



## **STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE MEETING**

A meeting of the STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE will be held by video conference/  
at Waverley Council Chambers, Cnr Paul Street and Bondi Road, Bondi Junction at:

**7.30 PM, TUESDAY 13 APRIL 2021**

Emily Scott  
**Acting General Manager**

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## Delegations of the Waverley Strategic Planning and Development Committee

On 10 October 2017, Waverley Council delegated to the Waverley Strategic Planning and Development Committee the authority to determine any matter **other than**:

1. Those activities designated under s 377(1) of the *Local Government Act* which are as follows:
  - (a) The appointment of a general manager.
  - (b) The making of a rate.
  - (c) A determination under section 549 as to the levying of a rate.
  - (d) The making of a charge.
  - (e) The fixing of a fee
  - (f) The borrowing of money.
  - (g) The voting of money for expenditure on its works, services or operations.
  - (h) The compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment).
  - (i) The acceptance of tenders to provide services currently provided by members of staff of the council.
  - (j) The adoption of an operational plan under section 405.
  - (k) The adoption of a financial statement included in an annual financial report.
  - (l) A decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6.
  - (m) The fixing of an amount or rate for the carrying out by the council of work on private land.
  - (n) The decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work.
  - (o) The review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the *Environmental Planning and Assessment Act 1979*.
  - (p) The power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194.
  - (q) A decision under section 356 to contribute money or otherwise grant financial assistance to persons,
  - (r) A decision under section 234 to grant leave of absence to the holder of a civic office.
  - (s) The making of an application, or the giving of a notice, to the Governor or Minister.
  - (t) This power of delegation.
  - (u) Any function under this or any other Act that is expressly required to be exercised by resolution of the council.
2. Despite clause 1(i) above, the Waverley Strategic Planning and Development Committee does not have delegated authority to accept any tenders.
3. The adoption of a Community Strategic Plan, Resourcing Strategy and Delivery Program as defined under sections 402, 403, and 404 of the *Local Government Act*.

## Live Streaming of Meetings

This meeting is streamed live via the internet and an audio-visual recording of the meeting will be publicly available on Council's website.

By attending this meeting, you consent to your image and/or voice being live streamed and publicly available.



## AGENDA

### PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

The Chair will read the following Opening Prayer and Acknowledgement of Indigenous Heritage:

*God, we pray for wisdom to govern with justice and equity. That we may see clearly and speak the truth and that we work together in harmony and mutual respect. May our actions demonstrate courage and leadership so that in all our works thy will be done. Amen.*

*Waverley Council respectfully acknowledges our Indigenous heritage and recognises the ongoing Aboriginal traditional custodianship of the land which forms our Local Government Area.*

#### 1. Apologies/Leaves of Absence

#### 2. Declarations of Pecuniary and Non-Pecuniary Interests

#### 3. Addresses by Members of the Public

#### 4. Confirmation of Minutes

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#### 6. Urgent Business

#### 7. Meeting Closure

## CONFIRMATION OF MINUTES

### PD/4.1/21.04



**Subject:** Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 2 March 2021

**TRIM No:** SF21/281

**Author:** Natalie Kirkup, Governance Officer

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#### RECOMMENDATION:

That the minutes of the Strategic Planning and Development Committee meeting held on 2 March 2021 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

#### Introduction/Background

The minutes of the Strategic Planning and Development Committee meeting must be submitted to Strategic Planning and Development Committee for confirmation, in accordance with clause 20.23 of the Waverley Code of Meeting Practice.

#### Attachments

1. Strategic Planning and Development Committee Meeting Minutes - 2 March 2021



**MINUTES OF THE STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE MEETING  
HELD BY VIDEO CONFERENCE/AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD,  
BONDI JUNCTION ON TUESDAY, 2 MARCH 2021**

**Present:**

Councillor Steven Lewis (Chair)	Hunter Ward
Councillor Paula Masselos (Mayor)	Lawson Ward
Councillor Elaine Keenan (Deputy Mayor)	Lawson Ward
Councillor Angela Burrill	Lawson Ward
Councillor George Copeland	Waverley Ward
Councillor Leon Goltsman	Bondi Ward
Councillor Tony Kay	Waverley Ward
Councillor Will Nemesh	Hunter Ward
Councillor Marjorie O'Neill	Waverley Ward
Councillor John Wakefield	Bondi Ward
Councillor Dominic Wy Kanak	Bondi Ward

**Staff in attendance:**

Emily Scott	Acting General Manager
John Clark	Director, Customer Service and Organisation Improvement
Tony Pavlovic	Director, Planning, Environment and Regulatory
Shane Smith	Acting Director, Community, Assets and Operations
Karen Mobbs	General Counsel
Darren Smith	Chief Financial Officer
Evan Hutchings	Executive Manager, Governance and Projects

*At the commencement of proceedings at 7.30 pm, those present were as listed above, with the exception of Crs O'Neill and Wakefield, who both arrived at 7.35 pm at the commencement of item PD/5.1/21.03.*

**PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE**

The Acting General Manager read the following Opening Prayer and Acknowledgement of Indigenous Heritage:

*God, we pray for wisdom to govern with justice and equity. That we may see clearly and speak the truth and that we work together in harmony and mutual respect. May our actions demonstrate courage and leadership so that in all our works thy will be done. Amen.*

*Waverley Council respectfully acknowledges our Indigenous heritage and recognises the ongoing Aboriginal traditional custodianship of the land which forms our Local Government Area.*

**1. Apologies/Leaves of Absence**

Apologies were received and accepted from Cr Betts.

**2. Declarations of Pecuniary and Non-Pecuniary Interests**

The Chair called for declarations of interest and the following was received:

- 2.1 Cr Wy Kanak declared a less than significant non-pecuniary interest in item PD/5.2/21.03 – Waverley Local Planning Panel – Reappointment of Members and informed the meeting that he knows some of the people recommended for reappointment to the Panel.

**3. Addresses by Members of the Public**

- 3.1 A Ciano (on behalf of Uniting) – PD/5.1/21.03 – War Memorial Hospital – Draft Development Control Plan – Exhibition.

**4. Confirmation of Minutes**

**PD/4.1/21.03 Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 1 December 2020 (SF21/281)**

**MOTION / UNANIMOUS DECISION**

Mover: Cr Lewis  
Seconder: Cr Masselos

That the minutes of the Strategic Planning and Development Committee Meeting held on 1 December 2020 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

## 5. Reports

### PD/5.1/21.03 War Memorial Hospital - Draft Development Control Plan - Exhibition (SF21/655)

#### MOTION

Mover: Cr Lewis

Seconder: Cr Wakefield

That Council public exhibits the draft Site Specific Development Control Plan for the War Memorial Hospital attached to the report for a minimum period of 28 days, in accordance with section 3.43 and clause 5 of schedule 1 of the *Environmental Planning and Assessment Act 1979*, subject to any minor amendment required in the case of an amended Gateway Determination for the relevant planning proposals.

THE MOVER OF THE MOTION THEN ACCEPTED AN AMENDMENT TO THE MOTION.

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED.

#### DECISION:

That Council public exhibits the draft Site Specific Development Control Plan for the War Memorial Hospital attached to the report for a minimum period of 28 days, in accordance with section 3.43 and clause 5 of schedule 1 of the *Environmental Planning and Assessment Act 1979*, subject to:

1. Any minor amendment required in the case of an amended Gateway Determination for the relevant planning proposals.
2. Ensuring there is consistency between Figure 3 (site layout plan) and Figure 4 (open space site plan) in the draft DCP to ensure that there is appropriate setback between the Bronte Road/Birrell Street heritage-listed gateway and the five-storey building at the corner.

#### Division

**For the Motion:** Crs Burrill, Copeland, Goltsman, Kay, Keenan, Lewis, Masselos, Nemesh, O'Neill, Wakefield and Wy Kanak.

**Against the Motion:** Nil.

*A Ciano (on behalf of Uniting) addressed the meeting.*

### PD/5.2/21.03 Waverley Local Planning Panel - Reappointment of Members (A13/0229)

*Cr Wy Kanak declared a less than significant non-pecuniary interest in this item and informed the meeting that he knows some of the people recommended for reappointment to the Panel.*

#### MOTION

Mover: Cr Masselos

Seconder: Cr Keenan

That Council:

1. Reappoints the Hon. Paul Stein as the Chair and the Hon. Angus Talbot and Ms Annelise Tuor as alternate Chairs of the Waverley Local Planning Panel (WLPP) up to 30 June 2021.
2. Reappoints the following expert members to the WLPP up to 30 June 2021:
  - (a) Peter Brennan (town planner, building surveyor).

- (b) Michael Harrison (architect).
  - (c) Gabrielle Morrish (architect/ urban designer).
  - (d) Jan Murrell (town planner, former Commissioner of the Land and Environment Court of NSW).
  - (e) Annelise Tuor (town planner, heritage architect, former Commissioner of the Land and Environment Court of NSW).
  - (f) Allyson Small (architect/community representative).
  - (g) Sandra Robinson (town planner/community representative).
3. Undertakes an expression of interest process for community members to nominate for membership of the WLPP for a term of three years commencing from 1 July 2021, with an officer report to come back to Council prior to 30 June 2021 recommending the appointment of preferred community members.

THE MOVER OF THE MOTION THEN ACCEPTED THE ADDITION OF A NEW CLAUSE 4.

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED.

**DECISION:**

That Council:

1. Reappoints the Hon. Paul Stein as the Chair and the Hon. Angus Talbot and Ms Annelise Tuor as alternate Chairs of the Waverley Local Planning Panel (WLPP) up to 30 June 2021.
2. Reappoints the following expert members to the WLPP up to 30 June 2021:
  - (a) Peter Brennan (town planner, building surveyor).
  - (b) Michael Harrison (architect).
  - (c) Gabrielle Morrish (architect/ urban designer).
  - (d) Jan Murrell (town planner, former Commissioner of the Land and Environment Court of NSW).
  - (e) Annelise Tuor (town planner, heritage architect, former Commissioner of the Land and Environment Court of NSW).
  - (f) Allyson Small (architect/community representative).
  - (g) Sandra Robinson (town planner/community representative).
3. Undertakes an expression of interest process for community members to nominate for membership of the WLPP for a term of three years commencing from 1 July 2021, with an officer report to come back to Council prior to 30 June 2021 recommending the appointment of preferred community members.
4. Officers report back to Council detailing the governance and complaint handling processes for the Panel.

**Division**

**For the Motion:** Crs Burrill, Copeland, Goltsman, Kay, Keenan, Lewis, Masselos, Nemesh, O'Neill, Wakefield and Wy Kanak.

**Against the Motion:** Nil.

**PD/5.3/21.03                      Planning Proposal - 439-445 Old South Head Road and 1 The Avenue, Rose Bay - Pre-Gateway Determination Assessment (PP-3/2020)**

**MOTION / DECISION**

Mover: Cr Lewis

Seconder: Cr Wy Kanak

That Council:

1. Not support the planning proposal for 439–445 Old South Head Road and 1 The Avenue, Rose Bay, to proceed to Gateway Determination, as the proposal lacks strategic and site-specific merit, and the proposed 25 m height and 2.5:1 floor space ratio (FSR) would:
  - (a) Be out of scale with the surrounding streetscape of Old South Head Road and the prevailing medium-density scale of surrounding development set by the existing 12.5 m height and 0.9:1 FSR development standards in the Waverley Local Environment Plan.
  - (b) Adversely impact the significance of the heritage item located on 443–445 Old South Head Road as it would grossly outsize it, thereby disrupting its setting and character.
  - (c) Reduce residential amenity for dwellings to the south with additional overshadowing from the excessive building bulk possible under the proposed amendments.
2. Notes that the Waverley Local Planning Panel unanimously recommended that the planning proposal not proceed to Gateway Determination, as the proposal lacks site-specific merit for the reasons outlined in the attachment to the report.

**Division**

**For the Motion:** Crs Burrill, Copeland, Goltsman, Kay, Keenan, Lewis, Masselos, Nemesh, O'Neill, Wakefield and Wy Kanak.

**Against the Motion:** Nil.

**PD/5.4/21.03                      Planning Proposal - 45-57 Oxford Street, Bondi Junction - Pre-Gateway Determination Assessment (PP-4/2020)**

**MOTION / DECISION**

Mover: Cr Masselos

Seconder: Cr Keenan

That Council:

1. Not support the planning proposal for 45–57 Oxford Street, Bondi Junction, to proceed to Gateway Determination, as the proposal lacks site-specific merit, and the proposed 26 m height and 2.5:1 floor space ratio (FSR) development standards would:
  - (a) Be in conflict with the objectives of the recently adopted Waverley Local Strategic Planning

Statement and Bondi Junction Urban Design Review, which identify this portion of West Oxford Street as required to retain a 'village character'.

- (b) Overshadow and produce visual bulk/a sense of enclosure and unwarranted noise for southerly neighbours.
  - (c) Be out of scale and character with the surrounding low-density streetscape to the south and west of the site, particularly along Mill Hill Road and West Oxford Street.
  - (d) Diminish the character and amenity of the heritage items on the site, the directly adjoining Mill Hill Heritage Conservation Area and the contributory items within the Area by imposing such an increased scale of development where Denison Street and Mill Hill Road meet Oxford Street.
  - (e) Be unnecessary given the strong merits of DA-127/2013 to achieve the intended outcome of a mixed-use transitional building under current controls.
  - (f) Detrimentally reduce the availability of on-street parking.
2. Notes that the Waverley Local Planning Panel unanimously recommended that the planning proposal not proceed to Gateway Determination, as the proposal lacks site-specific merit for the reasons outlined in the attachment to the report.

**Division**

**For the Motion:** Crs Burrill, Copeland, Goltsman, Kay, Keenan, Lewis, Masselos, Nemesh, O'Neill, Wakefield and Wy Kanak.

**Against the Motion:** Nil.

**6. Urgent Business**

There were no items of urgent business.

**7. Meeting Closure**

**THE MEETING CLOSED AT 8.13 PM.**

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**SIGNED AND CONFIRMED**  
**CHAIR**  
**13 APRIL 2021**



**REPORT**  
**PD/5.1/21.04**

**Subject:** Planning Proposal - Local Strategic Planning Statement Implementation

**TRIM No:** SF20/2648

**Author:** Emma Rogerson, Strategic Planner

**Director:** Tony Pavlovic, Director, Planning, Environment and Regulatory

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**RECOMMENDATION:**

That Council:

1. Supports the Local Strategic Statement Implementation planning proposal attached to the report to proceed to Gateway Determination.
2. Notes that the matters of 'double dipping' at the Boot Factory and implementing a minimum lot size for secondary dwellings in Queens Park have been considered and are not included in this planning proposal.
3. Publicly exhibits the planning proposal for a minimum of 28 days in accordance with any conditions of the Gateway Determination that may be issued by the Department of Planning, Industry and Environment (DPIE).
4. Requests the role of local plan-making authority from the DPIE to exercise the delegations issued by the Minister under section 3.36 of the *Environmental Planning and Assessment Act 1979* in relation to the making of the amendment.

**1. Executive Summary**

The *Local Strategic Planning Statement Implementation* planning proposal (the Proposal) seeks to establish the new Waverley Local Environmental Plan 2021. The Proposal culminates Phases 1 (Health Check), Phase 2 (Local Strategic Planning Statement) and Phase 3 (Supporting Environmental Strategies) of the Planning in Waverley project and begins the implementation into Phase 4 by establishing two new plans: the Waverley Local Environmental Plan 2021 (WLEP) (this Proposal) and a supporting Waverley Development Control Plan 2021 (WDCP).

The new WLEP is required under section 3.8(3) of the *Environmental Planning and Assessment Act* (EP&A Act) to give effect to the Eastern City District Plan (District Plan), by way of implementing the Planning Priorities and Actions of the *Waverley Local Strategic Planning Statement* (LSPS). The Proposal aims to implement the housing targets as identified in the LSPS and *Waverley Local Housing Strategy* (LHS), as well as key recommendations from the *Bondi Junction Urban Design Review Update 2020* (BJUDR Update) and the *Our Liveable Place Centres Strategy* (OLP). In addition, other recently completed research and studies are implemented to improve environmental amenity and increase community resilience, such as the *Waverley LGA Flood Study 2020* and the *Future Proofing Residential Development to Climate Change* study. The Proposal also provides updated aims and zone objectives to ensure that development that occurs in the Waverley area is proposed and assessed in accordance with the strategic intent of the LSPS and

provides greater certainty and clarity for the community.

## 2. Introduction/Background

The Proposal seeks to repeal the Waverley Local Environmental Plan (WLEP) 2012 and create the Waverley Local Environmental Plan 2021. It commences the implementation of the LSPS, meeting obligations under sections 3.8(3) and 3.33 of EP&A Act and giving effect to the District Plan. Council intends to implement the LSPS as a series of planning proposals, this being the first.

The proposed WLEP amendments relate to:

- Implementation of new aims to facilitate the planning priorities of the LSPS.
- Implementation of partial elements of the *Waverley Local Housing Strategy* (LHS).
- Implementation of recommendations of the *Our Liveable Places Centres Strategy* (OLP).
- Implementation of the *Bondi Junction Urban Design Review Update 2020* (BJUDR).
- Implementation of a recommendation of the *Future Proofing Residential Development to Climate Change* (Future Proof Study).

The planning proposal has been prepared in accordance with section 55 of the EP&A Act, and addresses the requirements of section 3.8(3) of the EP&A Act 'on the preparation of planning proposals under section 3.33 to give effect to the district strategic plan'. It is also in accordance with relevant Department of Planning, Industry and Environment Guidelines including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

## 3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Council 16 March 2021	CM/8.3/21.03	That Council: <ol style="list-style-type: none"> <li>Notes the repeated problems of building collapses in the Waverley local government area following excavation on adjacent sites and includes enhanced provisions in the next Local Environmental Plan (LEP) that consider the structural integrity of adjoining buildings.</li> <li>Notes the inappropriate shoring practices that featured in the recent 21 Curlewis Street, Bondi, sand slide related to the building collapse at 19 Curlewis Street, Bondi.</li> <li>Reviews section 6.2(3) of the LEP to strengthen the development consent for earthworks relating to excavation that prohibit Bondi-Rose Bay sand body excavation deeper than the currently allowed state complying development certificate 3 m depth.</li> <li>Reviews the WLEP and DCP to produce standard conditions of consent that are consistent with the introduction of the Design and Building Practitioners Regulation from July 1, 2021.</li> </ol>
Council 19 June 2018	CM/8.9/18.06	That Council investigates rezoning the suburb of Diamond Bay (Diamond Bay Road, Craig Avenue and Isabel Avenue) from R3 Medium Density Residential to R2 Low Density Residential when

		amending the next Waverley Local Environmental Plan.
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#### 4. Discussion

##### Housing and employment target

The objective of the planning proposal is to repeal the WLEP 2012 and create the WLEP 2021 to give effect to the District Plan; to commence the process of implementing Council's LSPS; and to make various housekeeping amendments.

This planning proposal responds to the requirement to implement housing and employment targets within the WLEP.

##### *Housing targets*

Council undertook extensive community consultation to understand housing needs, as well as ABS Census data, Profile ID, DPIE projections and housing supply data and supporting academic research to establish the evidence base for the LHS. The LHS was prepared in line with DPIE's Local Housing Strategy guidelines and was based on evidence. The LHS identifies a projected demand for 2500 dwellings to the year 2036, and that the latent capacity under the existing controls would provide for 3400 dwellings. Accordingly, no changes are proposed to facilitate additional capacity in the local government area (LGA), but rather an approach of incremental infill across the LGA. To support this infill approach, subsequent planning proposals that seek to identify the existing and desired local character of areas and identify planning mechanisms to increase development capacity on character sites through the modification of existing character buildings are proposed.

It is also noted that significant increases in infrastructure capacity, particularly that of public transport and schools, is required to be able to support additional growth. As part of the ongoing discussion with the Department of Planning, Infrastructure and Environment (DPIE), Council is committed to working together with State Agencies to ensure the increased provision of these essential infrastructure services for the community.

This Proposal seeks to support the actions in the LHS that would require changes to the WLEP, including:

- Investigate including zone objectives in the LEP to encourage seniors housing and that it is consistent with desired future character.
- Update relevant zone objectives to encourage the provision of affordable housing.

Further changes to the LEP will be proposed in a subsequent planning proposal, taking into consideration feedback from DPIE on the LHS.

##### *Employment targets*

To ensure that the WLEP is able to facilitate the delivery of employment targets in Bondi Junction, and to provide employment opportunities more broadly across the LGA, this Proposal seeks to implement changes that relate to employment targets as follows: amend cl 6.12 ('Development on certain land in Bondi Junction') to apply to all B4 Mixed Use and B3 Commercial Core zoned land; and grow and protect Local and Neighbourhood centres across the LGA to provide local employment opportunities.

## Key proposed changes

Key proposed changes include:

- Include new aims, objectives and provisions within the WLEP that implement the planning priorities of the *Waverley Local Strategic Planning Statement* and facilitate the achievement of housing and employment targets.
- Maintain and protect local and neighbourhood centres to provide equitable access to essential goods and services by providing specialised zoning to support local businesses and character.
- Ensure boarding houses and seniors housing developments are consistent with local character and provide adequate amenity.
- Ensure operational Telstra sites are appropriately zoned to support key urban infrastructure.
- Ensure the ongoing role of Bondi Junction as a strategic centre and prioritise employment generating uses.
- Promote urban resilience through improved waste management, ensuring future ready development, and enabling urban agriculture.
- Implement the findings of the Waverley LGA Flood Study 2020 and improve the quality of stormwater.
- Implement the Council resolution to protect the character of the Diamond Bay precinct in Vaucluse.
- Implement the Council resolution to strengthen clause 6.2 Earthworks to prevent structural damage as a result of excavation.
- Identify sites for long-term acquisition to be able to deliver new bike paths parallel to Bondi Road.
- Enable uses in local and neighbourhood centres to better serve the local community and changing technologies.

## Waverley LGA Flood Study 2020

The draft Waverley LGA Flood Study (Study) is being considered for adoption at the Operations Committee Meeting on 13 April 2021. The draft Study has been publicly exhibited and proposes no changes to the final Study. Due to the timing of the subject Proposal and submission to Gateway, and the recommended adoption of the Waverley LGA Flood Study, the subject Proposal includes the implementation of the Flood Study. In the case that the Flood Study is not adopted at this time, the subject Proposal will be amended to remove the proposed flood mapping accordingly.

## Waverley Local Planning Panel

The Waverley Local Planning Panel (the Panel) discussed the subject Proposal and provided advice on it on 24 March 2021 under schedule 2, part 5, item 26 of the *Environmental Planning and Assessment Act 1979*.

The Panel advises Council that the planning proposal should proceed to a Gateway Determination. Refer to Attachment F of the planning proposal for further detail.

## Other matters considered

A number of matters were considered during the preparation of this planning proposal, including the inclusion of planning control to prevent 'double dipping' of floor space ratio at the Boot Factory, and implementing a minimum lot size for secondary dwellings in Queens Park.

The 'double dipping' of floor space ratio at the Boot Factory relates to the acknowledgement of a historical transfer of unbuilt floor space ratio from 27–33 Spring Street (the Boot Factory) to 1 Newland Street under DA-241/1982. This transfer was considered appropriate on planning grounds as the Boot Factory, which holds heritage significance, was not considered suitable for the large FSR allocated to it, whereas the site at 1 Newland Street was considered to be appropriate for additional floor space. While a new LEP clause could

prevent future development on the Boot Factory site, the overall objective of the transfer is currently achieved under existing WLEP controls, including clause 5.10 and clause 6.7, which both limit future development on site and protect the heritage item. There was therefore no need to intervene further.

The Queens Park Precinct has raised concerns regarding the building of secondary dwellings on sites in their suburb and have asked for a minimum lot size for the construction of secondary dwellings to be implemented. As secondary dwellings pose a successful solution to affordable housing in low density areas, and the concerns raised by the Precinct relate to the built form rather than housing typologies, further exploration at Development Control Plan stage was considered reasonable. There was therefore no need to intervene further within this planning proposal.

Refer to Attachment G of the planning proposal for further discussion on both matters.

### **Future planning proposals**

Separate future planning proposals will follow as amendments to this Proposal and will assist to implement additional Planning Priorities of the District Plan. These future planning proposals include:

#### *Affordable Housing Contribution Scheme planning proposal*

This planning proposal was considered by Council in December 2020 and was prepared to give effect to the *Waverley Council Affordable Housing Contributions Scheme* (the Scheme) through legislative weight by referencing it in the *Waverley Local Environmental Plan 2012* (WLEP 2012). This will allow Council to impose a condition of consent on new development for contributions to affordable housing or impose a 10% GFA contribution for affordable housing to future PP's where there is development uplift. This planning proposal is being considered at the Strategic Planning and Development Committee meeting on 13 April 2021 to incorporate additional amendments following a review by the Local Planning Panel (LPP).

Responds to Planning Priority E5 and E17.

#### *Employment planning proposal*

This planning proposal will comprise Phase 2 of the Bondi Junction Strategic Centre Minimum Non-Residential Floorspace planning proposal. Phase 1 was gazetted in 2020. This future PP will include any potential recommendations identified within a recently commenced Retail and Urban Services Research Project which will seek to protect the essential goods and services of the Waverley LGA. This Research Project will provide advice on a minimum non-residential floor space recommendation, whether it is necessary to intervene in the market to ensure the ongoing provision of urban services, and whether to apply a maximum supermarket floor space cap, what the cap should be and if so, where that should be applied.

Responds to Planning Priority E12.

#### *Heritage planning proposal*

This planning proposal will implement the recommendations of the *Waverley Heritage Assessment 2020* and seek to make amendments to schedule 5 of the WLEP 2021 to include additional locally listed Heritage Items and increase the boundaries of select local Heritage Conservation Areas. The Waverley Heritage Assessment is scheduled for the Strategic Planning and Development Committee meeting in May 2021.

#### *Housing planning proposal*

This planning proposal will implement the possible findings of a number of actions from the *Waverley Local Housing Strategy 2020–2036*. Research will be undertaken to understand whether intervention with

planning controls is needed and/or reasonably possible to support the availability of seniors housing, and to encourage medium density residential development on sites eligible for complying development certificate applications to pursue the development application pathway. The concern with the latter relates to the lack of consideration of local character that the Complying Development Certificate development pathway facilitates, risking the disruption of the special elements that create the highly valued 'feel' and 'sense of place' of Waverley Council.

There is also opportunity to consider the introduction of planning controls to incentivise the retention of Inter-War style residential flat buildings under this planning proposal.

Responds to Planning Priority E16.

#### *Sustainability and Resilience planning proposal*

This planning proposal will support the development of high-quality Open Space, high-performance buildings, as well as urban tree canopy and deep soil targets in accordance with the future Urban Greening Strategy and the draft *Open Space and Recreation Strategy*.

Responds to Planning Priority E17, 18 and E19.

#### *Local Character Statements*

Council has prepared the draft Local Character Statements that identify the existing and desired future character of the proposed Character Areas across the LGA. The Local Character Statements have been exhibited; however, they have not yet progressed to adoption or implementation. This planning proposal could be a mechanism to implement the Waverley Local Character Statements in accordance with the guidance which is yet to be released by the DPIE.

Responds to LSPS Action.

### **5. Financial impact statement/Time frame/Consultation**

#### **Financial impact**

The Proposal seeks to secure employment floorspace and protect the role of centres, while ensuring local amenity and character is preserved. The proposed changes are intended to support the community and are unlikely to result in any adverse social or economic effects.

Council has applied for funding under the Public Spaces Legacy Program for a total amount of \$4.75 million. The Program Agreement requires Council to meet the following four key requirements:

1. Substantially accelerate planning assessments between 1 September 2020 and 30 June 2021.
2. Commit to completing regionally significant development applications that have been under assessment for more than 180 days by 31 December 2020.
3. Further commit to delivering on housing and jobs growth, exhibiting updated local environmental plans to incorporate housing or employment supply for at least 6-10 years, by 30 June 2021.
4. Commit to delivering rezonings that have been under assessment for more than 4 years, by 30 June 2021.

It is noted that Council is currently working with the DPIE to ensure that this Proposal will meet requirement 3 under the agreement for housing and employment supply. The funding for this agreement is dependent on the delivery of the subject Proposal to this report. A request has been submitted to the Department of Planning, Industry and Environment (DPIE) to seek an amendment of requirement 3 from

exhibiting the updated local environmental plan to submitting the updated located environmental plan (this planning proposal) with the Department.

### Time frame

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 DPE for a Gateway Determination.

*Table 1. Tasks and time frames.*

Tasks	Time frame
Submit planning proposal to Council for endorsement	April 2021
Submit to DPIE for Gateway	April 2021
Gateway Determination	June 2021
Public Authority Consultation	July 2021
Community Consultation	July 2021
Post Exhibition Review	August/September 2021
Update planning proposal / Report to Council	October 2021
DPIE review of final planning proposal	October 2021
Parliamentary Counsel drafting of LEP	November 2021
DPIE to finalise LEP and gazettal	December 2021

### Consultation

Public exhibition is likely to include a newspaper advertisement, a display on the Council's website and written notification to affected 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.

