



## PLANNING PROPOSAL

Waverley Council Affordable Housing Contributions Scheme

## Planning Proposal Information

Council versions:

No.	Date	Version
1	24 March 2021	For review by the Waverley Local Planning Panel
2	13 April 2021	Strategic Planning and Development Committee Meeting for endorsement to proceed to Gateway



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## Executive Summary

There is a strong underlying demand for affordable housing provision in the Waverley LGA. An additional 600 affordable dwellings will be required by 2036 to address the current proportion of households in rental stress. The Waverley Affordable Housing Contributions Scheme (the Scheme) aims to ensure that lower income households can continue to live and work locally within the LGA, to facilitate a socially diverse and inclusive community. The Scheme intends to do this through capturing value attributed to individual landowners through uplift granted by the planning system for the public purpose of affordable housing, as well as through a 1% flat rate levy on all apartment developments to expand Council's existing affordable housing portfolio.

**Apartment Development:** For the purposes of this Planning Proposal, apartment developments refer to residential flat building, shop top housing or mixed-use development with a residential accommodation component.

Without intervention in the form of planning mechanisms, the provision of dedicated affordable housing stock in the Waverley LGA, the market will continue to produce housing that is only affordable to households on relatively high incomes. In early 2019, The Department of Planning, Industry and Environment announced that, under *State Environmental Planning Policy 70 – Affordable Housing (Revised Schemes)* (SEPP 70), all Councils were eligible to impose a condition of consent on new development for contributions to affordable housing. An affordable housing condition of consent would be any condition on a development consent that requires monetary or in-kind contributions to affordable housing.

Council's recently adopted Local Housing Strategy identifies that existing housing capacity under current controls would deliver the appropriate housing supply to meet our housing targets. Notwithstanding, the Local Housing Strategy identified a strong need for affordable housing in the Waverley LGA and indicated that new market housing was not addressing this need but exacerbating it by often reducing existing affordable housing. To this end, there is a clear case for intervention, in the form of an affordable housing contribution, to ensure that new housing delivery is contributing to the delivery of affordable housing. The LHS recommended a percentage range of 1-3% contribution on all new residential apartment development and 10-15% contribution on sites receiving uplift. It was identified that a specific percentage of 1% on all new residential apartment development and 10% on sites receiving uplift through planning controls would be an appropriate starting point. The contribution will be excluded from employment generating only development and development for the primary purpose of social housing and affordable rental housing.

Facilitating the provision of more affordable housing through the Scheme will help to bridge the gap in housing inequality in Waverley and ensure that long term residents who are in rental stress are not displaced.

## INTRODUCTION

**Apartment Development:** For the purposes of this Planning Proposal, apartment developments refer to residential flat building, shop top housing or mixed-use development with a residential accommodation component.

In early 2019, DPIE announced that, under SEPP 70, all Councils were eligible to impose a condition of consent on new development for contributions to affordable housing. To do this, Council must have an affordable housing contributions scheme referenced in the LEP. This Planning Proposal (the Proposal) has been prepared to give the Waverley Council Affordable Housing Contributions Scheme (the Scheme) legislative weighting by referencing it in the Waverley Local Environmental Plan 2012 (WLEP 2012).

This Proposal will apply to all of the Waverley LGA. This Proposal will apply to all residential apartment development which for the purposes of this PP, apartment developments refer to residential flat building, shop top housing or mixed use development with a residential accommodation component. Employment generating only development and development for the primary purpose of social housing and affordable rental housing are excluded. The Proposal does not apply to single family homes (i.e. detached, semi-detached, attached and multi dwelling housing). The Proposal will introduce a new affordable housing contribution requirement that consists of:

- A contribution on all new residential apartment development of 1% of gross floor area at a flat \$ rate/sqm.
- A contribution of 10% of gross floor area towards affordable housing for sites that receive planning uplift through planning controls.

## Background to this Planning Proposal

### *Legislative requirement*

In early 2019, DPIE announced that, under SEPP 70, all Councils were eligible to impose a condition of consent on new development for contributions to affordable housing. To do this, Council must have an affordable housing contributions scheme referenced in the LEP.

An affordable housing condition of consent would be any condition on a development consent that requires monetary or in-kind contributions to affordable housing.

### *Action from the adopted Local Housing Strategy (LHS)*

The preparation of the scheme is also in line with actions from the LHS, where it was recommended to implement a contributions scheme that requires a 1-3% base rate monetary contribution on all new residential apartment development and a higher 10-15% monetary contribution on sites receiving uplift. The scheme identified that a specific percentage of 1% on all new residential apartment development and 10% on sites receiving uplift would be appropriate as a starting point. This component of the scheme is subject to Department of Planning, Industry and Environment (DPIE) approval to update the LEP with such a clause via a Planning Proposal. Therefore, Council is required to prepare this Proposal in order to make an amendment to the Waverley LEP.

## PART 1 – OBJECTIVES OR INTENDED OUTCOMES

## 1.1 Description Statement

This Proposal will apply to all residential apartment development excluding employment generating only development and development for the primary purpose of social housing and affordable rental housing. It does not apply to single family homes (i.e. detached, semi-detached, attached and multi dwelling housing).

This Planning Proposal seeks to amend the Waverley Local Environmental Plan 2012 (WLEP 2012) by introducing a new affordable housing contribution as a requirement in the WLEP 2012, consistent with the recommendations from the Local Housing Strategy:

- A contribution on all new residential apartment development of 1% of gross floor area at a flat \$ rate/sqm.
- A contribution of 10% of gross floor area at a flat \$ rate/sqm towards affordable housing for sites that receive planning uplift through planning controls.

