Confirmation of the ground level areas to be subject to public rights of way.
- Areas subject to public rights of way are to be free of obstruction, with the only exceptions being green planting and reasonable / minimised paved areas or steps to access the site and development.
- Outdoor dining is to be removed from the 3m Hammond Lane setback.



- In regards the Gordon Avenue setback, stairs are to be minimised (narrowed) and utilities relocated out of the setback and integrated with the building (with their presence within the frontage visually minimised).
- Outside the site, in regards the Gordon Avenue verge treatment, the paving both at the eastern end of the Gordon Avenue frontage as well as the western end adjacent Hammond Lane is required to be removed and returned to soft landscaping.
- In regards the Hammond Lane setback, a minimum green planting width of 1m is required by Council, leaving 2m width for pedestrian movement.

#### **f) Deep soil planting**

There is minimal deep soil planting provided on this site.

Basements are proposed to the Gordon Avenue and Hammond Lane boundaries. There is also basement encroachment into the rear setback with the Chatswood Bowling Club.

In regards WDCP, Part L, 13.1.4 for 5-9 Gordon Avenue, emphasis is placed on deep soil planting within setbacks. The following is restated from WDCP, Part L, 13.1.4:

#### *7. Open Space and Landscaping*

##### *Controls*

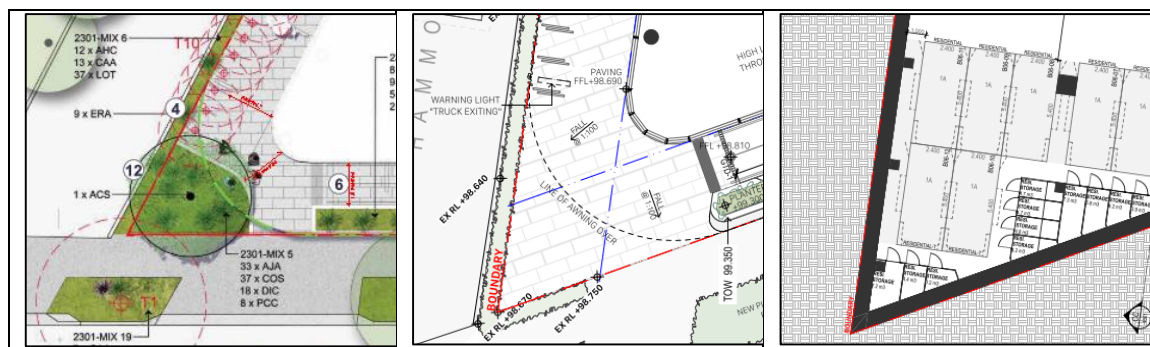
*6. Deep soil planting is to be provided within the setback to Gordon Avenue, Hammond Lane and setback to the northern (rear) boundary. Deep soil plantings include trees and shrubs, and are to be unimpeded by buildings or structures below ground.*

There is no deep soil provided to the Gordon Avenue and Hammond Lane frontages. The landscape plan shows landscaping to the corner of Gordon Avenue and Hammond Lane with a proposed canopy tree. The architectural plans show the area paved, with no planting and basement structure below.

Truncating the corner of the basement in the SW corner of the site could facilitate for some deep soil and to accommodate a canopy tree.

**Left image: Landscape Plan showing planting and new tree.**

**Middle & right images: Architectural plans showing paving at ground level and basement below.**



It is noted that there is tension on this site regarding achieving on-site basement loading and unloading, together with other objectives such as deep soil planting.

In Council's view the constraints of 5-9 Gordon Avenue would be significantly alleviated if there was amalgamation with the site to the east at 1-3 Gordon Avenue (being 1,125m<sup>2</sup> and below the minimum lot size of 1,200m<sup>2</sup> for shop top development in the MU1 Mixed Use zone).

It is Council's understanding that attempts have been made in regards amalgamation of these two sites, however there has been no progress in this regard.

Council would be supportive of amalgamation if it was a possibility.

Notwithstanding this lost opportunity, Council has assessed the SSDA based on 5-9 Gordon Avenue.

Provision of no deep soil planting to Gordon Avenue is not supported. Having particular regards to the geometry of the site, the opportunity exists to provide deep soil planting and a canopy tree on the corner of Gordon Avenue and Hammond Lane.

