12.11 POST EXHIBITION REPORT ON DRAFT COMPREHENSIVE LOCAL ENVIRONMENTAL PLAN AND DEVELOPMENT CONTROL PLAN

ATTACHMENTS:

1. **IMPLICATIONS**
2. **GATEWAY DETERMINATION DATED 24 DECEMBER 2021**
3. **WEBINAR ATTENDANCES**
4. **RESPONSES FROM STATE AGENCIES**
5. **REPORT BY ENGAGE2**
6. **SUMMARY OF SUBMISSIONS AND COUNCIL RESPONSES**
7. **PROPOSED CHANGES TO DCP PARKING RATES**
8. **DRAFT AMENDMENTS TO WLEP 2012**
9 **DRAFT AMENDMENTSTO DEVELOPMENT CONTROL PLAN**

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CITY STRATEGY OUTCOME: **3.7 PROMOTE HOUSING CHOICE AND AFFORDABILITY**

5.4– ANTICIPATE AND RESPOND TO CHANGING COMMUNITY AND CUSTOMER NEEDS

MEETING DATE: **12 DECEMBER 2022**

1. PURPOSE OF REPORT

This report outlines the feedback received during the exhibition of Council's draft comprehensive Local Environmental Plan and Development Control Plan, and seeks endorsement to forward the Planning Proposal to the Department of Planning and Environment for making. It also seeks Council endorsement to bring the Development Control plan into effect once the Planning Proposal has been finalised.

2. OFFICER'S RECOMMENDATION

That Council:

1. **Note the submissions and proposed responses to feedback on the exhibition of the Planning Proposal for the Comprehensive Local Environmental Plan and Draft Development Control Plan.**

2. **Endorse the draft Local Environmental Plan as amended by Attachment 8, and submit it to the Department of Planning and Environment for finalisation.**

3. **Approve the Development Control Plan as amended by Attachment 9 and bring it into effect at the time that the Planning Proposal is made.**

4. **Retain the existing controls for the Northbridge Plaza and Car Park and shopping centre, and seek a Gateway Determination for a separate Planning Proposal to implement the proposed changes to planning controls and reclassification of the land to operational to allow for further community engagement and technical investigations. Should this result in the need for changes to the planning controls that were exhibited as part of the draft comprehensive Local Environmental Plan, the matter is to be reported to Council for endorsement prior to exhibition.**

6. **Delegate authority to the Chief Executive Officer to make any minor amendments to the Planning Proposal and Development Control Plan for finalisation purposes which do not alter the intent.**

3. BACKGROUND

The preparation of the draft comprehensive Local Environmental Plan and Development Control Plan is the culmination of years of strategic planning, research, analysis, community consultation, and engagement with State government agencies.

Together, these planning instruments update and refine Council's planning controls, and provide capacity for additional homes and employment growth in well-serviced areas to meet State Government targets. By focussing growth in well-serviced areas around the CBD and local centres, Council affords further protection to the character of Willoughby's conservation areas and suburban areas. If Council does not plan for growth across the Local Government Area, it is likely to occur in a piecemeal way through applicant-initiated Planning Proposals and State Government intervention.

However, the proposed changes do much more than plan for housing and employment growth. The changes will improve the design quality of development through the introduction of a design review process, introduce new sustainability measures such as urban heat island effect considerations and requirements for electric vehicle charging facilities, increase the provision of affordable housing for key workers, and meet Council's legislative requirement to regularly review its planning controls.

At the meeting of 14 December 2020, Council resolved to forward the Planning Proposal, which contains a comprehensive review of *Willoughby Local Environmental Plan 2012* (the Draft LEP), to the Department of Planning and Environment for a Gateway Determination and exhibition. A Gateway Determination was received on 24 December 2021 (see **Attachment 2**).

At the meeting of 15 June 2021, Council endorsed the Draft *Willoughby Development Control Plan* (the Draft DCP) for exhibition along with the Draft LEP.

These draft plans had been prepared after the issue of the *North District Plan* in 2018. This required all councils in the first instance to prepare a *Local Strategic Planning Statement* (LSPS). Willoughby's LSPS was adopted by Council on 10 February 2020 and sets a 20-year vision with priorities and actions for the entire Local Government Area (LGA).

The Draft LEP and DCP comprise conclusions and recommendations from a number of existing strategies, either adopted by Council or by the State government which are referred to in the LSPS including:

- *Willoughby Local Centres Strategy*
- *Chatswood CBD and Urban Design Strategy to 2036 (Chatswood CBD Strategy)*
- *Willoughby Industrial Lands Strategy*
- *St Leonards Crows Nest 2036 Plan*
- *Willoughby Housing Strategy*
- *Integrated Transport Strategy*

In addition to the above strategy work, the Draft LEP & DCP addressed anomalies / corrections of errors (housekeeping amendments) as well as proposed efficiency and readability improvements.

A Gateway Determination was received from NSW Planning on 24 December 2021 which enabled exhibition of the Draft LEP and DCP (**Attachment 2**).

Following the exhibition of the draft LEP and DCP, submissions have been received and considered, and the next step is for Council to consider these and submit the Planning Proposal to the Department of Planning and Environment for making.

4. DISCUSSION

4.1 Summary of the exhibited Planning Proposal

The exhibition of the draft LEP and DCP brought the above mentioned pieces of work together in the form of planning controls. These planning controls are intended to respond to some of the major challenges facing the future health and prosperity of the Willoughby local government area such as climate change, providing more affordable housing, creating capacity for more housing and employment in strategic locations, and preserving local character and heritage.