It is recommended that Council requests the role of local plan-making authority from the DPIE to exercise the delegations issued by the Minister under section 3.36 of the EP&A Act in relation to the making of the amendment.

## 6. Conclusion

The *Local Strategic Planning Statement Implementation Planning Proposal* (the Proposal) is considered to successfully give effect to the District Plan, by way of implementing a number of the Planning Priorities and Actions of the *Waverley Local Strategic Planning Statement* (LSPS). Attachment C of the Proposal provides a review of the Actions of the LSPS and how this Proposal gives effect to them. The Proposal also provides updated aims and zone objectives to ensure that development that occurs in the Waverley area is proposed and assessed in accordance with the strategic intent of the LSPS and provides greater certainty and clarity for the community.

## 7. Attachments

1. Planning Proposal - LSPS LEP Implementation (under separate cover) [⇒](#)

**REPORT**  
**PD/5.2/21.04**

**Subject:** Planning Proposal - Affordable Housing

**TRIM No:** A04/0302

**Author:** Tina Wang, Strategic Planner

**Director:** Tony Pavlovic, Director, Planning, Environment and Regulatory

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**RECOMMENDATION:**

That Council:

1. Notes that the Affordable Housing Contribution Scheme was adopted by Council in December 2020.
2. Notes that the Waverley Local Planning Panel (WLPP) has reviewed the Affordable Housing Contribution Scheme planning proposal and provided advice, as set out in Attachment 2 of the report.
3. Notes that the updates to the planning proposal based on advice from WLPP include a proposed Waverley Local Environmental Plan 2012 clause.
4. Adopts the amended Affordable Housing Contribution Scheme attached to the report (Attachment 3) for clarification reasons.
5. Authorises officers to forward the planning proposal attached to the report (Attachment 1) to the Department of Planning, Industry and Environment (DPIE) for a Gateway Determination.
6. Publicly exhibits the planning proposal for a minimum of 28 days in accordance with any conditions of the Gateway Determination that may be issued by the DPIE.
7. Requests the role of local plan-making authority from the DPIE to exercise the delegations issued by the Minister under section 3.36 of the Environmental Planning and Assessment Act 1979 in relation to the making of the amendment.

**1. Executive Summary**

The Waverley Affordable Housing Contribution Scheme (AHCS) is a legislative requirement of section 7.32 *Environmental Planning and Assessment Act 1979* (EP&A Act), with further clarification provided by Environmental Planning Assessment (Planning Agreements) Direction 2019 (Ministerial Direction) and State Environmental Planning Policy No. 70 – Affordable Housing (Revised Schemes) (SEPP 70) to allow Councils to collect any monetary or in-kind contributions for affordable housing through the planning system. The adopted scheme aims to facilitate a socially diverse and inclusive community by ensuring that lower income households can continue to live and work locally within the Waverley local government area (LGA). The AHCS sets out a scheme for contributions as follows:

- 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 a rezoning process.

To be able to collect contributions under this scheme, a new affordable housing contribution clause is required to be entered into the Waverley Local Environmental Plan (WLEP). This report provides the planning proposal which seeks to implement the contributions clause into the WLEP and seeks Council's endorsement to proceed to send the planning proposal to the Department of Planning, Industry and Environment (DPIE) for a Gateway determination.

## 2. Introduction/Background

### 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 (AHCS) referenced in the WLEP.

An affordable housing condition of consent would be any condition on a development consent that requires monetary or in-kind contributions to affordable housing. In Waverley, an affordable housing condition of consent includes a condition of consent for voluntary planning agreements (VPA) as every VPA allocates funds towards affordable housing. The Environmental Planning Assessment (Planning Agreements) Direction 2019 (Ministerial Direction) supports this intent of SEPP 70 and requires that Councils who allocate VPA funds to affordable housing must develop an AHCS.

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

The preparation of the scheme is also in line with actions from the Waverley Local Housing Strategy (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 that receive uplift. The scheme identified that a specific percentage of 1% of gross floor area on all new residential apartment development and 10% of gross floor area on sites receiving uplift would be more appropriate compared to a range, as a test of industry acceptance. It is envisaged that this rate may increase in the future. 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 planning proposal in order to make an amendment to the Waverley LEP.

## 3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Council 1 December 2020	PD/5.1/20.12	<p>That Council:</p> <ol style="list-style-type: none"> <li>Notes the matters raised in the submissions made on the draft Planning Agreement Policy (Amendment No. 3) and the draft Affordable Housing Contributions Scheme during the exhibition period.</li> <li>Adopts the Planning Agreement Policy (Amendment 3) attached to the report (Attachment 1) subject to the following changes: <ol style="list-style-type: none"> <li>Page 13, after clause 8, insert a new clause 9: 'That as part of any VPA report, Councillors be provided with an overview of meetings between applicants and staff, and the rationale for the decision.'</li> </ol> </li> </ol>

		<p>(b) Page 7, second paragraph, after the sentence ending 'as amended from time to time', insert: 'Council has resolved and committed to implementing and progressing the LSPS in ways that operate to involve and acknowledge that Aboriginal First Nation Peoples have a custodial ongoing spiritual, social, cultural, economic and traditional relationship to looking after country and people.'</p> <p>3. Adopts the Affordable Housing Contributions Scheme attached to the report (Attachment 3).</p> <p>4. Notifies those people who made a submission of Council's decision.</p> <p>5. Submits a planning proposal to the Department of Planning, Industry and Environment seeking a Gateway Determination to incorporate the Affordable Housing Contributions Scheme into the Waverley Local Environment Plan 2012.</p>
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#### 4. Discussion

Council has adopted the AHCS on 1 December 2020. To give effect to the Scheme an amendment needs to be made to the Waverley LEP for a new additional local clause referencing the Scheme. This requires Council officers to submit a planning proposal to DPIE.

#### Affordable Housing Contribution Scheme

The current AHCS provides for the 1% and 10% contributions rates; however, it is not clear in the AHCS what part of the development this applies to. For the purposes of clarity, it is proposed to include the wording 'gross floor area' to ensure common understanding on the calculation of the contributions. The proposed changes are identified in track changes in Attachment 3.

#### Waverley Local Planning Panel Advice

On 24 March 2021 the Proposal was presented to the Waverley Local Planning Panel (WLPP) for its review and advice. The Panel has considered the information that was circulated to it by Council email on 19 March 2021, which included:

- Summary report.
- Waverley Affordable Housing Contributions Scheme planning proposal.
- Waverley Affordable Housing Contributions Scheme.

The Panel advises Council that it is premature to proceed to a Gateway Determination until the planning proposal is amended to:

- Insert the draft clause in the Waverley LEP that will implement the Waverley Affordable Housing Contributions Scheme 2020.
- Clarify discussion on the War Memorial Hospital site planning proposal.

- Remove the discussion on the 439-445 Old South Head Road planning proposal (as the planning proposal is not proceeding).
- Justify or delete the discussion on how additional development costs will not be passed on to the end user.

### **Council officers' response to WLPP**

#### *Draft clause in the Waverley LEP*

A draft clause that references the Affordable Housing Contribution Scheme was added to the planning proposal.

#### *War Memorial Hospital site*

The planning proposal was amended to clarify that the War Memorial Hospital Site planning proposal was used as an example to demonstrate the feasibility of the 10% affordable housing contribution.

#### *439-445 Old South Head Road planning proposal*

On 2 March 2021, Council resolved to not support the planning proposal for 439–445 Old South Head Road. The inclusion of the 439–445 Old South Head Road planning proposal was also used as an example of the viability of the subject planning proposal. Reference to the 439–445 Old South Head Road planning proposal has now been removed from this planning proposal.

#### *Additional development costs*

A reference was added to the planning proposal to provide evidence for the proposition that additional development costs will not be passed on to the end user. The rationale was expanded to include '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. 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'.

## **5. Financial impact statement/Time frame/Consultation**

### **Financial impact**

There have been no upfront or recurrent costs associated with this planning proposal other than staff costs associated with preparing the planning proposal. The benefits of implementing this scheme will serve the community via the ability to charge contributions for affordable housing via development.

### **Timeframe**

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.

*Table 1. Tasks and time frames*

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

## 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. It is recommended that Council requests the role of the Responsible Planning Authority (RPA).

## 6. Conclusion

There is a need to provide affordable housing within the Waverley LGA for low-moderate income households and the proposal is recommended to proceed to a Gateway assessment. A planning proposal must be submitted to amend the WLEP to include a provision to charge contributions for affordable housing, and the subject planning proposal seeks to make the necessary changes.

## 7. Attachments

1. Planning Proposal - Affordable Housing Contributions Scheme [↓](#)
2. WLPP minutes [↓](#)
3. Affordable Housing Contributions Scheme - Updated [↓](#)
4. Planning Proposal - Affordable Housing Contributions Scheme - Discussion of proposed changes [↓](#)



## PLANNING PROPOSAL

### Waverley Council Affordable Housing Contributions Scheme

*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

*Planning Proposal – Waverley Council Affordable Housing Contributions Scheme*

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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. In Waverley, currently every VPA negotiated allocates 25% of funds towards affordable housing. *Environmental Planning Assessment (Planning Agreements) Direction 2019 (Ministerial Direction)* supports this intent of SEPP 70 and requires that Councils who allocate VPA funds to affordable housing must develop an affordable housing contributions scheme that is referenced in the LEP.

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 a Planning Proposal 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 a rezoning process.

## 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. In Waverley, an affordable housing condition of consent includes a condition of consent for VPAs as every VPA allocates funds towards affordable housing. *Environmental Planning Assessment (Planning Agreements) Direction 2019 (Ministerial Direction)* supports this intent of SEPP 70 and requires that Councils who allocate VPA funds to affordable housing must develop an affordable housing contributions scheme.

### *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 draft 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



*Planning Proposal – Waverley Council Affordable Housing Contributions Scheme*

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 contributions for affordable housing can be sourced through the negotiation of VPAs or

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through the Affordable Rental Housing SEPP. Whilst Council can continue to secure contributions through these method it is not the most effective means of securing contributions for affordable housing as 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 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 *CI 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 the Planning Proposal process will allow Council to secure much needed housing for the purposes of affordable housing to be made available to low-moderate income

*Planning Proposal – Waverley Council Affordable Housing Contributions Scheme*

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 applied affordable housing contributions to developments using Voluntary Planning Agreements (VPAs). 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. Ultimately, even with an LEP clause the legal instrument for collecting the AH contributions may be via a VPA; however, the existence of an LEP AH clause binds any future owners / developers to provide AH contributions when these sites are developed.

*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 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

<sup>1</sup> Gurran, 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.

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



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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.

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*

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<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

*Planning Proposal – Waverley Council Affordable Housing Contributions Scheme*

<i>Site-specific Merit Test</i>	
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 in planning controls 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

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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*

Direction: Housing the city	
Planning Priority 6: Facilitate a range of housing opportunities in the right places to support and retain a diverse community	
<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>

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	<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>
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>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>
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>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>
5. Implement controls to regulate Short Term Holiday Letting in the LGA	Not applicable.
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>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



## Planning Proposal – Waverley Council Affordable Housing Contributions Scheme

## 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

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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>

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			<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 a rezoning process.</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



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--	(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>

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Ministerial Directions	Comment
(b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design.  (5) A planning proposal must, in relation to land to which this direction applies: (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 (b) not contain provisions which will reduce the permissible residential density of land.	
6.1 Approval and Referral Requirements (1) The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The proposal aims to ensure that the amended WLEP2012 would give effect to the redevelopment of the site and the appropriate assessment of development.

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.

## Planning Proposal – Waverley Council Affordable Housing Contributions Scheme

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> Gurran, 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



**ADVICE OF THE WAVERLEY LOCAL PLANNING PANEL**  
**Affordable Housing Contribution Scheme Planning Proposal**  
**Held by Video Conference on Wednesday 24 March 2021**  
SCHEDULE 2, PART 5, ITEM 26 OF THE ENVIRONMENTAL  
PLANNING AND ASSESSMENT ACT 1979 (NSW)

**Panel members:**

Hon RN Talbot (Angus) (Chair)  
Jan Murrell  
Graham Brown  
Sandra Robinson (Community Representative)

**Declarations of Interest**

Sandra Robinson declared that she has current Development Applications under assessment with Waverley Council.

**Site visit and briefing**

A formal site visit was not required given the applicability of the Planning Proposal across the entire Waverley LGA.

The following Council Officers from the Strategic Town Planning team were present during the meeting to answer any questions:

Jaime Hogan	A/Manager, Strategic Planning
Emma Rogerson	A/Senior Strategic Planner
Patrick Hay	Strategic Planner
Tina Wang	Strategic Planner

The Panel discussed the Planning Proposal and provided advice on the Planning Proposal on 24 March 2021 under Schedule 2, Part 5, Item 26 of the Environmental Planning and Assessment Act 1979.

The Panel has considered the information that was circulated to it by Council email on 19 March 2021, which included:

- Summary report
- Waverley Affordable Housing Contributions Scheme Planning Proposal
- Waverley Affordable Housing Contributions Scheme

**Resolution**

The Panel advises Council that it is premature to proceed to a Gateway determination until the Planning Proposal is amended to:

- Insert the draft clause in the Waverley LEP that will implement the Waverley Affordable Housing Contributions Scheme 2020
- Clarify discussion on the War Memorial Hospital site Planning Proposal
- Remove the discussion on the 439-445 Old South Head Road Planning Proposal (as the Planning Proposal is not proceeding)
- Justify or delete the discussion on how additional development costs will not be passed on to the end user

**The resolution provided by the Panel as follows was unanimous.**

Waverley Local Planning Panel – Planning Proposal – Affordable Housing Contribution Scheme



## Waverley Affordable Housing Contributions Scheme 2020

## Document Control

Amendment	Adopted
Document first adopted	1/12/2020
<u>Amendments proposed for clarity</u>	<u>13/04/2021</u>



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## 1. Strategic context and background

### 1.1. Background

Section 7.32 of the Act requires an affordable housing contributions scheme in order to impose a condition requiring land or contributions for affordable housing.

The Waverley Affordable Housing Needs Analysis (Appendix A) demonstrates the need to increase the supply of affordable rental housing in Waverley Local Government Area (LGA). Without provision of more affordable forms of housing, the market will continue to produce more expensive housing in the area, so that housing will only be affordable to households on relatively high incomes. The flow on effect is that existing lower income groups would need to move out of the area, and new lower income households may be prevented from finding housing in the local area.

The Waverley LGA is undergoing significant change from projected population growth and redevelopment pressures. These changes combined with access to the eastern beaches, significant open spaces, Bondi Junction rail interchange, commercial and retail centre makes the area an attractive place to live, work and visit. This will continue to place upward pressure on property values beyond the means of lower income households to purchase or rent in the area.

### 1.2. Introduction

The *Waverley Affordable Housing Contributions Scheme* (herein referred to as the Scheme) aims to ensure that lower income households continue to live and work locally within the Waverley LGA, to facilitate a socially diverse and inclusive community.

#### **Current approach**

Waverley's current approach to collecting affordable housing contributions is under Waverley's Planning Agreement Policy 2014. This Policy has been successfully utilised to negotiate and draft planning agreements accompanying Development Applications seeking a Clause 4.6 variation to Clause 4.4 Floor space ratio for additional floorspace. Waverley has had a longstanding commitment to the provision of affordable housing where every planning agreement contribution allocates 10% of funds towards affordable housing. Amendment 3 to the Policy seeks to increase this to a minimum of 25%.

The NSW Government released a Ministerial Direction requiring that Councils who wish to require land or contributions for affordable housing through a voluntary planning agreement must have an affordable housing contributions scheme. Council wishes to continue allocating planning agreement funds to affordable housing and hence the preparation of this Scheme.

#### **Proposed approach**

Under *State Environmental Planning Policy 70 – Affordable Housing (Revised Schemes)* (SEPP 70) all Councils in NSW were made eligible to start collecting affordable housing contributions where there is uplift in the planning controls, an identified local housing need (Appendix A) and where it is viable.

Council has adopted the Local Housing Strategy which 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. 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% of gross floor area on all new residential apartment development and 10% of gross floor area on sites receiving uplift would be more appropriate compared to a range, as a test of industry acceptance. It is envisaged that this rate will increase in the future.

Furthermore, Council also receives unsolicited spot rezonings from private industry. The subject scheme will give Council the legislative backing to require affordable housing contributions of 10% from proponents that are granted uplift through the planning proposal process.

### 1.3. Aim of this scheme

The aim of the Scheme is to deliver affordable housing resulting from contributions in the Waverley LGA. The scheme aims to:

- Support a socially diverse community
- Capture value attributed to individual landowners through uplift granted by the planning system for the public purpose of affordable housing
- Expand Council's existing affordable housing portfolio

### 1.4. Where does the scheme apply?

The Scheme applies to the whole Waverley Local Government Area.

### 1.5. What types of development does the scheme apply to?

Residential apartment development and mixed-use development excluding employment generating only development.

### 1.6. Overview of affordable housing need in Waverley

Affordable housing refers to a spectrum of housing options including social housing, affordable rental housing, and certain types of market housing. There are few opportunities in Waverley to access affordable housing. Unaffordability has been a growing issue over the last two decades as household income-to-house price ratio has increased from 4:1 in 1994 to 12:1 in 2016. 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. To meet the base demand, 11% of total dwelling stock needs to be affordable. Projecting this to 2036, this equates to an additional 600 affordable rental dwellings, or approx. 30 affordable rental dwellings per annum. Proposed affordable housing targets of 1% of gross floor area on all new development and 10% of gross floor area on development receiving uplift, while not meeting all underlying demand, will provide a pathway to increasing affordable housing in the LGA. Furthermore, to retain the current proportion (2%) and ensure no further net loss of social housing, 90 social housing units should be delivered by 2036. Whilst Council can continue to advocate for this, the state government owns and manages social housing.

The current sources of affordable housing are from what is approved under the ARHSEPP, Waverley Council's Affordable Housing program and what's available in the market. The current supply of affordable rental housing is only meeting 57% of demand and 43% of households in rental stress are not going to have their housing needs met in the current housing climate.

### 1.7. Legislative basis for affordable housing contributions

Residential development and mixed-use development excluding dwelling houses (a building containing only one dwelling) and employment generating only development within the Waverley LGA is subject to the collection of contributions for affordable housing under Section 7.32 Clause 1 of the Act because:

- *State Environmental Planning Policy 70 – Affordable Housing (Revised Schemes)* (SEPP 70) is applied to the whole state. It allows Councils to collect affordable housing contributions where there is an identified need for affordable housing in the area. Appendix A provides additional analysis for affordable housing in the LGA.
- Redevelopment in the LGA will reduce the availability of affordable housing by increasing demand for affordable housing while also increasing the cost of housing.

### 1.8. Relationship to other affordable housing provisions in the LGA

Where an applicant seeks to utilise the bonus provisions of the Affordable Rental Housing State Environmental Planning Policy 2009, this contributions plan does not apply.

### 1.9. Affordable housing principles

The Waverley affordable housing principles are:

- Affordable housing must be provided and managed in Waverley so that a socially diverse residential population representative of all income groups is available in Waverley,
- Affordable housing must be rented to tenants whose gross household incomes fall within the following ranges of percentages of the median household income for the time being for the Sydney Statistical Division according to the Australian Bureau of Statistics:
  - Very low income household - less than 50%
  - Low income household - 50% or more, but less than 80%
  - Moderate income household - 80–120%
  - and at rents that do not exceed a benchmark of 30% of their actual household income, and
- Dwellings provided for affordable housing must be managed so as to maintain their continued use for affordable housing,
- Rental income from affordable housing received by or on behalf of the Council, after deduction of normal landlord's expenses (including management and maintenance costs and all rates and taxes payable in connection with the dwellings), must be used for the purpose of improving or replacing affordable housing or for providing additional affordable housing in Waverley or for research and policy development for housing and affordable housing purposes, and
- Affordable housing must consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with other dwellings within the development, especially in terms of internal fittings and finishes, solar access and privacy.



## 2. Affordable housing contributions

### 2.1. Voluntary Planning Agreements

The Planning agreement policy 2014 requires that at a minimum 25% of all VPA contributions go to affordable housing. In some circumstances, this may be higher.

### 2.2. Monetary contribution rates in the LEP

The levy will be calculated as a percentage across the whole development in accordance with the market value of residential floorspace around the time of the development. These rates are outlined in the table below and will be updated on a regular basis in line with current market conditions.

- A levy of 1% of the total gross floor area applying to all new residential apartment development
- A levy of 10% of the total gross floor area applying to sites receiving uplift through planning controls.

**Table 1. Suburb revenues to calculate the affordable housing contribution.**

Gross realisation \$/sqm	
Rose Bay	\$14,000
Bronte	\$21,000
Waverley	\$14,000
Dover Heights	\$14,000
Bondi	\$18,500
Vaucluse	\$14,000
Bondi Beach	\$20,000
Bondi Junction	\$18,500
Tamarama	\$21,000
North Bondi	\$19,500
Queens Park	\$17,000

#### 2.2.1. Dedication of dwellings

Council's preference is for monetary contributions. However, where the opportunity arises that the monetary contribution is equal to that of a whole unit (at least 50 sqm), this could be dedicated to Council.

### 2.3. Development that is exempt from the affordable housing contribution scheme

Residential development that is not apartments or employment generating only developments.

## 2.4. Conditions of consent for affordable housing

Where the total floor area to be dedicated as affordable housing is less than the amount equivalent to a unit at least 50sqm or where the proposed dwellings are considered not appropriate for the purpose of affordable housing (subject to Council approval), an equivalent monetary contribution that would otherwise be required will be sought in accordance with the rate, outlined in section 2.1.

Where an in-lieu contribution is being made the condition of consent is to contain but not be limited to, the following information:

- The monetary contribution required in accordance with the rates as specified under 2.1 of this plan;
- The total floor area of the development used for residential purposes that was used in the calculations;
- A requirement that the condition be satisfied (to Council's approval) prior to the issue of a construction certificate.

## 3. Administration and implementation

### 3.1. How to make a contribution

Payment of contributions will be by unendorsed bank cheque to the Council prior to issue of any construction certificate. In circumstances where no construction certificate is required, payment is required prior to commencement of use/occupation.

### 3.2. Processes for the distribution and management of funds

Contributions resulting from in-kind or monetary contributions are to be provided in accordance with the following criteria:

- Affordable housing is to be dedicated to the Council
- Contributions are to be pooled and managed by the Council until such time as there is sufficient funding available to develop and/or acquire new affordable housing
- Affordable housing units are owned by the Council and managed by an eligible community housing provider
- Affordable housing is rented to low and moderate income households at 30 per cent of gross household income
- All rent received after deduction of management and maintenance costs will be reinvested back into Council's Affordable Housing Program to be used for the purpose of improving, replacing or providing additional affordable rental housing in Waverley LGA, and
- Affordable housing is designed and constructed to a standard which, in the opinion of Council, is consistent with other dwellings within the same development, that is, they are not differentiated (internally and externally) as affordable housing compared with the design of other housing.

### 3.3. Tenant eligibility criteria<sup>1</sup>

In order to be eligible to participate in the WAHP, successful applicants must be able to substantiate compliance with the following criteria:

- a) The average household gross annual income, which includes all people in the household aged eighteen (18) years and older, taken over the last two (2) years prior to application to WAHP must fall within the following ranges of percentages of the median household income from the Waverley Statistical Division according to the Australian Bureau of Statistics:
  - Low 0% - 80% (the precise income amount will vary annually)
  - Medium 0% - 120% (the precise income amount will vary annually)
- b) Must be able to demonstrate a connectedness to the Waverley LGA area meaning a tenant must be living in the Council LGA currently and for the past three (3) years; or if not living the Waverley Council LGA, have lived in the area for at least five (5) years in the previous ten (10) years;
- c) Must not own assets or property which could reasonably be expected to be used to solve their housing needs;
- d) Employees, or immediate relatives of employees of the Waverley Council and the Affordable Housing Manager (“AHM”);
- e) Must not be already living in secure medium and long term subsidized social housing the Eastern Suburbs including the Local Government Area of Waverley, Woollahra, Randwick, Botany and City of Sydney at the time of application submission;
- f) Prior to accepting potential tenants on the waiting list, their eligibility needs to be confirmed through:
  - proof of income, through documentation such as income tax returns, social security documentation, declaration of all assets etc, and
  - proof of connection with the Waverley area, through evidence of current and past phone/power bills and/or current and past rent receipts.

Interviews are conducted with applicants in order to verify compliance with eligibility criteria; and

- g) Prior to placement of anyone from the waiting list in a dwelling, the income and connectedness criteria, lack of secure accommodation are to be verified.

Applicants no longer meeting the criteria should be removed from the waiting list.

### 3.4. How tenants are assessed and allocated homes

WAHP properties are allocated to approved tenants as per the following:

- a) properties will be advertised. Advertisements for properties will clearly stipulate all eligibility criteria; applicants who fulfil the eligibility criteria will be short listed;
- b) eligible applicants whose household numbers are appropriate to the available property size will be further short listed; and
- c) all eligible potential tenants will enter a ballot which will be drawn.

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<sup>1</sup> This tenant eligibility criteria is from the *Waverley Affordable Housing Program Policy 2007 (Amendment 1)*. This policy will be updated from time to time and should be referred to.

Three (3) years is the maximum period available to any tenant in the WAHP. Shorter periods of tenure may be negotiated for privately owned rent capped properties. Previous tenants unsuccessful at the ballot will be advised of new similar properties coming into the WAHP by way of letter from the respective AHM for twelve (12) months only. It is noted, there will be no succession or transfer of tenure. The AHM should inform prospective tenants of all possible conditions of tenure.

### 3.5. Monitoring and review of scheme

Council will regularly review this policy and the manner in which it operates. As necessary, amendments and other changes may be required to ensure the policy operates in the way that Council intends.



## Appendix A – Local housing needs assessment

## Appendix A

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# Affordable Housing Needs Analysis

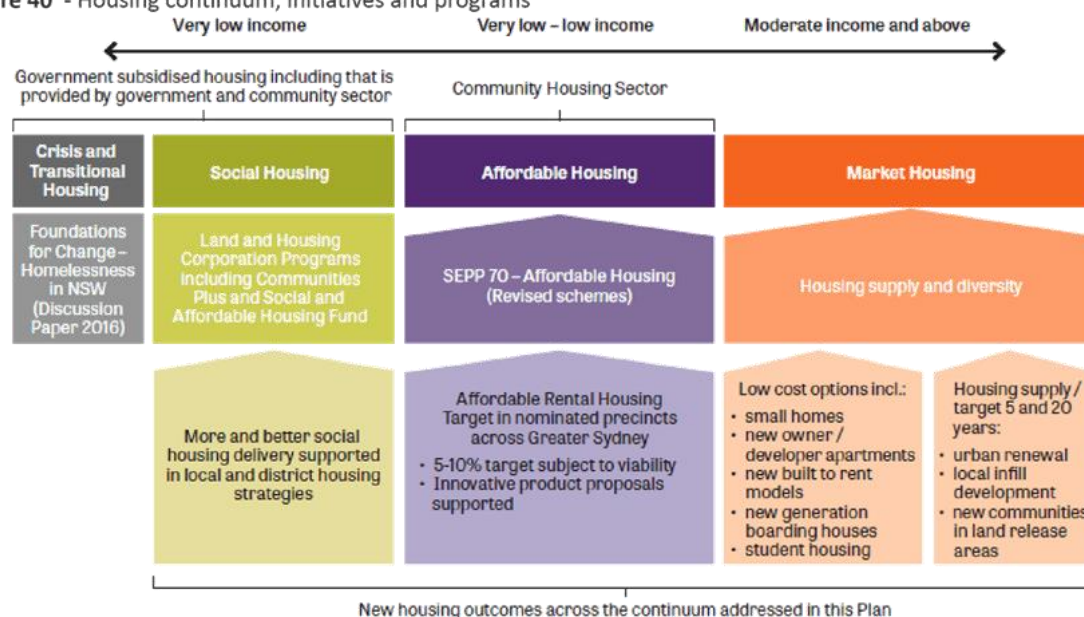
'Affordable housing' is often used an umbrella term for a spectrum of affordable housing options. The figure below shows that these options include social housing, affordable rental housing, and certain types of market housing. The following sections will highlight that there is a clear and critical need to improve housing affordability in Waverley. A range of factors contribute to this need, including a combination of rising housing costs, population growth pressures and growing demand for inner-city living, in addition to limited land availability.

## 7.1 Affordable housing

Median household wage growth in Sydney has remained relatively stable, however house prices continue to climb resulting in a widening house price to income ratio. 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.

Term	Definition
Affordable rental housing	Housing that is owned by government or a registered community housing provider and rented to a mix of very low to moderate income households.
Housing stress	A household is categorised as being in housing stress where it spends 30% or more of household income on housing costs.
Low cost housing	Housing that is 'naturally' more affordable than other stock e.g. older boarding houses, granny flats
Social housing	To qualify for social housing, tenants must be on very low to low incomes, need to support to live independently and/or have been unable to find affordable housing in the private market. Social housing includes public, community and Aboriginal housing. Public housing is managed by Department of Communities and Justice (DCJ formerly known as Family and Community Services) while community housing is managed by non-government organisations.

