

## Place, Design and Public Spaces

### Plan finalisation report

Local government area: Willoughby

File Number: IRF20/4982

#### 1. NAME OF DRAFT LEP

Willoughby Local Environmental Plan 2012 (Amendment No 15)

#### 2. SITE DESCRIPTION

The planning proposal (**Attachment A**) applies to land at Willoughby. The site is an irregular shaped area located at 1-31 Walter Street and 452-462 Willoughby Road, Willoughby (**Figure 1**) and comprises of 22 adjoining lots (**Table 1**) with a combined site area of approximately 14,579m<sup>2</sup>

The site is bound by Walter Street to the south and Willoughby Road to the east and currently contains a mix of single to three storey residential dwellings of varying ages and styles (**Figures 1-3**). The site falls from the north-west corner to the south-eastern corner at the intersection of Walter Streets and Willoughby Road.

Under the existing Willoughby Local Environmental Plan (LEP) 2012 controls, the site:

- is zoned R3 Medium Density Residential (**Figure 6**);
- has a 12m maximum building height (**Figure 7**);
- has a 0.9:1 maximum floor space ratio (FSR) (**Figure 8**); and
- is subject to clause 6.8 requiring the provision of affordable housing (**Figure 9**).

The existing LEP mapping is shown in Section 3.

Walter Street is currently zoned R3 Medium Density Residential and is also identified under the Land Reservation Acquisition Map as land to be acquired and classified as SP2 Infrastructure (Classified road).

There are no heritage items within the site and the site is not within a heritage conservation area. However, the subject site is located in the vicinity of a number of local heritage items and the state listed 'Walter Burley Griffin Incinerator' (SHR 00084, local item 228) approximately 250m to the north-east on the east side of Halstrom Park. The state heritage item is not visible from the subject site (**Figure 5**).

Artarmon local centre is approximately 1km to west with Artarmon Station approximately 1.3kms walking distance of the site. The Artarmon industrial area is approximately 550m to the south-west of the site (**Figure 5**). The strategic centre of Chatswood is located approximately 2.1kms to the north-west.

Across from the site on the eastern side of Willoughby Road is a large area of open space consisting of the Bicentennial Reserve Oval, Halstrom Park and Willoughby Leisure Centre.

Adjoining the site and accessed from Artarmon Road to the north is land zoned R4 High Density Residential with approval granted for the redevelopment of the former Channel 9 site and the existing Castle Vale development containing blocks of residential flats ranging in height from five to nine storeys with three storeys to Willoughby Road (**Figures 12 and 13**).



**Figure 1:** Aerial of the subject site outlined in red (Source: Near Maps)



**Figure 2:** Example of existing residential dwellings looking north at the eastern end of Walter Street at 1A-5 Walter Street, Willoughby (Source Architecture Urbaneia)



**Figure 3:** Example of existing residential duplex looking north at the western end of Walter Street at 27-27a Walter Street, Willoughby (Source Architecture Urbaneia)



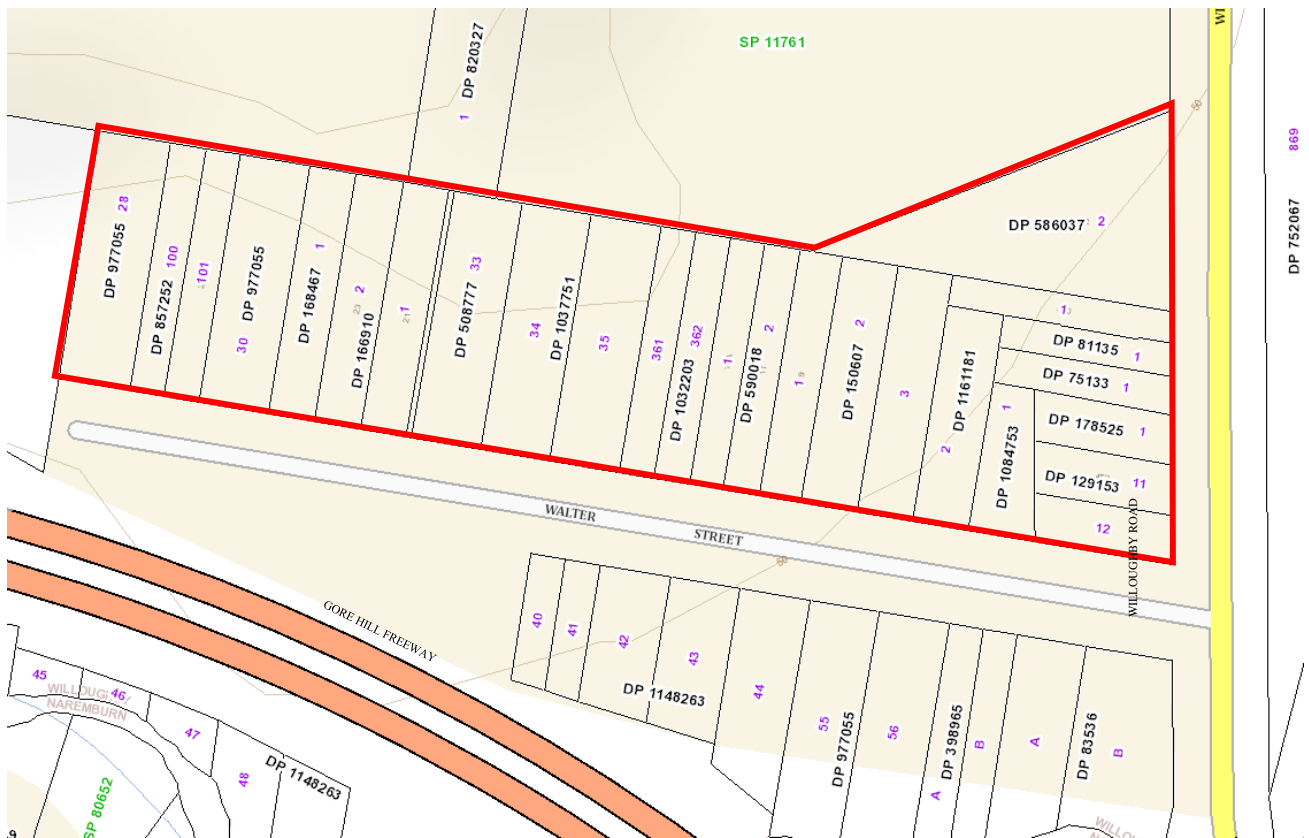


Figure 4: Map with lot numbers (Source: Six Maps)

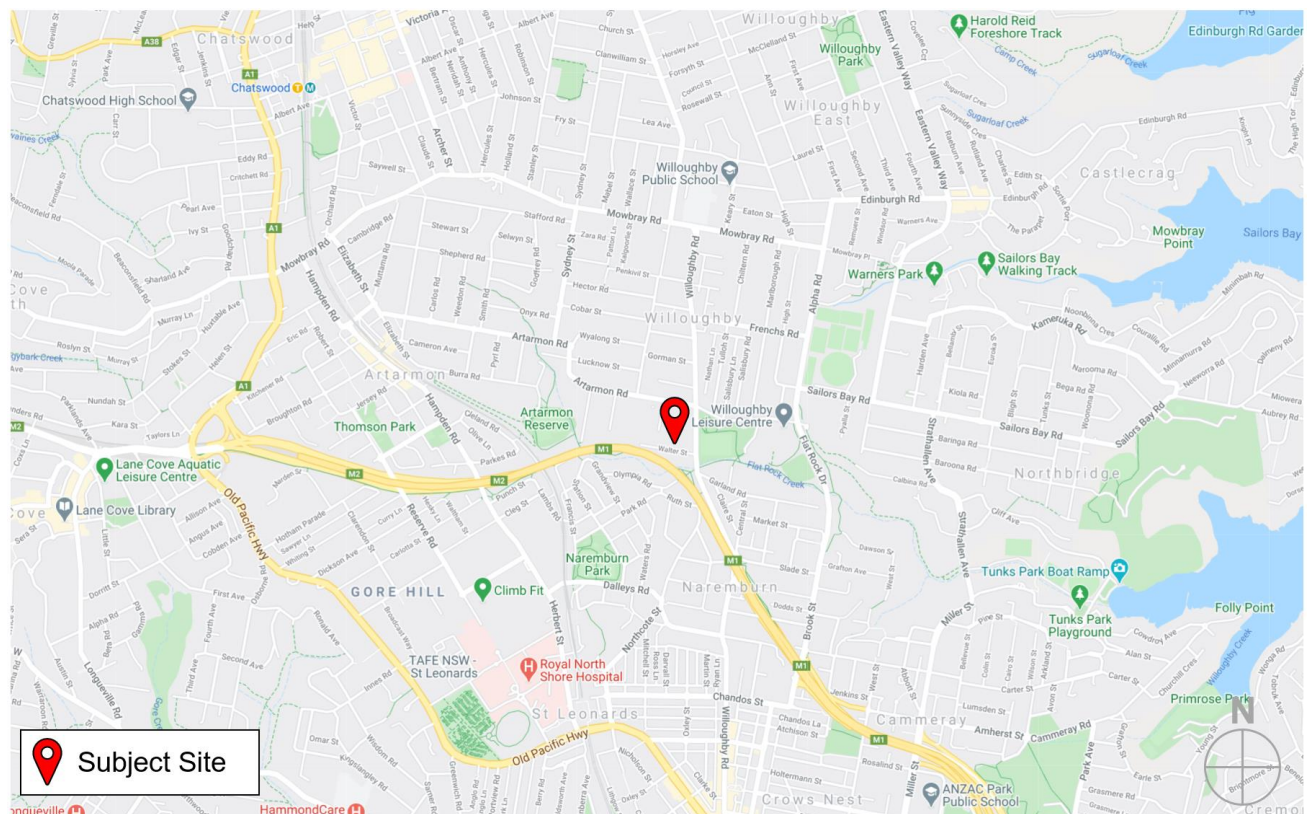
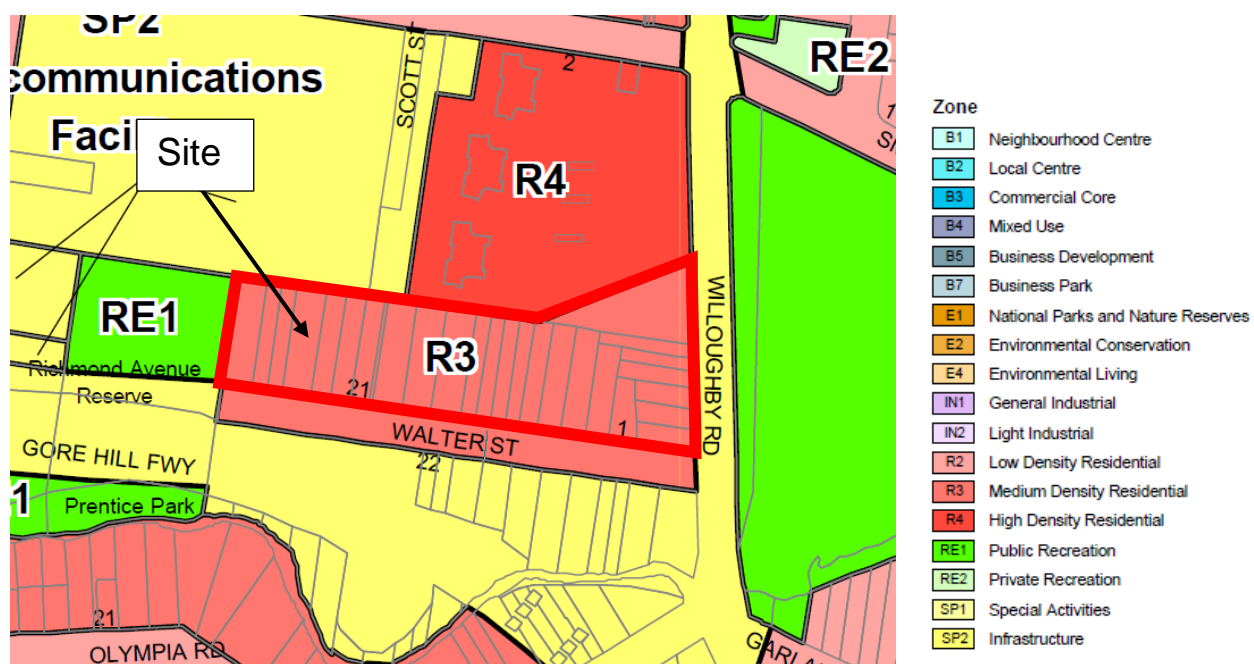


