



WILLOUGHBY
CITY COUNCIL

MEMO

To: Chair, Sydney North Planning Panel
From: Consultant Planner, Peter Wells
Date: 11 September 2024
Address: 3 - 5 Help Street Chatswood
Ref/File No.: PPSSNH-401- Willoughby - Public meeting DA-2023/160
Subject: Pre SNPP meeting – Draft conditions, development contributions memo, general housekeeping

This memo is provided to assist the Panel in its determination.

Draft conditions

- (a) The applicant has reviewed the draft conditions contained in Attachment 7 of the assessment report and responded (see Appendix 1) by requiring at condition 44 the deletion of “Level 07”, which was inadvertently written in but with no units identified under this sub-heading. Council has no objection to the deletion of these words. The applicant is presently reviewing further conditions proposed to be amended or added shown in this memo.
- (b) A typographical/formatting error has occurred at conditions 56, 54 and 55 on page 96 of the report. This needs to be corrected in the issuance of the consent, should the Panel be of a mind to approve the application. Further, these conditions require a reason, as follows is red.

56. Privacy

Prior to the issue of a Construction Certificate translucent glazing (frosting) shall be used on Levels 3 to 5 to the east-facing living room window (units 3.03, 4.03, 5.03) up to height of 1.7m from the floor to aid privacy mitigation to the east.

(Reason: Mitigate privacy impacts to adjoining properties)

54. Privacy

The privacy screens shown on Drawing 5201 and 5202 both Rev A to be detailed on the Construction Certificate plans prior to the issue of the Construction Certificate.

(Reason: Mitigate privacy impacts to adjoining properties)

55. Glare nuisance

The Construction Certificate drawings must confirm measures to be used to mitigate glare nuisance from the solar panels.

(Reason: Mitigate glare impacts to adjoining properties)



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(c) Condition 49 to be amended as follows:

49. Adaptable Units and car spaces

Adaptable residential units for disabled persons are to be provided at a rate of 50% of units (total ~~35~~ **64** units). Each adaptable unit is to be nominated on the Construction Certificate drawings **and minimum 16 adaptable units are each adaptable unit is to be provided with a disabled car space. Adaptable units that are also affordable, being units 3.04, 6.01, 6.03 and 6.06 must each have its own car space, where two (2) of these spaces are accessible.**

(Reason: Compliance, universal design)

(d) Condition 141A to be added in accordance with standard procedure to read as follows:

141A. Affordable Housing Dwellings

The affordable housing dwellings identified in this consent are to be dedicated to Willoughby City Council within two months of the registration of any subdivision of the development, or within 6 months of the issue of an Occupation Certificate, whichever comes first, for the purpose of affordable housing in accordance with Clause 6.8 of Willoughby Local Environmental Plan 2012:

(a) list units, car spaces and adaptable units
(Reason: Ensure compliance)

Development contributions memo

(e) Page 22 of the assessment report indicates that the Development contributions memo will be provided prior to the meeting. This memo (see Appendix 2) states that a contribution of \$1,874,030.90 (s7.12) is required, which is consistent with draft condition 12, so no change is required.

Assessment Report

The following corrections/updates are made to the PPSSNH-401 Assessment Report.

(f) References to SEPP 65 are replaced with SEPP (Housing) 2021 as Chapter 4 'Design of residential apartment development' of the Housing SEPP applies to all **pending** development applications, even those lodged before 14 December 2023, pursuant to section 8(2A) of Schedule 7A of the Housing SEPP.

Housing SEPP s149 'Apartment Design Guide prevails over development control plans' takes the place of the previous section 6A.

The non-discretionary development standards are satisfied.

I look forward to providing any further clarification where required at today's meeting.

Peter Wells, Consultant Planner



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APPENDIX 1 – APPLICANT’S RESPONSE TO DRAFT CONDITIONS

Hi Peter,

Trust you are well also.

Thanks for sending through the draft conditions.

Could you please delete the reference to Level 07 in condition no.44 as the Units on Level 3 & 6 equate to the 4% Affordable Housing requirements and no units from Level 07 are required.

44. Agreement to Transfer Affordable Housing Dwellings

The applicant must enter into a Deed with the Council providing for the transfer of title of the affordable housing dwellings to the Council, free of charge. The Deed is to be generally in accordance with the Housing Transfer Deed template available at Council and is to be submitted to the Council and executed prior to the issue of the Construction Certificate.

The Affordable housing units to be nominated are:

Level 03
Unit 3.04 (62.90m2)

Level 06
Unit 6.01 (88m2)
Unit 6.02 (56m2)
Unit 6.03 (59m2)
Unit 6.04 (50m2)
Unit 6.05 (56m2)
Unit 6.06 (83m2)

Level 07

Total = 454.9m2

Additionally, could you please confirm if any members of the general public have registered to speak at the Planning Panel.

Kind Regards,

Ryan Lidgard
Assistant Development Manager

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APPENDIX 2 – DEVELOPER CONTRIBUTIONS MEMO



Memo To: Peter Wells
Memo From: Contributions Officer (Sylvania Mok)
Date: 27 June 2024 (Revised 9 Sept 2024)
Address: 3-5 HELP STREET, CHATSWOOD NSW 2067
Ref/File No.: DA-2023/160
Subject: Development Contributions DA Referral

Proposed Development involves:

- Demolition of 53 existing studio/1 to 2-bedroom dwellings (based on domain.com.au and Council's strata plan areas record)
- construction of a **Mixed Use** development comprising 127 residential units containing:
 - Part 2, Part 3-storey non-residential podium comprising: 2,342m² commercial tenancy
 - 24-storey residential tower comprising:

# of bedroom units	Quantity	Notes
studio	2	
1-bedroom	62	5 units dedicated for affordable housing
2-bedroom	49	2 units dedicated for affordable housing
3-bedroom	14	
Total	127	

The proposed development contains commercial, retail and residential uses and is therefore considered a **mixed use** development (i.e. a development comprising 2 or more different land uses).

