

Post-Exhibition Report – PP-2022-4316 - 3 McIntosh Street, 2 Day Street and 40-42 Anderson Street, Chatswood

The planning proposal seeks to reduce the affordable housing contribution rate applicable to the site from 10% to 7% on the sites 3 McIntosh Street, 2 Day Street and 40-42 Anderson Street, Chatswood.

1 Introduction

The planning proposal is at the post-exhibition stage, which is the last stage before an LEP may be made and finalised. The Sydney North Planning Panel (the Panel) determined at a Rezoning Review that the proposal had strategic and site merit (8 June 2024). Subsequently, a Gateway assessment was undertaken, and a Gateway Determination was issued on 28 January 2025 for the proposal to proceed, subject to conditions. Consultation with the community required by the Gateway Determination conditions has now been completed.

The purpose of this report is to provide a summary of the key matters raised by members of the public and Willoughby City Council (Council) during the Public Exhibition of the planning proposal (**Attachment A**) for 3 McIntosh Street, 2 Day Street and 40-42 Anderson Street, Chatswood (the site). The report makes a recommendation to the Panel that it submit the proposal to the Department of Planning, Housing and Infrastructure for Finalisation.

Table 1 – Background information

Element	Description
Date of request to exhibit PP	20 February 2025
Date of panel determination on Rezoning Review	8 June 2024
Date of Gateway Determination	28 January 2025
Date of Public Exhibition	7 March 2025 – 4 April 2025
Planning Proposal no.	PP-2022-4316
LGA	The City of Willoughby
LEP to be amended	Willoughby Local Environmental Plan (LEP) 2012

Element	Description
Address	3 McIntosh, 2 Day Street and 40-42 Anderson Street, Chatswood
Brief overview of the timeframe/progress of the planning proposal	<p>22 August 2018 – Proponent met Council to discuss proposal.</p> <p>24 December 2021 – Gateway Determination issued for <i>Willoughby LEP 2012 Amendment Number 34</i> (Willoughby LEP Update) planning proposal (PP-2021-6264).</p> <p>5 March 2022 – Willoughby LEP Update proposal Public Exhibition commenced.</p> <p>7 June 2022 – Willoughby LEP Update proposal Public Exhibition concluded.</p> <p>28 August 2022 – Pre-lodgement meeting between Proponent and Council.</p> <p>20 December 2022 – Proponent officially lodged planning proposal which included a 4% affordable housing contribution rate and changes to zoning, maximum HOB, and maximum FSR for the site.</p> <p>9 March 2023 – Council invited the Proponent to withdraw their proposal. They advised that proposal with rates below 10% lodged after 7 June 2022 are unlikely to be supported.</p> <p>30 June 2023 – The <i>Willoughby LEP 2012 Amendment Number 34</i> planning proposal (PP-2021-6242) was made.</p> <p>11 July 2023 – The Willoughby Local Planning Panel reviewed the Proponent's planning proposal (PP-2022-4316) and recommend to Council it not proceed.</p> <p>27 November 2023 – Council resolved not to forward the planning proposal to the Department for Gateway Determination.</p> <p>1 December 2023 – Proponent submitted a Rezoning Review Request to the Department.</p> <p>8 June 2024 – The Sydney North Planning Panel recommended the proposal be submitted for Gateway Determination, subject to revisions, including increasing the affordable housing contribution rate from 4% to 7% and removing provisions covered by <i>Willoughby LEP 2012 Amendment Number 34</i>. The Panel appointed itself as the PPA for the proposal.</p> <p>24 September 2024 – Proponent submitted a revised proposal for Gateway Determination.</p>

Element	Description
	<p>28 January 2025 – The Department issued a Gateway Determination.</p> <p>7 March 2025 – Public Exhibition commenced.</p> <p>4 April 2025 – Public Exhibition concluded.</p> <p>7 April 2025 – Department requested the Proponent provide a Response to Submissions.</p> <p>5 May 2025 – Proponent provided a Response to Submissions.</p>
Finalisation date required by Gateway Determination	29 August 2025
Department contact:	Ian Woods, Planning Officer

1.1 The Site and local context

The subject site (**Figure 1**) is located at 3 McIntosh Street, 2 Day Street and 40-42 Anderson Street, Chatswood and comprises of 4 lots (SP2650, SP76364, SP1604, and SP19181). The site has a total combined area of 3,122m². The site is bound to the west by residential development and has frontage to Day Street to the north, Anderson Street to the east, and McIntosh Street to the south. It adjoins a lot to the south-east (38 Anderson Street) which is not included in this planning proposal. The site is currently occupied by four three-storey residential flat buildings and is currently zoned *MU1 Mixed Use* under the *Willoughby LEP 2012*. No changes to zoning are proposed.