Figure 40 - Housing continuum, initiatives and programs



Source: Greater Sydney Commission 2018

**Figure 41 - What households can afford vs. median property prices in 2018.**



Source: Housing.ID 2019, Hometrack 2018

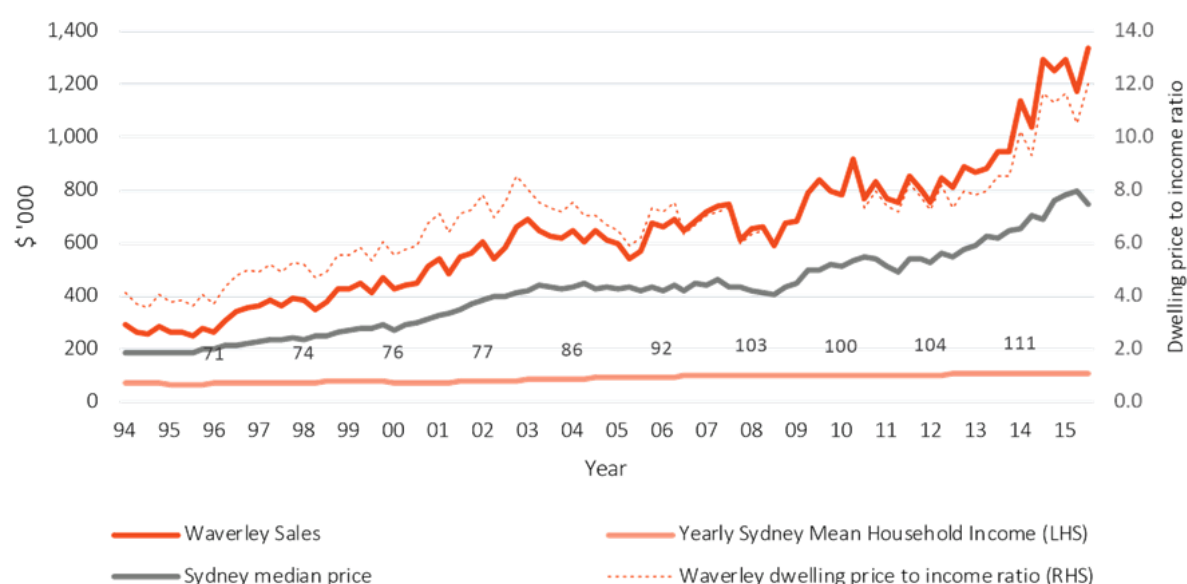
The affordability of housing currently available on the market is based on very low, low and moderate household incomes. The Greater Sydney median household income is used as opposed to the Waverley median household income because Waverley has a higher proportion of high income earners than Greater Sydney.

Median house prices across all suburbs in the Waverley LGA were well out of reach for very low, low and moderate income households in 2018. The purple gradation in the image below shows what very low, low and moderate income earners could afford based on spending 30% of their household income towards a mortgage. The median house price in all suburbs was a significant distance from what would be deemed an affordable mortgage.

**Table 3 - Greater Sydney median household income ranges**

	Very low income household	Low income household	Moderate income household
Income benchmark	<50% of Gross Median H/H income for Greater Sydney	50-80% of Gross Median H/H income for Greater Sydney	80-120% of Gross Median H/H income for Greater Sydney
Income range	<\$875	\$876-\$1,400	\$1,401-\$2,100

**Figure 42 - Waverley house price growth in context**



Source: HNSW Rent and Sales Reports 1994-2016 / ABS 1994-2011 Income Data  
Note: Income extrapolated for years after 2011.

<sup>18</sup>Sydney income used to assess the relative affordability against Sydney.

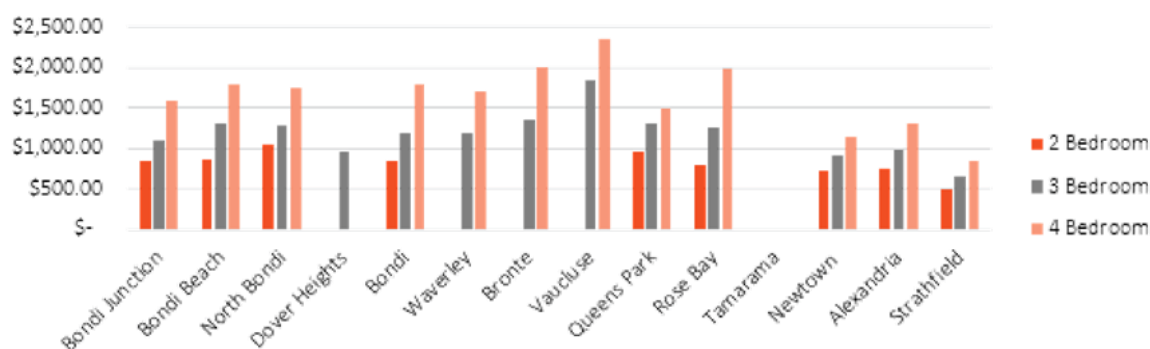
Median unit prices were closer to the affordable purchase range of very low, low and moderate income households but were still above what would be considered affordable. Median unit prices were particularly high, above \$1 million, in beachside suburbs such as Bondi, Bondi Beach, North Bondi and Tamarama.

Waverley's rent (for all dwellings) is 130% higher than the Sydney average. The median rent for a house of \$1,300/week is like the median price in that it is well beyond the affordable rental range. 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 likely to be affordable for households on a moderate income. The median unit rent was at the top end of the moderate income affordability range in Bondi Junction, Bronte, Queens Park, Rose Bay and Waverley. 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.

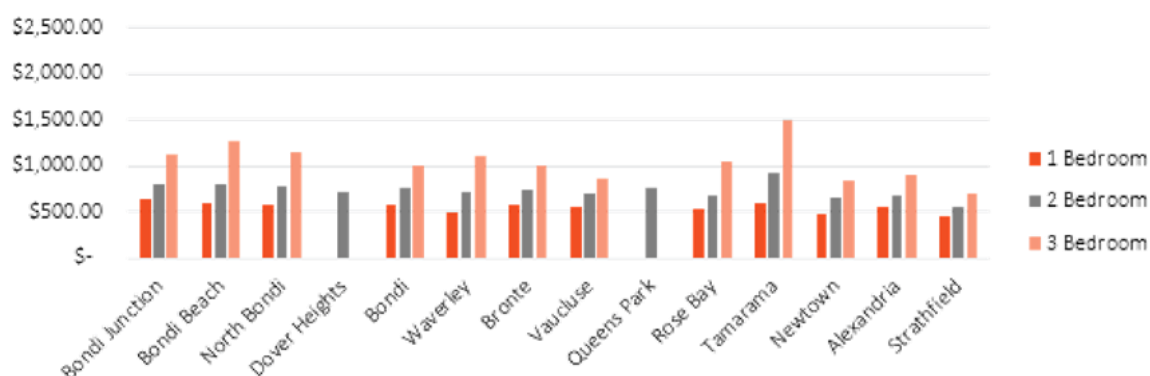
The above analysis highlights how Waverley has become severely unaffordable. This will be exacerbated by fluctuations in available housing supply, as Waverley continues to be a desirable place to live.

**Figure 43 - Detached house weekly rental prices comparison – Waverley suburbs vs. Sydney suburbs**



Source: Realestate.com. Note: excludes not stated, not applicable, nil or negative responses.

**Figure 44 - Unit weekly rental prices comparison – Waverley suburbs vs. Sydney**



Source: Realestate.com. Note: excludes not stated, not applicable, nil or negative responses.



Table 4 - Social housing base level demand Waverley, 2016-2036

	2016	2021	2026	2031	2036
Number of dwellings	510	571	576	588	600

Table 5 - Base level affordable rental housing demand (2016-2036)

	2016	2021	2026	2031	2036
Number of dwellings	3,438	3,847	3,885	3,962	4,044

### Demand for social housing

To qualify for social housing, tenants must be on very low to low incomes, need support to live independently and/or have been unable to find affordable housing in the private market. Social housing includes public, community and Aboriginal housing. Public housing is managed by Department of Communities and Justice (DCJ formerly known as Family and Community Services) while community housing is managed by non-government organisations.

A contributing factor to demand for social housing is homelessness. The ABS recognises a person as experiencing homelessness if they are living in a dwelling that is inadequate; has no tenure, or if their initial tenure is short and not extendable; or does not allow them to have control of, and access to space for social relations. There are six categories of homelessness including persons living in severely crowded dwellings, improvised dwellings, tents, or sleeping out ('rough sleepers'), in supported accommodation, staying temporarily with other households ('couch surfing'), living in boarding houses and in other temporary lodgings. Of the 116,427 people counted as being homeless on Census night 2016, the greatest proportion (51,088 or 43.9% of all homeless people) were those living in 'severely' crowded dwellings.<sup>19</sup> From the available ABS data for Waverley, 15 people were recorded to be sleeping in an 'improvised home', tent or on the street on Census night 2016. This does not capture those in any of the five other homelessness categories described above and likely underplays the extent of homelessness in Waverley.

Social housing demand is based on the current share of households who are currently in social housing. As

at 2016, social housing makes up 2% of total dwelling stock in Waverley which equates to 510 dwellings (assuming one household = one dwelling). This proportion is extrapolated forward to 2036 and five year increments up to then. By maintaining the 2%, 600 dwellings should be social housing by 2036, which means an additional 90 social housing units should be delivered. This forms a base level target for social housing to ensure no further net loss in the future (Table 4). It does not reflect the broader demand reflected in the waiting list time of 5-10 years for social housing in the Eastern Suburbs. The protection of social housing however is largely out of Council's jurisdiction as it is developed and managed by the state government.

### Demand for affordable rental housing/key worker housing

Affordable rental housing is aimed to assist very low, low and moderate income earners who are unable to afford rent in the private market. Affordable rental housing is managed by a community housing provider on behalf of Council where the dwelling is rented out at a capped percentage (around 70-80%) of the market rent. Affordable housing is sometimes referred to as 'key worker' housing.

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,

<sup>19</sup>Australian Bureau of Statistics 2018, '2049.0- Census of Population and Housing: Estimating homelessness, 2016', accessed 12 November 2019, < <https://www.abs.gov.au/ausstats/abs@.nsf/mf/2049.0> >.

ambulance, paramedic and emergency services and police officers.

**Key workers** are essential to the social and economic wellbeing of cities. They typically include teachers, nurses, ambulance, paramedic and emergency services and police officers. The definition of a key worker could differ between places.

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>20</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>21</sup>

There are also people who work within Waverley on very low, low to moderate incomes who, while not designated as a part of the ‘key worker’ nomenclature, nevertheless form an important part of the economic function of Waverley. The top three local industries are retail, accommodation and food services and health care and social assistance industries. These lower income earners live across Sydney and are more likely to travel from outside the LGA (more than 10km) and therefore experience commutes of 1 hour or more. In total, there are approximately 20,000 local workers on very low, low to moderate incomes in Waverley.

To determine the forecast demand for affordable rental housing, households who need this housing are those who have very low, low or moderate household incomes and spend more than 30 per cent of this income on rent (i.e. are experiencing rental stress).

Housing stress is a critical measure of the need for affordable housing, as it shows the interplay between housing costs (rental and purchasing) and income levels. Housing stress has generally been defined as those households in the lowest 40% of incomes (i.e. very low, low or moderate income households) who are paying more than 30% of their usual gross weekly income on housing costs (rental or purchasing). Those experiencing mortgage stress are excluded from this demand analysis because they have the option of selling their asset and entering the private rental market.

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,

**Figure 45 - Households in rental stress**



Source: Housing.ID 2019, ABS Census 2016.

<sup>20</sup>Gurran, 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>21</sup>Judith Stubbs and Associates, 2016, SSROC Affordable Housing Submission: Background report part 1 – demographic and housing market analysis.

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=one dwelling). This made up 11% of the total dwelling stock in 2016. Table 5 indicates the likely future demand for affordable rental housing, assuming the proportion of rental stress remains constant. It 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.

## 7.2 Affordable housing supply

The NSW Environmental Planning and Assessment Act 1979 has explicitly aimed to promote and retain affordable housing. State and local governments in New South Wales have a relatively long history of addressing affordable housing through planning legislation and policy, much of which was developed during the 1990s. The focus has been on protecting existing sources of low-cost housing, especially in metropolitan areas; overcoming barriers to diverse housing forms contained in local planning schemes; and allowing planning authorities some limited opportunities to seek contributions towards affordable housing programs.<sup>22</sup>

### Affordable Rental Housing State Environmental Planning Policy (ARHSEPP) 2009

The ARHSEPP was introduced to encourage the provision of new affordable housing developments and where low cost housing is lost, requiring a monetary contribution to offset the impact. The ARHSEPP applies to all LGAs in Greater Sydney and provides bonus floorspace provisions if new development provides a portion of new stock as

affordable housing for a fixed-term of 10 years. The ARHSEPP requires that where the demolition or strata subdivision of affordable rental housing is proposed, it must be offset by monetary contributions to be applied towards affordable housing.

#### Boarding houses

To encourage new affordable housing, the ARHSEPP provides a floor space bonus for boarding house development. In the period from 2009 to 2017, 73 boarding house rooms were approved, approx. 9 rooms per annum in the Waverley LGA. Research by City Futures demonstrates that boarding house developments generated under the bonus ARHSEPP provisions cater to a different market than traditional boarding houses. Of the 9,000 rooms provided by boarding house developments in the SSROC<sup>23</sup> region, around 50% were targeted student accommodation (typically clustered around university campuses). Of those boarding houses not specifically targeting student accommodation, the tenants are typically young, skilled and from a migrant background with a modest income. These boarding houses are low cost rentals but only marginally cheaper than one bedroom units. Therefore, new boarding houses are catering to a market for low cost housing, albeit not at the substantially discount rates of older style boarding houses. These new rooms will fill a gap in the market for low cost housing and it is expected that in the longer term will become relatively more affordable compared to existing stock.

#### Secondary dwellings

Secondary dwellings have long been part of Sydney's urban form. Secondary dwellings include laneway development in the form of converted garages or new studios above garages and are a relatively common development type in Waverley. The introduction of the ARHSEPP in combination with standardised planning controls made secondary dwellings a form of complying development, making it easier to develop this type of housing. The introduction of the ARHSEPP had an immediate impact on the number of approvals for secondary dwellings as they more than doubled between 2008 and 2013.

Due to the existing established form of the Waverley area, the built-up nature of existing sites and smaller lot sizes, it is difficult to get a secondary dwelling

<sup>22</sup>Gurran N et al. New directions in planning for affordable housing: Australian and international evidence and implications, Australian Housing and Urban Research Institute (AHURI), June 2008



approved via complying development. This is because complying development has strict design requirements that must all be met. Therefore, the approval pathway is generally through development application to Council where assessment is more merit based and specific to the subject site. Between 2006 and 2016, 80 secondary dwellings have been approved in the Waverley LGA. This represents 6.5% of the total number of new dwellings in the same period.<sup>24</sup> Despite their popularity, these dwellings are said to create undesirable amenity issues, such as overlooking, with neighbours often objecting to development applications.

### Issues with the ARHSEPP

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.

There are several operating flaws with the ARHSEPP which prohibit it from achieving its main objectives. Developers can bypass the requirement to offset the loss of affordable housing with monetary contributions by not providing historical data on the low rental status of the building as at 28th January 2000. 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.

### State Environmental Planning Policy 70 - Affordable Housing (Revised Schemes) (SEPP 70)

Ahe DPIE announced in early 2019 that all Councils will be included in SEPP 70. The premise of the SEPP is that it allows Councils to levy new development in areas where significant upzoning has occurred for affordable housing contributions. This is subject to an affordable housing needs analysis and viable contributions scheme. These contributions are then hypothecated to increasing the provision of affordable rental dwellings.

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 Act<sup>25</sup> by only focusing on the 'rezoning' and not the 'initial zoning'.

### Waverley's Affordable Housing Program

Waverley Council has had a longstanding commitment to the provision of affordable housing. The majority of Council's portfolio was acquired through an affordable housing policy. Developers at the time made a request for additional floorspace under a SEPP 1 variation at the development application stage. In most cases the additional floorspace was delivered by a dedication of a dwelling in perpetuity to Council for the purposes of affordable housing. Units were generated through this process between 1996 & 2010. In order to provide greater flexibility the policy was amended to permit either the dedication and transfer of completed dwellings to Council as affordable housing in perpetuity, providing dwellings for a set lease term, or through monetary contribution. Through this process Council secured 44 units of affordable housing, 22 in perpetuity and 22 on leases of varying periods. All but one of the lease periods has now ended. The distribution of properties and their target demographic is summarised below.

<sup>23</sup>Southern Sydney Region of Councils (SSROC) includes Canterbury-Bankstown, Burwood, Inner West, Sutherland Shire, Georges River, Bayside, Randwick, Woollahra, and Waverley Councils.

<sup>24</sup>Troy, L., van den Nouwelant, R. and Randolph, B (2018) State Environmental Planning Policy (Affordable Rental Housing) 2009 and affordable housing in Central and Southern Sydney. City Futures Research Centre, Faculty of Built Environment, UNSW Sydney Australia.



Table 6 - Waverley Council Affordable Housing Portfolio

Program	Dwellings	Targets
Affordable Housing Program	25 units	Ordinary working people on <b>low to moderate incomes</b> who can demonstrate a connection to Waverley
Waverley Housing for Older People	47 units	People 55+ on <b>very low incomes</b> who can demonstrate a strong connection to Waverley
Waverley Housing for People with a Disability	3 units	Clients of Waverley Council's Community Living Program for people with an intellectual disability with <b>very low to low incomes</b>

The Policy could not be applied after the gazettal of Waverley LEP 2010 which required all FSR and HOB controls to be included in the LEP rather than the DCP. Variations to FSR were then required under Clause 4.6 which meant that the Waverley AH Program could no longer be applied. Consequently, a Voluntary Planning Agreement (VPA) Policy was prepared which proposed that any DAs exceeding the FSR be encouraged to enter into a VPA which shared the value of any additional floorspace 50/50 with Council and that this monetary dedication be used by Council for a public purpose. Generally, this would involve capital works improvements in the vicinity of the DA however 10% of the VPA monetary contribution continues to be allocated to Council's Affordable Housing Trust Fund which is used to develop or purchase additional affordable housing units. In 2016, Council invested a portion of its cash contributions in the joint purchase with Bridge Housing of a 4x2 bed unit block, for the purpose of provision of affordable housing.

### 7.2.3 Loss of affordable housing

An indicator of the loss of affordable housing is tracking boarding houses through Councils boarding house register. Councils records go back as far as 1996 and is updated every year. Since 1996, there has been a net loss of over 100 boarding house rooms in Waverley. This represents a decrease in the proportion of boarding house rooms from 2% to 1% of the total dwelling stock in a twenty year period.

The trends relating to boarding houses is at best a proxy for the broader picture relating to the loss of low cost housing. For example, using the data from

the boarding house register, in the period between 2010 and 2018 there was a net loss of 32 boarding rooms which equates to on average, the loss of 4 boarding rooms per annum. The Strategic Planning team completes referrals for the application of the ARHSEPP to new development applications. This allows Council to track where there is a loss of affordable housing. In addition to the demolition of a boarding house, the conversion of a company title block to strata title also results in a loss of affordable housing. In the 2017 / 2018 there were five applications that resulted in a loss of a total of 58 low cost, affordable rental dwellings. 58 low cost affordable rental dwellings are significantly higher than the average loss of 4 boarding house rooms per annum in the same year. Notwithstanding, there has been an overall loss of affordable housing and supply is not keeping up. The only provision of 'pure' affordable housing has been through Council's Waverley Affordable Housing Program where there has been 75 units delivered since 1996. During the same period there has been a loss of over 100 boarding house rooms, which is only an indicator of the broader loss across the LGA. The delivery of boarding houses and secondary dwellings in recent years do provide some form of low cost housing primarily because of their smaller nature which makes them a more affordable product on the housing market. Furthermore, where dwellings are affordable, it's only required to be for ten years.

### 7.3.4 Future affordable housing supply

As highlighted above, 80 secondary dwellings were approved between 2006 and 2016, which is

approximately 10 secondary dwellings per year. That means approximately 200 secondary dwellings could be delivered in the next 20 years (10 x 20 years). Since the introduction of the ARHSEPP, 73 boarding house rooms have been approved in the Waverley LGA; approximately 9 rooms per year. Extrapolating this forward means approximately 180 (9 x 20 years) boarding house rooms could be delivered in the next 20 years.

Affordable dwelling forms have not been factored into the table above but are important to meeting the overall housing target to 2036. Affordable dwelling forms did not form part of the capacity assessment which looked at net additional dwellings through dual occupancies in R2 and apartments in R3, B4 and R4. These would be subject to different requirements which was not completed in this discussion paper. Notwithstanding, these should be monitored alongside dwelling completions into the future as they fill a gap in the spectrum of housing options. Consideration should also be given to how much one affordable dwelling form compares to a typical dwelling in terms of meeting demand.

### 7.2.5 Affordable housing supply gap

On a yearly basis, below is a summary of known supply of affordable rental housing in Waverley:

- Dedicated Council units – 75 dwellings
- Low cost housing (approved through the ARHSEPP) – 19 dwellings (for a maximum of 10 years)

Based on what is currently on the market the following number of affordable (i.e. 30% of income) rental units were available to each income bracket:

- Very low income – 7 dwellings

*Known supply of affordable rental housing is 94 dwellings pa.*

*Market supply of affordable rental housing = 1,789 dwellings pa.*

*Total supply of affordable rental housing = 1,883 dwellings pa.*

- Low income – 239 dwellings
- Moderate income – 1,543 dwellings

As at 2016, 3,438 households needed affordable rental housing because they were either a very low, low or moderate income household spending 30% or more of their household income on rent. The current supply of affordable rental housing is only meeting 57% of demand. 43% of households in rental stress are not going to have their housing needs met in the current housing climate. This gap is also likely an underestimation of the actual gap between affordable rental housing supply and demand. It does not account for the fluctuations in available market supplied units, or that the affordability of units approved through the ARHSEPP is questionable given the latest research discussed above.

### 7.3 Affordable housing target

The District Plans indicate that Councils should aim to implement an affordable housing target of 5-10% of floor space for developments that experience uplift in the planning controls, subject to viability. The 5-10% would only apply to the additional floor space achieved through uplift. For example, if a development was rezoned to allow for 100sqm in addition to what was previously allowed on site, 10sqm of that would be dedicated to affordable housing, rather than across the whole development. This strategy does not recommend uplift in the planning controls due to the existing level of density and capacity to meet targets under the current controls.

A different approach to levying affordable housing contributions is proposed, including a lower contribution rate for all new residential floor space and a higher contribution rate on sites that experience uplift. Initial modelling and feasibility suggest that the following scheme could comprise the following elements:

- 1% phasing up to 3% over time on all new residential apartment development.
- 10-15% applying to sites that get uplift in the planning controls.

These targets alone will not close the affordable housing gap in Waverley but is a base level that could be achieved in collaboration with the State Government.



## 7.4 Summary

Affordable housing refers to a spectrum of housing options including social housing, affordable rental housing, and certain types of market housing. There are few opportunities in Waverley to access affordable housing. Unaffordability has been a growing issue over the last two decades as household income to house price ratio has increased from 4 in 1994 to 12 in 2016. 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. To meet the base demand, 11% of total dwelling stock needs to be affordable. Projecting this to 2036, this equates to an additional 600 affordable rental dwellings, or approx. 30 affordable rental dwellings per annum. Proposed affordable housing targets of 1-3% on all new development and 10-15% on development receiving uplift, while not meeting all underlying demand, will provide a pathway to increasing affordable housing in the LGA. Furthermore, to retain the current proportion (2%) and ensure no further net loss of social housing, 90 social housing units should be delivered by 2036. Whilst Council can continue to advocate for this, the state government owns and manages social housing.

The current sources of affordable housing are from what is approved under the ARHSEPP, Waverley Council's Affordable Housing program and what's available in the market. The current supply of affordable rental housing is only meeting 57% of demand. 43% of households in rental stress are not going to have their housing needs met in the current housing climate.





## APPENDIX A - DISCUSSION OF PROPOSED CHANGES

### Waverley Affordable Housing Contributions Scheme PP

## Part 6 Additional Local Provisions

### 6.13 Affordable housing

#### Proposal

To add 6.13 Affordable housing as a new clause to Part 6 Additional Local Provisions.

#### Background and rationale

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 to give the Waverley Council Affordable Housing Contributions Scheme (the Scheme) legislative weighting.

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. Furthermore, Waverley's rent (for all dwellings) is 130% higher than the Sydney average. 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.

#### Proposed amendment

##### *Part 6 Additional local provisions*

##### *6.13 Affordable housing*

- (1) 1. The consent authority may impose a condition requiring a contribution equivalent to the affordable housing contribution levy being:*
  - a. for residential flat building, shop top housing or mixed use development with a residential accommodation component, 1% of the total gross floor area of the residential component.*
  - b. for development where a change in Waverley Local Environment Plan 2012 creates additional residential floor space on the land, 10% of the total gross floor area of the residential component.*
- 2. A condition imposed under this clause must satisfy the affordable housing levy contribution –*
  - a. by way of a monetary contribution to the Council that is the per square metre value calculated in accordance with subclause (1) and subclause (3), or*
  - b. by way of a dedication in favour of the Council of land comprising 1 or more complete dwellings (each having a total gross floor area of no less than 50 square metres).*
- 3. For the purposes of this clause, the per square metre monetary value is to be calculated in accordance with the Waverley Affordable Housing Contributions Scheme*
- 4. This clause does not apply to development for the purposes of any of the following –*
  - a. development for the purposes of residential accommodation that is used to provide affordable housing or public housing*
  - b. development for the sole purposes of generating employment.*

**REPORT**  
**PD/5.3/21.04**

**Subject:** Design and Place State Environmental Planning Policy - Submission

**TRIM No:** SF21/1404

**Author:** Emma Rogerson, Strategic Planner

**Director:** Tony Pavlovic, Director, Planning, Environment and Regulatory

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**RECOMMENDATION:**

That Council endorses the submission to the NSW Department of Planning, Industry and Environment attached to the report on the Design and Place State Environmental Planning Policy (SEPP) Explanation of Intended Effect (EIE).

**1. Executive Summary**

The submission details Council's support of the overall notion of elevating the importance of design excellence and place-based design in the planning system. Detailed feedback on the overall objective, integration and application, the Five Guiding Principles and Mandatory Matters for Consideration, the supplementary documentation and Designing for Country aspects of the *Design and Place State Environmental Planning Policy (SEPP) Explanation of Intended Effect (EIE)* have also been provided.

Refer to Attachment 1 for the submission.

**2. Introduction/Background**

The *Design and Place SEPP* intends to put place and design quality at the forefront of development. A shared responsibility to care for Country and sustain healthy, thriving communities underpins the policy. The SEPP will span places of all scales, from precincts, significant developments, and buildings to infrastructure and public space.

This submission on the EIE comprises comments from Council's Urban Planning Policy and Strategy, Development Assessment, and Environmental Sustainability teams.

**3. Relevant Council Resolutions**

Nil.

**4. Discussion**

Refer to Attachment 1 for the submission containing the discussion of the *Explanation of Intended Effect (EIE)*.

**5. Financial impact statement/Time frame/Consultation**

This exhibition of the *Explanation of Intended Effect (EIE)* is the first part of a two-stage exhibition process, with the actual draft SEPP indicated for public exhibition later in 2021. Council officers intend to prepare a submission for the second public exhibition too.

The EIE indicates that the *Design and Place SEPP* is expected for finalisation by the end of 2021; however, transitional arrangements which are yet to be announced will be made to allow time for councils and other consent authorities to ensure appropriate skills are in place to meet the assessment requirements under the SEPP.

## **6. Conclusion**

The *Design and Place SEPP Explanation of Intended Effect (EIE)* provides a solid foundation in which the draft *Design and Place SEPP* can be prepared and considered. Council officers are keen to continuously engage with the Department of Planning, Industry and Environment and provide detailed input into how the *Design and Place SEPP* progresses and ultimately facilitates good design in NSW.

## **7. Attachments**

1. Design and Place SEPP - Submission [↓](#)





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7 April 2021

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**Waverley Council Submission to the draft Design and Place State Environmental Planning Policy (SEPP) Explanation of Intended Effect (EIE)**

Thank you for the opportunity to provide feedback on the *Design and Place State Environmental Planning Policy (SEPP) Explanation of Intended Effect (EIE)*. The EIE, associated brochure and *Frequently Asked Questions* documentation has been reviewed, and Council officers attended the Design and Place SEPP webinar held on 3rd March and workshop on 11 March 2021, and the following comments are provided. This submission has been prepared by Council officers and not the elected Council.

Council strongly supports the Department's work to date on elevating the importance of design excellence and place-based design in the planning system. Providing two separate opportunities to submit feedback on the SEPP is also highly commended.

The Design and Place SEPP Explanation of Intended Effect (EIE) provides a solid foundation in which the draft Design and Place SEPP can be prepared with consideration to. Council officers are keen to continuously engage and provide detailed input into how the Design and Place SEPP progresses and ultimately facilitates good design in NSW.

