



Re: Submission on Explanation of Intended Effect - Changes to Create Low- and Mid-Rise Housing

Executive Summary

This response to the *Low and Mid-rise Housing Reforms* has been prepared by Council officers and does not reflect the views of the Councillors. The submission was endorsed at Council's meeting of 25 March 2024

Willoughby City Council extends its appreciation for the opportunity to provide feedback on the proposed amendments outlined in the Explanation of Intended Effect (EIE) related to the creation of low-and mid-rise housing.

Willoughby Council is committed to accommodating its growing population and has a strong track record of proactively implementing new planning controls to create additional capacity and to encourage strategically located growth. Council has recently delivered substantial capacity for additional housing growth through the making of its new Local Environmental Plan on 30 June 2023. These changes respond to the housing challenge by adding capacity for an additional 6,500 dwellings in the Chatswood CBD and in key centres across the Willoughby Local Government Area (LGA).

Notwithstanding this, Council acknowledges the challenges posed by the housing crisis and the need to deliver between 314,000 and 377,000 new homes by 2029 in order to National Housing Accord. Council wishes to work with the government to further refine the proposed reforms to better align with infrastructure capacity, local character, heritage values, vegetation objectives and local context.

Council acknowledges the importance of accommodating diverse housing needs within our community while maintaining the unique character and amenity of our neighbourhoods. A comparison table and maps (**Attachment 1**) has been prepared to illustrate the potential impact of the proposed EIE, aiming to provide clarity on the implications of the changes in different areas and assist in understanding the potential effects on our community.

Having reviewed the proposed changes in the EIE, and undertaken briefings with Councillors and the community, Council provides the following issues and associated recommendations.

Recommendations

- *The reforms should not be implemented in centres where recent up-zonings have occurred.*
- *A streamlined up-zoning process should be made available to Councils to up-zone their controls in precincts where they have delivered and adopted precinct masterplans or in accordance with an adopted Centres Strategy.*
- *The proposed reforms should not applied be within the extent of the Probable Maximum Flood, as per the recent advice of the Department of Planning in relation to Council's Comprehensive LEP.*
- *Updated housing targets should be released prior to policy changes designed to accommodate the required growth.*

- *Where strategically targeted reforms are to be undertaken, it is strongly recommended that they are mapped in close consultation with the affected Councils.*
- *Greater clarity is required as to how the proposed changes will be implemented so that Councils and the community can accurately and confidently understand and respond to the proposed changes.*
- *Stronger restrictions on proposals to prevent removal of existing, healthy, mature trees should be included in any reforms. A stronger control should be implemented requiring 40% of the original site area be covered by tree canopy. This should be supported by larger minimum deep soil zones, lower maximum FSRs, and more stringent tree planting requirements (discussed further in the Key Issues section of this submission).*
- *It is recommended that the government substantiate that the reforms can be appropriately serviced by infrastructure, from roads to schools, hospitals, open space, electricity, water and sewer.*
- *A Future Infrastructure Fund should be set up, capturing funding from a portion of the increased land values and allocating them to infrastructure projects in the LGA where the development occurred.*
- *An overhaul of the current Infrastructure Contributions Framework should be undertaken to increase simplicity and efficacy. In particular, a published works and projects list should underpin the Housing and Productivity Contribution, confirming works to be delivered across the state by locality from the fund.*
- *TfNSW should fund a scoping and feasibility analysis for upgrades to Chatswood Interchange to address current issues and ensure future capacity supports anticipated growth.*
- *To ensure the preservation of Sydney's cultural heritage, it is recommended that the proposed changes are excluded from Heritage Conservation Areas.*
- *The Department of Planning, Housing and Infrastructure should work with across Government, with Councils and the Development Industry, to establish a timeline and to deliver an overhaul of the current planning system with a view to simplification, more effective and equitable infrastructure funding, and higher quality outcomes.*

What is Proposed

In December 2023, the State Government released proposed changes to planning legislation that seek to expand the permissibility of duplexes and multi dwelling housing, particularly around train stations and local centres. In addition, the proposal seeks to increase the maximum height and floor space ratios for apartments in the R3 zone within 800m of stations and town centres.

The following tables compares the current controls under Willoughby Local Environmental Plan (WLEP), the State Environmental Planning Policy - Exempt and Complying Development 2008 (the Code SEPP) and controls under the proposed reforms.

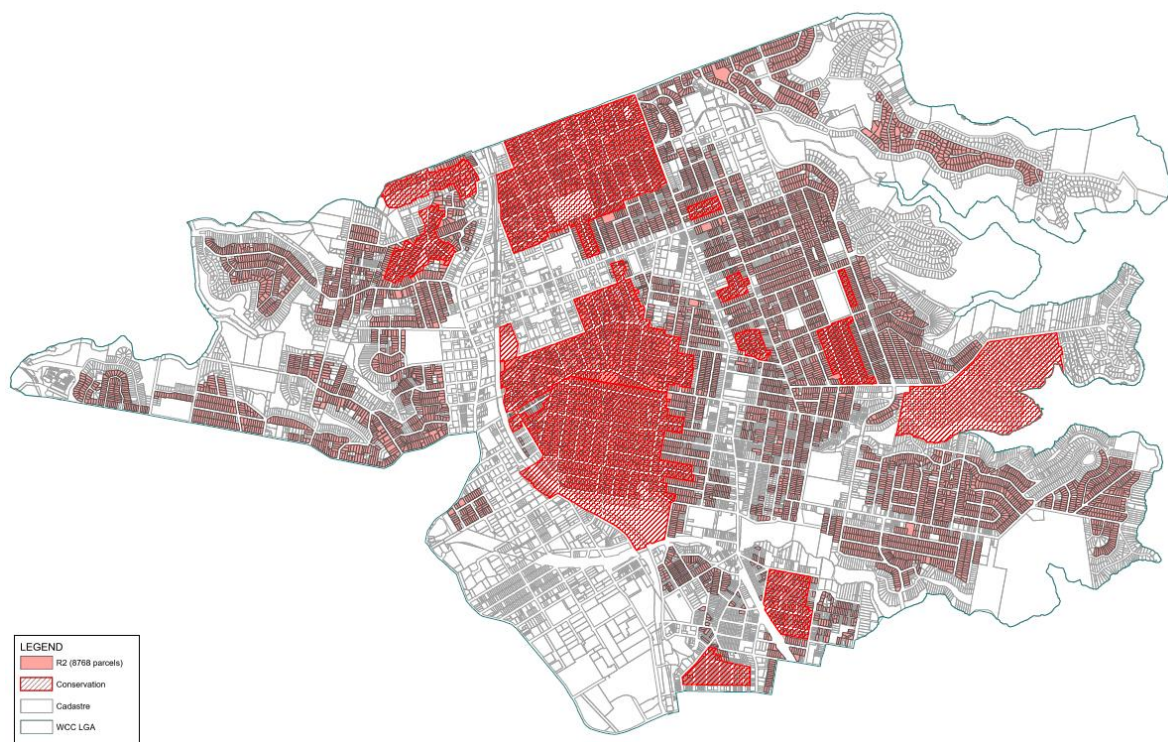
Table 1: Comparison of Duplex controls

	WLEP	Code SEPP	Reforms
Min lot size	700m ² attached 900m ² detached	700m ² attached 900m ² detached	450m ²
Min frontage	15m	15m	12m
Height	8.5m	8.5m	9.5m
FSR	≥700 m ² and <800 m ² : 0.41:1 ≥800 m ² : 0.4:1	GFA 25% of the lot area plus 300m ²	0.65:1
Landscaped area	35% of parent lot	50% of initial lot minus 100m	15% - 25% for resultant lots
Permissibility in Heritage Conservation Areas (HCAs)	Excluded in HCAs	Excluded in HCAs	Permitted in HCAs (subject to merit assessment)

The proposed state controls will:

- Increase height by 1 metre, increasing potential overshadowing and amenity impacts in low density suburban neighbourhoods.
- Increase floor space by 30%, meaning larger, bulkier buildings that are inconsistent with other applicable controls managing form and impacts.
- Decrease landscaped area requirements, meaning fewer green spaces and loss of tree canopy.
- Compromise the integrity of Willoughby's Heritage Conservation Areas by altering the subdivision pattern and built form character.

Figure 1 – Land potentially affected by proposed Dual Occupancy changes (also see Attachment 1)



Based on desktop analysis of the land potentially affected by the reforms relating to Dual Occupancies, it is estimated that theoretical capacity for 6,137 additional dwellings will be created. However, it is noted that 100% take-up of the theoretical capacity is not a reasonable expectation, and a number of these sites would also be eligible for other higher yield forms such as two storey flat buildings (Manor Homes) under the proposal; not all potential sites will become duplexes.

The estimated yield range for duplexes under the proposed reforms is 920-1,841 additional dwellings (see Dwelling Yield Assumptions, below, for more detail on the methodology used for these estimates).



