



IRF22/1790

Gateway determination report – PP-2021-2784

92-96 Victoria Avenue, North Willoughby

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Planning proposal.....	3
1.1	Overview.....	3
1.2	Objectives of planning proposal	3
1.3	Explanation of provisions	4
1.4	Site description and surrounding area.....	5
1.5	Mapping.....	8
2	Need for the planning proposal	11
3	Strategic assessment	12
3.1	Greater Sydney Region Plan	12
3.2	North District Plan	12
3.3	Local.....	13
3.3.1	Willoughby Local Strategic Planning Statement (LSPS).....	13
3.3.2	Willoughby Local Housing Strategy 2036 (LHS).....	14
3.3.3	Our Future Willoughby 2028 Community Strategic Plan	14
3.3.4	Willoughby Local Centres Strategy 2036 (LCS)	15
3.4	Local planning panel (LPP) recommendation.....	16
3.5	Section 9.1 Ministerial Directions	17
3.6	State environmental planning policies (SEPPs)	19
4	Site-specific assessment	21
4.1	Environmental.....	21
4.1.1	Traffic and Transport Impact	21
4.1.2	Heritage Impact	22
4.1.3	Overshadowing Impact	22
4.1.4	Built Form and Concept Design	23
4.1.5	Tree Assessment.....	25
4.1.6	Contamination Impact.....	26
4.2	Social and economic.....	26
4.3	Infrastructure	26
5	Consultation.....	27
5.1	Community	27
5.2	Agencies.....	27
6	Timeframe	27

7	Local plan-making authority	27
8	Assessment summary	28
9	Recommendation	28

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment A1 - Planning Proposal - Final
Attachment A2 - Urban Design Report
Attachment A3 - Site Specific DCP - updated
Attachment A4 - Draft VPA 92-96 Victoria Ave Chatswood
Attachment A5 - Traffic & Transport Study - 92-96 Victoria Ave Chatswood
Attachment A6 - Tree Assessment - 92-96 Victoria Ave, Chatswood
Attachment A7 - SEPP 65 Design Report
Attachment A8 - Consent Letter - 92-96 Victoria Ave Chatswood
Attachment A9 – A11 - Response to Pre-Lodgement Meeting and Response to Issues
Attachment A12 - Response to Local Planning Panel
Attachment B – Willoughby Local Planning Panel - Record of Advice
Attachment C1 - Detailed Assessment 92-96 Victoria Avenue
Attachment C2 - Council Assessment of Department Guidelines updated 10 May 2022
Attachment C3 - Council report 28 March 2022
Attachment C4 - Council resolution 28 March 2022
Attachment C5 - LEP Amendments - PP-2021-2784

92-96 Victoria Avenue, North Willoughby

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Willoughby
PPA	Willoughby City Council
NAME	92-96 Victoria Avenue, North Willoughby (22 dwellings, 0 jobs)
NUMBER	PP-2021-2784
LEP TO BE AMENDED	Willoughby Local Environmental Plan 2012
ADDRESS	92-96 Victoria Avenue, Chatswood
DESCRIPTION	Lots 5, 6, 7 in DP 809
RECEIVED	20/05/2022
FILE NO.	IRF22/1790
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal (**Attachment A**) has been prepared by SJB Planning on behalf of Tai Family Holdings Pty Ltd and seeks to amend the Willoughby LEP 2012 to facilitate the development of townhouses at 92-96 Victoria Avenue, North Willoughby (**Attachment D**).

The intended outcome of this planning proposal is to enable the amalgamation and redevelopment of 3 residential lots, with an approximate area of 2,500m², to accommodate 22 multi-unit dwellings up to 3 storeys in height, with basement parking and 143m² of communal open space.

The objectives of the planning proposal are to:

- provide orderly development for multi dwelling housing that responds to the adjacent land uses;
- facilitate development that will provide a diversity of housing choices close to existing public transport and services;
- provide an appropriate built form transition from North Willoughby Local Centre to the surrounding low density residential area;

- improve housing affordability by providing increased housing on a lot while providing the amenities associated with single dwellings including ground level open space;
- facilitate upgrades to the public domain by improving pedestrian access and connectivity to the adjoining North Willoughby Local Centre; and
- provide development that is consistent with State policy and local strategic plans to increase density close to centres and within walking distance of existing infrastructure such as public transport.

The objectives of this planning proposal are clear and adequate.

Council states in their Detailed Assessment (**Attachment C1**) that the minimum lot size increase to 2,500m² will restrict future subdivision, fragmentation and site isolation and ensure that the site is used for multi-dwelling housing.

The planning proposal was accompanied by an Urban Design Report (**Attachment A2**), Site Specific Development Control Plan (DCP) (**Attachment A3**) to guide development on the site, a Voluntary Planning Agreement (VPA) (**Attachment A4**) for a monetary contribution to Council, a Traffic and Transport Study (**Attachment A5**) and a Tree Assessment (**Attachment A6**).

1.3 Explanation of provisions

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved and seeks to amend the Willoughby LEP 2012 as outlined in **Table 3**.

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	R2 Low Density Residential	R2 Low Density Residential
Maximum height of the building	8.5m	10m
Floor space ratio	0.4:1	1:1
Minimum lot size	550m ²	N/A Council resolution proposes to apply Special Provisions clause 6.10 Minimum lot sizes for certain residential accommodation and will require a minimum lot size of 2,500m ² for multi-dwelling housing.
Schedule 1 Additional permitted uses	N/A	Permit multi-dwelling housing with consent
Special provisions	N/A	Clause 6.8 Affordable housing 'Area 9' Clause 6.10 Minimum lot sizes for certain residential accommodation 'Area 15' (to require a minimum lot size of 2,500m ² for multi-dwelling housing)

Clause 4.3A Exceptions to height of buildings	N/A	Permit a maximum height of buildings to 10m 'Area 4'
Clause 4.4A Exceptions to floor space ratio	N/A	Permit a maximum FSR of buildings to 1:1 'Area 21'
Number of dwellings	3	22
Number of jobs	N/A	N/A

1.4 Site description and surrounding area

The site is a rectangular shaped block known as 92-96 Victoria Avenue, North Willoughby and is approximately 9kms north of the Sydney CBD and 1.5kms east of the Chatswood Interchange. It consists of 3 residential lots with a total area of approximately 2,500m² and legally known as Lots 5, 6 and 7 in DP 809. It has a main street frontage to the north to Victoria Avenue with George Brain Lane forming the west and south boundaries (**Figures 1 to 5**). The site is currently zoned R2 Low Density Residential.

To the north, across Victoria Avenue are residential dwellings and a church zoned R2 Low Density able to achieve a maximum height of buildings of 8.5m. Part of the North Willoughby (also known as East Chatswood) Local Centre (**Figure 2**) is also to the northwest, zoned B2 Local Centre containing 2 to 4 storey commercial and mixed use buildings able to achieve a maximum height of 14m and on the corner of Victoria Street and Penshurst Street a maximum height of 15m.

To the north-east, beyond the low density residential area is the East Chatswood industrial area.

To the east, adjacent to the site is 'The Mews', a low rise retirement facility for seniors, zoned R2 Low Density Residential able to achieve a maximum height of buildings of 8.5m.

To the south across George Brain Lane are the garages and rear entrances to residential dwellings facing MacMahon Street also zoned R2 Low Density Residential.

To the west across George Brain Lane are the garages, small parking areas and rear entrances to the retail and commercial area known as the North Willoughby Local Centre facing Penshurst Street. This area is zoned B2 Local Centre. Beyond the Local Centre to the west is zoned R3 Medium Density.

The site sits adjacent to the North Willoughby Local Centre, identified in the Local Centres Strategy (LCS) which outlines recommendations for increased building heights and FSR in the B2 Local Centre (**Figure 2**). The LCS is discussed further in section 3.3.

The site does not contain any heritage items and is not within a heritage conservation area (HCA). It is in the vicinity of several local heritage items (**Figure 11**) such as:

- the Willoughby Hotel, 315 Penshurst Street, North Willoughby (item 223) to the south-west;
- residential dwellings at 66 Victoria Avenue, North Willoughby (item 131) and 247 High Street, North Willoughby (item 204) to the east; and
- the Harwood Avenue HCA (C5) to the north.

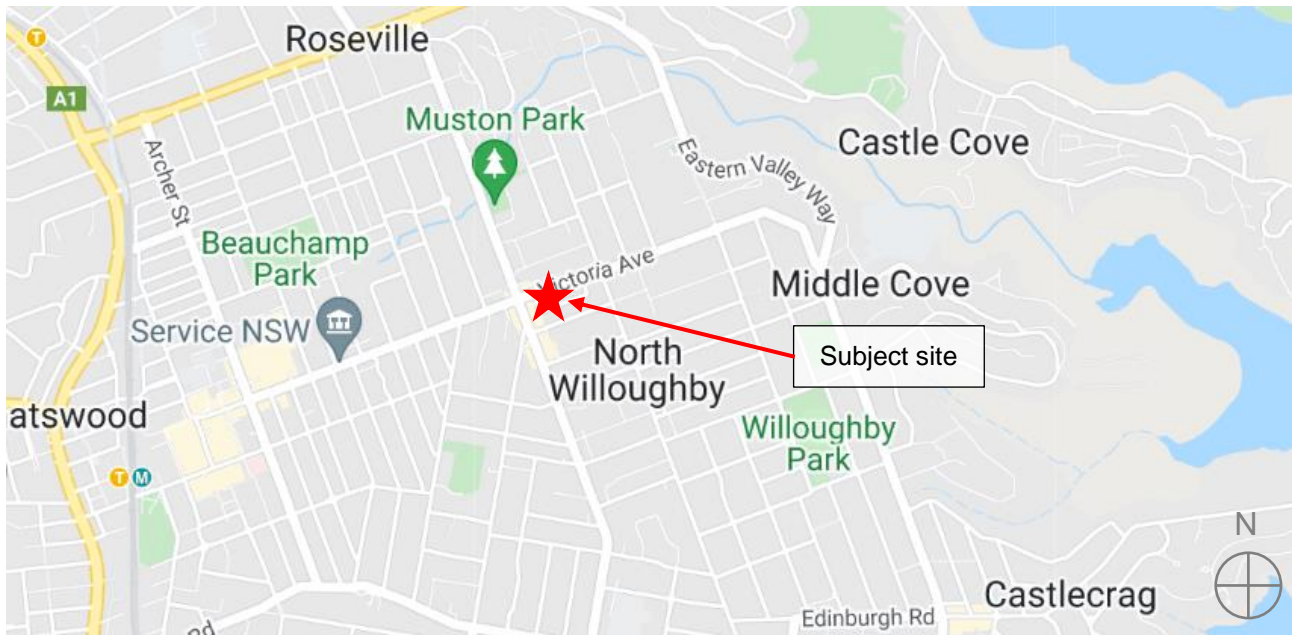


Figure 1: Locality map (source: Nearmap, overlay by the Department)

