



ATTACHMENT 1 – Council Submission

SSDA 849, 853, 859 Pacific Highway and 2-8 Wilson Street, Chatswood

1. Engagement prior to SSDA lodgement

The proponent's Appendix E – Engagement Summary Table discusses engagement carried out. It states (p. 1) that engagement has been carried out with Willoughby Council as follows:

- Social Planning and Community Development section

There has been no consultation with any other section of Council in regards the current SSDA.

Development Application (DA-2024/47), being the subject of Land and Environment Court proceedings, is discussed separately below under 5. Recent site history.

This exhibition represents the first comprehensive review opportunity for Council regarding the subject SSDA. Notwithstanding this, Council has reviewed a separate development application that is the subject of Land and Environment Court proceedings.

2. SP2 Infrastructure (Classified Road) land

Part of the subject site, being a small parcel of land along the western boundary of the site fronting the Pacific Highway is zoned SP2 Infrastructure (Classified Road).

Council is supportive of the SP2 land being used by TfNSW for the classified road purposes.

The Urbis Environmental Impact Statement states (p. 61):

In December 2023, TfNSW contacted the applicant regarding the compulsory acquisition of this parcel of land. TfNSW noted that the proposed road widening proposal envisaged by the SP2 zoning had been reduced. Accordingly, TfNSW is currently undertaking the process to formalise a boundary adjustment.

Early discussions with TfNSW have indicated that the land to be compulsorily acquired will be reduced from 457 sqm (as per the existing SP2 zoning) to approximately 190 sqm (as proposed). This adjustment would result in an increase in the developable site area from 4,294 sqm to 4,561 sqm. However, at present, the proposal is based on the existing developable site area of 4,294 sqm, until such time that the reduction in the SP2 zone is formalised.

The proponent has suggested that TfNSW is reassessing its acquisition requirements regarding the SP2 land on-site.

In Council's view, any changes to this SSDA as a result of the TfNSW position on the SP2 Infrastructure (Classified Road) component of the site, requires re-exhibition and further consideration by Council and the community.

Until such point as the Transport for NSW (TfNSW) position is formally clarified, Council supports the progression of the SSDA on the basis that all the current SP2 zoned land fronting the Pacific Highway and located on the subject site is required for road widening and site design is based on the MU1 zoned land (including FSR and treatment of the Pacific Highway frontage).

It is unfortunate that the SSDA has been lodged with this uncertainty. Council is obliged to provide a submission based on what is currently on exhibition.

In Council's view, any changes to this SSDA as a result of the TfNSW position on the SP2 Infrastructure (Classified Road) component of the site, requires re-exhibition and further consideration by Council and the community - as this has potential implications having particular regard to FSR and Pacific Highway treatment.

3. 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.

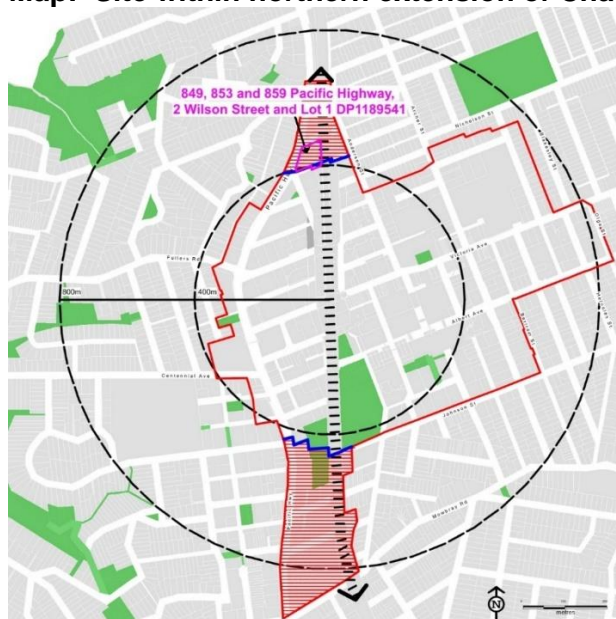
Council seeks for any proposal on this site to have appropriate regard to development parameters established in existing controls, the location within the northern extension of the Chatswood CBD, the site specific DCP in WDCP Part L: Placed Based Plans (refer to **Attachment 2**) and other relevant provisions of the WDCP with particular regard to car parking. A revised scheme is sought addressing the unacceptable height, FSR and parking non-compliances.

4. Site location in northern extension of Chatswood CBD

The site has a total area of 4,294m² (excluding the parcel of land zoned SP2 Infrastructure), with a 67.77m frontage to the Pacific Highway, a 50.31m frontage to Wilson Street, and 47.81m frontage to O'Brien Street. The eastern boundary abuts the North Shore Train Line.

The subject site is located within the northern 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 Ashley Street. 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 O'Brien Street. Refer to the map below.

Map: Site within northern extension of Chatswood CBD



----- Subject site shown in pink outline

Redevelopment on this site should have appropriate regard to the location of 849, 853, 859 Pacific Highway and 2-8 Wilson Street, Chatswood within the northern extension of the Chatswood CBD, with a maximum height and FSR of 90m and 6:1.

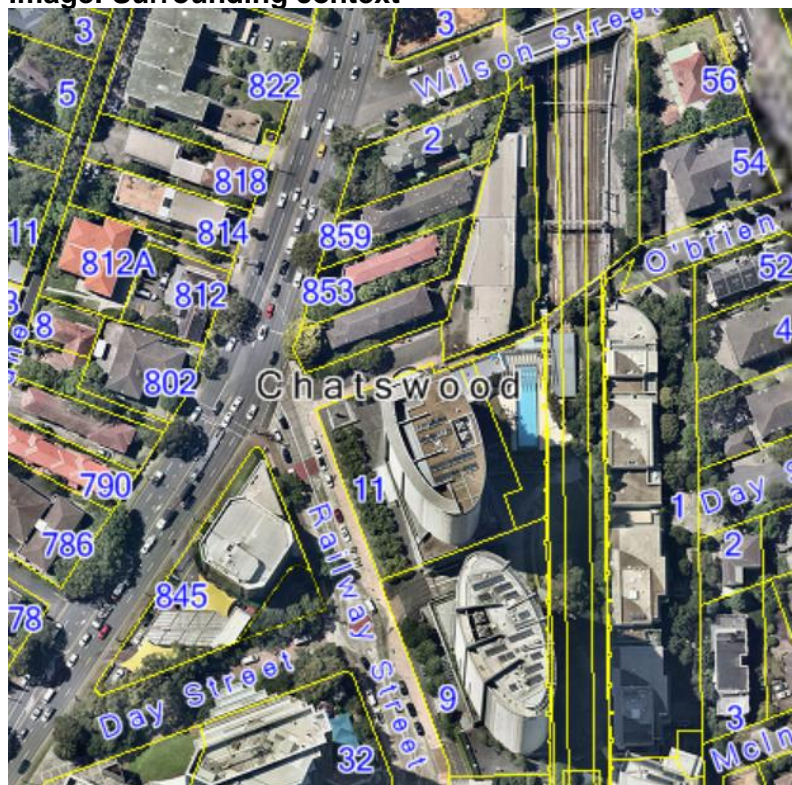
Site constraints include a constrained surrounding road network. The subject site has the Pacific Highway to the west, the North Shore Rail Line to the east, O'Brien Street as a cul-de-sac and Wilson Street involving a bridge over the North Shore Rail Line (acting as an access for vehicle movement from the Pacific Highway to the eastern side of the North Shore Rail Line, the Chatswood CBD and beyond).

With regard to the subject site surrounding context, the Pacific Highway is the western boundary of the Chatswood CBD. There is no uplift responding to the CBD Strategy on the western side of the Pacific Highway. Existing development here is zoned R3 Medium Density with a maximum height of 12m and floor space ratio (FSR) of 0.9:1.

The site visibility to the west, and importance of the built form in this location, is magnified by the Pacific Highway acting as a major state road leading towards the Sydney CBD and being on a ridgeline, which falls away to the west.

An appropriate relationship is also required for the proposed development with the existing tower directly to the south, 11 Railway Street (Altura Pacific Place involving 153 units). This site was part of the CBD before the boundary extension, is zoned MU1 Mixed Use, with a height of RL 246.8 and FSR of 7:1. The existing built form involves a lower section towards O'Brien Street, a higher section approximately 90m towards 9 Railway Street and ground level open space including a pool adjacent the rear boundary.

Image: Surrounding context



Height and FSR are discussed further below.

Density on this site should reflect what has been planned for the northern CBD extension, noting the constrained surrounding road network and the surrounding site context.

The subject site has the Pacific Highway to the west, the North Shore Rail Line to the east, O'Brien Street as a cul-de-sac to the south and Wilson Street involving a bridge over the North Shore Rail Line to the north (acting as an access for vehicle movement from the Pacific Highway to the eastern side of the North Shore Rail Line, the Chatswood CBD and beyond).

The high visibility of the site to the west, noting the Pacific Highway is a ridge with land to the west beyond the Pacific Highway falling away, and the existing development at 11 Railway Street directly to the south, requires an appropriately sensitive redevelopment response.

5. Recent site history

Planning Proposal 2021/7 (Council ref) on 849, 853 and 859 Pacific Highway, 2 Wilson Street and Lot 1 DP 1189541 (8 Wilson Street) was supported by Council on 26 April 2023 and made and notified on the NSW legislation website on 26 May 2023.

Development Application (DA-2024/19) was lodged on 29 January 2024 and involved the demolition and removal of existing buildings and structures. This application was approved by Willoughby Council on 9 December 2024.

Development Application (DA-2024/47) was lodged on 27 February 2024 and involved the construction of a mixed use shop top housing development. On 28 October 2024, the applicant filed a deemed appeal to the Land and Environment Court (LEC) for DA-2024/47. As such, the DA is currently subject to LEC proceedings.

In regards the LEC proceedings, amended and changed information has continued to be provided by the proponent as of the date of this exhibition. There is uncertainty whether the plans and information in this SSDA reflect what is being considered by LEC.

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

- SEARs were requested 19 July 2024.
- SEARs were issued on 8 August 2024.
- Mecone Environmental Impact Statement lodged with DPHI March 2025
- Exhibition between 4 April and 1 May 2025.

In Council's view, any changes to this SSDA as a result of the LEC proceedings, requires re-exhibition and further consideration by Council and the community.

Notwithstanding the previous demolition approval and the current Land and Environment Court proceedings, 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.

In Council's view, any changes to this SSDA as a result of the LEC proceedings, requires re-exhibition and further consideration by Council and the community.

6. Design Excellence

The early design excellence process on this site is explained in the Urbis Environmental Impact Statement as follows (p. 63):

the project was the subject of an Architectural Design Competition

The competition was required in accordance with the Willoughby Design Excellence Policy and Guidelines and the GANSW's Design Excellence Guidelines.

21 August 2023 – Jury Presentation Date (Jury Decision to extend the competition after unanimously agreeing the potential for Design Excellence has yet to be achieved by all three Final Submissions).

The Design Competition Jury Report 16 October 2023, prepared by Gyde, stated (p. 22):

The PBD scheme was recommended as the preferred scheme of this competition and accordingly this architectural practice is to progress the scheme to be lodged as a detailed DA to Council. This decision is unanimous as the Jury believes that this scheme best satisfies the Brief and is capable of achieving design excellence.

The decision of the Jury will not fetter the discretion of the consent authority in its determination of any subsequent DA associated with the development site that is the subject of the competition.

The later design excellence process on this site is explained in the Urbis Environmental Impact Statement as follows (p. 63):

On 1 October 2024, GANSW endorsed a "Bridging Design Excellence Strategy" to support the transition of the original design competition to a revised in-fill affordable housing SSDA, inclusive of the 30% bonuses.

Prior to the lodgement of a SSDA and in accordance with the approved Bridging Design Excellence Strategy, the applicant re-established the DIP to review the proposal to ensure the key design excellence attributes noted in the competition report were retained or improved upon through development of the design.

This requirement was fulfilled by a DIP session, which occurred on 23 October 2024. Following the session, the (DIP) issued a request for additional information. On 7 November 2024 the design team issued a response. The DIP provided a follow up request for additional information on 13 November 2024

The DIP confirmed no further reviews were required prior to submission of the SSDA for assessment.

The Design Integrity review process identified a number of elements to be addressed in any subsequent DA submission. In this regard, comments from Council's Urban Design Specialist are provided below:

- The proponent's Environmental Impact Statement states under Justification of the Project,
 - Design Excellence / Better Placed (p. 9), that the proposal achieves design excellence through a Bridging Design Strategy and aligns with the objectives of Better Placed. Any discussion here also needs to address how WLEP 2012 Clause 6.23 Design Excellence is achieved.
 - The project minimises impacts on the built environment (p. 10), that:
The proposal has undergone an architectural design competition in accordance with the requirements of the LEP. The competition Jury confirmed the SSDA scheme exhibits 'design excellence' through a 'Bridging' Design Integrity process.
This should state that the jury confirmed "potential" for design excellence and that, in this regard further work was required.
Consistency is to be shown between EIS Justification and Section 6.1.1 Design Quality, and should reflect the Council comments.
- The additional work involved:
 - Thermal Comfort - Use of thermal glazing
 - It is recommended that this is considered by the DEIRP to evaluate acceptability
 - Connecting with Country
 - This required additional input, and there is no detailed response provided in the SSDA Landscape submission.
 - The SSDA Aboriginal Cultural Heritage Assessment (Appendix MM) does not adequately reference how the development/design integrates or reflects Design with Country.
 - Communal Open Space
 - Provide detail regarding the increase in communal Open Space from the shown in the documentation reviewed by the DEIRP.

