15.7 REVIEW OF WILLOUGHBY DEVELOPMENT CONTROL PLAN

ATTACHMENTS:	**1. IMPLICATIONS** **2 DRAFT WILLOUGHBY DEVELOPMENT CONTROL PLAN (INCLUDED IN ATTACHMENT BOOKLET)**
RESPONSIBLE OFFICER:	**HUGH PHEMISTER – PLANNING & INFRASTRUCTURE DIRECTOR**
AUTHOR:	**ARTHUR TSEMBIS – DEVELOPMENT ASSESSMENT OFFICER**
CITY STRATEGY OUTCOME:	**1.2 – PROMOTE SUSTAINABLE LIFESTYLES AND PRACTICES** **3.4 - CREATE DESIRABLE PLACES TO BE AND ENJOY** **5.1 - BE HONEST, TRANSPARENT AND ACCOUNTABLE IN ALL THAT WE DO**
MEETING DATE:	**15 JUNE 2021**

1. PURPOSE OF REPORT

To seek Council's endorsement to exhibit the *draft Willoughby Development Control Plan 2021.*

2. OFFICER'S RECOMMENDATION

That Council:

1. **Endorse for public exhibition the *draft Willoughby Development Control Plan 2021* which will occur at the same time as exhibition of the *draft Willoughby Local Environmental Plan 2020.***

2. **Be provided with a further report following exhibition and consideration of any submissions, prior to finalising the *draft Willoughby Development Control Plan 2021.***

3. **Delegate authority to the Chief Executive Officer to make any minor amendments to *draft Willoughby Development Control Plan 2021* which do not alter the policy intent.**

3. BACKGROUND

Several components of the *Willoughby Development Control Plan* (WDCP) have been reviewed incrementally over the last two years and adopted by Council. This includes amendments to Part C5 – Water Management, Part C9 – Vegetation Management and Part C3 – Building Sustainability. The notification process under Part B.4 of WDCP was repealed in November 2019 and included in the *Community Participation Plan* (CPP).

In December 2020 Council at its ordinary meeting resolved, inter alia, to forward the Planning Proposal for the draft *Willoughby Local Environmental Plan 2020* (draft WLEP 2020) to the Department of Planning, Industry and Environment (DPI&E) for a Gateway Determination, and upon receipt of approval, proceed to exhibition. The Draft WLEP 2020 has been forwarded to DPIE and it is anticipated that a Gateway determination (with requirements to satisfy before exhibition) will be received in June 2021. It is intended to exhibit the *draft* WDCP 2021 in tandem with the draft WLEP 2020 which is expected to be for 12 weeks from August.

This report outlines the new draft WDCP 2020 including how this differs from the existing WDCP and seeks Council endorsement for exhibition.

4. DISCUSSION

In line with requirements of the State Government and the Greater Sydney Commission for all Metropolitan Councils to align their Local Environmental Plans and Development Control Plans with relevant District Plans, a complete review of the *Willoughby Development Control Plan (*WDCP*)* was undertaken during 2020. The intent of the review was to provide more contemporary and up to date development standards, and deliver the outcomes sought in the *North District Plan*. The new draft *Willoughby Development Control Plan 2021 (draft* WDCP 2021*)* is the culmination of this review, and aims to provide a more succinct 'user-friendly' document.

The current WDCP came into force on 21 August 2006 and extends to over 1,000 pages. The new draft Plan *(*draft WDCP 2021*)* has been restructured to consolidate the various components of the current WDCP and update provisions to reflect current good practices.

The following table indicates the proposed structure of the draft WDCP 2021, how it relates to the existing WDCP structure and where the main changes to content have occurred. This is intended to highlight where the most significant change to content and controls have occurred. The draft WDCP contains 12 parts, being Part A to Part L. The table indicates only three sections contain significant changes, being Part B, Part F and Part L.

It should not be read that where noted as 'no significant', 'minor' or 'minimal' changes that no changes have occurred, however the changes are generally to clarify and improve readability and in some cases may include some additional provisions.

Table 1 – Draft WDCP 2021 Structure

Draft WDCP 2021 Structure	**Relationship to existing WDCP Structure**	**Extent of Content Change**
Part A – Overview of Draft WDCP 2021	Existing Parts A and B combined and rationalised	No significant changes.
Part B – Residential Development	Existing Parts D1 and D2 combined. E4 Environmental Living separated into new Part C. Shop Top Housing provisions incorporated from existing Part E. Various general provisions (Existing Part C) incorporated.	**Significant changes to controls.**
Part C – Development in E4 Environmental Living Zones	Existing Part D1.16.	Minor changes.