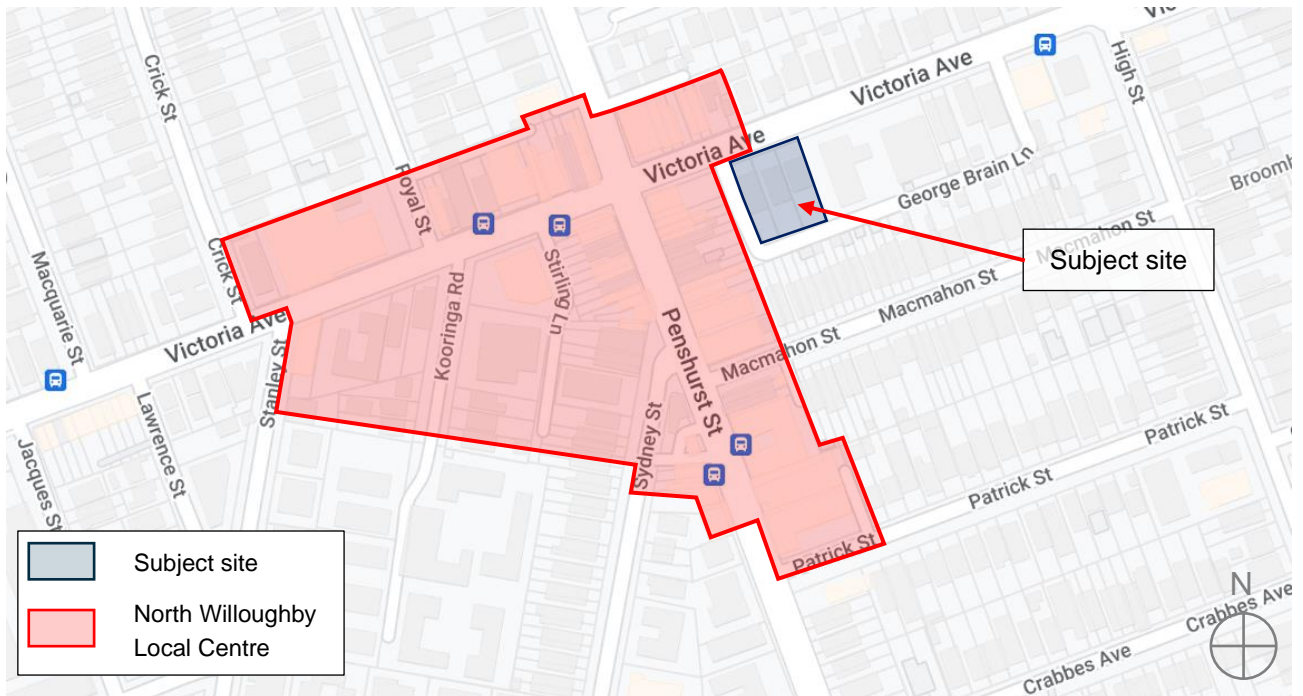


Figure 2: Locality to the North Willoughby Local Centre (source: Nearmap, overlay by the Department)

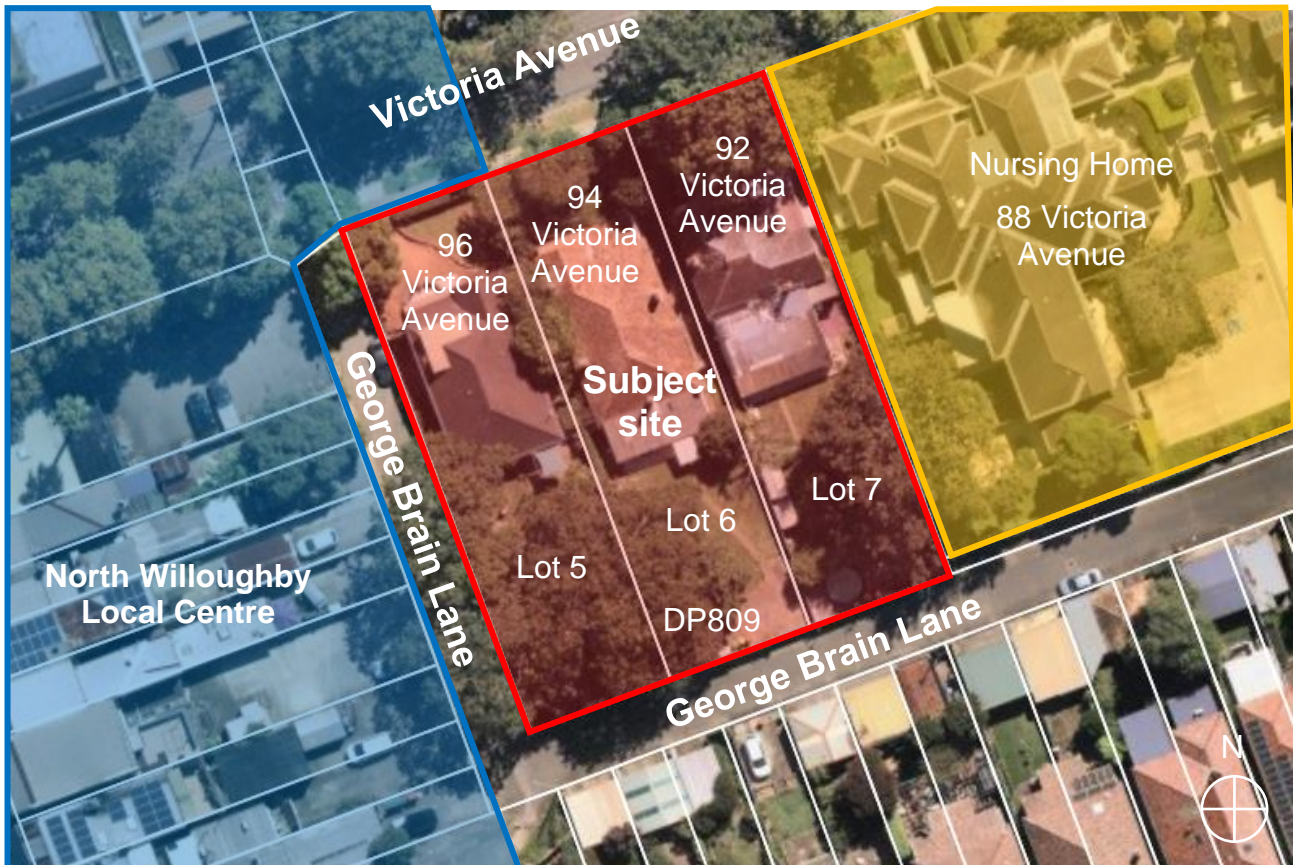


Figure 3: Site map (source: Nearmaps, overlay by the Department)

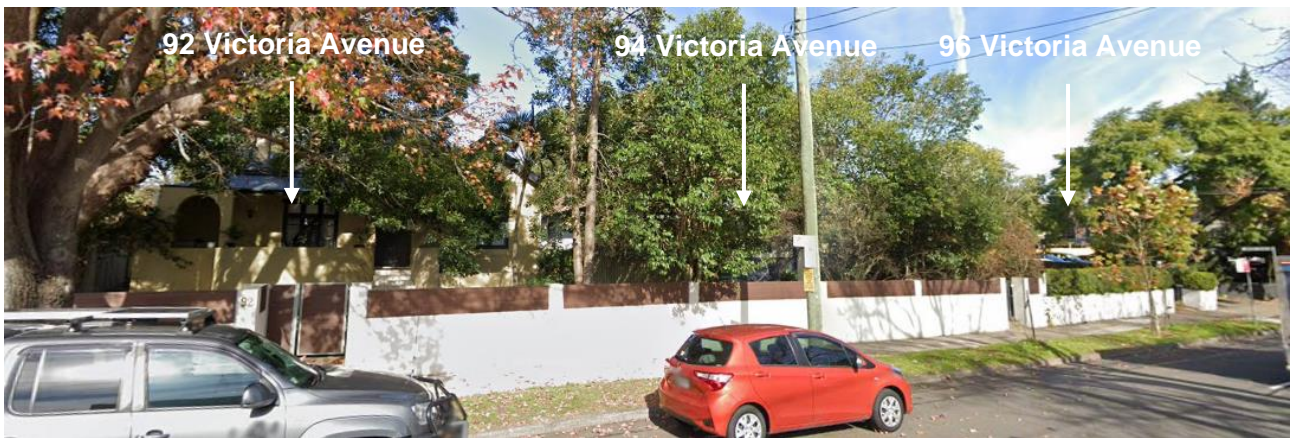


Figure 4: View of the site from Victoria Avenue looking south-west (source: Google Maps, overlay by the Department)



Figure 5: View of 96 Victoria Avenue looking south (source: Google Maps)



Figure 6: View of 96 Victoria Avenue from George Brain Lane looking north (source: Google Maps)

1.5 Mapping

The planning proposal includes the existing maps that apply to the site. Mapping showing the proposed changes to the Willoughby LEP maps have not been included in the planning proposal.

It should be noted that the Willoughby LGA transitioned to digital mapping. This replaced all hardcopy PDFs with all maps now available on the NSW Planning Portal and any pending amendments available on the NSW Spatial Viewer.

The proposed mapping will need to be included in the planning proposal and be made available for viewing on the NSW Spatial Viewer for public exhibition. This will be included as a condition of the Gateway determination.

Under the Willoughby LEP 2012 the site is subject to the following planning provisions:

- R2 Low Density Residential (**Figure 7**);
- maximum HOB of 8.5m (**Figure 8**);
- maximum FSR of 0:4 (**Figure 9**); and
- minimum Lot Size of 550m² (**Figure 10**).

The planning proposal and Council's detailed assessment and resolution documents (**Attachment C**) of 28 March 2022 indicate that the site will be subject to the following amendments:

- clause 4.3A Exceptions to height of buildings to not exceed 10m for multi-dwelling housing on the site identified as 'Area 4' on the HOB Map;
- clause 4.4A Exceptions to floor space ratio to not exceed 1:1 for multi-dwelling housing on the site identified as 'Area 21' on the FSR Map;
- clause 6.10 Minimum lot sizes for certain residential accommodation to grant development for the purposes of multi-dwelling housing identified as 'Area 15' on the Special Provisions Area Map to require a minimum lot size of 2,500m²;
- HOB Map to indicate a maximum HOB of 10m and identify the site as 'Area 4';
- FSR Map to indicate a maximum FSR of 1:1 and identify the site as 'Area 21';
- Lot Size Map to remove the current lot size control of 550m² for each lot;
- Special Provisions Area Map to apply:
 - clause 6.8 Affordable housing and identify the site as 'Area 9';
 - clause 6.10 Minimum lot sizes and identify the site as 'Area 15'; and
- Schedule 1 Additional permitted uses to allow multi-dwelling housing on the amalgamated site with consent.