It is noted that the EIE sets out a vast area for comment, and minimal time for the preparation of submissions. Hence it is made clear that absence of detailed discussion in this submission is not to be taken as tacit support for an issue.

Should you have any questions about the contents of this submission please do not hesitate to contact Emma Rogerson, A/Senior Strategic Planner (02) 9083 8194.

Regards,

A handwritten signature in black ink, appearing to read "George Bramis", followed by a horizontal line.

**George Bramis**

**Executive Manager, Urban Planning Policy and Strategy**

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## 1. Overall Objective and Integration

The DPIE is to be commended on the work and consultation that has been completed to date on what is a significant undertaking for the built environment. The Country-led and strategic approach to the design of places and buildings is also strongly supported.

The consolidation of SEPP 65 and the BASIX SEPP provides a key opportunity to enable good design to factor into the assessment tool, including passive design to reduce the overall consumption of electricity and water, material design and the minimisation of carparking.

The breadth of the proposed SEPP is ambitious and should be developed with extensive input from Councils to correctly navigate the intersections of the SEPP with local plans. A key objective of the SEPP is to facilitate place-based planning. This approach is strongly supported; however, it is to be noted that councils have developed place-based planning controls over time to respond to the unique conditions of their established characters. These controls must not be undermined by the application of State policies, which by their very nature cannot provide detail in a place-based manner. Where new areas are being developed, detailed controls or design criteria may be appropriate, however in many established areas of Sydney, standard controls or criteria are unlikely to suit the character of these areas that have developed incrementally over time. Accordingly, it is strongly cautioned that the SEPP should provide a principles-based approach and provide guidance for applicants and councils alike as to how to achieve these principles and objectives, with flexibility allowed for the application of design criteria and controls. This approach is already taken in SEPP 65 and the ADG and should be continued.

## 2. SEPP Application and Development Scales

The application of the SEPP to urban land in NSW, and the acknowledgement of different development scales is supported. Urban and rural land face vastly different challenges and opportunities, so a distinction is important. The same applies to development of different scales, however, the applicability of the three development scales proposed ('precinct', 'significant development', and 'all other development') may need to be reconsidered or expanded to suit the implementation of the SEPP in highly urbanised and established areas such as Waverley.

The Waverley LGA is unlikely to experience 'precinct' and 'significant development' scale projects given the highly established nature of the LGA, the great number of Heritage Items and sites located within Heritage Conservation Areas, and the dense nature of existing development resulting in relatively small lot sizes. For this reason, the proposed SEPP will likely only be applied in an 'all other development' scale in Waverley which as per *Table 1 – Proposed Design and Place Considerations* of the EIE will not be subject to 11 of the 19 *Mandatory Matters for Consideration* (Matters).

It is acknowledged that small scale, minor development such as dwelling house alterations and additions and commercial tenancy fit-outs may not need to consider a number of the *Matters*, however, new higher density development on sites smaller than those defined as 'significant development' will benefit from being subject to *Matters* which they are currently not under the proposed EIE. These new higher density developments may include, but are not limited to, the construction of residential flat buildings or mixed-use multi-storey buildings on sites less than 4,000sqm near local or neighbourhood centres or on sites less than 1,500sqm in Bondi Junction.



As such, introducing a fourth development scale that differentiates between minor alterations and substantial development on a smaller site for high density areas, and applying *Matters* No. 1, 6, 7, 8, 10 and 11 in addition to those that 'all other development' are already applicable for would help to ensure that the important *Matters* are considered as much as possible.

The criteria for the fourth development scale could be development on a parcel of land on a site greater than 1,000sqm in a metropolitan centre, and on a site greater than 2,000sqm anywhere else, in areas where the population density is more than 50 persons per hectare. Any development not classified as 'precinct', 'significant development' or the new category may be considered as 'all other development'.

### **3. Five Guiding Principles, and Mandatory Matters for Consideration**

The intent of the principles is supported, however further detail is to be provided around what constitutes alignment with the principles, and how the principles interact with each other when in conflict, that is, is there a hierarchy by which the principles are to be applied? In their current form they are too broad and vague.

The move towards a principles-led planning system is supported, however it is acknowledged that there are inherent challenges that arise due to the subjective nature of design development and the nature of the assessment and review process in the NSW planning system. The approach taken in the current SEPP 65 and Apartment Design Guide (ADG) is good in principle – providing an overarching objective and design guidance on how to achieve the objective provides sufficient flexibility to apply to an area such as Waverley that has an established character that is contrary to the design criteria set out in the ADG. Accordingly residential design subject to the ADG in Waverley largely aims to meet the principles and objectives of the ADG, however adheres to the place-based guidance already provided in the Waverley Development Control Plan (WDCP), which has been developed over time to respond to the unique character of the place. A key example of this arises with building separation distances, which are unreasonably onerous in the Waverley area if the ADG setbacks are provided, however many residential flat buildings have suitable amenity with much smaller setbacks, and are better able to respond to the distinct character defined during the Inter-War development period.

It is important to acknowledge that the place-based approach which the EIE strongly advocates for, is more likely to be achieved in established areas by following the local council's development standards and controls, as these respond to the unique nature of place, which the ADG currently does not. Accordingly, a similar approach is supported: the principles and objectives are to remain strong and upheld, whilst there is to be flexible application of the design criteria using design guidance and council's controls to achieve the objectives.

#### ***Open Space Activation and Liveability***

##### ***2. Public Space and 14. Impacts on Public Space***

Whilst the requirement of no net loss of public space will protect against the replacement of public open space with private building forms, taking this requirement further and mandating a specified



increase in public space from the existing in particular areas based on dwelling capacity and proximity to public transport will better achieve the identified 'benefit' for 'precinct' scale development. This further measure will also facilitate adequate public space in areas that currently have very little, if any, for the "no net loss" to be calculated with.

#### *4. Local Living*

The intent behind the Local Living Matter is supported. In Waverley 90% of residents live within a 10 minute walk to a local centre that is able to provide access to essential goods and services, as identified in the Our Liveable Places Centres Strategy. It is important to note that a 20 minute walk is appropriate for able-bodied people, however it is important to consider those with movement impairments as well as carers of children by providing seating and pocketparks, and to ensure adequate shading and rest points on hot days

#### *16. Activation and 15. Impacts on Vibrant Areas*

A minimum non-residential activation on frontages of sites facing 'activity streets' is supported, as this aligns with the existing Active Street Frontages Local Environmental Plan clause that Waverley Council, and others currently have in place to encourage ground floor activation. Clarity in this *Matter* should be provided regarding the status of the 'activity streets', for example does this only relate to streets that are currently highly activated, or streets that are not currently activated but identified to have a future opportunity to be. To avoid confusion, an Active Street Frontages-style mapping method should be considered to identify these 'vibrant areas' in conjunction with Councils. The same clarification and coordination with Councils should be provided for identifying 'vibrant areas' used in *Matter* 15.

### *Accessibility*

#### *3. Connectivity*

Links between green infrastructure including landscape corridors, recreational walking and cycling networks, and the network of public space are supported in theory, however, further information on what an appropriate connection comprises of should be provided.

#### *12. Transport and Parking*

Minimising car parking for the purpose of promoting alternative methods of travel is commended. 'Precinct' and 'significant' development should consider providing car parking based upon the findings of a *Parking and Traffic Report* prepared by a suitably qualified traffic engineer for the specific development site.

### *Housing*

#### *10. Density*

The implementation of density ranges based on the location and transport access for 'precinct' and 'significant development' project scales is supported as a strong mechanism to reduce urban sprawl





and encourage compact urban development where services and infrastructure can accommodate it. The density range figures must consider the importance of open spaces and achieve a balance between providing enough housing on site whilst providing enough open space, both public and private, to combat the trend in floor space prioritisation occurring in higher densities areas near public transport hubs and strategic centres.

#### *11. Housing Diversity and 19. Affordable Housing*

A requirement to respond to the local housing strategy, local affordable housing scheme and the specific housing types and tenures appropriate for the demographic of the particular area is commended as the housing needs, challenges and opportunities will vary between the LGA's across urban areas within NSW, and a targeted individual approach can best address these factors. The correlating 'benefits' against the two *Matters* are already considered priorities for Waverley Council within current policy. The *Waverley Local Housing Strategy 2020 – 2036* seeks to increase the amount of affordable rental housing. The *Waverley Affordable Housing Contributions Scheme Planning Proposal* similarly seeks to increase the amount of affordable housing by way of proposing a 1% levy on all new residential apartment development, and supporting the minimum 10% levy for sites receiving uplift, calculated in accordance with the market value of residential floorspace around the time of the development.

### *Sustainability*

#### *6. Water Management*

This *Matter* is supported overall and should be made relevant for all three development scale types. At a 'precinct' and 'significant development' scale the water quality improvement targets should be supported. At a smaller 'all other development' and lot scale, where the BASIX Water Index currently promotes water reuse through rainwater tanks and stormwater tanks for outdoor/indoor uses, the scalability of water management considerations to lot scale (e.g. use of raingardens) and implementation of water quality improvement targets should be made.

#### *7. Green Infrastructure*

The replacement of any moderate/significant trees with at least two trees or precinct DCP/council replacement rate, whichever is higher, should be introduced under this matter for all stages of development and all three scales of development. This *Matter* should also require diverse vegetation structure to support biodiversity, particularly in habitat corridors.

At a lot scale, BASIX currently rewards low water use and indigenous/native plant species. However, this is not resulting in the planting of appropriate large trees/shrubs for shading. Whilst Waverley Council officers strongly support the use of indigenous/native plant species, a focus should be developed to include:

- Developing large canopy trees and shrubs for shade/cooling.



- Developing dense shrub vegetation and other understory species to provide habitat for small bird species and improve biodiversity in urban areas.

See Section (iv) of Table 2 for more detail.

#### *8. Resilience*

At a 'precinct' scale there needs to be mandatory consideration of future climate warming for 2030/2050/2070 at a precinct scale. More information is to be provided on the Resilience Toolkit, and Waverley Council welcomes the opportunity to work with the DPIE to develop this.

Further information on the relationship between the Coastal Design Guidelines and Flood Plain Management Program is also required.

This Matter should be applied at a smaller 'all other development' lot scale too and consider the inclusion of a Thermal Safety provision, which could sit either in Principle 4 or 5. This would ensure high Thermal Safety standards are set e.g. BASIX Thermal Comfort cooling caps to ensure that community vulnerability to a warming climate is reduced. This will also result in buildings that minimise their reliance on mechanical cooling, are affordable to keep cool, and that will keep residents safe during a blackout.

*17. Emissions and resource efficiency* - Matter 17 is not supported in its current form.

#### Residential

See Section (i) of Table 2 for more detail in terms of residential development.

#### Commercial

The National Construction Code Section J was updated in 2019, which set much more stringent standards for commercial buildings. As part of the COAG's Energy Council's Trajectory for Low Energy Buildings, the energy efficiency requirements for commercial buildings are being strengthened in 2022, 2025, 2028 and every three years thereafter.

#### NABERS

It is unclear whether the Design & Place SEPP is advocating a separate pathway to this through NABERS. NABERS is built for use post-occupancy, i.e. after the DA stage. It should also be noted that common areas of apartments are assessed under the BASIX provisions.

NABERS is about measuring the ongoing performance of a building. Whilst Waverley Council supports NABERS as a rating tool for existing buildings, its use as part of a planning control is questionable. For example, if a building locks in a NABERS commitment agreement, the building could purchase Greenpower once operational in order to achieve the required NABERS star rating. This is allowing tradeoff between renewable energy and good building design/energy efficiency.

NABERS is, however, a useful tool for monitoring carbon emissions/water consumption in the existing building stock.



### City of Sydney's net zero energy buildings performance standards

The City of Sydney has done a significant amount of modelling work with WSP and consultation with the building industry. Consideration should be given to the City of Sydney's net zero energy buildings performance standards for office, retail, hotels, mixed use and multi-unit residential development. In addition, Waverley Council officers have recommended a faster paced emissions reduction target trajectory outlined in Table 2, section (i) below.

### *18. Tree canopy*

Waverley Council officers support this consideration. Support for the assessment and development of appropriate regulations to enable green roofs and walls in high-density neighborhoods will be needed. Clarity is also needed on the future role of the vegetation SEPP in this context. At a smaller 'all other development' lot scale, currently we are seeing reductions in canopy due to infill development and replacement of large trees with smaller trees. Incentives are needed for larger trees to be planted and stewarded on public and private land.

## *Urban Design and Heritage*

### *1. Cultural and Built Heritage*

The outcome of gaining greater clarity around the steps required for a well-considered response to character, place and culture is supported. The information included is thoroughly prepared on this *Matter* – there were no gaps apparent.

Frequent and ongoing use of a space reinforces a groups connection to the space. Beauty and character can act as an attractor – with economic benefits. There is additional benefit in elevating the purpose of design, ensuring that good design processes and 7 objectives of good design are followed, and addressing context, character and Country.

### *5. Street Design and 9. Fine-Grain Movement*

The information provided in the EIE for these two *Matters* can only be meaningfully commented on once more detail has been provided with the exhibition of the draft Design and Place SEPP document.

### *13. Attractive Form*

The importance of local character and attractive, comfortable human-scaled buildings and spaces is commended; however, more information is required to understand the implications of this *Matter*. Information on the interaction of *Local Character Statements* and this SEPP should be provided.

## **4. Supplementary Documentation**



### *Revised Apartment Design Guide (ADG)*

Amendments to SEPP 65, the ADG and associated transition do have some positive aspects. The increase to 70% cross ventilation is welcome, as is the increased time that Solar Access can be measured. More consideration of amenity of apartments in terms of acoustics, storage and access corridors is also supported. Despite this, there are a number of concerns.

The overall stated objectives of the Design and Place SEPP are provided in the introduction to the document, with the concerning identification of the Design and Place SEPP as the replacement of already established controls and guidelines with 'mandatory considerations'. This poses a potential threat whereby an applicant simply has to establish that they have 'considered' the SEPP not complied with it.

The introductory explanation indicates that all but the smallest elements of development in any growth area, regardless of location, will fall under the determination of remote advisory panels.

A pressing issue relates to the replacement of the existing SEPP 65 principles. The current SEPP 65 '9 principles of good design' relates to specific issues to do with design and are directly related to the Apartment Design Guide (ADG). The new 5 Design and Place SEPP principles replace the existing SEPP 65 principles but are not measurable or logical. It is strongly recommended that the existing SEPP 65 principles are retained for residential apartment development, in addition to the overarching Design & Place SEPP principles.

**From a design perspective,** other issues are detailed as follows:

- The scope of the new ADG is limited. The revision of this document provides opportunity to increase the scope of applicability and include a larger range of developments, such as boarding houses.
- The requirement to have 40% commercial space in all buildings in R4 and R3 zones is not appropriate in many areas that are uniquely residential. It must be linked to a commercial or retail strategy.
- The requirement to have max 8 units per floor in buildings over 9 storeys is also too restrictive. It depends on the design. The aim to reduce floor plates is good but it depends on the specificities of the site. The 30m setback rule for Towers is also too restrictive. Places like Bondi Junction would not be able to be developed and many centres will see this as stifling development.
- With no substantial or directed improvement for family living, the overall outcome is likely to be a reduction of 'fit for purpose' design where families are required to live in apartments. Requiring a dwelling mix, and minimum standards for children's play areas in any new apartment development may be useful starting points.
- The statement 'greater flexibility' should not provide a basis for lowering of standards.
- Weakening of deep soil provisions is a negative step and is strongly discouraged. This proposal is counter to the increased provision of canopy and deep soil identified elsewhere in the EIE.





- The removal of Part 5 from the ADG fails to address the real issue of delays; namely that understanding of requirements and / or failure to incorporate these is the real problem.
- Incorporating the ADG as 'matters for consideration' is not a strong enough application of the ADG to the assessment process. Combined with the other proposed weakening of criteria this could lead to a return to the poor designs that instigated SEPP65 in the first instance.
- Deletion of the number of design criteria can only be positive if a stronger overriding objective supportive by specific criteria is provided. That is not coming through in this document.

**From a sustainability perspective**, it is important for the ADG and BASIX to be in alignment. Waverley Council recommends that ideally all greenhouse gas reduction targets/commitments should sit within BASIX. Whilst the ADG should have guidance in relation to carbon that is consistent with BASIX, ideally all mandatory requirements would be clearly housed in the one tool.

BASIX is successfully delivering one of the only carbon reduction targets in Australia. It models greenhouse savings from technologies/design solutions for all new dwellings and major alterations and additions in NSW. Rather than mandating one action e.g. an energy consumption display in all apartments, it takes a metrics-based approach. If an energy educational display was included in BASIX, it would quantify the expected greenhouse gas savings from its installation. This would then show applicants the associated greenhouse savings from this action and give choice as to what actions applicants would find the most appropriate/cost effective in order to reach the BASIX Energy/greenhouse reduction target. This approach encourages evidenced based policy which results in a quantifiable benefit.

The BASIX tool packages design/technology choices into a clear list of conditions of consent. It marks clearly as to what sustainability requirements should be marked on the plan at DA and CC stage. Whilst education around these systems can always be strengthened, the development industry and Councils has been using this system since 2004 and are very familiar with this process. Keeping all sustainability-related requirements in one place is easier for applicants and councils alike.

A further strength of BASIX is that it keeps a record of all of the design decisions that a development makes and stores this data electronically. Recently, Waverley Council has accessed and reported on this data. It also allows the NSW Government to monitor the actual water/energy consumption of new dwellings post occupancy and also to report easily on the greenhouse/water savings for the State.

Potentially the Thermal Comfort provisions for apartments could sit with the ADG.

Currently the BASIX Thermal Comfort tool sets cooling and heating caps that apartments and houses must meet. There are two pathways for Thermal Comfort:

- i) Simulation method
- ii) Deemed to Satisfy (single dwellings only)

It may be practical that the requirements for Thermal Comfort for apartments sit within the ADG. This would then align design guidance around thermal comfort issues e.g. insulation, glazing, shading



requirements with the current ADG advice on solar gain and ventilation requirements. It would engage more architects in this process, which would have improved design outcomes.

### *New Urban Design Guide*

The vagueness of the new Urban Design Guide makes it hard to provide any specific comments. The general direction that is intended for the Guide is supported, however the most meaningful feedback will come when a draft document is available.

The separation of the ADG and UDG makes sense to a certain extent. The Urban Design Guide will be most helpful for Planning Proposals, however the majority of developments within Waverley LGA are Development Applications for 'all other development', rendering the new UDG irrelevant because it is currently only proposed to be applicable for 'precinct' and 'significant development' project scales.

The Urban Design Guidelines are well intentioned, but they assume that all places are the same. All streets are to be of a certain width. This discourages innovation in Urban Design, such as a pedestrian-only centre proposed with a central car space and micro-mobility to dwellings. The future guidelines should not prevent new things from being envisaged. The opportunity to connect design that supports pedestrians and active transport with low-carbon precincts should be highlighted and strengthened.

Additionally, it should be highlighted that the approach used in BASIX could be used in the new Urban Design Guide when setting greenhouse policy on a precinct scale. The Department could:

- Set a benchmark
- Set a clear greenhouse gas and potable water reduction target
- Provides a framework which quantifies actual greenhouse gas/water savings at Precinct level
- Allow flexibility to meet target
- Allow government to set targets high enough that some outcomes will essentially be mandated

### *New Design Review Guide*

Feedback received from Local Government on the matters of the new *Design Review Guide* (DRG) during the next exhibition of the draft Design and Place SEPP should be provided with great weight given the large impact that this Review Guide will have on the day to day processes of Development Assessment officers. As a draft *Design Review Guide* has not been made available at the time of writing this submission detailed feedback cannot be provided. Notwithstanding this, the listed aims and intents of the DRG and the inclusion of additional thresholds for design review are supported at this stage.



## 5. Sustainability in Residential Buildings

### *Overarching Sustainability and Resilience Comments*

Without targets, it is hard to meaningfully comment on methodologies. The Principles should identify targets of the following form:

- **Principle 1** – Targets or BASIX Index for embodied energy (ie retaining heritage buildings).
- **Principle 2** – Targets of BASIX Index for Waste or circularity.
- **Principle 3** – Targets or BASIX Index for transport (eg fuels gas? EV support?) or walkability.
- **Principle 4** – Retain targets/Indices for Water mgt (onsite retention & reuse) add water quality, canopy, landscaped area and deep soil. Retain and strengthen existing BASIX thermal comfort, energy use. Greenhouse gas emission targets.
- **Principle 5** – Requires place-based climate adjusted hazard data for bushfire, flood, coastal erosion. Could also include drought, SLR and thermal safety. Consider design life targets to promote adaptive designs.

It is extremely hard to comment on Resilience considerations with no information provided on proposed resilience guidance. Notwithstanding this, comments on this topic are provided in Table 1.

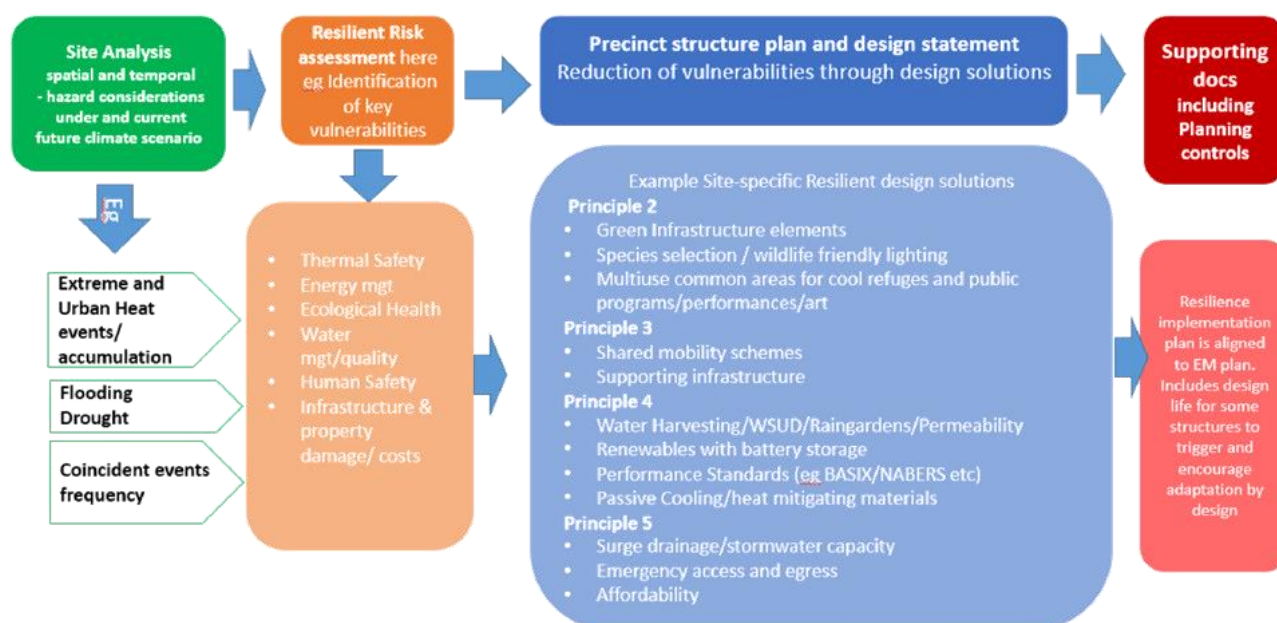
**Table 1** – Waverley Council suggested Resilience-related inclusions and targets

Proposed Resilience Guidance Item from EIE	Suggested inclusions	Potential performance benchmarks or targets
Toolkit: to guide identification of risks to address resilience, and to assess compliance with the resilience priority, and requirements of the SEPP	<ul style="list-style-type: none"> <li>• Requirements for design solutions based on future climatic condition, not historical data.</li> <li>• Examples of designs that manage increasing intensity and frequency of natural hazards expected to result from a warming climate.</li> <li>• Clear guidance on how vulnerabilities are identified and treated via applicant requirements (see next slide)</li> </ul>	<ul style="list-style-type: none"> <li>• NSW Govt endorsed place based (ie local scale) climate adjusted hazard data for bushfire, flood, coastal erosion.</li> <li>• Suggest include drought, SLR and thermal safety</li> <li>• Harmonise with resilient engineering standards on urban infrastructure eg roads and bridges, water management and energy supply (via State Infrastructure Strategy).</li> </ul>
Strategic guide to planning for natural hazards in NSW : to inform the preparation of regional, district and local strategies and proposals to rezone land	Update and harmonization of existing hazard guidance, regulations, data and programs to include future climate conditions for <ul style="list-style-type: none"> <li>• Floodplan Management</li> <li>• Bushfire Protection</li> <li>• Coastal Design</li> <li>• Drought</li> </ul> Include Hazard mitigation in LEP and DCP guidance?	<ul style="list-style-type: none"> <li>• Regularly revised hazard lines, data and metrics based on best available science</li> <li>• (Consider) Building Typology design life targets to promote adaptive designs based on place-based future hazards</li> <li>• Thresholds for “retreat, avoid, accommodate” adaptation responses</li> </ul>





Resilience considerations should be spatial and temporal, and incorporated into requirements early, especially regarding applicant requirements. See Figure 1 for a draft worked example.



**Figure 1 – Draft process of assessment of Resilience consideration through applicant requirements**

With regards to meeting the Objects of the *Environmental Planning & Assessment Act 1979* (EP&A Act), the SEPP is expected to clearly and overtly target Object G - to promote good design and amenity of the built environment, through a method for design processes, design evaluation, and design review that is proportionate to the impacts and outcomes that contribute to a well-designed (healthy, responsive, integrated, resilient and equitable) built environment which includes inviting public spaces. Despite this, resilient design outcomes are poorly defined.

A principles-based SEPP may not meet all objectives of the EP&A Act. For example, 'Object (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources'. Assessment in the absence of monitoring of sustainability and resilience is insufficient to ensure ecologically sustainable development. Also, 'Object (h). proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,' cannot be assured through better design alone. The SEPP should also consider existing development and how to increase resilience in established areas.

#### *Proposed Changes to the BASIX SEPP*

Table 2 below outlines key concerns on the proposed changes to the Building Sustainability Index (BASIX) SEPP proposed under the Design and Place SEPP.