The exhibited Planning Proposal included a number of amendments to the *Willoughby Local Environmental Plan 2012* (WLEP 2012) including:

- Increasing height and floor space ratios (FSRs) in Chatswood CBD, to create a vibrant and confident CBD providing capacity for commercial growth in the core of the Chatswood CBD around the transport interchange. The aim is to consolidate Chatswood's position as one of Sydney's top 10 suburban office markets, while ensuring new developments are of excellent design and incorporates green landscaping with strong sustainability credentials overall.
- Extension of the boundary of the Chatswood CBD north and south along the railway line outside the commercial core to allow for residential growth as part of mixed use high density developments capitalising on Chatswood's exceptional transport connectivity and high level of services and amenities.

- Applies the controls established in the St Leonards Crows Nest (SLCN) 2036 Plan issued by State Government for St Leonards/Crows Nest.
- Applies locally appropriate increases in building height and size in the local centres of Artarmon, North Willoughby, Naremburn, Castlecrag, Northbridge, Penshurst St and Willoughby South, to encourage new local jobs and housing diversity close to services and transport.
- Removes the opportunity to construct a second dwelling (battle axe) as a dual occupancy in the rear of an existing property to respond to the concern over tree and habitat loss, which is also critical for character and cooling in Willoughby.
- Increases affordable housing in new residential developments, from 4% of Gross Floor Area (GFA) to a maximum of 10%, in line with aspirations in the North District Plan and in recognition of the urgent need for more affordable rental housing in all parts of Sydney.
- Includes of a provision for maintaining the Affordable Housing contribution at 4% for those site specific Planning Proposals lodged before the making of this LEP.
- Increases floor space and expands the range of permissible uses in industrial areas to promote and stimulate strong economic activity and local jobs.
- Includes a clause seeking to mitigate the impacts of the Urban Heat Island effect.
- Heritage lists of the Griffin Centre in Castlecrag and the former Artarmon Bowling Club.
- Transfers soft landscaping requirements from the DCP to the LEP.
- Includes a range of housekeeping amendments.

4.2 Draft Development Control Plan as Exhibited

In line with requirements of the State Government and the Greater Sydney Commission for councils to align their Local Environmental Plans (LEPs) and Development Control Plans (DCPs) with the relevant District Plans, a complete review of the WDCP was undertaken during 2020.

The new draft DCP 2021 is the culmination of this review incorporating provisions contained in the strategy work undertaken. The new draft Plan has also been restructured to incorporate and consolidate the various components of the current DCP. It is considered the new format is a more ‘user-friendly’ plan that reflects contemporary controls to improve environmental outcomes for all future developments.

The new DCP is reorganised into 12 parts a follows:

Part A – Overview of the draft DCP 2021
Part B – Residential Development
Part C – Development in E4 Environmental Living Zones
Part D – Commercial Development
Part E – Industrial Development
Part F – Transport and Parking Management
Part G – Vegetation Management
Part H – Heritage and Heritage Conservation Areas
Part I – Water Management
Part J – Building Sustainability
Part K – Development near Lane Cove Tunnel Ventilation Stacks
Part L – Place Based Plans

The controls for dwellings and dual occupancies reflect those applicable for Complying Development to ensure equity and consistency. The exception to this is landscaping controls which have been strengthened by incorporation into the LEP to add statutory weight. The Draft DCP also includes Place Based Plans (Part L) for the Chatswood CBD, St Leonards CBD and Local Centres reflecting the adopted strategies. Other changes include implementing travel demand management principles (TDM) by reducing car parking rates, strengthening heritage provisions and other housekeeping improvements.

4.3 Community Consultation

The exhibition took place for 3 months from Tuesday 15 March until Tuesday 7 June 2022. This exceeded the statutory 28 days prescribed in the Gateway Determination.

Council staff explored a range of Covid safe activities to encourage community participation. The following activities took place to promote the exhibition and invite submissions:

- Letter to each ratepayer (30,000+) with QR code.
- Flyer to ratepayers 'Coming soon' flyer distributed in 2021.
- Flyers distributed in Chatswood Mall and Local Centres at peak times in the lead up to each engagement activity.
- Flyers distributed to affected businesses in all local centres and Chatswood CBD.
- Explainer Video produced with Mayor Tanya Taylor and Commissioner Dr Deborah Dearing from Greater Sydney Commission (now Greater Cities Commission).
- Have Your Say registered participant newsletter email – 6,250 subscribed.
- Email marketing to existing stakeholders from relevant business units within Council to engage hard to contact or interest groups.
- Combined databases from Electronic Distribution - 19,000 community members.
- A story and links featured in standard Council publications.
- Media release for launch (include webinar dates) and close of public exhibition period.
- Willoughby City News (1777 electronic and 41,000 hard copies delivered to all residences).
- Council News (1,100 electronic).
- Council website Diary Dates.
- Webinars (see section below).
- On-line community guide at Have Your Say, to explain the LEP / DCP development process.
- Question and answer (Q&A's) – online at Have Your Say.
- QR Code on all posters and flyers linking to Have Your Say
- Advertisement or story in Progress Association Newsletters. Progress associations were also offered the media release for their publications and an email for distribution.
- Social Media Posts - also shared with relevant stakeholder group networks e.g. Willoughby Living
- Social Media Advertising.
- Northside Radio 99.3FM

4.4 Webinars

- 12 Webinars took place over the exhibition period. Each Webinar explained the proposed changes and included customised information for a specific area.
- On site attendance in the Council chambers was offered up to a maximum of 20 persons per session.
- 690 attended these sessions via zoom and 24 attended in person. The exact numbers for each webinar can be viewed at **Attachment 3**.
- Each webinar included online Q&A with some questions put to presenters. Responses to questions not answered at each webinar were later placed on HYS.