The site is located within the north section of Chatswood CBD. It is situated approximately 170m north of the main campus of St Pius X College Chatswood, 300m north of Chatswood Train/Metro Station and Westfield Chatswood.

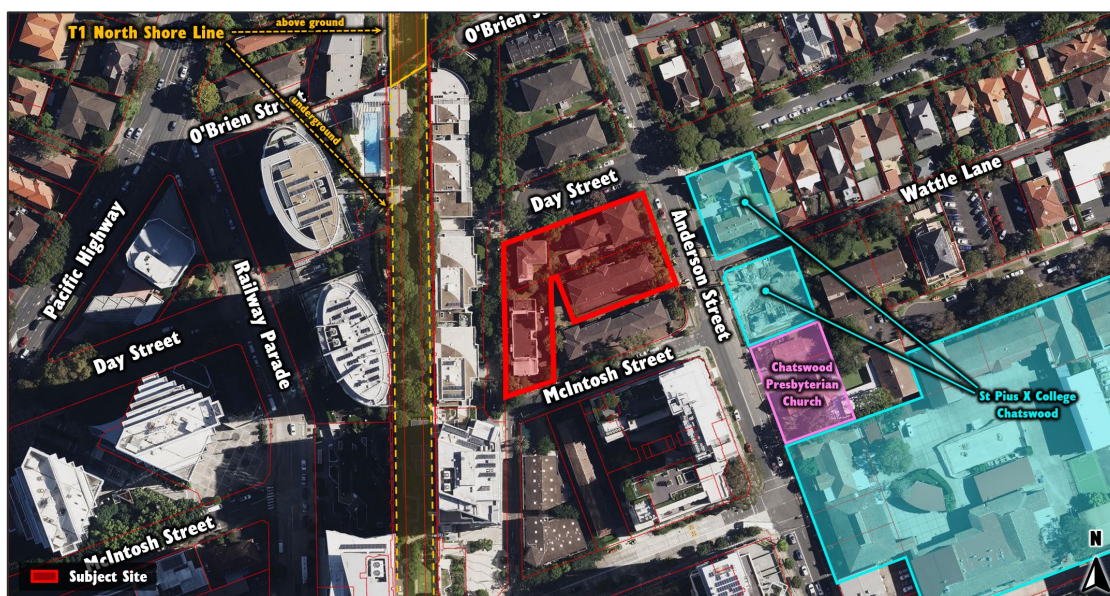


Figure 1 – Subject site (source: NSW Spatial Viewer, February 2025)



Figure 2 – Site Context (source: NSW Spatial Viewer, February 2025)

1.2 State Electorate and local member

The site falls within the Willoughby state electorate. Timothy Charles James MP is the State Member.

The site falls within the Bradfield federal electorate. The Hon. Paul Fletcher MP is the Federal Member.

To the team’s knowledge, neither MP has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

1.3 Planning Proposal

Table 2 – Overview of planning proposal

Element	Description
Site Area	3,122m ²
Site Description	Lot SP2650, SP76364, SP1604, and SP19181
Proposal summary	The planning proposal seeks to amend the Affordable Housing Map in the <i>Willoughby LEP 2012</i> to change the site from “Area 3” to “Area 2”, thereby changing the applicable affordable housing contribution rate from 10% to 7%.

