

## **COUNCIL ASSESSMENT OF DEPARTMENT OF PLANNING AND ENVIRONMENT'S 'A GUIDE TO PREPARING PLANNING PROPOSALS'**

The Planning Proposal is considered to be generally in accordance with the requirements under Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the Department of Planning and Environment (August 2016) '*A Guide to Preparing Planning Proposals*'. This document establishes six parts for consideration of a Planning Proposal:

### **PART 1 – OBJECTIVES OR INTENDED OUTCOMES**

The objectives submitted by the proponent in support of the Planning Proposal to amend *Willoughby Local Environmental Plan 2012* are as follows:

- Enable the orderly and feasible redevelopment of the site (92-96 Victoria Avenue) for 'multi dwelling residential' development;
- Ensure that new development responds positively to adjacent land uses;
- Facilitate the redevelopment of the site with an outcome that achieves a greater diversity of housing options in close proximity to public transport, services and facilities;
- Demonstrate consistency with State Government policy to encourage growth within walking distance of centres and public transport;
- Demonstrate consistency with minimum housing targets set by the State Government;
- Provide for greater housing diversity and choice across the LGA, by providing housing types that are an alternative to the traditional freestanding houses and apartments;
- Provide for a high-quality residential development that is both responsive to the site's location adjacent to a local centre and respectful of the low density character of the surrounding area;
- Provide opportunities for a housing typology that requires less land area and is more sustainable for a wider range of population demographics;
- Provide opportunities for improved housing affordability by providing dwellings on smaller lots whilst still ensuring the delivery of amenities associated with single dwellings, including ground level private open space;
- Provide for an appropriate built form in a transitional location;  
Provide opportunities for public domain upgrades to George Brain Lane, facilitating improved pedestrian access and connectivity to the adjoining North Willoughby Local Centre; and
- Provide opportunities for new residential interfaces with Victoria Avenue and George Brain Lane to create a fine grain urban outcome.

Council has recommended a change of controls as proposed in the Planning Proposal. These are considered to be consistent with the existing Council policies for medium density residential land use under the current *Willoughby Local Environmental Plan 2012*, the *Willoughby Housing Strategy* and taking into account the surrounding built form context. These provisions are listed below.

### **PART 2 – EXPLANATION OF PROVISIONS**

In response to the Planning Proposal, the following written and map amendments to *Willoughby Local Environmental Plan 2012* are proposed to include:

- (a) Amend Clause 4.3A Exceptions to height of buildings to the following:

(9) The maximum height of building of multi dwelling housing at 92-96 Victoria Avenue North Willoughby identified as Area 4 on the height of building map is not to exceed 10 metres.

(b) Amend Clause 4.4A Exceptions to floor space ratio to the following:

(25) Despite Clause (1), the maximum floor space ratio of multi dwelling housing at 92-96 Victoria Avenue North Willoughby identified as Area 21 on the floor space ratio map is not to exceed 1:1.

(c) Amend Clause 6.10 Minimum lot sizes for certain residential accommodation to insert the following:

(6) Despite subclause (2), development consent may be granted to development for the purposes of multi dwelling housing on a lot in an area identified as “Area 15” on the Special Provisions Area Map if the lot size is at least 2,500 square metres.

(d) Amend LEP Height of Buildings (HOB) Map to nominate the site as “Area 4” and allow for a maximum height of building of 10 metres for multi dwelling housing on the site;

(e) Amend LEP Floor Space Ratio (FSR) Map to nominate the site as “Area 21” and allow for a maximum FSR of 1:1 for multi dwelling housing on the site;

(f) Amend the LEP Lot Size (LSZ) Map to remove lot size controls from the subject site.

(g) Amend the LEP Special Provisions Area (SPA) Map to include the site in Area 9 (Clause 6.8 Affordable Housing) and Area 15 (Clause 6.10 Minimum Lot Sizes).