Table 2: Comparison of Multi Dwelling Housing and Manor Home controls in R2 zone

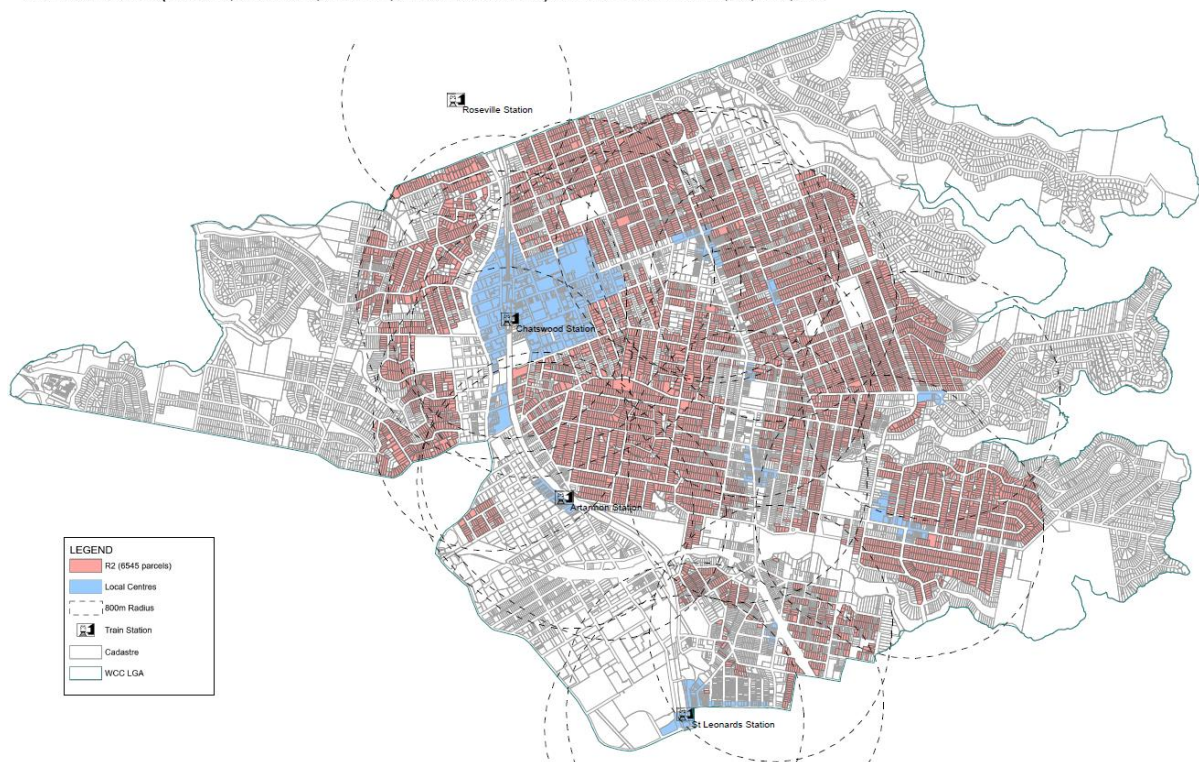
	WLEP	Code SEPP	Reforms
Min lot size	Prohibited in R2	Prohibited in R2	Manor homes 500m ² MDH (Terraces) 500m ² MDH 600m ²
Min frontage	Prohibited in R2	Prohibited in R2	Manor homes 12m MDH (Terraces) 18m MDH 12m
Height	Prohibited in R2	Prohibited in R2	9.5m
FSR	Prohibited in R2	Prohibited in R2	Manor homes 0.8:1 MDH / Terraces 0.7:1
Landscaped area	Prohibited in R2	Prohibited in R2	20% - 30%
Permissibility in R2 zone	Not permitted	Not permitted	Permitted, including in HCAs

The proposed state controls will:

- Introduce forms of developments into R2 low density residential zone that are inconsistent with the zone objectives, and Inconsistent with the desired future character and density.
- Increase floor space, meaning larger, bulkier buildings.
- Decrease landscaped area requirements, meaning less green space and a loss of tree canopy.
- Compromise the integrity of the Willoughby Heritage Conservation Areas by radically altering the subdivision pattern and built form character.

Figure 2 – Land potentially affected by proposed Manor Houses changes (also see Attachment 1)

Proposed Manor Houses Permissibility:
R2 with 500sqm Area or greater and with 12m Frontage width or greater, within 800m radius from heavy rail and metro stations (Roseville, Chatswood, Artarmon, St Leonards Stations) and within 800m from E1, E2, MU1, SP5

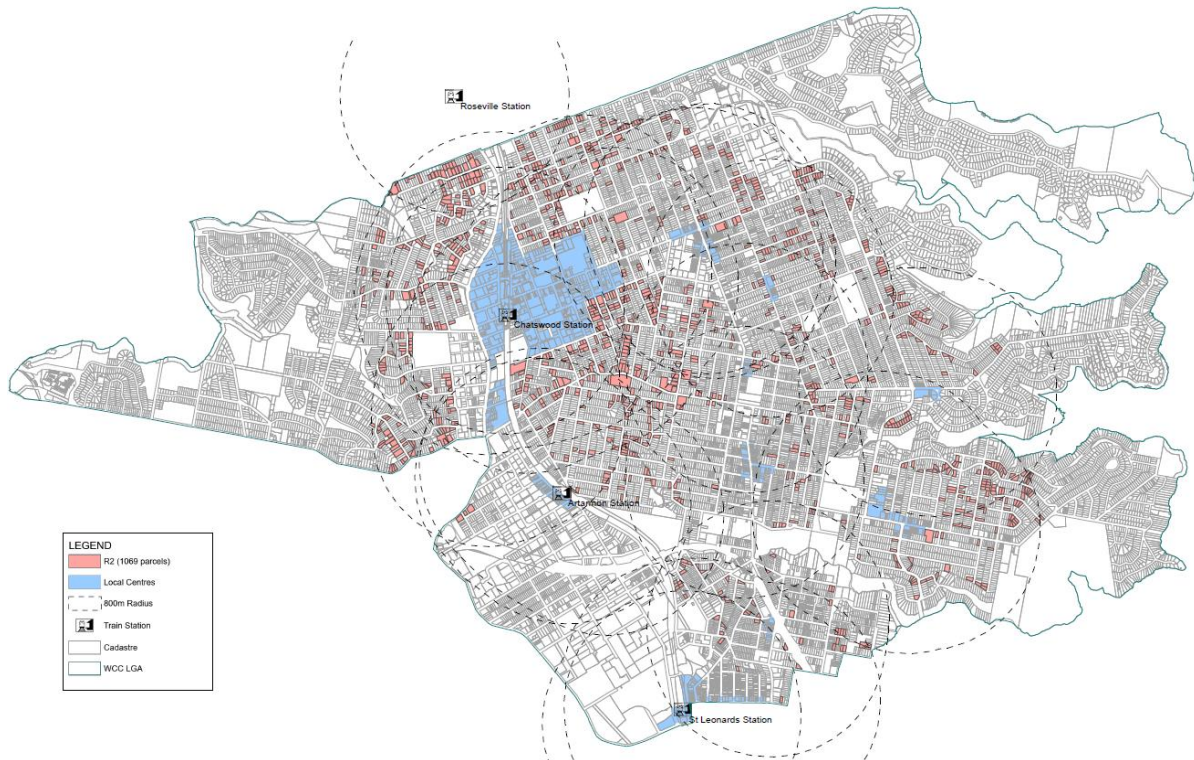


Based on desktop analysis of the land potentially affected by the reforms relating to Manor Houses, it is estimated that theoretical capacity for 2,631 additional dwellings will be created. However, it is noted that 100% take-up is not a reasonable expectation, and a number of these sites would also be eligible for other development forms.

The estimated yield range for Manor Houses under the proposed reforms is 395 -789 additional dwellings (see Dwelling Yield Assumptions, below, for more detail on the methodology used for these estimates).