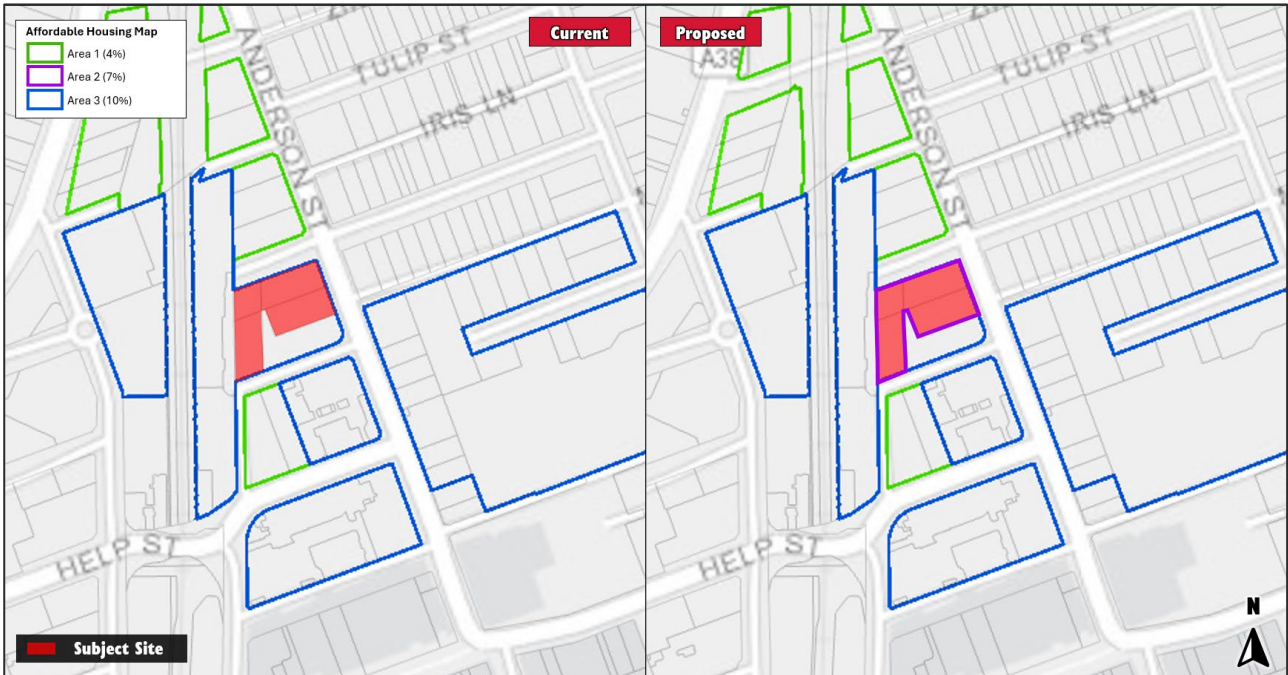


Figure 3 – Current and proposed Affordable Housing Map (source: NSW Spatial Viewer, April 2025)

The planning proposal (**Attachment A** and **Table 2**) seeks to amend the *Willoughby LEP 2012* per the changes in **Table 3** below.

Table 3 – Current and proposed controls

Control	Current	Proposed
Affordable Housing Map	Area 3 - 10%	Area 2 - 7%

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Rezoning Review

On 29 May 2024, the Sydney North Planning Panel considered a Rezoning Review for this planning proposal because Council notified the proponent it will not support the proposed.

The Panel determined to support the planning proposal because the proposal has demonstrated strategic and site-specific merit and is consistent with State and Local Strategies. The panel made the recommended that, prior to submitting the planning proposal for a Gateway Determination, the planning proposal be revised to:

- Remove the provisions to rezone the site from *R3 Medium Density Residential* to *MU1 Mixed Use*, increase the maximum Height of Building (HOB) from 12m to 90m, and increase the Floor Space Ratio (FSR) from 0.9:1 to 6:1. These planning provisions have already been implemented by the *Willoughby LEP 2012 Amendment Number 34*;
- Update the provision to decrease the affordable housing contribution rate from the currently mapped Area 3 - 10%, to Area 2 - 7%;

- Update the Affordable Housing Map to change the site from Area 3 – 10%, to Area 2 – 7%; and
- Update the planning proposal in accordance with the above points and the *LEP Making Guideline* (August 2023) to reflect the Panel's decision.

The Panel's determination and reasons for its decision are provided in **Attachment B**.

The Panel appointed itself as the Planning Proposal Authority (PPA).

The proposal was submitted to the Department for a Gateway Determination on 25 September 2024.