Table 2 – Proposed improvements to BASIX and the Waverley Council response

Design & Place SEPP changes	Waverley Council comments
<p>i) Sustainability targets that are currently embedded in the online BASIX tool will be included in the Design and Place SEPP</p> <p>- Staged and incremental increase in sustainability targets to enable industry to plan for future change and implementation in line with the NSW Government's Net Zero Plan.</p> <p>- By requiring development to contribute to the existing statewide, whole-of-economy target of 35 per cent reduction in construction and operational carbon emissions by 2030 (compared to 2005 levels) and setting future targets to achieve net zero emissions by 2050</p>	<p><b>Supported with proposed variations.</b></p> <p>Waverley Council supports both a rigorous review and update to the BASIX Tool as well as an increase in the sustainability targets.</p> <p>Waverley Council is advocating for BASIX Energy Targets and Thermal Comfort Targets to be strengthened and the BASIX Water Targets to be reviewed in light of updated climate data.</p> <p><b><u>BASIX Energy &amp; Thermal Comfort</u></b></p> <p><b><u>Background</u></b></p> <p>As part of our recent <i>Future Proofing Residential Development to Climate Change study</i> (the Study), the sustainability performance of BASIX compliant building designs was modelled against future climate projections for the Eastern Sydney region for 2030 and 2070. Despite a relatively mild climate, all compliant dwellings in the Eastern Beaches failed the Thermal Comfort requirements for cooling by 2030, and by 2070 cooling loads increased on average 308% above the Baseline Year for all building types, based on modelling undertaken by WSP Global.</p> <p>This Study recommended that:</p> <ul style="list-style-type: none"> <li>— The climate files used in the NatHERS software referred to in BASIX are updated to ensure dwellings are designed to withstand future conditions.</li> <li>— Design modifications are investigated for different building types to guide the Thermal Comfort policy setting in BASIX under future climate scenarios.</li> <li>— The Thermal Comfort Heating and cooling load balance in BASIX is reviewed, in particular the cooling cap.</li> <li>— The BASIX heating and cooling calculations for Energy scoring are reviewed.</li> <li>— A review of BASIX Energy scoring targets and provisions for multi-unit developments be undertaken, so that the lower target scores for Energy these attract reflect the inherent efficiency advantages for dwellings in higher density developments while encouraging improved efficiency measures and peak demand reductions from both common areas and individual dwellings.</li> </ul> <p><b><u>In Summary:</u></b></p> <p>The key recommendation from the Future Proofing study is that NatHERS, BASIX or any other modelling tool eligible for use under the Design and Place SEPP <u>must be</u> grounded on future climate projections (e.g. 2030, 2050 or 2070) to ensure all residential &amp; commercial development approved today is safe for our future, hotter climate.</p> <p><b>Waverley Council is calling on the DPIE to ensure that the Design &amp; Place SEPP requires the use of future climate files in both the NatHERS Software that BASIX references and the BASIX tool for the 2022 update.</b></p> <p>If the NCC does not deliver future climate data in its 2022 NCC revision, Waverley Council is advocating for the NSW Government to lead the way.</p>



	<p><u>Implementation mechanisms</u></p> <p>There are two potential implementation mechanisms for updating climate data and ensuring that all NSW housing is built to withstand warmer temperatures.</p> <p><u>Mechanism 1</u></p> <p>The NSW Design &amp; Place SEPP could require all NSW residential development through BASIX Thermal Comfort requirements to use a future climate scenario e.g. 2050 (<i>CSIRO RCP8.5 for Climate Zone 56</i>) in the NatHERS simulation assessment.</p> <p>Notes: 1) It should be noted that the current BASIX Tool is using a NatHERS climate file of 1970-2004. This should be updated to a current climate file immediately, and provisions made for a future climate file for 2022.</p> <p>2) this would require the BASIX Thermal Comfort Deemed-To-Satisfy provisions to be updated.</p> <p><u>Mechanism 2</u></p> <p>If NSW chooses to adhere to the national NCC framework in terms of climate data, then the NSW Government could set <b><i>more appropriate cooling caps in BASIX Thermal Comfort based on future climate projection data.</i></b></p> <p>Either of these methodologies would ensure that houses in NSW are built to withstand the increasingly warm climate we are already experiencing.</p> <p><u>Supporting evidence to increase the BASIX Energy Target for high-rise</u></p> <p>i) <b>BASIX buildings are retrofitting their common area lights within 3 years of being built, to a cost of \$60k</b></p> <p>Waverley Council has analysed a number of BASIX built high-rise buildings through the Building Futures program, a program which supports energy efficiency reductions in common areas. In these buildings, the current BASIX Energy target of 25 was not high enough to drive high performance lighting in common areas, with developers installing fluorescent lights with no lighting controls. It is a common finding that within five years of being built, high-rise buildings are retrofitting their common area lighting (carparks, fire stairs, hallways) (up to a cost of \$60k) in order to save money for the Body Corporate. We are happy to share the energy audit reports of these examples with you.</p> <p>Action: Waverley Council advocates for a rise in the high-rise Energy targets to drive the uptake of the most efficient lighting controls in common areas as well as other energy efficiency technologies, in order to deliver greenhouse emissions reductions as well as financial savings for body corporates.</p> <p>ii) <b>Future Proofing Study found that high-rise buildings find it easier to meet BASIX Thermal Comfort targets</b></p> <p>The Future Proofing Study found that high-rise buildings have a natural advantage to meet their BASIX Thermal Comfort provisions, due to their inherent design characteristics (insulation from other apartments etc).</p> <p>iii) <b>All building types should contribute to government's Net Zero Plan</b></p>
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	<p>We support the NSW Government's Net Zero Plan by requiring development to contribute to the existing statewide, whole-of-economy target of 35% reduction in construction and operational carbon emissions by 2030 (compared to 2005 levels) and setting future targets to achieve net zero emissions by 2050.</p> <p>Whilst achieving a 35% reduction in embodied carbon is challenging, achieving a &gt; 35% reduction in operational carbon is not. <b>Currently single dwellings, low rise and mid-rise are already achieving a 35 – 50% reduction in operational carbon emissions through BASIX.</b> High-rise apartments are currently only achieving a 25% reduction in operational carbon emissions through BASIX. There is great opportunity for high-rise buildings to meet higher carbon reduction targets.</p> <p><b>Waverley Council supports a more ambitious staged Energy target increase supporting our Community Greenhouse Gas Emission Reduction Targets for 2030 and 2050:</b></p> <ul style="list-style-type: none"> <li>• BASIX Energy targets to BASIX 60 for single dwellings and BASIX 50 for all multi-units by 2022</li> <li>• BASIX Energy 70 for single dwellings and BASIX 60 for multi units by 2025</li> <li>• BASIX Energy 80 for <u>all building types</u> by 2030</li> <li>• BASIX Energy 90 for <u>all building types</u> by 2035</li> <li>• BASIX Energy 100 for <u>all building types</u> by 2040</li> </ul> <p>Note: These target increases <u>must be supported by</u>:</p> <ul style="list-style-type: none"> <li>• Upgrade the national greenhouse accounts (NGA) factors for the NSW electricity grid in BASIX; and</li> <li>• Update future climate data in BASIX and NatHERS.</li> </ul> <p><b><i>These BASIX Energy Targets are achievable by:</i></b></p> <ul style="list-style-type: none"> <li>• increasing thermal comfort standards (through future climate data or increased BASIX Thermal Comfort/Safety cooling caps),</li> <li>• delivering greater energy efficiency and the increasing improvement in energy efficiency technologies over time,</li> <li>• phasing out of natural gas in line with NSW Government net zero policy,</li> <li>• onsite solar PV</li> <li>• offsite commitment to power purchasing agreements (potentially monitored through NABERS)</li> <li>• the natural benefit to buildings as the grid 'greens' which will result when greenhouse coefficients for electricity are updated regularly.</li> </ul> <p><b><u>BASIX Water</u></b></p> <p>The <i>Future Proofing Residential Development to Climate Change</i> study recommends:</p> <ul style="list-style-type: none"> <li>— That the BASIX tool is updated with climate data that more accurately represents the near-term and longer-term future drier climatic conditions that these buildings and their occupants will need to withstand. Eg. 2050 NarCLIM data. That the BASIX calculations are retained, reviewed and adjusted in relation to outdoor water consumption (particularly the landscaped irrigation assumptions) given the predicted shifts in rainfall and evaporation for NSW.</li> <li>- Once the climate data is updated and the calculations are reviewed, further testing of different building examples is completed to ensure that all building types can meet the BASIX Water Targets.</li> </ul>
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	<p>It is anticipated that when the climate data is updated in the BASIX tool, it may be challenging for <u>some</u> building types to reach the current BASIX Water targets without access to alternate water supply.</p> <p>The NSW Design &amp; Place SEPP could require all new precincts in NSW to provide reticulated recycled water. Additionally, working to achieve this in existing brownfield sites should be a State priority.</p> <p>Through Waverley Council's Building Future's Program, we have witnessed examples of stormwater tanks connected to toilet flushing for high-rise apartment buildings. Whilst some buildings have had positive experiences, other buildings have had some issues. Moving towards larger scale stormwater reuse is something we will likely need to employ more of in the future. Whilst we support larger scale rainwater harvesting projects to be encouraged under the SEPP, all buildings that install a rainwater/stormwater tank connected to internal supply under BASIX should be subject to positive covenants with Council which covers compliance, maintenance and repair. We encourage the Department to survey buildings built under BASIX in relation to stormwater tanks and rainwater tanks, to ensure that systems are being correctly installed and maintained.</p>
ii)	<p>To promote consistency across the State, councils are currently not able to set their own higher or lower BASIX targets. This provision will continue to apply and is proposed to be transferred to the Design and Place SEPP. However, mechanisms to allow councils some flexibility in this area will be explored during development of the Design and Place SEPP.</p> <p><b>Support Councils requiring higher targets if the target trajectory does not meet their commitments under their LSPS</b></p> <p><u>Mechanisms to allow Councils to set higher targets in low Carbon precincts</u></p> <p>Our Local Strategic Planning Statements (LSPS) gives effect to the two planning priorities from the Eastern Sydney District Plan.</p> <ul style="list-style-type: none"> <li>i) Reducing carbon emissions and managing energy, water and waste efficiently (Greater Sydney Region Plan Objectives 33, 34, 35)</li> <li>ii) Adapting to the impacts of urban and natural hazards and climate change (Greater Sydney Region Plan Objectives 36,37,38)</li> </ul> <p>The current BASIX targets limits our ability as local government to deliver on these commitments.</p> <p>One option to allow Councils to set higher targets would be:</p> <ul style="list-style-type: none"> <li>1) Planning commitments in place</li> </ul> <p>Recognize Councils who have:</p> <ul style="list-style-type: none"> <li>• nominated low Carbon precincts to set higher BASIX Energy/Water targets in those areas; e.g. the Bondi Junction Green Infrastructure Masterplan; or</li> <li>• LSPS or Greater Sydney District Plans</li> </ul> <p>Higher targets could be administered through the BASIX tool on a postcode basis.</p>
iii)	<p>Provide more flexibility in the available assessment pathways to demonstrate a design meets sustainability</p> <p><b>Waverley Council does not support this.</b></p> <p>Waverley Council notes that if alternative assessment pathways are introduced this may introduce:</p> <ul style="list-style-type: none"> <li>• a less/greater robustness in policy outcome depending on the tools implemented.</li> <li>• a less robust data set to allow NSW Government to report on sustainability outcomes.</li> </ul>



<p>performance requirements</p> <p><b>C.2.1.1 An independent, merit assessment pathway</b></p> <p><b>C.2.1.2 Providing other assessment tools that 'plug in' to BASIX</b></p>	<ul style="list-style-type: none"> <li>• A huge resource impost on Council's DA planners and</li> <li>• A high resource requirement to train and support staff managing multiple complex systems.</li> </ul> <p>If the Design and Place SEPP <u>does</u> introduce alternate pathways, the NSW Government must ensure that they:</p> <ul style="list-style-type: none"> <li>○ are as robust (or better than) the current BASIX tool,</li> <li>○ meet clear carbon/water reduction targets,</li> <li>○ can quantify greenhouse/potable water savings,</li> <li>○ are built for <u>all</u> residential building sectors, and</li> <li>○ have the ability to capture and deliver data into the electronic planning system, to allow for the overall review and reporting of the BASIX greenhouse and water reduction targets and thermal comfort requirements.</li> <li>○ Have a clear and well- resourced educational component and <b>ongoing training</b> for Council's DA planners and private certifiers.</li> </ul> <p>It is absolutely essential that there is accountability and transparency in the assessment process. It is our experience that there is a diverse range of skills within the NatHERS assessor community. We have had occasional instances of fraudulent certificates for certificates.</p> <p>However, we also have concerns about the resource impost of multiple tools. If the NSW Government decides to go ahead with 'plug in' assessment tools, Waverley Council strongly advocates that this assessment <b>must go through a non-Council process</b>, such as the NSW DPIE's BASIX Team for assessment, and not through Council's normal DA process. Council does not have the resources to deal with multiple systems.</p> <p>We also advocate for more resources on education and training regarding the primary tool - BASIX. The Future Proofing project identified that the building industry and DA planners still require more support (potentially via educational videos) to ensure DA and CC plans are accurately and consistently marked with BASIX commitments and NatHERS stamps/spec blocks. Additionally, under the BASIX SEPP the certifying authority is required to generate a BASIX Completion Receipt following the final inspection and prior to issuing a final occupation certificate. This process is not always being completed and requires resourcing and potentially linking to the e-planning system as a mandatory requirement.</p>
<p>iv) Align sustainability performance requirements with the principles of the Design and Place SEPP</p> <p>E.g. Expand BASIX to include:</p> <p>* embodied energy – the energy consumed in producing the materials</p>	<p><b>Waverley Council officers do support this.</b></p> <p>Waverley Council recommends revising the Thermal Comfort provisions to become a "Thermal Safety" provision, which could sit either in Principle 4 or 5. This would ensure higher Thermal Safety standards are set to ensure that <i>community vulnerability to a warming climate is reduced.</i></p> <p>This will result in buildings that:</p> <ul style="list-style-type: none"> <li>• minimize their reliance on mechanical cooling,</li> <li>• reduce peak demand,</li> <li>• are affordable to keep cool, and</li> <li>• that will most importantly keep residents safe during a blackout.</li> </ul> <p><u>Embodied energy</u></p>



<p>for the construction of the home</p> <ul style="list-style-type: none"> <li>* green infrastructure – this includes lawns, tree cover and gardens that can cool the site, reduce the energy required for cooling, and retain stormwater</li> <li>* stormwater run-off – the volume of stormwater that leaves the site, which is impacted by the use of rainwater tanks and green infrastructure.</li> </ul>	<p>The BASIX Energy index is a greenhouse reduction policy which delivers <u>operational energy efficiency gains</u> for tenants and body corporates and operational carbon reductions.</p> <p>A target which reduces embodied carbon is supported, however it is recommended that it is handled in a separate index of BASIX e.g. A BASIX Materials index. <b>These targets should not be traded for operational carbon reductions.</b> It should be noted that measuring embodied carbon is inherently complicated and that including this index does not simplify the planning process.</p> <p><u>Green infrastructure &amp; Stormwater</u></p> <p>The <i>Future Proofing Residential Development to Climate Change</i> project recommended that:</p> <ul style="list-style-type: none"> <li>the BASIX calculations are reviewed in relation to outdoor water consumption in landscaping</li> </ul> <p>Additionally, it is Council's experience that BASIX promotes low water use/indigenous species, however it does not currently encourage shade trees for cooling benefit, or shrubs/ground covers to reduce urban heat loads.</p> <p>In the original conception of BASIX in 2004, it had a Stormwater Index. This could be a solution to implementing some of the green infrastructure / water quality objectives. For example, this could reward use of raingardens to improve stormwater quality or rainwater tanks for stormwater detention. It should be noted that rainwater tanks and stormwater tanks are recognized in BASIX Water Index from a potable water demand angle. More resources are required to ensure that small scale rainwater tanks are being fitted properly by plumbers and maintained by residents. A collaboration between DPIE, Sydney Water and Councils could help to address these challenges.</p> <p>There is also a strong connection between landscaping and stormwater management to resilience/ heat mitigation outcomes for urban environments. Recognising the benefits of landscaping in the BASIX Energy index would be potentially useful to encourage shade trees and ground covers to help mitigate urban heat, improve thermal safety and flood management. Melbourne City also has a Green Factor Tool, which scores urban heat island reduction, biodiversity, stormwater reduction, and other social indices. Developing a similar matrix for BASIX would be useful.</p> <p>Finally, ensuring that landscaping commitments are accurately delivered as part of the Occupation Certificate process is also important for DPIE to support through the provision of training and resources to certifiers.</p>
<p>v) Measure and report on sustainability performance requirements in a consistent way to other jurisdictions</p>	<p><b>Supported with variation.</b></p> <p>Waverley Council strongly supports a well-resourced monitoring and evaluation component of the NSW Design &amp; Place SEPP. As per the recommendations in the Future Proofing Study that called for the establishment of a monitoring &amp; evaluation protocol that ensures that:</p> <ul style="list-style-type: none"> <li>— BASIX is reviewed and adapted on a regular basis</li> <li>— Utilities are required to monitor the energy and/or water consumption of BASIX dwellings to support robust data in BASIX</li> </ul>



		<p>— The BASIX methodology is published to allow for peer review</p> <p>— Ensure that revenue from the BASIX State Environmental Planning Policy (SEPP) is utilised for tool maintenance and enhancement</p> <p>Waverley Council would support:</p> <ul style="list-style-type: none"> <li>• a serious peer-review and major update of the BASIX tool for 2022</li> <li>• ongoing updates as per NSW Government published schedule, for example:               <ul style="list-style-type: none"> <li>○ minor updates every 6 months</li> <li>○ a 'moderate review' and upgrade every 2 years in line with target increases.</li> <li>○ A 'major review' every 5 years based on outcomes from monitoring and evaluation programs.</li> </ul> </li> </ul> <p>The Design &amp; Place SEPP/BASIX should continue to report on annual greenhouse gas emissions reductions and potable water reductions from the built environment and share this with its national and interstate counterparts.</p> <p>All components of the Design &amp; Place SEPP e.g. the Apartment Design Guide &amp; Urban Design Guide must be updated to the same schedule.</p>
vi)	Improve customer experience in using tools	<p><b>Supported.</b></p> <p>Waverley Council strongly supports an update to the existing BASIX website and help notes (as well as the BASIX calculations/policy/technologies).</p> <p>Council requests a better resourced education/training of BASIX to Council sustainability staff, DA planners, compliance staff, as well as industry professionals.</p>
vii)	Promote innovation/recognize emerging technologies	<p><b>Supported with variation.</b></p> <p>Waverley Council tentatively supports the update of the BASIX tool with new technologies, however, these technologies must be well established in the market place and have robust and independent studies (preferably by Universities) proving that these technologies meet the advertised greenhouse/water reduction targets.</p>
viii)	Biannual tool update	<p><b>Supported.</b></p> <p>See response to v) above</p>
ix)	Transparency	<p><b>Recommendation.</b></p> <p>Waverley Council is advocating for a detailed review of calculations and making the methodology publicly available to ensure transparency and to facilitate peer review. At BASIX's inception the methodology was published for a number of years, which developed trust with industry and government.</p> <p>Reporting on the amount of revenue raised by BASIX and the amount spent on maintenance would also show transparency and commitment to maintaining this important State policy.</p>
x)	BASIX Plus	<p><b>Not supported.</b></p>





		<p>Waverley Council does not support the development of a 'BASIX Plus' marketing tool. The current BASIX tool already recognizes best practice, it is understood that the higher the BASIX Score, the more energy/ water efficient the development is. E.g. a development that reaches a BASIX Energy Target of 80 is reducing its greenhouse gas emissions by 80% compared to the NSW average benchmark from 2004. Consider investing in educational resources so users clearly understand the current system.</p> <p>A BASIX 100 development has reached net zero operational carbon (based on a 2004 benchmark).</p>
xii)	BASIX benchmarks are reconfigured	<p><b>Not supported.</b></p> <p>Waverley Council does not support the BASIX benchmark being reconfigured. The BASIX benchmark is an important framework in delivering a target-based greenhouse/water reduction scheme. Losing these would:</p> <ul style="list-style-type: none"> <li>• Reduce education around good design – without the quantification of carbon/water savings per technology/design feature – developers/building designers would not understand what actions contributed the most to greenhouse/water reduction.</li> <li>• Without the benchmark system, NSW Government will lose the ability to report on actual greenhouse/water savings for the State.</li> </ul> <p>Note: as the grid continues to green, and is eventually 100% renewable, then the BASIX Energy index could have a new benchmark based on energy consumed (MJ/person.year) to encourage energy efficiency.</p> <p>Waverley Council strongly advocates for keeping the existing benchmark framework. To achieve a higher greenhouse/water reduction target, then DPIE could both:</p> <ul style="list-style-type: none"> <li>• Increase the BASIX targets</li> <li>• Update climate data and National Greenhouse Accounts (NGA) factors for the NSW electricity grid.</li> </ul>
xiii)	<p>Allow tradeoff between Thermal Comfort and Energy/Greenhouse gas emissions</p> <p><b>C.2.1.3 Allowing a tailored approach for thermal comfort and energy performance</b></p>	<p><b>Not supported.</b></p> <p>Waverley Council does not support the trade off between Thermal Comfort and Energy/Greenhouse gas emissions reductions in BASIX.</p> <p>From a Thermal Safety standard, it is essential that thermal comfort provisions are strengthened and met every time by developments.</p> <p>To reach net zero operational carbon (BASIX 100), buildings need to:</p> <ul style="list-style-type: none"> <li>• Achieve Thermal Comfort standards i.e. good building design +</li> <li>• Be energy efficient (i.e. lower carbon emissions and ongoing costs) +</li> <li>• Offset the remainder of their energy needs/carbon emissions with renewable energy (either onsite, through the greening of the grid, or at a last resort offsite PPAs).</li> </ul>
xiii)	Alignment of BASIX with NSW Government's Net Zero targets.	<p><b>Supported.</b></p> <p>Waverley Council supports the NSW Governments intention to update building and planning controls to align with the NSW Government's net zero targets.</p>



<p>xiv) Future index - transport</p>	<p><b>BASIX could be expanded to promote good urban design at a precinct scale by recognizing the greenhouse gas benefits of reducing our transport carbon footprint.</b></p> <p>Whilst all of the ideas below are currently in Council's DCPs, the advantage of establishing a carbon reduction framework, benchmark and target is that it would allow the NSW Government and councils to report more easily on their transport planning policies.</p> <p>A new BASIX Transport index could set a target for % greenhouse reduction from travel, which could encourage:</p> <ul style="list-style-type: none"> <li>• Installation of EV charger in apartments and residences</li> <li>• Provision of bicycle storage and lockers in all residential development (this is not only an issue for apartments, but also townhouses/villas)</li> <li>• Provision of carshare facilities in large scale multi-unit developments</li> <li>• Recognition of development location to nearest amenity / village centre (i.e. walkability)</li> <li>• Recognition of development location to public transport</li> <li>• Supporting zero or low rates of car parking spaces in areas close to public transport, with consideration of:             <ul style="list-style-type: none"> <li>a. Access to frequent public transport services and;</li> <li>b. Inclusion of pickup/drop down spaces for residents within the development to cater for less mobile populations e.g. elderly, disabled, families with young children.</li> </ul> </li> </ul>
<p>xv) Future index Waste/ Materials</p>	<p><b>Supported.</b></p> <p>Develop a Waste/ Materials index in BASIX to:</p> <ul style="list-style-type: none"> <li>- Lock in best practice for waste &amp; recycling storage areas and signage in common areas of all new residential development. Including:             <ul style="list-style-type: none"> <li>o General waste, recycling, less typical waste eg. Textiles/e-waste, bulky waste storage room, storage facilities, ease of access</li> </ul> </li> <li>- Lock in best practice for waste vehicle collection access eg. Turning circles etc.</li> <li>- Lock in best practice for waste &amp; recycling storage areas within kitchen design of all new residential development.</li> <li>- Promote organic waste diversion, through onsite or offsite solutions.</li> <li>- Promote recycled content of building materials eg.             <ul style="list-style-type: none"> <li>o Reused bricks in new developments</li> <li>o Recycled glass used in common outdoor areas/paved surfaces</li> <li>o Recycled wood/sustainably harvested timber</li> <li>o Recycled plastic</li> <li>o Recycled concrete</li> <li>o Recycled steel</li> <li>o E.g. could set a target that 10% of materials have recycled content during construction</li> <li>o Challenges – this would require third-party certification</li> </ul> </li> <li>- Could be developed in line with other BASIX indices with metrics based on per capita waste/recycling targets either during construction or operation of building</li> </ul>





xvi)	Recognizing conflicts in sustainability	Some conflicts already exist when delivering sustainable development. For example, a development may prioritise a roof garden and hence not have room for Solar PV. As sustainability indices are expanded within the Design & Place SEPP, some mechanisms need to be designed to cope with any conflicts of use of space to meet both water/energy/transport targets.
xvii)	Importance of focusing on existing houses	<p>The BASIX Alterations and Additions policy needs to be reviewed and strengthened, as it is quite out of date.</p> <p>The Future Proofing Residential Development to Climate Change project has just completed a review of Alts &amp; Adds in the Eastern Suburbs region. It provides some recommendations for a review and update, and calls on the Department to fund a more comprehensive review.</p>

## 6. Waste

Waste management is a key aspect of sustainability which can make a substantial difference to the way places function. Sustainable waste management practices through design should be implemented as a consideration throughout the *Design and Place SEPP* and its accompanying documentation in accordance with Tables 3 and 4 as follows:

**Table 3 – Waste considerations within the *Mandatory Matters for Consideration*.**

Matter for Consideration	Waverley Council Comments
4. Local Living	<p>By planning for waste storage and collection at back of house, there is no impediment of cycleways or pedestrian access. When bins are presented on the footpath, it most often leads to obstruction safety issues.</p> <p>Include precinct planning with mandated back of house waste collection where required.</p>
5. Street Design	<p>Ensure streetscape is designed with waste infrastructure storage and servicing planned for at the start to avoid impeding on pedestrian flow and connectivity (by keeping bins off the footpath)</p> <p>Offer incentives for voluntary planning agreements for shared waste storage/servicing access. This has huge benefits for the community as it may mean a reduction in roller doors at street level (for servicing truck access), improves amenity and saves space.</p>
7. Green Infrastructure	Include principles from the <i>Circular Design Guide</i> as a requirement to facilitate product reuse, recycling, and cascading is recommended. Circular design includes: material selection, standardised components, designed-to-last products, design for easy end-of-life sorting, separation or reuse of products and materials, and design-for-manufacturing criteria that take into account possible useful applications of by-products and wastes.
8. Resilience	Incorporate sustainably sourced materials that have longevity and resilience to climate change.
10. Density	Waste servicing in dense communities is challenging, particularly for on-site collection. Often private contractors are engaged as they have smaller vehicles



	which allows for a nicer building design with smaller truck access opening, however this is not desirable as it means an increase in truck movements (carbon emissions) and costs to our community. Controls around waste servicing particularly at a precinct level are recommended.
17. Emissions and Resource Efficiency	<p>Currently there is limited data for measuring waste management efficiency. NABERS exists for office spaces only. There should be best practices targets for waste management. For example:</p> <ul style="list-style-type: none"> <li>• Minimise the generation of unnecessary waste.</li> <li>• Maintain principles of circular economy and reduce waste sent to landfill.</li> <li>• Design for source separation of waste at the point of generation at all stages of development.</li> <li>• Ensure all residents and businesses have access to recycling and reuse systems</li> <li>• Minimise collection vehicle movements</li> </ul>

**Table 4 – Waste considerations within the revised Apartment Design Guide**

ADG Matter	Waverley Council Comments
Best Practice	Best practice waste management needs to be incorporated into the ADG, but it is less clear what best practice refers to. Providing best practice guidelines that have meaningful information to draw from is key.
Potential Waste Targets and Measures	<p>For the environmental assessment (Part 5), <i>waste management</i> (4W) is listed as the measure, however waste management is tricky to measure, and requires design targets for apartment buildings for waste management (as none currently exist). The purpose of these targets is to:</p> <ol style="list-style-type: none"> <li>1. Minimise the generation of unnecessary waste.</li> <li>2. Maintain principles of circular economy and reduce waste sent to landfill.</li> <li>3. Design for source separation of waste at the point of generation at all stages of development.</li> <li>4. Ensure all residents and businesses have access to recycling and reuse systems</li> <li>5. Minimise collection vehicle movements</li> </ol>
Design Criterion	<p>Similar to <i>design criterion will require development applications to demonstrate, through a landscape maintenance plan, how green infrastructure including tree canopy and green cover, in deep soil and on structures, will be maintained and sustained over the life of a building</i>, introducing a design criterion for (1) waste circularity in construction and (2) waste minimisation, (3) responsible waste management post-construction that includes as a minimum:</p> <p><i>Waste circularity in construction:</i></p> <ol style="list-style-type: none"> <li>1. Include sustainable, ethically made, and locally sourced materials in the building materials (A materials schedule could be put forth as suggested in the draft SEPP page A25)</li> </ol>



	<ol style="list-style-type: none"> <li>2. Include recycled content in building materials including any road surfaces</li> <li>3. Include repairability of materials</li> <li>4. Report carbon footprint of materials</li> </ol> <p><i>Waste minimisation in design:</i></p> <ol style="list-style-type: none"> <li>1. Allow for space to recover problem wastes (e.g. textiles, electronic waste, etc)</li> <li>2. Allow for space to store all waste and recycling and other wastes generated</li> <li>3. Design waste storage rooms to ensure residential waste is stored separately to non-residential waste</li> </ol> <p><i>Waste Management post-construction:</i></p> <ol style="list-style-type: none"> <li>1. Location of all waste and recycling storage areas.</li> <li>2. Responsibilities for cleaning bins, transporting bins to the nominated collection point, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.</li> <li>3. Directions for cleaning and maintaining the waste storage areas and bins</li> <li>4. Signage placement to identify different bin types, where to place bulky household waste and problem waste</li> <li>5. Bin placement to ensure recycling bins are placed alongside the general waste bins for ease of access and to encourage recycling habits.</li> <li>6. Measures to ensure that all waste and recycling bins do not remain on public land for extended periods</li> <li>7. The occupant/body corporate must have one copy of the Waste Management Plan and make this available upon request.</li> <li>8. Details of ongoing waste management strategy are to be documented within the Waste Management Plan and updated (for example every 5 years or when a change occurs)</li> </ol>
Design Criteria	<p>The proposed design criteria (Table A8) for waste management, states “Provide new design guidance: waste facilities for residential and non-residential uses to be separated”</p> <p>In general councils already require separate waste storage rooms for residential vs non-residential waste. To truly improve waste management, increase recycling and circular economy principles, the New Design Guide could incorporate many other principles that align with the NSW 20 Year Waste Strategy and circular economy principles.</p> <p>Referring to best practice (stated earlier) and including the <i>Circular Design Guide</i> as a requirement to facilitate product reuse, recycling, and cascading is recommended. Circular design includes: material selection, standardised components, designed-to-last products, design for easy end-of-life sorting, separation or reuse of products and materials, and design-for-manufacturing criteria that take into account possible useful applications of by-products and wastes.</p>



### Missing Waste-Related Information

1. Ensure links to legislation, policy and strategic direction are clearly laid out, for example:
  - a. Link to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP) – to offer approval processes for Recycling Equipment and Facilities.
  - b. Link to Infrastructure SEPP – to ensure planning for waste facilities is made available to local councils while transportation to the facilities are optimised to reduce the environmental and social impacts.
  - c. NSW 20 Year Waste Strategy (to be released this year).
  - d. Relevant legislation, e.g. Protection of the Environment Operations Act 1997.
2. Waste data: This summary in Figure 2 below outlines some of the data sources and rational for waste measures that could be employed.