(h) Amendment of Schedule 1 Additional permitted uses to allow for multi dwelling housing on the site:

(75) Use of certain land at 92-96 Victoria Avenue North Willoughby

(1) This clause applies to certain land at 92-96 Victoria Avenue North Willoughby, being Lots 5, 6 and 7 in DP 809.

(2) Development for the purposes of multi dwelling housing is permitted with development consent.

The Planning Proposal is accompanied by draft *Development Control Plan* provisions specific to 92-96 Victoria Avenue, North Willoughby for public exhibition.

## **PART 3 – JUSTIFICATION**

### **Questions to consider when demonstrating the justification**

#### **Section A - Need for the Planning Proposal**

##### **1) Is the Planning Proposal a result of any strategic study or report?**

The Planning Proposal is not the direct result of any Strategic Study or report. Analysis supporting the application has been provided with the Planning Proposal.

**2) Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The Planning Proposal is considered to be the best way to achieve the intended outcomes of the increased development proposed for the site.

**Section B - Relationship to strategic planning framework**

**3) Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?**

The Planning Proposal as recommended is consistent with the strategic objectives of the *Greater Sydney Region Plan* and the *North District Plan*. It would also support the housing supply objective sought by the *Willoughby Housing Strategy*.

The *Greater Sydney Region Plan* and the *North District Plan* were released by the Greater Sydney Commission in March 2018. The *Greater Sydney Region Plan* is built on a vision of three cities where most residents live within 30 minutes of their jobs, education and health facilities, services and great places. Delivering a metropolis of three cities will be guided by ten overarching directions, which provide interconnected infrastructure, productivity, liveability and sustainability benefits to all residents.

The North District forms a large part of the Eastern Harbour City and its economy is focused on the Harbour CBD which includes North Sydney as well as the strategic centres such as Chatswood within the Eastern Economic Corridor.

Chatswood remains a Strategic Centre located in the Eastern Economic Corridor. Chatswood is earmarked as a centre for jobs, retailing and services growth along with additional residential development in adjacent and nearby areas. The Planning Proposal site is located in close proximity and a walkable distance to the North Willoughby local centre and Chatswood CBD and is therefore considered suitable for a modest residential uplift. There are regular bus services in close proximity to the site to Chatswood, St Leonards and Sydney CBD as well as other locations in Willoughby LGA and the North District.

The Department of Planning and Environment (August 2016) '*A Guide to Preparing Planning Proposals*' establishes specific assessment criteria to assist a Relevant Planning Authority.

Assessment Criteria

a) Does the proposal have strategic merit? Is it:

- Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment;

**Comment:** The Planning Proposal is considered consistent with the *Greater Sydney Region Plan* and *North District Plan* released March 2018.

- Consistent with a relevant local council Strategy that has been endorsed by the Department;

**Comment:** The *Willoughby Housing Strategy* was endorsed by Council following exhibition on the 9<sup>th</sup> December 2019. The Strategy has also been endorsed by DPIE. The Planning Proposal is consistent with the general principles of housing growth described in the *Willoughby Housing Strategy*.

These Strategy and other relevant local strategies are discussed in the **Council Detailed Assessment (Attachment 2)**.

- Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.

**Comment:** it is consistent with planned growth in the North Willoughby Local Centre as described in the *Willoughby Local Centres Strategy* now informing new provisions in the Council's future LEP

b) Does the proposal have site-specific merit, having regard to the following:

- The natural environment (including known significant environmental values, resources or hazards).

**Comment:** The Planning Proposal site contains existing trees and there are significant trees on adjoining land including street trees along Victoria Avenue. A preliminary arborist assessment has been undertaken to support the Planning Proposal. Provisions are included in the draft DCP for the site regarding protection of adjoining significant trees and management of vegetation and landscaping on site. There are no known environmental hazards on the site.

- The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal.

**Comment:** The amended controls in the Planning Proposal recommended by Council will ensure that the Planning Proposal is suitable in the context of the existing and future uses in the vicinity of the Proposal.