1.5 Gateway determination

The Gateway determination issued on 28 January 2025 (**Attachment C**) determined that the proposal should proceed subject to the following conditions:

1. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 20 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023).
2. No consultation is required with public authorities or government agencies under section 3.34(2)(d) of the EP&A Act.
3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

The Gateway determination identifies that the proposal is to be finalised on or before 29 August 2025.

All conditions of the Gateway Determination have been met (see **Attachment D**).

2 Community Consultation

2.1 Public Exhibition

On 20 February 2025 the PPA Team advised the Panel that the proposal have been satisfactorily amended to meet the Gateway Conditions for Public Exhibition to commence (**Attachment E**).

In accordance with the Gateway determination, the planning proposal and supporting material were publicly exhibited on the NSW Planning Portal for 21 working days, from 7 March 2025 to 4 April 2025.

3 Submissions

3.1 Submissions during exhibition

A total of 5 unique submissions were received during the exhibition period, including:

- 3 public submissions (excluding 2 duplicates),
- 1 submission from the Proponent (**Attachment H**)
- 1 Council submission from Willoughby City Council (**Attachment G**).

Of the 3 unique public submissions, all objected to the planning proposal. The Proponent's submission was in support of the proposal.

Willoughby City Council were consulted regarding the planning proposal and confirmed in writing that they had no further comment.

A table outlining the PPA Team and Proponent's response to submissions is provided as **Attachment F**.

3.1.1 Submissions from the community

In summary, all 3 unique submissions received from the community objected to the planning proposal. They raised the following issues:

- Negative social impact
- Anti-social/illegal behaviour
- Alternate housing solutions
- Weighting of submissions
- Deliverability of cheap developments by private developers

Other issues, not directly related to this planning proposal, included overcrowding, traffic, insufficient infrastructure, height, scale, and air quality/wind tunnels.

3.1.2 Submissions from the Proponent and Council

A submission was received from the Proponent (Mecone, on behalf of 3 McIntosh Pty Ltd) which is provided in full in **Attachment H**. The Proponent outlined their support of the proposal and requested that 38 Anderson Street be included as part of the proposal

A submission was received from Willoughby City Council and provided in full at **Attachment G**. In their submission, Council noted the Panel's decision regarding the 7% affordable housing contribution rate and confirmed they had no further comments:

3.2 Key Issues from submissions

3.2.1 Issue No.1 – Re-inclusion of 38 Anderson Street

Proponent Views

The Proponent requested to re-include 38 Anderson Street in their proposal. The Proponent provided the following justifications for of 38 Anderson Street's inclusion:

- Acknowledges the Proponent's efforts to acquire 38 Anderson Street at Council's behest and would make development quicker and more feasible.
- Would assist in expediting the delivery of 18 affordable housing dwellings across site, if included.
- Provides consistency with other Chatswood CBD sites that have a consistent rate (many with 4% rate) across amalgamated lots.

PPA Team Response:

The PPA Team note the site was acquired at Council's behest to include in the proposal, however it was not included in the proposal when lodged for Rezoning Review nor was the subject site of the proposal when the gateway determination was issued or during public exhibition.

The PPA Team is of the view that the inclusion of the additional site (38 Anderson Street) would trigger the re-exhibition of the planning proposal, as it would be expanding the land included in the proposal to be greater than what was previously placed on public exhibition. To re-exhibit the proposal would extend the time period beyond the existing gateway finalisation time of August 2025, resulting in the need to seek an extension of time from the LPMA to likely add a further 6 months to the process and this time delay may not be supported by the Department.

Notwithstanding the above, there is merit in changing the affordable housing rate to have a uniform rate across the amalgamated lots. However, the PPA Team does not support the inclusion of 38 Anderson Street, due to the likely extensive time delays and does not recommend this post-exhibition change to the planning proposal.

3.2.2 Issue No.2 – Impact of Affordable Housing

Community

During Public Exhibition, 2 out of the 3 unique community submissions included several issues relating to the changes in affordable housing. In summary, the issues related to:

- Concerns with potential increase in illegal and anti-social behaviour
- Developers not delivering truly affordable housing.
- Need for alternate mechanisms to deliver different typologies of affordable housing.