Draft WDCP 2021 Structure	Relationship to existing WDCP Structure	Extent of Content Change
Part D – Commercial Development	Existing Part E. Shop Top Housing provisions transferred to new Part B. Various general provisions (Existing Part C) and Specific Development provisions (Existing Part G) incorporated.	Minimal change.
Part E – Industrial Development	Existing Part E. Various general provisions (Existing Part C) and Specific Development provisions (Existing Part G) incorporated	Minimal change.
Part F – Transport and Parking Management	Existing Part C4.	**Significant changes to controls.**
Part G – Vegetation Management	Existing Part C9.	Minimal change.
Part H – Heritage and Heritage Conservation Areas	Existing Part H.	Minimal change with some additional provisions.
Part I – Water Management	Existing Part C5.	Minimal change.
Part J – Building Sustainability	Existing Part C3.	No significant changes.
Part K – Development near Lane Cove Tunnel Ventilation Stacks	Existing Part C16.	No significant changes.
Part L – Place Based Plans	New.	**Significant change by inclusion of new section.**

Since the current WDCP came into effect, the *Department of Planning, Industry and Environment* (DPIE) introduced *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP).

The exempt provisions allow certain structures, business and identification signs, and change of uses to be constructed and carried out without development consent.

The Codes SEPP includes several Codes which allow certain works, including the construction of new dwellings and alterations and additions to be carried out as complying development. However, if a proposal does not satisfy all the criteria under the Codes, a development application (DA) is required. This has highlighted very significant differences between the controls for similar developments under the Codes SEPPs and the current WDCP.

Whilst there are some exceptions, the proposed changes to the WDCP will better align Council's controls with the requirements under the various Codes within the Codes SEPP, and other State plans, policies, and guidelines. It is considered that this approach will provide equity and speed up the development assessment process, without compromising development outcomes.

Several components of the current WDCP such as Part C.13 (Contaminated Land) and Part C.14 (Development near Railway Corridors or Busy Roads), have been deleted as redundant because they are now covered by other legislation.

Many other issue specific components of the current WDCP, such as Part C.6 (Access, Mobility and Adaptability), Part C.10 (Foreshore Building Line), Part C.11 (Safety by Design), Part C.17 (Fencing) and Part C.17 (Awnings, Public Road Encroachments and Use of Public Footways), have been relocated in the draft WDCP 2021. It is more appropriate to bring together all controls relating to a particular development type, such as residential or commercial rather than present them scattered throughout the plan based on particular issues.

The current WDCP includes a significant amount of background and educational information which can be sourced from other places, including Council's web site. In order to improve readability, the draft WDCP 2021 has minimised such information and concentrated on providing performance criteria and numerical controls. At the same time, the draft WDCP 2021 provides a link to access any background and educational information that may assist in the preparation of a development application.

A synopsis of the 12 components of the draft WDCP 2021 is provided below.

Part A - Overview of Draft Willoughby Development Control Pan (WDCP) 2021:
The current WDCP includes Parts A - Introduction and Part B - Application Process. These two parts have been consolidated into a new draft Part A. This Part provides an outline of the draft WDCP 2021 and includes a link to Council's web site to access information relating to the development application process. This new Part also provides a brief description and relationship to other relevant State and local plans, policies, and guidelines.

Part B – Residential Development
The current WDCP includes Part D1 – Dwelling Houses, Dual Occupancies and Secondary Dwellings, and Part D2 – Attached Dwellings, Multi Dwelling Housing and Residential Flat Buildings.

The specific aim of the new draft Part B is to provide a consistent and equitable approach to development outcomes by incorporating the provisions of relevant State Planning Polices and Guidelines and include current good practice provisions into Council's local planning controls.

The new draft Part B brings together controls for development in the residential zones. It comprises 'minor' developments and 'major' developments. Minor developments include single dwellings, secondary dwellings, and attached and detached dual occupancies. Major developments include multi dwelling housing, residential flat buildings and the residential components of shop top housing and mixed-use developments.