## 1.2 Intended Outcomes

The objectives or intended outcomes of the proposed amendments to the WLEP 2012 are:

- Provide a transparent framework for development and uplift received through the planning proposal process to make equitable affordable housing contributions
- Increase the amount of affordable housing within Waverley LGA to achieve Waverley's affordable housing targets set out in the Local Housing Strategy for 2036
- Ensure affordable housing contribution rates do not impact on development viability
- Ensure certainty for landowners and developer seeking to develop land in the LGA in understanding the contribution rates applicable to their development

## PART 2 – EXPLANATION OF PROVISIONS

### 2.1 A new additional local provision

The intended outcomes will be achieved by including a new local provision in the WLEP 2012 that enables the collection of affordable housing levy contribution. The clause will apply to the whole Waverley LGA. For the purposes of illustrating the intent of this, Appendix A provides a draft proposed clause.

## PART 3 – JUSTIFICATION

### 3.1 Section A – Need for the planning proposal

There is an undeniable need to provide affordable housing within the Waverley LGA for low-moderate income households. In Waverley the household income to house price ratio has risen from 4 in 1994 to 12 in 2016. The house price to income ratio indicates that Sydney median household income of \$1,750 would need to spend 12 times their annual gross income to purchase the average house in Waverley. Furthermore, Waverley's rent (for all dwellings) is 130% higher than the Sydney average. The median rent for a house of \$1,300/week is well beyond the affordable rental range (more than 30% of household income). In particular, the disparity between rents in Waverley compared to Greater Sydney

are more pronounced for three or more-bedroom places. This reflects a high demand for this type of housing product in Waverley.

The median rent for a unit is \$680/week. The median unit rent is affordable for households on a moderate income that is 20% more than the gross median household income for Waverley. The median weekly unit rent in Waverley suburbs is approximately \$500 to \$1,500 more than Sydney suburbs. According to the latest Rental Affordability Index 2020, most of the Waverley LGA is unaffordable for rental households with an income of \$95,000. In 2016, 20% of households renting in Waverley are in rental stress. This is a growing issue as the current supply of affordable rental housing is only meeting 57% of demand and new developments in Waverley may result in the loss of affordable housing.

When looking at the apartment types by bedroom number, the affordable units were for one and two-bedroom apartments. Like rental prices for houses, there is a significant increase in price for three-bedroom dwellings. This points to a demand for larger affordable units and the potential forced relocation for those residents who cannot afford these dwellings.

The above analysis highlights how Waverley has become severely unaffordable. In order to reduce the impact of this exacerbation Council needs to be able to increase the supply of dedicated affordable housing available to low-moderate income households.

### 3.1.1 Is the planning proposal a result of any strategic study or report?

The Proposal is a result of the Waverley Affordable Housing Contributions Scheme. The Scheme identifies the clear and critical need for increased supply of affordable housing within Waverley. The scheme proposes a modest contribution levy on all residential apartment development and mixed-use development excluding employment generating only development and development for the primary purpose of social housing and affordable rental housing. The scheme also proposes a contribution for sites that receive uplift through the Planning Proposal process.

This Proposal also responds to the findings of the Local Housing Strategy. The Local Housing Strategy suggests that there is sufficient capacity under current controls to meet Waverley's set housing targets and accommodate housing needs up to 2036. The proposed Waverley scheme is inconsistent with the SEPP 70 Guidelines, which require precinct scale upzonings to levy affordable housing contributions. However, the proposed Waverley Affordable housing Scheme is consistent with cl 7.32(1) of the *Environmental Planning and Assessment Act 1979* (the Act). This Planning Proposal intends to explain why Waverley's circumstances are unique and – notwithstanding any inconsistencies with the guidelines – are the most appropriate way to secure affordable housing.

### 3.1.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is the best means of facilitating new affordable housing contributions within the Waverley LGA as it is the only means of amending the LEP to reference the Scheme under SEPP 70. Currently Council allocates contributions from Planning Agreements towards public purposes including the provision of affordable housing. Council also levies contributions for affordable housing through the Affordable Rental Housing SEPP (ARHSEPP) if there is a reduction in affordable housing. Whilst Council can continue to secure contributions through these methods, they are not the most effective means of securing contributions for affordable housing. The Planning Agreements require the applicant to enter into them voluntarily and the funds raised from the ARHSEPP are sent to NSW FACS and pooled

into the *Boarding House Financial Assistance Program*, which provides grants for fire safety upgrading works to boarding houses across Greater Sydney.

Waverley has the second highest population density (80 people/Ha) in NSW with 66% of residents living in flats, units or apartments, compared to the Greater Sydney average where about 60% of the population live in detached houses. Even in relatively less dense parts of the LGA such as Dover Heights, the population density of 42 people/Ha still places it in the top 5% of most dense SA2s in NSW (30th out of 576 SA2s). Therefore, opportunities for ‘significant’ or ‘large scale’ rezoning (commonly known as “upzoning”) are limited. The requirement for significant precinct-scale upzoning provides a windfall gain to landowners and imposes only a minimal requirement for affordable housing. We suggest that in instances where sites receive an upzoning that a higher percentage of affordable housing is required and would best form part of a value capture / value sharing scheme.

The District Plan requires that all Councils develop 6-10 year (2022-2026) and 11-20 (2027-2036) year housing targets. The GSC developed 0-5 year targets (2016-2021) for all Councils and Waverley’s was 1,250 dwellings. This reflected the current housing supply pipeline that we were already on track to exceed. The proposed housing target of 3,400 dwellings to 2036 reflects a growth rate of 0.4% p.a to 2036. In comparison, DPIE’s dwelling projection for Greater Sydney is that it will grow by 2% p.a to 2036.

The housing target projects a similar level of growth to historical supply because beyond being already significantly dense, there are number of additional constraints to any further growth above current capacity. There is only so much ‘low hanging fruit’ left i.e. feasible and profitable sites, and these have been picked up in the capacity assessment. Once these sites are redeveloped, the high number of existing sites are predominantly strata titled reducing the amount of developable areas. The feasibility of these remaining non-strata areas is limited because much of these are Heritage Conservation Areas, heavily capitalised or in locations where single dwellings attract a higher premium compared to apartments (i.e. some apartment complexes have been converted to single dwellings). Whilst a housing target has been developed, it should be noted that ultimately the take up of the housing target will be left to the market.