Proponent Response:

This planning proposal applies specifically to 3 McIntosh Street, 2 Day Street, and 40-42 Anderson Street, Chatswood. Affordable Housing is a key strategic objective supported by state and local policies, with Willoughby City Council aiming for 7-10% of new development Gross Floor Area (GFA) to be affordable housing by 2026. It achieves this by providing homes for low to moderate-income households and key workers who often are unable to afford market prices near their jobs. It offers significant benefits such as fostering inclusive communities near public transport, alleviating housing stress, reducing displacement, and supporting the local workforce and economy

Future developments will need to demonstrate design excellence and adhere to Crime Prevention Through Environmental Design principles.

PPA Team Response:

The PPA team notes that the Panel determined on 8 June 2024 that the proposal had strategic and site-specific merit. The planning proposal was issued a Gateway Determination on 28 January 2025 which further supports its strategic and site-specific merit.

The comments related to the risk of illegal and anti-social behaviour from tenants of Affordable Housing are not considered valid planning concerns.

The requirement and need to provide Affordable Housing for the Willoughby community has been identified previously and exists already in the LEP, this planning proposal would not exacerbate this risk but instead provide much needed accommodation for those who are in an existing housing crisis.

Broader government solutions to the housing crisis and issues like anti-social behaviour or concerns about private developers delivering affordability are not seen as reasons to stop the proposal from moving forward to Finalisation.

The PPA team is of the view that the issues relating to the impact of Affordable Housing in the suburb do not prevent it from progressing to Finalisation.

3.2.3 Issue No.3 – Lack of Planning Merit

Community/Council Views

Of the 3 unique community submissions, 1 submission raised planning merit as an issue on with this proposal. In summary, these submissions stated the proposal lacks planning-based merit and the administrative justification should lead to its disallowance and should be handled separate to the planning process.

Proponent Response:

Under the *LEP Making Guidelines*, planning proposals must demonstrate both strategic and site-specific merit to proceed, with the Minister (or delegate) needing assurance of this merit and that potential impacts are manageable for a Gateway Determination.

The planning proposal successfully met the required assessment criteria in its review, leading to a Gateway Determination that confirmed its merit and the manageability of potential impacts.

PPA Team Response:

On 8 June 2024, the Panel determined on that the proposal had strategic and, subject to revision, site-specific merit and should proceed to Gateway assessment. This was further supported when a Gateway Determination was issued on 28 January 2025.

The PPA Team are of the opinion that the issues raised about planning merit have been adequately addressed and do not prevent the proposal from proceeding to Finalisation.

4 Next Steps

The Department is the Local Plan-Making Authority (LPMA) for this planning proposal.

The Panel's decision and the final planning proposal will be submitted to the Department through the NSW Planning Portal for Finalisation.

The Department will prepare a Finalisation report in accordance with the *LEP Making Guidelines* (August 2023) and will determine whether to make the LEP, with or without variation. The Department may defer the inclusion of a matter in the proposed LEP or not make the LEP.

In accordance with section 3.36(1) of the EP&A Act, the Department will organise drafting of the LEP and Finalisation of maps and will consult the Panel on any draft instrument.

5 Recommendation

Based on this post-exhibition report, it is recommended that the Sydney North Planning Panel determine that the planning proposal should be submitted to the Department for Finalisation.

The planning proposal is considered suitable for Finalisation because:

- The proposal demonstrated strategic and site-specific merit.
- The conditions of the Gateway have been met.
- Community consultation has occurred in accordance with the Gateway Determination.

5.1 Attachments

Attachment A – Planning Proposal and attachments (July 2024)

Attachment A1 – Appendix 1 – AEC Report Part 1

Attachment A1 – Appendix 1 – AEC Report Part 2

Attachment A1 – Appendix 2 – LEP Amendment Map

Attachment B – Rezoning Review Record of Decision (June 2024)

Attachment C – Gateway Determination (January 2025)

Attachment D – Assessment Against Gateway Determination

Attachment E – Authorisation of Exhibition (February 2025)

Attachment F – Summary of Submissions and Responses

Attachment G – Council Submission

Attachment H – Proponent Submission

Attachment I – Community Submissions (redacted)

Attachment J – Proponent Response to Submissions (May 2025)



(Signature)

19/06/2025 (Date)

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