As discussed in this submission, excess car parking is provided in this SSDA. The removal of stacked car parking within the Gordon Avenue and Hammond Lane basement corner, being 12 car spaces over six 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 question is also raised that if loading and unloading is provided at ground level, why do basements need to extend to property boundaries. As there is excess parking proposed, the opportunity exists to increase deep soil planting to the Gordon Avenue frontage and the rear setback. Any loss of parking to achieve more deep soil planting on this site is supported by Council.

Basements are to be set back from the Gordon Avenue and Hammond Lane corner to allow for deep soil planting and at least one canopy tree. The geometry of the site allows for this opportunity to provide and achieve a meaningful green presence at ground level.

Council seeks deep soil planting in the setbacks to Gordon Avenue and the rear setback to the Chatswood Bowling Club, in consistency with the CBD Strategy and site specific WDCP. Noting that loading / unloading is proposed at ground level it is unclear why deep soil planting has not been proposed in these setbacks.

#### **g) Tower setbacks**

The controls for WDCP, Part L, Section 13.1.4, 4, Setbacks and Street Frontage Heights, Controls 1. b, states:

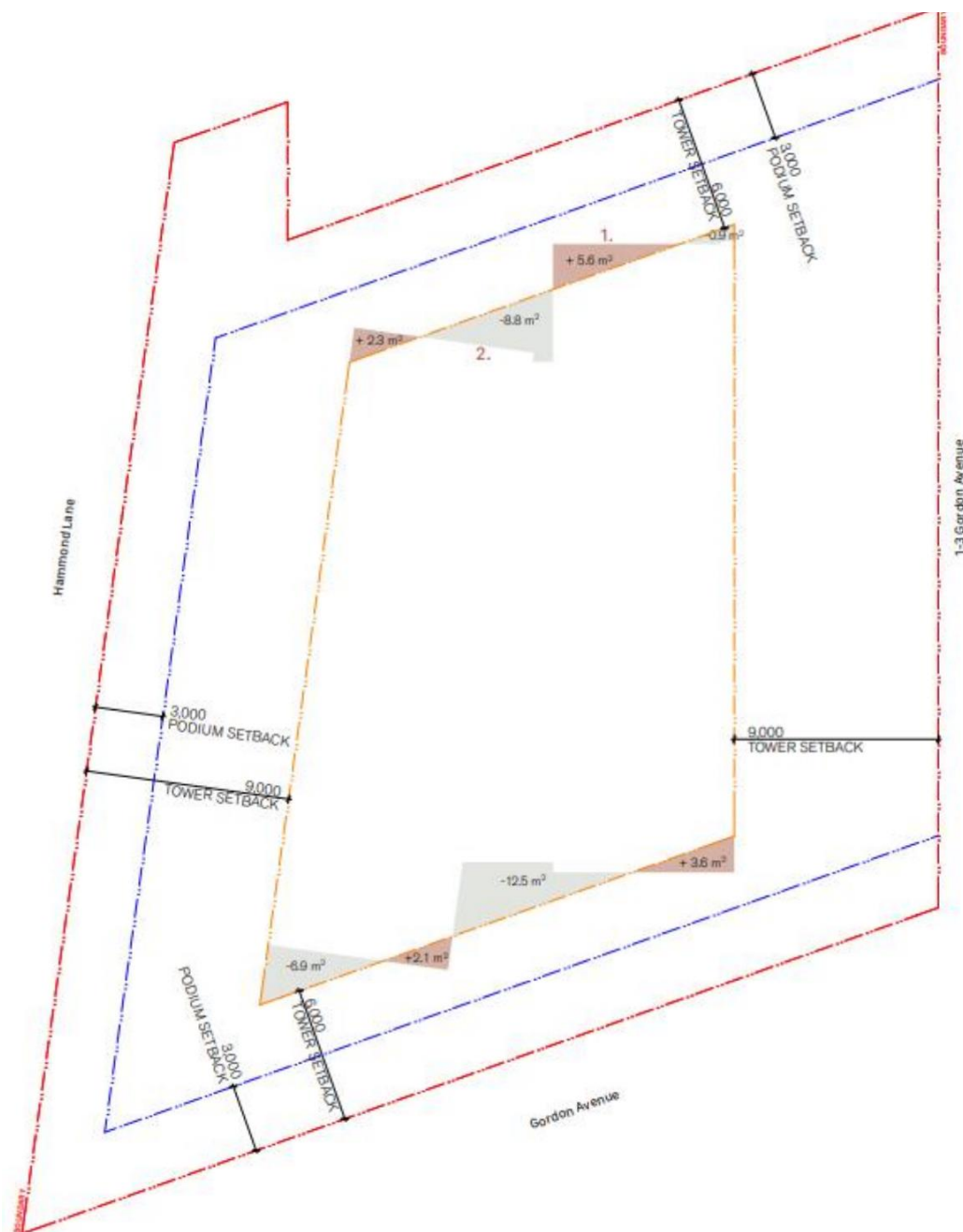
*In regards the tower, a minimum of 1:20 ratio of the setback to building height above the podium (eg. tower to be setback 3 metre above podium for a 60 metre building, 4.5 metre setback for a 90 metre building).*

