PP-2021-6242 / IRF21/4948

Ms Debra Just
CEO
Willoughby City Council
PO Box 57
CHATSWOOD NSW 2057

Via email: email@willoughby.nsw.gov.au

Attention: Norma Shankie-Williams

Dear Ms Just

Planning proposal PP-2021-6242 to prepare a new Comprehensive Willoughby Local Environmental Plan

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal for the comprehensive review of the Willoughby Local Environmental Plan (LEP) 2012. I note the request seeks to prepare a new LEP to establish planning controls and deliver the vision and objectives of the Local Strategic Planning Statement, implement recommendations of strategic planning strategies and studies and update the provisions in the Willoughby LEP 2012.

As delegate of the Minister for Planning, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with certain aspects of section 9.1 Directions 1.1 Business and Industrial Zones, 2.6 Remediation of Contaminated Land, 3.4 Integrating Land Use and Transport, 3.5 Development near Licensed Aerodromes, 6.2 Reserving Land for Public Purpose and 7.11 Implementation of St Leonards and Crows Nest 2036 Plan require further justification in accordance with the terms of the Direction.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of section 9.1 Directions and should ensure this occurs prior to public exhibition or the plan being made, as stipulated in the Gateway conditions.

Digital Mapping
The Department has been working with Council in the transition from PDF to Digital mapping over the last few months. The Digital mapping transition is anticipated to take effect in early January 2022. As intended, the draft comprehensive LEP maps will be exhibited using the spatial viewer removing the need for individual PDF maps to be prepared. As an assessment of the maps has not been undertaken to date,

Council will be required to submit the maps for endorsement/agreement prior to commencement of exhibition.

The Gateway determination requires a number of other updates to the planning proposal to be made prior to exhibition. These changes will not be required to be submitted to the Department for approval prior to exhibition.

In particular, the Department draws Council's attention to the following matters:

NSW Planning Principles & Consolidation of SEPPs
The Minister has released NSW Planning Principles to drive a more sustainable, inclusive and better planning system with more transparency and certainty. With the introduction of the Planning Principles and the consolidation of State Environmental Planning Policies (SEPPs) to come into effect from 1 March 2022, it is recommended that council should include advisory notes and information to support the relationship of the Principles and the change to the SEPPs to the draft comprehensive plan.

Housing SEPP
The Housing SEPP commenced on 26 November 2021, and this makes a number of changes to existing SEPPs for Seniors Housing and affordable housing which have been repealed. The planning proposal will need to be updated to address consistency with the Housing SEPP.

New Employment Zones
The Department recently exhibited the Employment Zones Reform package and new employment zones have been introduced within the Standard Instrument (Local Environmental Plans) Order 2006. The Environmental Zone (E zones) changes to Conservation zones (C zones) commenced on 1 December 2021 and therefore the planning proposal should be updated to reflect this.

Additionally, a Gateway condition requires tables (templates attached) to be prepared for exhibition relating to the translation of employment zones for proposed changes in the planning proposal within a business and industrial zone where there are proposed rezoning of land, a new or changed to a local provision, Additional Permitted Uses and changes to the land use tables.

Urban Heat Clause
Council should be aware that Clause 6.12 of the Cumberland LEP 2021 sets a precedent for Urban Heat clauses and only limited departure from this clause may be permitted. We recommend that Council consider updating the clause in the track changes version supporting document to reflect this finalised clause.

Industrial Land
The Department notes the planning proposal includes changes to industrial land that has been supported by an Industrial Lands Strategy endorsed by Council. The Department notes that it includes an increase in FSR from 1.5:1 to 2:1 on IN2 zoned land where sites are greater than 1,000 sqm. It is requested that information within the planning proposal to address impacts on the local traffic network and any comments from Transport for NSW be considered during agency consultation.

Changes to R2 Low Density Residential zoned land and proposed GFA controls
The Department acknowledges Council's proposed changes to the LEP to improve consistency with the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) to align with controls by providing equity in opportunity for residential development in Willoughby. This includes a change to the FSR for R2 zoned land (not in heritage conservation areas) for dwellings and dual occupancies to provide GFA controls consistent with the Codes SEPP.

Affordable Housing
Council's planning proposal seeks to increase affordable housing requirement from the current rate of 4% to 10%. The Department notes that the SGS feasibility study does not support a blanket increase of 10% throughout the areas proposed for uplift to controls. As such, a condition has been attached the Gateway to require the rate in the planning proposal be updated to reflect the recommended rates in the SGS study.

Council has not requested to be the local plan-making authority. I have determined not to condition the Gateway for Council to be the local plan-making authority due to the scale of changes in the Comprehensive LEP and the fact it is proposing reclassification of some council owned land.

The amending local environmental plan (LEP) is to be finalised within **18 months** of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal within 3 months of the Gateway determination. Council's request for the Department of Planning, Industry and Environment to draft and finalise the LEP should be made eight weeks prior to the projected publication date.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Ms Charlene Nelson, Manager Place and Infrastructure, North District to assist you. Ms Nelson can be contacted on 9274 6570.

Yours sincerely



24.12.2021

David McNamara
A/Executive Director, Eastern Harbour City
Greater Sydney Place and Infrastructure

Encl: Gateway determination
Employment tables for equivalent zones