Given the above, the LHS does not recommend any precinct upzonings and as such is inconsistent with the current version of the SEPP 70 guidelines, which focus on contributions being predicated on large scale precinct upzoning. Notwithstanding, the guidelines are much narrower in their scope than the Act, which provides for a broader range of conditions in which an Affordable Housing Contribution Scheme can apply. In particular, this Planning Proposal is consistent with the *Cl 7.32(1)(c) of the Act* “*the proposed development is allowed only because of the **initial zoning** of a site, or the rezoning of a site (emphasis added).*” The SEPP 70 Guidelines too narrowly circumscribe the conditions for when affordable housing contributions can be levied by only focusing on the ‘rezoning’ and not the ‘initial zoning’. Furthermore, the Act refers to a site, not precincts as the guidelines focus on. The interpretation of ‘initial zoning’ indicates that if a development is permissible, whether that be through the existing zoning or rezoning, or proposes to remove affordable housing, then Council should be able to levy a contribution from the development; regardless of if the site has been a part of a significant rezoning.

Implementing a 1% contribution levy on all residential apartment developments and a 10% levy on all sites that receive uplift through planning controls will allow Council to secure much needed housing for the purposes of affordable housing to be made available to low-moderate income households through community housing providers. The 10% levy could be used to secure affordable housing on the War Memorial Hospital Birrell Street site that is sitting with the DPIE for Gateway. The War Memorial Hospital Birrell Street Site Planning Proposal is proposing an increase to 15m and 21m and an FSR of 1.2:1. The Proponent has provided an offer that 10% of all dwellings be dedicated to Council as

affordable housing for this Planning Proposal, or a monetary contribution. This would increase the much-needed supply of affordable housing within Waverley and would also allow the proposal to remain viable as most of the dwellings would still be sold at market rate. This proposed contribution demonstrates the feasibility of the 10% contribution for sites that receive a significant uplift.

#### *Why an LEP clause is more appropriate than Voluntary Planning Agreements*

Historically Waverley has allocated funds received from Voluntary Planning Agreements (VPAs) to affordable housing. However, VPAs are ultimately voluntary and, in the absence of a clause in the LEP binding upzoned sites with a 10% AH contribution, then there is nothing obligating developers to provide affordable housing as part of upzonings. Furthermore, VPAs must be entered into by each landowner and hence there may be circumstances where most landowners subject to an upzoning are supportive of an AH contribution, but an objecting landowner can undermine the VPA applying for affordable housing. For example, for the War Memorial Hospital Planning Proposal, the Uniting Church owns 90% of all lots, but there are other owners interspersed and this is undermining the ability to apply a VPA and hence why an LEP clause that binds all landowners is preferred.

#### *Why the 1% affordable housing levy contribution is needed?*

Given the significant need for affordable housing in the Waverley LGA and the limited opportunities for large scale upzoning (i.e. most of the LGA being either strata titled, heritage listed or heavily capitalised), applying a 1% levy across all new residential apartment development is the only way to achieve a meaningful number of new affordable dedicated dwellings. Furthermore, the CI 7.32(1)(c) Act refers to the 'initial zoning' of a site regardless if the site has been a part of a significant rezoning.

Other Councils such as Willoughby and the City of Sydney, have applied a broad and low percentage rate across large area and this approach seeks to emulate these Councils. City of Sydney, for example, applied a 3% affordable housing contribution rate to all residential floorspace in Green Square and 1% to non-residential floorspace. In Ultimo/Pymont area, a 0.8% contribution rate was applied to residential floorspace and 1.1% applied to non-residential floorspace.

It is envisaged that the market could absorb a 1% affordable housing levy applying across the Waverley LGA as the only developer contributions that are payable are the 1% 7.12 levy – equating to approximately \$4,000 per dwelling – which is very low in the context of the typical 7.11 contribution across most Sydney Councils (which is around \$20,000 per dwelling on average). Furthermore, viability testing of case study sites showed that a 1% affordable housing levy is viable. Depending on the suburb, the 1% affordable housing contribution would equate to between \$8,000 and \$14,000 per dwelling (each suburb has pre-scheduled rates in the Affordable Housing Contribution Scheme). On balance, ***the total contribution level even with the 1% AH contribution would be lower than most Councils' existing developer contributions arrangements; therefore, the burden to development would be tolerable.*** See Section 3.3.3 for a detailed discussion in the financial feasibility modelling.

The impact of the 1% affordable housing levy is likely to be absorbed by landowners, resulting in lower land price as demonstrated by extensive research in this area.<sup>1</sup> Research showed that the costs cannot be passed onto purchasers and add to the price of housing, because if the purchaser is willing to pay a higher price for the land or development, the landowner would likely charge it in any case.<sup>2</sup> As the

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<sup>1</sup> Gurrán, N., Rowley, S., Milligan, V., Randolph, B., Phibbs, P., Gilbert, C., James, A., Troy, L. and van den Nouwelant, R. (2018) Inquiry into increasing affordable housing supply: Evidence-based principles and strategies for Australian policy and practice, AHURI Final Report 300, Australian Housing and Urban Research Institute Limited, Melbourne, <http://www.ahuri.edu.au/research/final-reports/300>, doi: 10.18408/ahuri-7313001.