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 the tower to be setback a minimum 5.84m from any boundary.

The proposal setbacks are shown in the map below.

## Map: Proposed SSDA setbacks



The Mecone Environmental Impact Statement states (p. 41):

*The development largely adheres to the setbacks provided*

Concern is expressed by encroachments into setbacks of tower forms proposed at 116.7m high. Clarity is required regarding the extent of the encroachment by distance (it is noted that areas are provided).

Encroachments into tower setbacks at significant heights are not supported by Council, with the impact of the encroachments magnified at the height proposed. The setbacks provided represent the desired future built form of the Chatswood CBD, which will be responding to the significant uplift under Amendment 34 – with slender towers contributing to spatial separation and the envisioned liveability of the CBD.

Any variation to architectural form should not be at the expense of setbacks.

## 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 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.

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

In providing 4% affordable housing contribution in accordance with WLEP 2012 Clause 6.8, it is noted that a monetary contribution is proposed.

Built affordable housing contributions required under WLEP 2012 are provided to Council in perpetuity. The proponent is requested to provide affordable housing in this manner. Any temporary Affordable Housing provided for the purposed of the SEPP bonus provisions, should be in addition to the Affordable Housing contributions required under Council's LEP.

The infill affordable housing bonuses were not intended to replace existing affordable housing requirements and this was clearly communicated throughout the exhibition and finalisation of the SEPP.



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).

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

## 8. Infrastructure provision

The SSDA had an associated Planning Proposal (Council's Ref PP-2018/3; ePlanning Portal Ref: PP-2021-2417) with the amendments to WLEP 2012 being made on 25 March 2022.

Under this Planning Proposal, a voluntary planning agreement (VPA) was entered into and executed by the developer and Council on 17 Feb 2022 which secured a \$4,549,455 monetary contribution to fund the local infrastructure required to support the future residents at this site.

The proponent states in the Environmental Impact Statement (p. 34) that the *"proposed development does not alter the provisions of the VPA."*

The first instalment was paid on 7 Jun 2023. However, the remaining 2 instalments, triggered by *"30 days of granting of first development consent for the development"* (ie. DA2023/170 determined on 9 Oct 2024) and *"prior to first Construction Certificate of the DA"* are overdue and pending for payment respectively.

Given the registration of the VPA on the land title is still underway, Council seeks to have certainty that the payment of the remaining two contribution instalments will be satisfied at the respective timing of the payment triggers. It is critical that this SSDA if approved, retains the conditions ensuring this contribution will be paid at the timing agreed under the VPA.

The approved DA2023/170 determined on 9 Oct 2024 conditioned a s7.11 contribution of \$844,352. It is important to ensure both the s7.12 and s7.11 contributions will be re-calculated and either of these 2 types of contributions, whichever yield more (as per [Council's Contribution Plan](#) for "mixed use development") is applied to this SSDA. The proposed dwelling mix, the applicable \$ rate(s) for each size of dwelling, credits given to the existing dwellings and affordable dwellings exemptions is required to be appropriately calculated, charged and conditioned under this SSDA.

It is noted that HPC contribution will be applied to this SSDA, and should be properly calculated and conditioned.

The standard VPA, s7.11 and s7.12 conditions to be imposed for the SSDA if approved are included in **Attachment 3** (excludes HPC standard condition as the Department has access to its own template).

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.

Having regard to any final decision on this matter, standard VPA, s7.11 and s7.12 conditions are provided at **Attachment 3**.