Figure 5: Site locality (Source: Near Maps)

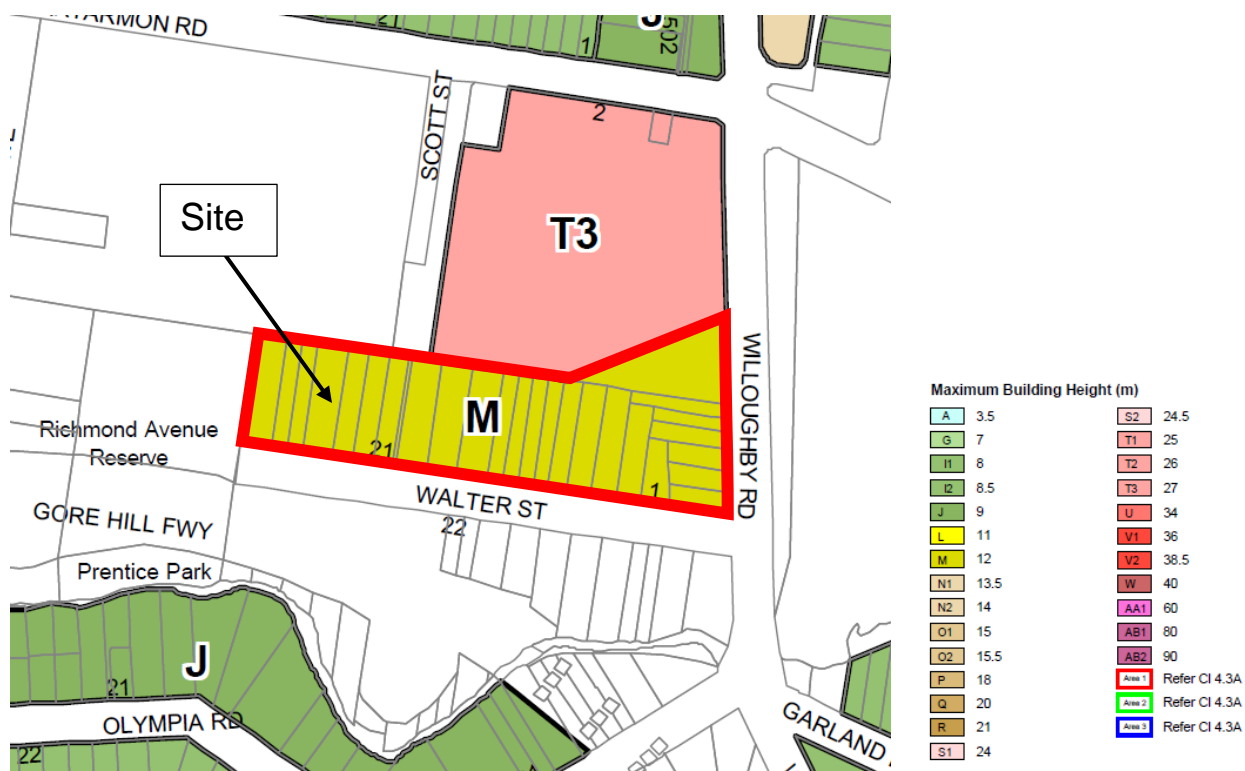
**Table 1:** Legal description of the subject lots

Street Address	Lot and DP	Site Area
1 Walter Street	Lot 1 DP 1084753	378m <sup>2</sup>
1A Walter Street	Lot 12 DP 129153	323m <sup>2</sup>
3 Walter Street	Lot 2 DP 1161181	577.8m <sup>2</sup>
5 Walter Street	Lot 3 DP 150607	657.6m <sup>2</sup>
7 Walter Street	Lot 2 DP 150607	657.5m <sup>2</sup>
9 Walter Street	Lot 1 DP 150607	497.6m <sup>2</sup>
11a Walter Street	Lot 1 DP 590018	408.1m <sup>2</sup>
11 Walter Street	Lot 2 DP 590018	410m <sup>2</sup>
13a Walter Street	Lot 361 DP 1032203	410.9m <sup>2</sup>
13 Walter Street	Lot 362 DP 1032203	410.9m <sup>2</sup>
15 Walter Street	Lot 35 DP 1037751	821.9 m <sup>2</sup>
17 Walter Street	Lot 34 DP 1037751	821m <sup>2</sup>
19 Walter Street	Lot 33 DP 508777	822m <sup>2</sup>
21 Walter Street	Lot 1 DP 166910	542m <sup>2</sup>
23 Walter Street	Lot 2 DP 166910	542m <sup>2</sup>
25 Walter Street	Lot 1 DP 168467	542m <sup>2</sup>
27 Walter Street	Lot 30 DP 977055	821m <sup>2</sup>
29a Walter Street	Lot 100 DP 857252	410m <sup>2</sup>
29 Walter Street	Lot 101 DP 857252	410m <sup>2</sup>
31 Walter Street	Lot 28 DP 977055	821m <sup>2</sup>
452 Willoughby Road	Lot 11 DP 129153	324m <sup>2</sup>
454 Willoughby Road	Lot 1 DP 178528	327m <sup>2</sup>
456 Willoughby Road	Lot 1 DP75133	312m <sup>2</sup>
458 Willoughby Road	Lot 1 DP81135	263m <sup>2</sup>
460 Willoughby Road	Lot 1 DP1161181	321m <sup>2</sup>
462 Willoughby Road	Lot 2 DP586037	1682m <sup>2</sup>
Remnant strip of reserve between 19 and 21 Walter Street	Lot 1 DP 1239384	

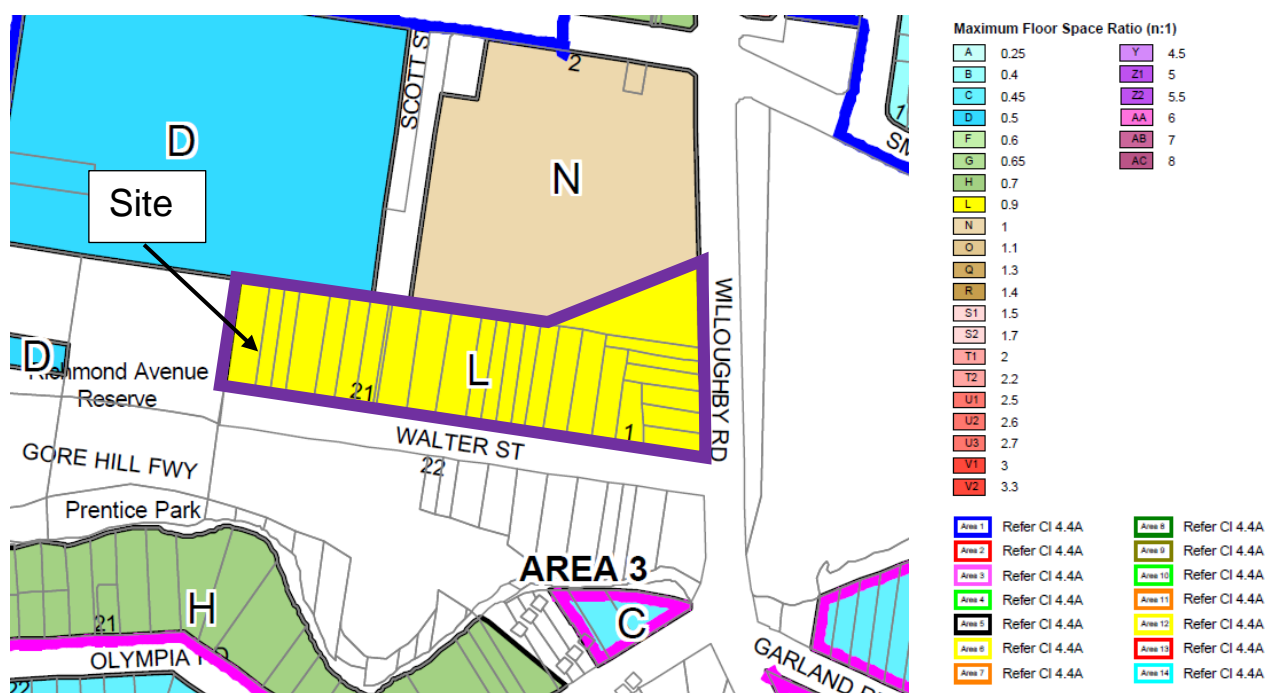
### 3. EXISTING LEP MAPS



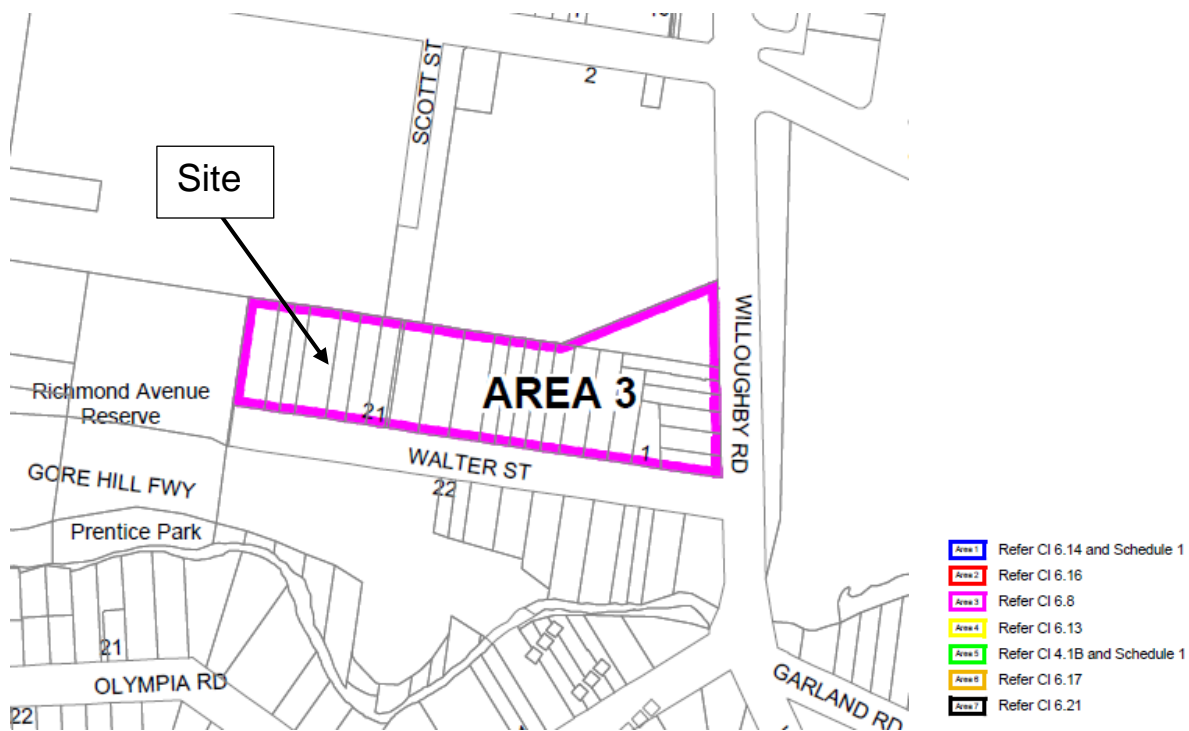
**Figure 6:** Willoughby LEP 2012 Land Zoning Map (LZN\_004)