Comments are provided on how the scheme has changed:

- Eastern elevation
 - The extent of façade glazing is a departure from the scheme, this outcome results in a 'glazed' façade to the Eastern Elevation.
 - Glazed facades have not been generally supported through the Design Excellence process as delivering or achieving Design Excellence/satisfying WLEP Clause 6.23.

- This outcome is a departure from the Competition selected scheme, and if retained despite Council concern, is required to be considered by the DEIRP. Other solutions to glazing as a means to address TfNSW requirements should be explored. This issue is addressed elsewhere in this submission. The eastern elevation, and the reasons for the approach provided by the proponent, is also discussed in 7. b) Floor Space Ratio below.

General comments:

- Public Realm - O'Brien St
 - Provide an integration Plan showing the proposed/preferred treatment to the public/service O'Brien Street as a potential 'Shared Zone'.

As noted above, the design excellence competition determined that the scheme and additional work is capable of achieving design excellence. There may be further DIP review required in regards changes to the scheme.

The point is made that the Design Excellence Process does not fetter the discretion of the Consent Authority regarding SSDA approval and remains subject to change responding to the SSDA assessment.

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.

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

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 northern extension of the Chatswood CBD, the proposed height and density variations above the Housing SEPP, 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).

Council has previously raised concern, and continues to raise concern, with DPHI regarding any contention from a proponent that:

- DIP comments represent direction to a consent authority.
- No further amendments should be required post design excellence competition.

The design excellence competition determined that the scheme is capable of achieving design excellence and the DIP had no objection to the SSDA proceeding to assessment noting that additional design work was required. It is noted there may be further DIP

review in regards changes to the scheme responding to the DIP required additional work.

The Design Excellence Process does not fetter the discretion of the Consent Authority regarding SSDA approval and remains subject to change responding to the SSDA assessment.

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 detailed assessment has been undertaken having regard to the CBD Strategy, WLEP, site specific DCP and other relevant sections of WDCP, covering issues including height on the CBD boundary, the proposed height and density variations above the Housing SEPP, 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.

It is noted there may be further DIP review in regards changes to the scheme, either initiated by the proponent without Council support (such as the treatment of the eastern and northeastern elevation), or in response to Council requirements outlined in this submission.

7. Amendments required for the development to satisfactorily address public benefit

The Urbis Environmental Impact Assessment (p. 129) states that the proposed development will provide the following public benefits:

- *Revitalise a strategically located site within walking distance of existing Chatswood Metro Station and CBD including retail, social, cultural, open space, and employment opportunities;*
- *Contribute to the Chatswood local economy;*
- *Increase housing supply;*
- *Enhance the public domain within and around the site; and*
- *Promote social connectedness and cultural expression through a high-quality public domain, Connecting with Country-inspired public art, and activated ground floor tenancies.*

The public interest is best served by the orderly and economic use and development of land for permissible purposes in a manner that is mindful of and does not unreasonably impact surrounding land uses while meeting market demand.

Below is a detailed assessment of the proposal, with amendments required for the proposed development to satisfactorily address public benefit.

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. DPHI required Council to undertake a review of heights along the CBD boundary.

Map: Snapshot from WLEP 2012 Heritage Map



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

It was considered appropriate for the subject site to continue with a 90m height maximum, which represented a 375% increase above the 24m height maximum under WLEP 2012.

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 west, on the other side of Pacific Highway, land is outside the Chatswood CBD, zoned R3 with a maximum height of 12m and floor space ratio (FSR) of 0.9:1.

To the east, is 54-56 Anderson Street, zoned MU1 with a height and FSR of 53m / 90m and 5:1. A SSDA has been lodged on this site, seeking to utilise the infill affordable housing bonus under the Housing SEPP – with the status being the proponent is yet to respond to the SEARs issued 20 December 2024. Beyond that is the North Chatswood Conservation Area with an 8m height maximum.

To the north, 871-877 Pacific Highway is zoned MU1 Mixed Use with a height and FSR of 90m and 6:1.

To the south, high rise shop top housing has a MU1 zoning, with a height and FSR of RL 246.8m and 7:1.

Map: Snapshot from WLEP 2012 Height of Buildings Map



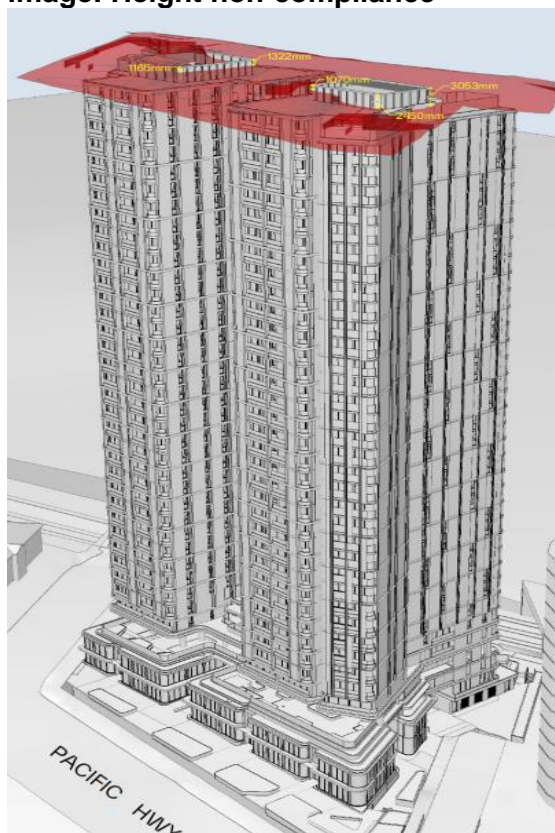
Council planned for housing provision by significantly increasing height of the subject site to a height considered appropriate both in the draft CBD Strategy and subsequent review.

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.

The subject SSDA proposes a total height of 120.05m or 36 storeys, being an increase of 30.05m above the recently increased 90m maximum.

The subject SSDA involves the affordable housing height bonus and then subsequent further variation. The proposed height is accompanied by WLEP CI 4.6 Variation. Based on the Housing SEPP, the affordable housing bonus results in a possible height of 117m. The SSDA therefore involves a proposed variation of 3.05m.

Image: Height non-compliance



The proponent's Variation Request is summarised below with Council comments:

Proponent heading:

How is compliance with the development standard unreasonable or unnecessary in the circumstances of the particular case? (Appendix F, P. 11)

Proponent discussion:

Given the scale of urban transformation to 120.05 metre towers on surrounding land throughout the CBD, the proposed minor protrusion of the building height control on the tower rooftops will not materially change the development outcome, nor detract the harmonious relationship with surrounding towers.

Council comment:

It is incorrect to state that all surrounding development is expected to be 120.05m or thereabouts.

A discussion of surrounding height is provided above. Under WLEP 2012 height to the north is 90m, east is 53 and 90m and west is 12m. The subject site involves a block and is separate to the land to the south, which has a height control of RL 246.8m.

It should not be assumed that all surrounding development will undertake infill affordable housing, nor would doing so guarantee that additional height would be supported on those

sites. Particular regard is made to land to the south and west. The tower opposite (south) is 11 Railway Street (Altura Pacific Place involving 153 units).

Image: 11 Railway Street, on other side of O'Brien Street



Land to the west is not subject to CBD uplift and has a height maximum of 12m.

It should also be noted that CBD Strategy Key Element 21 addressed height as follows:

All structures located at roof top level, including lift over runs and any other architectural features are to be:

- a) Within the height maximums.*
- b) Integrated into the overall building form.*

The above was based on the height maximums of the CBD Strategy, now transitioned into WLEP 2012.

As noted above, Council supports a 90m height on this site, with all of the proposed redevelopment within the 90m.

Proponent heading:

Are there sufficient environmental planning grounds to justify contravening the development standard? (Appendix F, P. 15)

Proponent discussion:

The proponent discusses a number of issues including visual and privacy, disruption of views, improved amenity and architectural integration.

Council comment:

In terms of architectural integration, there is no discussion in regards why the proposed development cannot be designed in accordance with the height expected under the WLEP and SEPP controls. Justification should be provided in this regard.

Having regard to existing development, the building opposite at 11 Railway Street is the closest building to the subject redevelopment. It is noted that the greater non-compliance occurs on the tower closest to O'Brien Street (and therefore 11 Railway Street).

11 Railway Street has significant changes in built form, with the lowest side presenting to the subject site. There is also a ground level communal area including a pool adjacent O'Brien Street.

There is an expectation from Council and the community that height is consistent with the maximum permitted under WLEP 2012.

A height of 120.05 was not anticipated for this location and represents a departure from recent DPHI direction, where the height for the extended northern 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 375% increase above the previous WLEP 2012, 24m 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 30.05m height in this location is considered inappropriate due to the location on the CBD boundary opposite (west) of R3 Medium density residential development in the form of two and three storey flat buildings. Concern is also raised in regards the relationship with 11 Railway Street to the south. 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) Floor Space Ratio on CBD boundary

The proposed development has an FSR of 8.46:1 and therefore exceeds the maximum FSR development standard by 0.66:1 (exceedance of 8.46%). This represents 2,829m² of gross floor area (GFA).

A Clause 4.6 Variation Request has been prepared to provide justification for the variation (Appendix G). This states:

The FSR non-compliance is a direct result to the design approach to include wintergardens on the eastern and northeastern façades of the proposed development given its interface to the railway line.

It is unclear why wintergardens on the eastern and northeastern facades cannot be designed in a compliant form. A reasonable and appropriate contribution to housing supply can be made on this site without compromising design quality and within the relevant planning controls.

Concern is raised with the use of Transport Asset Standards Guide to Airspace and External Developments to justify the abovementioned floor space ratio non-compliance with the Housing SEPP.

Part 5.4 of the *TfNSW Transport Asset Standards Guide to Airspace and External Developments* states:

5.4 Protection of rail corridor

- *Roof top terraces and openings in a development shall not facilitate the throwing of objects onto rail infrastructure facilities or into the rail corridor.*
- *Balconies or windows that face the rail corridor and are up to 20 m from the boundary of the rail corridor shall be fully enclosed or restricted to a maximum opening of 80 mm.*
- *Terraces shall be fitted with protection screens in accordance with AS 5100 Bridge design (all parts) on the side facing the rail corridor.*

This represents a site constraint applicable to high rise development adjacent rail corridors. Any design on the subject site should be based on this known TfNSW requirement, when providing for a WLEP 2012 maximum FSR of 6:1, and a Housing SEPP infill affordable housing bonus of 30% (resulting in an overall FSR of 7.8:1). Concern is raised with an approach on this site that designs for a 7.8:1 FSR, and then seeks to address the TfNSW requirement.

Proponent heading:

How is compliance with the development standard unreasonable or unnecessary in the circumstances of the particular case? (Appendix G, P. 8)

Proponent discussion:

The proponent states in the in the 4.6 Variation (p. 13):

Strict compliance with the FSR standard would see a reduction in the residential GFA elsewhere in the development, which would have a consequence of reducing the provision of affordable housing on the site.

The proponent also discusses the objectives of WLEP 2012 Clause 4.4 Floor Space ratio. Objective (d):

to manage the bulk and scale of that development to suit the land use purpose and objectives of the zone

is addressed by the proponent as follows:

the enclosure of balconies that create the wintergarden GFA does not alter the building envelope. The inclusion of wintergarden GFA appropriately manages the bulk and scale of the development within the overall envelope and footprint of the residential tower forms.

Objective (i):

to achieve transitions in building scale and density from the higher intensity business and retail centres to surrounding residential areas

is addressed as follows:

The site is located in an area identified in the Chatswood City Centre Planning framework for high density tall tower buildings. The inclusion of wintergarden GFA supports the objective of providing suitable amenity for dwellings in a high-density mixed-use development that are oriented towards the railway corridor, in response to the TfNSW requirements for protecting the operation of the rail corridor. The inclusion of the wintergarden GFA is not inconsistent with this objective.

Council comment:

In the view of Council, as discussed in 3. Consistency with Housing SEPP and 4. Site location in northern extension of Chatswood CBD, the appropriate FSR for this site 6:1. If FSR is to be permitted by DPHI, then 7.8:1 is permitted. The proponent is seeking a further increase to 8.46:1, which is not anticipated for this site under WLEP 2012 and the Housing SEPP, or TfNSW *Transport Asset Standards Guide to Airspace and External Developments*. Rather than designing in response to site constraints, the proponent is seeking to embellish an existing design, resulting in larger and bulkier towers.

In response to WLEP 2012, Clause 4.4, Objective (d) and the proponent comment provided, the envelope of the proposed towers should be determined having regard to TfNSW requirements relating to the location adjacent the rail corridor. The opportunity would exist through design to minimise one or both tower envelopes – in particular width:

- presenting to the west and the two and three story residential flat buildings.
- presenting across the rail corridor to the east.