4.5 Consultation with Public Authorities

Consultation was undertaken with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions and the Gateway Determination dated 24 December 2021. Figure 1 below provides a summary of comments received from the agencies consulted. A more detailed summary of agency responses can be viewed at **Attachment 4**.

Responses were received from all agencies contacted, apart from DPE Crown Land. At the time of writing, DPE staff are providing assistance in following up on this non-response.

Agency responses were generally supportive. Regarding neighbouring Councils, most did not comment. However, Northern Beaches provided its support for specific clauses (see **Attachment 4** for details) and Ryde Council specifically mentioned support for the proposed 10% Affordable Housing contribution.

The Civil Aviation Authority, Sydney Airport, and the Department of Infrastructure Airports Branch had no objection. Proposed heights in Chatswood CBD were based on context and up to the airspace limits (Pans Ops plane).

Generally, State Government agencies provided comments about the need for ongoing dialogue with Council to enable infrastructure provision and support.

Figure 1 – Summary of Agency comments received

Agency	Comments
Transport for NSW	No objection. Administrative comments re alignment of cadastre in relation to land reservation map.
DPE Environment, Energy and Heritage (EHG)	Planning proposals need to consider the intensity of development where land is flood affected. It was recommended that Council review the extent of flood prone land consistent with the Local Planning Direction for flooding.
Sydney Water	Supports government growth initiatives. No objection.
Department of Health	Concern about the impact of proposed building heights in St Leonards on flight path of rescue helicopters.

Department of Education SINSW	SINSW advise that future housing growth in and around the Willoughby LGA will affect the future student population across the existing primary and secondary government schools, particularly within the Chatswood City Centre. As a result, SINSW is undertaking school planning for the LGA to better understand where and when additional school provision is required and where the school population is likely to remain stable or decline so that the most appropriate school asset solutions can be identified. To support growth in Chatswood, SINSW and DoE are currently undertaking upgrades of Chatswood Public School and Chatswood High School and providing a new Chatswood primary school which was announced in last year's Budget.
Department of Premier and Cabinet – Heritage for NSW	Notes the listing of 2 proposed heritage items of local significance. Encourages listings of local heritage. Advises that they do not have a role in the approval of local heritage listings. This rests with Council.
Civil Aviation Authority (CASA)	No objections
Sydney Airport Corporation Limited (SACL)	No objections
Department of Infrastructure Airports Branch	Council should continue to engage with Sydney Airport where there is potential for building or construction equipment intrusions into prescribed airspace.
DPE – Crown Land NSW	No response received
Ausgrid	No comments
North Sydney Council	No comments
Lane Cove council	No comments
Ku-ring-gai Council	No comments
Ryde Council	Support increase to 10% in affordable housing
Mosman Council	No comments
Northern Beaches Council	General support

Main issues arising from Agency consultation:

DPE Environment, Energy and Heritage comment on Flooding

Council staff are aware of areas which subject to overland flow. This has been taken into consideration particularly for increases in density in areas such as Artarmon and Willoughby South Local Centres. Flood constraints identified for specific development lots do not prohibit development of those sites under existing or proposed LEP / DCP controls resulting from this Planning Proposal. Proposed heights and FSRs are maximum controls that allow for design flexibility to respond to site specific constraints. Localised flood constraints will likely involve design compromise for some lots and architectural considerations will need to account for these.

Department of Health comments on Heights and Helicopter paths

The comments on height relate wholly to the St Leonards Crows Nest Strategy regarding the high density developments between St Leonards and Crows Nest Stations with specific reference to tower buildings up to 50 storeys. The comments do not relate specifically to change of heights in the comprehensive LEP.

The Department of Planning has confirmed that NSW Health were consulted with the exhibition of the St Leonards and Crows Nest Plan and the issue with helicopter flight paths was not raised. A Local Planning Direction issued by the Minister for Planning requires Council to ensure that a planning proposal is consistent with the St Leonards and Crows Nest Plan 2036, and the proposed heights for the Willoughby Council sites reflect this.

4.6 Submissions

Submissions could be made through a variety of channels:

- Two surveys were available on the Haveyoursay website
- Written submissions could be made through the Haveyoursay website
- Submissions could also be sent to the Willoughby Council's email address, and
- The NSW Planning Portal.

A total of 323 submissions were received via these channels. In addition, a petition was received after the exhibition including 638 signatures.

Engage2, a specialised community engagement organisation, provided an independent assessment of submissions and prepared a high level analysis of all submissions received (**Attachment 5**).

Given the exhibition period took place over a three-month period, it was determined not to accept late submissions, and this would also allow Engage2 to look at the submissions in entirety without having to continuously update their work as late submission were received. Engage2's report includes submissions received as at 7 June 2022. This analysis includes all the of the survey responses.

However, submissions continued to be sent to Council even as late as August 2022 and these have been addressed in detail and commented on by staff in **Attachment 6**. Council staff also examined individual submissions with responses and included these late submissions,

For submissions, a detailed summary and Council officer responses are contained in **Attachment 6**.