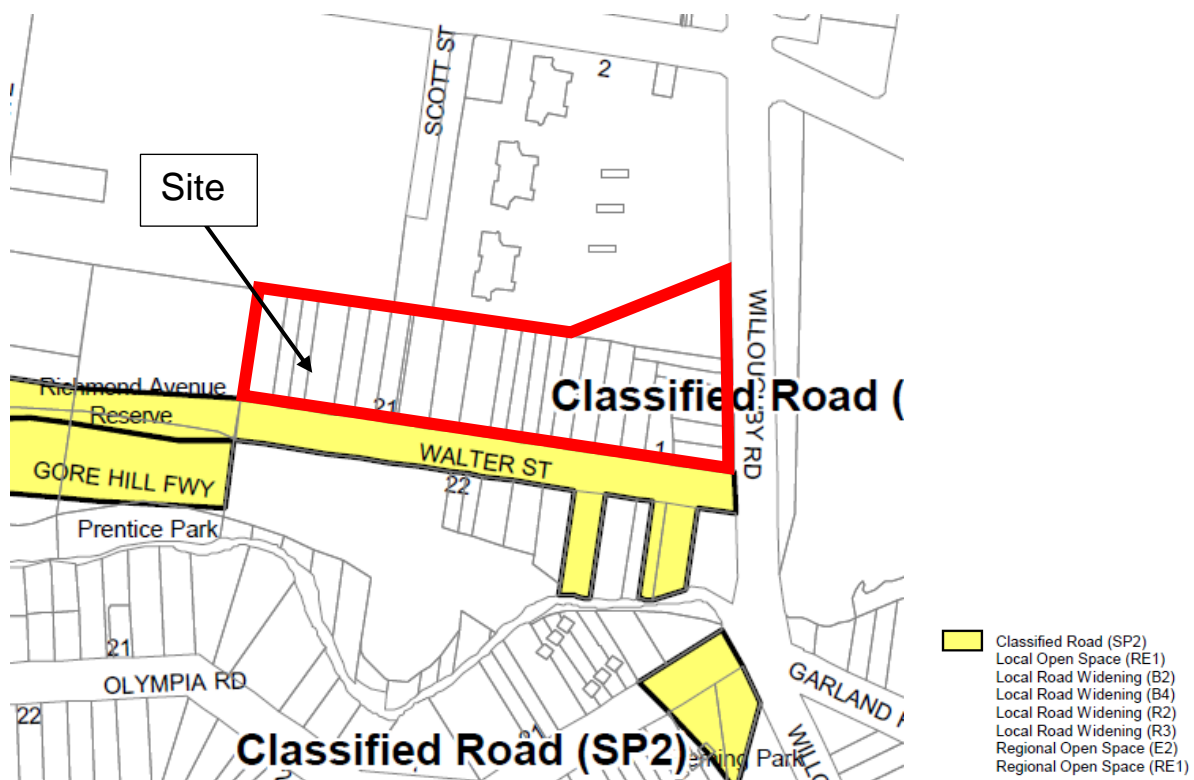
**Figure 7: Willoughby LEP 2012 Height of Buildings Map (HOB\_004)**



**Figure 8: Willoughby LEP 2012 FSR Map (FSR\_004)**



**Figure 9:** Willoughby LEP 2012 Special Provisions Map (SPA\_004) to apply clause 6.8 Affordable housing



**Figure 10:** Willoughby LEP 2012 Land Reservation Acquisition Map (LRA\_004)



#### 4. PURPOSE OF PLAN

The draft LEP seeks to amend Willoughby Local Environmental Plan (LEP) 2012:

- for land at 1-31 Walter Street and 452-462 Willoughby Road, Willoughby to:
  - rezone the land from R3 Medium Density Residential to R4 High Density Residential (**Figure 14**);
  - increase the floor space ratio (FSR) from 0.9:1 to 1.5:1 (**Figure 15**);
- for land at 452-462 Willoughby Road, Willoughby to:
  - increase the maximum height of buildings from 12m to 17m (**Figure 16**);
- for land at 3-13A Walter Street, Willoughby to:
  - increase the maximum height of buildings from 12m to 24m (**Figure 16**);
- for land at 15-31 Walter Street, Willoughby to:
  - increase the maximum height of buildings from 12m to 27m (**Figure 16**);
- to introduce a Design Excellence clause;
- to amend the Special Provisions Area Map (**Figure 17**);
- to amend Clause 6.10(g) regarding minimum lots sizes; and
- to amend Clause 6.8(2) and (7) in relation to affordable housing.

#### New Design Excellence clause proposed by Council

1) *The objective of this clause is to deliver the highest standard of architectural, urban and landscape design.*

2) *This clause applies to the following development:*

*a) development that is the erection of a new building on land covered by the Design Excellence Policy, and shown in Area 12 on the Special Provisions Area Map,  
Note.*

*In determining an application for a modification of a development consent granted under this clause, the consent authority must again take the requirements of this clause into consideration (see section 96 (3) of the Act).*

3) *Development consent must not be granted to development to which this clause applies unless:*

*a) Where a building will be >35m in height*

*i) an architectural design competition that is consistent with Guidelines for Design Excellence Review and Competitions has been held in relation to the development, and*

*ii) the design of the development is the winner of the architectural design competition, and*

*iii) the consent authority considers and acknowledges that the development exhibits design excellence.*

*b) Where a building will be up to 35m in height*

*i) The design is subject to review by a Design Excellence Review Panel, that is consistent with Guidelines for Design Excellence Review and Competitions, who consider that the design exhibits design excellence to a sufficient level to recommend that the project proceed to consideration by the consent authority*

- ii) the consent authority considers and acknowledges that the development exhibits design excellence.
- 4) An architectural design competition is not required under subclause (3) if the Minister or their delegate is satisfied that:
  - (a) such a process would be unreasonable or unnecessary in the circumstances,
- 5) In deciding whether to grant development consent to development to which this clause applies, the consent authority must take into consideration the results of the architectural design competition.
- 6) In this clause:
 

*Design Excellence* is a process and an outcome achieved through the comparative evaluation of different design approaches.

*Architectural Design Competition* means a competitive process conducted in accordance with the *Guidelines for Design Excellence Review and Competitions*.

*Design Excellence Review Panel* means a Council selected and appointed Panel or a Panel endorsed by the NSW Government Architects Office (Secretary).

*Guidelines for Design Excellence Review and Competitions* means the Government Architects Design Excellence Competition Guidelines or, Guidelines endorsed by the NSW Government Architects Office (Secretary).

*Design Excellence Policy* means the Willoughby City Council Design Excellence Policy

Amended Affordable Housing clause proposed by Council

- (2) Development consent must not be granted to the erection of residential accommodation on land identified as “Area 3” or “**Area 9**” on the Special Provisions Area Map unless the consent authority has taken the following into consideration—
  - (a) the Willoughby Affordable Housing Principles,
  - (b) the impact the development would have on the existing mix and likely future mix of residential housing stock in Willoughby,
  - (c) whether one of the affordable housing conditions should be imposed on the consent for the purpose of providing affordable housing in accordance with the Willoughby Affordable Housing Principles.
- ~~(7) In this clause—~~  
~~accountable total floor space means the gross floor area of the residential component of the development to which the development application relates.~~
- (7) In this clause—**  
**accountable total floor space means the following—**
  - (a) for development on land identified as “Area 3” on the Special Provisions Area Map—the gross floor area of the residential component of the development, excluding the residential floor space of the development that is used for affordable housing,**
  - (b) for development on land identified as “Area 9” on the Special Provisions Area Map—the gross floor area of the part of the development used for residential accommodation.**



Council has provided proposed written changes to the Willoughby LEP in **Attachment M**. The purpose of the proposal is to facilitate redevelopment of the site for the provision of approximately 255 residential apartments with vehicular access via Walter Street (**Figure 11**).