- Providing greater tower setbacks to O'Brien Street (and 11 Railway Street) and Wilson Street (and 871 Pacific Highway), noting that both the CBD Strategy and WDCP Part L state *setbacks greater than the minimum are encouraged*.

Image: Proposed development looking south west (across North Shore Rail Line)



Image: Proposed development looking south east (across Pacific Highway)



In response to WLEP 2012, Clause 4.4, Objective (i) and the proponent comment provided, the subject site is identified in an area transitioning down from the zoning, height and FSR to the south, to a lower MU1, 90m and 6:1. The enclosure of balconies contributes to bulk and scale and should be addressed at the beginning of the design process not once an envelope is established. Additionally, as noted above, concern has been raised by Council's Urban Design Specialist in regards glazing to the eastern elevation.

Proponent heading:

Are there sufficient environmental planning grounds to justify contravening the development standard? (Appendix G, P. 17)

Proponent discussion:

There is an absence of environmental harm arising from the contravention of the FSR standard and sufficient and positive environmental planning grounds to justify contravening the development standard.

Council comment:

WLEP 2012, and in particular controls relating to the Chatswood CBD, are supported by the *Chatswood CBD Planning and Urban Design Strategy 2036* (CBD Strategy) and *Willoughby Development Control Plan*, Part L: Placed Based Plans.

The CBD Strategy states:

Floor space ratio maximums are not necessarily achievable on every site, and will depend on satisfactorily addressing:

- a) Site constraints,*
- b) Surrounding context,*
- c) Other aspects of this Strategy including setbacks at ground and upper levels*
(Key Element 13)

In pursuit of the same goal of slender tower forms, the width of each side of any tower should be minimised to satisfactorily address this objective. To the same end, design elements that contribute to building bulk are not supported, and should be minimised.
(Key Element 17)

WDCP, Part L: Placed Based Plans, 4.3 Controls for Chatswood CBD, 4.3.1 Built form, d. Slender towers states:

- The width is to be minimised on all sides to achieve a slender tower.*
- Design elements are to be included that minimise the width, in particular on any wider tower side.*

Council has established in its strategic planning documents for the Chatswood CBD that it seeks slender towers, with design elements minimising width (including balconies and other mitigating measures), noting the significant WLEP 2012 heights will be visible from multiple viewpoints. Concern is raised with additional floorspace (in this case 2,829.8m²)

that contributes to bigger buildings at the significant WLEP 2012 height, which is contrary to the expected elevated urban form strategically planned (including from an urban design perspective) to be sympathetic to the surrounding environment.

In the view of Council, the appropriate FSR for this site 6:1. If FSR is to be permitted by DPHI, then 7.8:1 is permitted.

The proponent is seeking a further increase of 0.66:1 to 8.46:1, which is not anticipated for this site under WLEP 2012 and the Housing SEPP, or TfNSW *Transport Asset Standards Guide to Airspace and External Developments*.

In regards the 0.66:1 variation, rather than designing in response to site constraints, the proponent is seeking to embellish an existing design, resulting in what is therefore a larger and bulkier building (by 2,829.8m²). It is unclear why wintergardens on the eastern and northeastern facades cannot be designed in a compliant form. A reasonable and appropriate contribution to housing supply can be made on this site without compromising design quality and within the relevant planning controls.

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 2.46:1 FSR above the 6:1 under WLEP 2012, and 0.66:1 FSR above the 7.8:1 under the Housing SEPP is considered inappropriate due to the location on the CBD boundary opposite (west) of R3 Medium density residential development in the form of two and three storey flat buildings. The opportunity exists through design to minimise the width of the two towers proposed, with particular regard to the presentation west and east, and increase tower setbacks north and south.

c) Non-residential floor space

The proposed development provides a total Gross Floor Area (GFA) of 36,323m² which is equivalent to an FSR of 8.46:1. In accordance with WLEP 2012 Clause 6.25, a total GFA of 36,323m² requires a minimum non-residential floor space of 6,174.91m².

The SSDA proposes 87.7% residential floor space over the whole development.

The proposal provides a non-residential floor space of 4,442m² which equates to 12.3% of the total GFA proposed or 1,732.91m² less than that required. The extent of this variation is 28% to the required minimum non-residential floor space provision.

A Clause 4.6 Variation Request has been prepared to provide justification for the variation (Appendix H). The proponent's Environmental Impact Statement states:

The non-compliance with the numerical requirements of Clause 6.25 arises from the additional GFA permitted by the FSR uplift bonus under the Housing SEPP. In utilising

this FSR uplift bonus, the proposal capitalises and responds to the intent of the NSW Government policy to deliver affordable housing to meet the needs of very low, low, and moderate income households. The Clause 4.6 request demonstrates that the variation is well-founded and justified and there are sufficient environmental planning grounds to warrant contravention of the non-residential GFA control.

The proponent's Variation Request is summarised below with Council comments:

Proponent heading:

How is compliance with the development standard unreasonable or unnecessary in the circumstances of the particular case? (Appendix H, P. 8)

Proponent discussion:

Clause 6.25 provides that development consent for the purposes of shop top housing on land in Zone MU1 Mixed Use must not be granted unless at least 17% of the GFA of the building will be used for non-residential purposes. There are no specific objectives identified for Clause 6.25; however, it can be inferred that the Clause seeks to ensure that shop top housing developments provide a quantum of non-residential land uses. The proposal delivers a substantial quantum of non-residential floor space (4,442 sqm) that will facilitate investment, employment-generation, and economic growth of the Chatswood CBD.

Consistent with the inferred objectives of Clause 6.25, the non-residential land uses will contribute significant employment generation and economic growth

Council comment:

Concern is expressed with an approach that focuses on provision of a quantum of non-residential land use based on a land use mix pre affordable infill housing. The expectation behind Clause 6.25 is that a desired mix is provided based on the reality of a proposed development.

The *Chatswood CBD Planning and Urban Design Strategy 2036* (CBD Strategy) stated the following desired vision for the Chatswood CBD (p. 10):

It will be a diverse, vibrant, active and accessible place, with attractive places for residents, workers and visitors to enjoy.

Following on from the CBD Strategy, WDCP, Part L: Placed Based Plans, 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.

The future success of the CBD was predicated on a mix of uses involving a commercial centre and a surrounding mixed zone (MU1 Mixed Use zone).

Within the MU1 Mixed Use zone, the minimum 17% non-residential component was established to ensure a desired balance between non-residential and residential land use, with residential making up 83% of a development.

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 (E2 and MU1), 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 residential land use to provide for the overall well-being of Chatswood to 2036 and beyond.

Proponent heading:

Are there sufficient environmental planning grounds to justify contravening the development standard? (Appendix H, P. 9)

Proponent discussion:

The non-compliance with the non-residential GFA development standard of Clause 6.25 is a direct consequence of the applicant's decision to utilise the in-fill affordable housing FSR and height of building bonuses

The ability for the applicant to capitalise on the incentive provisions of the Housing SEPP to make a significant contribution to affordable housing stock is contingent on an economically viable development, which balances residential, affordable housing, and non-residential land uses. It is critical that the economic viability of the development, and by association the delivery of affordable housing, is not unreasonably burdened or compromised by strict compliance with the provision of an LEP

Council comment:

In Council's view, it is not clear how the utilisation of the infill affordable housing bonus cannot occur consistent with the WLEP 2012 non-residential component.

Consistency with the 17% WLEP 2012 requirement should not be viewed as a reduction in housing or a burden 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.

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.

Proponent discussion:

It is apparent that Chatswood is undergoing significant transition from its traditional commercial centre towards a mixed-use environment, characterised by commercial ground plane activation and high-rise residential towers. This transition reflects the lack of viability for office development.

The function of Chatswood is transitioning from that of a typical 'commercial core' with retail, office, business, and community activity. Whilst existing uses contribute to generating investment, employment, and economic growth, these functions are complementary to mixed residential uses.

The lack of current and forecast commercial space supply in Chatswood CBD is evidence of a softening of future market demand, particularly in the MU1 zone. It is anticipated that forecasted additional office jobs and space can be absorbed by existing stock within the CBD. There is evidence that high vacancy rates exist in Chatswood, in comparison to other major Sydney office markets.

Traditional office market demands have been affected by remote work opportunities following the Covid-19 pandemic, with many businesses now offering permanent flexible or hybrid positions.

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 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.

In addition, concern is raised with working from home as an argument for reducing expected non-residential land use opportunities. It is the view of Council that a variety of non-residential land uses will continue to be required into the future, including work spaces in various forms.

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, which represents a deliberate approach to well position Chatswood CBD into the future.

The SSDA proposes 87.7% residential floor space and 12.3% 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.

d) Live/work apartment amenity

The Development Application proposes live/work studios which include both a commercial use and a shop top housing component. The design of the proposed live/work studios is unsatisfactory with regard the inter-relationship between the commercial and residential uses and the design of the shop-top housing component.

In the event that the commercial and residential areas within an individual studio with a common balcony are separately tenanted, the proposed development would be unsatisfactory with regard to visual and aural privacy, residential amenity, private open space, security and CPTED principles.

It is unclear whether the shop-top housing within the live/work studios has been included in the ADG assessment of the residential component, particularly with regard to solar access, natural cross ventilation, private open space and internal storage.

Within each live/work studio, the configuration of the shop top housing component, being a studio apartment on the same level as, and adjoining the upper level commercial component, is likely to result in the upper level commercial component being used for residential purposes in circumstances where an owner or occupant of a live/work studio requires a larger apartment than a studio apartment. Use of the commercial component adjoining a studio apartment for a residential purpose would reduce non-residential floor space to less than 17% of the total GFA.

The upper level of each live/work studio should be residential only, with additional commercial floor space provided elsewhere within the development in order to achieve a minimum of 17% non-residential GFA.

While Council is highly supportive of mixed use floor plates, the application as proposed does not adequately address the amenity needs of the various users and greater

consideration should be given to the layout and configuration of the floors containing residential and non-residential uses.
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e) Car parking rates, loading / unloading and vehicle access

i. 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 *Chatswood CBD 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:

- Proximity to public transport; and*
- 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.

Council's approach to car parking in the Chatswood CBD, which has resulted in reduced WDCP car parking rates, is based on encouraging the use of active and public transport and minimising the adverse effects of car use.

ii. TfNSW Guide to Transport Impact Assessment (2024)

Attention is drawn to the TfNSW Guide to Transport Impact Assessment (2024).

Section 3.2.4 discusses what is contained in a TIA (Traffic Impact Assessment) and states (p. 3-4):

A development should be considered within its physical and strategic context and not in isolation from nearby developments, including buildings already constructed, under construction or approved developments in the area of influence. Nearby features such as intersections, footpaths and other driveways, as well as active transport facilities should also be considered.

Section 3.3 discusses TIA methodology and states in regards future conditions and sources of design year, or base case, volumes (p. 3-8):

Strategic models, which are based on current travel behaviour and future population and employment forecasts. In highly congested locations, the forecasted growth may not be accommodated, and adjustments may be required.

Section 3.3.1 discusses scoping and background conditions, and the steps involved. Step 3 is understanding the existing and future baseline transport network conditions. Strategic context for the development (p. 3-9) states:

It is essential to consider the alignment of a development with relevant transport strategies, plans and planning controls. This involves consideration of:

- *Relevant planning strategies, policies and controls affecting the site and its sub-region, such as:*
 - *State level and regional strategies.*
 - *Statutory plans such as State Environmental Planning Policies (SEPPs).*
 - *State Significant Development (SSD) and State Significant Infrastructure (SSI).*
 - *Local government planning instruments such as Local Environment Plans (LEPs), as well as Development Control Plans (DCPs), and other Council policies.*
 - *Site specific plans or other relevant legislation.*
 - *Refer to Chapter 2: Legislation, strategic direction and standards for more information.*
- *Key transport and related issues, constraints, opportunities and requirements for the site and its sub-region, relating them to the above identified plans.*
- *Any conflicts between State or local plans and the development.*
- *Key existing and planned land uses in the region and their transport relationships to the site, including employment areas, other major trip generators and significant special use sites e.g. hospitals and education facilities.*

The conclusion is that:

Development should support the vision for an area, as outlined in relevant local or state transport policies, strategies, and plans. This should be considered in the design of the development. A TIA adopts evidence based approaches such as benchmarking to demonstrate how development manages the transport impacts and supports elements of those strategies and plans.

The SSDA does not adequately assess consistency with the TfNSW Guide to Transport Impact Assessment (2024) intent and direction. In particular the impacts on the surrounding road network of proposed car parking significantly above Council's WDCP rates (reduced WDCP car parking rates being expected in the CBD Strategy and supporting traffic analysis).

The SSDA is contrary to the land use and car parking strategic context (CBD Strategy and WDCP) which anticipated that the uplift in the Chatswood CBD would be accompanied by lower car parking rates as expressed in the WDCP. These rates and further discussion are provided below.

In regards impacts on the surrounding road network, the site must not be taken in isolation and the approach to car parking in the SSDA should be considered in the wider context.

iii. WDCP parking rates within the Chatswood CBD precinct

WDCP residential car parking rates (maximum and minimum) applicable to shop top housing within the Chatswood CBD and St Leonards precinct are provided below.