Figure 3 – Land potentially affected by proposed Multi-Dwelling Housing (terraces) changes (also see Attachment 1)

Proposed Multi-dwelling housing (terraces) Permissibility:
R2 with 500sqm Area or greater and with 18m Frontage width or greater, within 800m radius from heavy rail and metro stations (Roseville, Chatswood, Artarmon, St Leonards Stations) and within 800m from E1, E2, MU1, SP5

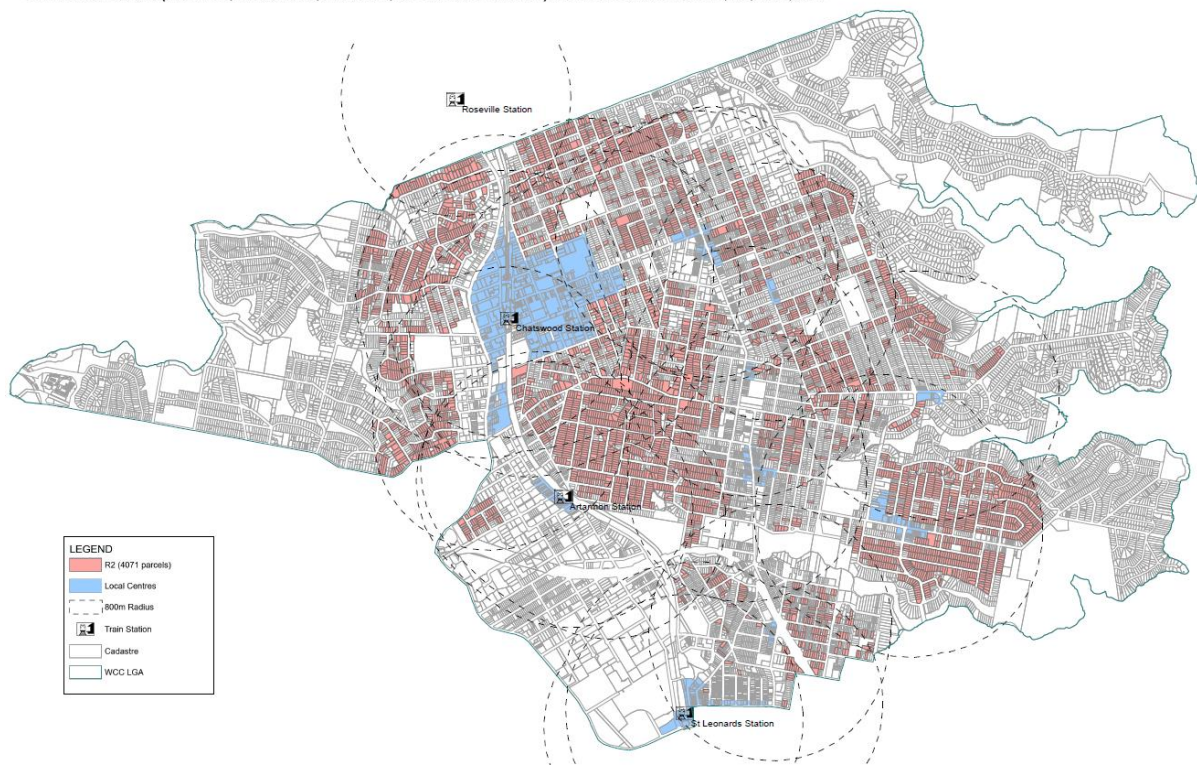


Based on desktop analysis of the land potentially affected by the reforms relating to Multi-Dwelling Housing (terraces) it is estimated that theoretical capacity for 1,754 additional dwellings will be created. However, it is noted that 100% take-up is not a reasonable expectation, and a number of these sites would also be eligible for other development forms, such as Multi-Dwelling Housing under the proposal.

The estimated yield range for Multi-Dwelling Housing (terraces) under the proposed reforms is 263 – 526 additional dwellings (see Dwelling Yield Assumptions, below, for more detail on the methodology used for these estimates).

Figure 4 – Land potentially affected by proposed Multi-Dwelling Housing changes (also see Attachment 1)

Proposed Multi-dwelling housing Permissibility:
R2 with 600sqm Area or greater and with 12m Frontage width or greater, within 800m radius from heavy rail and metro stations (Roseville, Chatswood, Artarmon, St Leonards Stations) and within 800m from E1, E2, MU1, SP5



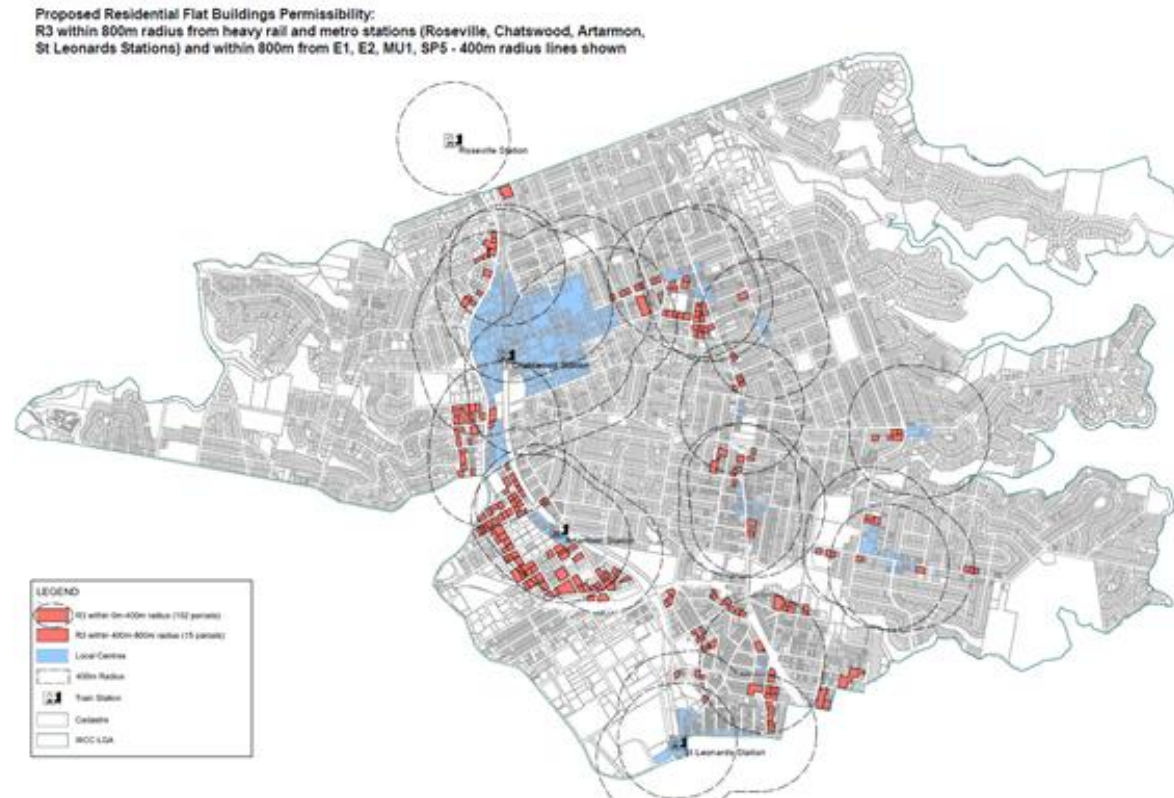
Based on desktop analysis of the land potentially affected by the reforms relating to Multi-Dwelling Housing, it is estimated that theoretical capacity for 2631 additional dwellings will be created. However, it is noted that 100% take-up is not a reasonable expectation, and a number of these sites would also be eligible for other development forms under the proposal.

The estimated yield range for Multi-Dwelling Housing under the proposed reforms is 395 – 789 additional dwellings (see Dwelling Yield Assumptions, below, for more detail on the methodology used for these estimates).

Table 3: Comparison of Residential Flat Buildings controls in R3 zone

	WLEP	Reforms within 0-400m from stations and local centres	Reforms 400m-800m from stations local centres
Min lot size	1,100 m ²	None	None
Height	9-12m	21m	16m
FSR	0.7:1 – 0.9:1	3:1	2:1

Figure 5 – Land potentially affected by proposed Residential Flat Buildings changes (also see Attachment 1)



For the purposes of this submission, we have assumed a mix of typologies: 70% of take-up lots are assumed to be duplexes, 10% Manor Homes, 10% Terraces, and 10% Multi-Dwelling Housing. It is acknowledged that these are merely estimates, and the likely real-world take-up will vary.

Based on these rates, if 100% of the 8,768 lots were redeveloped, additional 13,153 dwellings would be produced.

However, it is not possible for 100% of the lots to yield new dwellings as not all landowners will choose to redevelop and site constraints will also affect potential development, for the purposes of this submission, a take-up rate of 15-30% is assumed.

- Should 15% of lots be developed at the assumed mix, additional 1,973 dwellings would be produced.
- Should 30% of lots be developed at the assumed mix, additional 3,946 dwellings would be produced.
- Should 90% of lots be developed at the assumed mix, additional 11,838 dwellings would be produced.