## 9. Public art

In regards public art, the Mecone Environmental Impact Statement states (p. 52):

*Public art opportunities have been considered for the site and incorporated into the façade articulation at the top of the tower as a leaf motif. This presents a unique opportunity to integrate a significant, and highly visible artwork into the detailed façade articulation (soffits) on the south façade of the tower. The leaf motif expression will be highly visible in the public domain and the surrounding area and will become an iconic feature in the suburban landscape of Chatswood.*

It is noted that the Mecone Environmental Impact Statement, Section 3.9 Public art, does not discuss the site specific DCP and Council's Public Art Policy which outlines what is expected through public art. WDCP, Part L, 13.1.4, 13. Public Art, states:

### 13. Public Art

#### *Performance Criteria*

1. *All redevelopments in the Chatswood CBD should contribute to public art in accordance with Council's Public Art Policy.*

#### *Controls*

1. *Public Art is to be provided in accordance with Council's Public Art Policy.*

In Council's view, what is proposed in the SSDA serves as aesthetic identification for the building rather than representing public art. On this basis it is concluded that the SSDA does not satisfactorily provide for public art.

Council would be supportive of a public art contribution consistent with the Willoughby Public Art Policy, noting that it would be Council's decision whether any public art contribution would be appropriate on-site or whether a contribution towards another location would be of greater public benefit. This decision would be made having regard to the details of any offer made.

In Council's view, the public art proposed in the SSDA (a leaf motif at the top of the tower) serves as aesthetic building identification rather than representing public art.

No public art contribution is proposed.

Council is seeking a public art component consistent with the Willoughby Public Art Policy, noting that it would be Council's decision whether any public art contribution

would be appropriate on-site or whether a contribution towards another location would be of greater public benefit. This decision would be made having regard to the details of any offer made.

## 10. Building Sustainability

The SSDA is proposing a 4 Star Green Star Rating

The Mecone Environmental Impact Statement states (p. 85):

*The design of the development integrates the EP&A Regulation ESD principles with particular regard to the precautionary principle, inter-generational equity, biological diversity and ecological integrity, improved valuation, pricing and incentive mechanisms and waste minimisation*

WDCP, Part L, 13.1.4, Building Sustainability, Control 1 states:

*Performance Criteria*

1. *Design excellence shall include achievement of higher building sustainability standards.*

*Control*

2. *A minimum of 5 stars GBCA building rating is expected. A higher rating is encouraged.*

Under WDCP, development responding to the significant uplift under the CBD Strategy and transitioned to WLEP 2012 (Amendment 34) is required, with regard to building sustainability, to achieve a minimum 5 star GBCA rating or the equivalent. A higher rating is encouraged.

The proposed SSDA has taken building sustainability in the opposite direction of the site specific DCP, which in Council's view is not considered an appropriate outcome.

Council considers a 5 star GBCA rating or the equivalent the minimum sustainable building outcome for this site.

The SSDA is proposing a 4 Star Green Star Rating.  
The site specific DCP for 5-9 Gordon Avenue states:

*A minimum of 5 stars GBCA building rating is expected. A higher rating is encouraged.*

Council considers a 5 star GBCA rating or the equivalent the minimum sustainable building outcome on this site. If any approval is to be given regarding this SSDA, a condition should be included requiring a 5 star GBCA rating or the equivalent for the development.

## 11. Requested further amendments or information

### a) Open space comments

Amendments / additional information are required to address the following:

#### i. Planting under awning

- Where planting occurs under the awnings and in raised planting beds over structures, automatic irrigation should be installed to ensure viability and growth of the planting to achieve meaningful green landscaping.
- WDCP, Part L. 13.1.4, 7. Open Space and Landscaping, Performance Criteria 5 states:

*Greening at the podium roof level is to be provided, with planting visible to the surrounding area – in particular to Gordon Avenue, Hammond Lane and the neighbouring properties.*

Suitable planting has been provided to the podium, noting that visibility to the greening will be limited within the immediate vicinity of the building where the awning blocks the view.

#### ii. Existing tree removal and replacement

- A total of 16 trees are proposed for removal, with one exempt tree and fifteen non-exempt trees (noting trees 9 and 10 being hedges were included in the report as a group of trees). As per WDCP Part G Vegetation Management trees approved for removal shall be replaced at a rate of 3:1; A total of 45 replacement trees are to be provided.
- The landscape plans provide seven replacement trees:
  - The following species identified in the landscape plans planting schedule as trees are not suitable as replacement canopy trees and have not been included in calculations:
    - *Acmena smithii* 'Sunrise' are a large shrub typically grown for hedging and are not likely to achieve a height greater than 4m.
    - *Hibiscus* 'Aussie Pearl' are a shrub with a mature height of 2m.
    - Note: hedge planting does not meet the objectives of WDCP Part G and is not acceptable as replacement tree planting.
  - The proposed *Acmena smithii* 'Sunrise' in the SW corner is not considered sufficient. An alternative canopy tree species should be selected for this location, such as *Tristania laurina* (Water gum). This would increase the replacement tree planting number to eight, reducing the number to be paid for under the tree offset planting scheme.