All submitters have been notified by email of this Council Meeting and advised of opportunities to address Council.

4.7 Issues arising from Submissions

The following show the key themes which arose from the exhibition

1. Parking rates and traffic generation
2. Height and density in Chatswood
3. Height and density in St Leonards
4. The permissibility of serviced apartments in the Chatswood CBD
5. Concern about a perceived loophole in the heritage controls
6. Affordable housing contributions rates

7. Planning controls in the foreshore building line
8. Site specific requests, typically seeking increases in development potential

Each of these issues are discussed in more detail below and officer responses and recommendations provided. These issues were raised across the board in submissions and were included in both timely and late submissions that were received.

4.7.1 Parking and traffic generation

Many submissions raised concerns regarding parking and traffic generation resulting from increased density along with a reluctance to have parking rates reduced in Chatswood.

Parking Comment

The Draft DCP proposes to reduce parking rates in Chatswood due to the various public transport options offered in the CBD along with the future Metro options.

It is recognised that the uplift proposed under the *CBD Strategy* will have implications for traffic and transport within the CBD. Given the CBD is a constrained environment (i.e. with limited ability to increase road capacity) and its excellent accessibility by non-car modes of transport, the principles of Travel Demand Management (TDM) is being applied.

TDM is a transport planning concept that aims to minimise the growth of private vehicle travel and instead promote a 'mode shift' to more sustainable and efficient modes of transport such as walking, cycling, public and shared transport.

One of the key tools under the TDM approach is limiting the number of car parking spaces for new developments, given more car parking spaces promote car use and thus more traffic. Accordingly, Council engaged transport planning consultants Cardno to complete the *Review of Parking Rates* report, available on Council's website at: https://www.willoughby.nsw.gov.au/Development/Plan/Planning-Rules/Planning-Strategies#section-13

Cardno recommended maximum car parking rates for the Chatswood (and St Leonards) CBDs in line with the TDM approach and these have been included in draft *Willoughby Development Control Plan (DCP)*. This approach of placing a limit on parking space numbers is now recognised globally as best-practice transport planning for constrained environments and is already used in other areas of Sydney including the City of Sydney and North Sydney local government areas and the Macquarie Park and Parramatta CBDs.

By applying the principles of TDM – e.g. limiting new car parking and improving active and public transport connections – Council aims to ensure that the transport network will be able to accommodate the uplift planned for the Chatswood CBD.

A number of submissions raised concerns with the maximum car parking rates proposed for the Chatswood CBD. These concerns primarily relate to the reality of public parking in the CBD being a shared resource, serving a variety of trip purposes. This is especially the case for the large car parks associated with the regional shopping centres (i.e. Westfield and Chatswood Chase). If blanket maximum car parking rates were adopted for retail without minimums, theoretically this parking could be reduced over time to a point where it may negatively affect the overall economic viability and competitive advantage of the CBD. In practice, this is unlikely to occur as large shopping centres generally provide ample parking to meet market expectations.

However, in response to this concern, Council engaged a consultant to review this control. A revised parking rate for regional shopping centres is now proposed which ensures the retention of a minimum baseline of adequate parking into the future. The proposed new rates will apply to Chatswood and St Leonards CBDs. The new rates can be viewed at **Attachment 7**.

Recommendation

It is recommended that a maximum rate of 1 parking space per 40sqm and a minimum rate of 1 space per 70sqm be applied to 'regional shopping centres', defined as development with more than 30,000sqm retail GFA. Providing a new minimum parking rate will ensure an ongoing minimum baseline of adequate parking for regional shopping centres into the future. This is further explained in **Attachment 9**, and a comparison of the existing and proposed parking rates are summarised in **Attachment 7**.

In response to submissions on parking, more requirements to provide car share spaces at residential apartments are recommended.

The draft WDCP does not require dedicated car share spaces to be provided for new developments. However, Clause 5.7 under Part F (Transport and Parking Management), provides an option for car share spaces to be provided on site.

There have been several Land and Environment Court cases that recognise the benefit of car share spaces in lieu of individual privately owned car parking spaces, particularly in areas with high density and good access to public transport.

A private car share company lodged a submission with a number of suggested changes to improve accessibility to car share vehicles. The submission includes the following comments:

- Car share vehicles should not be for the exclusive use of building occupiers; they should be accessible for the benefit of all verified and active members.
- Less on-street space is being allocated for car share spaces; open access to onsite car share spaces will help meet the growing demand for car share vehicles.
- It has been proven and accepted that generally one car share vehicle removes 10 privately owned vehicles.
- The City of Sydney and City of Ryde currently have best practice for car share requirements for developments.

It is considered that certain controls may be necessary to ensure the provision of any on-site car share spaces are readily accessible, and the car share scheme can operate effectively. The provision for car share spaces is proposed to be amended. This is further explained in **Attachment 9.**

Recommendation

It is recommended that additional requirements be added to the DCP to controls for car share spaces at residential apartments, mainly being that one care share space may be substituted for 15 car parking spaces. This will only be relevant where target rates are proposed. This amendment also prescribes that the location of car share spaces be publically accessible.

Full detail of these changes are outlined in **Attachment 9**, which lists all post-exhibition changes proposed to the DCP.