In the R3 zone, 207 lots are potentially impacted. The size of these lots varies significantly making it difficult to predict how many dwellings will be produced by the proposed increases in height and FSR in the time provided. It is noted that the proposed FSR of 3:1 within 400m of centres, is too high and

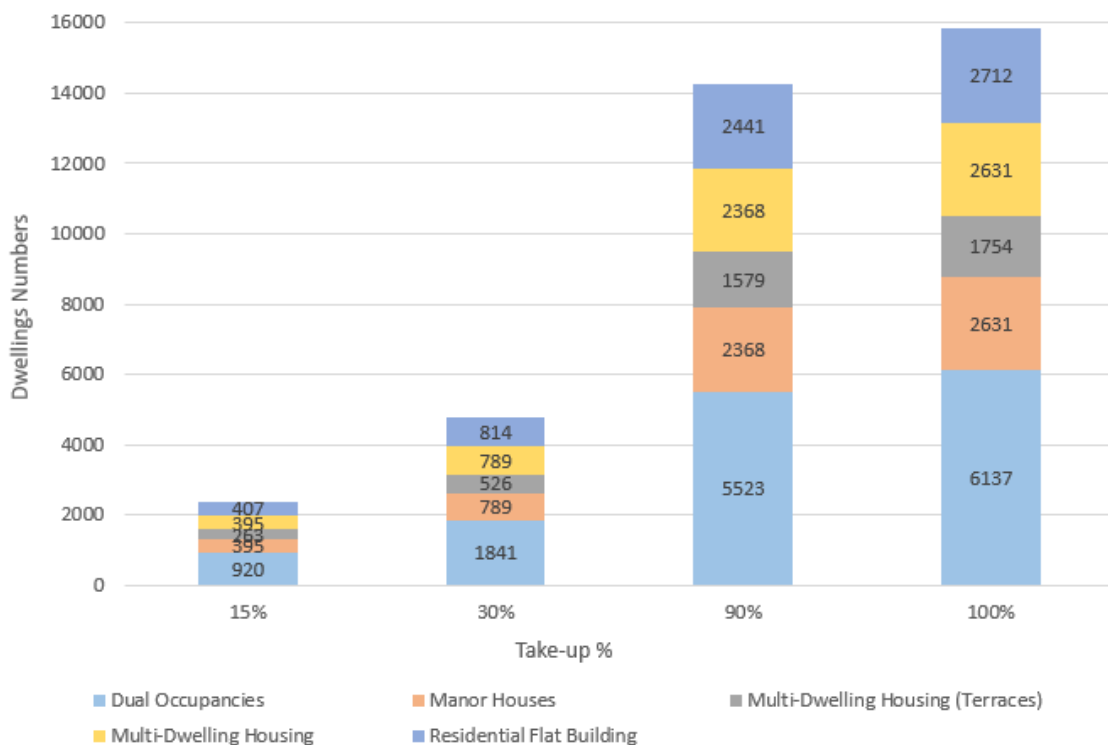


does not appear to match the proposed height increase, Council has made assumptions on the basis of estimated yield within the heights proposed. For the purpose of this submission it is assumed that 4 dwellings would be produced on each additional storey available under the proposed reforms, providing a reasonable assumption of median potential impact. If 100% of potentially affected lots are redeveloped, the proposed reforms would deliver 2,712 additional dwellings. Not all lots will be redeveloped; based on the assumed additional dwellings per storey and the additional storeys potentially produced by the proposed height increases, the following yields are produced:

- Should 15% of lots be developed, 407 additional dwellings would be produced.
- Should 30% of lots be developed, 814 additional dwellings would be produced.
- Should 90% of lots be developed, 2,441 additional dwellings would be produced.

Overall, if we assume 15% - 30% take-up rates, a mix of Duplex, Terraces, Multi dwelling housings and Manor homes will be delivered, and 4 additional dwellings per additional storey in the affected R3 zoned areas, the reforms would produce an additional 2,380 - 4,760 dwellings.

Table 4: Chart showing the assumptions of take-up %





Council's Strategic Approach to Growth – Recent Up-zonings for 6,500 Additional Homes

Willoughby Council's recently implemented Comprehensive LEP means the challenge for Willoughby is one of refinement; the intervention proposed under the reforms are excessive given the uplift so recently delivered. The Comprehensive LEP provided uplift for approximately 6,500 additional homes when it was gazetted just eight months ago.

Willoughby Council has long been a leader in Local Government Affordable Housing policy and provision. We were one of the first Councils to implement inclusionary zoning requirements, which have been set at levels tailored to the local feasibility and development conditions. This uniquely places Willoughby Council in a position to continue a strategic approach to addressing affordability and supply; our existing and recently updated strategic framework reduces the need for un-strategic, generic intervention as our LEP already maximises strategic growth and provision of affordable housing through recently updated controls.

Housing Capacity

Council's last housing target (2021-2026) was 1,600 to 1,800 new additional dwellings. However, acknowledging the broader challenge of housing supply and affordability facing the community, the Willoughby Housing Strategy anticipates a demand for 6,500 new additional dwellings to accommodate population growth up to the year 2036. As a result, Council is on track to significantly exceed its target, having recently implemented changes to increase capacity in locations supported by infrastructure services, particularly the Chatswood CBD, St Leonards, Artarmon, North Willoughby, Naremburn, Castlecrag, Northbridge, Penshurst Street, Willoughby and Willoughby South. This means Willoughby is uniquely well placed to accommodate the soon to be released housing targets arising from the National Housing Accord.

Moreover, Council is not merely creating theoretical capacity, we are also working with landowners and developers to deliver approvals. Since 2021, we have approved over 4,500 dwellings. In the Chatswood CBD alone, Council is currently assessing development applications that, if approved, would yield over 1,000 additional dwellings.

2023 Willoughby Comprehensive LEP

Unlike most other Local Government Areas, Council has provided substantial up-zonings in its strategically located centres within the last 9 months. In June 2023, capacity for 6,500 new dwellings was implemented via the expansion of Chatswood CBD and increased heights and densities in St Leonards, Artarmon, North Willoughby, Naremburn, Castlecrag, Northbridge, Penshurst Street, and Willoughby South. Council is also continuing to work with landowners in Chatswood CBD who elected to pursue individual proposals, which will further increase capacity to approximately 6,900 new dwellings. These newly implemented controls maximised the capacity in these locations.

- Chatswood CBD

In the CBD, heights are set to the PANS-OPS limits, and in certain locations to minimise overshadowing of sensitive open spaces based on detailed overshadowing analysis. Traffic analysis was also undertaken to ensure the uplift could be supported by increased use of

Chatswood Interchange and could be accommodated by the road network. Analysis was also undertaken in regard to the impact on adjacent heritage areas. The increased controls were maximised in light of this extensive and detailed analysis.

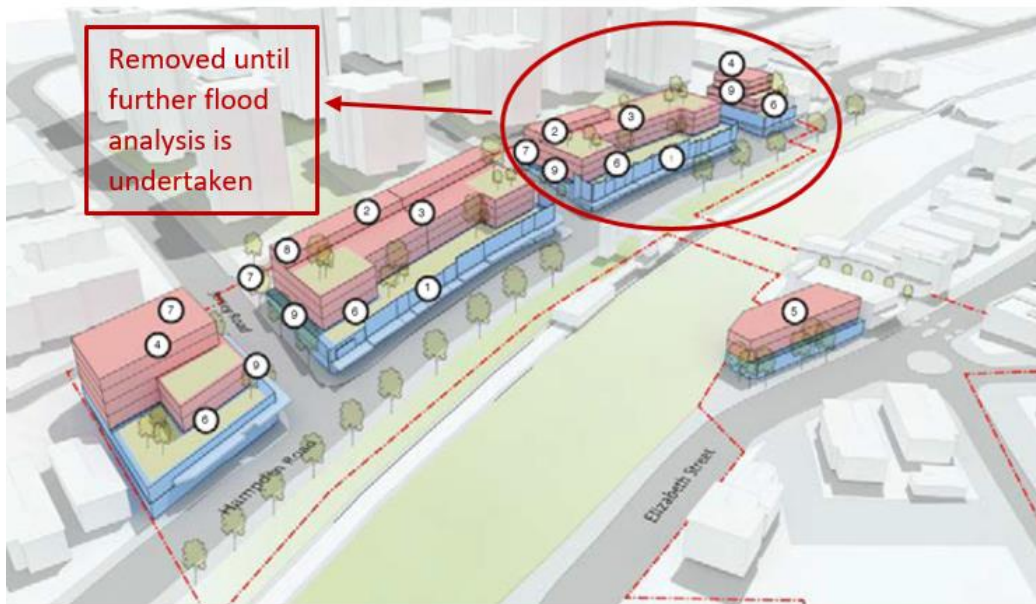
In addition, Council reviewed its centres and identified how to best deliver growth commensurate with the available and planned infrastructure. The Comprehensive LEP included numerous up-zonings to utilise the capacity of the centres.

- Artarmon

Council's recent Comprehensive LEP increased heights and FSRs in Artarmon to deliver an additional 170 dwellings and an additional 5,723m² of commercial floor space. Heights were increased to a maximum of 17-20m and the density was increased to 3:1.

Council had proposed a wider precinct be up-zoned, however, the Department advised that a portion of the up-zoning needed to be removed until further flood analysis is undertaken to demonstrate that evacuation planning, shelter in place requirements can manage risk (see **Figure 6 below**). It is Council's view that this could be reconsidered noting that these flood considerations would be required with future development applications. This could add a further 80-90 dwellings to the centre.