Willoughby Development Control Plan Part F: Transport and Parking Management 2023

Land use category	Development type	Chatswood CBD and St Leonards precinct (maximum rates)	Chatswood CBD and St Leonards precinct (minimum rates)
Residential	f. dwellings in shop top housing and mixed-use developments (further car parking for the commercial component is to be provided in line with the requirements for commercial and retail premises)	0.5 space per studio and 1, 2, 3 or more bedroom units; 1 visitor space per 7 dwellings	<ul style="list-style-type: none"> • 0.1 spaces per studio/ 1-bedroom flat • 0.2 spaces per studio/ 2-bedroom flat • 0.25 spaces per studio/ 3+ bedroom flat

As noted above, additional parking is required for non-residential uses.

Land use	Max rate	Min rate
Retail	1/70m ²	1/200m ²
Commercial	1/400m ²	1/670m ²
Childcare	1/20m ²	1/60m ²

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 from what is proposed. This is discussed further below.

Based on Council's WDCP maximum rate, the following car parking provision is required:

All residential units	166
332 x 0.5	
Residential visitor	47
Retail	6
Commercial	3
Child care	8
Total	230 car spaces required

Based on Council's WDCP minimum rate, the following car parking provision is required:

Residential units	66.1
71, studio / 1 bed x 0.1 = 7.1	
125, 2 bed x 0.2 = 25	
136, 3 / 4 bed x 0.25 = 34	
Residential visitor	0
Retail	18
Commercial	5
Child care	24
Total	113.1 car spaces required

iv. Car parking if non-affordable housing is based on WDCP, and affordable housing based on SEPP

Based on Council's WDCP maximum rate, the following car parking provision is required if non-affordable housing is based on WDCP, and affordable housing based on SEPP:

Non-affordable housing residential units	136.5
273 x 0.5	
Affordable housing residential units	36
59 total	
1 bed x 0.4 (16)	
2 bed x 0.5 (26)	
3/ 4 bed x 1 (17)	
Residential visitor	0
Retail	18
Commercial	5
Child care	24
Total	219.5 car spaces required

Based on Council's WDCP minimum rate, the following car parking provision is proposed if non-affordable housing is based on WDCP, and affordable housing based on SEPP:

Non-affordable housing residential units	55.05
273 total	
1 bed x 0.1 (55)	
2 bed x 0.2 (99)	
3/ 4 bed x 0.25 (119)	
Affordable housing residential units	36
59 total	
1 bed x 0.4 (16)	
2 bed x 0.5 (26)	
3/ 4 bed x 1 (17)	
Residential visitor	0
Retail	18
Commercial	5
Child care	24
Total	138.05 car spaces required

v. Car parking proposed

Based on p. 95 of the EIS, the following car parking is proposed:

Table: Residential based on the Housing SEPP

Type		No. of units	Parking Requirements		Proposed Parking
			Minimum Parking Rate	Minimum No. of Spaces	
Non- Affordable Housing	Studio	24	0.5	306	342
	1 bed	31	0.5		
	2 bed	99	1.0		
	3/4 bed	119	1.5		
	Studio	0	0.4		
Affordable Housing	1 bed	16	0.4	36	
	2 bed	26	0.5		
	3/4 bed	17	1.0		
TOTAL		332	-	342	

WDCP specifies a maximum car parking rate for residential visitors of one space per 7 apartments. The proposal complies with this requirement by providing 22 parking spaces for residential visitors.

Table: Non-residential based on WDCP

Land Use	Quantum		Parking Rate		No. of Spaces		Provided
			Min. Rate	Max. Rate	Min.	Max.	
Retail	1,281	m ²	1 / 70m ²	1 / 200m ²	18	6	15
Commercial	2,112	m ²	1 / 400m ²	1 / 670m ²	5	3	3
Childcare	483	m ²	1 / 20m ²	1 / 60m ²	24	8	8

The EIS concludes that the following:

- Residential car spaces: 342 (based on Housing SEPP)
- Residential visitor car spaces: 22 (based on WDCP maximum rate, and choosing an approximate mid point)
- Retail car spaces: 15 (based on minimum rate)
- Commercial car spaces: 3 (based on maximum rate)
- Child care centre car spaces: 8 (based on maximum rate)

Total: 390 car spaces

(Based on the Housing SEPP (affordable housing and market housing) and WDCP (non-residential)).

vi. Car parking issues

The following concerns are raised with the proposed parking:

- Council questions the appropriateness of including the 24 live / work studio apartments as residential for the purposes of parking calculations. In Council's view, the floor space should be treated as per its use with regard to associated parking provision.
- 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 (being 390) exceeds Council's WDCP Chatswood CBD precinct maximum car parking requirement (being 230) by 160 car spaces.
- The SSDA (being 390) exceeds Council's WDCP Chatswood CBD precinct minimum car parking requirement (being 113.1) by 276.9 car spaces.
- Car parking has been determined if non-affordable housing is based on WDCP Chatswood CBD precinct rates, and affordable housing based on the Housing SEPP:
 - The SDA (390) exceeds non-affordable housing based on WDCP (maximum rate), and affordable housing based on SEPP (combined total 219.5), by 170.5 car spaces.
 - The SDA (390) exceeds non-affordable housing based on WDCP (minimum rate), and affordable housing based on SEPP (combined total 138.05), by 251.95 car spaces.
- All of the above comparisons show that the SSDA is providing substantially more car parking than if:
 - Council WDCP Chatswood CBD car parking rates are used (both maximum and minimum), or
 - If non-affordable housing is based on WDCP Chatswood CBD car parking rates (both maximum and minimum), and affordable housing based on the SEPP.
- It is acknowledged that the Housing SEPP is an EPI. However, Council's WDCP parking rates are the more appropriate control in this instance given:
 - public transport options have increased, with particular regard to the Metro,
 - 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 and overall liveability in a dense urban environment. 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 soft landscaping, tree canopy and deep soil planting to street frontages and setback areas (discussed below).

The SSDA is requested to be amended to have car parking consistent with WDCP railway precinct car parking rates.

vii. Loading / unloading

Loading and unloading is provided within the building, on Basement 1, with all vehicle access being via O'Brien Street.

The Traffic Impact Assessment concludes with regards to the loading dock:

The proposal includes an on-site loading dock which can accommodate a 10.5m Council Waste collection vehicle and a Small Rigid Vehicle (SRV). The loading area will have a height clearance sufficient to meet the requirements of Council's waste collection vehicle.

The design does not rely on a mechanical solution (e.g. turntable) for loading and unloading, with vehicles able to efficiently manoeuvre within the site.

Concerns are raised in regards the location of the loading dock immediately after entering Basement 1. In Council's view the location of the loading dock is not appropriate but rather forced, and leads to a number of issues, including:

- At the bottom of the ramp, from O'Brien Street to Basement 1, all vehicle movement into and from the site, including all residential and non-residential cars, is blocked while vehicles manoeuvre into the dock. The intention is that this space is used by all large delivery trucks across the course of the day, including residential moving in or out trucks. Furthermore, Council's waste deliveries are not always early in the morning.
- The loading dock is separate by some distance, including the internal vehicle manoeuvring aisle, from waste rooms. This means that all waste for the main loading dock is required to be moved from waste rooms across the main basement vehicle aisle where the O'Brien Street ramp enters Basement 1 (which all vehicles use), to the rear of the waste vehicle in the loading dock which is located towards a wall, as vehicles are required to reverse in.

These issues are discussed further under Engineering and Waste comments.

In Council's view, car parking should be reduced, with a more logical loading dock identified on the western side of the internal Basement 1 vehicle movement aisle, closer to bins rooms. The correct location of the loading dock serving 10.5m vehicles, including Council waste vehicle, is critical to the successful functioning of vehicle movement on-site and within basement levels.

viii. Vehicle access

When Planning Proposal 2021/7 (Council ref) was exhibited, with a proposed density of 90m height and 6:1 FSR, TfNSW raised concerns in regards all vehicle access being proposed via O'Brien Street. In response to TfNSW concerns, the proponent amended the Planning Proposal to show all vehicle access via Wilson Street. The Planning Proposal and accompanying site specific DCP was subsequently supported by Council, with the Planning Proposal being made. Consistent with the site specific DCP supported by Council, the site specific DCP stated regarding vehicle access:

10. Traffic and Transport

Controls

- 1. Vehicle access to / egress from the development is to be from one access point in Wilson Street.*

It is Council's understanding that TfNSW may have reconsidered its position with regard to vehicle access via O'Brien Street for a development involving density of 90m and 6:1.

It is unclear what the TfNSW position is regarding O'Brien Street access for a potential development involving 120.5m height and 8.46:1 FSR, and whether Wilson Street is a more appropriate location. Clarification is required as part of the current exhibition process, with input from TfNSW.

The SSDA (being 390) exceeds Council's WDCP maximum car parking requirement (being 230) by 160 car spaces.

The SSDA (being 390) exceeds Council's WDCP minimum car parking requirement (being 113.1) by 276.9 car spaces.

Car parking has also been determined if non-affordable housing is based on WDCP, and affordable housing based on the SEPP

- The SDA (390) exceeds non-affordable housing based on WDCP (maximum rate), and affordable housing based on the SEPP (combined total 219.5), by 170.5 car spaces.
- The SDA (390) exceeds non-affordable housing based on WDCP (minimum rate), and affordable housing based on the SEPP (combined total 138.05), by 251.95 car spaces.

All of the above comparisons show that the SSDA is providing substantially more car parking than if:

- Council WDCP Chatswood CBD precinct car parking rates are used (both maximum and minimum), or
- If non-affordable housing is based on WDCP Chatswood CBD precinct car parking rates (both maximum and minimum), and affordable housing based on the SEPP.

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 raised in regards the location of the loading dock immediately after entering Basement 1. In Council's view the location of the loading dock is not appropriate but rather forced, and leads to a number of issues, including:

- At the bottom of the ramp, from O'Brien Street to Basement 1, all vehicle movement into and from the site, including all residential and non-residential cars, is blocked while vehicles manoeuvre into the dock.
- All waste for the main loading dock is required to be moved from waste rooms across the main basement vehicle aisle where the O'Brien Street ramp enters Basement 1 (which all vehicles use), to the rear of the waste vehicle in the loading dock which is located towards a wall, as vehicles are required to reverse in.

In Council's view, car parking should be reduced, with a more logical loading dock identified on the western side of the internal Basement 1 vehicle movement aisle, closer to bins rooms. The correct location of the loading dock serving 10.5m vehicles, including Council waste vehicle, is critical to the successful functioning of vehicle movement on-site and within basement levels.

It is unclear what the TfNSW position is regarding O'Brien Street access for a potential development involving 120.5m height and 8.46:1 FSR, and whether Wilson Street is a more appropriate location. Clarification is required as part of the current exhibition process, with input from TfNSW.

f) Greening of the site at ground level

WDCP, Part L: Placed Based Plans, 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: Placed Based Plans, 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: Placed Based Plans, 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 ground level greening to Pacific Highway, O'Brien Street, and the minimal deep soil planting. It is also considered that increased greening to Wilson Street and the setback to the North Shore Rail Line is possible.

The greening of the site is addressed below in SP2 land implications for SSDA Pacific Highway frontage, Ground level setbacks, Nature of ground level setbacks, Public domain and public benefit, Deep soil planting and in Open space comments.

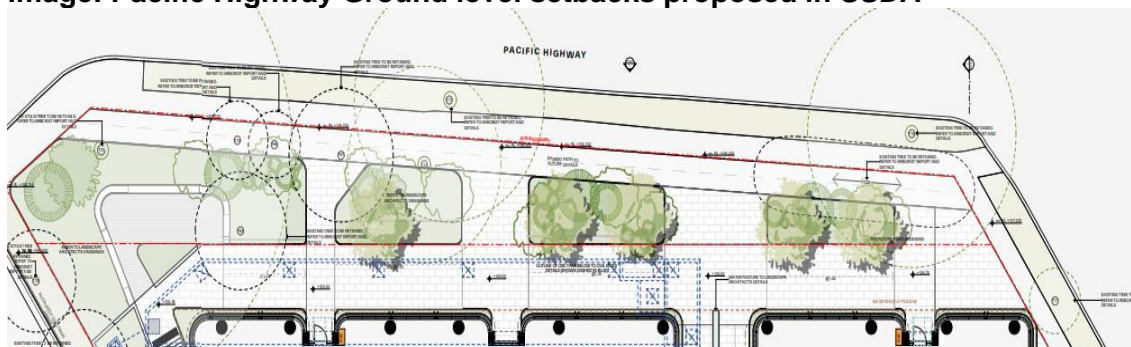
g) SP2 land implications for SSDA Pacific Highway frontage

As noted above in 2. SP2 Infrastructure (Classified Road) land:

- Under WLEP 2012, the SP2 Infrastructure land encompassing the Pacific Highway frontage of the site (457m²) is identified by TfNSW for road widening.
- Unless formally advised to the contrary by TfNSW, Council concludes that this land is wanted as identified.

Therefore the Pacific Highway boundary excludes the SP2 land and is taken to be where the current MU1 zone begins.

Image: Pacific Highway Ground level setbacks proposed in SSDA



The image above shows the proposed SP2 land with shared pedestrian and bicycle path, trees to be retained, soft landscaping and tree canopy as well as structures.