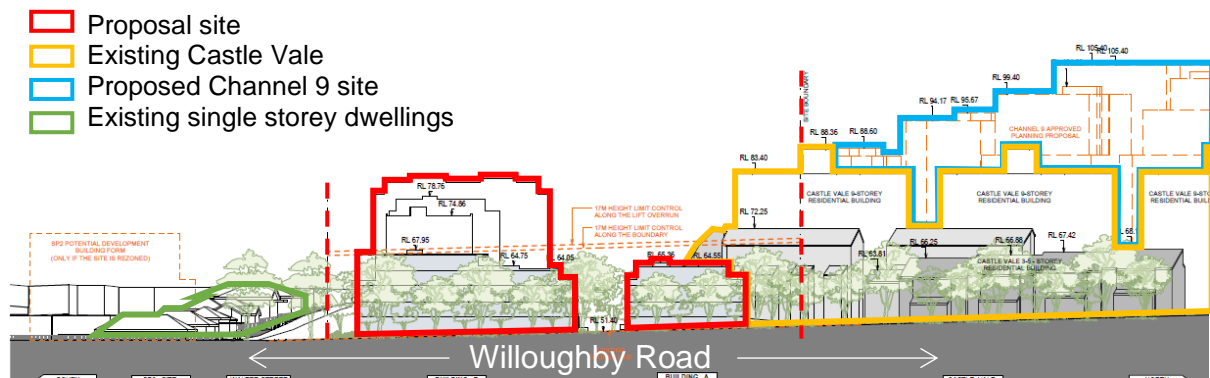


**Figure 11:** Aerial concept view of the proposal. (Source: Architecture Urbaneia, overlay by DPIE)



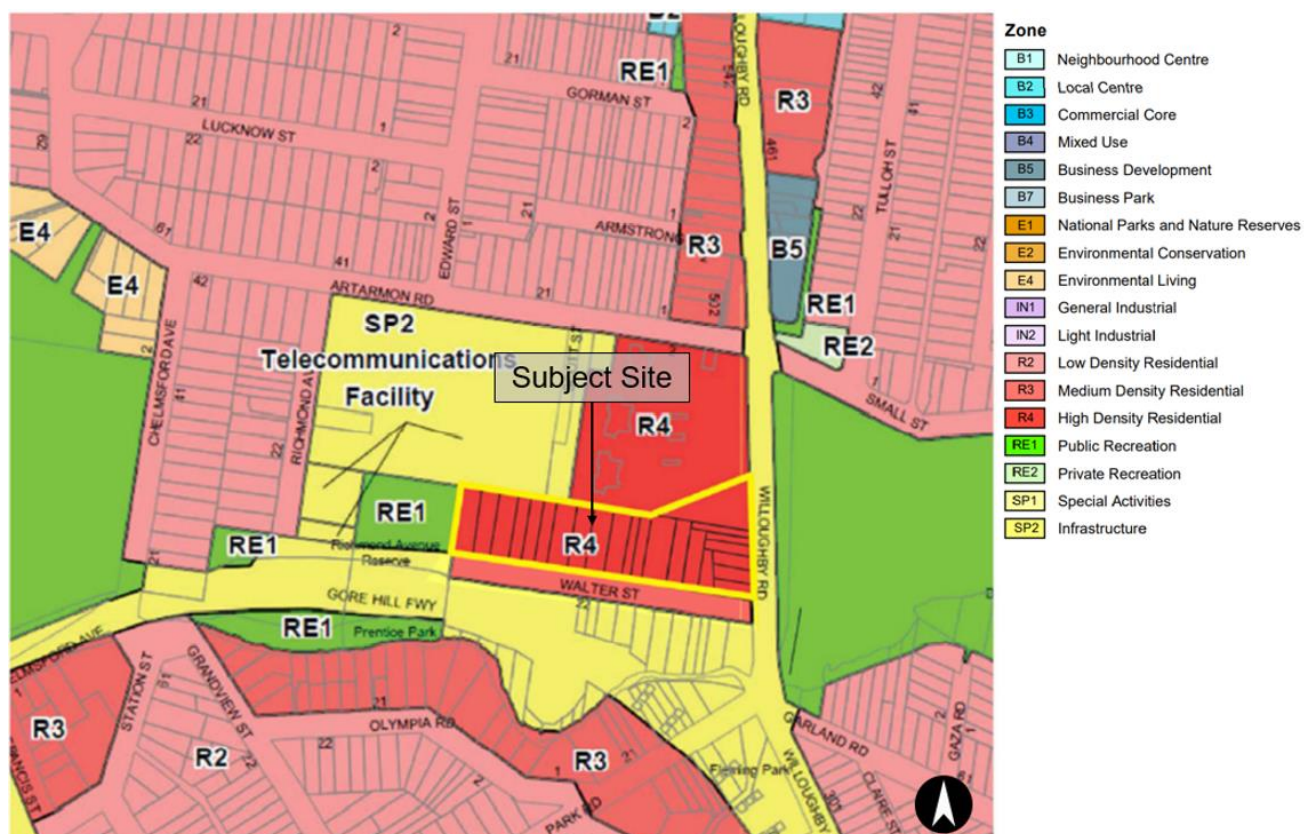
**Figure 12:** Concept of the Chanel 9 site approved for redevelopment (Source: CHROFI Master Plan, overlay by DPIE)



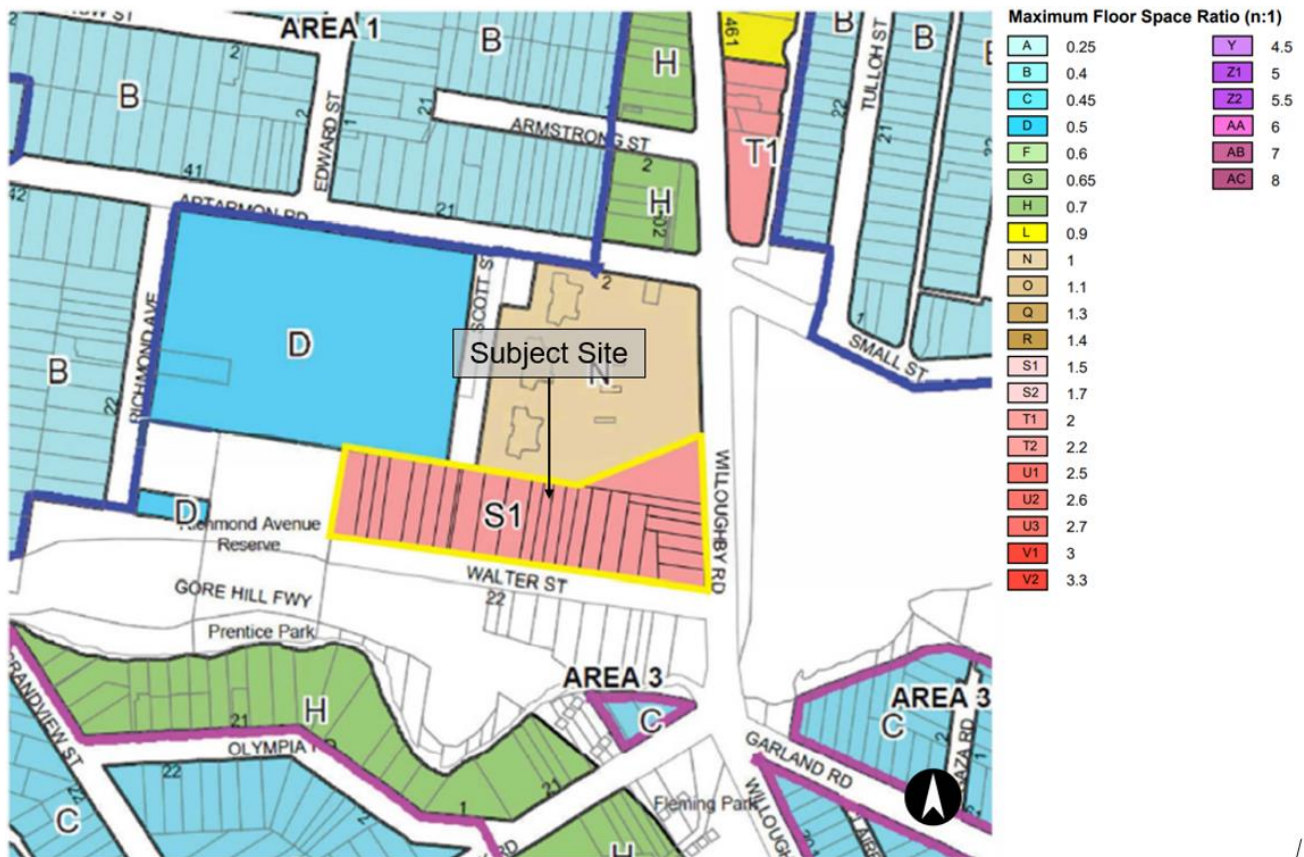


**Figure 13:** Proposed envelope with surrounding existing and proposed development (Source: Architecture Urbaneia, overlay by DPIE)