The planning proposal states that development on the site will be subject to clause 6.23 Design excellence at certain sites at Willoughby and identify as in 'Area 12'. This Policy is a Council requirement for new development in the Chatswood CBD. Council may determine that the Design Excellence Guidelines require to be applied to other new development not within the Chatswood CBD.

For the subject site, Council will not require the application of clause 6.23 but will require certain design criteria in a site specific DCP. It is recommended that reference to clause 6.23 be removed from the Planning proposal, as this clause does not apply to development under 12m.

Table 3 summarises the current and proposed changes to the Willoughby LEP 2012.

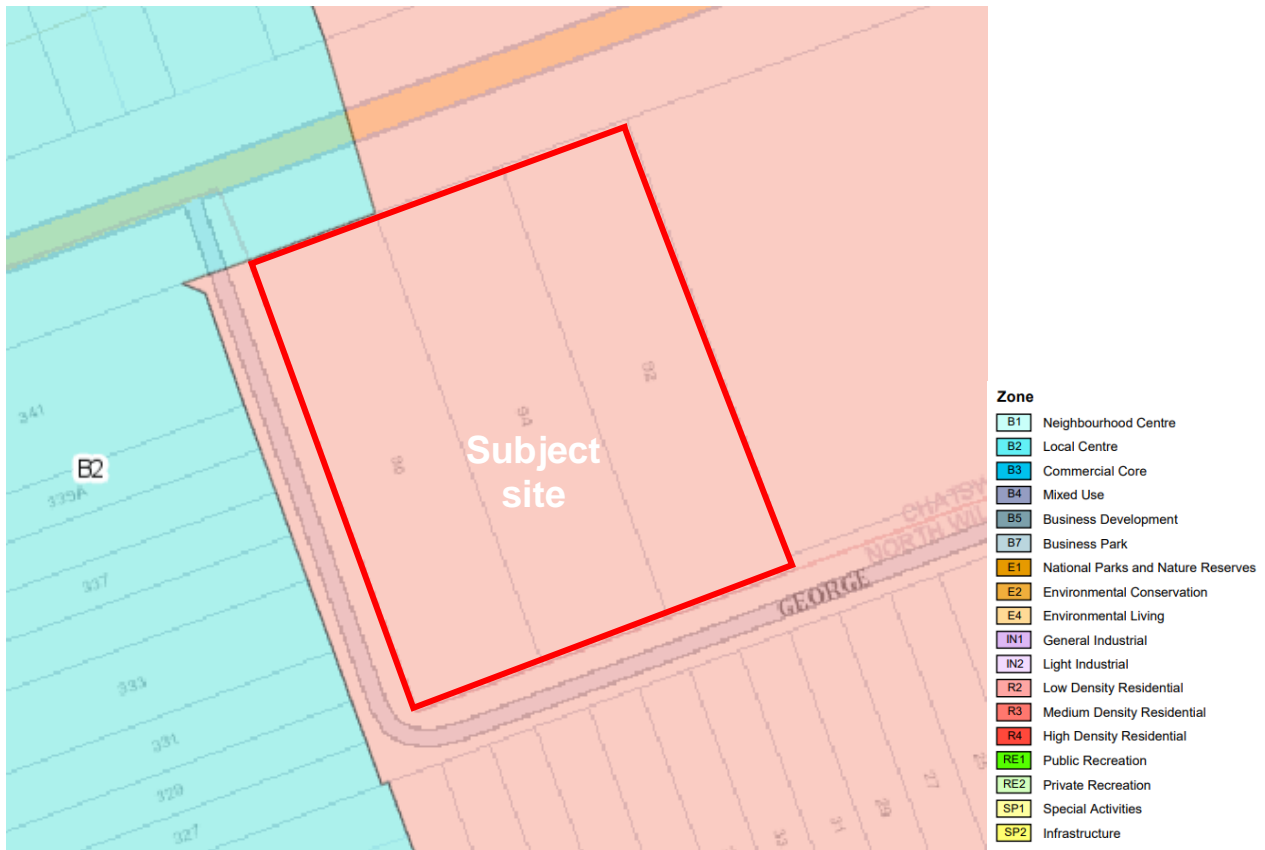


Figure 7: Current Land Zoning Map – no change is proposed to the zone (source: NSW Spatial Viewer)

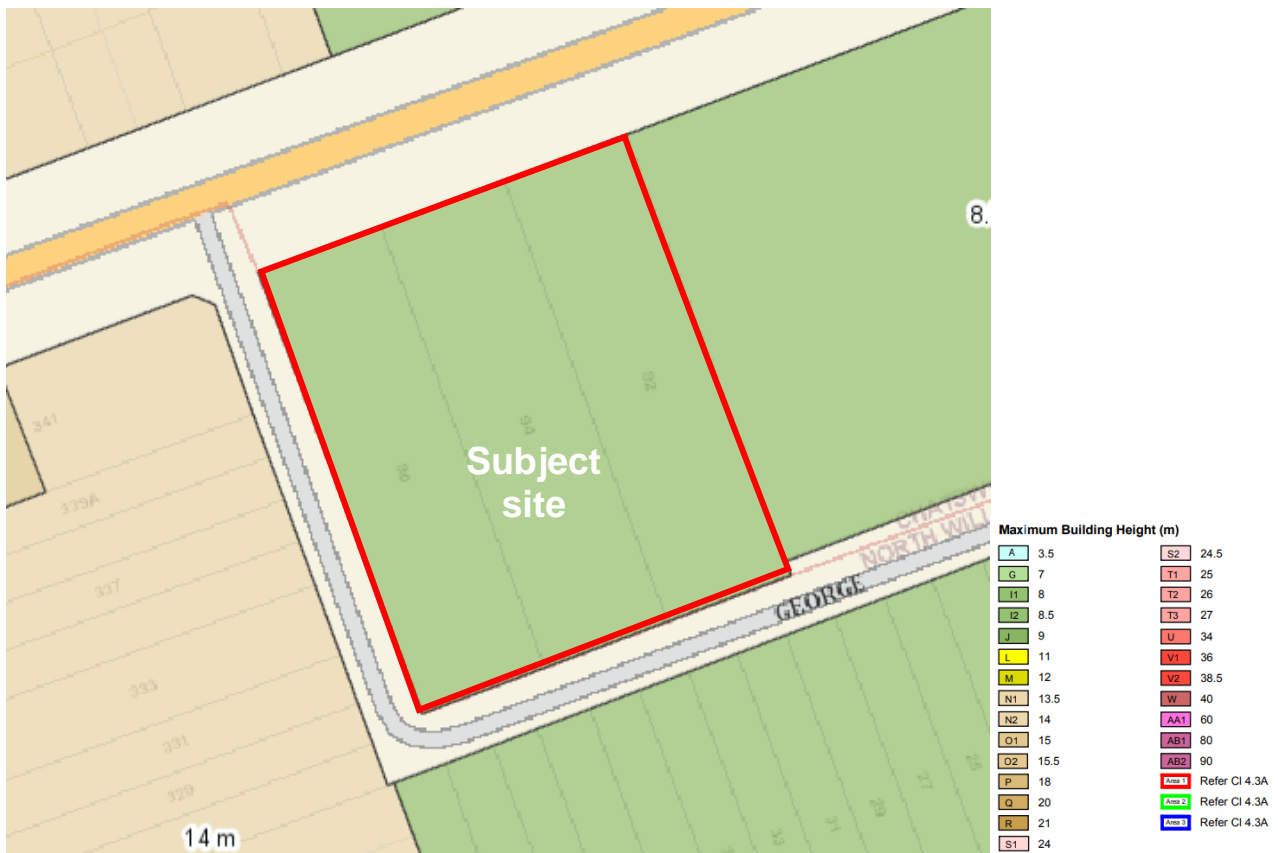


Figure 8: Current Height of Buildings map indicating a maximum height of 8.5m (source: NSW Spatial Viewer)

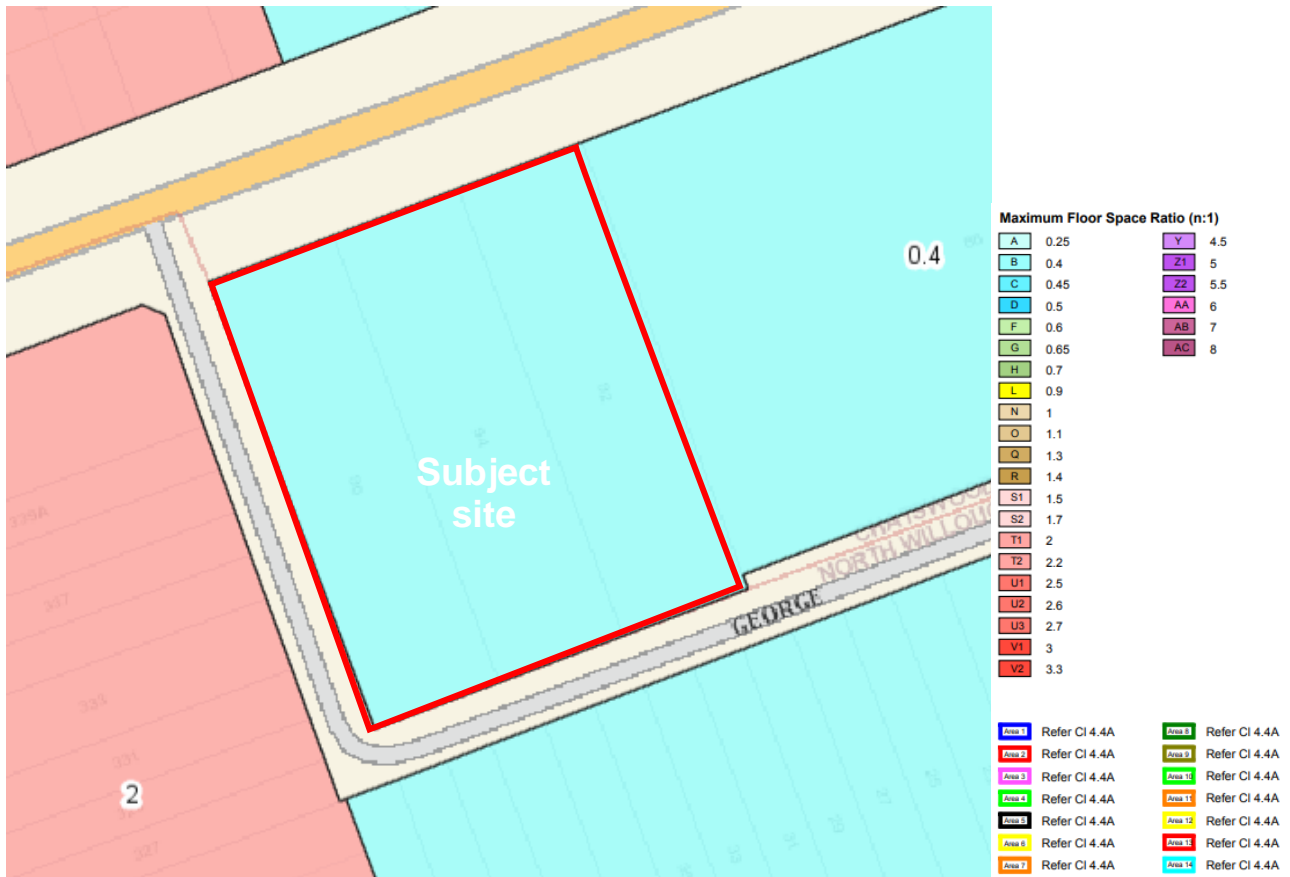


Figure 9: Current Floor Space Ratio map indicating a maximum FSR of 0.4 (source: NSW Spatial Viewer)