The proponent's Appendix C - Statutory Compliance Table states

Appropriate setbacks are provided at the ground level, inclusive of a setback to the Pacific Highway which features a vegetated buffer zone, separating the Highway from the public open space. This area features a courtyard area, retail activation, a pocket park, seating and access to through-site links.

It is Council's understanding that any land required by TfNSW for road widening should be grass only, to be unencumbered for the purposes of road widening as determined by TfNSW.

On this basis, what is shown assumes TfNSW does not require any of the SP2 land. This cannot be assumed and requires clarification from TfNSW and then proponent redesign.

In Council's view, if there are changes to the Pacific Highway boundary due to TfNSW clarification, the design of this area requires further consideration by the proponent as follows:

- There should be no structures of any kind in the land required by TfNSW.
- After road widening is confirmed by TfNSW, the location of the verge and shared pedestrian and bicycle path is to be adjusted (to be outside of TfNSW SP2 Classified Road land).
- Confirmation is required whether any of the 4m setback is required to facilitate provision of the shared pedestrian and bicycle path. This would need to be shown on plan.
- There are trees that will be affected by TfNSW requirements resulting in tree loss, and a loss of soft landscaping and canopy on the Pacific Highway frontage. This reduced green presence requires an appropriate proponent response both in terms of street trees and on-site in the front setback.
- How the design meaningfully addresses the provision of a pocket park at the Pacific Highway and O'Brien Street corner of the site.
- Plans should show how Council's vision for the Pacific Highway setback is being satisfactorily addressed based on the CBD Strategy and WDCP Part L: Place Based Plans. This discussed further below.

In Council's view, the treatment of the Pacific Highway frontage is of major importance to the redevelopment of this site, noting the high visibility to the Pacific Highway, Railway Street as well as Wilson Street – and the future overall vision for the Pacific Highway. There remains uncertainty over where the boundary will be and the subsequent design. Any clarification provided by TfNSW and subsequent redesign responding to this submission, requires further consideration by Council.

If TfNSW does not require the identified SP2 land, or only part of it, Council is supportive of this space contributing to soft landscaping, tree canopy tree planting, a pocket park and the shared pedestrian and bicycle path.

If TfNSW is unable to confirm that it no longer requires the identified SP2 land, redesign is required to ensure the relevant active transport infrastructure and soft landscaping is still provided on the MU1 zoned part of the site.

h) Ground level setbacks

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: Placed Based Plans. 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: Placed Based Plans, Section 13.1.15 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.*
- 4. Protect all significant on-site trees and all street trees on Pacific Highway, O'Brien Street and Wilson Street, and trees in the setback to the North Shore Rail Line.*

The controls for WDCP, Part L: Placed Based Plans, Section 13.1.4, 15, Setbacks and Street Frontage Heights, Controls, states:

1. ... Setbacks are as follows:

a) Pacific Highway frontage:

- i) Minimum 4m setback at Ground Level
- ii) Minimum 6m setback above street wall
- iii) Maximum street wall height of 7m (two storeys).

b) O'Brien Street and remaining southern boundary frontage:

- i) Minimum setback at Ground Level between 1m (where O'Brien Street meets corner of 849 Pacific Highway and Lot 1 DP 1189541) and 5.4m (where O'Brien Street meets SP2 Infrastructure (Classified Road) land adjacent Pacific Highway
Note: Ground level setback at end of O'Brien Street addressed in iii) below.
- ii) Minimum 3m setback at Ground Level along remaining southern boundary
Note: Ground level setback at end of O'Brien Street addressed in iii) below.
- iii) Minimum setback at Ground Level at end of O'Brien Street of between 1m and 4.5m
- iv) Minimum setback above street wall 3.5m (where O'Brien Street meets corner of 849 Pacific Highway and Lot 1 DP 1189541) and 3m (where O'Brien Street meets SP2 Infrastructure (Classified Road) land adjacent Pacific Highway Note: Tower setback at end of O'Brien Street addressed in v) below.
- v) Minimum setback above street wall 7.5m along end of O'Brien Street and remaining southern boundary
- vi) Maximum street wall height of 7m (two storeys)

c) Wilson Street frontage

- i) Minimum nil setback at Ground Level
- ii) Minimum 4.5m setback above street wall
- iii) Maximum street wall height of 7m (two storeys).

d) Eastern boundary frontage (facing North Shore Rail Line)

- i) Minimum setback between 6.8m (Wilson Street end) and 11.3m (O'Brien Street end) at Ground Level
- ii) Minimum 4.5m setback to tower
- iii) Maximum podium wall height of 7m (two storeys).

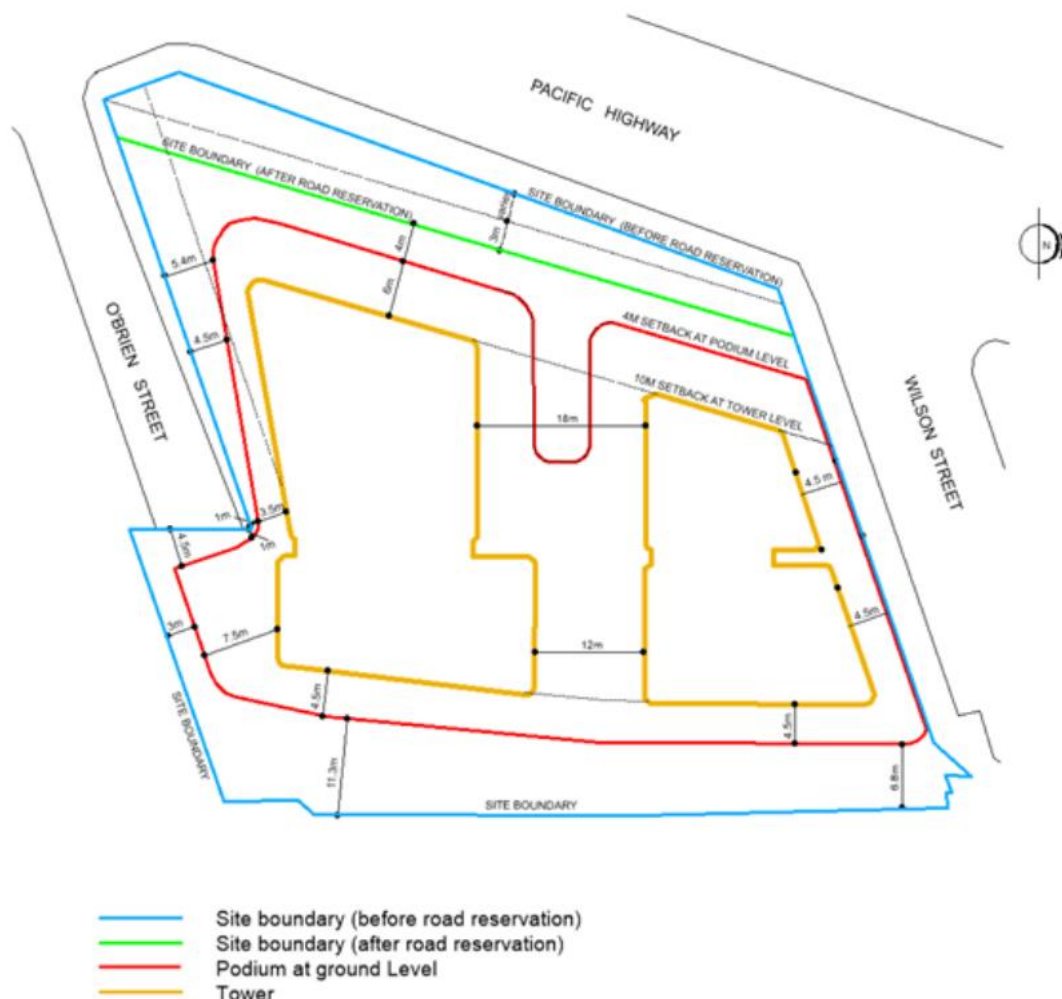
2. Balconies are not to encroach into setbacks.

3. 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.

Refer to **Image: WDCP Part L: Placed Based Plans, Section 13.1.15 Site Layout** for what was envisioned for future redevelopment on this site with regards to setbacks.

Image: WDCP Part L: Placed Based Plans, Section 13.1.15 Site Layout



In regards ground level setbacks, the SSDA proposes:

- Pacific Highway
Minimum setbacks are achieved
 - From the MU1 zoned land front boundary (excluding SP2 zoned land), a 4m setback is provided to podium.
- Wilson Street
Minimum setbacks are achieved
 - No setback to approximately 3m (should be clarified on plan by proponent)
- O'Brien Street
Minimum setbacks are achieved
 - Between 1m (where O'Brien Street meets corner of 849 Pacific Highway and Lot 1 DP 1189541) and 5.4m (where O'Brien Street meets SP2 Infrastructure (Classified Road) land adjacent Pacific Highway Eastern boundary frontage (facing North Shore Rail Line).
 - Between 1m and 4.5m at Ground Level at end of O'Brien Street of between 1m and 4.5m.

- 3m setback at Ground Level along remaining southern boundary.
- Eastern boundary frontage (facing North Shore Rail Line)
Minimum setbacks are achieved
 - Between 6.8m (Wilson Street end) and 11.3m (O'Brien Street end) at Ground Level.

Numerically ground level setbacks are provided consistent with WDCP Part L: Placed Based Plans, Section 13.1.15 requirements.

However, the treatment of these setback areas is not consistent with WDCP Part L: Placed Based Plans, Section 13.1.15 requirements – and is addressed below. Importantly, Council is not just concerned about meeting numerical requirements but rather the location of soft landscaping in locations that make a difference and provide amenity (e.g. providing tree canopy, being visible and available for users of publicly accessible ground level setbacks for the purposes of providing passive rest areas or relief from a dense urban environment the subject of significant uplift).

i) Nature of ground level setbacks and other open space issues

Ground level setbacks are further addressed in WDCP, Part L: Placed Based Plans, Section 13.1.15 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.*
5. *Greening at the podium roof level is to be provided, with planting visible to the surrounding area – with particular regard to Pacific Highway, O'Brien Street, Wilson Street and the pocket park and through site link between O'Brien and Wilson Streets, adjacent the North Shore Rail Line.*
6. *Podium and roof tops are to be a combination of green and recreation spaces.*
7. *Street tree planting is to be provided.*

Controls

1. *Open space at ground level shall be utilised as publicly accessible open space.*
2. *Large canopy tree planting must be provided along the Pacific Highway, O'Brien Street frontages, and the pocket park and through site link between O'Brien and Wilson Street, adjacent the North Shore Rail Line, where any setback area is greater than 3m.*
3. *All roofs up to 30 metres from ground are to be green roofs. These are to provide a balance of passive and active green spaces that maximize solar access.*

4. A minimum of 2 hours of sun access is to be provided to the public open space on the site.
5. Public domain improvements shall be provided to all street frontages, and the pocket park and through site link between O'Brien and Wilson Streets, adjacent the North Shore Rail Line, to Council requirements.
6. 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.
7. Deep soil planting is to be provided along the Pacific Highway, O'Brien Street frontages, and the pocket park and through site link between O'Brien and Wilson Streets, adjacent the North Shore Rail Line, where any setback area is greater than 3m. Deep soil plantings include trees and shrubs, and are to be unimpeded by buildings or structures below ground.
8. A Landscape Plan is to be provided at Development Application stage detailing all public domain at ground level, street tree planting, planting and space allocation at podium and roof top levels. This is to include species, container size at planting, spacing and approximate size at maturity.
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.