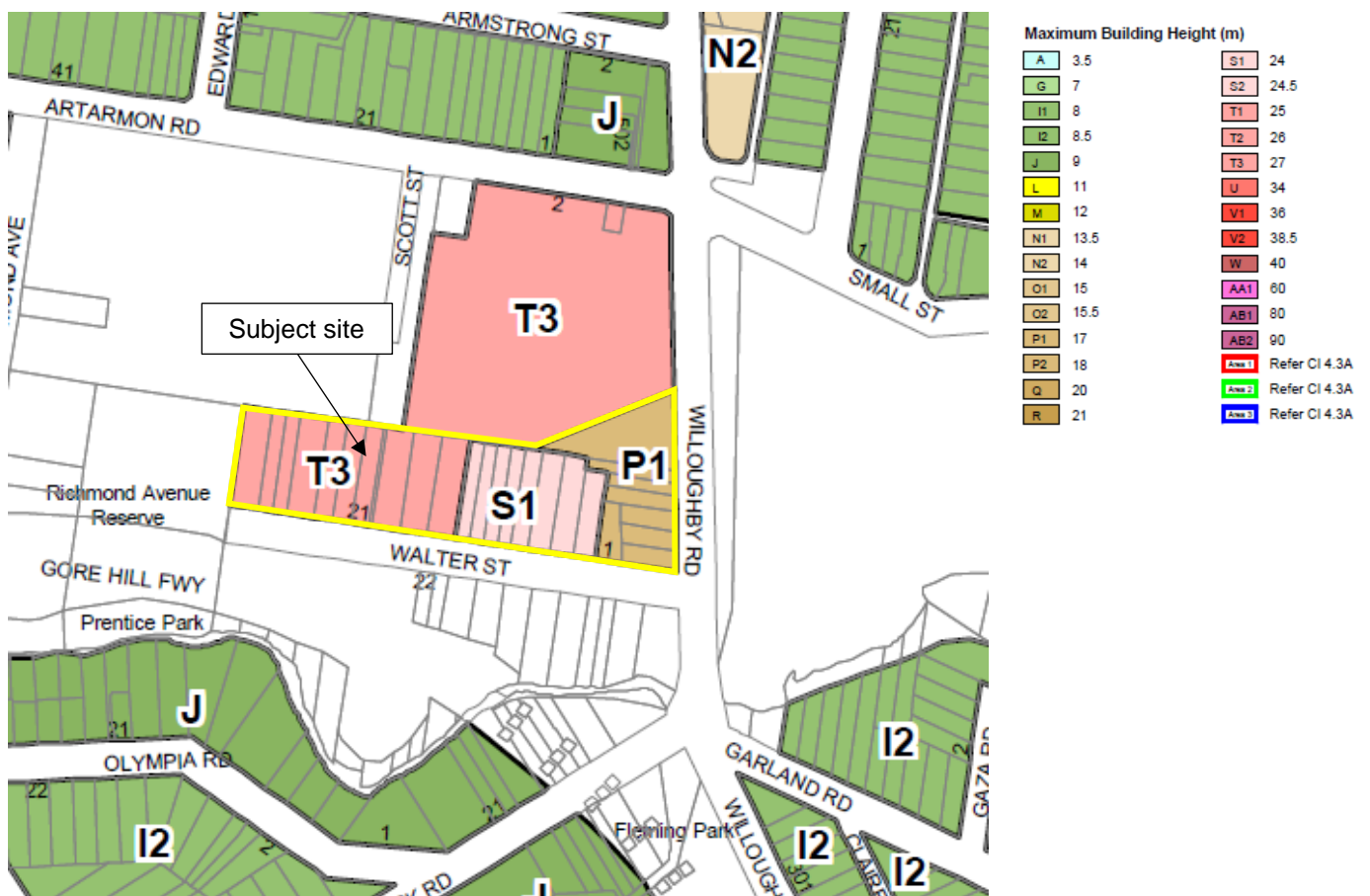
## 5. PROPOSED MAPPING



**Figure 14:** Proposed Willoughby LEP 2012 Land Zoning Map (LZN\_004) (Source: Council)

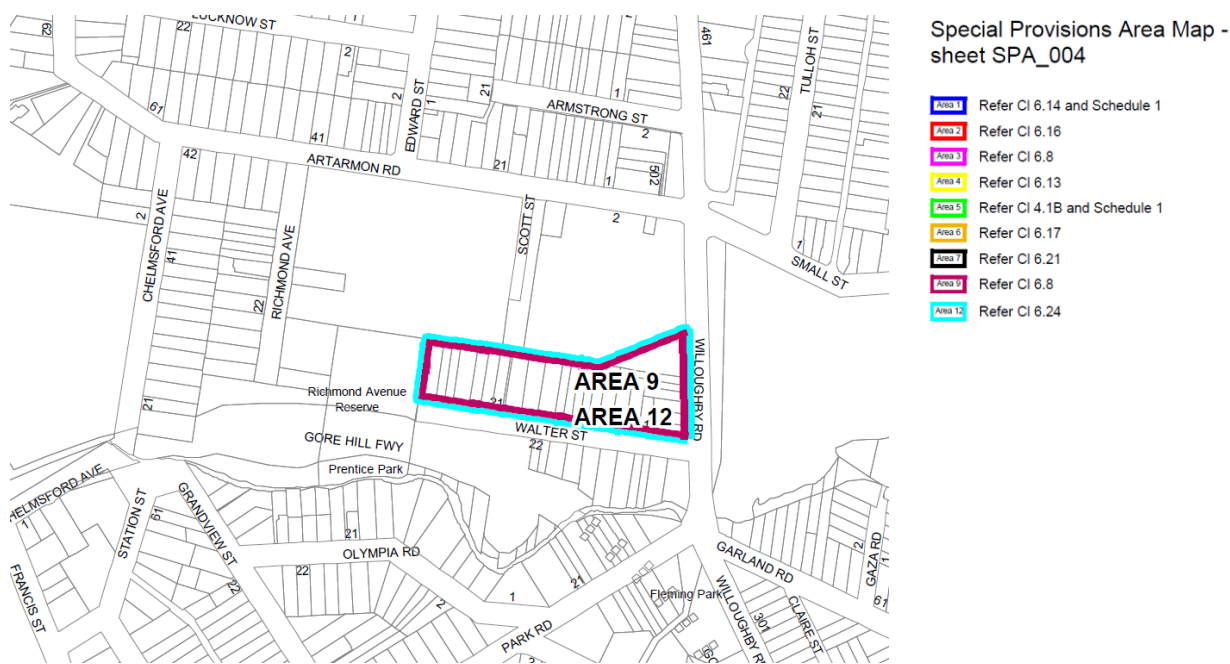


**Figure 15: Proposed Willoughby LEP 2012 FSR Map (FSR\_004) (Source: Council)**



**Figure 16: Proposed Willoughby LEP 2012 Height of Buildings Map (HOB\_004) (Source: Council)**





**Figure 17:** Proposed Willoughby LEP 2012 Special Provisions Area Map (SPA\_004) to apply clause 6.8 Affordable housing (Source: Council). Note: Area 9 relates to affordable housing provisions and Area 12 relates to design excellence.

## 6. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Willoughby state electorate. Hon Gladys Berejiklian MP is the State Member.

The site falls within the North Sydney federal electorate. Trent Zimmerman MP is the Federal Member.

Council stated in their post exhibition report that the State Member for Willoughby, Hon Gladys Berejiklian MP made a representation dated 12 June 2020 on behalf of a constituent in Lumsden Road, Cammeray (**Attachment N**).

The correspondence raised the issue of the rezoning and development of 1-31 Walter Street, Willoughby. Hon Gladys Berejiklian MP forward the letter to Willoughby Council for response. Council advised that they addressed this matter (**Attachment A1**).

No correspondence has been received by the Department from Hon Gladys Berejiklian MP on the planning proposal.

**NSW Government Lobbyist Code of Conduct:** There have been no meetings or communications with registered lobbyists with respect to this proposal.

**NSW Government reportable political donation:** There are no donations or gifts to disclose and a political donation disclosure is not required.

## 7. BACKGROUND

### Previous planning proposals and rezoning reviews

#### *3-31 Walter Street and 462 Willoughby Road, Willoughby*

On 6 March 2017, Architecture Urbaneia, on behalf of Walter Projects Pty Ltd submitted a planning proposal for land at 3-31 Walter Street and 462 Willoughby Road, Willoughby.

The proposal sought to amend Willoughby LEP 2012 to:

- rezone the site from R3 Medium Density Residential to R4 High Density Residential;
- increase the maximum height of buildings from 12m to 28m; and
- increase the FSR from 0.9:1 to 2:1.

The proposal could have enabled the construction of five residential flat buildings ranging from five to eight storeys, containing 269 dwellings with basement parking.

On 12 March 2018, after review and external advice and revision by the proponent, Council resolved to not support the planning proposal.

On 22 March 2018, Council wrote to the proponent stating that it did not support the planning proposal and the proponent subsequently submitting a rezoning review request on 28 March 2018.

On 6 June 2018, the Sydney North Planning Panel (panel) determined that the proposal should not be submitted to the Department for Gateway determination as the proposal was found to have strategic merit but not site-specific merit.

The majority of the panel would recommend that a reduced density and scale would be acceptable.

### *3-31 Walter Street, Willoughby*

On 27 July 2018, Architecture Urbaneia on behalf of Walter Projects Pty Ltd (the proponent) submitted a planning proposal to Council.

The proposal sought to amend the Willoughby LEP 2012 to:

- rezone the site from R3 Medium Density Residential to R4 High Density Residential;
- increase the maximum height of buildings from 12m to 17m; and
- increase the FSR from 0.9:1 to 1.5:1 (including affordable housing).

The proposal could have enabled the construction of four residential flat buildings ranging from eight to nine storeys, containing approximately 195 dwellings with basement parking.

On 29 October 2018, the proponent submitted the rezoning review request as Council failed to indicate support for the proposal within 90 days of submission of the planning proposal.

On 8 April 2019, Council resolved to not support the planning proposal for the following reasons such as inadequate infrastructure, overdevelopment, traffic impact and environmental issues.

### *1-1A Walter Street and 452-462 Willoughby Road, Willoughby*

The proposal sought to amend the Willoughby LEP 2012 to:

rezone the site from R3 Medium Density Residential to R4 High Density Residential;

- rezone the site from R3 Medium Density Residential to R4 High Density Residential;
- increase the maximum height of buildings from 12m to part 17m and part 27m; and
- increase the FSR from 0.9:1 to 1.5:1.

The proposal would enable the construction of two residential flat buildings of five storeys, containing 70 dwellings with basement parking.

On 29 October 2018, the proponent submitted the rezoning review request as Council failed to indicate support for the proposal within 90 days of submission of the planning proposal.

On 8 April 2019, Council resolved not to support the planning proposal for the following reasons:

- the planning proposal is contrary to Council's comprehensive draft Housing Strategy which has concluded that with a focus on the provision of housing around the Chatswood CBD, in existing local centres and on development under existing medium density controls, there is sufficient land available for Willoughby Council to meet its 20 year housing forecasts without the need to increase the potential of the subject site,
- to date, Council has issued consent for residential flat developments at 5-9 Walter Street, 11-13A Walter Street, 15-17 Walter Street and 21-27 Walter Street under the current R3 Medium Density Residential planning controls of Willoughby LEP 2012. This indicates viability for development under the current zoning;
- the proposed scale of development is significantly higher than the adjoining development on 2 Artarmon Road (known as Castle Vale) which has a scale of 1:1 across the whole site. This provides an appropriate relationship between the open space land on the eastern side of Willoughby Road and the low-rise garden character of the Willoughby Road frontage to the Castle Vale development which the planning proposal does not achieve;
- the planning proposal is inconsistent with previous advice of the Sydney North Planning Panel and Council's urban design consultants which did not support rezoning 462 Willoughby Road to R4 High Density residential;
- concept plans and proposed site-specific Development Control Plan controls accompanying the planning proposal indicate significant non-compliance with the current Willoughby Development Control Plan – high density residential provisions particularly in relation to site cover, front setback, open space and landscaping requirements; and
- there is currently inadequate infrastructure including education, public transport and road capacity to support the increase in density.

#### Sydney North Planning Panel Decision

On 6 June 2019, the panel considered the separate rezoning reviews for 3-31 Walter Street and for 1-1A Walter Street and 452-462 Willoughby Road, Willoughby. The panel stated that both proposals had sufficient strategic merit and should proceed to the Department for Gateway determination with the following amendments:

- the two sites – 3-31 Walter and 1-1A Walter and 450-462 Willoughby Road should be amalgamated for rezoning;
- that the heights and proposed floor space ratios across the integrated site be master planned to better respond to the site circumstances, including at the corner of Willoughby Road and Walter Street;
- preparation of an amalgamated DCP prior to Gateway; and
- ensure all vehicular access for the amalgamated site is from Walter Street and is outlined in the DCP.

On 22 July 2019, Council resolved to advise the Planning Panel Secretariat that it would take on the role of Planning Proposal Authority (PPA) for the planning proposal. On 10 October 2019, based on the panel's advice, Council forwarded the planning proposal for the amalgamated site to the Department.



On 22 April 2020, Council resolved to support and prepare a Voluntary Planning Agreement (VPA). The VPA proposed a monetary contribution for the benefit of the community towards the upgrade of the leisure centre, Council works for active transport networks and other public purposes.

#### Current development applications

- 5-9 Walter Street currently has an active DA (DA2016/210) for a four-storey residential flat building, approved by Council 8 June 2016;
- 11-13A Walter Street currently has an active DA (DA2016/303) for a four-storey residential flat building approved by Council 12 August 2016;
- 21-27 Walter Street currently has an active DA (DA2016/452) for 28 residential flats over three to five levels, approved by Council 9 November 2016;
- 15-17 Walter Street currently has an active DA (DA2016/532) for 23 units over a part four and part five storey residential flat building, approved by Council 6 July 2017; and
- 1-1A Walter Street and 450-460 Willoughby Road currently has an active development application (DA 2016/263) approved 23 January 2018 by the NSW Land and Environment Court for a 207-place childcare centre.

In their post exhibition report (**Attachment D**), Council have requested that the Department require the surrender of the development consent 2016/263 for the childcare centre at 1-1A Walter Street and 452-460 Willoughby Road, Willoughby.

Correspondence was received by the Department dated 17 November 2020 confirming that the landowner Walter Projects Pty Ltd surrenders the benefit of the consent orders as made 23 January 2018 in the LEC (**Attachment O**).

## **8. GATEWAY DETERMINATION**

The Gateway determination issued on 14 February 2020 (**Attachment B**) determined that the proposal should proceed subject to conditions.

Council was not authorised as the plan-making authority as the planning proposal was the subject of two separate rezoning review applications.

The Gateway determination required the planning proposal to be amended. Council's response to the Gateway determination is outlined below and in (**Attachment C**).

- Condition 1(a) - required that the planning proposal address North District Planning Priority N5 – providing housing supply, choice, and affordability, with access to jobs, services and public transport.

*Council's Response* – The planning proposal was updated prior to public exhibition to address this requirement of the Gateway determination.

- Condition 1(b) - suggested that council consider removing the proposed amendments to Clause 6.10 from the planning proposal to require a minimum lot size.

*Council's Response* – Council considered the removal of the minimum lot size would be inconsistent with current practice. Council intend to amend Clause 6.10 of the Willoughby LEP 2012 to include a minimum lot size as indicated in the planning proposal. Council states that this is consistent with other sites listed in Clause 6.10 and provides more certainty than a development control plan (DCP).