- DA Condition for off-site planting of replacement trees not being planted on site in accordance with WDCP Part G Vegetation Management:

#### Tree Offset Planting Scheme

Prior to the issue of a Construction Certificate and **before** any trees are removed, the Applicant is required to enter a Deed of Agreement with Council and pay a fee for the off-site planting of 38 trees in accordance with *Willoughby Development Control Plan* Part G Vegetation Management clause 6 Replacement Trees and Part 7.3 Tree Offset Scheme of the Vegetation Management Guidelines.

The applicable fee shall be based on the 'Offset fee for replacement planting' schedule as published in the Willoughby Council Fees and Charges at the time of payment.

When you are ready to pay, please contact Council's Customer Service Centre on 9777 1000 to organise your payment.

Receipt of payment should be provided to the Certifying Authority prior to the removal of any trees and prior to the release of the Construction Certificate.  
(Reason: Canopy Cover and landscaping)

NOTE 1: The consent for DA-2023/170 included this condition for Tree Offset Planting Scheme to compensate for the balance of replacement of 36 trees not being planted on site. Demolition works have commenced, including tree removal without compliance with the condition. Council compliance section is investigating this matter.

NOTE 2: This condition has been included in **Attachment 3**.

- Street trees:
  - One street tree (tree 1) is proposed for removal due to impacts to root zone during works. Removal of the redundant driveway crossing will provide space for planting a replacement street tree of the same species.

Comments are provided on planting under awning and existing tree removal and replacement. Other landscape issues are discussed earlier in this submission.

## ii. Engineering comments

Amendments / additional information are required to address the following:

### i. Vehicle Access and Parking

The proposed vehicle access and parking arrangements generally comply with the relevant standards and Council's requirements. The following items require further information of amendments:

- The plans do not demonstrate that when Council's 10.5m waste vehicle is parked in the loading dock with 2.0m space behind (for bin storage) that the front of the vehicle is clear of the through path for vehicles using the main access way between the site entry and the basement ramp. When a line is drawn between the proposed kerb line and the top of the ramp, the parked waste vehicle protrudes into the access way, which is not acceptable.
- The swept path for the waste vehicle shows the manoeuvring zone extending over kerbs and into structure. The swept path, including manoeuvring zone, needs to be clear of all kerbs and structure.
- Swept path diagrams have not been provided for a SRV and a B99 vehicle, to confirm that the service vehicle and a passenger vehicle are able to pass at all locations between Gordon Avenue and the loading bay.
- The external door on the northern side of the building opens into the main vehicle access way for the site. The door must be clear of the access path.
- The Traffic Report details that the loading bay will be blocked off at times when it is not needed for waste collection. As this is the only loading bay provided for the site, at times when it is not needed for waste collection it must be available for other service activities including removalist vehicles, furniture or goods deliveries, on-line grocery vehicles etc, which are larger than a van and unable to use / access standard vehicle visitor spaces in the basement.
- The main driveway to the site is 5.5m between kerbs. As the total parking proposed for the site is over 100 vehicles, in accordance with AS/NZS 2890.1 a Category 2 driveway is required to service the site. This requires that the driveway is a combined driveway with a width of between 6.0 and 9.0m. This width is to be provided between any kerb or structure and is to extend from the property boundary to the loading bay.
- The proposed parking area includes small car spaces allocated to residential units. As this will restrict the size vehicle able to be parked in the space and larger vehicles will protrude or potentially cause issues for other vehicles, small car spaces are not acceptable for spaces allocated to specific units.
- The proposed parallel parking spaces are not considered acceptable. As traffic flow in the parking area is not a through flow, users of the parallel parking spaces will need to turn around, to either enter or leave the space and will need to use the main traffic aisle to make this manoeuvre. As the spaces are located adjacent to the ramp between levels, this manoeuvre will occur in a position where it will potentially cause conflict with other vehicles and where sight lines will be reduced. As such, Council recommends that the parallel spaces be deleted. In particular, the end space which is obstructed at both ends and can only be entered in one direction.
- A number of tandem parking spaces are proposed. Due to the need to move vehicles and the resulting potential conflicts, tandem spaces are not supported in new developments of this scale.