Traffic Comment

In conjunction with the planning work that was carried out for the CBD Strategy, a Future Conditions Report was carried out for the Chatswood CBD in 2020 by Arup. The study considered the likely impact of the growth scenarios on the future transport network. This can be viewed on Council's web page

Regarding traffic generally, the Future Conditions Report concluded that "…*despite mode shift towards public transport private vehicle trips will increase in the horizon years, however, results suggest the road network has capacity to accommodate the uplift..".* The report made a variety of recommendations to manage congestion and other transport matters as part of the proposed uplift. These findings were supported by Transport for NSW

Based on the findings of the Future Conditions Report and support from Transport for NSW, it is considered that sufficient analysis has been carried out and that the planning controls for Chatswood should proceed as exhibited.

4.7.2 Heights and density in Chatswood

Many submissions raised concerns regarding the uplift of heights and Floor Space Ratio in the CBD.

Comment

The draft LEP proposes to implement the *Chatswood CBD Strategy* (the CBD Strategy), which was publicly exhibited over 3 months in early 2017, endorsed by Council on 26 June 2017, and supported by the Greater Sydney Commission on 18 May 2018.

In response to DPE feedback, heights and FSRs were reduced in sensitive locations following urban design analysis. The CBD Strategy was then endorsed by DPE on 9 July 2020, and further noted by Council at the Council Meeting of 14 September 2020. A number of site specific planning proposals which are consistent with the CBD Strategy have already been supported by Council, some of which have been made and the controls for those sites are already in place.

All controls proposed in the draft LEP are consistent with the CBD Strategy. The CBD Strategy provides for a strong commercial centre that accommodates employment and residential growth as identified in the *Sydney Region Plan* and *North District Plan*. In addition it provides for a 30 minute city where jobs, services and public spaces are within easy reach of people's homes – (another aim of the Region and North District plans).

The CBD Strategy is a well-considered plan to change zoning, and increase height and floor space within the expanded Chatswood CBD boundary to provide for the growth of Chatswood to 2036 as required by State government plans and targets. The intention is to revitalise the Chatswood CBD by increasing employment and housing in a manner that addresses and ensures desirable built form, and increased sustainability. The CBD Strategy deliberately seeks to balance increase in density with a design excellence process to ensure positive outcomes for Chatswood. It also serves to locate the majority of Willoughby's housing supply in the most highly accessible location close to Chatswood transport interchange. It further serves to protect lower density residential suburbs which are characteristic of the local government area from future development pressure.

With increases in employment and high density living, the CBD Strategy seeks to ensure such development provides healthy liveable environments for occupants and the wider community. The CBD Strategy is a well-considered and tested strategic planning document that aims to achieve:

- A reinvigorated commercial core area and economically buoyant CBD, to provide for future employment.
- A sustainable balance between commercial, retail, residential, education, cultural and other uses to ensure on-going vibrancy.
- A compact, walkable CBD.
- A city form and scale to accommodate future growth and change.
- A CBD of exceptional urban design, easy pedestrian linkages and good public domain, where local character and heritage are embraced, and the greening of the centre is achieved.

Having regard to view loss, the heights proposed are in accordance with the height permitted under the CBD Strategy. Changes to the existing heights of development and existing controls under the *Willoughby Local Environmental Plan 2012* are required to change to meet the demands of the Strategic Centre that is the Chatswood CBD and its growth to 2036. The concept of view sharing is supported where reasonable, and this will be further reviewed through the design excellence and development application process.

The CBD Strategy has been guided by traffic analysis from ARUP, which was reviewed by Transport for NSW prior to DPE endorsement. In this regard, ARUP then prepared *a Future Conditions Report, Chatswood CBD Strategic Study*, September 2020 which concluded that the growth proposed under the CBD Strategy could be accommodated.

Recommendation

Given that Council has already made a number of refinements to the proposed height and density in Chatswood CBD during the consultation process for the Chatswood CBD Planning and Urban Design Strategy, no further changes are recommended.

4.7.3 Heights and density in St Leonards

Several submissions were received objecting to proposed new heights in St Leonards CBD. The majority of which were regarding an increase in height of a site at 207 Pacific Highway and view loss to existing residential properties.

Comment

The St Leonards Plan was led by the NSW Department of Planning and Environment (DPE) and released in August 2020 following exhibitions of proposed heights and density requirements. Its aim is to facilitate the urban renewal of St Leonards and Crows Nest with the construction of a new Metro Station at Crows Nest by providing employment and residential growth as prescribed by the *North District Plan*. The strategic direction provided in the plan is to be implemented through each council's LEP review. A Local Planning Direction issued by the Minister for Planning requires Council to ensure that a planning proposal is consistent with the St Leonards and Crows Nest Plan 2036.

Proposed controls in the comprehensive LEP reflect the plan. The St Leonards plan prescribed 25 storeys for the site at 207 Pacific Highway. As Council's LEP maps require heights to be in metres, 25 storeys was interpreted to be 77m being a 3m space from floor to floor for one storey times 25. However, a submission put forward the case that 77m does not equate to 25 storeys and the height control should be higher at 104.6m to accommodate floor to floor heights of 3.8m to accommodate for Grade A office space (which is the highest quality of office space available).

Upon review, it is apparent that 77m was an underestimate as it assumes each storey will be 3m floor to floor, whereas a minimum floor to floor requirement would be 3.3m for commercial uses, to accommodate a space for services between floors. The St Leonards Strategy zones the site as commercial. The proposed height is recommended to be changed from 77m to 83m (25 stories at 3.3m floor to floor). This will adequately accommodate commercial use whilst minimising impact on neighbouring properties.