Figure 6: Artarmon Local Centre Newly Implemented Controls – Indicative



- Castlecrag

Under Council's recently implemented Comprehensive LEP, FSRs and Heights were increased in Castlecrag, increasing capacity by 74 dwellings and 1,527 m² of commercial floor space. Castlecrag is not serviced by a station and has limited bus connectivity; it is also adjacent to

important heritage conservation areas, requiring sensitive redevelopment of appropriate scale.

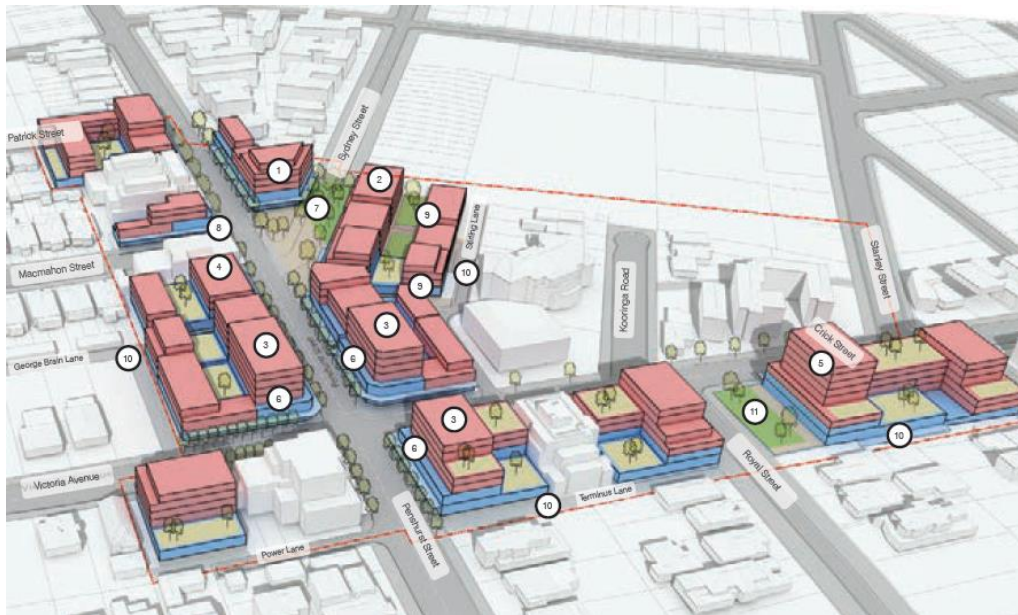
Figure 7: Castlecrag Local Centre Newly Implemented Controls – Indicative



- North Willoughby

Under Council's recently implemented Comprehensive LEP, FSRs and Heights were increased in North Willoughby, increasing capacity by 318 dwellings and 5,585 m² of commercial floor space. One site (a former service station) was not included in the recent rezoning, but it is anticipated that this will be picked up in a future Planning Proposal once the remediation of the land is completed.

Figure 8: North Willoughby Local Centre Newly Implemented Controls – Indicative



- Naremburn

Under Council’s recently implemented Comprehensive LEP, FSRs and Heights were increased in Naremburn, increasing capacity by 55 dwellings and 1,734 m² of commercial floor space. Naremburn is a small, constrained center with limited services. It has limited capacity for uplift, which was maximized in these recent changes.

Figure 9: Naremburn Local Centre Newly Implemented Controls – Indicative

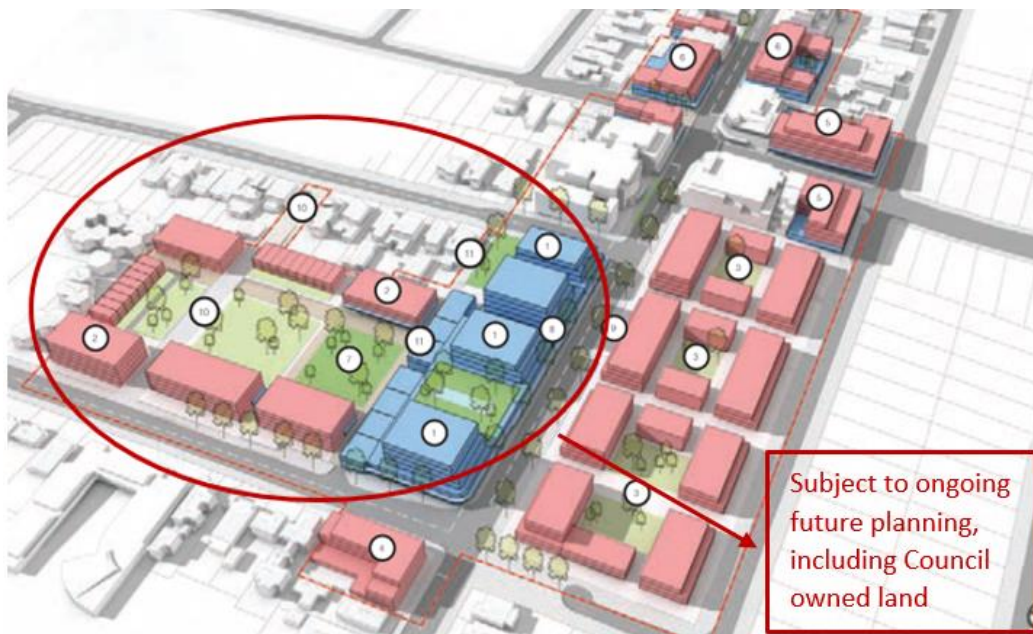


- Northbridge

Under Council’s recently implemented Comprehensive LEP, FSRs and Heights were increased in Northbridge, increasing capacity by 350 dwellings. Part of the centre is Council owned and

is subject to ongoing future planning involving Council and adjacent landowners (see **Figure 10**).

Figure 10: Northbridge Local Centre Newly Implemented Controls – Indicative



- **Penshurst Street**

Under Council's recently implemented Comprehensive LEP, FSRs and Heights were increased in Penshurst Street local centre, increasing capacity by 239 dwellings and 2,208m² of commercial floor space.

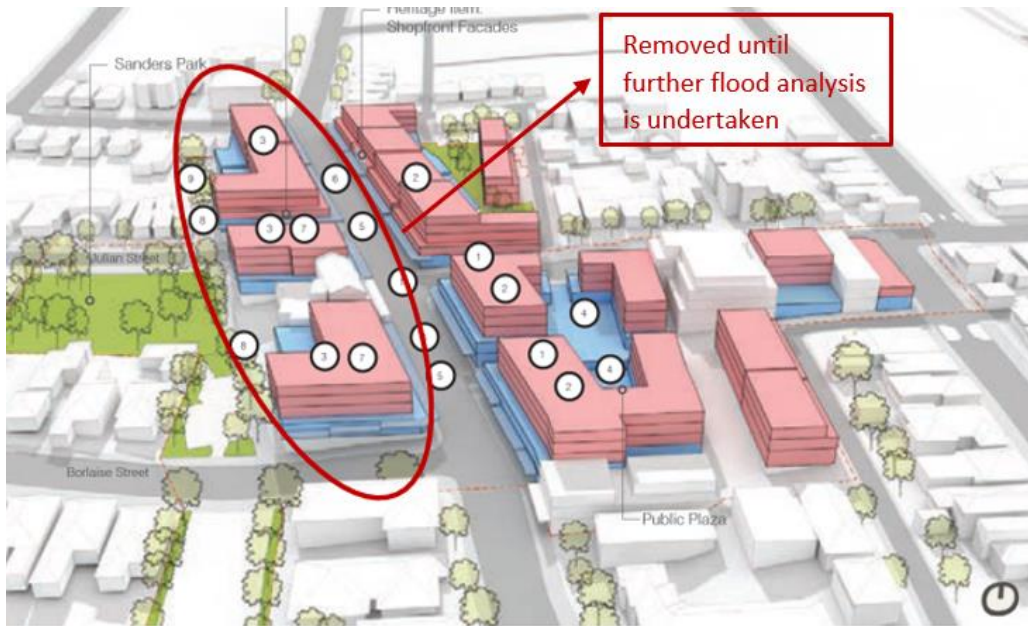
Figure 11: Penshurst Street Local Centre Newly Implemented Controls – Indicative



- Willoughby South

Council's recent Comprehensive LEP increased heights and FSRs in Willoughby South to deliver an additional 237 dwellings and an additional 1,219m² of commercial floor space. Council had proposed a wider precinct be up-zoned, however, the Department advised that a portion of the up-zoning needed to be removed until further flood analysis is undertaken to demonstrate that evacuation planning, shelter in place requirements can manage risk (see **Figure 12 below**). It is Council's view that this could be reconsidered noting that these flood considerations would be required with future development applications. This could add a further 80-90 dwellings to the centre.

Figure 12: Willoughby South Local Centre Newly Implemented Controls – Indicative



Given Council has recently undertaken extensive analysis of its centers and has delivered appropriate up-zonings within the last 12 months, increasing dwelling capacity by 6,500, with capacity for 500 more in-train, the proposed reforms are not required and would undermine the more strategically located uplift just delivered.