ii. Flooding

- The site is flood affected, and a flood report has been provided.
- The modelled the 1%AEP depths, extents and flood hazard are generally consistent with Council's working Scotts Creek FRMSP (which is yet to be adopted by Council). However, the figures need to be clearer for our assessment. In particular, the aflux diagram provided in the report is not 100% clear, as the various colours used in the report do not have much difference and it is not possible to easily see areas with a flood level difference of  $\pm 10\text{mm}$ . The submitted report has not included the existing PMF figures for depths, extent and flood hazard, which are required.
- The flood report shows that there is an increase in flood level on the adjacent property. It is not possible to determine the exact increase, due to the colours used in the Figure, but is believed to be under 25mm. The report details that this increase is believed to be due to modelling restrictions.
- The report has detailed that the development complies with Flood Planning Levels. In particular, access points to the basement are at a minimum level of the higher of the 1%AEP flood level + 500mm or the PMF level.
- The flood report recommends mitigation works, which include lowering of ground levels in the northern part to the site. These works must ensure that there is minimal impact to the substation located in the north-west corner of the site, with flood proofing as required. This area requires safety warning signage to advise people of the emergency overflow from the OSD area. Consent conditions will be required to ensure that these mitigation measures are undertaken – **see Attachment 3**.

iii. Stormwater

- The concept stormwater design includes an on-site stormwater detention (OSD) system and water quality improvement measures that comply with Council's requirements, as detailed in Part I of the Willoughby DCP and Technical Standard 1. Modelling results have been provided to confirm that the discharge from the site, including any flows bypassing the detention tank, do not exceed the permitted site discharge of 26L/s in the 1%AEP storm event.
- Council requires that the outlet from the OSD tank is above the downstream 1%AEP flood level. The base of the tank is at the 1%AEP flood level, which is RL98.10m. To ensure that any head losses due to the outlet pipe are taken into consideration, the base of the tank should be at RL 98.15m

iv. Public Domain

- The proposed development will result in damage to the public domain, including footpaths, and the additional traffic generated by the development will reduce the life of existing road pavements. The additional traffic in Hammond Lane requires provision of new kerb and gutter in the laneway. As such, the following public domain works need to be undertaken by the development:

- Construction of new 1.5m wide footpath in Gordon Avenue.
- Reconstruction of the kerb and gutter in Gordon Avenue
- Construction of new kerb and gutter in Hammond Lane
- Reconstruction of the existing road pavement 4.0m wide for the full frontage of the development site in Gordon Avenue
- Reconstruction of the existing road pavement for the full width of the road and the full frontage of the development site in Hammond Lane
- Construction of a new vehicle crossing in Gordon Avenue at the entrance to Hammond Lane and any modifications required to the adjacent stormwater pit.

Comments are provided on vehicle access and parking issues, flooding, stormwater and public domain that require amendments and additional information. Parking rates and loading / unloading has also been addressed earlier in this submission.

### iii. 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 subject SSDA is a new application and requires a fresh and detailed assessment.

There are a number of items that require clarification:

#### i. Waste generation (residential)

There is a shortfall in generation rate proposed compared to the current DCP.

Bin type	Generation rate proposed (Applicants WMP, Rev 14/11/24)	Generation rate * (WDCP2023)
General waste	100L/unit/week	140L/unit/week ^
Recyclable waste	60L/unit/week	120L/unit/week
Organics waste	30L/unit/week	120L/unit/week (or 50L/unit/week <)

#### Notes:

\* The total should (units x volume) should be rounded up to a whole number of bins.

^ Uncompacted. A ratio of 2:1 may be used if there is a general waste bin compactor and rotation system; again rounded up.



ii. **Bins (residential)**

The development should meet Option 1 for high-rise RFBs (NSROC 2018, Section 5.3, p.46) hence the collection takes place on-site; the following service is required as shown in the table below:

Bin type	Council bin size		Council bin collection frequency
	Proposed	Required for onsite collection	Proposed and aligns with requirement
General waste	1,100L	660L or 1,100L bins	Twice per week
Recyclable waste	240L (requires amendment <)		Once per week
Organics waste	240L	240L bins	Once per week
<b>Notes:</b> < The waste and recycling bin sizes should match, either 660L or 1,100L for both bin types (bulk bins of 660L or 1,100L are required for the onsite collection service). The 240L bins are required as well for the on-floor chute room cupboards, but they need to be decanted for collection into the bulk bins (e.g. 1,100L recycling bins).			

iii. **Bin area (residential)**

The number of bins aligns with the waste plan (14/11/24, Table 2) except recycling. The area proposed in the waste plan (14/11/24, Table 2) appears slightly too low.