Part B of the draft WDCP 2021 also includes a number of controls presently covered by the current Part C – General Development Guidelines. This includes adaptable housing (Part C.6); Waste Management (Part C.8); Fencing (Part C.12); and undergrounding of services (Part C.15).

Part B of the draft WDCP 2021 includes controls for boarding houses which are presently covered by the current Part G – Controls for Specific Development Types. This section also includes a reference to 'build-to-rent' housing which is permissible with consent under the provisions of the *SEPP (Affordable Rental Housing) 2009*.

A new provision has been included to advise proponents that Council has a Natural Heritage Register listing identified significant trees and vegetation items of natural heritage, including items on private properties. Proponents are advised to access the register to determine if a subject property comprises any items that should be preserved and protected from any proposed development.

With respect to dwellings and other 'minor' developments, it is proposed to generally align the controls in the R2 zone (excluding the heritage conservation areas) with those of the Code requirements under the provisions of the Codes SEPP. Unless otherwise stated, the controls of the various Codes under the Codes SEPP apply to the draft WDCP 2021. The most notable exception is the landscaped area requirements.

The landscaped area requirements under the Codes SEPP are considerably less than the landscaped area requirements under the current WDCP. To retain the current minimum landscaped area controls, the landscaped area controls for dwellings and dual occupancies have been strengthened by including them in the draft WLEP 2020.

Another major change to the planning controls is to align the maximum gross floor area (GFA) controls under the Codes SEPP with the maximum GFA for dwellings and dual occupancies (excluding heritage conservation areas) under the draft WLEP 2020.

Attachment 1 of the draft Part B is a compliance checklist for residential development in the R2 zone (excluding heritage conservation areas). Attachment 2 is a compliance checklist for manor houses, attached dwellings and multi dwelling housing in the R3 zone. Any variation of the controls is required to be justified, having regard to the performance criteria under Section 2.1 of the draft Part B.

All 'major' residential developments comprising three or more storeys and four or more dwellings must be consistent with the requirements under the provisions of the *Apartment Design Guide (*ADG*)*. However, certain additional controls, which are not inconsistent with the ADG, are included to ensure all major developments achieve a high standard, and satisfy the objectives of the draft Part B. This includes good residential amenity in respect to solar access, privacy, views, tree retention and open space; maximising thermal comfort and minimising urban heat impacts. Also important is enhancing a healthy built environment by boosting walkability through greening and improvements to the streetscape character of individual localities.

Attachment 3 of the draft Part B is a compliance checklist for major residential developments in the R3 and R4 zones. Any variation of these controls is required to be justified, having regard to the performance criteria under Section 2.1 of the draft Part B and the relevant provisions under the *Apartment Design Guide (*ADG*)*.

Part C – Development in E4 Environmental Living Zone

The E4 zone contains properties with special qualities and attributes such as natural bushland and foreshore areas. The specific Aim of the draft Part C is to ensure residential and other permitted land uses will result in low impact developments in environmentally sensitive locations. As such, this Part includes additional performance criteria and controls to prevent overdevelopment of a site.

Part C of the draft WDCP 2021 includes specific controls presently covered by the current Part C.10 – Foreshore Building Line. The new Part includes advice that an archaeological report may be required for properties adjacent to identified or potential Aboriginal objects or Aboriginal places of heritage significance. It also provides advice that a flora and fauna assessment report may be required for properties containing and/or adjacent to significant areas of bushland.

The specific controls for certain land within the E4 zones, which are presently included in Part D.1 of the WDCP, have been retained. This land includes the Innisfallen Castle Estate, properties adjoining Tower Reserve and Linden Way Reserve, as well as land adjoining the Chatswood Golf Club.

Attachment 1 of the draft Part C includes a description of the unique characteristics of certain localities within the E4 zone (Castle Cove/Middle Cove, Castlecrag, Northbridge, and Chatswood West).

Attachment 2 of the draft Part C is a compliance checklist for residential development in the E4 zone. Any variation of these controls is required to be justified, having regard to the performance criteria under Section 2.1 of the draft Part B and the additional performance criteria under Section 2.1 of the draft Part C.

Part D – Commercial Development
The current Part E – Specific Controls for Commercial and Shop Top Housing Development, includes the controls for development in the commercial zones. The new Part D includes the controls for the commercial components of shop top housing and mixed-use developments. The controls for the residential components of these types of developments are provided in the new draft Part B (Residential Development) of draft WDCP 2021 (see above).

