WILLOUGHBY CITY COUNCIL
City of Diversity

PLANNING & INFRASTRUCTURE DEPARTMENT

Planning Unit

22 February 2022

David McNamara
A/Executive Director
Eastern Harbour City
Greater Sydney Place and Infrastructure
Department of Planning Industry & Environment
4 Parramatta Square
12 Darcy Street
PARRAMATTA NSW 2150

Dear David

RE: Planning Proposal to amend Willoughby Local Environmental Plan 2012

I refer to your letter and Gateway Determination of 24 December 2021.

Condition (c) (i) iii. of the Gateway Determination states:

> *"…retain dual occupancies in a battle-axe configuration as permitted with consent under Council's LEP. As this type of development is not complying development under the Codes SEPP, it should be subject to a merit-based assessment as part of a development application…";*

In response, Council seeks an alteration of the Gateway Determination to delete this condition and allow the proposed provision to be the subject of community comment during public exhibition.

The planning proposal requests that dual occupancy with a battle axe configuration be deleted and replaced with dual occupancy style in accordance with the Codes SEPP. This change was how it was explained to Council and was the basis on which the Council resolution was delivered. It is considered that the proposed amendment should remain on the following grounds:

Local Character

The low density areas of the Willoughby LGA are characterised by landscaped front gardens, dwelling zone with generally consistent front and rear setbacks and generous rear gardens often incorporating large canopy trees. The provision of dual occupancy in a battle-axe form results in a significant departure from this established character by built form interruption to the consistent backyard zone. This inevitably reduces opportunity for canopy tree planting particularly to side and rear boundaries and between the two dwellings on site. Such trees not only contribute to defence against

urban heat but also provide privacy and visual softening when viewed from neighbouring properties, surrounding areas and as a backdrop to the dwellings when viewed from the streetscape.

The alternate side-by-side, or one-above-the-other forms of dual occupancy ensure the dwelling location stays within the established built-form zone providing generous rear yards with opportunity for tree planting including to side and rear boundaries protecting the rear yard private open space of neighbouring properties from overlooking.

A secondary dwelling would continue to be permissible in rear yards being of a significantly smaller scale (maximum 60m^2) and enabling much greater opportunity for canopy tree planting. Secondary dwellings reflect, to some extent the traditional character of subordinate structures such as garages and sheds being located in rear yards but avoids the detrimental intrusion of much larger dwellings and hard surface areas that would occur with battle-axe dual occupancy development.

Heat Island Effect

Consistent with the aims of the Sydney Region Plan and North District Plan, Council has established a target of 40% canopy cover by 2036, being an increase from 36% in 2016. Not only does this improve the amenity of the area by enhancing the existing vegetated character but also, and perhaps more importantly seeks to counter the impacts of climate change through reducing the heat island effect.

The provision of a second dual occupancy dwelling in a battle-axe formation inevitably results in large areas of hard surface with the small areas of landscaping often provided in narrow or small pockets with little room for canopy tree planting and growth. The hard surface areas associated with the provision of both dwellings, battle-axe driveway together with driveway access for the front dwelling, paved outdoor entertainment areas for both dwellings entry paths and pathways in narrow side boundary setbacks provide minimal area for tree planting. The area remaining as soft landscaping is inevitably occupied by small pockets of lawn.

Where two dual occupancy dwellings are provided within the traditional built zone the rear yard zone remains in a large backyard parcel capable of supporting both large tracks of lawn area together with canopy trees, generally, but not exclusively to side and rear boundaries. This provides the opportunity to achieve the increase in canopy cover for the LGA to 40% by 2036 consistent with both State and Council targets and objectives.

Implications of dual occupancy battle-axe subdivision.

Whilst it can be argued that LEP provisions can incorporate controls for dual occupancy battle-axe development and merit assessment can address concerns in respect to amenity impacts, once subdivision occurs the opportunity is available to gain CDC approval under the Housing Code or Housing Alterations Code noting that it would no

longer constitute a dual occupancy being a single dwelling on its own allotment. Under such circumstances the LEP controls and merit assessment previously undertaken would have no bearing on the eventual built form on the site.

The potential impacts of visual intrusion, privacy and overshadowing of neighbouring rear yards sought to be avoided under the Council controls and assessment are far more likely to occur with the scale of development permissible for single dwelling houses under the Codes SEPP.

Next Steps

As you are aware, we are under time constraints to have the Planning Proposal on exhibition within 3 months of receipt of the GD which included a 2 week Council closure over Christmas and new year. With an intended exhibition start date of 15 March, we have a number of staff across Council helping prepare mail outs, social media notifications etc. You will appreciate that we need a response to this Gateway Alteration request asap / by 1 March in order for us to exhibit the PP in a way that has already been reported to Council without the need for any amendments. Your assistance in allowing us to meet our deadlines will allow the issues to at least be considered by the wider community and would be greatly appreciated. A meeting to discuss this and clarify any questions is requested.

Yours sincerely



Ian Arnott
PLANNING MANAGER