<sup>2</sup> Evans-Cowley, J.S. and L.L. Lawhon. (2003) 'The effects of impact fees on the price of housing and land: A literature review', *Journal of Planning Literature*, 17(3):351-359.

impact of 1% affordable housing levy on development cost is minimum, in the short-term, if a developer had not accounted for a cost (such as an inclusionary zoning mandate), the costs are borne by the developer. In the medium to long-term, these costs are built into the cost profile of any potential development prior to the acquisition of a development site, thereby directly reducing the sale price landowners could achieve for development sites as purchasers would require a tenable profit margin (effectively shifting the windfall ‘planning gain’ from private to public interests). This is reflected by the NSW Productivity Commission *Review of Infrastructure Contributions in NSW*:

“Contributions do not necessarily add to the final price of new housing. The maximum price achievable for a new apartment or dwelling will be determined to a large degree by the broader housing market, with consideration of the unique characteristics of the property and its location. When a contribution is levied, to the extent that the broader housing market and characteristics of the dwelling are no different, the maximum price achievable for the dwelling would remain unchanged.”<sup>3</sup>

## 3.2 Section B – Relationship to strategic planning framework.

3.2.1 Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Greater Sydney Region Plan and exhibited draft strategies)?

### *A Metropolis of Three Cities*

*A Metropolis of Three Cities – the Greater Sydney Region Plan* (Region Plan) prepared by the Greater Sydney Commission is a high-level strategy applicable to the proposal. The Region Plan sets forward a vision for Greater Sydney of three ‘Cities’ of which Waverley falls into the ‘Eastern Harbour City.’ Each city has goals related to Infrastructure and Collaboration, Liveability, Productivity and Sustainability, as well as Ten Directions that relate to the whole of the Greater Sydney Region. Each of the above objectives within the Eastern City District Plan give effect to objectives within *A Metropolis of Three Cities*, the connections are set out below.

### *Eastern City District Plan*

#### **Planning priority E4: Fostering healthy, creative, culturally rich and socially connected communities**

This Planning Proposal will help to target local responses to address spatial variations in socio-economic disadvantage across the Eastern City District as it will provide the supply of affordable housing in various suburbs throughout Waverley. The high connectivity and high accessibility of Waverley’s public transport and proximity of surrounding suburbs to the Strategic Centre of Bondi Junction means that the affordable housing stock within Waverley will ensure that the tenants experience a higher quality of life.

Increased affordable housing stock will help to diversify Waverley’s community by providing a greater emphasis on very low, low and moderate household incomes. This will ensure that Waverley isn’t only affordable to those on high and very high household incomes.

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<sup>3</sup> NSW Productivity Commission, *Review of Infrastructure Contributions in NSW*, pg. 33.

This Proposal is in line with this direction of the Eastern City District Plan which in turn gives effect to the *Metropolis of Three Cities* this Planning Proposal delivers on the following objectives and corresponding strategies and actions:

- Objective 8 – Greater Sydney’s communities are culturally rich with diverse neighbourhoods

**Planning priority E5: Providing housing supply, choice and affordability, with access to jobs, services and public transport**

Introducing the requirement for 1% affordable housing in all residential unit developments and 10% of any site receiving uplift will increase the availability of affordable housing within Waverley. This housing will be given to a community housing supplier to manage so that the rent will be capped at a percentage of the market rate meaning those on very low, low and moderate household incomes can still afford to live in Waverley. This will help to improve housing inequalities within Waverley and ensure that there will be a variety of housing typologies available at low rental rates.

As the contributions are proposed to cover the entirety of the Waverley LGA there will be greater certainty that the supply of housing will be located with good access to jobs, services and public transport. The relatively small requirement will also ensure that the development will still be economically feasible which in turn will ensure that the stock of affordable housing will grow with at least 1 dwelling per residential unit development being used for affordable housing purposes.

This Proposal is in line with this direction of the Eastern City District Plan which in turn gives effect to the *Metropolis of Three Cities* this Planning Proposal delivers on the following objectives and corresponding strategies and actions:

- Objective 10 – Greater housing supply
- Objective 11 – Housing is more diverse and affordable

Guide to preparing Planning Proposals

<b>Strategic Merit Test</b>	
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; or	<p>As listed above the Planning Proposal is consistent with Planning Priority E4: <i>Fostering healthy, creative, culturally rich and socially connected communities</i> and Planning Priority E5: <i>Providing housing supply, choice and affordability, with access to jobs, services and public transport.</i></p> <p>Introducing the requirement for 1% affordable housing in all residential unit developments and 10% of any site receiving uplift will increase the availability of affordable housing within Waverley. This housing will be given to a community housing supplier to manage so that the rent will be capped at a percentage of the market rate meaning those on very low, low and moderate household incomes can still afford to live in Waverley. This will help to improve housing inequalities within Waverley and ensure that there will be a variety of housing typologies available at low rental rates.</p>
Consistent with a relevant local council strategy that has been endorsed by the Department; or	As seen below in Section 3.2.2 this Proposal is consistent with the LSPS, specifically <i>Planning Priority 6: Facilitate a range of housing opportunities in the right places to support and retain a diverse community.</i>
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.	<p>This Proposal responds to the housing affordability crisis in Waverley that has been steadily growing for many years. The existing high house prices in Waverley continue to climb and are expected to have a detrimental impact on the socio-economic diversity of Waverley. There are great levels of inequality between those who can and cannot afford housing in Waverley. Increasing housing stress caused by the loss of affordable housing has detrimental ramifications such as the displacement of long-term residents in gentrifying areas, loss of cultural and social diversity, and key workers struggle to afford high housing costs proportionally to low incomes.</p> <p>This Proposal will ensure that there is housing available for those with very low, low and moderate household incomes. This Proposal is the mechanism by which the LEP can secure this affordable housing.</p>

**Table 1: Assessment of Proposal against Strategic Merit Test**

<b>Site-specific Merit Test</b>	
b) Does the proposal have site-specific merit, having regard to the following:	
The natural environment (including known significant environmental values, resources or hazards); and	N/A. This Planning Proposal applies to the entirety of Waverley LGA. This Proposal will not have any impacts on the natural environment.
The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal; and	This Proposal will not inhibit any proposed development within Waverley. The Proposal will ensure that any development for residential units or Proposal seeking an uplift through the Planning Proposal process will provide affordable housing. The modest and relatively low percentages proposed to be levied will ensure that the proposals are still economically viable so that the development can still go ahead, and a social benefit can be achieved.
The services and infrastructure that are or will be available to meet the demands arising from the proposal; and	This will be assessed as part of any subsequent DA or Planning Proposal that is lodged. The Proposal will not lead to any increase in population, only subsequent DAs and PPs will lead to this and these will be dependent on market demand.
Any proposed financial arrangements for infrastructure provision.	Any arrangements for infrastructure provision will be secured through a VPA which will be assessed on its merits.