- Condition 1(c) - suggested that Council reconsider the amendments to Clause 6.8 Affordable housing to ensure that affordable housing was included within the

maximum FSR. A plain English version of the proposal's intentions was required for the public exhibition.

*Council's Response* - Council advises that the planning proposal was updated as suggested in the Gateway condition. The proposed clause 6.8 now requires a 4% of gross floor area (GFA) for affordable housing inclusion in the 1.5:1 maximum floor space ratio rather than excluded as is currently the case in the Willoughby LEP 2012.

A plain English version was prepared and included for the public exhibition of the proposal.

- Condition 1(d) – required maps to be updated to the Department's standard.

*Council's Response* – all maps were updated prior to public exhibition.

- Condition 1(e) – required the updating of the shadow diagrams to demonstrate that the proposal can achieve Council's DCP minimum solar access to primary living areas and to the existing properties on the south side of Walter Street.

*Council's Response* – Council states that Clause D.2.12.3 of the Willoughby DCP requires that north facing windows of living areas and the principle recreational open space adjoining residential areas should have at least three hours of sunlight between 9am and 3pm on June 22. Where there is existing overshadowing of buildings or fences is greater than this then sunlight should not be reduced by more than 20%.

Updated shadow diagrams provided by the applicant indicate that 16 and 18 Walter Street will receive less solar access to their living rooms as a result of the proposal. The property at 16 Walter Street will receive 50% less sunlight to the main living area, equating to 2.25 hours compared to the previous 5 hours between 9:15-10:15am and 12:00-1:15pm.

This indicates a non-compliance with Council's DCP solar access provisions, and this can be address at the development application (DA) stage. Council has noted that the land to the south of Walter Street is currently zoned SP2 Infrastructure and solar access would be of minimal concern in any potential future development.

- Condition 1(f) – The project timeline required updating prior to public exhibition.

*Council's Response* – the project timeline was updated in accordingly.

## 9. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 14 May 2020 to 22 July 2020.

A total of 31 submissions were received from residents of the surrounding area in and from the Naremburn Progress Association.

Of the submissions, there was one letter of support, one of conditional support and the remaining 29 submissions did not support the planning proposal.

Council's detailed response to submissions is provided in **Attachment D**. The key issues raised in community submissions related to:

- overdevelopment, especially with the redevelopment of the former Chanel 9 site directly to the north;
- pedestrian and road user safety along Willoughby Road;
- traffic impacts and access to and from the site;
- cumulative impact on parking in local streets;
- impact on infrastructure such as public transport, schools and public open space;

- impact on the properties on the south side of Walter Street;
- damage of the rocky outcrop, energy efficiency issues and site contamination; and
- the importance of the site amalgamation and surrender of the approved childcare centre.

Council stated that no submissions were received relating to the Voluntary Planning Agreement (VPA) or the draft site-specific development control provisions.

#### Overdevelopment and strategic context

Submissions stated that the high-density development was out of character with the existing low to medium density development of the area and more suited to areas such as Chatswood. The development will have a negative impact on the low-rise properties to the south of Walter Street.

Concerns were raised with overdevelopment particularly in conjunction with the adjoining approved Channel 9 site bringing a total of approximately 715 additional units to the area bounded by Walter Street, Willoughby Road, Artarmon Road and Richmond Road.

#### *Council response*

Council states that the site is appropriately located for an increase in density as it is within walking distance to public transport links to major centres such as Chatswood, Bondi Junction, Kingsford and the Sydney CBD. The site is close to major roads such as the Gore Hill Freeway and significant public open spaces such as Bicentennial Reserve and Hallstrom Park containing children's playground, sporting facilities and walking and cycling trails. A local retail shopping area along Willoughby Road is an approximate five to ten-minute walk from the site.

Council states the proposed development will align to the future Channel 9 site and the existing Castle Vale development to the north and the character of the area will change to high density. The master plan and proposed controls will result in a stepping in building heights from eight to nine storeys in the north-west to four to five storeys along Willoughby Road. The proposal was amended to reduce the proposed building height at 462 Willoughby Road to four storeys with a 7.5m setback in keeping with the Castle Vale development's form and existing setbacks.

The south side of Walter Street is zoned SP2 Infrastructure (Classified road) and the existing single residential dwellings have been identified for future acquisition by TfNSW. Council states in its post-exhibition report that it is likely that these sites will be rezoned to a higher density or demolished for road infrastructure.

R4 High Density Residential development on the site at 1-31 Walter Street and 452-462 Willoughby Road will be required to comply with the requirements of the proposed site-specific DCP provisions as well as State Environmental Planning Policy (SEPP) 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide (ADG). A Design Excellence clause is proposed in the LEP amendment to require future development applications (DA's) to meet a high standard of urban design.

The Department considers that Council have responded adequately to this issue. This planning proposal was based on the Sydney North Planning Panel's advice of 10 October 2019 that Council submit a planning proposal for a master planned, amalgamated site for a better outcome for the site. The land on the south side of Walter Street is out of the scope of this planning proposal. Walter Street itself is identified for future acquisition by TfNSW and is also outside of the scope of the planning proposal.



### Traffic and parking impacts

Most submissions raised concerns relating the increase in traffic and parking. Comments related to Walter Street being one way in and out and the increase in traffic lights along Willoughby Road would lead to driver frustration. Parking was an issue particularly associated with employees from the existing Channel 9 site and the Willoughby Leisure Centre.

#### *Naremburn Progress Association comments*

The Naremburn Progress Association (NPA) objected due to the cumulative impact of traffic generation and the stress on public transport as a result of the planning proposal and the Channel 9 site.

On behalf of the proponent, MLA Transport Planning reviewed the comments submitted by the Naremburn Progress Association (NPA) and attached to Council's post-exhibition report **(Attachment D)**.

MLA Transport Planning stated that the traffic modelling was undertaken to assess the cumulative traffic impact generated by a planning proposal for up to 350 dwellings on the subject site plus 510 apartments on the Channel 9 site and a 255-place childcare centre with 35 staff.

In their report, MLA noted that the traffic generation without the childcare centre was substantially reduced. The childcare centre was expected to generate 174 vehicles per hour (vph). The original planning proposal for 350 dwellings would generate an estimated 67 vph. The revised planning proposal with 255 dwellings was estimated to generate 48 vph.

MLA stated in their response that the proponent for the Channel 9 site had recently submitted an application to modify the existing concept plan to incorporate the TX Australian site while maintain the 460 dwelling cap. The traffic assessment report for this application indicates that the generation would reduce to 149 vph. Comparison of the traffic generation as a result of the developments is in **Tables 2 and 3**.

#### *Council Response*

Council stated that after review of the submissions and the advice received from TfNSW and Council staff, it was considered that high density residential development can be supported on the site. This consideration was due to the site's proximity to local and strategic centres, public transport and public open space.

The proposed scale of the development is consistent with the proposed and existing development directly to the north. Council stated that the traffic generation of the consolidated proposal would be less than that of the exiting approvals in Walter Street for residential flat buildings and the childcare centre.

A comparison of the current and previous proposal for the Land and Environment Court (LEC) approved site for maximum capacity of 204 children and a maximum of 33 staff with 38 parking spaces at 1-1A Walter Street and 452-460 Willoughby Road is provided in **Table 2**.

A comparison of the generation of traffic from the previous and revised proposal is in **Table 3**.

**Table 2:** Comparison of current and previous proposals at 1-1A Walter Street and 452-460 Willoughby Road

Development	AM Peak	PM Peak
Current Proposal/Planning Proposal (67 units)	13 vph	10 vph
Previous Proposal/Current Approvals	179 vph	156 vph
Net Change	-166 vph	-146 vph

**Table 3:** Comparison of traffic generations (source: MLA Transport Planning - **Attachment E**)

Planning Proposal	Development Yield	AM Peak	PM Peak
<b>Original Proposal (R4 zone)</b>			
Subject site	350 dwellings	67 vph	53 vph
Channel 9 site	510 dwellings + 1,737m <sup>2</sup> of retail/commercial	171 vph	171 vph
Childcare centre	225 childcare places + 35 staff	174 vph	152 vph
<b>1. Total traffic generation</b>		<b>412 vph</b>	<b>376 vph</b>
<b>Revised Proposal (R4 zone)</b>			
Subject site	255 dwellings	48 vph	38 vph
Channel 9 site	460 dwellings + 1,350m <sup>2</sup> of retail/commercial	149 vph	149 vph
Childcare centre	-	0 vph	0 vph
<b>2. Total traffic generation</b>		<b>197 vph</b>	<b>187 vph</b>
<b>Net variance</b>		<b>215 vph</b>	<b>189 vph</b>
<b>Percentage variance</b>		<b>52%</b>	<b>50%</b>

After reviewing the report by Transport Planning Partnership (TPPP) (**Attachment H**), Council staff raised no objection. They noted that TfNSW advised in a letter dated 9 July 2020 (**Attachment L**) that due to the change in scale of the land use and the exclusion of the childcare centre, the installation of traffic signals at the intersection of Walter Street and Willoughby Road are no longer necessary.

TfNSW advised that a Traffic Management Plan (TMP) be prepared for review to identify if any mitigation measures should be provided at the development application stage. The traffic impact is discussed further in *section 8 Advise from public authorities* and in **Attachments H and L**.

Council stated that currently there was insufficient onsite parking associated with employees of the existing Channel 9 site. Future developments at the Channel 9 site in Artarmon Road and at 1-31 Walter Street and 452-462 Willoughby Road will provide onsite parking. Parking space numbers will comply with parking rates as outlined in Council's DCP for residential development on major transport routes.

The Department considers that Council has adequately responded to this issue.

#### Access to public transport

Submissions raised concerns about the access to public transport, capacity of the existing public transport and that the 1.2km walking distance to Artarmon station was not convenient.

#### *Council response*

Council stated that State Transit Authority (STA) and TfNSW would monitor the bus capacity at bus stops in the immediate vicinity of the site and extra or larger capacity would be provided. Council would liaise with STA on the progress of the development to monitor and adjust services as demand at this stage could not be predicted.

The Department considers that Council has adequately responded to this issue.

### Access to schools and open space

Submissions raised concerns that the increase in density will result in pressure on infrastructure, in particular schools and public open space.

#### *Council response*

Council stated that Artarmon Public School had recently been upgraded to provide for the existing and projected growth in the area. Willoughby Public School and Willoughby Girls High School are being upgraded. Additionally, a new school is planned as part of the St Leonards Crows Nest Planned Precinct.

Council acknowledges that further development will place pressure on schools in the local government area (LGA) and Council will continue to advocate for additional school facilities.

Council noted the comments on the impact on open space facilities as a result of the proposal. The planning proposal includes a voluntary planning agreement (VPA) which includes an offer of \$2,520,660 towards the upgrade of the leisure centre, Council works for active transport networks and other public purposes.

The Department considers that Council has adequately responded to this issue and that the planning proposal reasonably responds to the demand for additional infrastructure within the area.

### Environmental impacts

Submissions raised concerns with the loss of the rock outcrop on the site and the planning proposal was criticised for the lack of energy efficiency measures.

#### *Council response*

Council stated that a DA had been previously approved under the existing R3 Medium Density Residential zone in Walter Street which included the excavation. Due to the fall in the topography from the north-west corner to the south-east, excavation will also be required for future development facilitated by the new planning proposal.