Council recommends that the reforms are not implemented in centres where recent up-zonings have occurred.

The current LEP amendment processes available to Councils is labor intensive, long, and inefficient.

Council recommends that a streamlined up-zoning process be made available to Councils to up-zone their controls in precincts where they have delivered and adopted precinct masterplans or in accordance with an adopted Centres Strategy.

In delivering the recent increases to capacity, the Department of Planning requested that certain proposed up-zonings be removed from the proposal due to flood risk. As noted in the Department's Finalisation Report (the full report is available on the Planning Portal):

Council addressed the EHG submission in its post-exhibition report (December 2022) noting that areas are subject to overland flow. Council advised overland flow had been taken into consideration particularly for increases in density in areas such as Artarmon and Willoughby South Local Centres. Council considered that flood constraints identified for specific development lots do not prohibit development of those sites under the existing or proposed LEP controls. Proposed heights and FSRs are maximum controls that allow for design flexibility to respond to site specific constraints. Localised flood constraints will likely involve design compromise for some lots and architectural considerations will need to account for these.



As a result of the EHG agency submission and recent updates made to the NSW Flood-Prone Land Package, the department referred the planning proposal to an independent consultant, Rhelm Pty Ltd for advice on this issue.

Rhelm Pty Ltd provided advice to the Department (Attachment V) which assessed the planning proposal and post-exhibition changes, proposed and existing maps and Council's existing published flood studies.

The report notes that the planning proposal includes residential zones, local centres, industrial land, Chatswood CBD and St Leonards and Crows Nest area across the Willoughby LGA and seeks to intensify development and dwelling density on land within the extent of the Probable Maximum Flood (PMF). The recommendations suggest a pathway for finalisation of the planning proposal. The report provides the following findings and recommendations:

- The planning proposal in its current form is largely acceptable and could be approved as is at this stage, with the exception of the R2 zone changes for flood prone land and several materially flood-affected locations where amendments are required.*
- There is some land to which the planning proposal applies which is considered to be materially flood affected (high hazard and/or floodway in the PMF). As a result it is recommended that some land should be excluded from the planning proposal if it is to be finalised in order to satisfy the Ministerial direction. (Finalisation report – PP2021-6242)*

In particular, it is noted that the Department indicated Council's proposed changes in the R2 zone should not be progressed due to flood risk.

Council recommends that the proposed reforms are not applied within the extent of the PMF, consistent with the previous advice of the Department of Planning. Council would welcome the opportunity to work with the department to resolve the issue through further flood analysis and undertake a streamlined rezoning to implement the areas removed from Council's previous planning proposal. It is preferable for Council and the State Government to partner on responding to this issue to avoid the need for expensive flood studies to accompany Development Applications.

Figure 13 : R2 area affected by flooding in the PMF event in the Scotts Creek catchment (Source: Rhelm's Flood Risk Assessment)



Figure 14: R2 area affected by flooding in the PMF event in the Sugarloaf Creek catchment (Source: Rhelm’s Flood Risk Assessment)



Issues requiring clarification

Housing Targets

Council has been awaiting the publication of updated Housing Targets responding to the National Housing Accord and the most recent population projections. While these were anticipated to be



released by the State Government for consultation in late 2023, it is understood this has been delayed.

Releasing housing capacity does not occur in a vacuum. It takes extensive planning of supporting infrastructure. The challenge of funding and delivering infrastructure is a key constraint to growth and up-zoning large suburban areas, potentially well beyond what will be required to meet the short and medium term growth needs, will exacerbate this issue.

Updated housing targets should be released prior to policy changes designed to accommodate the required growth.

Strategically Located Town Centre Precincts

The proposed text-based definition of “station and town centres precincts” is not a practical basis for strategic land use decisions. Expanding permissibility on the basis of a text-based provision that is subject to interpretation (seeking to implement principles such as “walking distance” or “frequently needed goods and services”) is likely to result in a more contested Development Application environment, creating greater pressure on interpretation of permissibility, increasing the burden for applicants and increasing the potential for court appeals. As noted above, it is Council’s view that it’s recent work to provide up-zonings within the last 12 months negates the need for these reforms to be applied in the Willoughby LGA; notwithstanding this, any reforms that do proceed should maintain or improve the integrity and efficacy of the planning system.

Where strategically targeted reforms are to be undertaken, it is strongly recommended that they are mapped in close consultation with the affected Councils. Council seeks clarification on exactly how these principles are proposed to be implemented in a practical manner.

Not all stations are equally serviced, and centres can vary substantially in size, character, and function. A small centre may have a supermarket but little else; some larger centres may have significant retail and commercial floor space in terms of area, but this may be of a character that does not support local populations, such clusters of speciality retail, or restaurants and dining serving wider catchments.

The proposal does not sufficiently differentiate between stations with higher and lower capacity, nor does the proposed definition of “town centre” strategically identify appropriate locations for uplift.

Council’s recent up-zonings provide for the additional housing capacity required, but do so in a way that is sensitive to the existing diversity of our centres and the varied levels of services and infrastructure, reducing the need for inefficient and expensive infrastructure retrofitting. While a generic approach is a reasonable emergency measure in areas where no recent up-zonings have occurred, it is not reasonable to duplicate more refined recent work, undermining its efficacy to deliver more locally sensitive outcomes that are more likely to delivery high quality housing outcomes.

The department has indicated that it is seeking feedback on where the reforms should apply. As noted above, Council has recently up zoned numerous local centres to provide uplift commensurate



with the potential reforms. Council's Centres Strategy enabled up-zonings to leverage existing and planned infrastructure in a manner that will expand and enhance existing centres.

As previously stated, *Council recommends that the reforms are not implemented in centres where recent up-zonings have occurred.*

How will the changes be implemented?

The EIE is not clear with respect to the approval pathways for the development proposed. In briefings during the consultation period, the DPHI has indicated that Council's will retain the opportunity to refuse applications implying that the changes will only relate to Development Applications and not Complying Development Certificates.

However, by adding Multi-Dwelling Housing as a permissible use in the R2 zone, it is unclear what would prevent Complying Development expanding to these forms under the proposed changes.

Greater clarity is required as to how the proposed changes will be implemented with respect to approval pathways so that Councils and the community can accurately and confidently understand and respond to the proposed changes.

Tree Canopy and Deep Soil Provisions

Clarification is required as to how compliance with the proposed tree canopy targets are to be assessed. While existing tree canopy can be ascertained, the tree canopy levels that will be achieved under a proposed development cannot be accurately predicted, as they will vary depending on tree species, soil conditions, weather conditions, and naturally over time. The proposed measure is considered impractical and insufficient to guarantee expansion of the existing tree canopy levels, which will be crucial to mitigating heat island effects from the increase in hard surfaces resulting from development under the proposed changes.

Council strongly supports increasing our tree canopy. A more direct and effective approach is required.

Council recommends stronger controls to prevent removal of existing, healthy, mature trees. A stronger control should be implemented requiring 40% of the original site area be covered by tree canopy. This should be supported by larger minimum deep soil zones, lower maximum FSRs, and more stringent tree planting requirements (discussed further in the Key Issues section of this submission).

Clarification is also required with respect to the intended application of the lot sizes contained within Appendix C. Appendix C proposes different Tree Canopy and Deep Soil targets for varying lot sizes. It is unclear how these are to be interpreted and applied, particularly with respect to Manor Homes.

Concerns

In addition to the above, the following concerns are raised:

Inefficient Infrastructure provision



Strategic infill development can be more efficient than continued sprawl; however, this is only the case when adequate and careful planning ensures the growth is commensurate with the supporting infrastructure and that upgrades are delivered with the growth. Rapid increases in residential density without corresponding investments in infrastructure can strain existing systems. Retro-fitting infrastructure after the growth has occurred is potentially not feasible given the increased populations impacted, the increased cost of land, and the potential physical constraints imposed by poorly planned developments.

The materials exhibited do not provide confirmation that Sydney Water, Ausgrid, Transport for NSW, the Department of Education, the Department of Health, and other key infrastructure providers have plans in place to accommodate the redistribution of growth proposed under the reforms. While it is acknowledged that the population projections are unchanged, the geographical location of that population will differ from what has previously been anticipated. In many locations, the short-term growth needs have been focused on major centres such as Chatswood, and this has been supported by a collaborative approach with the State Government in delivering the additional schools and transit upgrades required to unlock and support that growth. Under the reforms more of the short-term growth will occur in less connected suburbs, where additional infrastructure and improved connectivity remains unbudgeted, despite existing deficiencies. To ensure community and market confidence, it is recommended that documentation of the existing capacity be published, and where needed, improvements to supporting infrastructure relating to needs such as water supply, electricity, sewers, stormwater, and internet connectivity, should be identified and funded prior to any increase in housing capacity.