**Table 2: Assessment of Proposal against Site Specific**

### 3.2.2 Is the planning proposal consistent with a council’s local strategy or other local strategic plan?

#### *Waverley Local Environmental Plan 2012*

The Waverley LEP has seven main aims that all Planning Proposals and development should be consistent with where applicable. This Planning Proposal is consistent with the following key aims of the Waverley LEP.

*to promote and co-ordinate a range of commercial, retail, residential, tourism, entertainment, cultural and community uses to service the local and wider community*

This Proposal will promote a range of housing choices available to the Waverley community and importantly will service the needs of those on very low, low and moderate household incomes. This will in turn support the wider community as it will ensure equity in housing choices and promote diversity through allowing members of the community of a variety of socio-economic backgrounds to live in the area. This will also ensure long term residents are not displaced as a result of housing affordability.

*to provide for a range of residential densities and range of housing types to meet the changing housing needs of the community*

The Planning Proposal is the best means of facilitating new affordable housing contributions within the Waverley LGA which will allow Council to secure much needed affordable housing stock within Waverley. At present, Waverley is severely unaffordable. Waverley’s rent for all dwellings is 1.3 times higher than the Sydney average. As a result, 30% of all renting households are in rental stress and, most strikingly, 85% of low-income households are in rental stress. The current forms of affordable housing supply are not going to meet the relevant demand. Waverley has the fifth lowest key worker population in Sydney. Where key workers are on a very low, low and moderate income, this is contributing to

overall demand for affordable housing. This Planning Proposal responds to this need from the community for increased supply of affordable housing.

*Waverley Local Strategic Planning Statement*

<b>Direction: Housing the city</b>	
<b>Planning Priority 6: Facilitate a range of housing opportunities in the right places to support and retain a diverse community</b>	
<p>1. Prepare and implement a Local Housing Strategy that:</p> <ul style="list-style-type: none"> <li>• Sets a 6-10 year and 20 year housing target;</li> <li>• Includes a review of the demand for seniors housing;</li> <li>• Investigates demand for student and worker housing to support the Randwick Health and Education Precinct, and other local needs.</li> </ul>	<p>The District Plan requires that all Councils develop 6-10 year (2022-2026) and 11-20 (2027-2036) year housing targets. The GSC developed 0-5 year targets (2016-2021) for all Councils and Waverley’s was 1,250 dwellings. This reflected the current housing supply pipeline that we were already on track to exceed. The proposed housing target of 3,400 dwellings to 2036 reflects a growth rate of 0.4% p.a to 2036. In comparison, DPIE’s dwelling projection for Greater Sydney is that it will grow by 2% p.a to 2036.</p> <p>The housing target projects a similar level of growth to historical supply because beyond being already significantly dense, there are number of additional constraints to any further growth above current capacity. There is only so much ‘low hanging fruit’ left i.e. feasible and profitable sites, and these have been picked up in the capacity assessment. Once these sites are redeveloped, the high number of existing sites are predominantly strata titled reducing the amount of developable areas.</p> <p>The Local Housing Strategy suggests that there is sufficient capacity under current controls to meet Waverley’s set housing targets and accommodate housing needs up to 2036. Therefore, Waverley is not proposing any upzoning as part of the Comprehensive LEP Review 2021 as the housing demand can be met under current controls.</p>
<p>2. To increase the avenues to deliver affordable housing:</p> <ul style="list-style-type: none"> <li>• Work with Woollahra and Randwick Councils to prepare a regional approach to affordable housing;</li> <li>• Involve community housing providers in the preparation of the Affordable Housing Strategy;</li> <li>• Investigate opportunities to form partnerships to increase housing for very low to medium income groups;</li> <li>• Prepare and implement the Affordable Housing Strategy;</li> <li>• Review planning controls to support the delivery of affordable housing</li> </ul>	<p>This Proposal is the implementation mechanism by which the affordable housing contributions scheme will be recognised in the LEP. This will help to increase housing supply available to very low, low- and medium-income households. As the contribution will apply to the entirety of the Waverley LGA, it will be the first step in preparing a regional approach to affordable housing in the Eastern City District. Randwick’s inclusion into SEPP 70 and Woollahra’s application to SEPP 70 will ensure that there are a variety of housing typologies available throughout the East to socio-economically disadvantaged groups.</p> <p>Once secured, the affordable housing will be managed by a community housing provider and rented out at rates that do not exceed a</p>