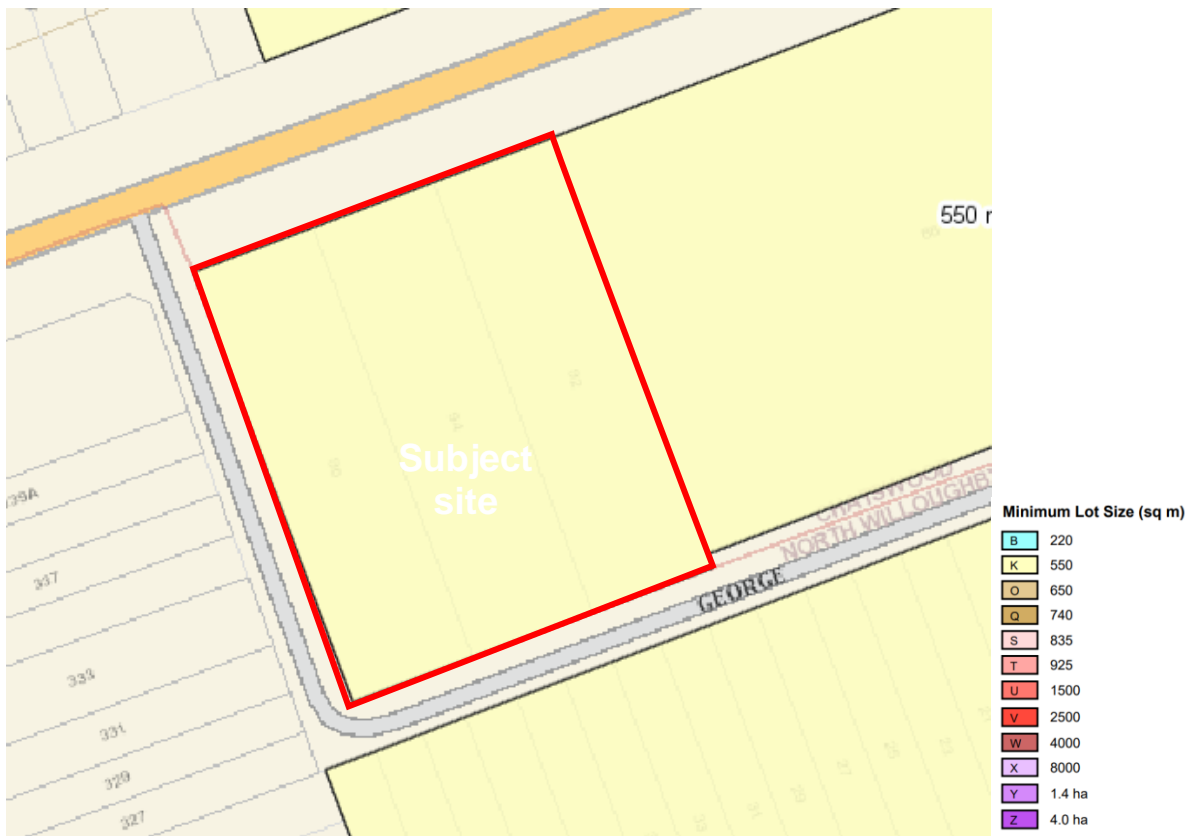


Figure 10: Current Lot Size map indicating a minimum lot size of 550m² (source: NSW Spatial Viewer)

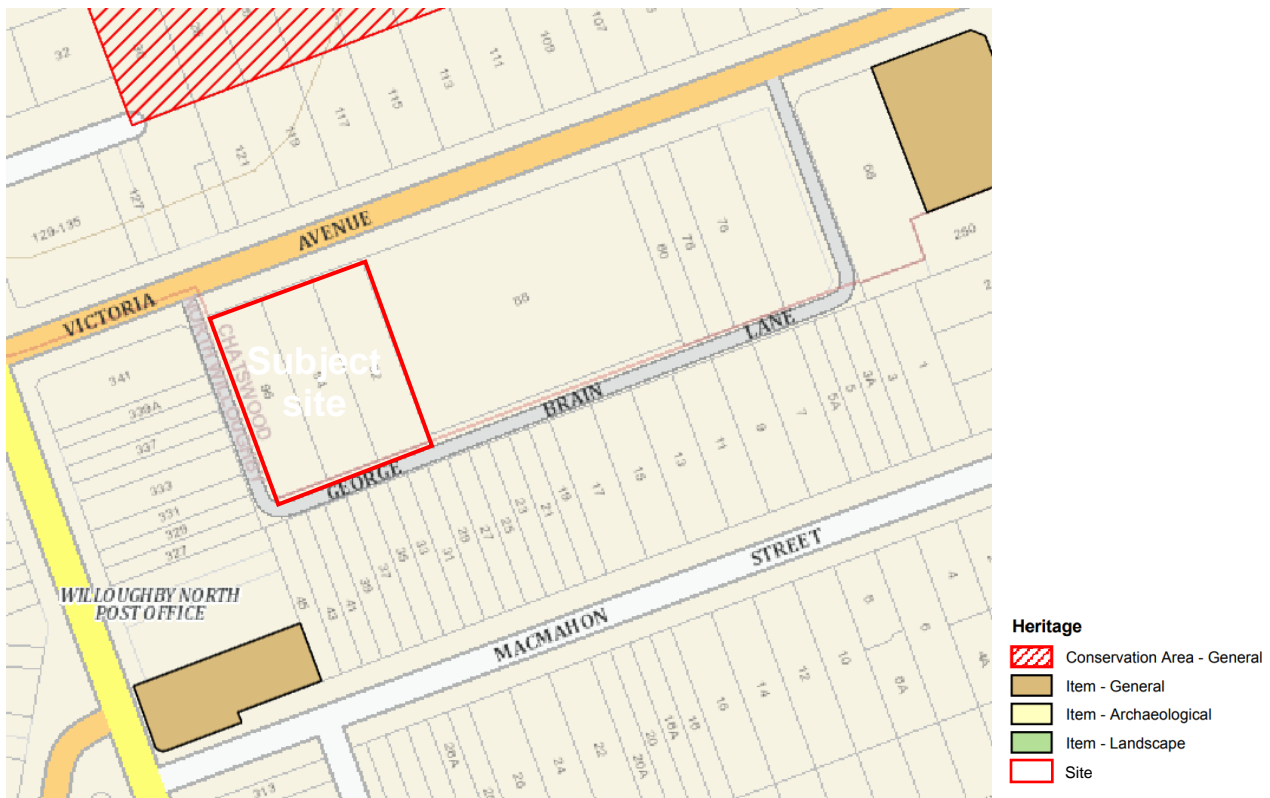


Figure 11: Current Heritage map (source: NSW Spatial Viewer)

2 Need for the planning proposal

The site is not within an area that is the result of a strategic study or report. However, it is adjacent to the Willoughby North Local Centre (**Figure 2**) that is included in the Council endorsed Willoughby Local Centres Strategy (LCS) (**Attachment D**).

The planning proposal outlines alternative mechanisms considered that could facilitate the objectives and intended outcomes:

- a do-nothing approach which would not result in the highest and best use of the subject site;
- development under the current controls would not permit multi-dwelling housing or capitalise on a large, amalgamated site adjacent to the North Willoughby Centre;
- rezone the site to R3 Medium Density Residential with a corresponding increase to the HOB and FSR – this approach although allowing multi-dwelling housing as a permitted use, would not provide a desirable interface to George Brain Lane and the surrounding R2 Low Density Residential zone;
- the use of clause 4.6 variations in the LEP would set an undesirable precedent and potential to undermine the LEP HOB and FSR standards.

The planning proposal is the best means to allow orderly development and contribute to the housing demand and choice in close proximity to existing infrastructure, including public transport, employment and services.

3 Strategic assessment

3.1 Greater Sydney Region Plan

The Greater Sydney Region Plan establishes a series of directions to ensure planning proposals are consistent with the intended vision of Sydney.

The Department is satisfied the planning proposal gives effect to the Greater Sydney Region Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. **Table 4** includes an assessment of the planning proposal against relevant directions.

Table 4 Greater Sydney Region Plan assessment

Regional Plan Objectives	Justification
A City for People	The proposal will provide an increased choice of dwellings adjacent to the North Willoughby Local Centre containing existing services, retail and public transport.
A City of Great Places	<p>The planning proposal will provide medium density residential dwellings catering to the existing and a future population. Increasing the density adjacent to an identified local centre will create a transition to the local centre and help preserve the low-density surrounding areas.</p> <p>The existing tree canopy will be largely retained with increased landscaping and communal open spaces.</p>
A Well-Connected City	The site is located close to an existing bus stop on Victoria Avenue that provides frequent services to major centres such as Chatswood and the Interchange with connections to other major centres and beyond.
Jobs and Skills for the City	The planning proposal seeks to enable redevelopment to increase residential uses. Increasing local housing will support growth in an identified local centre.
A City in its Landscape	The planning proposal seeks to retain mature trees and the tree canopy maintaining the leafy character of the area. The renewal of the area will provide increased amenity and a better interface with George Brain Lane.
Housing the City	<p>The concept development will facilitate the provision of additional residential dwellings to meet the needs of the community in an area close to existing infrastructure and services.</p> <p>An affordable housing component will also create additional housing options in the Willoughby LGA.</p>

3.2 North District Plan

The site is within the North District and the Greater Sydney Commission (GSC) (now the Greater Cities Commission) released the North District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. **Table 5** includes an assessment of the planning proposal against relevant directions and actions.