Having regard to view loss, the heights proposed are in accordance with the height permitted under the St Leonards Strategy prepared by the State Government. The concept of view sharing is supported where reasonable, and this will be further reviewed through the design excellence and development application process.

Recommendation

It is recommended that the height at 207 Pacific Highway be amended from 77m to 83m to ensure development is able to reach 25 storeys envisioned in the St Leonards and Crows Nest Plan 2036.

Council car park at 2-10 Chandos Street

A drafting error has been identified at the Council car park site at St Leonards, where the existing height of 26m was exhibited instead of the proposed height of 13 storeys (41m) as described in the St Leonards Plan. The adjoining site was exhibited at 13 storeys (41m), as proposed in the Plan. To be consistent with the Plan, which has undergone its own community consultation process, the proposed height should be amended to 41m and applied across the entire site. Retaining the current controls would create an inconsistency with the St Leonards Crows Nest 2036 Plan and would require a lengthy and expensive process to address through a separate Planning Proposal.

Recommendation

The height of building control for 2-10 Chandos Street St Leonards be amended from 26m to 41m to address a mapping anomaly and to be consistent with the controls proposed in the St Leonards Crows Nest 2036 Plan.

4.7.4 Serviced apartments

Several submissions were received from the serviced apartment owners at 10 Brown Street, Chatswood who had experienced occupancy issues during the COVID-19 pandemic. The owners requested a change of use to residential so that they could rent their properties with a longer term lease, as serviced apartments are limited to a three-month maximum time limit. However, residential uses are prohibited in the zone (both as existing and proposed) in order to protect the commercial core. Other submissions sought to retain their use and change the zoning to B4 Mixed Use or retain the use in the B3 Commercial Core zone.

Comment

Serviced apartments are proposed to be prohibited in the B3 Commercial Core zone under the draft LEP. The Chatswood B3 Commercial Core has an existing strong commercial and retail presence with a key principle of the Chatswood CBD Strategy to promote office growth.

Concern exists with the provision of serviced apartments at the expense of office land use. The removal of serviced apartments in the B3 zone was a recommendation of the Chatswood CBD Strategy. Serviced apartments continue to be a permissible use in the B4 Mixed Use zone, which surrounds the B3 Commercial Core zone, still within the Chatswood CBD boundary. Existing serviced apartments within the B3 Commercial Core zone will continue to be permitted under existing use rights.

Recommendation

For the reasons outlined above, it is not recommended to change the prohibition of serviced apartments in the B3 Commercial Core zone. Similarly, it is not recommended that Council allow residential uses specifically for existing serviced apartments in the B3 Commercial Core zone.

4.7.5 Possible heritage loophole

A number of submissions raised concerns about a perceived “loophole” in the DCP which enables justification for demolition in conservation areas. Most of the submissions referred specifically to Artarmon Conservation Area.

Comment

Demolition in conservation areas is not supported. There are instances where property owners and developers justify approval for demolition through obtaining a structural engineer’s report, based on factors relating to instability caused by the clay substrata on which dwellings are built in the Artarmon HCA and associated impacts to the dwelling. In Artarmon Conservation area there has been a small number.

It is considered that the wording of the DCP, in relation to requirements for an application for total or partial demolition of buildings in a heritage conservation area could be strengthened to ensure that it is more clearly understood that only in the most exceptional circumstances, would approval be granted for demolition of buildings in a heritage conservation area.

Recommendation

It is recommended that substantial changes to the relevant heritage provisions of Council’s DCP be made to address this issue and clarify that demolition of heritage items and contributory buildings in Heritage Conservation Areas will not be supported.

If demolition of a contributory building is being sought in a Heritage Conservation Area, a Structural Stability Report will need to be provided to Council. A requirement for a peer review of the Structural Stability Report, to be undertaken at the expense of the applicant, is also proposed to be included as a clause in the DCP.

This will ensure a more robust process is followed to ensure demolition only occurs in the most exceptional circumstances. Extended requirements are proposed to be included in the DCP to retain significant structural features at the front portion of a dwelling. This requirement would apply across all conservation areas, not only Artarmon.

In addition, the aims of the R2 Low Density Residential zone which sit within the LEP are proposed to be amended to strengthen the need to preserve properties in conservation area.

4.7.6 Affordable housing

Generally submissions from residents supported an increase in the affordable housing rate, while property developers objected stating it would have an adverse effect on feasibility of projects.

It was evident that some residential submissions did not understand what Council's affordable housing policy is. Some suggesting housing commission, others boarding houses, so for clarity it has been explained further below.

Comment

Housing is considered affordable if housing costs are less than 30% of gross household income. Affordable housing is managed by a registered Community Housing Provider and rented to essential workers who work or have a connection with Willoughby.

Council was one of the first metropolitan councils to recognise the need for more Affordable Housing. This is done by requiring the dedication to Council of complete dwellings or their cash equivalent equalling a percentage of the accountable total floor space of new multi-unit dwellings in identified zones.

The LEP currently has a flat percentage rate of 4% applying to specific mapped areas in the Special Provisions Area Map that has been in place since 1999. The draft LEP proposed to change this to a maximum of 10%. SGS Economics undertook a study on behalf of Council to test the feasibility of having a general 10% rate across the Local Government Area. Their conclusions were included in the exhibition material. Figure 2 summarises the findings which concluded the following rates of affordable housing contributions to be feasible.