Bin type	Number and size of bins Required ^	Bin area (m <sup>2</sup> )	
		Proposed	Required (DCP 2023) ^
General waste	1,100L x 5	8.0 +1.6 spare = 9.6	11.3
Recyclable waste	1,100L x 5	6.0	11.3
Organics waste	240L x 12	11.5	8.1
<b>Total</b>	-	<b>27.1</b>	<b>30.7</b>
<b>Notes</b> ^ Excludes any service bins.			

iv. **Bulky waste**

The waste plan (14/11/24, Table 2) shows 11m<sup>2</sup> of bulky waste space, but the architectural drawings (GF, Rev 9) show 11.6m<sup>2</sup>.

- The current DCP requires 10m<sup>2</sup> for the first 40 units and 2m<sup>2</sup> per units thereafter (NSROC, 2018, p29).
- For 91 units, this would be 20-22m<sup>2</sup>.
- (Note demonstration of revised waste plan showing a bulky waste storage area of  $\geq 16\text{m}^2$  for 64 units was conditioned in DA-2023-170).

v. **Collection truck parking space**

The bin room access is to the side of the collection truck parking not the rear. The size of the walkway to wheel the bins from the bin rooms to the rear of the trucks should be shown and discussed how it aligns with safe pedestrian access for the waste collection staff.

vi. **Commercial generation rate**

Sufficient commercial space is proposed (14,324L/week) to meet the DCP (assuming a 7-day operating week for the café and retail and 5-day operating week for the offices, although the waste plan does not clearly state the operating week in the calculations). However, the following would be preferred:

- **Commercial organics generation rate:**
  - **For café:** A higher diversion rate of commercial food from the café than 20% could be assumed (waste plan, Table 1).
  - **For office:** consider some allowance.
- **Commercial recycling:**

All types could have more recycling allowance, particularly:

- For café: where there is often a very high volume of cardboard from packaging and recovery of Container Deposit Scheme (CDS) containers.
- For retail: where there is often a very high volume of cardboard from packaging.

vii. **Waste storage conditions and amenities**

Provide details of the waste storage area, conditions and amenities, including drainage, taps and aisle width. All doors should be a minimum of 2.5m wide (For example, Drawing GF, Rev 9, may show a 2m wide roller door).

viii. **Chute rooms and cupboards on each residential level**

It is intended that the waste chute access and recycling bin cupboard are one cupboard (or at least adjacent), which is as designed in the DA-2023-170.

- However, the SDD proposal appears to contain a waste chute at one end of the residential corridor and a recycling bin at the other end; perhaps because there is an additional elevator in the SSD design.
- NSROC (2018, p 46) discusses for high-rise that the development must “Install a chute system for garbage leading to a central garbage room in the basement. ... There would be a cupboard on each floor for a recycling bin and chute hopper”.
- NSROC (2018, p48) also notes regarding the chute entry that “Waste disposal points must be located on the corridor of each floor directly adjacent to the recycling cupboard and no more than 30m travelling distance from each dwelling”. It is not adjacent if it is at the opposite end of the corridor.

ix. **Construction and demolition waste**

An updated response should be provided that addresses the following items:

- Estimated weights of waste to be generated during demolition and construction as well as the volume supplied;
- An estimate of the percentage of waste that will be reused or recycled as well as disposed, targeting an 85% recovery rate (demolition may realistically will have a general waste fraction but none is supplied).
- Clear evidence of the method(s) used to calculate expected waste generation (such as an excavation plan);
- Nominated landfill facilities (if any), as well as recycling facilities (provided), by waste type; and
- Plans showing the location of onsite waste facilities during the demolition and construction phases, including vehicle access.

Comments are provided on waste generation (residential), bins (residential), bin area (residential), bulky waste, collection truck parking space, commercial generation rate, waste storage conditions and amenities, chute rooms and cupboards on each residential level and construction and demolition waste.