Table 5 North District Plan assessment

District Plan Priorities	Justification
N1 Planning for a city supported by infrastructure	The site is serviced by existing infrastructure with capacity to support additional demand that may result from the proposed increase to the development standards on the site.
N4 Fostering healthy, creative, culturally rich and socially connected community	The site is adjacent to the North Willoughby Local Centre and will create walkable, safe pedestrian connections to existing services, retail and public transport.
N5 Providing housing supply, choice and affordability with access to jobs, services and public transport	Of the proposed 22 new multi-dwelling houses, 4% will be provided as affordable housing dwellings, assisting to increase the housing choice and supply for the suburb in an area that is well serviced by public transport adjacent to the North Willoughby Local Centre.
N6 Creating and renewing great places and local centres, and respecting the District's heritage	The proposed development will replace 3 existing residential dwellings with 22 new multi-dwelling houses in an area directly adjacent to an identified local centre. The interface to the rear of the local centre will be improved, providing pedestrian amenity and safety to George Brain Lane. The local heritage items will not be impacted by the proposed development.
N12 Delivering integrated land use and transport planning and a 30-minute city	The site is close to bus stops on Victoria Avenue and Penshurst Street. Visitors and residents can access frequent bus services to Chatswood and the City from these stops.
N19. Increasing urban tree canopy cover and delivering Green Grid connections	The planning proposal requires the removal of existing non-native trees. However, the proposal will provide an opportunity to contribute additional open space, tree canopy and green connections to the community, consistent with this priority by increasing the planting of native tree cover endemic to the region along George Brain Lane.

3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies.

3.3.1 Willoughby Local Strategic Planning Statement (LSPS)

Council adopted the final Willoughby LSPS on 10 February 2020. The LSPS sets out the 20-year vision for land use in the LGA, the special character and values that are to be preserved and how change will be managed into the future.

The former Greater Sydney Commission (GSC) (now the Greater Cities Commission) endorsed the LSPS on 20 March 2020 and the Department published it on the NSW Planning Portal on 31 March 2020.

The LSPS supports the Local Housing Strategy (LHS) which identifies three main focus areas for additional housing in the LGA. Although the site is not within these focus areas (**Figure 12**), Council considers that the subject site meets the principles in the LSPS for sites outside of the focus areas as it is within the walking catchment area of a local centre, schools, community facilities, open space, is free from environmental hazards and not within a heritage area. It will also contribute to the diversification of housing type in the LGA.

The planning proposal is consistent with the priorities and actions relevant to the LSPS as it:

- will provide 22 new dwellings, increasing and variety of housing with 4% as affordable dwellings to meet the changing needs of the community;
- is consistent with the focus area outcomes for the North Willoughby Local Centre and concentrates density closer to identified centres;
- will provide increased landscaping and amenity and not adversely impact on the local heritage items;
- is well serviced by public transport and adjacent to existing services reducing the dependency on private vehicles; and
- will provide public domain improvements including increased landscaping on and adjacent to the site, maintaining the areas leafy character.

3.3.2 Willoughby Local Housing Strategy 2036 (LHS)

The LHS was adopted by Council in December 2019 and endorsed by the Department in May 2021. This strategy outlines planning for future housing needs, responding to a growing and changing population in Willoughby over the next 20 years.

The LHS recognises that the majority of future housing growth will occur in the housing focus areas outlined in the LSPS. The LHS seeks to provide an increase in housing growth and diversity in and around these strategic and local centres. Focusing growth in these areas will protect the low-density zones and offer varied housing types for a changing demographic and allow residents to downsize within their local area.

The LHS identifies 3 focus areas to accommodate an approximate additional 6,700 dwellings to 2036. Of these areas, North Willoughby (East Chatswood) is within Focus Area 3 (**Figure 12**), one of the seven local centres identified for uplift in the LHS.

The site is not within a local centre but is directly adjacent to the North Willoughby Local Centre. Council supports the planning proposal as it is broadly consistent with the principles of the LHS and will allow for a small housing uplift for the provision of medium density development which is lacking in the Willoughby LGA compared to the Sydney region.

3.3.3 Our Future Willoughby 2028 Community Strategic Plan

Our Future Willoughby 2028 is not endorsed by the Department but is Council's community strategic plan that expresses the main priorities and aspirations of the community and sets out clear strategies to achieve this vision of the future over a 10 year period and beyond.

The Plan outlines five key strategic outcomes and priority areas for the next 10 years in order to achieve the community's vision of a 'diverse, liveable and prosperous City'.

The planning proposal states that it is consistent with this Plan as it will:

- provide residential dwellings close to existing services and public transport, minimising short trips and promote a sustainable lifestyle for residents; and

- provide 22 residential multi-dwellings of which 4% will be affordable housing meeting the needs of a changing community.

3.3.4 Willoughby Local Centres Strategy 2036 (LCS)

Council adopted the Willoughby Local Centres Strategy (LCS) (**Attachment D**) on 9 December 2019 which was published in June 2020. This strategy has not been endorsed by the Department.

The aim of this strategy is to promote a network of 8 village centres throughout Willoughby by providing a framework for future planning controls and increased amenity in preparation for growth and renewal for the next 20 years.

The LHS supports the LCS by focusing new housing growth within walking distance of the local centres. The strategy includes new recommended LEP controls for the 7 of the 8 local centres which will provide an uplift in dwellings and employment floor space. The LCS identifies North Willoughby as a local centre with a lower scale of development and separate from the Chatswood CBD (**Figure 12**).

The subject site is adjacent to the North Willoughby Local Centre and the indicative scale for growth in the North Willoughby Local Centre could provide for an increase of 28,570m² of residential (approximately 318 dwellings) (**Figure 13**). The recommendations of the strategy include retaining existing B2 local centre zoning for the centre and increases in height and FSR to encourage lot amalgamation, with heights up to 6 storeys on adjacent lots to the subject site.

The draft Comprehensive Willoughby LEP was exhibited for 3 months to 17 June 2022 and is a review of the current LEP controls which seeks to implement local strategic planning studies including the Local Centres Strategy.

The Department is currently undertaking a suite of reforms related to employment zones. As a result, the B2 Local Centre zone will be translated to the E1 Local Centre. This change will not affect any other planning controls in the centre. It is anticipated that these changes will be completed late 2022. Further information on the proposed changes to the employment zones is available at <https://www.planning.nsw.gov.au/Employment-Zones-Reform>.

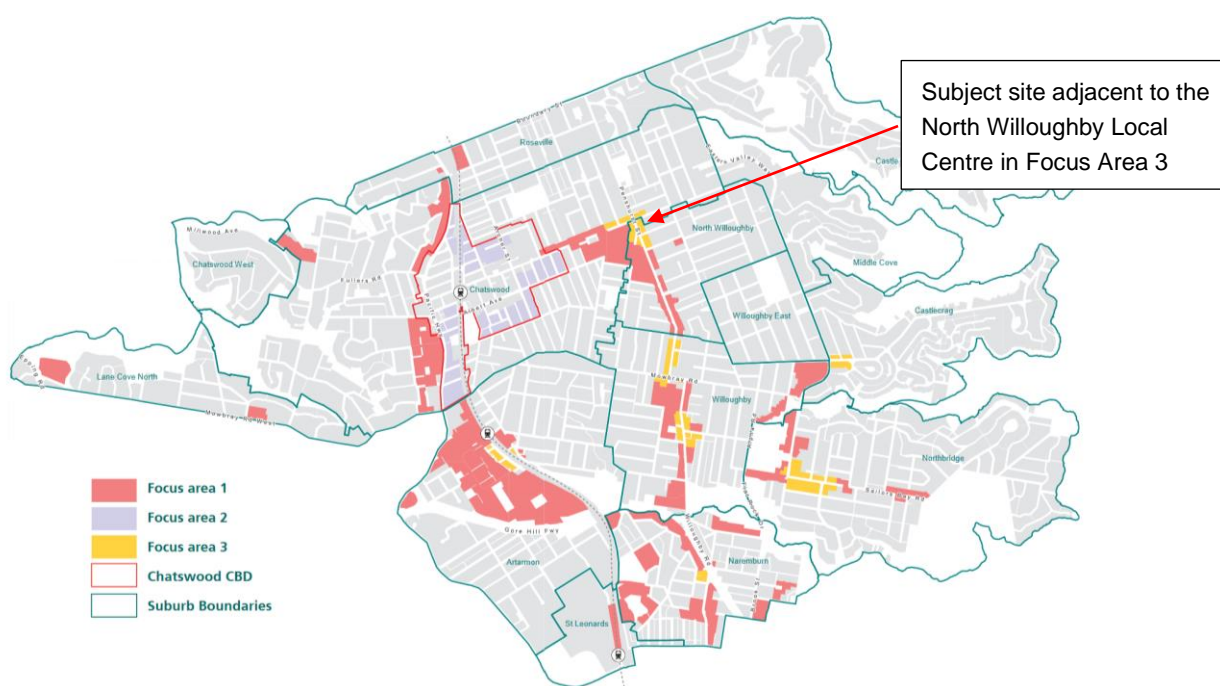


Figure 12: Local Housing Strategy focus areas indicating the subject site adjacent to Focus Area 3 incorporating the North Willoughby Local Centre (source: Council)



Figure 13: Concept massing study of the proposed built form on the subject site and the proposed built form scale as recommended in the Local Centres Strategy for this section of North Willoughby Local Centre (source: CM+)

3.4 Local planning panel (LPP) recommendation

On 8 February 2022, the Willoughby Local Planning Panel (LPP) (**Attachment B**) provided advice to Council on the planning proposal for the site. The planning proposal sought to include site specific provisions and to amend the LEP to increase the maximum height and FSR and additional uses to permit multi-dwelling housing.

The LPP considered that the planning proposal demonstrated strategic and site specific merit to be forwarded to the Department for a Gateway determination subject to a site specific DCP to consider the following:

- an up-to-date traffic assessment be provided considering cumulative impacts with surrounding developments;
- the proposal is able to meet the solar access requirements in the Apartment Design Guide (ADG) considering possible development on the opposite side of George Brain Lane;
- solar access will be maintained to neighbouring properties;
- significant trees be maintained on the site and adjoining public domain; and
- amenity of the proposed dwellings is not compromised by the interface with George Brain Lane and the rear facilities of the commercial/retail properties facing Penshurst Street.