Figure 2: Affordable Housing contributions

Centre	Affordable housing contribution feasible increase
Chatswood	10% (4% for planning proposal sites)
North Willoughby	10%
Northbridge	10%
Castlecrag	10%
Artarmon	7%
Remaining centres : • Naremburn • Penshurst Street • Willoughby South	4%
Existing sites identified in WLEP 2012	4%

There are planning proposals (mainly in Chatswood CBD) that have been progressed in tandem or ahead of this comprehensive LEP review. If they have been lodged before the end of the exhibition period with a 4% agreed rate, it is proposed that rate remains as is.

A provision will be added to the final version of the LEP that will clarify this decision. These Planning Proposals are specified in **Attachment 8.**

Recommendation

It is recommended that the affordable housing clause and map be amended to include 3 areas – 4%, 7% and 10% as outlined in Figure 2.

4.7.7 Foreshore Building Line

A number of submissions raised concerns regarding built structures below the Foreshore Building Line. Primarily, concerns related to negative impacts on flora and fauna as a result of built structures currently permitted in the foreshore area under the current clause including swimming pools, pergolas, retaining walls and fences.

Comment

The draft LEP did not include any amendments to the Foreshore Building Line location or controls. A separate study could be undertaken to determine whether existing controls should be amended to further restrict built structures below the Foreshore Building Line (knows as the foreshore area). This could also examine the need for stronger controls around excavation below the Foreshore Building Line. Consistency with the *SEPP (Biodiversity and Conservation) 2021* will also be considered as part of the Study.

Recommendation

That Council add an internal review of the planning controls in the foreshore building line to its work plan to commence in the 2023/24 financial year and include appropriate consultation and engagement.

4.7.8 Site specific requests

A number of site specific requests were received from property owners many having engaged planning consultants to provide justification for change.

Comment

Most site specific submissions requested changes which were in conflict with the strategic planning framework captured in the various planning strategies and the Local Strategic Planning Statement (LSPS). These requests were not supported. Details of these requests can be viewed in **Attachment 6**.

Generally, Council has undertaken a number of previous exhibitions which provided an expectation of how increase in densities be focussed within centres only. This was supplemented with independent advice and guidance from urban designers, economists and traffic engineers.

Whilst some land owners have provided strong cases for uplift, this has not been supported as part of this LEP planning review. Some may have merit for future investigation, however, Council staff do not recommend these proceed as part of this process as they are not consistent with the strategic direction outlined in the adopted strategies. Furthermore, any significant changes to this LEP would trigger the need for it to be re-exhibited. The Gateway Determination final deadline for completion of this LEP is by June 2023. This includes timing after a Council resolution to be returned to the Department of Planning and be assessed by Parliamentary Counsel. A further exhibition would interfere with this timing and the requirement placed upon Council.

Recommendation

Site specific changes not be supported Council may wish to consider applicant initiated Planning Proposals for these sites.

4.8 Reclassification and rezoning of Council land at Northbridge

The Local Centres Strategy proposed rezoning and increased height and FSR for the Northbridge Plaza car park. This change also required reclassification of Council land within the car park from community land to operational land.

Submissions received from Northbridge Progress Association requested a deferral, and raised concerns about the feasibility of the proposed controls. The Northbridge Plaza owners highlighted a need for further discussion and changes to the proposed controls. Furthermore, the reclassification process is lengthy and requires substantial resources, both of which threaten Council's ability to finalise the draft comprehensive LEP in the required timeframe.

Given the importance of the site, it is appropriate to review the details of the proposal and embark on wider discussions with the community and businesses about how the plans for the Northbridge Plaza and car park site can be progressed to deliver the outcomes desired by both Council and the community to achieve the vision of the Local Centres Strategy.

Recommendation

It is recommended that Council retain the existing controls for the Northbridge Plaza and Car Park and shopping centre, and seek a Gateway Determination for a separate Planning Proposal to implement the proposed changes to planning controls and reclassification of the land to operational to allow for further community engagement and technical investigations. Should this result in the need for changes to the planning controls that were exhibited as part of the draft comprehensive Local Environmental Plan, the matter is to be reported to Council for endorsement prior to exhibition.

The remainder of the proposed changes for the Northbridge Local Centre are recommended to proceed as exhibited.

4.8 Employment zones

In tandem with the exhibition of the draft LEP, the Department of Planning and Environment exhibited a reform of employment zones. This changes the zone names of existing business and industrial zones to employment zones. It also proposes the merging of some zones (see Figure 3 below). An explanation of how these changes would be implemented was included in the comprehensive LEP exhibition.

Figure 3: Changes to zone names

Existing	Change required by DPE
Zone B1 – Neighbourhood Centre Zone B2 – Local Centre	Zone E1 – Local Centre
Zone B3 – Commercial Core	Zone E2 – Commercial Core
Zone B4. – Mixed Use	Zone MU1 – Mixed Use
Zone B5 – Business Development Zone B7 – Business Park	Zone E3 – Productivity Support
Zone IN1 – General Industrial Zone IN2 – Light Industrial	Zone E4 – General Industrial

A more detailed explanation of the proposed Employment zones and their mapping is included in **Attachment 9.**

Recommendation

That the changes to the employment zones proceed as exhibited.