	<p>benchmark of 30% of the tenant’s household income.</p> <p>Once this Proposal is gazetted by DPIE, this will be the avenue by which the planning controls have been amended to support the delivery of affordable housing.</p>
<p>3. Work with the Department of Planning, Industry and Environment to prepare an affordable housing scheme to ensure SEPP 70 is effective in Waverley</p>	<p>This Planning Proposal will ensure that SEPP 70 is effective within Waverley. The Planning Proposal provides the legislative means by which Council can require contribution payments for the purposes of affordable housing. As discussed throughout this report, the scheme requires some exemptions from the guidelines of the scheme but it does so in meeting the objectives of the scheme. As the Waverley Local Housing Strategy outlines there are no precincts left in Waverley to be upzoned as the LGA has the second highest population density in NSW among other issues which are discussed in Section 3.1.2. The proposed modest contribution rates will ensure that Waverley Council can still secure much needed affordable housing for its community without stifling development viability as seen in the economic feasibility modelling.</p>
<p>4. Review planning controls to provide for diverse types of housing, and work with NSW Government to improve character considerations in the Codes SEPP</p>	<p>This Proposal will help to promote affordable housing within Waverley by increasing the supply of affordable housing for socio-economically disadvantaged people. The Proposal applies to residential unit developments and sites seeking uplift through a Proposal and as such will ensure a mix of apartment types are made available to the affordable housing market.</p> <p>Whilst the Proposal is not specifically making any recommendations to provide diverse housing typologies, Council will be implementing controls to target this issue as part of the Comprehensive LEP 2021.</p>
<p>5. Implement controls to regulate Short Term Holiday Letting in the LGA</p>	<p>Not applicable.</p>
<p>6. Advocate for changes to the ARHSEPP to increase the effective application of Part 3 to introduce a maximum cap on permissible rents, and increase effective and localised contributions schemes</p>	<p>Waverley Council has long advocated for changes to the ARHSEPP to ensure the effectiveness of Part 3 and increase the effectiveness of securing localised contributions for affordable housing purposes. Whilst this Proposal does not impact the ARHSEPP at all or the draft Housing Diversity SEPP it does propose to ensure the effectiveness of securing contributions for localised affordable housing by introducing the 1% and 10% contribution levies. This Proposal is consistent with this action within the LSPS.</p>

**Table 3: Assessment of the Proposal against the Local Strategic Planning Statement**

Waverley Community Strategic Plan 2018-2029

Section	Consistency
2.1 Create a resilient, caring and cohesive community	This Proposal will provide the mechanism that will ensure that affordable housing is secured in all future residential unit development and for any site receiving uplift. These units will be managed by community housing providers and strict conditions for tenants will be used so that the housing is made available only for those on very low, low and moderate household incomes. This Proposal is consistent with 2.1.2 of the Waverley Community Strategic Plan.
5.1 Facilitate and deliver well designed, accessible and sustainable buildings and public places that will improve the liveability of neighbourhoods	This Planning Proposal aligns with the relevant actions listed in the community strategic plan. The Proposal proposes to commit 10% of gross floor area to affordable housing for any site that receives uplift and 1% of gross floor area for any residential unit development. The Proposal will cover all of Waverley LGA so all resulting development for affordable housing will be well located to make use of existing infrastructure and public transport services to provide access to surrounding areas. This will help to ensure that Waverley is accessible to people from socio-economically disadvantaged backgrounds and will ensure that tenants of affordable housing still maintain a good quality of life living in proximity to public transport and services.

**Table 4: Assessment of Proposal against Waverley Community Strategic Plan**

3.2.3 Is the planning proposal consistent with applicable State Environmental Planning Policies?

SEPP	Name	Applicable	Consistent
1	Development Standards	Yes	Yes. This Planning Proposal does not contain provisions that contradict or would hinder the application of this SEPP
19	Bushland in Urban Areas	N/A	N/A
21	Caravan Parks	N/A	N/A
30	Intensive Agriculture	N/A	N/A
33	Hazardous and Offensive Development	N/A	N/A
36	Manufactured Home Estates	N/A	N/A
44	Koala Habitat Protection	N/A	N/A
47	Moore Park Showground	N/A	N/A
50	Canal Estate Development	N/A	N/A
52	Farm Dams and Other Works in Land and Water Management Areas	N/A	N/A
55	Remediation of Land	Yes	Yes. This Planning Proposal does not contain provisions that contradict or would hinder the application of this SEPP
62	Sustainable Aquaculture	N/A	N/A
64	Advertising and Signage	N/A	N/A

65	Design Quality of Residential Apartment Development	Yes	Yes. This Planning Proposal does not contain provisions that contradict or would hinder the application of this SEPP
70	Affordable Housing (Revised Scheme)	Yes	<p>In early 2019, DPIE announced that, under SEPP 70, all Councils were eligible to impose a condition of consent on new development for contributions to affordable housing. To do this, Council must have an affordable housing contributions scheme referenced in the LEP. This Proposal is the mechanism by which the contributions scheme is reference in the LEP.</p> <p>Waverley raised concerns in its submission to the draft SEPP 70 Guidelines that affordable housing contribution scheme should apply to all new development and that it is possible the guidelines misrepresent the Act25 by only focusing on the ‘rezoning’ and not the ‘initial zoning’. To further address these concerns Council prepared the Local Housing Strategy.</p> <p>Council’s recently adopted Local Housing Strategy does not propose any rezoning in the LGA. This is because it was determined that existing housing capacity under current controls would deliver the appropriate housing supply to meet housing targets. Notwithstanding, the Local Housing Strategy identified a strong need for affordable housing in the Waverley LGA and indicated that new market housing was not addressing this need but exacerbating it by often reducing existing affordable housing. To this end, there is a clear case for intervention, in the form of an affordable housing contribution, to ensure that new housing delivery is contributing to the delivery of affordable housing.</p> <p>The contribution will apply to all residential apartment development and mixed-use development excluding employment generating only development and development for the primary purpose of social housing and affordable rental housing and will consist of:</p> <ul style="list-style-type: none"> <li>• A contribution on all new residential apartment development of 1% of gross floor space at a flat \$ rate/sqm.</li> </ul>