For the most part, the same controls in the existing WDCP have been retained. However, some additional controls presently covered by other Parts of the current WDCP relating to commercial development have been incorporated into the new draft Part D. This includes controls relating to; waste and recycling (C.8); safety by design (C.11); undergrounding of services (C.15); awnings and outdoor dining area (C.17), sex service premises (G.1); signage (G.5); and child care centres (G.8).

Part E – Industrial Development
In 2020 Council endorsed the *Willoughby Industrial Lands Strategy 2036 (*WILS*)*. This Part of the draft WDCP 2021 is aligned with the *WILS*, and the proposed changes under the draft WLEP 2020 to retain all industrial lands, and prepare them for future prosperity.

For the most part the other controls under the existing WDCP have been retained. Some additional controls presently covered by other Parts of the current WDCP relating to industrial development have been incorporated into the new draft Part E. This includes controls relating to; waste and recycling (C.8); safety by design (C.11); fences (C.12); undergrounding of services (C.15); sex service premises (G.1); and signage (G.5).

Part F – Transport and Parking Management
In August 2020 Council resolved to adopt the *Willoughby Integrated Transport Strategy* (WITS*) 2036*. This Part of draft WDCP 2021 is aligned with the principles and intent of the WITS.

To ensure draft Part F includes the most up to date information and good practice controls, consultants were engaged to review the current parking rates, including bicycle parking and end of trip facilities.

The *Review of Parking Rates in Willoughby DCP* report recommended that maximum car parking rates should apply to the Chatswood CBD, the St Leonards precinct and the Artarmon railway precinct. In all other areas it was recommended that target rates should be retained. It was also suggested that the required number of car spaces could be reduced for developments along *Major Public Transport Routes* (MPTR) (a copy of the Report is available on Council's website).

Some of the more notable changes include:
- Maximum rates for new developments in the Artarmon railway precinct, Chatswood CBD and the St Leonards precinct.
- An increase in the number and type of bicycle parking and end of trip facilities.

- New and/or additional provisions relating to: accessible car parking for people with a disability; the provision of dedicated electric car charging areas/spaces; internet access to car parking areas to support autonomous vehicles; and, dedicated car share spaces.

Draft Part F encourages alternative and sustainable transport strategies to reduce the use and reliance on motor vehicles, including incorporating a Travel Demand Management Plan (TDMP) in the business operation. The intent of a TDMP, often described as a 'Green Travel Plan', is to modify travel decisions from the beginning of the occupation of a building so that alternate modes of transport can be used.

Part G – Vegetation Management
Amended Part C.9 Vegetation Management of the current WDCP was adopted by Council on 10 February 2020.

It was necessary to amend this component of the WDCP to ensure it was consistent with the relevant provisions of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (*Vegetation SEPP*)*. This component of the WDCP is supported by the *Vegetation Management Guidelines* which can be viewed on Council's web site.

The *Vegetation Management Guidelines* includes a provision that allows an offset planting scheme where replacement planting is not possible. To ensure applicants are aware of this provision, the following amendment has been included under Section 6 – Replacement Planting:

> *If tree replacement is not possible, the applicant may be able to enter into a deed of agreement with Council for offset planting of trees on public land. The offset planting will require payment of a fee for each tree not replanted on the subject site.*
>
> *The fee payable to Council is listed in its publication 'Fees and Charges'.*

Part H – Heritage and Heritage Conservation Areas
The provisions under the current Part H of WDCP were reviewed by Council's Heritage Officer. For the most part, the current controls have been retained as being useful, and valuable. In addition, the new Part H includes requirements to protect archaeological sites, Aboriginal objects and Aboriginal places of heritage significance.

Some controls have been strengthened to ensure the heritage values of the conservation areas are protected and enhanced. In particular, the new Part H clarifies that approval for demolition of a building or removal of any significant elements is not supported. However, approval may be granted in exceptional circumstances, such as the building or some structures being unsafe due to the extent of dilapidation.

The new Part H also includes new design controls for proposed alterations and additions to semi-detached dwellings.

Part I – Water Management
Amended Part C.5 - Water Management was adopted by Council on 17 October 2019. This Part was identified as requiring prompt attention for review as there had been difficulties with implementation and relevance to current best practice.

Changes were made to reduce the amount of 'red tape'. This included an amendment to allow minor developments to install rainwater reuse tanks without the need for a Positive Covenant and a Restriction on Use of the Land.