4.9 Main changes from the exhibited version of the LEP

Having fully considered all the submissions received, a number of changes to the exhibited version of the LEP are recommended. These are itemised in detail in **Attachment 8** and include the following:

- Affordable housing clause and map – specific percentage rates as recommended in the Feasibility Study to be applied (Issue 1 of **Attachment 8**).
- Rewording of the affordable housing clause to provide clarity of existing practices (Issue 1 of **Attachment 8**).
- Removal of proposed changes to planning controls for the Northbridge Plaza and car park from the draft LEP so that the existing controls applying to the site will be retained. Undertake a new study for this site with revised controls to be reconsidered by Council prior to exhibition if there are any changes required (Issue 2 of Attachment 8).
- Update the Comprehensive LEP to reflect individual planning proposals that have taken a parallel course (Issue 3 of **Attachment 8**).
- Remove of some sites from the comprehensive LEP for planning proposals that have not been submitted to Council and not yet exhibited. (Issue 3 of **Attachment 8**)
- Amend heights at 207 Pacific Highway, St Leonards and 2A Chandos Street, St Leonards to reflect the St leonards and Crows Nest 2036 Plan (Issues 4 and 5 of **Attachment 8**).
- Errors to be rectified (Issue 7 of **Attachment 8**).
- Word changes to clarify existing practice (Issue 8 of **Attachment 8**).

4.10 Main changes from the exhibition of the DCP

There are a number of recommended changes to the exhibited version of the draft WDCP. These are itemised at Attachment 9. Many of the recommended changes are administrative and/or procedural. However, there are several recommended changes that have come about as a result of the public exhibition, some of which have been identified in this report.

This includes, proposed changes to the car parking rates for regional shopping centres and strengthening controls around partial and total demolition of heritage items, and/or alterations and additions to contributory buildings in Heritage Conservation Areas.

There are other recommended changes that have resulted from submissions or internal review, including:

- a requirement to limit storage areas/plant rooms to 5% of the total allowable floor area for a dwelling house (Issue 4 of **Attachment 9**);
- controls to address potential noise impacts from the operation of inclinators (Issue 11 of **Attachment 9**);
- up to date controls for charging electric vehicles (Issue 13 of **Attachment 9**);
- allowing public accessibility to car share spaces on private property (Issue 14 of **Attachment 9**); and,
- a 3m setback for child restraint barriers around swimming pools for a property boundary adjoining public reserves and pathways (Item 17 of **Attachment 9**).

4.11 Sustainability measures

Responses from the exhibition included support for the sustainability measures that the LEP and DCP aim to achieve. These include:

- Focus for housing and jobs growth in our strategic centres and local centres to ensure sustainable growth outcomes in locations walkable to services, transport and community facilities.
- Retention of industrial lands to serve the urban services needs of Willoughby and surrounding areas and ensure residents can benefit from these services in the locality.
- An elevation of residential landscaping controls from the DCP to the LEP
- Inclusion of the new Urban Heat Clause
- Expansion of the Design Excellence Clause to more sites in the LGA
- Tightening of parking rates in the DCP to arrest the increase in congestion and promote active travel throughout the LGA which in turn improves environmental conditions and community health.
- Make provision for new cycling and pedestrian networks in the DCP to improve permeability and better connect areas of open space and community facilities.
- Requirement for Electric Vehicle charging facilities in new developments under the DCP.

It is anticipated that these measures will assist in delivering a higher level of health and liveability for the citizens of Willoughby and improve the local environment in the face of progressive climate change.

The measures will also improve Council's achievement of Net zero emissions in the community by 2040.

5. CONCLUSION

A suite of strategic planning studies on the future growth of Willougby have been undertaken and exhibited for community, industry and agency feedback over the past 5 years.

The exhibition of the draft LEP and DCP brings these pieces of work together in the form of planning controls. These planning controls are intended to respond to some of the major challenges facing the future health and prosperity of the Willoughby local government area such as climate change, providing more affordable housing, creating capacity for more housing and employment in strategic locations, and preserving local character and heritage.

It is considered that the subsequent development applications will be well guided by Council's design excellence process and the draft DCP provisions to sustainably accommodate future growth.

It is recommended that Council endorse the exhibited draft Comprehensive Local Environmental Plan and Development Control Plan including the amendments recommended in this report. It is further recommended that the Comprehensive LEP be sent to the Department of Planning and Environment for finalisation.

That finalisation process is expected to take approximately 6 months which is within the Gateway Determination timeline.

ATTACHMENT 1

IMPLICATIONS	COMMENT
City Strategy Outcome	3.7 PROMOTE HOUSING CHOICE AND AFFORDABILITY 5.4– Anticipate and respond to changing community and customer needs
Business Plan Objectives, Outcomes / Services	To ensure this Planning Proposal is in line with the *Local Strategic Planning Statement* (LSPS), the *Chatswood CBD Planning and Urban Design Strategy 2036*, *A Metropolis of Three Cities and the North District Plan* in that it accommodates future housing and employment growth needs.
Policy	*Willoughby Local Environmental Plan 2012* and *Willoughby Development Control Plan 2012*
Consultation	Exhibited from Tuesday 15 March until Tuesday 7 June 2022.
Resource	This report is provided using staff resources.
Risk	Risk of not accommodating future growth requirements.
Legal	The Planning Proposal would amend *Willoughby Local Environmental Plan 2012* and *Willoughby Development Control Plan 2012*.
Legislation	*Environmental Planning & Assessment Act 1979*
Budget/Financial	Future development following rezoning is subject to the *Environmental Planning and Assessment Act 1979*.