Image: O'Brien Street Ground level setbacks proposed in SSDA

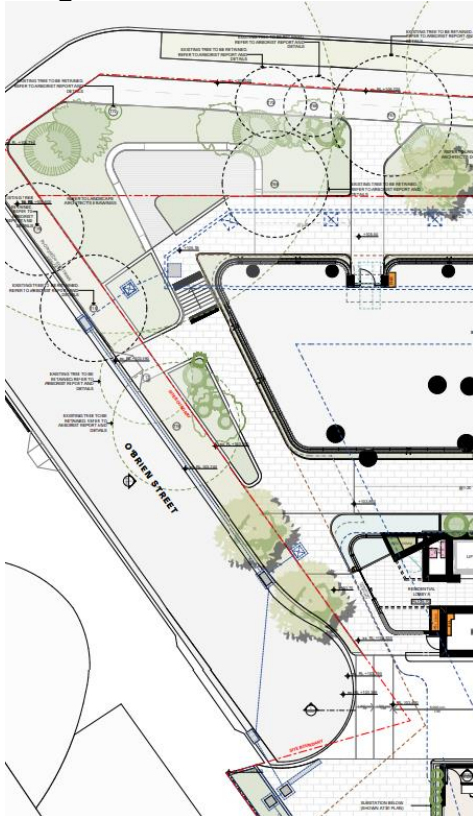


Image: North Shore Rail Line Ground level setbacks proposed in SSDA

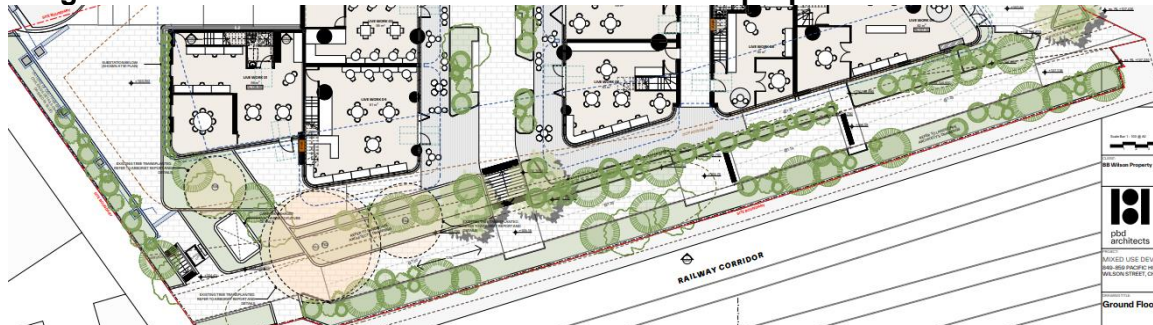
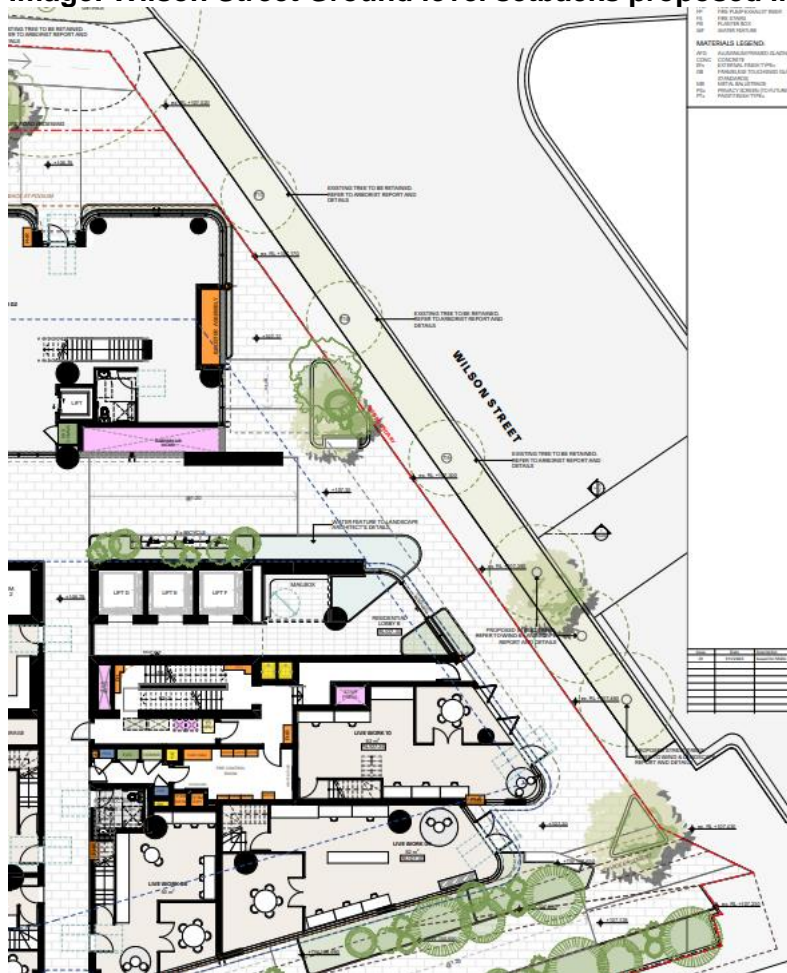


Image: Wilson Street Ground level setbacks proposed in SSDA



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 the subject SSDA, 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.

- While it is reasonable for some hard paving within all setbacks for the purposes of access, this should be minimal as the primary intent for these areas is for planting and soft landscaping.
- Pacific Highway setback
 - Landscaping with planting to provide greening is expected to be incorporated into the 4m setback along the Pacific Highway frontage. As per Willoughby DCP Part L Part L: Placed Based Plans, the site boundary is taken to be after road reservation, which has been acknowledged with the building setback.
 - Landscaping to the Pacific Highway being almost entirely within the road widening area does not satisfy this requirement as there is a likely scenario this area will be removed when the road widening occurs, resulting in minimal landscaping to this frontage.
 - Currently the plans only provide a narrow (approx. 400mm wide) planting against the building within this setback area, which is insufficient. More planting area within this setback area is required. Canopy trees are to be provided. Deep soil planting is addressed below.
- Pocket Park

The pocket park (achieved via WDCP setback as outlined above) is located on the O'Brien Street and Pacific Highway corner, within the SP2 future road widening area, and therefore would be removed during the TfNSW road widening.

Council seeks for a pocket park to be located on the MU1 zoned part of the site, consistent with the intention of achieving a green gateway to Railway Street and the western side of the CBD.

- O'Brien Street setback

Insufficient deep soil and large canopy trees has been provided to the O'Brien Street frontage.

- Unobstructed access for external rear through site link

The through site link connection to the south of O'Brien Street is obstructed by the OSD and raised planter directing pedestrian traffic onto the roadway.

Unobstructed access to the south from the rear external through site link (in the setback to the North Shore Rail Line) is to be improved.

- The setback to the North Shore Rail Line and Wilson Street setback

The proponent is requested to reduce hard paved areas in the setback to the North Shore Rail Line (in particular, the width of the through site link), while maintaining the through site link, and increase soft landscaping to create passive rest areas and facilitate provision of tree canopy.

The proponent is requested to create a more meaningful green landscape presence on the Wilson Street frontage, as a minimal presence is currently proposed.

- Street trees

In response to WDCP, Part L Part L: Placed Based Plans, Section 13.1.15, 7. Open Space and Landscaping, Control 9 (stated above), the proponent states in Appendix c – Statutory Compliance Table that street tree planting at the cost of the proponent is noted.

Council seeks a commitment from the proponent that street tree planting, which is in addition to on-site planting, will be provided to the Pacific Highway, O'Brien Street and Wilson Street. In addition, Council seeks a street tree planting plan that would be conditioned in any approval.

This is a standard requirement for any significant development within the WLGA. In addition, street tree planting is an important component of Council's intention for development to be accompanied by a greening of the Chatswood CBD.

- Undergrounding of all cables (including aerial)

In response to WDCP, Part L Part L: Placed Based Plans, Section 13.1.15, 7. Open Space and Landscaping, Control 10 (stated above), the proponent states in Appendix c – Statutory Compliance Table that the undergrounding of all cables (including aerial) is noted.

Council seeks a commitment from the proponent that Control 9 and the undergrounding of cables serving the site will be fully realised. In addition, Council seeks for this outcome to be reinforced by condition in any approval.

This is a standard requirement for any significant development within the WLGA. In addition, undergrounding of cables is an important component of Council's intention for an improved and updated presence for new development in the Chatswood CBD.

The SSDA is requested to be amended to show:

- All ground level soft landscaping is to be consistent with this submission and dimensioned (including areas).
- In regards the Pacific Highway setback, increased soft landscaping / greening is required on the 4m setback on MU1 zoned land. Canopy trees are to be provided in this setback, facilitated by deep soil planting (addressed below).
- The pocket park (achieved via WDCP setback as outlined above) is located on the O'Brien Street and Pacific Highway corner, within the SP2 future road

widening area, and therefore would be removed during the TfNSW road widening.

- Council seeks for a pocket park to be located on the MU1 zoned part of the site, consistent with the intention of achieving a green gateway to Railway Street and the western side of the CBD.
- Unobstructed access to the south from the rear external through site link (in the setback to the North Shore Rail Line) is to be provided.
- The proponent is requested to reduce hard paved areas in the setback to the North Shore Rail Line, while maintaining the through site link, and increase soft landscaping to create passive rest areas and facilitate provision of tree canopy.
- The proponent is requested to create a more meaningful green landscape presence on the Wilson Street frontage, as a minimal presence is currently proposed.
- A commitment from the proponent that street tree planting, which is in addition to on-site planting, will be provided to the Pacific Highway, O'Brien Street and Wilson Street. In addition, Council seeks a street tree planting plan that would be conditioned in any approval.
- A commitment from the proponent that the undergrounding of cables serving the site will be fully realised. In addition, Council seeks for this outcome to be reinforced by condition in any approval.

i) Public domain and public benefit

Ground level public domain and public benefit was further addressed in WDCP, Part L: Placed Based Plans, Section 13.1.15 here:

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*
- 2. Through site links and open space ... is required on a site by site basis.*
- 3. Public rights of way are to be provided on:*
 - The 4m setback to Pacific Highway.*
 - The setback between 1m (where O'Brien Street meets corner of 849 Pacific Highway and Lot 1 DP 1189541) and 5.4m (where O'Brien Street meets SP2 Infrastructure (Classified Road) land adjacent Pacific Highway.*
 - The setback between 1m and 4.5m at the end of O'Brien Street.*
 - The 3m setback to the remaining southern boundary.*
 - The setback between 6.8m (Wilson Street end) and 11.3m (O'Brien Street end), adjacent the North Shore Rail Line.*

- 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.*

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: Placed Based Plans, Section 13.1.15, 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.

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.

j) Deep soil planting

There is minimal deep soil planting provided on this site.

Basements are proposed to the MU1 zoned land Pacific Highway boundary, the O'Brien Street boundary and Wilson Street boundary. There is a basement setback to the North Shore rail Line.

In regards WDCP, Part L: Placed Based Plans, 13.1.15 for the subject site, emphasis is placed on deep soil planting within setbacks (stated above).

There is no deep soil provided to the Pacific Highway and O'Brien Street frontages. There is a minimal setback for the basement to the North Shore Rail Line boundary.

Provision of no deep soil planting to Pacific Highway and O'Brien Street is not supported.

As there is excess parking proposed, the opportunity exists to decrease basement size and increase deep soil planting. Any loss of parking to achieve more deep soil planting on this site is supported by Council.

Plans show the basement extends to the boundary line on the O'Brien Street and therefore does not provide sufficient deep soil within the setback areas greater than 3m.

Deep soil and large canopy trees are to be provided where the setback is greater than 3m.

The SSDA is requested to be amended to show deep soil planting as follows:

- Basements setback from the Pacific Highway front boundary after TfNSW land acquisition – being where the Pacific Highway meets the on-site MU1 zone land.
- Basements set back from O'Brien Street.
- Further basement setback is requested for at least part of the rear setback to the North Shore Rail Line to facilitate significant canopy tree planting.

The reduction in basement size is consistent with Council's request for reduced car parking provision.

k) Tower setbacks

The controls for WDCP, Part L: Placed Based Plans, Section 13.1.4, 15, Setbacks and Street Frontage Heights, Controls 1. 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 30m, a minimum setback from the side boundary of 1.5m is required for the entire tower on any side*
- *a total height of 60m, a minimum setback from the side boundary of 3m is required for the entire tower on any side*
- *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*
- *a total height of 150m, a minimum setback from the side boundary of 7.5m 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 120.05m high towers (the subject of a WLEP 2012 Clause 4.6 Variation) to have a 6m setback. The proponent's Environmental Impact Statement has based height on a tower of 117m, which is not consistent with the setback being based on total height.

Concern is expressed with encroachments into setbacks of tower forms proposed at significant height.

The above podium setback at the O'Brien Street frontage varies from 2.4m - 7.4m due to irregular site boundary. Noting the sensitivity of the 11 Railway Street site opposite,

including the outdoor pool, consistency with the CBD Strategy and WDCP, Part L: Placed Based Plans, Section 13.1.4, 15 minimum tower setback is required.

Greater clarity is requested regarding all tower setbacks – identified clearly on a tower setbacks plan.

Encroachments into tower setbacks at significant heights are not supported by Council, with the impact of the encroachments magnified at the height proposed. A 6m tower setback is required for a total height of 120.5m.

The setbacks provided in WDCP, Part L: Placed Based Plans, Section 13.1.4, 15 represent the desired future built form on-site, responding to the significant uplift under WLEP 2012 – with slender towers contributing to spatial separation and the envisioned liveability of the CBD.

8. 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**.

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**.

9. Infrastructure provision

The SSDA had an associated Planning Proposal (Council's Ref PP-2021/7; ePlanning Portal Ref: PP-2021-6560) with the amendments to WLEP 2012 which was made on 26 May 2023.

Under this Planning Proposal, a VPA was entered into and executed by the developer and Council on 10 May 2023 which secured \$10,840,203 of monetary contribution to fund the Community Infrastructure required to support the future residents at this site.

The proponent, in the Environmental Impact Statement (p. 26 & 27), acknowledges the existence of this VPA linked to the referenced Planning Proposal and the required monetary contributions to be paid in 3 instalments at the specific timing.

The first instalment was paid on 27 Nov 2023.

The remaining 2 instalments are pending for payment at the following timing triggers:

- “*within 7 days prior to issue of the first Construction Certificate for the Development*”;
and
- “*within 7 days prior to issue of the first Occupation Certificate for the Development or prior to registration of a Strata Plan for the Development, whichever is earlier*”

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 VPA contribution instalments will be satisfied at the respective timing above. It is critical that if this SSDA is to be approved, the relevant conditions provided in **Attachment 3** are imposed to ensure the VPA contributions will be paid at the timing agreed under the VPA.

DA2024/47, still under assessment, will involve either a s7.11 or s7.12 contribution condition, if approved. 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 yields more (as per Council's Contribution Plan for “mixed use development”) will be applied to this SSDA.