It is noted that Council resolved to endorse the draft site specific DCP provisions being placed on public exhibition with the draft planning proposal, subject to further amendments including consideration of advice provided by the LPP at its meeting of 8 February 2022. Council will further review the DCP in relation to tree preservation, traffic management, solar access and the relationship of the site to the expected future development in the adjoining North Willoughby Local Centre, prior to public exhibition.

Section 4 Environmental Impacts provides additional discussion of the trees on the site.

3.5 Section 9.1 Ministerial Directions

On 1 March 2022, the Section 9.1 Ministerial Directions were renumbered and ordered into thematic framework focus areas.

The planning proposal's consistency with relevant section 9.1 Directions is discussed in **Table 6**.

Table 6 Section 9.1 Ministerial Directions assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Planning Systems – Place Based		
1.1 Implementation of Regional Plans (previously 5.10)	Yes	<p>The objective of this Direction is to give legal effect to the vision, land use strategy, goals, Directions and actions contained in Regional Plans.</p> <p>The planning proposal includes an outline of consistency against the objectives of the Greater Sydney Region Plan.</p> <p>The assessment of the planning proposal is in Table 6.</p>
1.3 Approval and Referral Requirements (previously 6.1)	Yes	<p>The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p>The planning proposal does not state any agencies for the referral for comment on the planning proposal.</p> <p>Referral to the appropriate agencies for comment will be a condition of the Gateway determination.</p>
1.4 Site Specific Provisions (previously 6.3)	Yes	<p>The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls. This includes not imposing any development standards or requirements in addition to those already contained in the principle environmental planning instrument being amended.</p> <p>The proposal intends to introduce site specific provisions for an additional permitted use, height of buildings of 10m and FSR of 1:1 to facilitate multi-dwelling housing on the site. It also proposes to apply clause 6.8 Affordable housing, clause 6.23 Design excellence at certain sites at Willoughby and 6.25 Shop top housing at certain sites at Chatswood. These provisions are not restrictive and the intention is to amend provisions in the current LEP.</p>

Biodiversity and Conservation

3.2 Heritage Conservation (previously 2.3)	Yes	<p>The objective of this Direction is to conserve items, areas, objects and places of environmental heritage and indigenous significance.</p> <p>The site is in the vicinity of local heritage items and the Harwood HCA. However, as they are sufficiently distant from the site and the proposal will not have an impact.</p>
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Resilience and Hazards

4.1 Flooding (previously 4.3)	Yes	<p>The objective of this Direction is to ensure the proposal corresponds with flood hazards and includes consideration of the potential flood impacts both on and off the site.</p> <p>The site is not identified as flood prone land. However, any future development will need to consider Council's LEP clause 5.21 Flood planning.</p>
4.4 Remediation of Contaminated Land (previously 2.6)	No	<p>This Direction was introduced on 17 April 2020 and aims to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered at the planning proposal stage.</p> <p>A Preliminary Site Investigation (PSI) was not submitted with the updated planning proposal.</p> <p>Clause 6 of the SEPP 55 has been repealed and now forms part of Ministerial Direction 4.4 Remediation of Contaminated Land. This Direction will be required to be addressed in addition to SEPP (Resilience and Hazards) 2021.</p> <p>The contamination impact is discussed further in section 4.1.</p>
4.5 Acid Sulphate Soils (previously 4.1)	Yes	<p>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.</p> <p>The site is in a 'class 5' acid sulphate soil area and not with 500m of any other class. Future development on the site is not likely to cause any environmental damage.</p>

Transport and Infrastructure

5.1 Integrating Land Use and Transport (previously 3.4)	Yes	<p>The key objectives of this Direction are to improve access to housing, jobs and services by walking, cycling and public transport and reducing dependency on private vehicles.</p>
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		The planning proposal intends to increase the planning controls on the site to facilitate 22 new multi-dwelling residences close to existing and proposed public transport.
Housing		
6.1 Residential Zones (previously 3.1)	Yes	<p>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 of good design.</p> <p>The existing site contains 3 detached residential dwellings. The proposal will facilitate redevelopment to provide 22 multi-dwelling residences adjacent to an identified local centre located close to existing services and public transport.</p>

3.6 State environmental planning policies (SEPPs)

On 1 March 2022, the Department consolidated 45 SEPPs and deemed SEPPs into 11 new thematic SEPPs. The 45 SEPPs were consequently repealed. The provisions contained in the repealed SEPPs have been carried over into the new SEPPs as 'chapters'.

The SEPP consolidation does not substantially change the effect of the repealed SEPPs.

However, any redundant or outdated provisions of the repealed SEPPs have not been carried over to the new consolidated SEPPs.

The consistency of the planning proposal with the SEPPs as discussed in **Table 10**.

With exception of Resilience and Hazards, chapter 4 Remediation of land, the planning proposal is consistent with all relevant SEPPs as discussed in the **Table 7**.

Table 7 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Biodiversity and Conservation) 2021	On 1 March 2022, 11 SEPPs relating to biodiversity and conservation were consolidated into one SEPP. The consolidated SEPP aims to reserve, conserve and manage NSW's natural environment and heritage.	Yes	<p>The site is within an existing urbanised area of Greater Sydney and not zoned as a conservation area or contain any flora and/or fauna that would require the application of this SEPP.</p> <p>The entire Willoughby LGA is identified as being within the Sydney Harbour Catchment Area. However, the planning proposal is unlikely to have any adverse effect on the water quality of Sydney Harbour or the District's waterways.</p> <p>The proposed changes to the planning controls will not impact on any heritage items or HCAs.</p>

SEPP (Resilience and Hazards) 2021	On 1 March 2022, 3 SEPPs relating to resilience and hazards were consolidated into one SEPP. The consolidated SEPP aims to manage risks and build resilience in the face of hazards.	No	<p>Of relevance in this SEPP is 'chapter 4 Remediation of land' and the possibility of contamination issues.</p> <p>A contamination report was not submitted with the planning proposal.</p> <p>Clause 6 of the former SEPP 55 has been transferred to Ministerial Direction 4.4 Remediation of Contaminated Land (former Ministerial Direction 2.6).</p> <p>Although further investigation can be carried out as part of a future DA, the land use is to be intensified and there is incomplete knowledge.</p> <p>A Preliminary Site Investigation (PSI) will be required to be exhibited with the planning proposal.</p> <p>A condition will require updating the planning proposal to address this SEPP.</p>
SEPP (Transport and Infrastructure) 2021	On 1 March 2022, 3 SEPPs relating to transport and infrastructure were consolidated into one SEPP. The consolidated SEPP aims to provide well-designed and located transport and infrastructure integrated with land use.	Yes	<p>The planning proposal was accompanied by a Traffic and Transport Study (Attachment A5) that indicates that the development will not have a significant impact on the surrounding road network.</p> <p>The traffic impact is discussed further in section 4.1.</p>
SEPP (Housing) 2021	On 26 November 2021, 5 SEPPs were consolidated into one SEPP. The consolidated SEPP aims to deliver a sufficient supply of safe, diverse and affordable housing.	Yes	<p>The proposed changes to the development controls on the site will facilitate 22 new multi-dwelling residences within proximity to public transport nodes.</p> <p>4% of the total number of dwellings is to be dedicated to Council for the purposes of affordable housing.</p>
SEPP (Building Sustainability Index: BASIX) 2004	This SEPP aims to encourage sustainable residential development through establishing targets for thermal comfort, energy and water use.	Yes	<p>Development applications (DAs) for all future residential development will need to comply with the targets established under BASIX.</p> <p>Further consideration of this SEPP can occur at a future DA stage.</p>
SEPP 65 - Design Quality of Residential	The aim of this policy is to improve the design quality of residential apartment development in NSW.	Yes	<p>Future development of the site for multi dwelling housing will not require compliance with SEPP 65 and the ADG. However, to establish benchmarks for</p>

Apartment Development		<p>design compliance, a number of controls have been utilised within the ADG.</p> <p>Site specific DCP has been established to guide development on the site and a SEPP 65 design response has been submitted with the planning proposal to demonstrate compliance (Attachment A7).</p>
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4 Site-specific assessment

4.1 Environmental

The following provides an assessment of the potential environmental impacts associated with the proposal.

4.1.1 Traffic and Transport Impact

A Traffic and Transport Study (TTS) was submitted with the planning proposal, undertaken by SCT Consulting, dated 2020 (**Attachment A5**).

To the west of the site is the state arterial Penshurst Road, to the north and fronting the site is Victoria Avenue which is managed by Council. George Brain Lane is a 6m wide service lane providing rear access to residential properties facing parts of MacMahon Street, Victoria Avenue and Penshurst Street.

The TTS states that the site is within a 20 minute walk or within 5 minutes by bus to the Chatswood Interchange with the T1, T9 rail and Sydney Metro Northwest line to areas such as Hornsby, Sydney CBD, Parramatta, Bankstown and Liverpool.

The site is well serviced by public transport with over 20 bus services per hour running along Penshurst Street and Victoria Avenue during a typical weekday peak in both directions. The increased development on the site is not expected to have an impact on capacity.

Active transport will be enhanced with upgrades to the existing footpaths and the widening of George Brain Lane by 2m for the provision of a footpath to the south of the site with connections to a through site link to Penshurst Street and the B2 Local Centre area.

Parking is proposed to be provided at basement level for a maximum of 40 residential vehicles and 5 visitor spaces with access off the southern portion of George Brain Lane and will consolidate 3 existing driveways. Council stated in their Detailed Assessment (**Attachment C1**) that 1.5 car spaces would be required under the existing DCP. If all dwellings were to be provided with 3 bedrooms, parking would equate to 33 spaces and more may be excessive considering the sites location to good active and public transport options.

Council is currently reviewing the carparking rates in the draft Willoughby DCP exhibited with the Comprehensive LEP Review. The draft DCP proposes to revise parking rates for areas outside of the Chatswood CBD for 3 bedroom dwellings/units to 1 space per dwelling plus for visitors, 1 space per 7 dwellings. This would equate to 25 car spaces in total.

The parking provisions, motorcycle and bicycle parking can be further assessed at the detailed design stage.

The TTS states that off-street loading and unloading and accessible parking spaces are not a mandatory requirement for multi-dwelling developments and such these are not specified in the concept scheme.

The TTS states that the site is not expected to create an impact on the surrounding road network and intersections as it is estimated that the proposed concept will generate around 10 vehicle trips during each peak.

The TTS indicates that the impacts of the planning proposal are negligible and any increase in traffic as a result of the proposed development can be accommodated.