Key jurisdiction-wide waste data collection pathways, requiring the implementation of classification systems	Primary purposes / end-uses of the information
<ul style="list-style-type: none"> <li>Annual Survey of Local Government (waste and resource recovery)</li> <li>Monthly reporting by licensed waste facilities in the Regulated Area (SMA, ERA and RRA)<sup>5</sup></li> <li>Annual reporting by licensed waste facilities in non-regulated areas</li> <li>All data from household Chemical Cleanout program</li> <li>Transport certification data on Controlled Hazardous Waste</li> <li>Several reprocessing industry surveys for select material categories in C&amp;I and C&amp;D waste streams (part-funded or undertaken on behalf of OEH)</li> <li>Litter survey (undertaken by Keep Australia Beautiful)</li> </ul>	<p>Primary reasons for data collection:</p> <ul style="list-style-type: none"> <li>Payment of landfill levy under section 88 of the <i>Protection of the Environment Operations Act 1997</i> (POEO Act)</li> <li>Demonstrating compliance with the conditions of an environment protection licence under Schedule 1 of the POEO Act</li> <li>Tracking hazardous waste within NSW and interstate in accordance with <i>Movement of Controlled Waste NEPM</i></li> <li>Reporting against NSW <i>Waste Avoidance and Resource Recovery (WARR) Strategy</i> performance indicators in 4 key result areas</li> <li><i>WARR Act</i> requirements for Extended Producer Responsibility Priority Statements</li> <li>Requirements of the NEPM for used packaging materials</li> </ul> <p>Key waste data published for legislative requirements :</p> <ul style="list-style-type: none"> <li>Two-yearly (approx.) report on progress of NSW <i>Waste Avoidance &amp; Resource Recovery Strategy</i>, reported in four key result areas:               <ul style="list-style-type: none"> <li>Resource Recovery</li> <li>Waste Prevention &amp; Avoidance</li> <li>Toxicity</li> <li>Litter &amp; illegal dumping</li> </ul> </li> <li>Extended Producer Responsibility Priority Statements (as required)</li> </ul>

**Figure 2** Data Sources and Waste Measures (source: Hyder, Waste Classification in Australia, 2011).

3. Resources and Decision making tools: For example, The Material Circularity Indicator (MCI) tool allows companies to review products to rigorously measure the circularity of material flows for selected products.

## 7. Designing for Country

In the first instance, the voice of Aboriginal people must be enshrined in the preamble of the constitution. The statement from the Heart must become something we are all a party to. The Makarrata, or coming together after a struggle, is a truth telling exercise which is what we need if we





are to confront the past and move forward together as a nation. Then we can start to think about what it means for planning.

with the principle of connecting and design for Country is welcomed and strongly supported, however it is difficult to understand how the Design and Place SEPP will facilitate engaging meaningfully with an Aboriginal community that is fractured, sparse and over solicited. In the experience of Waverley Council officers, Aboriginal communities decide what knowledge is to be shared with whom and in what time frame. Building the relationship is takes involvement and time – a larger investment usually than the timeframe of most projects.

Waverley Council officers imagine that 'to **prioritise country**' is a kind of environmental respect for natural systems, protecting fragile ecosystems and guarding against natural disasters, maybe even encouraging traditional Aboriginal Land Management methods. It is respect for sacred places that are part of the dreamtime, the everywhen. The places of ritual, women's places, men's places, the songlines and web of connections across the continent. It is a whole world view and vast area of knowledge that is only accessible to Aboriginal people, and is vastly removed from a Western planning system. Inclusion of the Connecting to and Designing for Country frameworks in the proposed SEPP is strongly supported, however these principles must be championed by State-led developments and precincts as well. Indeed, in some situations the meaningful consideration of Country may require an adjustment to a Strategic Plan to better incorporate more appropriate land management methods or to accommodate and respect places of significance.

As a Nation, we have not stopped destroying aboriginal Culture and Country since 1788. Since 2016, over 400 applications to impact or harm Aboriginal Heritage sites in NSW have been approved by the NSW Government. 100% of Aboriginal Heritage impact permits have been given formal approval. This was confirmed by Minister Don Harwin at Budget estimates on 25th February 2021.

For the planning, design and developer community to be able to design for Country and engage meaningfully with the Aboriginal community, the State will need to facilitate the engagement process so that the appropriate knowledge and Custodians are involved from the beginning of a strategy or project.

## 8. Design Skills

The requirement for suitably qualified and experienced design professionals to be designing developments that are three or more storeys, open space over 1000 m<sup>2</sup>, and precincts and significant development is highly praised. The proposed minimum design skill requirements are expected to increase accountability and better achieve a superior design of the built environment where a project is likely to have a high impact on the environment or community due to its scale or future population.

The introduction of a requirement for involved leading planners to hold minimum qualifications for the same larger developments is recommended too, to ensure that all key professionals involved with a substantial project are adequately suited to provide the best outcome possible. Suitable leading planners should be required to hold tertiary qualifications in a planning related degree and be a full Planning Institute of Australia member.





A minimum experience requirement for both leading designers and planners for these larger developments is also suggested. This may be by way of demonstrating experience on a project of a similar scale in a similar urban context.

#### **9. Application Requirements**

The implementation of minimum application requirements is supported; however, they should be further detailed to ensure that they are consistently applied. An example of each of the four application requirements, including a site analysis, a precinct structure plan, a design statement, and precinct planning supporting documents should be provided in the SEPP to ensure that the quality of each document is consistent.

#### **10. Transitional Provisions**

Waverley Council officers note that the EIE specifically asks for feedback on the lead time required by stakeholders for the components of this SEPP to inform the making of the identified transitional provisions. For Waverley this means the time needed to “ensure appropriate skills are in place to meet the assessment requirements under the SEPP”. This would largely involve briefing Strategic Planning, Urban Design, Development Assessment, and Sustainability officers on the requirements of any new SEPP and undertake a detailed analysis on key impacts for the Waverley area. In addition, Council would brief the Design Excellence Panel and the Local Planning Panel to ensure a complete understanding of any proposed new framework. Waverley Council officers ask that a timeframe of 3 months is provided to arrange for this.

**REPORT**  
**PD/5.4/21.04**

**Subject:** Sustainable Visitation Panel

**TRIM No:** A18/0767

**Author:** Jessica Manifold, Tourism and Business Co-ordinator

**Director:** Tony Pavlovic, Director, Planning, Environment and Regulatory

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**RECOMMENDATION:**

That Council:

1. Establishes a Sustainable Visitation Panel, in accordance with the Sustainable Visitation Strategy 2024, for a trial period of 12 months.
2. Appoints the first selection Panel members listed in the document circulated separately to Councillors.
3. Appoints the reserve Panel members listed in the document circulated separately to Councillors, with such members to participate in the Panel if a vacancy occurs.
4. Invites the Combined Precincts to nominate a Precinct representative as a Panel member.

**1. Executive Summary**

Waverley's Sustainable Visitation Strategy 2024 (SVS) was adopted to achieve a balance between the needs of residents, businesses, and visitors, to sustain our local economy and improve our local environment. The formation of a local tourism stakeholder group is outlined as a key project deliverable within the plan.

The proposed Sustainable Visitation Panel (the Panel) will comprise of residents, business and local tourism experts, supported by Council's Economic Development team. The proposed Panel will be advisory-only, and participation is on a voluntary basis, with a time limit of 12 months. An expression of interest was publicly advertised in October 2020, with proposed Panel members recommended and submitted for Council feedback in December 2020. A Councillor workshop was facilitated in February 2021 to discuss the project particulars in detail.

**2. Introduction/Background**

Waverley has attracted and maintained strong organic visitation levels over the past decade. The steady volume of visitation has placed both pressure on local amenity and stress on Waverley residents. Presently and conversely, COVID-19 has threatened Waverley's local tourism businesses and jobs market, highlighting the vulnerability of our local economy in the absence of strong tourism performance. Current projections suggest Waverley will lose over \$250 million in international visitor spend for 2020 (Waverley Tourism Monitor).

Following the deferral of the Council Report in December 2020, a Councillor workshop was held in February 2021 to discuss Council's perspective on the proposed Panel and to address outstanding queries with regards to its set up, which is discussed in detail below.

### 3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Strategic Planning and Development Committee 1 December 2020	PD/5.5/20.12	That Council defers this item to a workshop prior to it coming back to Council.
Strategic Planning and Development Committee 5 March 2019	PD/5.1/19.03	<p>That Council adopts the Waverley Sustainable Visitation Strategy 2019-2024 attached to this report, subject to the following amendment:</p> <ol style="list-style-type: none"> <li>On page 10 of the Strategy (page 26 of the agenda), at the start of the section entitled 'Getting the Balance Right' replace the first sentence with:  'This strategy represents Waverley's second step, after the production of a Draft Destination Management Plan in 2017/2018, towards proactive tourism management of the LGA.'</li> </ol>

### 4. Discussion

The success of the SVS 2024 will rely on collaboration and consensus from industry, community and government. The purpose of the proposed Panel is to gather key stakeholders to provide input and advice on projects outlined and committed to within the SVS. As an outcome, project plans and business cases will be developed with, and informed by, key stakeholders from the outset, providing essential project insights prior to Council commitment. The proposed panel will also be able to provide a useful link to the tourism sector in the post-COVID context.

The main objectives of the proposed Panel are to provide:

- Input and advice on local challenges under each of the strategic priorities within the SVS.
- Insights into leveraging opportunities, so that desired outcomes can be achieved.
- Input into business case development.
- Input into the coordination and delivery of projects where needed.
- Support when required to apply for Sustainable Destination Certification.

Several questions were raised at the Councillor workshop in February 2021, which are addressed individually below.

#### Why is Sustainable Destination Certification a goal?

The Global Sustainable Tourism Council's (GSTC) criteria for sustainable destinations serve as the global baseline standard for sustainability in travel and tourism. The Criteria are used by government agencies for education and awareness-raising, policymaking, measurement and evaluation, and as a basis for certification should a destination choose to be certified.

Other iconic destinations that have largescale visitation have opted to work with the GSTC's destination criteria to counteract over-tourism. As an example, Tourism Noosa and Cairns Regional Council have integrated the criteria principles to improve their tourism management. More recently, Waverley liaised

with Byron Shire Council on their destination management plan and they have since launched Byron's Sustainable Visitation Strategy in 2020, that reference and use the GSTC framework as a guideline to best practice.

The certification process is an optional yet worthwhile goal, where a destination works with an accredited eco-tourism consultant to address each of the criterion outlined in the framework. Eco Tourism Australia would be one such provider that can certify a destination as Sustainable using the GSTC standard. Given Waverley's commitment to embedding sustainability practices in all areas of Council, striving for certification as a Sustainable Destination should be an essential goal.

### **What are the alternatives to a Panel?**

A primary purpose of the Panel is to receive stakeholder feedback on key projects. This deliverable could be satisfied by informal feedback sessions or workshops held with key stakeholders once a quarter pending project progress and funding. On a basic level, this would be beneficial to receive contextual feedback, however it would be missing ongoing stakeholder support throughout the research and development phases of the project.

An example of this would be the development of heritage walks. Working with key stakeholders to research, develop and promote these walks would be instrumental to their success in the long-term as opposed to developing them in the absence of continuous feedback and partnership with stakeholders.

### **The candidate selection process**

Upon receipt of all submissions, the Economic Development team reviewed the expressions of interest to ensure a broad range of expertise was achieved to balance the business, resident and industry representation. It is recommended the proposed Panel remain small, with two representatives from each of these category bases. Direct appeals were made to key stakeholder groups such as the local Chamber of Commerce, Precinct Groups and Councillors. Council received 20 applications over the 21-day period.

As this is a small, voluntary and non-decision-making stakeholder panel applicants were requested to provide detail on why they would like to be part of the proposed Panel and were provided with the draft Panel Charter, in addition to a copy of the SVS. Candidates that noted capabilities and interest in the following topics were favoured in this selection process:

- Displaying knowledge of sustainable tourism.
- Noting Council's SVS.
- Have strong community engagement capabilities.

First selection candidates were followed up with a call to discuss the proposed Panel in more detail and to highlight next steps. A list of these candidates and their credentials has been circulated to Councillors separately. These candidates are recommended for appointment to the Panel. All remaining applicants will be contacted after a decision on this matter is resolved by Council. Details of these candidates have also been distributed to Councillors separately. It is recommended these applicants (if agreeable) are appointed as reserve members of the Panel should any member step down throughout the year.

As a result of discussion at the Councillor workshop, a further request will be sent to the Combined Precincts seeking the nomination of a Precinct Panel member.

## **5. Financial impact statement/Time frame/Consultation**

The Panel expression of interest (EOI) form was made available via Council's website, with promotional material distributed through all Council newsletters and social media channels. An additional EOI will be sent directly to the combined precinct group to seek their involvement. Participation on the proposed

panel is voluntary, although there will be some minor support costs, with a budget of \$1,000 provided for 2021.

## **6. Conclusion**

The SVS 2024 has highlighted the need for a local tourism stakeholder group to ensure all tourism projects are developed with and supported by key stakeholders. The purpose of the Panel is to work collaboratively with a common purpose and focus. We believe this will not be achieved by a large stakeholder group that only engages on an ad hoc basis for project feedback only.

It is recommended Council support the formation of this group that will comprise of the original recommended members. In addition, a member from the combined precinct group that is nominated to participate on the proposed Panel will be invited to attend. The group will be trialled for 12 months with a feedback report provided to Council at the end of this period.

## **7. Attachments**

Nil.



**REPORT**  
**PD/5.5/21.04**

**Subject:** Flood Study

**TRIM No:** A17/0168

**Author:** Nikolaos Zervos, Manager, Asset Systems and Planning

**Director:** Shane Smith, Acting Director, Community, Assets and Operations

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**RECOMMENDATION:**

That Council:

1. Endorses the Waverley LGA Flood Study attached to the report as Council's current understanding of flood behaviour within the local government area.
2. Uses the knowledge derived from the Waverley LGA Flood Study to mitigate flood risk through applying planning controls to proposed development activities on land identified as flood-affected.
3. Notes the recent grant application to the Department of Planning, Industries and Environment for the Floodplain Risk Management Study and Plan.

**1. Executive Summary**

Council was successful in securing a grant from the State Floodplain Management Program managed by the Department of Planning, Industries and Environment (DPIE) to undertake a flood study of the Waverley local government area (LGA). As part of this process, a Floodplain Management Committee was created to oversee the project.

The primary objective of the flood study is to identify flooding and flood liability on individual owners and occupiers of flood prone properties, and to prepare and assist Council in developing a Floodplain Management Plan. The resultant goal is to reduce private and public losses resulting from floods, utilising ecologically positive methods wherever possible.

The attached flood study is a technical document that outlines areas of flooding within the Waverley LGA. This study also identifies flood prone properties within the LGA.

**2. Introduction/Background**

The prime responsibility for planning and management of flood issues in NSW rests with local government. Council has committed to carrying out Flood Studies and preparing Floodplain Management Plans.

This project involved conducting a flood study, which required comprehensive technical investigations of flood behaviour that provided the main technical foundation for the development of a Floodplain Risk Management Plan. It involved consideration of the local flood history, available collected flood data, and the development of hydrologic and hydraulic models that are calibrated and verified, where possible, against historic flood events and extended, where appropriate, to determine the full range of flood behaviour.

### 3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Council 19 May 2020	CM/7.8/20.05	That Council: <ol style="list-style-type: none"> <li>Publicly exhibits the draft Waverley LGA Flood Study attached to this report for six weeks.</li> <li>Convenes a Waverley Council Floodplain Management Committee meeting to review the findings of the public consultation.</li> <li>Receives a further report for endorsement by Council of the final Waverley LGA Flood Study.</li> </ol>
Council 21 August 2018	CM/7.9/18.08	That Council: <ol style="list-style-type: none"> <li>Establishes the Waverley Council Floodplain Management Committee.</li> <li>Adopts the Constitution and Terms of Reference for the Committee attached to this report subject to amending the Constitution by the addition of two more community members chosen by way of expressions of interest so that residents can have input into the process.</li> <li>Appoints the Mayor, or their delegate, as Chair of the committee, and Crs Copeland and Betts as councillor members, and amends the constitution accordingly.</li> </ol>
Operations Committee 2 May 2017	OC/5.3/17.05	That Council: <ol style="list-style-type: none"> <li>Receives and notes the report.</li> <li>Accepts the Grant in the amount of \$225,333 from the office of Environment and Heritage to undertake a flood study of the Waverley Council LGA and that Council's contribution of \$112,667 be funded from the SAMP Stormwater Reserve.</li> <li>Proceeds with the seeking of quotes from consultants from the Local Government Procurement Panel 12083 and authorise the Director of Waverley Renewal to engage a suitably qualified consultant.</li> </ol>

### 4. Discussion

The draft Waverley LGA Flood Study was placed on public exhibition from 29 July 2020 to 9 September 2020. This exhibition period provided the community and other key stakeholders with an opportunity to review the draft study and provide feedback that would be considered in finalising the report.

The consultation was undertaken by reaching the community through Facebook, Instagram and letterbox drops of over 31,000 leaflets to both residents and businesses. The primary focus on the exhibition being through Council's 'Have Your Say' project webpage. The webpage provided a downloadable copy of the report, an online mapping tool, a project summary and a FAQ section. A questionnaire survey was also provided to collect feedback.

Additionally, a combined workshop/information session was held on 27 August 2020. This meeting was available to all community members to attend and included a presentation on the flood study and a Q&A session. A recorded version of the workshop was subsequently added to the 'Have your Say' webpage for the public to access.

Thirteen submissions were received from the community during the public exhibition period, including five online survey responses and six long-form email submissions. The majority of responses related to concerns, suggestions or general feedback regarding specific properties.

A public exhibition consultation summary report was prepared by Council after the public exhibition was completed. This report is enclosed in Appendix D within the Flood Study report and provides greater detail on the activities that formed part of the exhibition period, feedback received and the overall outcomes of the exhibition.

The submissions did not raise any concerns over the Flood Study report. Accordingly, no significant changes were required to the post-exhibited document as a result of the public exhibition.

## **5. Financial impact statement/Time frame/Consultation**

The final report has been completed and the acquittal report was submitted to the DPIE. The overall project cost totalled \$137,793 with a contribution from DPIE of \$91,862. The Flood Study is the second step in a five-step program in meeting Council's goals for strategic flood mitigation.

Council has submitted a grant application to the DPIE for the subsequent Management study and Plan stages. If successful, the project will progress in the 2021–22 financial year.

## **6. Conclusion**

The Waverley LGA Flood Study should be endorsed as the basis for the next stage of the process, that being the Waverley LGA Floodplain Risk Management Study and Plan. The Study and Plan will identify physical structures that will reduce the risk of flooding.

The Flood Study enables Council to appreciate the behaviour of flooding within the LGA. Having now identified potential flood risk, suitable planning controls should be applied to land identified as flood affected in the Waverley LGA Flood Study. In addition, this information will be used to inform planning reform through updates in the Local Environmental Plan and Development Control Plan.

## **7. Attachments**

1. Waverley LGA Flood Study (under separate cover) [⇒](#)

**REPORT**  
**PD/5.6/21.04**

**Subject:** Cycling Advisory Committee - Terms of Reference and Meeting Minutes - February and December 2020

**TRIM No:** A18/0188

**Author:** Carolyn New, Sustainable Transport Officer

**Director:** Tony Pavlovic, Director, Planning, Environment and Regulatory

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**RECOMMENDATION:**

That Council:

1. Adopts the Terms of Reference for the Cycling Advisory Committee attached to the report.
2. Receives and notes the minutes of the Cycling Advisory Committee meetings held on 12 February 2020 and 2 December 2020 attached to the report.
3. Notes that the minutes are available on Council's website.

**1. Executive Summary**

In July 2018, Council adopted Terms of Reference for the new Cycling Advisory Committee and appointed the members of this Committee.

The Terms of Reference state that 'Committee minutes are reported to Council or Council Committee for information. Minutes may include recommendations to Council for consideration.'

Attached to this report are the minutes of the Cycling Advisory Committee meeting held on 12 February 2020 and 2 December 2020. Also attached is an updated Terms of Reference for the Committee to support online meetings and more flexibility in meeting schedule.

**2. Introduction/Background**

Council resolved to establish a Cycling Advisory Committee in March 2018. Terms of Reference were drafted and membership proposed following an expression of interest process. In July 2018, Council endorsed the Terms of Reference for the Committee and appointed members.

As per the Terms of Reference, the Cycling Advisory Committee aims to:

1. Ensure better cycling outcomes are achieved for the Waverley community, as measured by:
  - Increased cycling participation throughout the local government area (LGA) and the eastern city district.
  - Increased cycling participation amongst women, children, seniors and minority groups.
2. Enhance consultation between Council and the bike-riding community to advise and assist Council to better:

- Plan for cycling networks, infrastructure and facilities.
- Build and maintain quality cycling infrastructure and facilities.
- Encourage cycling participation across the community including schools, businesses, families, individuals and visitors to the LGA.
- Co-ordinate efforts across different organisations including state and federal government agencies and representatives, the bicycle industry including share bike operators, neighbouring councils, and non-government organisations.

### 3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Council 19 May 2020	CM/8.1/20.5(2)	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Notes the recent announcement by Planning and Public Spaces Minister Rob Stokes for grants for Councils for immediate pilot projects for cycleways and pedestrian widening and longer-term projects.</li> <li>2. Notes the unanimous decision in November 2017 that Council investigates building a separated bicycle path from Bondi Beach (to our local government area boundary) to Rose Bay Wharf as part of Waverley's People, Movement and Places study – Signature Project 11 (Cycling Superhighways).</li> <li>3. Immediately applies for a grant for the Bondi Beach, Bondi (to Waverley's LGA boundary) to Rose Bay Wharf cycleway.</li> <li>4. Staff liaise with Woollahra Council to co-ordinate the development and implementation for the Old South Head Road to Rose Bay Wharf section of the cycleway.</li> <li>5. Investigates other projects, including opportunities (up to \$1 million) for longer-term projects such as extra crossing points and trialling lower speed limits, which have also been considered by Waverley Council.</li> </ol>
Council 19 May 2020	CM/8.2/20.5(2)	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Notes the recent announcement of the NSW State Government concerning COVID-19-related stimulus funding by Minister Stokes.</li> <li>2. Notes that officers are exploring options for stimulus funding for Council to advance Council's resolution of 21 November 2017 regarding the Bondi Beach to Rose Bay separated cycleway, and other 'shovel-ready' projects.</li> <li>3. Notes that officers are exploring any COVID-19 stimulus funding to assist Council's planned makeover of the Bondi Pavilion/Park/Beach Community Cultural</li> </ol>



		<p>Centre as state and national heritage items and as infrastructure impacted by international pedestrian and beach user attraction.</p> <p>4. Council's Long Term Financial Plan and Budgeting process feature relevant amendments if Council is successful in gaining funding.</p>
<p>Council 19 May 2020</p>	<p>CM/8.4/20.5(2)</p>	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Recognises that there are immediate and evolving changes in demand and movement patterns for various transport modes (car, share car, on-demand services, bus, bicycle and pedestrian) within, to and from Waverley as a result of COVID-19.</li> <li>2. Recognises the Federal and State Government's intention of easing COVID-19-related restrictions, enabling more people to work, shop and visit.</li> <li>3. Initially and urgently undertakes a preliminary assessment of what actions might be needed and could be undertaken to facilitate immediate and potential modal changes in transport demand in the short-term.</li> <li>4. Subsequently prepares a report for consideration of longer-term changes.</li> <li>5. Investigates options for short- and long-term changes including, but not limited to: <ol style="list-style-type: none"> <li>(a) Wider footpaths.</li> <li>(b) Extra pedestrian crossings.</li> <li>(c) Changes to traffic light signalisation.</li> <li>(d) Bike lanes.</li> <li>(e) Loading zones.</li> <li>(f) Drop off spaces.</li> </ol> </li> <li>6. Consults with relevant state government authorities including Transport for NSW and Sydney Buses.</li> <li>7. Approaches the relevant state government departments for immediate and longer-term grant funding.</li> </ol>
<p>Council 18 February 2020</p>	<p>CM/8.1/20.2</p>	<p>That the Mayor writes to the Minister for Planning and Public Spaces in support of Council's application to seek funding under Transport for NSW's Active Transport program</p>

		to construct the proposed \$3 million footpath and cycle path that runs on the southern side of Queens Park parallel to Darley Road that has been prepared by Waverley Council, Randwick City Council and Centennial Parklands, with design funding from Transport for NSW.
Strategic Planning and Development Committee 4 June 2019	PD/5.4/19.06	That Council: <ol style="list-style-type: none"> <li>1. Receives and notes the minutes of the Cycling Advisory Committee meetings held on 14 November 2018 and 13 February 2019 attached to this report.</li> <li>2. Notes that the minutes are available on Council's website.</li> </ol>

## 5. Discussion

The Cycling Advisory Committee Terms of Reference note that:

- Committee agendas and minutes are public documents and are published on Council's website.
- Committee minutes are reported to Council or Committee for information. Minutes may include recommendations to Council for consideration.

Minutes of the meeting held on 12 February 2020 and 2 December 2020 are attached to this report for Council's information. The minutes are available on Council's website.

The December 2020 meeting was held via Teams and an informal meeting via Teams was held in September 2020. The notes from the informal meeting are included as an attachment to the December 2020 minutes. The Transport for NSW (TfNSW) Electric Scooter Trial Recommendation Report is also included as an attachment to the informal meeting notes from September 2020.

The Terms of Reference (March 2021) have been updated in line with a request for more frequent meetings and to support ongoing online meetings in addition to meeting in person. The update under 'Meetings of the Committee' now states that *'the Committee is to meet on-line or in person at least four times a year, on a nominated weekday outside of standard working hours.'* The revised Terms of Reference are attached.

The February 2021 meeting was also held via Teams.

The following actions in the November 2019 minutes were addressed as follows:

- Item 3.5 regarding Queens Park Cycleway was addressed by Council resolution CM/8.5/19.12.
- Item 6, strategic review for revised bike plan regarding a trial of a separated bike path on Curlew Street, was superseded by the opportunities offered through COVID-19 stimulus opportunities. Related resolutions are CM/8.1/20.5(2), CM/8.2/20.5(2) and CM/8.4/20.5(2).

The following actions in the February 2020 minutes were addressed as follows:

- Item 3.3, regarding the Queens Park Cycleway, was also addressed by Council resolution CM/8.5/19.12. Active Transport Program funding for this cycleway was successful and this project is being managed by Centennial Parklands.

- Item 6, Bike Parking, has been superseded by the TfNSW offer for funding of a bike shed underneath Syd Einfield Drive through the Active Transport Program.

The minutes of the 24 February 2021 meeting will be available to Council following their adoption at the next WCAC meeting, scheduled for April 2021.

## **6. Financial impact statement/Timeframe/Consultation**

The operation and administration of the Cycling Advisory Committee, which requires the commitment of Councillor, volunteer and staff resources, are usually covered by Council's operational budget.

Delivery of specific projects that may require additional budget would require Council approval.

## **7. Conclusion**

Meetings of the Cycling Advisory Committee since the last report were held on 12 February 2020, 2 December 2020 and 24 February 2021. Minutes of the meetings held on 12 February 2020 and 2 December 2020 are attached to this report. The next meeting is scheduled for 14 April 2021. Updated Terms of Reference are also attached to this report.

## **8. Attachments**

1. Cycling Advisory Committee - Terms of Reference - March 2021 [↓](#)
2. Cycling Advisory Committee meeting - 12 February 2020 - Minutes [↓](#)
3. Cycling Advisory Committee meeting - 2 December 2020 - Minutes [↓](#)



## Waverley Cycling Advisory Committee Terms of Reference – March 2021





## Waverley Cycling Advisory Committee

### Terms of Reference

The Waverley Cycling Advisory Committee (Committee) aims to increase cycling participation throughout the local community by advising and assisting Waverley Council to better plan, build, maintain and coordinate its cycling infrastructure and community encouragement programs.

The Committee is advisory-only, with no delegation to make decisions on behalf of Council.

#### Objectives

The objectives of the Waverley Cycling Advisory Committee are to:

1. Ensure better cycling outcomes are achieved for the Waverley community, as measured by:
  - Increased **cycling participation** throughout the local government area (LGA) and the eastern city district
  - Increased cycling participation amongst women, children, seniors and minority groups.
2. Enhance consultation between Council and the bike-riding community to advise and assist Waverley Council to better:
  - **Plan** for cycling networks, infrastructure and facilities
  - **Build** and maintain quality cycling infrastructure and facilities
  - **Encourage** cycling participation across the community including schools, businesses, families, individuals and visitors to the LGA
  - **Coordinate** efforts across different organisations including state and federal government agencies and representatives, the bicycle industry including share bike operators, neighbouring councils, and non-government organisations.

#### Background

Council's transport plan, Waverley's People, Movement and Places, commits Council to a transport hierarchy that puts pedestrians first, followed by people on bicycles, public transport, service vehicles, shared mobility and then private motor vehicles. The transport plan includes a range of signature projects and actions related to cycling including a network of separated cycleways, secure bike parking facilities at Bondi Junction interchange, bike parking throughout the LGA, facilitating active travel to schools, and continuing to roll out the Waverley Bike Plan.