Significant development uplift is envisaged to the west in the North Willoughby local centre under the *Willoughby Local Centres Strategy*. The site also adjoins commercial land to the west and medium density seniors housing development to the east.

- The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

**Comment:** This issue is discussed in the Council Detailed Assessment under Public Benefit (**Attachment 2**).

**4) Is the planning proposal consistent with a council's local strategy or other local strategic plan?**

*Our Future Willoughby 2028* (June 2018) is the Council's community strategic plan for the future of the local government area to help guide decision making and planning.

The following objectives apply to this Planning Proposal:

1. A City that is green
  - 1.1 Create and enhance green spaces.
  - 1.2 Promote sustainable lifestyles and practices.
  - 1.3 Enhance, protect and respect waterways, bushland, nature, wildlife and ecological systems.
  - 1.4 Reduce energy, water and resource waste and encourage reuse and recycling.
  - 1.5 Reduce carbon and greenhouse gas emissions.
2. A city that is connected and inclusive
  - 2.1 Enhance transport choices and connections throughout the City.
  - 2.4 Reduce parking and traffic congestion.
  - 2.7 Promote accessible services for the community
3. A city that is liveable
  - 3.5 Maintain quality of life by balancing population growth with the provision of assets and services.
4. A city that is prosperous and vibrant
  - 4.1 Facilitate the development of all businesses.
5. A City that is effective and accountable
  - 5.1 Be honest, transparent and accountable in all that we do.

The Planning Proposal is consistent with the above applicable objectives.

The Planning Proposal is also generally consistent with Council's recently endorsed *Local Strategic Planning Statement* (LSPS) (March 2020). In particular, the following LSPS priorities and actions are relevant to the Planning Proposal;

- **Priority 1:** Increasing housing diversity to cater to families, the aging population, diverse household types and key workers.
- **Priority 2:** Increasing the supply of affordable housing.
- **Priority 3:** Enhancing walking and cycling connections to Willoughby's urban areas, local centres and landscape features.
- **Priority 5:** Respecting and enhancing heritage and local suburban character.
- **Priority 17:** Augmenting local infrastructure and using existing infrastructure more intensively and efficiently to accommodate planned growth.

The Planning Proposal aims to provide additional and a more diverse range of housing types (including affordable housing) in an area in close proximity to North Willoughby local centre and the expanded Chatswood CBD. The site adjoins medium density housing (seniors housing) and commercial uses. The Proposal also will not impact adversely on nearby local heritage items and is not located in a heritage conservation area. It will also potentially

contribute to augmentation of local infrastructure including active transport and enhancement of local pedestrian links identified in the *Local Centres Strategy*.

**5) Is the proposal consistent with applicable State Environmental Planning Policies?**

The following State Environmental Planning Policies (SEPPs) are applicable, with comment provided.

<b>SEPP Title</b>	<b>Comment</b>
<b><i>SEPP (Resilience and Hazards) 2021</i></b>	The site is deemed to have a moderate risk of contamination given its residential land use history and nearby historical uses. The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities. Any potential contamination risk will be assessed further by a targeted groundwater assessment at planning proposal stage.
<b><i>SEPP (Transport and Infrastructure) 2021</i></b>	The Planning Proposal provides for housing close to public transport and local amenities and is consistent with the Transport and Infrastructure SEPP.
<b><i>SEPP (Building Sustainability Index - BASIX) 2004</i></b>	This SEPP will apply to future proposed dwellings/units and appropriate BASIX documentation will be required with any future development application for redeveloping the site.
<b><i>SEPP (Exempt and Complying Codes) 2008</i></b>	The Planning Proposal does not contain provisions that contradict the application of the SEPP.
<b><i>SEPP 65 – Design Quality of Residential Flat Development</i></b>	This SEPP will apply to the proposed residential development on site. A SEPP 65 Design Report has been prepared to support the planning proposal and concept plans. The plans are considered broadly consistent with the SEPP, however non-conformances are noted in relation to 3D Communal open space, 3F Building Separation and 3H Vehicle access. Consistency with the <i>SEPP 65 Apartment Design Guide</i> (ADG) will be considered in detail at development application stage.
<b><i>SEPP (Housing) 2021</i></b>	The Planning Proposal will provide for 4% affordable housing and future development will be consistent with Council's affordable housing