			<ul style="list-style-type: none"> <li>A contribution of 10% of gross floor space towards affordable housing for sites that receive planning uplift through planning controls.</li> </ul> <p>This Proposal justifies this proposed amendment further throughout.</p>
--	(Affordable Rental Housing) 2009	Yes	<p>The key intention of the ARHSEPP is to facilitate more affordable rental housing by encouraging smaller and by nature, less expensive, dwellings into the local housing market. However, the SEPP purely relies on the smaller nature of the housing to make it affordable, with no formal requirements to cap rent at an affordable rate. In the 2016/17 financial year 20% of secondary dwellings were rented out on the private market and were more expensive than comparable product in the market. Anecdotal evidence indicates that the remaining 80% of secondary dwellings are being utilised under private, likely informal arrangements for extended family or adult children to live in. This reflects a wider shift towards multi-generational households for social and cultural reasons but also increasing housing affordability pressures particularly for young adults trying to get their foot in the market. Moreover, it is out of Council’s control to monitor the rents to ensure that they are addressing the demand for affordable housing.</p> <p>Even when contributions are collected, they are not reinvested back into the Waverley LGA. Furthermore, developments only need to be available at a discounted affordable rate for 10 years, not in perpetuity.</p> <p>This Planning Proposal is the best means of facilitating new affordable housing contributions which will allow Council to secure much needed affordable housing stock within Waverley. This is consistent with the objectives of the Affordable Rental Housing SEPP.</p>
--	(Building Sustainability Index: BASIX) 2004	Yes	Yes. This Planning Proposal does not contain provisions that contradict or would hinder the application of this SEPP
--	(Coastal Management) 2018	N/A	N/A
--	(Educational Establishments and Childcare Facilities) 2017	N/A	N/A

--	(Exempt and Complying Development Codes) 2008	Yes	Yes. This Planning Proposal does not contain provisions that contradict or would hinder the application of this SEPP
--	(Housing for Seniors or People with a Disability) 2004	Yes	Yes. This Planning Proposal does not contain provisions that contradict or would hinder the application of this SEPP
--	(Infrastructure) 2007	Yes	Yes. This Planning Proposal does not contain provisions that contradict or would hinder the application of this SEPP
--	(Mining, Petroleum Production and Extractive Industries) 2007	N/A	N/A
--	(Miscellaneous Consent Provisions) 2007	N/A	N/A
--	(State and Regional Development) 2007	N/A	N/A
--	(State Significant Precincts) 2005	N/A	N/A
--	(Sydney Drinking Water Catchment) 2011	N/A	N/A
--	(Sydney Regions Growth Centres) 2006	N/A	N/A
--	(Three Ports) 2013	N/A	N/A
--	(Urban Renewal) 2010	N/A	N/A
--	(Vegetation in Non-Rural Areas) 2017	N/A	N/A

**Table 5: Assessment of Proposal against relevant SEPPs**

### 3.2.4 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

Ministerial Directions	Comment
<p>3.1 Residential Zones</p> <p>(1) The objectives of this direction are:</p> <p>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p> <p>(c) to minimise the impact of residential development on the environment and resource lands</p> <p>(4) A planning proposal must include provisions that encourage the provision of housing that will:</p> <p>(a) broaden the choice of building types and locations available in the housing market, and</p>	<p>This Planning Proposal aligns with the relevant actions listed in this ministerial direction. The Proposal proposes to commit 10% of gross floor area to affordable housing for any site that receives uplift and 1% of gross floor area for any residential unit development. The Proposal will cover all of Waverley LGA so all resulting development for affordable housing will be well located to make use of existing infrastructure and public transport services to provide access to surrounding areas.</p> <p>This Proposal will not contain provisions which will reduce the permissible residential density of land.</p>

Ministerial Directions	Comment
<p>(b) make more efficient use of existing infrastructure and services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p> <p>(d) be of good design.</p> <p>(5) A planning proposal must, in relation to land to which this direction applies:</p> <p>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p>	
<p>6.1 Approval and Referral Requirements</p> <p>(1) The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p>	<p>The proposal aims to ensure that the amended WLEP2012 would give effect to the redevelopment of the site and the appropriate assessment of development.</p>

**Table 6: Assessment of Proposal against NSW Ministerial Directions**

### 3.3 Section C – Environmental, social and economic impact

#### 3.3.1 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?

This Planning Proposal does not propose any physical development and the collection of contributions for the purposes of affordable housing will not have any environmental impacts. Any development that is lodged with Waverley Council will be assessed on its merits.

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

There are no environmental impacts proposed as part of this Planning Proposal.

#### 3.3.3 Has the planning proposal adequately addressed any social and economic effects?

##### Economic effects

Financial feasibility modelling was completed to understand the impact of the 10% levy across the LGA, using the DPIE SEPP 70 spreadsheet (see attachments). Local developers were contacted to discuss assumption parameters. The following assumptions were used in the modelling.

Assumption	Comment
<b>Cost assumptions</b>	
High standard finish	Applied to all development tested and revenues reflected this level of finish.
Contingency	The building costs in the DPIE spreadsheet reflect Rawlinsons ‘Australian Construction Handbook’ costs, which have contingency built into the costs. Therefore, additional contingency was not added (cell reference E113 of ‘Assumptions’ tab).
<b>Revenue Assumptions</b>	
Sales prices	Where possible new apartment sales in the suburb were used. Where there has been a lack of new sales, existing apartments (typically 1970s stock) has been used with a 20% premium added to reflect a new sale.
<b>Other Assumptions</b>	
Apartment mix	Adopted the standard apartment mix as this covers off a broad section of development types in the LGA.
Uplift %	An uplift % of typically 30% was used across scenarios. Though most planning proposals seek uplift greater than this amount, this low uplift % was used to be conservative.
Land premium	Typically, 20% premium on existing use value has been used, although this was reduced to 15% in areas where prices are really high. Local developers indicated that a lower premium was offered in these areas.
Examples	Where possible actual developments were used in each suburb that was tested. Not all suburbs were tested as they had similar characteristics of neighbouring suburbs that were tested.

Overall, the modelling demonstrated that a 10% affordable housing levy applying to new developments with modest uplift was financially viable and hence would have an acceptable effect from a developer’s financial point of view. However, it is important to make the distinction that *private feasibility* occurs when industry can generate a return on capital that is sufficient to proceed with a project. This will arise when a purchaser’s willingness to pay exceeds delivery costs and a minimum acceptable profit to developers. This is very different from an economic perspective, which is concerned with the public interest and measures changes to society’s welfare and economic benefits or costs. The economic case for affordable housing contributions is strong.