However, the North Willoughby Local Centre is proposed to facilitate an increase of approximately 318 residential dwellings and an increase to non-residential floor space. An updated traffic assessment should be provided to include the cumulative impact that may result from the proposal and the uplift proposed to the North Willoughby Local Centre as recommended by the LPP's advice (**Attachment B**). A condition has been included on the gateway determination to require this.

4.1.2 Heritage Impact

The planning proposal was not accompanied by a Heritage Impact Statement. However, Council's Detailed Assessment (**Attachment C1**) states that the subject site contains 3 detached dwellings, all of which appear to be an altered Federation style/early Twentieth Century cottages.

The site is not located within a HCA and the closest heritage items are located at 66 Victoria Ave (I204) and 315 Penshurst Street, Willoughby North, being two houses (including original interiors) and the Hotel Willoughby (including original interiors). An extract of the Willoughby Heritage Map is shown in **Figure 11**).

The proposed planning proposal will result in the demolition of the 3 cottages which form the original pattern of development along Victoria Avenue. However, the proposed height of 10m is considered appropriate to transition from the local centre to the low density area and seniors facility to the east.

The site is not within the visual catchment of the heritage items and no objections on heritage grounds from Council. Council recommended that the building separation and landscaping be retained within the design to enhance the visual appeal and streetscape.

4.1.3 Overshadowing Impact

The planning proposal states that the built form envelope has been designed to minimise external impacts such as overshadowing to nearby development and the public domain.

The Urban Design Report (**Attachment A2**) contains shadow diagrams demonstrating that the concept scheme will have minimal impact on the surrounding existing area.

It is noted that the Local Planning Panel also advised that the DCP controls should also provide for the future development that is able to meet the minimum solar access requirements in accordance with the Apartment Design Guide and taking into account the potential development on the opposite side of the lane and can demonstrate that reasonable solar access to neighbouring properties is able to be maintained in accordance with the Apartment Design Guide.

Council's Detailed Assessment (**Attachment C1**) states that the proposal may increase overshadowing to communal open spaces and adjacent properties and additional detailed shadow diagrams will be required for public exhibition. A condition has been attached to the Gateway to require more detailed shadow diagrams for the 21st June to fully demonstrate the potential Impact on the adjoining properties for public exhibition.

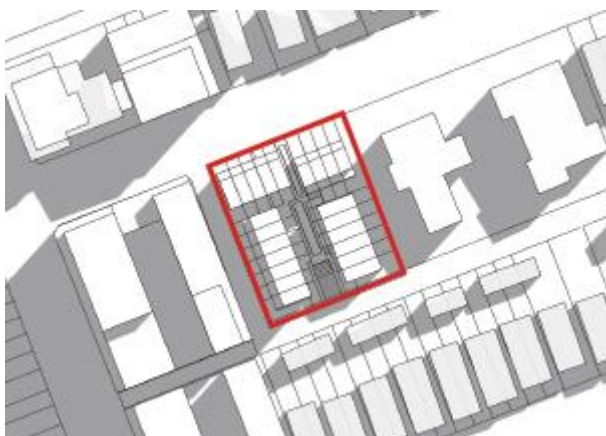


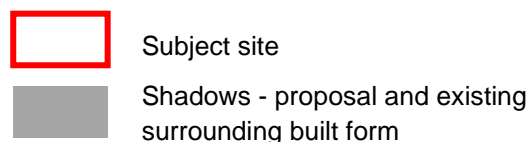
Figure 14: Shadow diagram 21 June 9am (source: CM+)



Figure 15: Shadow diagram 21 June 12pm (source: CM+)



Figure 16: Shadow diagram 21 June 3pm (source: CM+)



4.1.4 Built Form and Concept Design

The proposed development includes 22 residential dwellings arranged in 4 independent ‘blocks’ containing 4 to 7 townhouses or multi-dwellings of varying sizes with a total GFA of 3,284m². The area of each townhouse ranges from 115m² to 178m² with individual courtyards and communal space through the centre of the site (**Figures 13 and 17 to 21**).

- townhouses 1 to 9 front Victoria Avenue with a varying height from 3 to 3.5 storeys;
- townhouses 10 to 16 front the west portion of George Brain Lane with the potential to activate the laneway and an improved interface with the adjoining North Willoughby Local Centre; and
- townhouses 17 to 22 face the adjoining aged care facility with a minimum height of 2.5 storeys.

As the proposed concept is less than 12m in height, Council’s report advises that the Willoughby Design Excellence Policy and Guidelines do not apply to building less than 12m in height and therefore clause 6.23 Design Excellence at certain sites at Willoughby should not apply. The site specific DCP will facilitate design quality. Ecologically sustainable development principles will be included in the proposal consistent with the *Willoughby City Council Sustainability Action Plan 2014-18*, the DCP, LEP and relevant SEPPs at the DA stage.

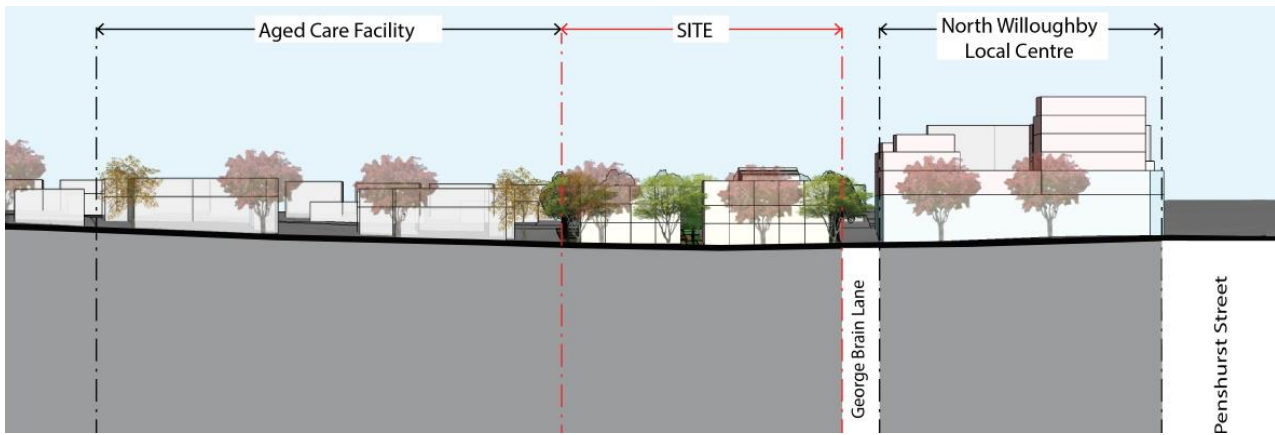


Figure 17: Victoria Avenue elevation (source: CM+)

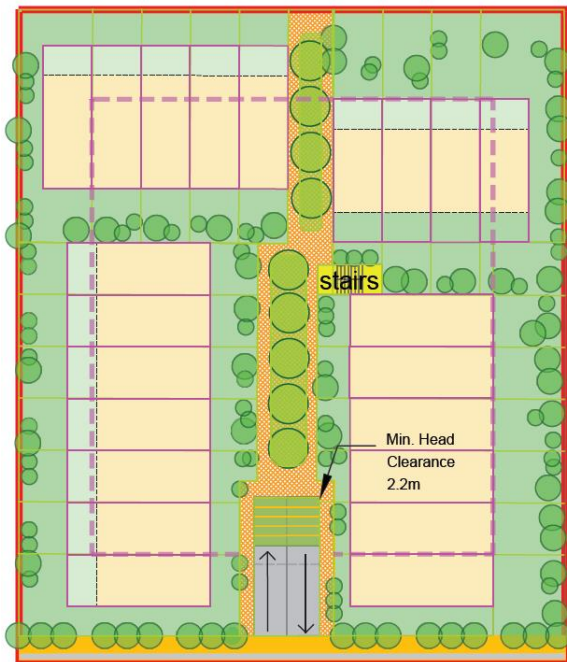


Figure 18: Site plan (source: CM+)

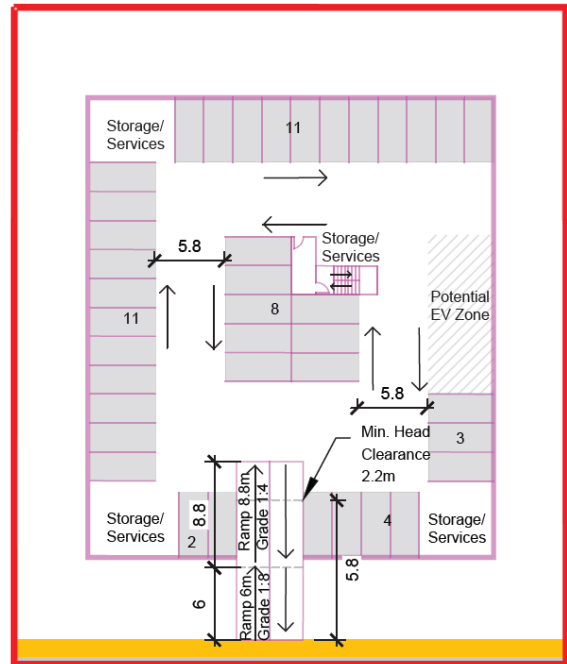


Figure 19: Basement carpark plan (source: CM+)

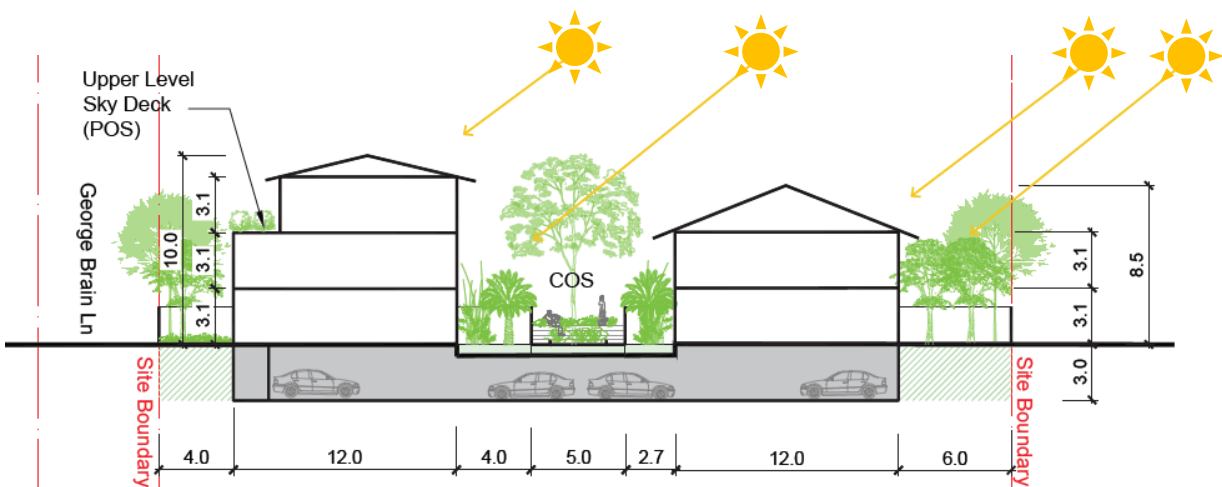


Figure 20: North-south section (source: CM+)