## Waverley Cycling Advisory Committee – Terms of Reference -March 2021



Public consultation on the transport plan revealed overwhelming community support for increased cycling infrastructure, in particular for separated cycleways which were ranked by the community as the highest priority transport project for Council.

In order to implement the cycling-related actions of Waverley's People, Movement and Places, Council resolved to establish a Cycleway and Bike Facilities Committee (20 March 2018, Notice of Motion CM/8.9/18.03).

Membership of the Committee is open to members of the public as observers.

### Terms of Reference

These Terms of Reference articulate how the Committee will advise and assist Council to better plan, build and maintain, encourage and coordinate, in order to increase cycling participation across the whole community as follows:.

1. **PLAN** for a comprehensive network of cycling infrastructure and facilities, including input on:
  - 1.1. Waverley Bike Plan (2013) and Cycling Strategy (forthcoming) as part of Waverley's People, Movement and Places
  - 1.2. Broader regional cycling network with neighbouring councils and relevant state and federal government agencies
  - 1.3. Cycleway and bicycle facility issues involving significant planning proposals and development applications being reviewed by Council
  - 1.4. Recommendations on appropriate bicycle-related projects in the draft budget processes for Council and relevant state government agencies
  - 1.5. Strategies to increase transport mode share of cycling
  - 1.6. Integrate with other modes of transport, such as bike parking at train stations, ride share and so on.
2. **BUILD AND MAINTAIN** quality cycling infrastructure, including input on:
  - 2.1. Council's monthly Traffic Committee meetings on cycling-related matters
  - 2.2. Cycling-related capital works projects by Council
  - 2.3. Maintenance of Council and other agencies' infrastructure that may impact on bicycle riders
  - 2.4. Feedback on Council's performance in delivering quality cycling infrastructure, and implementing the transport hierarchy.

## Waverley Cycling Advisory Committee – Terms of Reference -March 2021



3. **ENCOURAGE** cycling participation amongst the whole community, including through promoting and encouraging:
  - 3.1. Cycling and active travel to all of our primary and secondary schools
  - 3.2. The benefits of cycling for residents, businesses, visitors, tourists and the broader community
  - 3.3. Cycling for transport within and beyond our LGA
  - 3.4. Cycling for healthy lifestyles, recreation and fitness
  - 3.5. Increased awareness of cycling infrastructure, services and other support provided by Council
  - 3.6. Addressing the needs of the broader community to enable them to cycle, in particular children, teenagers, women, seniors and other minority groups.
4. **COORDINATE** efforts of various organisations:
  - 4.1. Champion the needs of the whole community
  - 4.2. Advocate to state and federal government agencies and representatives to ensure better planning and increased funding for cycling infrastructure and facilities
  - 4.3. Work cooperatively with other councils, government agencies, businesses, schools, cycling industry, and the community to coordinate their collective efforts and maximise outcomes
  - 4.4. Advance best practice operations of bike share to maximise benefits to the community.

## Waverley Cycling Advisory Committee – Terms of Reference -March 2021

**Membership**

The Committee has the following membership and structure, totalling 11 members:

Chairperson:

- a. Waverley Council Mayor or the Mayor's delegate

Committee Members:

- b. Three Waverley Councillors (including the Chairperson)
- c. Two representatives of the local bicycle user group BIKEast. Noting in the absence of named members, other BIKEast members can attend and vote.
- d. Five community members who may include (but not be limited to):
  - Representative of schools in the Waverley LGA
  - Representative for walking and/or disability access
  - Representative of the cycling industry such as local bicycle shops or an industry representative for bike share.

Administrative support:

- e. Waverley Staff Member.

The community member representatives are members of the public who have a connection to the Waverley LGA and wish to advance the cause of everyday cycling participation throughout our community.

Council will publicly advertise the community member positions and assess the applications for appointment. It is Councils' preference to have a broad representation of a diverse community and will aim for at least 50% representation of women, including those who identify as women, on the Committee. Applicants representing the indigenous community are also encouraged to apply.

The term for community and expert members will be a two-year, non-renewable term.

The Committee may choose to recommend amendments to this structure and membership with a majority vote.

**Principal Responsibilities of Committee Members**

- To contribute to achieving the objectives of the Committee
- To attend Committee meetings as required, either in person or teleconference
- To undertake tasks as determined at the Committee meeting, including contributing through electronic communication
- To undertake other duties that may reasonably be determined and agree by Committee members

## Waverley Cycling Advisory Committee – Terms of Reference -March 2021



- If a member is unable to attend a meeting, they may nominate a representative to attend on their behalf
- A Committee member who has been absent from more than three consecutive Committee meetings may be replaced at the discretion of the Committee.

**Meetings of the Committee**

- The Committee is to meet on line or in person at least four times a year, on a nominated weekday outside of standard working hours
- A quorum for a meeting will be a minimum of four representatives, and must include at least one Councillor member of the Committee.
- Decisions will be made by majority vote, being at least 50% of votes taken at a meeting
- Notice of Committee meetings and an invitation to contribute to agenda items will be provided electronically to members and all councillors at least 10 working days in advance of a meeting
- Meeting agendas and reports will be provided electronically to members and all councillors at least 5 working days in advance of a meeting
- Meetings will be open to the public as observers
- At the discretion of the Chairperson, members of the public or subject experts may be invited to speak or advise the Committee on issues being considered
- Meeting minutes will be documented by the attending Council Officer and provided electronically to Committee members within 10 working days.

**Committee Agenda and Minutes**

- Committee Agendas and Minutes are public documents and are published on Council's website.
- Committee Minutes are reported to Council or Council for information. Minutes may include recommendations to Council for consideration.

**Declaration of pecuniary interests and participation in meetings**

A Committee member who has a pecuniary interest in any matter with which the Committee is concerned, and who is present at a meeting of the Committee at which the matter is being considered, must disclose the interest to the meeting as soon as practicable.

The Committee member must not be present at or in sight of the meeting:

- At any time during which the matter is being considered or discussed by the committee, nor
- At any time during which the Committee is voting on any question in relation to the matter.

## Waverley Cycling Advisory Committee – Terms of Reference -March 2021



A person does not breach this clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

**Declarations of non-pecuniary conflicts of interests and participation in meetings**

A member of the Committee who has a non-pecuniary conflict of interest in any related matter, and who is present at a meeting of the Committee at which the matter is being considered, must disclose the interest to the meeting as soon as practicable.

If a non-pecuniary conflict of interest has been declared there are various options for managing that potential conflict. The option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest, and the significance of the issue being dealt with, including:

- If appropriate, no action is taken where the potential for conflict is minimal. However, the Councillor or Committee members should provide an explanation of how the conflict of interest will be mitigated or minimised, or
- Have no involvement by leaving the meeting and not taking part in a debate or vote on the issue.

**Media Protocol**

Members of the Committee are not to speak to the media as if they are representatives of the Committee. Only the Mayor or the Chairperson of the Committee is permitted to speak to the media or broadcast on social media on behalf of the Committee.

A Committee member may promote the efforts of Council on social media and other means, but is not to act as if they are speaking or acting on behalf of the Committee.



## Waverley Cycling Advisory Committee Minutes

**Date:** Wednesday 12 February 2020

**Time:** 6pm

**Venue:** Waverley Library, Theory Room

Attendance		
Councillors	Cr Leon Goltsman	Waverley Councillor (Chair)
	Cr George Copeland	Waverley Councillor
Council Staff	Clint Yabuka	Strategic Transport Manager
	Carolyn New	Sustainable Transport Officer
Committee Members	Anish Bhasin	BIKEast representative
	Tanya Bosch	BIKEast representative
	Neil Lessem	Community Representative
Visitor	Edna Udovich	BIKEast (alt rep)

Apologies		
Councillors	Cr Steven Lewis	Waverley Councillor and Committee Chair
	Cr Angela Burrill	Waverley Councillor
Committee Members	Bastien Wallace	Community Representative
	Kate Marshall	Community Representative
	Sue Scott	Community Representative

Item	Item	Action
1. Apologies, Previous minutes and matters arising.	The minutes from the November meeting were approved.	
	November minutes to be reported to Council and posted to web site.	CN
	Noted that next scheduled meeting date, 8 April, clashes with first evening of Jewish Passover. Impacts some committee members. Proposed reschedule to 1 April.	
	<b>Action 1.1: Confirm reschedule of date to 1 April by 24 Feb.</b>	All
	<b>Action 1.2: Rebook venue and advise Governance.</b>	CN

	<p>Noted that Nov. Minute Actions 6.1 regarding Motion to Council for a report as to the steps required for a trial has been superseded by the Cycling Strategic Review projects discussed in Agenda Item 5.</p> <p>Noted re. Nov Minute Action 6.3, map was circulated but no feedback received as yet.</p>	
2. Terms of Reference	<p>Discussion re proposed KPI:</p> <p><i>1. Increase of metres of separated cycleway</i>  <i>2. Increased cycling participation by Waverley Residents as measured bi-annually in the National Cycling Participation Survey</i>  <i>3. Improve existing infrastructure</i></p> <ul style="list-style-type: none"> <li>- <i>Timeliness of repairs/maintenance</i></li> <li>- <i>Minor upgrade (i.e. a dropped kerb, widened path, improved signage)</i></li> <li>- <i>Significant upgrade to routes or new routes</i></li> </ul> <p>Queries whether definite targets should be set and how are these defined, they would be more correctly Council targets not for WCAC. Possible more a status record which could inform future Council targets.</p> <p>Additional KPI proposed re Initiatives lobbied to Council – an advocacy KPI.</p> <p><b>Action 2.1: Consider proposed KPI and suggestions for further discussion at next meeting.</b></p> <p>Minor amendments to TOR regarding number of meetings and reporting to Council Committee.  Unanimously supported Motion to adopt these changes were proposed by Tanya and seconded by Anish.</p> <p><b>Action: 2.2 Revise Sections Meetings of the Committee and Committee Agenda and Minutes in accordance with Amended TOR document included with Agenda and include when reporting Minutes of this meeting to Council Committee.</b></p>	<p>ALL</p> <p>CN</p>
3. Cycling Projects Update		
3.1 Bondi Junction Cycleway	<p>\$3 million to construct eastern section of Spring Street approved by Minister / Transport for NSW and expected to commence construction in mid-March.</p> <p>No decision as yet from L&amp;E Court.</p>	
3.2 Henrietta Street	<p>Much positive feedback on Henrietta St works which are now completed. Not just for contra-flow usage but also when using the travel lane. Signage update, including better placement and improved signs at intersections still outstanding. TB requested better signage at Gibbs / Gibson intersections.</p> <p>Signage plan will need to be approved by Traffic Committee –possibly the March meeting.</p>	

3.3 Queens Park Cycleway	<p>Notice of Motion from Councillor Lewis is on the agenda for February Council Meeting.</p> <p><i>That the Mayor writes to the Minister for Planning and Public Spaces to seek funding to construct the proposed \$3 million footpath and cycle path that runs on the southern side of Queens Park parallel to Darley Road that has been prepared by Waverley Council, Randwick City Council and Centennial Parklands, with design funding from Transport for NSW.</i></p> <p>Construction funding to be applied for from Active Transport Program. Letter of support from BIKEast is welcome with the application.</p>	
3.4 Old South Head Road shared path	<p>Rebuilding of the existing shared path from Bon Accord Ave to the red light cameras near Bondi Road not yet undertaken as developer is refusing to pay for appropriate repair. Now scheduled to be rebuilt by end of this financial year.</p> <p>Discussion on pavement markings which were approved by Traffic Committee. Consistent with markings on section between Bon Accord and Victoria and neighbouring councils.</p> <p>Council budget has been allocated for the approved continuous footpath crossing concepts, detailed design and construction at Paul Street and Bon Accord Ave. Additional funding to complete construction to be applied for under Active Transport Funding.</p>	
3.5 Paul Street	Council budget has been allocated for the detailed design and partial construction. Additional funding to complete shared path and bike / pedestrian crossing lamps to be applied for under Active Transport Funding.	
4 Bike Route Maintenance	<p>Victoria Street (east) is to be renewed and repainted this financial year and we have reviewed the line marking to:</p> <ul style="list-style-type: none"> <li>- Widen the uphill bike lane and remove the downhill bike lane</li> <li>- Better address the right hand turn into the Prospect Street contra-flow bike lane for access to Henrietta Street</li> </ul> <p>Traffic and Transport has unallocated maintenance funding for this year which will be allocated for bike pavement marking refresh. So far priority is to refresh on road and on-path markings on Martins Avenue and other sections of Priority Route 1.</p> <p><b>Action 4: Advise of bike pavement markings for high priority refreshing.</b></p>	All
5.Cycling Strategic Review	Council has allocated funding to undertake review of options for routes identified on TfNSW draft PBN. The results of these reviews will inform a new bicycle plan.	

	Council funding has also been requested for this new bicycle plan	
5.1 Bronte Road / Carrington Road	Charing Cross Cycle Route Feasibility Study is already underway with the route selection methodology. This will include a full examination of all the possible routes for a separated cycleway from Bondi Junction to Randwick.	
5.2 Curlewis /Old South Head Road corridors	Funding has been approved for a project next financial year to design a separated cycleway between Bondi Junction and Bondi Beach, a component of this will be a Feasibility Study of potential routes.	
5.3 Waverley Street	Funding has been approval for a project next financial year to design a separated cycleway along Waverley St, a component of this work will be to undertake a Feasibility Study of potential routes between Waverley Park and the future cycleway on Oxford St.	
6 Bike Parking	<p>Seeking further bike parking around Interchange and CBD. No further parking in Oxford St Mall after 2 further rack. Looking at Grafton Street with Transport. Also seeking opportunities for bike shed under Syd Einfield Drive. No Council funding available but will initiate a request for Transport bike shed funding under Active Transport Program.</p> <p>Committee noted the need for more bike parking in Bondi Junction CBD in particular around the interchange.</p> <p><b>Action 6.1 Prepare a Notice of Motion (tri-partisan) to investigate additional bike parking in Bondi Junction.</b></p>	
7 Traffic Committee and WCAC Coordination request from NL	<p>NL raised the discrepancy between the priorities of Council's Transport Strategy and items reported to Traffic Committee. The Committee indicated a preference to meet the new Service Manager, Traffic and Transport and suggested inviting him to the next Committee meeting.</p> <p><b>Action 7.1 Invite Service Manager, Traffic and Transport to next Committee meeting.</b></p>	CN
8. Bay to Bondi ride festival proposal from NL	NL raised the idea for a Bay to Bondi ride festival between Bondi Beach and Rose Bay. The committee indicated their support for further investigation between the various members and BIKEast.	
NEXT MEETING	Wednesday 1 April 2020 (to be confirmed)	
FUTURE MEETINGS	Wednesday 10 June 2020	
Waverley Cycling Advisory Committee: <a href="http://www.waverley.nsw.gov.au/council/committees/waverley_cycling_advisory_committee">www.waverley.nsw.gov.au/council/committees/waverley_cycling_advisory_committee</a>		
Sustainable Transport: <a href="http://waverley.nsw.gov.au/transport">waverley.nsw.gov.au/transport</a>		

Council Agendas and Minutes (includes Traffic Committee):  
[waverley.infocouncil.biz/](http://waverley.infocouncil.biz/)



## Waverley Cycling Advisory Committee Minutes

**Date:** Wednesday 2 December 2020

**Time:** 6pm

**Venue:** Teams Meeting

Attendance		
Councillors	Cr Steven Lewis	Waverley Councillor and Committee Chair (left 7pm)
	Cr George Copeland	Waverley Councillor
	Cr Dominic Wy Kanak	Waverley Councillor
Council Staff	Clint Yabuka	Strategic Transport Manager
	Carolyn New	Sustainable Transport Officer
Committee Members	Bastien Wallace	Community Representative
	Sue Scott	Community Representative
	Neil Lessem	Community Representative
	Anish Bhasin	BIKEast representative
	Tanya Bosch	BIKEast representative

Apologies		
Councillors	Cr Leon Goltsman	Waverley Councillor
Committee Members	Kate Marshall	Community Representative
	Edna Udovich	Community Representative (approved Dec meeting)

Item	Item	Action
1. Apologies, changes to membership	<p>The minutes from the February meeting were approved.</p> <p>The notes from the September informal meeting were agreed.</p> <p>February minutes to be reported to Council and posted to website.</p> <p>Notes from September informal meeting to be included as attached to the minutes from December meeting.</p> <p>CN advised that Wil Meaden had resigned from the committee. Edna Udovich who is active with BIKEast</p>	<p>CN</p> <p>CN</p>

	<p>and has attended a number of WCAC meeting has expressed interest in joining the committee and had submitted a late application initially.</p> <p>Committee confirmed her appointment to the committee.</p>	
2. Matters Arising	<p>Followup discussion re proposed KPI:</p> <p>CY/CN proposed to committee there be two targets for the KPI:</p> <ol style="list-style-type: none"> <li>1. An increase in cycling participation by Waverley Resident measures by bi-annual National Cycling Participation Survey.</li> <li>2. Improvement in bike infrastructure.</li> </ol> <p>Discussion on best way to measure these improvements and the need for Council to undertake an audit to establish baseline measures as the assets system does not currently identify assets like bike lanes or shared paths as individual assets.</p> <p>Suggestion to only include separated infrastructure such as shared paths, bi-directional separated cycleways and contra-flow separated bike lanes in the measures.</p> <p>Suggestion also to investigate WeRide's Bicycle Transport Analysis re potential to assist.</p> <p>Action: Further investigation to report back to next meeting</p>	CN/CY
3. Proposed 2021 Meetings	<p>Propose to meet on 2<sup>nd</sup> Wednesday of every other month commencing with Feb 2021. Meeting to commence at 6pm as normal and via Teams until a return to face to face meetings can be confirmed. Dates:</p> <p>Wed 10 Feb, 14 Apr, 9 Jun, 11 Aug, 13 Oct, 8 Dec</p>	
4. Existing Projects Update		
4.1 Bondi Junction Cycleway	<p>Request from STA Bus Operator to request bike riders don't filter between concrete barriers and buses in traffic due to concerns for rider safety.</p>	All
4.2 Henrietta Street contra-flow	<p>Community Consultation on Trial to commence in February 2021.</p>	
4.3 Curlewis St pop-up	<p>CY advised that the Curlewis St / O'Sullivan St pop-up has been cancelled by TfNSW due to issues raised by AECOM contractors who have undertaken the project management and design of this pop-up cycleway. Re Curlewis St, these are primarily issues with the slip lane from Old South Head Road into Blair Street and past Simpson Street. This has not yet been publicly announced.</p> <p>Staff are investigating if it is possible for Council to deliver the cycleway with TfNSW funding as part of the road renewal between Wellington Street and Gould</p>	

	Street to be undertaken toward the end of the current financial year.	
4.4 Bike Route Maintenance	<p>Early 2020 CN/CY undertook specification of pavement markings and signage of a package of bicycle route streets. Primarily to reinstate all markings, some of which had completely faded and only discovered through an investigation into historical Google. Minor improvements to markings also included where deemed necessary.</p> <p>This project includes the following streets:</p> <ul style="list-style-type: none"> <li>• Bon Accord Ave</li> <li>• Bronte Rd Gipps St</li> <li>• Cox Ave and Hall St</li> <li>• Flood St, Watkins St and Anglesea St</li> <li>• Francis St, Barracluff Ave and Rickard Rd</li> <li>• Lamrock Ave</li> <li>• Macpherson St</li> <li>• Martins Ave</li> <li>• Prospect Ave</li> <li>• Queens Park Rd</li> <li>• Waiora Ave</li> <li>• Waverley St</li> </ul> <p>Traffic and Transport have funding to undertake general works and have included this maintenance.</p> <p>Committee members welcome to advise of any further streets that should be prioritised for the next maintenance stage.</p>	
5. Active Transport Grants	<p>TfNSW has offered grants to Waverley Council under the Active Transport Grants program:</p> <ul style="list-style-type: none"> <li>- Construction of the Darley Street Cycleway in Queens Park between is between York Road and Carrington St to be undertaken by Centennial Parklands</li> <li>- Construction of Old South Head Road continuous footpaths (walking program) at intersection of Paul Street and Bon Accord Ave</li> <li>- Construction of Paul Street signalised crossing which involves construction of shared path connecting Paul Street north and south to the signalised crossing, kerb ramps and pedestrian/bike lantern covers</li> <li>- Construction of shared path on Arden Street west side for riding to school – this is pending the existing school safety project works.</li> <li>- Construction of a bike shed on TfNSW land under Syd Einfield Drive. Investigation of construction costs and potential arrangements for future user access underway to determine feasibility.</li> </ul>	
6. Bike parking in Bondi Junction	<ul style="list-style-type: none"> <li>• Bike hub on Bronte Road has been irrevocably damaged. Appears to have been driven into and</li> </ul>	

	<p>then hacksaw taken to it. Has been reported to police and investigating possible CCTV coverage. Waiting on Assets Manager for detail on replacement.</p> <p>Committee has suggested signage at the sign in memory of this well loved facility for bike parking.</p> <p>New site will be needed when works on the cycleway in Bronte Rd commence (bus stop will move to this location).</p> <p><b>Action: Feedback requested on potential locations.</b></p> <ul style="list-style-type: none"> <li>• New smart poles in Bondi Junction, including along with the Spring St Cycleway include an attachment for bike parking.</li> </ul> <p><b>Action: Feedback requested on this bike parking facility and access.</b></p> <ul style="list-style-type: none"> <li>• The need for further bike parking in Bondi Junction, including more secure compounds as part of the Shopping Centre Car Parks (Westfields and Eastgates) suggested by the Committee.</li> </ul>	<p>All</p> <p>All</p>
7. Cycling Strategy / Revised Bike Plan	<p>Proposing to develop a Cycling Strategy and Action Plan in three stages:</p> <ul style="list-style-type: none"> <li>• <b>Initial Engagement</b> including survey of community to establish priorities in strategy regarding safety, rider types, infrastructure treatments, PBN routes, local destinations, etc</li> <li>• <b>Draft Cycling Strategy</b> – Proposal for comment</li> <li>• <b>Cycling Strategy and Action Plan</b> – Revised strategy informed by feedback and further development of actions for comment.</li> </ul> <p><b>Action: Proposal for Initial Engagement to Feb meeting</b></p>	CY/CN
NEXT MEETING	Wednesday 10 February, 2021	
FUTURE MEETINGS	Wednesdays 14 Apr, 9 Jun, 11 Aug. 13 Oct, 8 Dec	
Waverley Cycling Advisory Committee: <a href="http://www.waverley.nsw.gov.au/council/committees/waverley_cycling_advisory_committee">www.waverley.nsw.gov.au/council/committees/waverley_cycling_advisory_committee</a>		
Sustainable Transport: <a href="http://waverley.nsw.gov.au/transport">waverley.nsw.gov.au/transport</a>		
Council Agendas and Minutes (includes Traffic Committee): <a href="http://waverley.infocouncil.biz/">waverley.infocouncil.biz/</a>		

Attachment: Notes from Informal Meeting 2 September 2020

## Waverley Cycling Advisory Committee

### Notes from Informal Meeting

**Date:** Wednesday 2 September 2020

**Time:** 6pm

**Venue:** Teams Meeting

Attendance		
Councillors	Cr Leon Goltsman	Waverley Councillor (Chair)
	Cr Steven Lewis	Waverley Councillor
Council Staff	Clint Yabuka	Strategic Transport Manager
	Carolyn New	Sustainable Transport Officer
	Leo Huertas-Prieto	Project Manager Strategic Transport
Committee Members	Anish Bhasin	BIKEast representative
	Tanya Bosch	BIKEast representative
	Neil Lessem	Community Representative
	Bastien Wallace	Community Representative
	Kate Marshall	Community Representative
	Sue Scott	Community Representative

Item	Item	Action
1. Apologies, Previous minutes and matters arising.	This informal meeting was held on-line to discuss current actions and get committee feedback on pending issues. Previous minutes and matters arising were not discussed.	
2. Curlewis Street Popup Cycleway Update	<p>The pop-up cycleway along Curlewis Street is to be delivered in partnership with TfNSW.</p> <p>The 'Bay to Beach Cycleway' along Curlewis Street and O'Sullivan Street in Woollahra was announced on August 26 by the Member for Woollahra, Gabrielle Upton.</p> <p>The concept design for Curlewis Street was recommended for approval at the August Waverley Traffic Committee meeting and approved at the Council meeting on 15 September.</p> <p>TfNSW has notified surrounding residents on the 5<sup>th</sup> September, subsequent to this meeting.</p>	



	<p>TfNSW will have responsibility for detailed design of the pop-up with input from Council and will deliver the cycleway.</p> <p>Discussion on connections to Birriga Road.</p> <p>Appreciation from the committee on this pending cycleway and thanks also noted from the Surf Club as it will provide a safe route for their volunteers to reach the beach.</p> <p>Action: On-going with TfNSW and status updates to WCAC.</p>	CN/CY
3. Spring Street Cycleway Status Update	<p>Stage 3, Spring St from Newlands to Bronte, is scheduled for completion end Oct. 2020. Intention is to then proceed to Stage 5 along Oxford Street between Denison and St James. A soft opening may be possible once these stages are complete.</p> <p>Stage 4 along Bronte Road scheduled to commence by end February.</p> <p>Stages 2 is complete except for work outstanding from Ausgrid. It is currently blocked off to stop cars parking.</p> <p>Stage 7 – outside Bus Depot – is dependent on resolution of DA requirements for the Bus Depot.</p> <p>Action: On-going status updates to WCAC.</p>	CN/CY
4. Dockless electric share bikes	<p>The Lime share electric bikes withdrew at the start of the pandemic but they now have announced they are returning by October with new bikes under a new branding and COVID regulations. Another electric share bike operator, Beam, has also announced plans to start up in Waverley in October.</p> <p>These operators are subject to an enforceable code of conduct provided by TfNSW. Council is 'requiring' deployment in virtual 'Bike Hubs' and negotiating 'geofences' to end rides in Bike Hubs.</p> <p>Action: Continue discussions with potential bike share operators and status update to WCAC.</p>	LHP/CN/CY
5. Docked electric sharebikes	<p>A docked electric share bike operators has expressed interest in trial for 30 docked bikes in Bondi Junction, Bondi Beach and Bronte Beach. These would require physical infrastructure (at cost to operator) and an electricity connection.</p> <p>Action: Investigate potential sites and continue discussions with operators and status update to WCAC.</p>	LHP/CN/CY
6. Sharebike Hubs	<p>Council staff proposing to trial 'hubs' for the orderly deployment and parking of sharebikes in high use (non-residential) areas in Bondi Beach and Bondi Junction.</p>	

	<p>Will be designated by a 'Waverley Orange' coloured rectangle on footpath with a bike logo and parking 'P'.</p> <p>Negotiating with operators to require trips to end in these locations with potential to 'geofence' out other end of trip locations.</p> <p>Action: Finalise proposed bike share hubs, negotiate usage with bike share operators and report back to WCAC.</p>	LHP/CN/CY
7. Requests for a 'shared micro mobility' trial	<p>Committee was advised that TfNSW has worked with the Electric Scooter Advisory (ESA) Working group who finalised an 'Electric Scooter Trial Recommendations Report' (attached).</p> <p>Consequently TfNSW does not support a trial at this stage although it does acknowledge that a controlled trial in NSW would support their understanding of the impact of 'micro-mobility' technologies on the NSW network.</p> <p>Consideration of any future trial in NSW would require identification of suitable trial location based on the recommended criteria and supported by relevant local Council area. Any future trial would also need to demonstrate the technological capabilities to meet geo-fencing and speed limiting requirements. TfNSW would need to formally consider any proposal, ensuring all recommendation of the ESA Working Group report were met, in advance of considering any future trial partnerships between Operators and Councils.</p> <p>Council continues to receive requests to participate in scooter trials, including under the EAS Working Group recommendations. Both Lime/Jump and Beam bike share operators also deploy electric scooters in jurisdictions outside NSW.</p> <p>Action: Continue to investigate the potential for scooter trials under the ESA Working Group Recommendation, any suitable locations in Waverley and report back to WCAC.</p>	LHP/CY
8. Resident bike parking	<p>Increasing number of requests to provide residential bike parking in the public arena. These are typically from residents of older walk-up apartment where there has been no bike parking provided and more recently Strata Managers are enforcing their rules such as no bike under the stairs or removing from 'common property'</p> <p>Considering a number of options including:</p> <ul style="list-style-type: none"> <li>• Rails on verge or kerb buildouts,</li> <li>• Shelters,</li> <li>• Hangers (pods),</li> <li>• Trailer.</li> </ul>	

	Action: Continue options investigation and report back at future meeting.	CN/CY
NEXT MEETING	Wednesday 4 November (to be confirmed)	
FUTURE MEETINGS		
Waverley Cycling Advisory Committee: <a href="http://www.waverley.nsw.gov.au/council/committees/waverley_cycling_advisory_committee">www.waverley.nsw.gov.au/council/committees/waverley_cycling_advisory_committee</a>		
Sustainable Transport: <a href="http://waverley.nsw.gov.au/transport">waverley.nsw.gov.au/transport</a>		
Council Agendas and Minutes (includes Traffic Committee): <a href="http://waverley.infocouncil.biz/">waverley.infocouncil.biz/</a>		

**Attachment: TfNSW Electric Scooter Trial Recommendation Report**

Transport for NSW

# ESA Working Group – Electric Scooter Trial Recommendations Report

*March 2020*

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## Introduction

The NSW Government supports transforming personal mobility and boosting active transport. By 2056, two thirds of people in NSW will be living within 2km of an urban centre and devices such as electric scooters and other similar technologies have the potential to move people out of single occupant cars for first mile and last mile trips, freeing up capacity on the roads for people who need to travel further. The appeal of these devices is that they are faster and require less physical effort than walking or cycling and people can use them for longer trips and over more difficult terrain, even with a lower fitness level.