The benefits of affordable housing are based on the social and economic sustainability associated with a greater social mix. Quality of life and well-being are enhanced if people transact their citizenship in diverse communities rather than polarised districts. Health outcomes, engagement in civic process and social capital building are supposed to be superior for rich and poor alike in mixed communities. The failure to provide affordable housing permanently in well serviced locations as the city develops leads to the geographic isolation, and subsequent marginalisation of low income and at-risk groups. There is evidence that concentration exacerbates disadvantage and diminishes the potential for involvement in training and work. Therefore, the inclusion of affordable housing in established areas with good access to opportunity is fundamental to social function and to avoid foregone human capital.<sup>4</sup>

<sup>4</sup> Spiller M and Anderson-Oliver M, ‘Revisiting the economics of inclusionary zoning’, SGS Economics and Planning, April 2015.

### Social Impacts

The existing high house prices in Waverley continue to climb and are expected to have a detrimental impact on the socio-economic diversity of Waverley. There are great levels of inequality between those who can and cannot afford housing in Waverley. Increasing housing stress caused by the loss of affordable housing has detrimental ramifications such as the displacement of long-term residents in gentrifying areas, loss of cultural and social diversity, and key workers struggle to afford high housing costs proportionally to low incomes.

Rental stress is a growing issue across Sydney as more people choose or can only afford to rent in a competitive housing market. In 2016, 30% of households renting in Waverley are in rental stress, which makes up 13% of all households in Waverley. When broken down into the income brackets below, there is a stark comparison between the proportion of households in rental stress when compared to Greater Sydney. This is markedly noticeable for very low income and low-income households where 81% and 85% of these households are in rental stress. Based on anecdotal evidence, these households are likely to be those on a pension or single income families.

The proportion of households in rental stress has been translated as a base level demand target for the provision of affordable rental housing. In 2016, 13% of Waverley households were in rental stress equating to 3,440 dwellings (assuming one household equals one dwelling). This made up 11% of the total dwelling stock in 2016. The Waverley Local Housing Strategy highlights that just to address the current proportion of households in rental stress, an additional 600 affordable dwellings will be required by 2036, equating to approximately 30 affordable rental dwellings per annum.

Facilitating the provision of more affordable housing through the Scheme will help to achieve this target set for approximately 30 affordable rental dwellings per year as it is a much more consistent and certain way of securing the contribution for affordable rental housing as opposed to a VPA. This will have a positive social impact as it will help to bridge the gap in housing inequality in Waverley and ensure that long term residents who are in rental stress are not displaced.

It is important to understand the demand for key worker housing as key workers are essential to the social and economic wellbeing of cities. The financial ability of key workers to live somewhere is often used as a measure of housing affordability because they are generally in lower-paid occupations and need to live close to their place of work because of irregular shifts (e.g. at night) or the need to respond to emergency situations. Typically, key workers are teachers, nurses, ambulance, paramedic and emergency services and police officers.

In 2016, there were 1,600 key workers on very low, low to moderate incomes living in Waverley. Between 2006 and 2011, there was a 15.2% net loss of these key workers in the Eastern Suburbs, and now Waverley LGA has the fifth lowest key worker population in Sydney.<sup>5</sup> The loss of key workers is telling of the broader picture that Waverley has grown as an increasingly unaffordable area for very low and low income households. This entrenches and exacerbates disadvantages as it “can force long distance commutes and increasingly displace asset poor older and younger people from areas where they have historically lived; thereby excluding those who play a valuable role in the Waverley’s economic and social fabric”.<sup>6</sup>

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<sup>5</sup> Gurrán, N., Gilbert, C. Zhang, Y., Phibbs, P. 2018, “Affordability in Sydney”, Report prepared for Teachers Mutual Bank, Police Bank and My Credit Union, The University of Sydney, Sydney.

<sup>6</sup> Judith Stubbs and Associates, 2016, SSROC Affordable Housing Submission: Background report part 1 – demographic and housing market analysis.

### 3.3.4 Is there adequate public infrastructure for the planning proposal?

While this Planning Proposal will facilitate more affordable housing, it does not propose an increase in density above that which is currently permissible under the Waverley LEP. As such, it will not result in an increase in residential or worker population greater than what have already been anticipated and is not expected to result in any additional burden on existing public infrastructure.

Any Planning Proposals or DAs proposing uplift above the development standards will be considered on their merits.

## PART 4 – MAPPING

This Planning Proposal will apply to all of Waverley LGA and as such no changes to mapping are required.

## PART 5 – COMMUNITY CONSULTATION

Public exhibition is likely to include a newspaper advertisement, hard copy display in the Council’s Library and Customer Service Centre, a display on the Council’s website and written notification to landowners. The gateway determination will specify the level of public consultation that must be undertaken in relation to the planning proposal.

Pursuant to Division 3.4 of the Act, a planning proposal must be placed on public exhibition for a minimum of 28 days, or as specified in the gateway determination for the proposal. The Responsible Planning Authority must consider any submissions made concerning the proposed instrument and the report of any public hearing.

## PART 6 – PROJECT TIMELINE

The following indicative project timeline will assist with tracking the progress of the planning proposal through its various stages of consultation and approval. It is estimated that this amendment to WLEP will be completed by December 2021.

The detail around the project timeline is expected to be prepared following the referral to DPIE for a Gateway Determination.

Tasks	Timeframe
Gateway Determination	March – May 2021
Community Consultation	May – July 2021
Post Exhibition Review	July – August 2021
Update Planning Proposal / Report to Council	August – October 2021
Parliamentary Counsel drafting of LEP	October – November 2021
DPIE to finalise LEP	November – December 2021

**Table 7: Project Timeline**