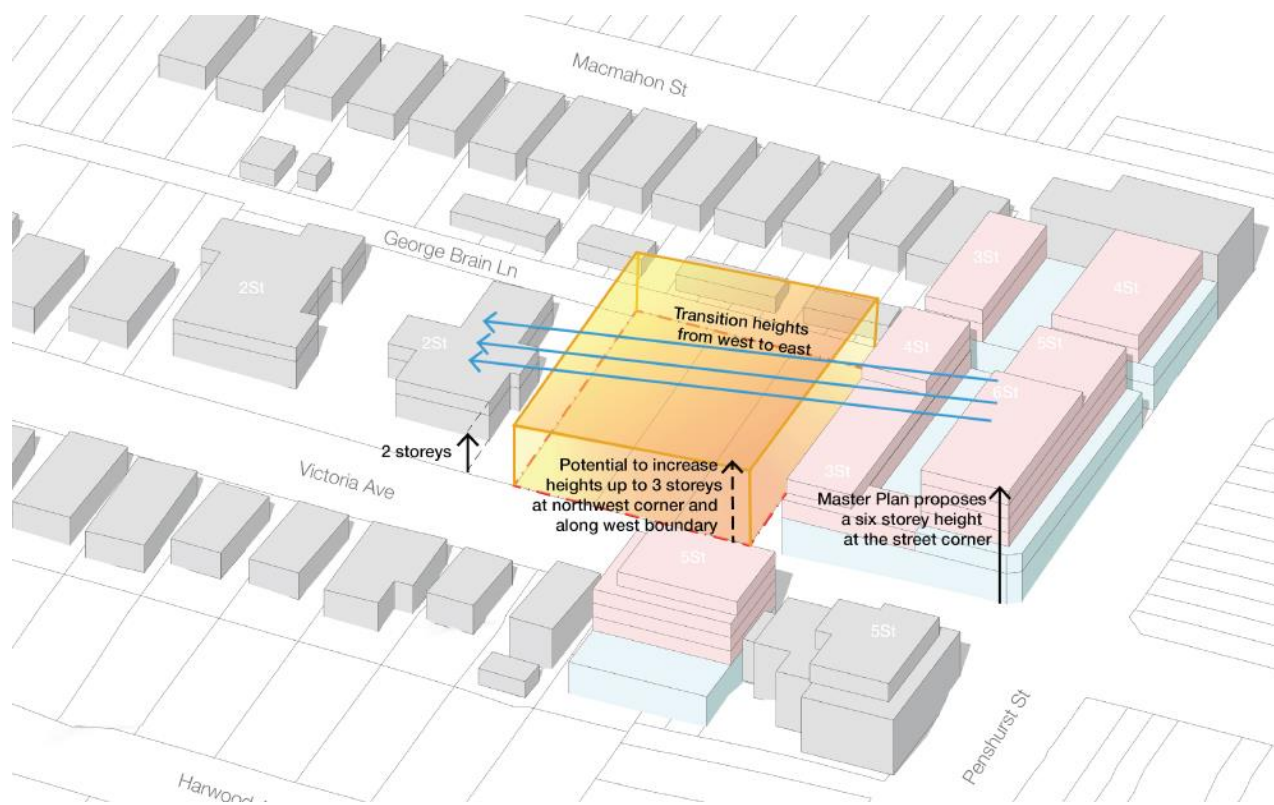


Figure 21: The built form transitions from the B2 Local Centre to the R2 Low Density Residential zone (source: CM+)

4.1.5 Tree Assessment

A Preliminary Tree Impact Assessment (**Attachment A6**) was submitted with the planning proposal. The report states that it is an assessment of the trees in an around the site and not an assessment the impacts of development and a detailed Arboricultural Impact Assessment would be required at a later stage.

The report determined that of the 13 trees assessed, none met the criteria for high retention with the remaining 12 trees of medium to low retention value. One tree, at the rear of the neighbouring property at 88 Victoria Avenue, Chatswood could potentially be a constraint to development due to its extensive crown and root system.

The LPP recommended that a site specific DCP consider the significant trees be maintained on the site and adjoining public domain (**Attachment B**).

However, in response, (**Attachment A12**), the applicant stated that they did not agree with the LPP's recommendation. The assessment of the trees (**Attachment A6**) on the site found that none had any retention value and more appropriate species could be used to replace them. Alternatively, some trees could be moved to a more suitable location.

Council has resolved to further review the DCP with regard to the LPP comments on tree preservation, prior to exhibition of the planning proposal. The Council detailed assessment report outlines that the draft DCP includes a significant tree diagram and tree inventory that aims to protect an English Oak tree on the neighbouring property (88 Victoria Avenue) as well as two London Plane trees and one Sweet Gum along Victoria Avenue. The site specific draft DCP will be modified prior to exhibition to ensure landscaping and tree protection is fully considered at the DA stage.

4.1.6 Contamination Impact

A contamination report was not submitted with the planning proposal. Council states in their Detailed Assessment (**Attachment C1**) that the land has been used for residential purposes and would have a low risk of contamination that could be further assessed at the DA stage.

However, the Department must consider whether the land is contaminated where development is to be carried out for the purposes of residential and there is no knowledge or incomplete knowledge. As such it is considered that a Preliminary Site Investigation (PSI) is required and be exhibited with the planning proposal. A condition has been attached to the Gateway Determination to require a PSI.

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 8 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	<p>The site will be identified on the Special Provision Area map to be identified as in 'Area 9' and subject to a contribution of 4% of residential GFA for the purposes of affordable housing.</p> <p>Although the subject site is not within the North Willoughby Local Centre, the draft Willoughby Comprehensive LEP Review planning proposal currently on exhibition proposes to increase the requirement for the provision of affordable housing from the current 4% of accountable total floor space to 10% for new developments in certain areas by 2026. However, this proposal is subject to the current controls.</p> <p>A contribution for public art aligning with Council's <i>Public Art Policy</i> may be considered as part of any VPA.</p>
Economic	<p>During construction, the proposed development will provide increased business to the local centre. Post construction the increase in population will support local businesses.</p>

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 9 Infrastructure assessment

Infrastructure	Assessment
Public Transport	<p>As outlined in section 4.1 the site is well serviced by public transport as it is within 20 minutes walk or 5 minutes by bus to the Chatswood Interchange with the T1, T9 rail and the Sydney Metro Northwest line with a proposed extension with services from Rouse Hill to Bankstown due to be completed 2024.</p>

	Over 20 bus services per hour running along Penshurst Street and Victoria Avenue during a typical weekday peak in both directions and the increased development on the site is not expected to have an impact on capacity.
Utilities	The site is in an established urban area that is well serviced by electricity, telecommunications, water and sewerage infrastructure. Any additional demand is likely to be minimal. Consultation can occur with the relevant authorities as a condition of the Gateway.
VPA	A draft VPA (Attachment A4) was submitted with the planning proposal. The draft VPA is for a monetary contribution for purposes as determined by Council. This is yet to be negotiated by Council and will be in addition to the application of s7.11, 7.12 and s7.24 contributions.

5 Consultation

5.1 Community

Council proposes a community consultation period but does not specify a timeframe. It is recommended that the planning proposal be made available for community consultation for a minimum period of 28 days and will be a condition of the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

- Transport for NSW (TfNSW);
- Ausgrid; and
- Sydney Water Corporation.

6 Timeframe

Council does not propose a time frame to complete the LEP. The planning proposal contains an incomplete project timeline with dates to be determined.

The Department recommends a time frame of 12 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes condition requiring council to exhibit within 3 months of the gateway being issued.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

Council has considered the site is suitable for uplift as it is adjacent to the area of uplift under the Local Centres Strategy.

Given the nature of the proposal, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- it is generally consistent with the principles of the Local Housing Strategy and Local Strategic Planning Statement;
- it is generally consistent with the actions of the Greater Sydney Region Plan and North District Plan by facilitating additional residential dwellings and maximising public transport patronage; and
- will provide for a transition from the local centre to the adjoining 2-3 storey seniors housing development and will facilitate an increase and a variety of residential dwellings in North Willoughby adjacent to an identified local centre.

9 Recommendation

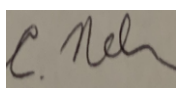
It is recommended the delegate of the Minister:

- Note that the consistency with section 9.1 Directions 4.4 Remediation of contaminated land is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated to:
 - remove reference to clause 6.23 Design excellence at certain sites at Willoughby as this clause will not apply to the site;
 - provide the existing Lot Size Map;
 - provide proposed mapping;
 - maximum Height of Buildings Map - to indicate the application of clause 4.3A exceptions to heights of buildings for 'Area 4';
 - maximum FSR Map - to indicate the application of clause 4.4A Exceptions to floor Space ratio for 'Area 21';
 - Special Provisions Map – to indicate that the site is subject to:
 - clause 6.8 Affordable housing – 'Area 9';
 - clause 6.10 Minimum lot sizes for certain residential accommodation;
 - refer to the Spatial Viewer rather than the PDF maps;
 - revise the assessment of the North District Plan to address Priority N19 to address N17;
 - address SEPP (Resilience and Hazards) 2021, chapter 4 - Remediation of land;
 - address Ministerial Direction 4.4 Remediation of contaminated land;
 - provide a Preliminary Site Investigation;
 - provide more detailed shadow diagrams for the 21st June to fully demonstrate the potential impact on the adjoining properties for public exhibition;
 - provide an updated traffic assessment to be exhibited with the planning proposal to address the cumulative traffic impacts with the proposal and the proposed uplift in the North Willoughby Local Centre on the nearby intersections and surrounding road network; and
 - provide a revised project timeline based on the date of the Gateway determination.
2. Prior to community consultation, the planning proposal is to be revised to address conditions 1 and 2.

3. Consultation is required with the following public authorities:
 - Transport for NSW (TfNSW);
 - Ausgrid; and
 - Sydney Water Corporation.
4. The planning proposal should be made available for community consultation for a minimum of 28 days.
5. The planning proposal must be exhibited 3 months from the date of the Gateway determination.
6. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
7. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



7/7/2022

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12/07/2022

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