The new Part I includes an amendment to Table 1 to clarify the requirements for the size of rainwater reuse tanks for properties that can discharge via gravity directly into the stormwater system, and those properties that require a charged system and/or additional on-site management systems. The amended table is in keeping with the flowchart provided in Section 2.4 of Part I of the new draft WDCP 2021.

The new Part I includes relevant technical standards as attachments with advice that proponents must satisfy the requirements relating to the design of stormwater management systems, floodplain management, and soil and sediment erosion control.

Part J – Building Sustainability
Amendment to Part C.3 – Building Sustainability of the current WDCP was adopted by Council on 11 May 2020.

This Part was amended to include the most up to date information and best practice controls to achieve energy efficient and environmentally sustainable buildings. This component of WDCP has been retained as Part J of the draft WDCP 2021. No additional changes are proposed to the new Part J.

Part K – Development near Lane Cove Tunnel Ventilation Stacks
Part C.16 of the current WDCP includes information and requirements to address the impact of vehicle emissions/air quality on any development within an 800m radius of the ventilation stacks in Sirius Road, Lane Cove and Marden Street, Artarmon.

This component of the WDCP is a very technical document that requires a suitably qualified person to undertake an air quality assessment to ensure new buildings are not exposed to excessive air pollution, and any new development does not reduce the effectiveness of the ventilation stacks.

Except for the format and emphasising the need for a detailed assessment to be carried out by a suitably qualified person, this component of the current WDCP has been retained as Part K of draft WDCP 2021.

Part L – Place based plans
Council has undertaken a number of studies and prepared several strategies and plans to set the direction for future commercial and residential development in key locations within the Willoughby LGA.

Council at its meeting in June 2017 resolved to adopt the *Chatswood CBD Planning and Urban Design Strategy to 2036 (*Chatswood CBD Strategy*).* The *Willoughby Local Centres Strategy* (WLCS*) 2036* was adopted by Council at its meeting in December 2019.

The intent of this Part of the draft WDCP 2021 is to give effect to the recommendations, and apply controls to achieve the future character in accordance with the strategies.

Amendments have been made to the draft WLEP 2020 to increase the FSR and height of buildings to allow higher residential densities and create additional commercial floor space in appropriate locations.

This Part of the draft WDCP 2021 includes a character statement for each locality, and includes specific performance criteria and additional controls to achieve orderly and economically viable development of the respective localities.

It should be noted that the performance criteria and controls provided in new Part B (Residential Development) and new Part D (Commercial Development) apply to any proposal for residential and/or commercial development within each locality. However, for any inconsistencies between those controls and new Part L, the provisions and controls under Part L prevail.

5. CONCLUSION

The new *draft Willoughby Development Control Plan 2021 (*draft WDCP 2021*)* is designed to provide a more succinct user-friendly document for use by the community and those undertaking development in Willoughby. It reflects changes in practice and awareness of issues around sustainability and the changing climate, and organises controls according to the type of development being proposed.

With Council endorsement, the draft WDCP 2021 will be placed on exhibition. It is intended this will be undertaken concurrently with the exhibition of Council's new *draft Willoughby Local Environmental Plan 2020*. This will provide the community with an opportunity to submit comments on both documents before they are reported back to Council. This may result in further changes before the draft WDCP 2021 is reported back to Council for adoption.

ATTACHMENT 1

IMPLICATIONS	COMMENT
Community Strategic Plan Priority	1.2 – Promote sustainable lifestyles and practices 3.4 - Create desirable places to be and enjoy 5.1 - Be honest, transparent and accountable in all that we do
Business Plan Objectives, Outcomes/ Services	Clear and defendable planning controls to provide framework for future planning and development decisions.
Policy	*Willoughby Local Environmental Plan 2012* and *Willoughby Development Control Plan*
Consultation	Internal consultation, including Planning Manager and Strategic Planning Team Leader, and external consultant for draft Part F (Transport and Parking Management).
Resource	Council staff and Consultant's services.
Risk	Poor planning outcomes in the future. Reputation of not delivering on aims and objectives of *Willoughby Local Environmental Plan 2012* and the *North District Plan*.
Legal Legislation	There are no legal considerations/implications applicable to this report *Environmental Planning and Assessment Act 1979*
Budget/Financial	Consultant's fee: $30,756 (including GST)