It will be necessary for future DA's to address the geotechnical considerations on the site in accordance with the advice specified in previous geotechnical reports.

Council's recently adopted Building Sustainability (Clause 3) of the Willoughby DCP specifies that for major developments with an estimated cost of between \$5 and \$30 million should seek to achieve a minimum 4-star rating utilising the current relevant Green Star or corresponding rating. Developments with a cost of over \$30 million should seek to achieve a 4-star rating and aim for a 5-star rating.

The Department considers that Council has adequately responded to this issue. Any environmental matters including geotechnical risk or green star certification will be able to be adequately addressed during the detailed design stage through a future development application lodged with Council.

### Site amalgamation and surrender of the childcare centre approval

Submissions supported the consolidation of the triangular piece of land at 462 Willoughby Road which could be developed separately for medium density residential.

#### *Council response*

Council stated that the development of 462 Willoughby Road in isolation was not ideal in respect to safety and traffic flow along Willoughby road. The proposed amendments to Clause 6.10(g) of Willoughby LEP 2012 require minimum lots sizes to ensure development occurs as three consolidated sites:

- site 1: 1-13A Walter Street and 452-462 Willoughby Road (7,960m<sup>2</sup>);



- site 2: 15-27 Walter Street (4,696m<sup>2</sup>); and
- site 3: 29-31 Walter Street (1,640m<sup>2</sup>).

This orderly development will require vehicular access is from Walter Street as well as minimising driveways.

Council stated that the support of the planning proposal includes the requirement that the LEC approved DA for the childcare centre is relinquished.

A condition of approval of a future DA would be that the consolidation of the properties be registered with the Lands Titles Office.

The Department requested Council on 12 October 2020 to obtain written confirmation from the landowner of the surrender of the childcare centre at 1-1A Walter Street and 452-460 Willoughby Road, Willoughby.

In a letter dated 17 November 2020, Walter Projects Pty Ltd as the land owner of the seven lots at 1-1A Walter Street and 452-460 Willoughby Road, Willoughby, confirmed that the surrender of benefit on the consent orders made in the LEC on 23 January 2018 **(Attachment O)**.

The proposal, in its current form, is the result of the recommendations made on 6 June 2019 by the Sydney North Planning Panel.

## **10. ADVICE FROM PUBLIC AUTHORITIES**

In accordance with the Gateway determination, Council was required to consult with:

- NSW Department of Transport (TfNSW);
- Sydney Water; and
- Ausgrid

Council has consulted these authorities. Letters requesting comments on the planning proposal were sent to Ausgrid and Sydney Water. Neither agency provided a response.

### Transport for NSW

On 9 Jul 2020, in their response, TfNSW noted that the proposal differed from earlier proposals for the site referred to **(Attachment M)** them for comment in 2017.

There is a significant reduction in traffic generation compared with the previous proposal as the childcare centre is no longer included. TfNSW stated that as a result of this reduction, the need for traffic lights at the intersection of Willoughby Road and Walter Street is no longer required.

TfNSW is of the view that traffic can be managed by restricting right turn movements at peak times. This would require the preparation of a Traffic Management Plan (TMP) to assess any impact on the surrounding road network and the need for any mitigation measures. TfNSW advises that this can be addressed as part of a future development application.

### *Council Response*

After review of submissions, TfNSW and Council staff, Council has determined that the development can be supported. Council stated that the increase in density at the location was appropriate due to the site's proximity to local and strategic centres, public transport and public open space.

Council stated that the Sydney North Planning Panel recommended that the two previous planning proposals be combined as the traffic generation would be considerably less than what would occur as a result of the existing approvals.

The Department considers that Council has responded adequately to TfNSW submission and notes that all traffic impacts are manageable and can be resolved at the detailed design stage as part of any future development application. Discussion of the traffic impacts is also in **Section 7**.

## **11. POST-EXHIBITION CHANGES**

Council made changes to the land zone map post-exhibition. Walter Street itself was not to be rezoned as part of the planning proposal. This land was to remain R3 Medium Density Residential even though it was considered adjoining land. The R3 zone is to remain because it is identified in the Land Reservation Acquisition Map (LRA\_004) to be acquired for the possible expansion of the Gore Hill Freeway.

The mapping has now been resubmitted by Council to reflect the intent of the exhibited planning proposal (**Attachment A**) and PCO's draft LEP.

A number of planning proposals being submitted after the endorsement of the Chatswood CBD Planning and Urban Design Strategy 2056 by the Department.

As a result, the numbering of the proposed clauses under Part 6 Additional local provisions are out of order and require renumbering to what is stated in the planning proposal.

The planning proposal indicates that a new clause 6.24 Design excellence will apply to the site as 'Area 12'. In the final draft PCO may allocate the next vacant clause number being 6.23. Council has submitted amended mapping to address the clause realignment.

Council has also updated its mapping to maintain Walter Street as an R3 Medium Density zone. Whilst technically this is an error, Transport for NSW is intent on acquiring this land (in addition to the neighbouring properties on the southern side of Walter Street) for the purposes of infrastructure or rezoning to a higher density. Rezoning Walter Street to R4 High Density would impact Transport for NSW's acquisition costs for this land.

The plain English version of clause 6.8 required as a condition of the Gateway determination will be replaced by a draft clause for the consideration of Parliamentary Counsel.

## **12. ASSESSMENT**

The Department's assessment is that the proposal has merit and is supported to proceed as it will facilitate the provisions of 255 residential dwellings close to existing public transport, services, employment and public open space.

Issues raised during the exhibition of the proposal regarding traffic and transport, bulk and scale, infrastructure servicing and environmental issues are resolved or capable of being resolved at the development application stage in accordance with the proposal. These matters are not considered issues that would preclude its finalisation and the draft LEP is recommended to be made subject to Parliamentary Counsel's final opinion.

### **12.1 Section 9.1 Directions**

The planning proposal's consistency with the applicable Section 9.1 directions is outlined below.

#### **2.6 Remediation of Contaminated Land**

This Direction came into effect on 17 April 2020, after the Gateway was issued, with the objective to reduce the risk of harm to human health and the environment by ensuring contamination and remediation of the land is considered.

The planning proposal was accompanied by a Stage 1 contamination report, dated 24 September 2019, which found that the site can be remediated for the proposed zone. The report noted that the site was historically used for residential purposes except for 462

Willoughby Road in the north-east of the site which was part of a larger commercial property.

Due to the presence of buildings across most of the site, the investigations were limited. The Stage 1 contamination report recommended the preparation of a Stage 2 contamination report. Further assessment of the site will need to be set out in a remedial action plan (RAP) relating to the whole site following the demolition of the existing properties.

The Gateway determination was issued on 14 February 2020. The planning proposal was correctly assessed at the time against SEPP 55 – Remediation of Land. As such the proposal was technically inconsistent with Direction 2.6 as the planning authority must be satisfied that the land can and will be suitably remediated for the proposed land use.

A RAP was submitted to the Department on 24 November 2020, conducted by Trace Environmental, dated 11 December 2019 (**Attachment P**).

The report considers that following the successful implementation of a remediation and management strategy, the site can be made suitable for the proposed high-density land use including the three-level basement carpark and communal open space.

To demonstrate that the site is remediated to a condition suitable for the intended land use, a site validation report will be prepared detailing the methods and results of the remedial activities.

The planning proposal is consistent with this Direction and the Department is satisfied that the report demonstrates that the land can and will be suitably remediated for the proposed land use prior to any future development on the site.

### 3.1 Residential Zones

Under this Direction a planning proposal must broaden housing choice, make efficient use of existing infrastructure, reduce consumption of land for housing on the urban fringe and be a good design.

The planning proposal is supported by an urban design study (**Attachment G**) indicating that the proposal will provide a variety of choice of dwellings for existing and future housing needs. The planning proposal also proposes the inclusion of affordable housing via a special provision for the site.

The planning proposal is consistent with this Direction as it will broaden the housing choice and increase the supply in an established urban location close to existing infrastructure, transport and facilities.

### 3.4 Integrating Land Use and Transport

Under this Direction a planning proposal must consider state government guides on improving transport choice and appropriately locating businesses and services.

The planning proposal is consistent with this Direction as it provides residential housing within walking distance of jobs, services and exiting public transport.

### 4.1 Acid Sulfate Soils

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

The site is identified as being subject to Class 5 acid sulfate soils. Based on the Willoughby LEP 2012 Acid Sulfate Soils Map (ASS\_004), the site is not adjacent or within 500m of a

Class 1, 2, 3 or 4 acid sulfate soil. The RAP (**Attachment P**), dated December 2019, undertaken by Trace Environmental confirmed this.

Therefore, an acid sulfate soils management plan is not required.

### 6.3 Site Specific Provisions

The objective of this direction is to discourage site restrictive site-specific planning controls.

While it is recognised that some site-specific provisions are intended to be included within the draft LEP, including the requirement for a specific minimum lot size, Council considered this necessary to achieve the proposed development outcome on site to ensure the sites are appropriately amalgamated. This is intended to reduce the impact of the development on the surrounding area in regard to traffic impact and to ensure that the site is developed as a master planned site, rather than individual residential flat buildings.

Additionally, site-specific provisions will be within a site-specific DCP and will not prevent development of the site.

The Department therefore considers that the proposal is consistent with this direction.

### **12.2 State environmental planning policies (SEPPs)**

The relevant SEPPs were assessed as part of the Gateway determination. The consistency of the proposal with SEPP 65 – Quality of Residential Apartment Development and SEPP (infrastructure) 2007 can be further assessed as part of a future DA. The consistency of the planning proposal with the relevant SEPPs is outlined in **Table 4**.

**Table 4:** Consistency of the planning proposal with the relevant SEPPS

SEPP	Requirement	Proposal	Compliance
SEPP 65 – Quality of Residential Apartment Development	This SEPP and the Apartment Design Guide (ADG) seeks to improve the residential living environment across NSW by providing a consistent approach to the design and assessment of residential apartment buildings.	<p>The proposal is supported by an Urban Design Report (<b>Attachment G</b>) which investigated the design quality in the SEPP and provided an indicative compliance against the provisions of the ADG.</p> <p>The area is to be identified as 'Area 12' in the Special Provisions Map and Clause 6.24 in the Willoughby LEP 2012 so that development is subject to Council's Design Excellence Policy.</p> <p>Future development on the site will need to demonstrate compliance with the SEPP, the ADG and the policy. This can be addressed in the DA stage.</p>	Despite overshadowing being shown to one of the properties this is a matter that can be addressed at the DA stage through amendments to the concept design.
SEPP (Affordable Rental Housing) 2009	This SEPP encourages the development of affordable housing	<p>The site is to be identified as 'Area 9' requiring the floor space ratio includes 4% affordable housing to be delivered within the proposed maximum FSR.</p> <p>The proposal will provide a variety of housing to meet the needs of the community and the objectives of this SEPP.</p>	Yes



SEPP	Requirement	Proposal	Compliance
SEPP (Infrastructure) 2007	The aim of this policy is to facilitate the delivery of infrastructure across NSW	<p>The planning proposal states that it is consistent with this SEPP as it is located close to public transport. Council and TfNSW will monitor the public bus service for capacity and Council state they will advocate for increased services.</p> <p>The site is adjacent to land zoned as SP2 Infrastructure (Classified Road) and access is proposed via the local Walter Street.</p> <p>An acoustic assessment dated 13 September 2019 was undertaken by Vipac Engineers and Scientists (<b>Attachment L</b>). The report stated that the multi-residential development was anticipated to comply with the internal noise levels criteria. This can be addressed further once detailed design drawings are finalised.</p>	Adequate for planning proposal. Would be resolved at the detailed design stage as part of any future development application.