It is recommended that the government substantiate that the reforms can be appropriately serviced by infrastructure, from roads to schools, hospitals, open space, electricity, water and sewer.

Ineffective Infrastructure Contributions Framework

Given the impact from these developments and the substantial increase in land value that will result from the uplift, urgent review of the current development contributions system should be undertaken. It is an accepted principle that a portion of the revenue generated from development should be reinvested in improving the public infrastructure that facilitates the development, such as the schools, transport, water, electricity, open spaces, and community services that the new residents will require. However, the current system is not effective nor efficient in upholding that principle. If we do not get this right, then the demand for public services such as schools, healthcare facilities, and emergency services may outpace the capacity to provide them. This will lead to overcrowded schools, longer wait times for medical services, and a decreased quality of public services.

The EIE suggests that the current mechanisms in place (Section 7.11, Section 7.12, and the Housing and Productivity Contribution (HPC)) are a sufficient framework to fund and deliver the supporting infrastructure required. Council does not agree. In particular, the current capping and antiquated Essential Works list used by the Independent Pricing and Regulatory Tribunal (IPART) is such that 7.11 and 7.12 rates in in-fill areas are ineffective at funding the supporting local infrastructure required. In addition, the HPC arrangements siphon funding away from the areas in which it is



collected to fund infrastructure elsewhere. This has resulted in infrastructure delivery lagging behind growth.

Given the extremely high demand for housing and the limited capacity in the construction industry, it is unlikely that increasing theoretical capacity alone will arrest housing price inflation. While landowners receiving additional development capacity will see the value of their land substantially increase, the rest of the community will be required to shoulder the cost of the increased infrastructure required. This is unfair and inequitable, but it also unnecessary. Should these reforms be implemented, the current infrastructure contributions framework should also be supplemented.

The significant uplift proposed under these reforms represents a rare opportunity to rectify this problem while simultaneously ensuring development is more profitable without worsening affordability.

A Future Infrastructure Fund should be set up, capturing funding from a portion of the increased land values. A portion of the profits from developments approved under the reforms should be required to contribute to the fund, which should then be allocated to projects in the LGA where the development occurred.

Further, an overhaul of the current Infrastructure Contributions Framework should be undertaken concurrently with an overhaul of the wider planning system, to increase simplicity and efficacy. In particular, a published works and projects list should underpin the HPC, confirming works to be delivered across the state by locality from the fund.

Councils already provide a works list for local contributions, the State Government should have a similar works list for its contribution plan to ensure transparency in how infrastructure is prioritised and funded to support growth.

Traffic and transport

A sudden surge in population density without proper planning for transportation infrastructure can result in increased traffic congestion. Roads may become overcrowded, leading to longer commute times, reduced accessibility, and decreased overall mobility.

Given the sweeping nature of the proposed changes, congestion and impacts on arterial roads are likely to be regional. Willoughby includes significant regional arterial roads and our strategic growth plans have been tailored to their current and anticipated capacity. Applying broad planning controls without considering the actual capacity of local road networks will result in significant congestion.

While the stated intention is to locate growth around stations and in well serviced centres, the reforms do not respond to the widely varied service levels across suburban stations and bus routes. The reforms are likely to result in significant increased use of private vehicles and increased congestion.



Efficient connectivity to employment locations is crucial, and the capacity of key transport nodes like Chatswood interchange needs careful consideration. Chatswood Interchange is one of the busiest on its network, and recent up-zonings to Chatswood CBD seek to maximise utilisation of its capacity, while also balancing role as a key hub servicing the wider region.

There are longstanding issues with the bus interchange at Chatswood. It is currently operating at capacity with little room for physical growth. Many bus routes (from all relevant regions 7, 8, 12 and 14) converge at the Chatswood bus interchange. Private (predominantly for schools) and community bus services are also centred on Chatswood. Buses frequently layover on local streets, taking up valuable kerbside space and contributing to congestion, air pollution and noise. The current configuration of the bus infrastructure also creates hazards to pedestrian safety and conflicts with local traffic.

Pressure on the Chatswood interchange will only increase in future due to planned growth and infrastructure delivery increasing demand for bus services. The imminent completion of the Sydney Metro City & Southwest which will further strengthen the importance of Chatswood CBD as a residential, employment and services hub as well as a major multi-modal transport interchange. The proposed reforms will add further need to this already unfunded and growing challenge.

There are several local centres located along the Willoughby Road-Penshurst Street Corridor where future housing growth is anticipated as a result of our recent up-zonings. These are North Willoughby, High Street, Penshurst Street and Willoughby South. The centres are not equally well served by bus services, with the number and frequency varying. Bus routes tend to follow the main roads around the suburbs resulting in residents having to walk upwards of 15 minutes to get to a bus stop location. Even where service frequencies are high, the community sentiment is that reliability is low due to congestion. This is a significant barrier to mode shift, causing ongoing reliance on private vehicles, increasing congestion.

To reduce increasing reliance on private car transport, improvements in the provision of bus services will be critical to service areas of future growth that are not serviced by rail. Council's recent up-zonings have been made in consideration of the available infrastructure. The needs for improved bus services should be addressed before further additional growth is released in suburbs such as Castle Cove, Middle Cove, Castlecrag, Naremburn, and Northbridge. Adding further capacity should only be considered when there is a funded plan to deliver additional connecting services and capacity to unlock further growth.

The current road network will also face significant challenges to accommodate the increase in housing and residents proposed. This distribution of growth was not anticipated, with previous planning across Sydney focused on density around transit nodes to more efficiently connect people to jobs and services. This shift to a wider distribution of medium density across suburbs designed and serviced at levels only commensurate with low density, will require an amended Future Transport Plan.


It is recommended that TfNSW should fund a scoping and feasibility analysis for upgrades to Chatswood Interchange to address current issues and ensure future capacity supports anticipated growth.

Figure 15: Northern Sydney's Growth and Transport Challenges

Northern Sydney's Growth and Transport Challenge

- Getting **200,000 people** to and from work
- Bus routes that run directly to the city under-utilise the Metro and add to congestion – especially Warringah Road, Gore Hill Freeway and Military Road
- **2 of the top 5** most congested roads in the country – Gore Hill/Warringah Freeway (#1) and Warringah Road (#3)
- Crowded buses and unreliable services forcing car dependency
- Out of date route design under-utilises the Metro and under services the peninsulas
- Precious driver time wasted and unreliable services exacerbating driver shortages
- Dangerous bus/pedestrian/vehicle conflicts in Chatswood CBD due to poor Bus Interchange design and operation

Chatswood Bus Interchange poorly integrates with the Metro and Rail infrastructure – **not passenger friendly, not efficient.**



Bus parking poorly located, inefficient, and poorly integrated

Uncomfortable, unfriendly, unsightly waiting areas

Tree Canopy Loss – Decrease in landscaping

The loss of mature trees in Willoughby due to development pressures is a significant concern. Over the past decade, from 2011 to 2021, 13 Ha of tree cover (equivalent to 438 tennis courts) has been lost from private land in Willoughby, mainly due to the growing footprint of homes and construction of multi-unit housing to meet growing demand. The introduction of dual occupancies exacerbates this issue, necessitating additional driveways, wider or double driveways, resulting in the loss street trees and tree canopy on private land. Trees on private land a large and crucial component of the current tree canopy, see **Figure 16**. Despite efforts to mandate one small tree per dwelling, this alone will not be sufficient to maintain tree canopy levels, especially in areas with significant existing tree cover.

The rollout of the reforms as proposed will lead to more applications seeking to remove trees, with the proposed EIE suggesting the replacements of only one or two trees. This would inevitably result in a significant net loss of trees, increasing urban heat island effects, reducing urban habitats and diversity of flora and fauna, and reducing the highly valued green character of our suburbs.

Figure 16: Indicative aerial of low-density suburb in Willoughby LGA



Figure 17: Indicative aerial of suburb where duplexes and terraces are permissible on smaller lots





There needs to be stronger controls to mitigate the loss of tree canopy, particularly in the face of increasing urban intensification. As currently proposed the reforms will make it impossible to meeting the State Government's target of increasing urban canopy to 40% across Sydney by 2035.

Council recommends stronger restrictions on proposals to prevent removal of existing, healthy, mature trees. A stronger control should be implemented requiring additional planting rates depending on how far below 40% of the original site is covered by tree canopy. This should be supported by larger minimum deep soil zones, lower maximum FSRs, and more stringent tree planting requirements.