The proposed dwelling mix, the applicable \$ rate(s) for each size of dwelling, credits given to the existing dwellings and exemptions to be given to affordable dwellings dedicated perpetually only (e.g. under WLEP cl 6.8, not those provided for 15 years under the SEPP) will be appropriately calculated, charged and conditioned under this SSDA.

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

Attachment 3 contains the standard VPA, s7.11 and s7.12 conditions to be imposed for the SSDA if approved (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**.

10. Public art

In regards public art, the Urbis Environmental Impact Statement states:

Opportunities are provided for integrating public art within the building articulation and public spaces. A public art strategy will be submitted at a later stage. The Public Art strategy will be aligned with Council's Public Art Policy and incorporate Connecting with Country principles. (p. 42)

Billbergia is committed to fostering a connection with the local environment through the public art design. The public art design is to be developed during the detailed design stage. (p.64)

It is noted that there is no discussion of the site specific DCP and Council's Public Art Policy which outlines what is expected through public art. WDCP, Part L: Placed Based Plans, 13.1.15 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 is uncertain, with the proponent seemingly adopting a public art approach focused on the building / site with the details to be determined in the future. On this basis it is concluded that the SSDA does not provide any

certainty for public art provision, particularly in a manner consistent with Council's Public Art Policy.

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.

Consistent with the above, and as advised by Council's Urban Design Specialist, the following is required:

- a) A Public Art Plan, detailing:
 - Artist selection process
 - Public Art Brief
 - Including location
- b) A Public Art Strategy
 - Clearly outlining the following
 - Demonstration of Excellence
 - Including composition of the Public Art Panel comprising:
 - Developer representative (PBD)
 - Willoughby City Council representative (Urban Design Specialist and Arts and Culture Manager)
 - Independent Art Specialist (TBA)
 - Including project budget with breakdown:
 - Project (building) CIV
 - Public Art budget
 - Addressing public art ownership as follows:
 - Dedication of the Public Art to the people of Willoughby
 - Agreement between Developer/Body Corporate and WCC regarding ownership
 - Artist Rights
 - Deaccession Plan/Agreement as noted in the Public Art Strategy document
 - Maintenance regimen and responsibilities
 - Expected annual maintenance budget
 - Insurances
- c) Prior to occupation certificate:
 - Agreement between the Developer/Body Corporate and WCC clearly identifying the following:
 - Dedication of the Public Art to the people of Willoughby
 - Agreement between Developer/Body Corporate and WCC regarding ownership
 - Artist Rights
 - Deaccession Plan/Agreement
 - Maintenance regimen and responsibilities
 - Expected annual maintenance budget
 - Insurances

Public art should be conditioned in any approval.

Council supports art on site or as part of the building – however this is separate to public art.

In Council's view, what is proposed in the SSDA is uncertain, with the proponent seemingly adopting a public art approach focused on the building / site with the details to be determined in the future. On this basis it is concluded that the SSDA does not provide any certainty for public art provision, particularly in a manner consistent with Council's Public Art Policy.

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.

11. Building Sustainability

The Urbis Appendix C – Statutory Compliance Table states (p.39):

The ESD Report confirms the project will achieve an average NatHERS rating > 7.1 stars. The project is also targeting a 5-star Green Star rating.

The Green Perch ESD Summary Report states (p. 7):

The project will also be targeting a 5- star Green Star rating (possibly with an in-house analysis, with the Green Star Buildings Rating Tool).

WDCP, Part L: Placed Based Plans, 13.1.15, 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.

It should be noted that Council is currently exhibiting housekeeping amendments to WDCP from 17 March to 22 May 2025. These proposed amendments provide clarity on Council expectations regarding sustainability standards for new development across the Chatswood CBD. The additional sustainability requirements proposed in a new section are outlined below:

4.3.5 Building Sustainability

a) MU1 Mixed Use Zone

All development is expected to achieve higher building sustainability standards. A minimum of 5 stars GBCA building rating is required. A higher rating is encouraged. An assessment report is to be submitted at Development Application stage.

The intention of the proposed inclusion of a new section on Building Sustainability is to ensure that these minimum sustainability requirements already required as site specific provisions are provided for all new applications in the Chatswood CBD, reflecting the aspirations of the CBD Strategy for higher building sustainability standards accompanying the significant density and height uplift provided.

The proposed SSDA has not provided certainty, making reference to targeting, rather than committing to the expected minimum 5 star GBCA rating or the equivalent as the minimum sustainable building outcome for this site.

Council seeks a clear commitment, consistent with the site specific DCP, for a 5 star GBCA rating or the equivalent for the proposed SSDA redevelopment. Furthermore, Council seeks for any approval to be conditioned in this regard.

The proposed SSDA has not provided certainty, making reference to targeting, rather than committing to the expected minimum 5 star GBCA rating or the equivalent as the minimum sustainable building outcome for this site.

The site specific DCP for 849, 853, 859 Pacific Highway and 2-8 Wilson Street, Chatswood 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.

12. Requested further amendments or information

a) Open space comments

Amendments / additional information are required to address the following:

i. Tree removal and replacement

The Landscape Plans dated 6/11/2024 prepared by LandFX show a total of 94 trees to be removed.

Willoughby DCP Part G Vegetation Management requires trees approved for removal to be replaced at a rate of 3:1.

A total of 49 trees have been considered exempt and do not require replacement.

A total of 135 trees will be required to replace the 45 non-exempt trees proposed for removal. The landscape plans indicate 78 replacement trees.

A number of trees, including three street trees will be heavily impacted by the works with at least 18 trees considered not retainable under the current proposal. More detail provided below.

- Arborist report

Underlying plan used for Arboricultural Impact Assessment (AIA) (dated 5/11/2024 prepared by McArdle Arboricultural Consultancy) is not consistent with the proposed Ground Floor Plan and Landscape Plan. There are a number of trees indicated for retention that would incur a major encroachment and not considered to be retainable on the proposed Ground Floor Plan and Landscape Plan.

- Trees within paving area: T20 (group of 7; *Acmena smithii* hedge), T35, T66 (group of 4; *Murraya paniculata* hedge), T67, T70, T77 (street tree).
- Trees being retained with major encroachments not addressed in arborist's report: T68, T72, T76, T77 and T78.

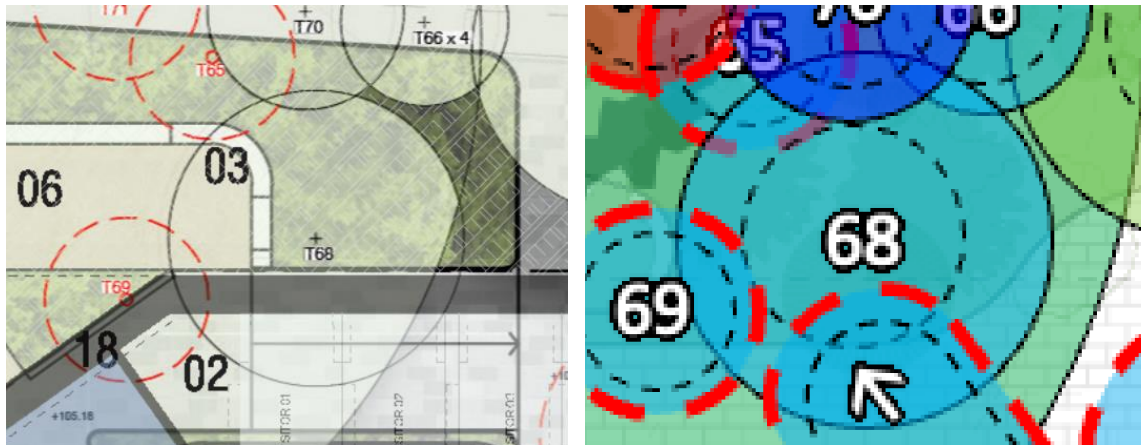
Tree T68 – *Pittosporum undulatum*

AIA notes a 14% encroachment to the TPZ by pavement.

Landscape plan shows significantly greater incursion to TPZ including significant incursion to SRZ. Basement will also have major incursion into SRZ. The tree will not be retainable.

Image:

Left - extract from Ground Floor - Landscape Plan with Basement 01 plan overlaid.
Right - extract from AIA.

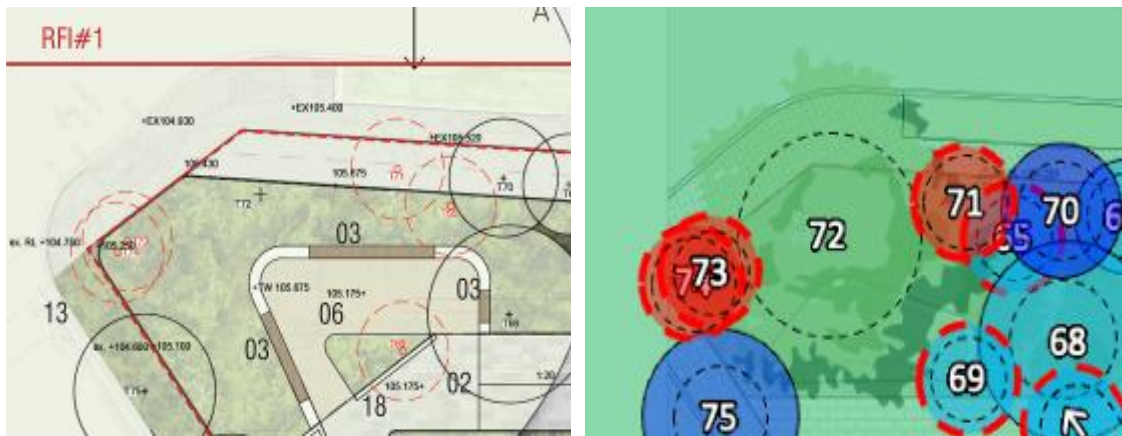


Tree T72 – *Cupressus sp.*

AIA notes a 28.1% incursion; landscape plans show shared path to be built adjacent to the trunk, and the pocket park walls and seating within the SRZ, which have not been accounted for in the AIA as it used a different landscape plan for assessment.

Image:

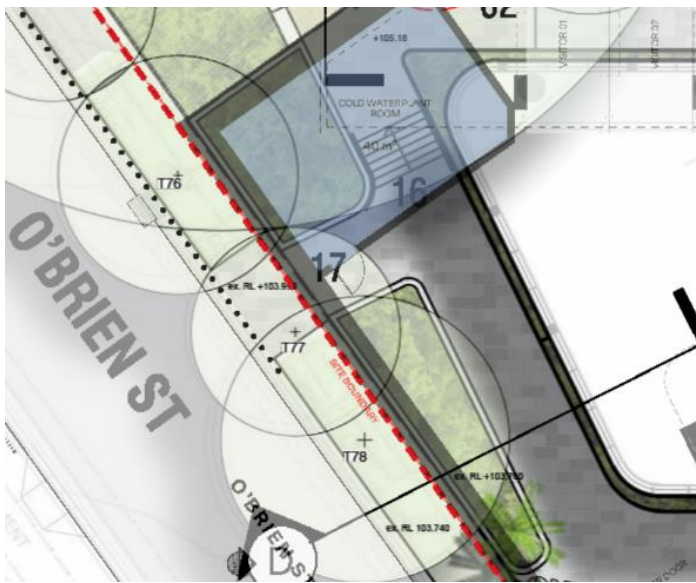
Left; extract from Ground Floor - Landscape Plan.
Right; extract from AIA.



Tree T76, T77 and T78 – *Tristaniaopsis laurina*

Street trees on O'Brien Street. The AIA notes 15% and 7% incursions respectively for stormwater and paving, however does not account for basement excavation, which will have a major encroachment.

Image: Extract from Ground Floor Landscape Plan with Basement 01 plan overlaid.



If the trees are to be retained sufficient evidence is to be provided to demonstrate the trees will be capable of surviving the impacts of the development. If the trees require removal it shall be clearly indicated on the plans.

If removal is proposed, replacement with large canopy trees should be provided within the pocket park area.

Site plan should be consistent with Landscape plans and arborist report with regard to existing trees for removal, retention or transplanting.

Transplanting of the following tree ferns is acceptable; T44, T46, T62 (x2).

- Trees already approved for removal

Demolition DA (DA-2023/19) was approved with the 45 trees indicated for removal on the Ground Floor - Landscape Plan. A bond payment for required replacement tree planting was conditioned to ensure replacement planting at 3:1 could occur on future development of the site. See condition below. This has been provided to Council as a bank guarantee.

- Condition 3: DA-2024/19

3. Replacement Tree Planting Bond

*Prior to the commencement of any works and **before** any trees are removed, the Applicant shall lodge a bond for replacement tree planting of 135 trees on site. The bond amount shall be based on the 'Offset fee for replacement planting' schedule as published in the Willoughby Council Fees and Charges at the time of lodgement. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee.*

A portion of the bond shall be refunded for each tree planted on the site prior to the issue of an Occupation Certificate for any future development on the site. The value of the refund will be equivalent to the cost of each tree, as outlined in the "Offset fee for replacement planting" schedule.

All replacement tree planting must be a species capable of a minimum mature height of 4m and planted with minimum container size of 45L. The trees shall be protected until it achieves a height whereby it is protected under Council's tree protection policies.