### 12.3 Greater Sydney Region Plan

The Greater Sydney Commission's (GSC) Greater Sydney Region Plan – A Metropolis of Three Cities was released in March 2018 and provides a vision for the growth and development of Greater Sydney by instilling the idea of the 30 minute city where people live no further than 30 minutes from their jobs, education, health facilities, services and great places.

Chatswood is located within the Eastern Economic Corridor of the Eastern Harbour City and is identified as a strategic centre being a major commercial precinct.

The Greater Sydney Region Plan establishes a series of directions to ensure planning proposals are consistent with the intended vision of Sydney. Directions relevant to this planning proposal are included in **Table 5**.

**Table 5:** Consistency of planning proposal with Greater Sydney Region Plan Directions.

Region Plan Direction	Consistency
<i>A City for People</i>	The planning proposal would seek to enable redevelopment of and existing low-density residential dwellings including the surrounding public domain. This will provide an increased residential housing choice to meet people's changing needs, including affordable in a location close to existing public transport, services and open space.
<i>A City of Great Places</i>	The planning proposal would seek to enable the amalgamation of twenty-two sites. The public domain will be improved with landscaping and increased connectivity to transport and public open space.
<i>A Well-Connected City</i>	The proposal is close to the Willoughby Road bus transit and 1.3kms from Artarmon train station. In addition, the upgraded public domain, including pedestrian footpaths will create a safe environ for active transport and direct routes to local destinations services and public open space.

<i>A City in its Landscape</i>	<p>The planning proposal seeks to enhance the quality of landscaping to improve the existing interface between the subject site and enhance the connectivity to public open space.</p> <p>There is an opportunity to link neighbouring green spaces including Bicentennial Reserve and Walter Street Reserve.</p>
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## 12.4 District plans

### The North District Plan

The North District Plan was released on 18 March 2018. This plan contains planning priorities and actions to guide the growth of the North District while improving the district's social, economic and environmental assets.

The North District Plan encompasses the Willoughby LGA and gives effect to the Greater Sydney Region Plan – A Metropolis of Three Cities at a district level.

The planning proposal is generally consistent with the North District Plan and will give effect to the planning priorities as outlined in **Table 6**.

**Table 6:** Consistency of the planning proposal against the North District Plan

<b>Planning Priority</b>	<b>Response</b>
<i>Planning Priority N1 – Planning for a city supported by infrastructure</i>	The proposal is consistent with this priority as growth is aligned with the capacity of the existing infrastructure. The proposal maximises the linkages for active transport reducing the demand for new infrastructure.
<i>Planning Priority N3 – Providing services and social infrastructure to meet peoples changing needs</i>	The proposal provides improved connections between existing infrastructure and facilities.
<i>Planning Priority N4 – Fostering healthy, creative, culturally rich and socially connected communities</i>	The proposal will prioritise an active lifestyle by providing a connection to a walkway with opportunities for improved cycling and walking to public transport.
<i>Planning Priority N5 – Providing housing supply, choice and affordability, with access to jobs, services and public transport</i>	<p>Redevelopment of the site will facilitate a range of dwelling sizes. There is a requirement for 4% of the gross floor area (GFA) in the development to be provided as affordability housing.</p> <p>The site is well located with pedestrian and cycling access to existing jobs, services and public transport. The site is within walking distance of bus services and Artarmon train station.</p>
<i>Planning Priority N6 - Creating and renewing great places and local centres, and respecting the District's heritage</i>	The proposal will provide additional high-density housing with adequate infrastructure within walking distance from exiting centres.
<i>Planning Priority N10: Delivering integrated land use and transport planning and a 30-minute city</i>	The proposal will provide a range of housing and affordability close to the Willoughby Road bus transit and 1.3kms from Artarmon train station. In addition, it will create a safe environ. for active transport and direct routes to local destinations and services.
<i>Planning Priority N17: Increasing urban tree canopy cover and delivering Green Grid connections</i>	Single dwelling uses on the site contain high proportions of hard surface areas with low levels tree canopy. The proposal will increase open space, green connections and tree canopy. The Sydney Green Grid linking spaces will be enhanced with the proposed walkway and cycle way.
<i>Planning Priority N18: Delivering high quality open space</i>	This proposal improves open space establishing physical links to support social networks and a sense of community.

## 12.5 Local plans

### Our Future Willoughby 2028

The planning proposal is consistent with this local plan as it will provide residential dwellings including additional affordable housing close to existing services, infrastructure and public open space. It will provide opportunities for active transport with cycling and walking connections to facilities and public transport.

### Local Strategic Planning Statement

The Local Strategic Planning Statement (LSPS) brings together and builds on community feedback concerning the Local Centres and Housing Strategies and Chatswood CBD Planning and Urban Design Strategy. It guides the quantity, location and type of future residential development within Willoughby City. It plans for an increase of approximately 6,700 dwellings between 2016-2036 (an average of 335 per year).

Key points in the LSPS are to:

- increase housing diversity to cater to families, the aging population, diverse household types and key workers;
- increasing the supply of affordable housing; and
- enhancing walking and cycling connections, Willoughby's urban areas, local centres and landscape features

The planning proposal is consistent with this strategy as it will provide approximately 255 additional residential dwellings, increasing the diversity of housing types in an area close to existing jobs, infrastructure and services.

The planning proposal will comprise of an affordable housing component of 4% of GFA supporting key workers at the nearby Royal North Shore Hospital, Artarmon and North Willoughby industrial areas and other retail and hospitality sectors.

The proposal will increase open space, green connections and the tree canopy. The Sydney Green Grid linking spaces will be enhanced with the proposed walkway and cycle way providing and promoting active transport connections to jobs, services, public open space and public transport.

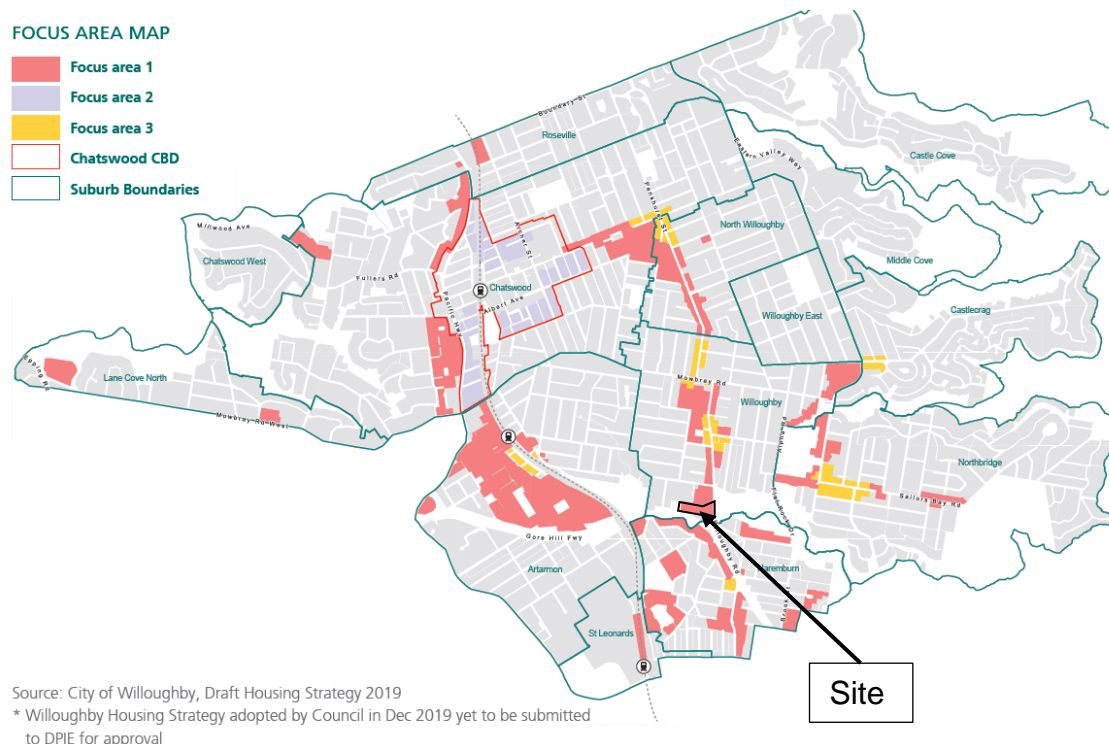
### Willoughby Housing Strategy

The Willoughby Local Housing Strategy LHS was endorsed by Council 9 December 2019.

Willoughby Local Housing Strategy is a 20-year plan guiding the future for housing in Willoughby City. The area is identified in the Strategy as 'Focus area 1' (**Figure 18**) where there is existing R3 Medium Density Residential zones and R4 High Density Residential zones that have not been developed to their full potential.

The planning proposal is consistent with this strategy as it will provide approximately 255 additional residential dwellings in an area close to existing jobs, infrastructure and services on land that is not fully utilised.





**Figure 18:** Draft Housing Strategy identifies three focus areas for new housing in the LGA (Source: Council, overlay by DPIE)

### 13. MAPPING

There are four maps amendments associated with the draft LEP (**Attachment Maps**):

- amend the Land Zoning map (sheet LZN\_004) for 1-31 from R3 Medium Density Residential to R4 High Density Residential;
- amend the Height of Buildings map (sheet HOB\_004) to:
  - 17m for 1-1A Walter Street and 452-462 Willoughby Road;
  - 24m for 3-13A Walter Street; and
  - 27m for 15-31 Walter Street;
- amend the Floor Space Ratio map (sheet FSR\_004) from 0.9:1 to 1.5:1 (including affordable housing); and
- amend the Special Provisions Area Map (sheet SPA\_004) to show 1-31 Walter Street and 452-462 Willoughby Road to:
  - remove the identification of the site as 'Area 3';
  - add the site as 'Area 9' requiring that a floor space ratio includes 4% affordable housing; and
  - add the site as 'Area 12' to identify the area as subject to Council's Design Excellence Policy.

The maps and map cover sheet have been checked by the Department's ePlanning Team and sent to Parliamentary Counsel.

### 14. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment Q**). Council confirmed on 29 January 2021 that it was happy with the draft and that the plan should be made (**Attachment Q**).

## 15. PARLIAMENTARY COUNSEL OPINION

On 4 February 2021 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

## 16. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- the proposal will not result in significant traffic impacts and is in an area that is close to existing services, infrastructure, jobs and public open space;
- it is consistent with all relevant 9.1 Directions and SEPPs;
- it is consistent with and gives effect to the North District Plan and Greater Sydney Region Plan;
- it is consistent with Council's now endorsed LSPS and finalised LHS;
- it is consistent with the Council's local community plan 'Our Willoughby 2028'; and
- all community concerns have been adequately addressed and there are no outstanding or unresolved issues raised in agency submissions.



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