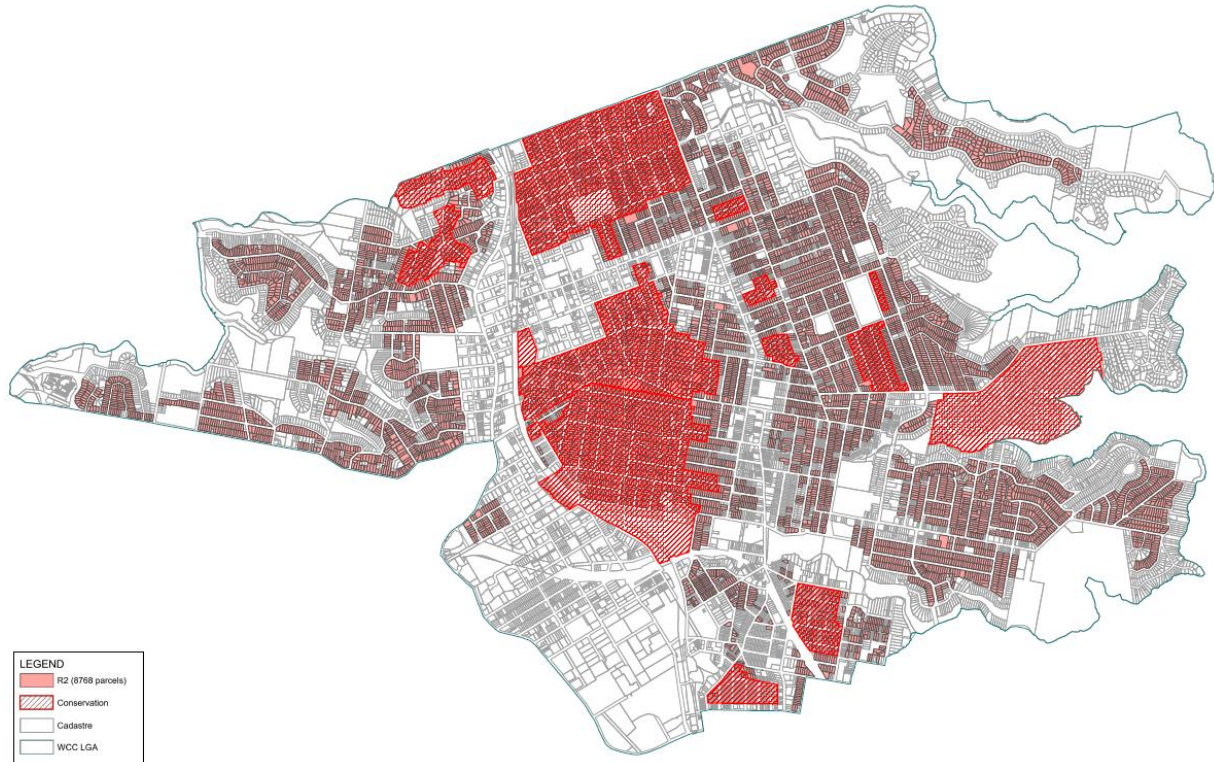
Impact on heritage items and heritage conservation areas

The policy provides density intensification across Willoughby, without regard for the protection of heritage items and heritage conservation areas, which may be located within affected zones and/or may be within the affected vicinity of a station or local centre. This policy indicates that while heritage considerations will continue to apply, it will only apply to the extent that they are not inconsistent with the proposed standards. This is ambiguous and gives no certainty to how heritage values can be protected. It is likely, that without further clarification, this will result in an increase in confusion and court appeals and a loss of contributory items in Conservation Areas.

Protecting these areas is not merely a matter of managing built forms, materials and colours; the subdivision pattern is crucial to many conservation areas that hold significant social and historical value as examples of previous land releases and significant stages in Sydney's evolution. These areas serve as valuable examples of development sites that offer insights into the history and heritage of a region. Preserving such areas not only maintains their cultural significance but also contributes to the overall character and identity of the community. It is also noted that not all heritage conservation areas are low density, and maintaining protection and careful permissibility controls in these areas would still allow an appropriate balance of low, medium and high density. Allowing inconsistent subdivision controls to be applied in these areas will undermine their value and is contrary to the community's strong desire to protect these areas. The reforms will also reduce the attractiveness of more sensitive approaches to development in HCAs such as adaptive re-use and sensitive expansions to the rear.

To ensure the preservation of Sydney's cultural heritage, it is recommended that the proposed changes are excluded from Heritage Conservation Areas.

Figure 18: Map showing Conservation areas and R2 zoning in Willoughby LGA



Waste

The proposed changes to the low and mid-rise developments have significant negative consequences for waste service provision and further refinement is required. If the reforms are implemented as proposed, it is likely that waste service provision costs will significantly increase.

The assumption that small rigid vehicles could be easily used to service the developments is not supported by the practical experience of waste service provision. It is untenable for waste collection and contrary to the long-term best practice provision of an essential service.

The proposed changes will have the following adverse impacts:

- The reforms will hinder Council's ability to meet net zero targets and a reduction in emissions. A small rigid vehicle (SRV) requires three times as many trips to a waste processor than a heavy rigid vehicle (HRV) does. Processors for our LGA are, at a minimum, a 40km round trip.



- It impacts our ability to meet State Government set resource recovery targets as best practice waste provision is to use HRV's. SRVs will be significantly more costly and less efficient.
- The increased number of suburban households has not been considered in waste collection cost forecasts and will likely result in increased servicing costs.
- The current state design guide has not considered the impact on amenity for kerbside collection. As building footprints increase space waste storage areas are often closer to neighbours reducing amenity. The design guide also does not provide strong enough requirements for practical waste storage design that requires storage with minimal impact to neighbours and the streetscape and a clear path through non-habitable areas to collection points.
- Poor access to mid-rise dwellings with controls not tailored to local conditions will mean more bins on the kerb, impacting safety and truck movements. This is problematic particularly an issue for state and regional roads where bins servicing is not permitted from the kerb.
- Narrow frontages mean greater conflicts between parking, vehicles and waste collection.

Added Complexity

Using text-based provisions to determine land use permissibility and to have an additional layer of controls and non-refusal standards creates additional complexity to an already overcomplicated planning system. The proposed reforms will further add to the existing confusion as to what is permissible under Council controls, and what can be done under Complying Development. Complexity is already a significant barrier to many families and landowners looking to renovate or redevelop their properties. The proposed changes will make an already complicated system more complex.

The current Environmental Planning and Assessment Act (the Act) was made in 1979. Since then, repeated reforms and various State Environmental Planning Policies have attempted to keep pace with the changing needs of the community. In the 45 years the Act has been in place, the housing needs and the construction industry have significantly changed, but the legislative framework has only become more complicated and more cumbersome. Rather than piecemeal, un-strategic, inefficient, and ineffective reforms such as the proposed, a comprehensive overhaul of the State's planning system is required. While it is acknowledged that the housing crisis requires immediate intervention, simply further expanding the complicated and inefficient system that has resulted in the current crisis is not the answer.

It is acknowledged that there is need for an immediate, emergency response to the current housing challenge. However, this should be accompanied by a longer-term plan to properly and sustainably address the underlying systemic issues.

It is recommended that the Department of Planning, Housing and Infrastructure work across Government, with Councils and the Development Industry, to establish a timeline for an overhaul of the current planning system with a view to simplification, more effective and equitable infrastructure funding, and higher quality outcomes.



Consultation

Transformative changes such as those proposed require appropriate levels of community consultation and a more comprehensive and structured information-sharing approach. It has been left to Councils to run their own information sessions on the reforms, while also devoting resources to assessing the potential impacts to provide responses within a constrained exhibition period held over the end of year holiday period. It is wholly inadequate for reforms of this nature to be communicated with an EIE exhibited over the end of year holiday period with no other structured community engagement. If the intention was for Council's to take on the burden of consulting on this State policy, this should have been facilitated with the provision of resources Councils could use for this purpose and greater notice of the exhibition period so that resources could be planned and allocated.

It is recommended that as the reforms evolve to respond to the feedback provided, DPHIE should undertake a larger and more structured engagement program to communicate the detailed changes once drafted in advance of any implementation.

Conclusion

Council acknowledges and agrees with the pressing need for housing. Willoughby Council has a strong track record of housing delivery and updating its policies and controls to keep pace with the growing needs of the community. We have recently (June 2023) demonstrated our ongoing commitment to housing delivery by up-zoning Chatswood CBD and key centres across the local government area. This delivered capacity for 6,500 additional homes. We are not just creating capacity, we are also delivering approvals, with approximately 4,500 dwellings approved since 2021.

Applying these reforms will encourage less strategically located development creating increased congestion, reduced sustainability, and more challenging, dispersed infrastructure demands. Focusing development around existing and future infrastructure makes sense at both a metropolitan and local scale, and the reforms as currently proposed do not achieve the intended local outcomes.

Council would welcome the opportunity to discuss our submission, the future housing targets, and the alternatives available to these reforms with DPHI as soon as possible.

Please contact Dyalan Govender in the first instance on 9777 7671 or Dyalan.Govender@Willoughby.nsw.gov.au if you require further information in relation to Council's comments.

Sincerely,

Dyalan Govender
STRATEGIC PLANNING TEAM LEADER