The applicant may apply for a refund by submitting written certification to the Council from a qualified arborist or landscape architect. This certification must state the number of trees planted, the species of trees, container size at planting, and include a plan showing their location on the site.

*Council shall be given full authority to make use of the bond for off-site tree planting for any trees not planted on site.
(Reason: Canopy cover and landscaping)*

- Additional trees for removal

It is expected this application will require the removal of up to 17 additional trees to accommodate the proposal in its current form.

Additional tree removals shall require replacement at 3:1 in accordance with *Willoughby DCP Part G*. As the number of replacement trees required from demolition already exceeds the number of replacement trees provided on the plans, the **additional** required tree replacements are to be paid for under the Offset Planting Scheme.

Condition for offset tree planting:

Tree Offset Planting Scheme

*Prior to the commencement of any works 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 XXX 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 execution of the deed of agreement.

'Offset Planting Deed of Agreement' attached. Please contact Council's Customer Service Centre on 9777 1000 to organise your payment prior to commencement of any works.

(Reason: Canopy Cover and landscaping)

This condition has been included in **Attachment 3**.

- Replacement canopy tree species

69% of the proposed replacement trees are tree ferns, and 15% are palm trees. The proposed removal of a large number of trees to be replaced with immature tree ferns does not meet the objectives of Part G of the WDCP in mitigating heat loss.

WDCP - Part G Vegetation Management – 1.2 Objectives: item e. increase tree canopy to mitigate urban heat island effects.

Palm species and some tree ferns may be acceptable, given the number of required replacement trees, however, they should not be the majority of the canopy replacement species.

Where used as replacement trees, tree ferns should be planted in more advanced sizes. The planting schedule indicates 300mm pot size for tree ferns. Potentially taking over 20+ years to reach a height of 4m.

A greater proportion of replacement trees are to be broad canopy trees which contribute to the tree canopy to help mitigate urban heat through shading and evapotranspiration.

Level 2 planting includes a *Plumeria acutifolia* (Frangipani) which is listed in *WDCP Part G Attachment 1: Undesirable species exempt from permit approval* and therefore would not count as a replacement tree.

- ii. Wind mitigation planting

The wind assessment notes that dense planting is required as part of the wind mitigation measures to upper levels.

Level 03 planting includes mostly ground covers and grasses, with a few shrubs with potential to achieve up to 1m in height. The Environmental Wind Tunnel Study required indicates trees are required to the level 3 planter. The Level 03: Landscape Plan indicates a planter depth of 600mm, which would be insufficient to support trees.

Planting to the end of the breezeway corridors consists of grasses and ground cover planting, with only some planters indicating just one shrub capable of achieving a height

of 1m in more ideal conditions. This would not achieve “dense planting” in line with the Environmental Wind Tunnel Study requirements.

iii. Basix landscape requirements

The BASIX certificate shows a requirement for 371m² of indigenous low water use planting in common area landscape. The area of landscaping to comply with this requirement has not been clearly identified on the plans.

Comments are provided on tree removal and replacement, additional trees for removal, replacement canopy tree species, wind mitigation planting and basix landscape requirements.

Other landscape issues are discussed earlier in this submission.

b) Engineering comments

Amendments / additional information are required to address the following:

i. Stormwater and Flooding

The site is not flood affected. However, there is a flood path in O'Brien St fronting the site. In order to ensure that flooding in the street does not affect the development, the proposed floor level for the site needs to comply with the Flood Planning Level and the entry to the basement needs to be at a level that prevents overflow from the street into the basement.

The Civil Report submitted with the SSD application details that the 1%AEP water level at the low point in O'Brien Street is RL103.26. For new buildings, a 500mm freeboard is required, giving a minimum floor level of RL103.76m. The proposed floor level in the building adjacent to O'Brien St is 103.70m, which is lower than the flood planning level.

To protect the basement from overland flow in O'Brien Street, a crest is required on all access points to the basement. To comply with Technical Standard 2, the crest height needs to be the higher of the 1%AEP water level + 500mm or the PMF level, whichever is higher. The Civil Report submitted did not include details of the PMF at the site. However, as part of the DA assessment and Land and Environment Court proceedings for the site, we have required that the applicant provide details of the PMF level at the low point in O'Brien St, and the information provided as part of the Court proceedings detailed that the PMF level in O'Brien St is 103.49m. The proposed crest level on the access to the basement parking area is 103.49m, which meets the requirement to be at the PMF level. However, it does not meet the requirement to be at the 1%AEP + 500mm level of 103.76m. The proposed crest level has a freeboard of 230mm in the 1%AEP event. As the flow path is not major and the crest of the driveway is at the PMF level, the proposed 230mm freeboard in the 1%AEP is acceptable in this instance.

The stormwater drainage plans have not demonstrated compliance with Part I of the Willoughby DCP and Technical Standard 1. Of concern is the secondary OSD basin and

the level of the basin. In accordance with Clause 6.2.o of Technical Standard 1, the outlet of the OSD system must be above the downstream 1%AEP water level, to ensure that the outlet operates as designed and to prevent backflow from the street into the system. The outlet of the secondary basin is at RL 102.50m and the base of the basin at RL 103.05 – 103.08, both of which are below the 1%AEP water level of 103.26m. This is not acceptable to Council and the secondary basin needs to be redesigned / relocated such that compliance with this item is achieved. We note that the applicant has provided information to demonstrate that the OSD system will comply with the permitted site discharge requirements, even when the outlet is below the downstream water level. However, the requirement for the outlet to be above the downstream water level is not solely due to the impact on peak outflow. There are also potential issues with backflow of street drainage into the system and maintenance.

ii. Vehicle access and parking

The location of the main vehicle access is acceptable. However, there are a number of items that are of concern to Council and need to be addressed. These are:

- The Waste Vehicle / HRV loading bay requires a complex set of manoeuvres for vehicles to enter and exit the bay. For a vehicle entering the site, they need to go past the bay, and then reverse into the bay, similar to a parallel park. The reversing manoeuvre needs to occur across the main vehicle access into the site. When leaving the bay, the vehicle needs to undertake a 3 point turn, which also occurs within the main vehicle access point, blocking all vehicle movements in and out of the site. The exiting vehicle will also turn across the incoming side of the entry ramp, requiring incoming vehicles to stop clear of the basement. These complex manoeuvres, on both the entry and exit, create potential conflicts between the waste / service vehicle and other vehicles accessing the site.

Image: Basement 1 – Unsatisfactory location of loading dock with regard to access and egress and interference with other vehicle movement



Where vehicle access to the loading bay is off a main entry, which results in other vehicles being affected, the manoeuvres into and out of the bay need to be simple, with a straight turn in or out and a single reverse manoeuvre into the bay.

- There are columns that are located in positions where the column impacts the minimum aisle or roadway widths. To comply with AS/NZS 2890.1, where a structure is located on one side of an aisle, the minimum aisle width is to be increased by 300mm, which for 2 way traffic flow requires a minimum width of 6.1m. Similarly, for a 2 way access way, the minimum distance between structures, including walls and columns, is 6.1. For the access way / aisle near Stair FS-6, the column is located within the access way, which narrows the roadway to 5.1m. The narrower width is not acceptable, as the width is such that vehicles may believe that there is sufficient room to pass. In other positions, columns are located directly against the edge of a 5.8m wide aisle, which does not provide the required 6.1m width adjacent to a structure.
- The aisle at the end of the childcare parking area, beyond space Childcare 05, needs to extend at least 1m beyond the last space.
- The plan provides only 3 visitor bicycle parking spaces at ground level, with the remaining visitor parking space in the basement. To enable easier access, an increased number of visitor parking spaces need to be provided at ground level, in visible locations that are easy to access and near all building entries. The plans should detail 2-3 visitor bicycle spaces (rails) for each building, near each building entry – outside of soft landscape and pedestrian movement areas.

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

c) 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 (NSROC, 2018) for multi-dwelling housing, residential flat buildings and mixed-use developments.

The development needs to comply with NSROC (2018) particularly Section 3 for all developments, Section 5.3 for high residential flat buildings and Section 6 for mixed-use developments,

Bin type	Generation rate proposed	Generation rate * (WDCP2023)
General waste	140L/unit/week	140L/unit/week ^
Recyclable waste	120L/unit/week	120L/unit/week
Organics waste	25L/unit/week	120L/unit/week (or 25L and 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. The Applicant proposes compaction (OWMP, Rev G, Table 3). < Instead of the WDCP (2023) requirement for 120L/unit/week of organics capacity (NSROC 2018, Section 3.6). 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: - Studio, 1-bed or 2-bed unit: 25L/unit/week. - 3+ bed unit: 50L/unit/week. [There as 133 of these proposed in the architectural plans "Project Summary")		

There are a number of items that require clarification:

i. Waste generation (residential)

There is a shortfall in generation rate for organics:

ii. Bins (residential)

The Applicant proposes an incorrect recycling collection frequency. 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	1,100L		Once per week (Requires WMP amendment <)
Organics waste	240L	240L bins	Once per week
Notes: < 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). A bin lifter would be required which does not appear to be shown on the architectural plans. > The OWMP (Rev G) proposes twice weekly collection of recycling. Council only offers recycling collections weekly. This affects the number of bins required (37x1,100L bins compared to proposed by the Applicant (19x1,100L bins)).			

iii. Bin area (residential)

The OWMP (Rev G) does not state the area provided in Table 9. The areas need to be clarified.

Bin type	Number and size of bins		Bin area (m ²)	
	Proposed	Required ^	Proposed	Approx. required for collection (DCP 2023) ^
General waste	1,100L x 12	1,100L x 11	Areas not shown in the Basement (Attachment 1)	23
Recyclable waste	1,100L x 19	1,100L x 37		75
Organics waste	240L x 35	240 x 49		27
Total	66	97	-	125
Notes ^ Excludes any service bins. The collection holding area may be different to the resident use rooms or in some cases it may be the same (e.g. for organics bins) if they comply with all DCP conditions. > Based on 196 units up to 2 beds (25L/unit/week = 4,900L) and 136 units of 3 or more beds (50L/unit/week = 6,650L).				

iv. Bulky waste and charity waste/other recycling

- Bulky waste: The current DCP requires 10m² for the first 40 units and 2m² per additional 10 units thereafter (NSROC, 2018, p29). For 332 units, this requires 69m².
- Charity waste/other recycling: 6m² (NSROC, 2018, p30, Section 3.12.1)
- These areas have been provided together, but they should be separate areas for each of bulky waste and charity waste/other recycling.

v. Waste collection: residential by Council

The transport plan does seek to accommodate a 10.5m Council waste truck entering and existing the site in a forward's direction, which can be assessed further by traffic. However,

- The position of loading area means the truck makes a reversing manoeuvre near the building entry and exit ramp.
- The truck when in the loading area has it's rear to the back of the loading area in a dead-end space whereby all of the bins and bulky waste would need to be brought around the truck.
 - The side clearance is not shown for occupants exiting the vehicle (0.5) either side, but also any pathways for wheeling bins and carrying bulky waste (2.5m in the DCP).
 - The 2m rear clearance for loading of bins (a 10.5m truck in a 12.5m parking space) is not shown.
- The bin rooms and bulky waste rooms required to located within 2m of the truck parking bay for onsite collection (e.g., NSROC 2018, p. 46 and Table 1). The bin holding rooms and bulky waste room are located across the active car park at quite long distances which would require substantial time and manual handling. The basement needs a redesign to comply with the DCP (NSROC, 2018, particularly Section 3.13.4) and enable collection of residential waste by Council (bins for waste, recycling and organics and bulky waste).

Image: Basement 1 – Unsatisfactory location of bins room in relation to loading dock



Source: PBD Architects, Project No. 2308, Drawing No: DA103, Issue 01, Basement 01, 11/01/2024

Keys:	
■	Chute Discharge Room
■	Bulky Waste Room
■	Retail/Commercial Waste Room
■	Charity Bin

vi. Waste collection: commercial

Commercial waste can be collected by a private contractor with a smaller truck (at least an SRV), but the loading bay should comply with similar requirements as residential waste. The plans do not clearly show:

- Parking space within 2m of the commercial bin room.
- Truck loading bay and suitable clearances.

vii. Commercial waste

Consideration of commercial organics would be considered favourably. Further assessment of the commercial bins required will be necessary, such as when the size of the childcare is finalised (generation is based on children numbers, with 80 proposed).

viii. Waste storage conditions and amenities

The architectural drawings and OWMP should clearly provide details of the waste storage area conditions and amenities (NSROC 2018, Table 8 and Section 3.13.4), including drainage, taps and aisle width. All doors should be a minimum of 2.5m wide (NSROC).

ix. Chute rooms and bin cupboards on each residential level

The waste chute hoppers should be located in a waste cupboard, which also has space for additional bin(s). Tower A appears to have a room but Tower B does not appear to have a room (see Attachment 1 for an example floor layout). This is required in the WDCP

2023 NSROC (2018, p 46) and a recycling bin (in addition to any recycling chute proposed) 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), back-up for the recycling chute and to future proof the development in the case of food organics collection. NSROC (2018, p. 48) 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.

x. Construction and demolition waste

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

- Nominated current operating landfill facilities and recycling facilities, by waste type noting the recycling directory supplied in Table 9 of the C&D WMP is out of date; 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.
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