	policies and the SEPP. The Proposal will not contradict or hinder the application of the SEPP.
<b>SEPP (Infrastructure) 2007</b>	The Planning Proposal provides for housing and jobs close to public transport and local amenities and is consistent with the SEPP.

**6) Is the planning proposal consistent with applicable Ministerial Directions (Section 9.1 directions)**

The Section 9.1 Directions issued to councils under Section 9.1(2) of the Environmental Planning and Assessment Act 1979 require that a Planning Proposal does not conflict with the Directions. The following is a summary of the planning proposal against the relevant Section 9.1 Directions in this instance.

**2. ENVIRONMENT AND HERITAGE**

<b>Direction</b>	<b>Relevant?</b>	<b>Consistent?</b>	<b>Comment</b>
<b>Focus area 1: Planning Systems</b>			
1.3 Approval and Referral Requirements	Yes	Yes	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. This is an administrative requirement for Council.
1.4 Site Specific Provisions	Yes	Yes	The Proposal involves an amendment to WLEP 2012, to amend Schedule 1 to allow for multi dwelling housing with corresponding amendments to allow for an uplift in permissible building heights and floor space ratio. Accordingly, the Proposal has been prepared in accordance with the provisions of the Standard Instrument and in a manner consistent with the LEP.
<b>Focus area 3: Biodiversity and Conservation</b>			
3.2 Heritage Conservation	Yes	Yes	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. The site is not located in a heritage conservation area.

			<p>The proposed modest planning changes and concept plans would be unlikely to impact on the nearby heritage items, as they are not located within the visual catchment of those items.</p> <p>The Proposal is consistent with this direction. Refer to <b>Attachment 2</b> for more detail on this issue.</p>
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<b>Focus area 4: Resilience and Hazards</b>			
<b>Direction</b>	<b>Relevant?</b>	<b>Consistent</b>	<b>Comment</b>
4.1 Flooding	Yes	Yes	The objectives of this direction is to ensure that development of flood prone land is consistent with the NSW Government's <i>Flood Prone Land Policy</i> and the principles of the Floodplain Development Manual 2005, and to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.
4.4 Remediation of Contaminated Land	Yes	Yes	The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities. Any potential contamination risk from nearby sites will be assessed further by a targeted groundwater assessment at planning proposal stage following public exhibition.
4.5 Acid Sulfate Soils	Yes	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 identified as Class 5 Acid Sulphate Soils risk. Given the history and location of the</p>



			<p>site in an urban area, the risks associated within acid sulphate soils are considered minor.</p> <p>A future DA will be subject to the provisions of Clause 6.1 of the LEP 2012. Accordingly, detail of mitigation measures for the management of acid sulphate soils can be provided as part of this future development application for the redevelopment of the site.</p> <p>The Proposal does therefore not contradict, or hinder application of the acid sulfate soils provisions in LEP 2012.</p>
<b>Focus area 5: Transport and Infrastructure</b>			
5.1 Integrating Land Use and Transport	Yes	Yes	<p>The site is well located close to existing centres, public transport linkages and employment areas. The Proposal is consistent with the objectives of Direction 5.1 due to the site's close proximity to public transport. The site's accessibility to a variety of public transport options satisfies the objectives of the direction as it reduces the dependence on cars. The site exhibits good access to public transport with proximity to bus routes along Penshurst Street and Victoria Avenue providing excellent links to key centres and destinations within the lower north shore and metropolitan Sydney. This includes Chatswood, which is highly serviced by frequent rail, metro and bus public transport infrastructure.</p>
5.2 Reserving Land for Public Purposes	Yes	Yes	<p>The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p>

<b>Focus Area 6 : Housing</b>			
6.1 Residential Zones	Yes	Yes	The site is located within an R2 Low Density Residential zone and contains three dwelling houses. The Proposal for an additional permitted use of multi dwelling housing on the site will provide an increased mix and number of dwellings in an area close to key infrastructure.