In accordance with CI 2.5 and Table 1 of the Willoughby Local Infrastructure Contribution Plan 2019, "where a single development application comprises a mix of type (a) Residential Accommodation that would result in a net increase in residents on the land and (b) other development that has a proposed cost of works more than \$100,000, either a s7.11 contribution or a s7.12 levy will be imposed. The contribution method which produces the greater amount will be the method used for that application." The subject development falls under this scenario, as such will be subject to either s7.11 or s7.12, whichever yields the greater amount.

This calculation is demonstrated below:

S7.11 Calculation	Qty	Proposal - Calculation	
Dwellings / Residents Proposed		dwelling rate	Contributions (\$)
Studio or 1-bedroom dwelling	64	x \$11,045.36	\$706,903.04
2-bedroom dwelling	49	x \$15,544.09	\$761,660.41
3-or more bedroom dwelling	14	x \$20,000	\$280,000.00
Subtotal	127		\$1,748,563.45
AH dedication req'd under WLEP CI 6.8 - Area 1			
CI 2.6 of WLIC Plan states that development contribution <u>does not</u> apply to Affordable Housing (AH).			
Hence exemption has been taken into account for the nominated 7 AH dwellings vary in sizes.			
Deduct 5 x 1-bedroom AH dwellings	5	x \$11,045.36	\$55,226.80
Deduct 2 x 2-bedroom AH dwellings	2	x \$15,544.09	\$31,088.18
Subtotal	7		\$86,314.98
(i.e. \$1,748,563.45 minus \$86,314.98) Subtotal	120		\$1,662,248.47



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In accordance with CI 2.9.1 of WLIC Plan, the following credits are given for this development:			
Credits for demolishing existing structures		Credits - Calculation	
		dwelling rate	Contributions (\$)
Existing dwellings in 1-bedroom dwellings	44	x \$11,045.36	\$485,995.84
Existing dwellings in 2-bedroom dwellings	9	x \$15,544.09	\$139,896.81
(assumption: based on dwelling sizes obtained Domain.com.au and also strata plan area recorded in Council's system)		LESS	\$625,892.65
s7.11 yield amount (with credits given): (i.e. \$1,662,248.47 minus \$625,892.65)		53	\$1,036,355.82

Compared with...

If s7.12 Contribution Calculation

Construction Cost without accounting Professional fees and Affordable Housing related cost (incl GST):	Construction Cost (incl GST)
Assumptions:	
- Construction costs (excl GST): \$59,763,900	
- Construction costs without Prof cost, AH costs (excl GST): \$56,788,815	
<i>Unless the Developer provides evidence on the costings related to the AH, this assumption has been made in the calculation. Deducted AH costs of ~\$683,348 (assumption based on \$1,900/m² for AH units total floor area: 464.92m² obtained from floor plan 9003, dated 2024/05/24)</i>	\$62,467,697
Location	Chatswood CBD
Applicable %	3%
S7.12 yielding amount based on costs of works (\$62,467,697 x 3%):	\$1,874,030.90

As demonstrated above, **\$1,874,030.90** of s7.12 contribution applies to this development because it yields greater amount than s7.11 contribution. Therefore, condition **D03.003B** should be inserted as per below:

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

S7.12 Contribution

Prior to the issue of the Construction Certificate, a monetary contribution is to be paid in accordance with section 7.12 of *Environmental Planning and Assessment Act, 1979* in the amount of **\$1,874,030.90** for the purposes of the Local Infrastructure identified in the *Willoughby Local Infrastructure Contributions Plan*.

This contribution is based on 3% of the estimated cost of development, being **\$62,467,697** at 30/05/2023 and the adopted *Willoughby Local Infrastructure Contributions Plan*.

Indexation

To calculate the monetary contribution that is payable, the proposed cost of development is to be indexed to reflect quantity variations in the Consumer Price Index, All Groups, Sydney, as published by the Australian Bureau of Statistics (ABS) between the date the proposed cost of development was agreed by the Council and the date the levy is to be paid as required by this Plan.

To calculate the indexed levy, the formula used to determine the monetary contribution is set out below:

$$\frac{\$C_D \times \text{Current CPI}}{\text{Base CPI}}$$

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Where:

- \$Co = the original development contribution determined by the Council based on a percentage of the cost of development as set out in the Contributions Plan
- Current CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter immediately prior to the date of payment
- Base CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter ending immediately prior to the date of imposition of the condition requiring payment of a contribution

Deferred payments of contributions will not be accepted.

Prior to payment, Council can provide the value of the indexed levy.

Copies of the *Willoughby Local Infrastructure Contributions Plan* are available for inspection online at www.willoughby.nsw.gov.au

(Reason: Statutory requirement)

If there are any **changes** to the development statistics **before finalising the consent**, please let me know.

Note: for the spreadsheet of s7.11 / s7.12 calculations, see ECM Doc Set #: 7032002

Planning Agreement

In addition, there is an executed VPA, dated 28 Oct 2021, associated with the subject development which specifies developer's obligations to pay VPA contributions for the development. However, on the same day of VPA execution (ie. 28 October 2021), the full amount of contribution under this VPA had been paid.

You may address all VPA matters have been satisfied as part of your assessment under s4.15 of the EP&A Act as there is no outstanding monetary contribution or any other obligations related to the executed VPA owing to Council.

Sylvania Mok
Contributions Officer

ECM

Document Set ID: 7031999
Version: 4, Version Date: 09/09/2024