Thanks to the advancements and cost reductions in GPS and battery technologies, electric scooters have become increasingly affordable, catalysing the rapid global expansion of both commercial and individually owned electric scooters particularly with the introduction of rental services in the US in late 2017. Since early 2018, Transport for NSW (TfNSW) has been approached by several operators of shared electric scooter services, local councils and individuals to allow a trial of electric scooters in NSW.

Safely realising the potential benefit of electric scooters and other similar technologies requires a holistic approach that considers infrastructure, the road environment and people's behaviour while balancing the mobility needs of the community. TfNSW has established the Electric Scooter Advisory (ESA) Working Group, consisting of key community stakeholders, to consider these issues and provide guidance and recommendations relating to the consideration of electric scooter trials in NSW.

The purpose of this report is to provide an overview of the advice put forth by the ESA Working Group to Transport for NSW in consideration of an electric scooter trial in NSW.

## Existing regulatory framework

Under *Motor Vehicle Standards Act 1989*, all motor vehicles imported or sold in the Australian market must meet minimum standards for safety as defined by the Australian Design Rules (ADRs), except in circumstances where an exemption has been granted by the Department of Infrastructure, Transport, Cities and Regional Development (DITCRD).

Electric scooters can be sold and imported in Australia under the Federal *Motor Vehicle Standards (Road Vehicles) Determination 2017*, which outlines classes of vehicles that are deemed not to be road motor vehicles for the purpose of the *Road Vehicle Standards Act 1989*. These are often referred to as 'non-road' vehicles. However, there are currently no safety standards that apply to electric scooters for use on the road and their use is subject to state or territory legislation.

In NSW, any vehicle with a motor is classed as a motor vehicle under the *Road Transport Act 2013* and must be registered for it to be used on NSW roads unless it is specifically exempt from registration. Motor vehicle drivers must also be appropriately licenced unless they are exempt. Motor vehicles which have been exempt from registration requirements include motorised wheelchairs, drive-on lawn mowers, golf carts, and power assisted pedal cycles within defined performance limitations. Such motor vehicles can be lawfully used subject to specific conditions, for example a motorised lawn mower can travel on a public road as long as the vehicle weighs no more than 250kg and is used solely for cutting grass.

The main purpose of vehicle registration is to ensure that a vehicle meets minimum safety standards and allow for the identification of a vehicle and its registered operator, who has a responsibility to ensure the vehicle is safe and compliant with these standards when used on NSW roads. Registered operators are also liable for certain offences such as parking offences and camera-detected offences. Under NSW road transport law it is a requirement for the registered operator to ensure a motor vehicle continues to comply with roadworthiness requirements through its lifecycle as well as having a compulsory third party insurance policy.

In NSW, electric scooters are motor vehicles but cannot be registered as there are no applicable safety standards, in this case the Australian Design Rules (ADRs) for them. They also have not been exempt from registration requirements and are therefore prohibited from being used on NSW roads and road related areas like footpaths and shared paths.

Additionally, under the NSW Road Rules 2014, electric scooters would be considered a motor bike, which is defined as a motor vehicle with two wheels. Unless exempted, electric scooter riders would be subject to specific licensing requirements and road rules applying to motor bike riders if they were allowed to be used on NSW roads.

Consequently, any trial or use of such devices on road or road related areas in NSW would require exemptions from existing licensing and registration requirements, certain road rules; and have appropriate insurance as CTP insurance is currently not available.

### Electric Scooter Advisory Working Group

The Electric Scooter Advisory Working Group (ESA) was established in February 2019 to provide TfNSW guidance and recommendations around policy, regulatory and other relevant issues that may impact on road safety relating to proposals for electric scooter trials.

Membership of the Working Group consisted of key stakeholders including road safety experts, regulators, enforcement, responders, compensation providers and community advocacy groups, namely;

- Transport for NSW
- NSW Police
- NSW Ambulance
- State Insurance Regulatory Authority
- Pedestrian Council of Australia
- Guide Dogs NSW
- NRMA
- Youthsafe
- Bicycle NSW
- Office of Local Government
- Council of the Ageing NSW

Throughout the process of developing recommendations, the ESA Working Group also engaged with local government and industry representatives in addition to conducting desktop studies on the learnings arising from trials in other jurisdictions, including:

- Inner West Council
- Waverley Council
- Randwick Council
- Northern Beaches Council
- City of Parramatta Council
- Bayside Council
- City of Sydney Council
- Canterbury-Bankstown Council
- Liverpool City Council
- Lime
- Bird
- Beam
- Bolt
- Ride App
- Bicycles Online
- Frog
- Uber/Jump
- Neuron Mobility
- Dav City
- Go Flamingo
- Localift

The Working Group's process to develop recommendations can be summarised by Figure 1.



Figure 1. ESA Working Group recommendations development process

## Context and Desktop Studies

At the time of finalising the Working Group's recommendations in December 2019, desktop studies from trials in other jurisdictions had been inconclusive on whether electric scooters effectively address the transport outcome of reducing last mile commute in cars.

Additionally, throughout the recommendation development process, the Working Group observed an increasing number of reports on the adverse impacts of electric scooters in other jurisdictions<sup>1</sup> particularly around electric scooter safety and parking management. Cities, such as Paris<sup>2</sup> and Singapore<sup>3</sup>, who had initially allowed the roll out of e-scooters relatively freely, were responding by introducing tighter restrictions to the operating domain of electric scooters, suggesting that safety concerns had not been sufficiently addressed through the technological advancements of the scooters.

In consideration of a trial of electric scooters in NSW, the ESA Working Group explored the following issues in depth, consulting with local councils and industry experts as it became necessary:

- Operating domain
- Device performance requirements
- Safety of operators and other road users — for both scooters in use and parked
- Compliance and enforcement
- Insurance implications
- Data collection requirements
- Communication requirements

## ESA Working Group Outcomes

Electric scooters and other similar technologies may have the potential to transform personal mobility, facilitating first and last mile journeys and freeing up capacity from our congested roads. Rapid innovations in technology will make it difficult to manage and enforce how each and every type of mobility device is used. If they are permitted, space will inevitably need to be shared and it will be TfNSW's responsibility to define the appropriate ways to do so effectively.

Currently in NSW, there is also limited legislation to control businesses deploying shared devices on public land or roads. A separate consultation process and significant legislative change would be required to achieve any higher level of control over the use of public land for deploying shared assets like shared electric scooter services. Other jurisdictions for example a permit system; requiring the implementation of a complex and costly enforcement regime where local governments, other government land managers and road authorities would all have a role to play.

<sup>1</sup> Hawkins, A.J. (2019). *Electric scooter use results in 20 injuries per 100,000 trips, CDC finds*. [online] The Verge. Available at: <https://www.theverge.com/2019/5/2/18526813/scooter-electric-injury-austin-cdc-study-head-helmet> [Accessed 2 Mar. 2020].

<sup>2</sup> Crellin, F. (2019). Paris clamps down on electric scooters as law of the jungle rules. Reuters. [online] 24 Jun. Available at: <https://www.reuters.com/article/us-france-paris-scooters/paris-clamps-down-on-electric-scooters-as-law-of-the-jungle-rules-idUSKCN1TP1ZV> [Accessed 2 Mar. 2020].

<sup>3</sup> Westcott, B. (2019). *Singapore joins France in banning e-scooters on sidewalks*. [online] CNN. Available at: <https://edition.cnn.com/travel/article/singapore-e-scooter-ban-intl-hnk/index.html> [Accessed 3 Feb. 2020]



As it stands, local governments would largely be unable to regulate the deployment of shared electric scooters beyond a trial aside from the ability to impound devices under the *Impounding Act 1993*; however this Act is currently under comprehensive review through to mid-2020. TfNSW is also only currently able to regulate their deployment through a Ministerial exemption order and any future regulatory changes would need to consider the future regulatory environment that these services should operate under.

Early observation from pilots in other jurisdictions has suggested that riders of electric scooters prefer to utilise cycling infrastructure when available, however, in absence of the infrastructure will choose to ride on footpaths<sup>4</sup>. Additionally, National Cycling Participation Survey 2019 has identified a series of government actions to encourage bicycle riding, such as more cycling lanes, better connections between cycling paths and bicycle parking. It is expected that similar infrastructure support is likely to be required for the uptake of electric scooters and other similar devices in NSW.

Operators of shared electric scooters have shown hesitation towards self-enforcement of trial conditions, particularly with regards to rider behaviour, due to the competitive nature of the industry, while also citing limitations in technological capabilities. As such, the enforcement of trial conditions would lean heavily on local police and their resources.

For any electric scooter trial, 'off the shelf' insurance products would likely need to be amended to ensure there is no coverage or benefits gap between an operators' insurance policies and that compensation which would be available to a person if injured or killed by a registered vehicle (that is, via the NSW CTP scheme). Given the highly specialised nature of such a product, oversight from the State Insurance Regulatory Authority (SIRA) would likely be required. Standardisation of appropriate insurance products could be considered beyond a trial.

The trial recommendations have been developed by the ESA Working Group in absence of Australian Design Rules for electric scooters. However, the group has highlighted that prior to any trial there must be further investigation in establishing evidence based vehicle specification baselines to ensure sufficient capabilities in areas such as visibility, speedometer accuracy, braking and manoeuvrability within the prescribed trial operating domain.

In addition to developing recommendations for both Operating and Trial Location requirements, the ESA Working Group has also defined what success would look like for an electric scooter trial.

The Working Group also conducted analysis on a trial involving privately owned electric scooters. The outcome of this analysis is detailed in the section "Private e-scooter use" below.

### Recommendations for Electric Scooter Trial Conditions

In the absence of Australian Design Rules and safety standards that apply to electric scooters, the ESA Working Group has provided the recommendations specifically for an electric scooter trial in NSW based on the constraints of exempting existing legislation and the following assumptions:

- That the trial would be limited to electric scooter shared services (not privately owned scooters)

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<sup>4</sup> Portland Bureau of Transportation. (2018). *2018 E-scooter Findings Report*, [online] Available at: <https://www.portlandoregon.gov/transportation/article/709719> [Accessed 3 Feb. 2020]

- That the performance capacity of the electric scooters would be greater than 10km/h
- That any trial would be independently evaluated

These recommendations should be treated only as guidance for a trial; being used to inform any future change to policy. There also remains significant investigation required around vehicle design and performance including size, weight, manoeuvrability, speed and power capabilities, and the resultant kinetic energy and safety risk.

The Operating Requirements and Trial Location Criteria below have been extracted from the Recommendations for Trial Conditions detailed in Appendix 1.

### Operating requirements

Parameter	Trial Requirement
Trial duration	6 months with consideration for an additional 6 months
Licensing	Users must have a drivers' licence valid in NSW (minimum Provisional); age restriction in line with licensing (min. 17)
Identification	Each scooter must have a clearly visible unique identifier
Passengers	Passengers are not permitted
Helmet use	Riders must wear an approved bicycle helmet
Maximum power output	300 watts
Maximum speed	Capable of up to a maximum of 20km/h on roads or bike lanes/paths and only allowed to travel at a maximum of 10km/h on shared paths
Use on roads	<ul style="list-style-type: none"> <li>• Must not be used on roads with: <ul style="list-style-type: none"> <li>- Speed limit greater than 50km/h</li> <li>- Multiple lanes in direction of travel</li> </ul> </li> <li>• Must be ridden as near as practicable to the left hand side of the road</li> </ul>
Use on footpath	<ul style="list-style-type: none"> <li>• Not permitted</li> </ul>
Use in bike lanes/bike paths	<ul style="list-style-type: none"> <li>• Permitted (preferred over shared paths)</li> </ul>
Use on shared paths and zones	<ul style="list-style-type: none"> <li>• Permitted</li> <li>• Max. speed of 10km/h</li> <li>• Must give way to pedestrians</li> <li>• Keep left</li> </ul>
Parking	Scooters are to be parked in 'bays' as defined by Council
Operator density	Min. 2 competitive Operators in each trial area
Geofencing system	Trial boundaries, no-go zones, slow speed zones
Use at night	<ul style="list-style-type: none"> <li>• Scooter use will be prohibited at night (between sunset and sunrise)</li> </ul>



<b>Insurance</b>	Operators are responsible for AUD\$20m public liability insurance, insurance for personal injury and third party injury that is equivalent to the policy and benefit structure as compared to CTP insurance, and third party property insurance.
<b>Enforcement</b>	<ul style="list-style-type: none"> <li>Non-compliant riders will be subject to penalty infringement notices for breaching applicable road transport law exemptions; penalties to reflect light vehicle penalties where feasible.</li> <li>Operators must legally own scooters and have business registered in NSW for Police to request personally identifiable data</li> </ul>
<b>Data</b>	Operators must provide de-identified trial data, dashboards and operating reports as requested by TfNSW; MaaS data specifications

### Trial Location criteria

Parameter	Trial Location Criteria
<b>Parking bays</b>	Must be able to support sufficient scooter parking bays without overwhelming existing infrastructure
<b>Shared paths</b>	Must meet NSW Road Rules 2014 signage requirements and Austroads design requirements verified by the local council
<b>Roads</b>	<ul style="list-style-type: none"> <li>Must not have gaps in the network that forces riders to break trial requirements</li> <li>Free from light-rail tracks</li> <li>Upgraded stormwater grates</li> </ul>
<b>Bike lanes/bike paths</b>	Ideal environment to operate; location should have a complete network with minimal use on shared paths and roads
<b>Geography</b>	<ul style="list-style-type: none"> <li>Steep hills can be geo-fenced to prevent usage</li> <li>Councils can direct Operators to remove scooters from known high risk areas outside of operating hours e.g. near waterfronts</li> </ul>
<b>Parking Monitoring</b>	<ul style="list-style-type: none"> <li>Operators will have on-ground teams to respond to complaints and scooter 're-balancing' but Councils would be required to conduct adhoc monitoring of parking and issue appropriate notices</li> <li>Councils will have powers to impound scooters that are not removed within the agreed timeframes</li> </ul>
<b>Community consultation</b>	<ul style="list-style-type: none"> <li>Required to be part of a communications plan and conducted prior to a trial</li> </ul>
<b>Transport outcomes</b>	<ul style="list-style-type: none"> <li>Within ~2.5km of a transit hub or destinations (home/work/universities)</li> </ul>

### Measures of Success

<u>Category</u>	<u>Measure of Success</u>
Safety (rider)	Scooters have at least a comparable if not better level of safety with other active transport modes
Safety (pedestrians and other road users)	Scooters are not adversely affecting peoples feeling of safety and willingness to walk
Suitability of operating domain	Electric scooters are able to operate safely within the trial operating domain
Replacement of car trips	Scooters are replacing trips undertaken in cars

Customer satisfaction	Customers are satisfied with scooter service
Community satisfaction	There is a high level of acceptance for scooters and enjoyment of public spaces is not adversely impacted
Enforcement and Penalties	Enforcement and penalties can effectively deter unsafe behaviour
Enforcement and Penalties	Users are complying with trial conditions
Operator behaviour	Operators are complying with trial conditions
Insurance functionality	Personal injury insurance should possess an equivalent policy and benefit structure as compared to CTP insurance
Environment	Environment and amenity are not adversely impacted

### Private e-Scooter use

The ESA Working Group has conducted an analysis on a trial involving privately owned electric scooters in Figure 2.

It is in the Working Group's view that the potential benefits of conducting a privately owned electric scooter trial is greatly outweighed by the increased amount of challenges. As such, it has not been recommended that an initial trial include privately owned electric scooters at this time.

PROs	CONs
Potentially less risky rider behaviour; e.g. doubling up, greater helmet use	Greater administration efforts required to acquire any data and build the case for electric scooters
No vandalism	Difficulty in imposing registration and insurance
Fewer parking issues	Cannot geofence trial boundaries or prevent riding beyond trial zones
Rides are focussed on transport rather than joyrides	Difficult to implement riding curfews
	Lack of connectivity for users on dedicated cycling infrastructure
	Compliance relies solely on police and council
	Greater complexity in regulatory exemption
	Enforcement of vehicle standards difficult – particularly with maximum power and speed requirements
	Registration/number plate requirements would increase complexity in the current legislative environment

PROs	CONs
	Crash data entirely dependent on witness or rider reporting
	May unintentionally permit other types of privately owned motorised devices
	Higher chance of vehicle modification
	At risk of overwhelming litigation system if vehicles are not registered
	Cannot rely on technology to apply speed limits

Figure 2. Privately owned electric scooter trial analysis

## Appendix 1

### R1 - Age

Exemption order will only apply to riders 17+ for the first phase of trial

### R2 - Passengers

No passengers permitted; electric scooters to be exempted are to be designed for a single rider only

### R3 - Licence

Rider must have a drivers licence that is valid in NSW.

Operators are responsible for ensuring that registered riders possess a drivers licence valid in NSW

### R4 – Parking responsibility

Operators' responsibility to ensure that the scooters are parked in bays where they will not obstruct pedestrians. Road rules must be abided when collecting and deploying scooters, and Operators will be liable to any breaches.

Councils will have power to enforce and monitor this through the Impounding Act.

Parking bays must meet accessibility guidelines and Councils are responsible for defining the appropriate areas. Parking bays are not to be located on the road.

Each device must have clear contact details for the public to contact the Operator directly.

## R5 – Helmet use

Approved bicycle helmets must be worn when riding electric scooter

Operators will be required to take all reasonable steps to ensure riders are provided with and wear an approved bicycle helmet fitted with reflectors while riding.

Observational studies will be conducted throughout trial to evaluate rider compliance with helmet use, which will affect Operator Performance.

## R6 – Alcohol or Drug use

Operators to have strategies in place to prevent riders from using electric scooters under the influence of alcohol or drugs

Riders will be subject to same rules as motorcyclists in relation to drug and alcohol use

## R7 – Towing

Rider must not tow any other vehicle, not hold onto the back of or be towed by another vehicle.

## R8 – Mobile phone use

Riders must comply with existing laws regarding mobile phone use in motor vehicles.

## V1 – Maximum power output

300 watts

## V2 – Maximum speed

20 km/h on road-related areas, bicycle lanes and bicycle paths. 10km/h on shared paths

Operators will be required to limit maximum speed of scooters to 20km/h and provide rider communication for maximum speed of shared paths

## V3 – Vehicle identification

Electric scooters must be clearly branded by operator; each scooter must also have a tamper-proof unique identifier in an intuitive location as well as contact details visible to non-riders printed on the vehicle.

## V4 – Vehicle standards, definitions

Standing kick-scooter powered by electric motor designed for use by a single person.  
*Further investigation required.*

## V5 – Vehicle lights

Must have a working white front light and red rear light.  
Lights must be on when scooter is hired.

## V6 – Cyber security

Operators must ensure that electric scooters have not been compromised or hacked at all times. Risks, mitigation measures, crisis protocols and communications to be a part of the Safety Management Plan that must be approved by TfNSW prior to a trial. TfNSW reserves the right to immediately suspend operations at any time.



## **V7 – Vehicle warning sounds**

The operator must ensure that the scooter is fitted with a working bell, horn or similar warning device.

## **TE1 – Use on road**

Not to be used on roads with speed-limits greater than 50km/h or multi-lane roads. Must be ridden as far practicable to the left.

## **TE2 – Use on footpath**

Not permitted

## **TE3 – Use on shared paths**

Permitted with maximum speed of 10km/h. Riders are to follow the same rules as cyclists

Trial locations must meet mandatory signage requirements.

## **TE4 – Use in bike lanes**

Permitted - electric scooters must use bike lanes where available unless impractical

## **TE5 – Use at night**

Not permitted for initial trial phase

## TE6 – Weather restrictions

Electric scooters are to be disabled for hire by the Operator in adverse weather conditions.

## TE7 – Trial location

Trial boundaries will be defined in the exemption.

Trial location must be geo-fenced by the Operator.

Multiple testing locations will be considered to maximise learnings. Factors for considering a location may include network availability, use cases, council and police capabilities, geographic and social suitability.

## E1 – Riders

Non-compliant scooter riders will be subject to the applicable infringement consequence based on the Declaration Order.

TfNSW to determine a regulatory model that reflects infringement severity and to provide Police with true definition prior to a trial.

## E2 – Operators

Operators will have a trial agreement with TfNSW and Council. Any breach of trial agreement may result in termination.

## E3 – Drivers and other road users

Drivers are still subject to the current rules regarding inappropriate behaviour towards other road users. No new rules will be applied to them.

Vandalism of scooters is an offence and can be enforced by the police.

## E4 – Private e-scooter use

This trial is open to the use of shared electric scooters provided by operators with a trial agreement with TfNSW only. These scooters must be clearly identified.

There will be clear public messaging that the use of private e-scooters will be subject to penalties.

## D1 – Incidents

Operators are to report incidents as per TfNSW guidelines, which will be defined in trial agreements.

Additionally, TfNSW will work with Police and health industry to verify number of reports. Appropriate report coding will be identified and guidelines developed to ensure data is sufficiently disaggregated.

## D2 – Road surface

Along with the incident data, it will be beneficial to collect information of the associated road surface or surface of use and conditions to capture any correlations.

There are existing codes used for crash data reporting to be investigated to maintain consistency.

### D3 – Insurance claims

Operators are to report all claims made. Additionally, TfNSW to work with insurance companies to capture the complete picture of claims made.

### D4 – Customer and community feedback

Base customer experience survey to be provided by TfNSW to Operators.

Operators to collect a measure of customer satisfaction using surveys.

Complaints to be captured by TfNSW, Councils, Police and Operators.

TfNSW will create a webpage dedicated to collection of trial feedback.

### D5 – Utilisation

Operator to provide real time information on utilisation; either through a dashboard or other predetermined format (e.g. as heat maps) in addition to weekly reports to Councils and TfNSW

### D6 – Pricing

Fair pricing will be determined by the market; there must be at least 2 operators to create competition.

Pricing strategies will be assessed in the tender evaluation process to favour operators who display social equity (e.g. concession pricing), as well as those that incentivize or punish rider behaviour

### D7 – Reporting specifications

All Operator data is to be provided in real time on a dashboard, de-identified and according to the MaaS data specifications. For trial purposes, this data should be open and publishable by Councils and TfNSW. Regular reporting requirements to be defined in RFP.

## D8 – Privacy

Operators must manage data according to Australian Privacy Principles. All data provided as part of requested reporting must be de-identified to align with the Privacy and Personal Information Protection Act 1998 applicable to NSW government entities.

## D9 – Trip replacement

User surveys provided by the Operators, Council and TfNSW will be evaluated to understand:

- a) electric scooters replacing trips in vehicles
- b) attitudes towards public transport as a result of the availability of the electric scooters

## D10 – Evaluation criteria

An independent evaluation will be conducted on a trial with research questions around:

- |                                 |                                      |                                    |
|---------------------------------|--------------------------------------|------------------------------------|
| a) safety;                      | e) trip replacement                  | h) impacts on high risk groups and |
| b) transport viability options; | f) customer and community perception | i) unintended consequences         |
| c) the business model ;         | g) compliance with legislation       |                                    |
| d) clustering density;          |                                      |                                    |

in the context of existing and future infrastructure that may support electric scooters.

## D11 – Behavioural data

The ability to capture behavioural data can be assessed in the tender evaluation.

## D12 – Operator performance

Operator performance for the trial will be measured by:

- |  |  |                                      |
|--|--|--------------------------------------|
| a) number of complaints                                  | incidents  | h) reporting quality and punctuality |
| b) parking obstructions and number of scooters impounded | c) response and resolution times to incidents and TfNSW/Council requests | i) helmet availability and use.      |
| d) number of safety                                      | e) Fleet maintenance quality   |                                      |

## O1 – Trial duration

6 months with consideration for an additional 6 months extension (12 months total).

## O2 – Fleet size

Fleet size will be capped initially based on trial location size; increases to fleet size may be requested monthly, at TfNSW discretion and dependent on utilisation rates and operator performance

## O3 – Account identification

Operator is required to have mechanisms in place to ensure that riders are 17+ and possess a drivers licence valid in NSW.

Operator must have a presence in NSW for Police to request data.

Operators to be penalised if an offence is non-fineable due to mismatch of rider and account holder.

## O4 – Geo-fencing

Operators will be required to apply geo-fencing to the trial boundaries and must not allow riders to end trips outside of them. Scooters will be required to be slowed safely outside of the geo-fence.

Additional geo-fencing within the trial boundaries can be requested by Council.

Operators to be assessed in a tender process on additional measures to prevent scooters from breaching the trial boundaries.



## O5 – Parking and Incident management

Operators must have an Incident Management Plan approved by TfNSW and Council prior to a trial and will be required to respond to incidents within timeframes as per Impounding Act and any additional schedules provided by TfNSW.

Riders, public and council must be able to simply and accessibly notify relevant Operator for emergencies, incidents or complaints without requiring a registration process. Incidents and complaints must be recorded in a log that can be requested by TfNSW or Council.

TfNSW reserves the right to suspend the trial or an Operator if incidents are not resolved or if there is imminent danger to the public.

Minister has power to rescind MDO at any time for any reason

## O6 – Insurance

Operators will be required to have an appropriate level of insurance. In the case of personal injury, the insurance must cover both the rider and any other person injured by the scooter while it is in operation; and should cover these individuals regardless of fault. This is to be an equivalent policy and benefit structure as compared to CTP insurance. That is, a condition of the trial would be for the operator to ensure that any personal injury policy provides to an injured claimant an equivalent level of cover and claims experience as under a CTP policy.

Operators are responsible for sourcing and buying appropriate insurance products for personal injury, AUD\$20 mill public liability (eg if a person is injured by a scooter which is not in operation) and third party property damage.

It is the Operators' responsibility to communicate insurance arrangements to the rider and provide a single point of contact for claims.

## O7 – Curfew

Electric scooters must be disabled for hire outside of daylight hours as prescribed by TfNSW. Operators must ensure scooters are parked appropriately in the evenings.

Councils may request Operators to remove scooters from specific areas in the evening.

## O8 – Charging and distribution

Charging and distribution will be the responsibility of the operator. Council may choose to limit operators to a maximum number of scooters in certain areas to prevent overcrowded footpaths.

## O9 – Procurement

TfNSW will select operators through an EOI process, in which the Council may choose to participate in. This will entail a short procurement process conducted internally within TfNSW.

## O10 – Payments withheld

NSW Fair Trading will be engaged and informed of trial operators who charge a bond or deposit to ensure that they are appropriately managing the funds and fairly returning the deposits to customers at end of trial.

## O11 – APIs and external apps

Operators must ensure that external apps that allow unlocking of scooters must also provide any pre-ride checks/prompts or information (e.g. geofencing, trial rules, etc).

## O12 – Fees and permits

TfNSW will not be providing any funding for this trial. There will not be a permit system in place for a trial and there will be no charge to the Operators to submit EOIs or participate in the trial.

Operators will be subject to Council fees for impounded scooters, including cost to recoup from rivers, ponds, etc.

## O13 – Fleet maintenance

Maintenance to be the responsibility of the Operator. This includes being accountable for the safety and usability of devices.

A Safety Management Plan, including fleet maintenance, will be required from the Operator for the tender evaluation and approved by TfNSW prior to a trial. There must be transparency on the nature and frequency of vehicle checks

Random fleet audits to be conducted by TfNSW or Council on basic scooter functions such as working lights, brakes, kickstand, helmet availability.

## C1 – Rider education

Riders must acknowledge information provided by the Operators and understand their liabilities before using electric scooters.

Operators must provide riders with information regarding trial rules, consequences as well as easy access to basic road rules – this must be approved by TfNSW and Council prior to trial launch.

Operators will be assessed on strategies to provide training to ensure adequate riding capabilities in tender evaluation.

## C2 – Road user education and awareness

TfNSW will publish official rules of the trial and lead a broader campaign to ensure that other road users are aware of the electric scooter trial. In addition to the Council and the Operator, this is also a responsibility of all ESA working group members to pass on this messaging.

## C3 – Communications plan

TfNSW to develop overarching communication guidelines and messaging for the trial - including rider and road user education, use of private scooters, response to and treatment of social or other media.

Operators are responsible for developing community engagement plans in collaboration with local Councils within the provided communications guidelines.

## C4 – Social media

There will be a shared responsibility by all parties to manage their social media channels for adverse commentary.

TfNSW will provide a FAQs sheet to stakeholders to provide guidance and keep messaging around the trial consistent.