## **Section C- Environmental, social and economic impact**

### **7) Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No. The subject site and adjoining lands have not been identified as containing any areas of critical habitat or threatened species, populations or ecological communities or habitats.

### **8) Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

Yes. The following areas of environmental impact of the proposal and the proposed management methods are discussed in the Council Detailed Assessment, with reference to different Strategies applicable where appropriate (refer **Attachment 2**):

- Land use
- Contamination
- Flooding and drainage
- Heritage
- Floor space ratio
- Design excellence
- Building sustainability
- Building Height
- Open space and landscaping
- Setbacks
- Building separation
- Minimum site area
- Other issues including solar access, privacy and general amenity, traffic and car parking
- Public Benefit

### **9) Has the planning proposal adequately addressed any social and economic effects?**

It is considered that the Planning Proposal has adequately addressed social and economic effects. It is noted that the Planning Proposal includes affordable housing provision (4% of total housing provision as measured in residential GFA and rounded to the nearest dwelling unit).

**10) Is there adequate public infrastructure for the planning proposal?**

The subject site is located close to a major public transport corridor (i.e. Victoria Avenue and Penshurst Avenue), serviced by existing utilities infrastructure and within walking distance from the Chatswood Transport Interchange. There is also a strong potential for active transport linkages due to the site's close proximity to both North Willoughby and Chatswood centres. Appropriate upgrades to active transport linkages could be incorporated as a condition of future development of the site.

Investment in local schools is planned by NSW Department of Education and ongoing collaboration is planned to address this issue in response to growth in and around the Chatswood area.

**11) What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Council has not notified any public authorities at this stage. It is expected that any Gateway Determination would establish which government authorities would be required to be consulted during the public exhibition.

**PART 4 – MAPPING**

This Planning Proposal as proposed involves amending *Willoughby Local Environmental Plan 2012 (LEP)* Spatial Viewer maps as follows:

- (a) Amend LEP Height of Buildings (HOB) Map to nominate the site as “Area 4” and allow for a maximum height of building of 10 metres for multi dwelling housing on the site;
- (b) Amend LEP Floor Space Ratio (FSR) Map to nominate the site as “Area 21” and allow for a maximum FSR of 1:1 for multi dwelling housing on the site;
- (c) Amend the LEP Lot Size (LSZ) Map to remove lot size controls from the subject site.
- (d) Amend the LEP Special Provisions Area (SPA) Map to include the site in Area 9 (Clause 6.8 Affordable Housing) and Area 15 (Clause 6.10 Minimum Lot Sizes).

**PART 5 – COMMUNITY CONSULTATION**

Public exhibition will be in accordance with the Department of Planning and Environment's Gateway Determination requirements and will include the Draft *Willoughby Local Environmental Plan 2012* Amendment (written instrument and Spatial Viewer mapping) and the *Draft Development Control Plan* provisions as amended by Council. This will involve appropriate notification and receipt of submissions from relevant state agencies and the general community.

## **PART 6 – PROJECT TIMELINE**

<b>Amended Planning Proposal Presented to Council</b>	March 2022
<b>Planning Proposal submitted to Gateway</b>	April 2022
<b>Gateway Determination received by Council</b>	July 2022
<b>Community Consultation (28 days)</b>	October 2022
<b>Outcomes of Community Consultation presented to Council</b>	February 2023
<b>Planning Proposal submitted to Department requesting notification on Government website</b>	March 2023