



W A V E R L E Y
COUNCIL

**STRATEGIC PLANNING AND DEVELOPMENT
COMMITTEE MEETING**

ATTACHMENTS UNDER SEPARATE COVER

7.30 PM, TUESDAY 5 MARCH 2024

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STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE MEETING

Tuesday, 5 March 2024

ATTACHMENTS

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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
3	13 July 2023	Amendments in line with January Gateway Determination and SPDC minutes
4	5 October 2023	Amendments in line with the DPHI letter to Council dated 19 September 2023
5	2 November 2023	Amendments in line with 25 October 2023 Gateway Determination

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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 new residential flat buildings, independent living units, multi-dwelling housing, and shop top housing development to expand Council's existing affordable housing portfolio.

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that, under *State Environmental Planning Policy 70 – Affordable Housing (Revised Schemes)* (SEPP 70) (which has since been replaced by the Housing SEPP), all Councils were eligible to impose a condition of consent on new development for contributions to affordable housing. An affordable housing condition of consent would be any condition on a development consent that requires monetary or in-kind contributions to affordable housing.

Council's recently adopted Local Housing Strategy identifies that existing housing capacity under current controls would deliver the appropriate housing supply to meet our housing targets. Notwithstanding, the Local Housing Strategy identified a strong need for affordable housing in the Waverley LGA and indicated that new market housing was not addressing this need but exacerbating it by often reducing existing affordable housing. To this end, there is a clear case for intervention, in the form of an affordable housing contribution, to ensure that new housing delivery is contributing to the delivery of affordable housing. The LHS recommended a percentage range of 1-3% contribution on all new residential flat buildings, independent living units, multi-dwelling housing, and shop top housing development and 10-15% contribution on sites receiving uplift. It was identified that a specific percentage of 1% on all new residential flat buildings, independent living units, multi-dwelling housing, and shop top housing development, and a contribution (calculated at the time of planning proposal assessment) on sites receiving uplift through planning controls would be an appropriate starting point. The contribution will be excluded from employment generating only development and development for the primary purpose of social housing and affordable rental housing. Furthermore, a post-exhibition change has been to allow Council to continue to levy for loss of affordable housing contributions under the Housing SEPP 2021. This change was made upon finding that Chapter 2 'Affordable Housing' of the Housing SEPP no longer explicitly provides coverage under Section 7.32 of the *Environmental Planning and Assessment Act 1979*, which the former ARHSEPP did.

At present, feasibility testing found that a 3% contribution on new residential flat buildings, independent living units, multi-dwelling housing, and shop top housing development in the R3 zone is viable under a 15% development margin, but is unviable against an 18-20% development margin. For this reason, a 3% contribution is not being recommended at this time for such new residential flat buildings, independent living units, multi-dwelling housing, and shop top housing development in any zone and instead a 1% contribution is proposed for such development in all zones.

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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

In early 2019, DPHI announced that, 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 new residential flat buildings, independent living units, multi-dwelling housing, and shop top housing development. 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) or dual occupancies. The Proposal will introduce a new affordable housing contribution requirement that consists of:

- A contribution on all new residential flat buildings, independent living units, multi-dwelling housing, and shop top housing development of 1% of gross floor area at a flat \$ rate/sqm.
- A contribution of gross floor area (calculated at the time of planning proposal assessment) towards affordable housing for sites that receive planning uplift through planning controls.
- A change to the LEP to allow Council to continue to levy for loss of affordable housing contributions under the Housing SEPP 2021.

Background to this Planning Proposal

Legislative requirement

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

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

Action from the adopted Local Housing Strategy (LHS)

The preparation of the scheme is also in line with actions from the LHS, where it was recommended to implement a contributions scheme that requires a 1-3% base rate monetary contribution on shop top housing and specific residential accommodation development and a higher 10-15% monetary contribution on sites receiving uplift. The scheme identified that a specific percentage of 1% on all new residential flat buildings, independent living units, multi-dwelling housing, and shop top housing development and contribution (calculated at the time of planning proposal assessment) for sites receiving uplift would be appropriate as a starting point.

At present, feasibility testing found that a 3% contribution on new residential flat buildings, independent living units, multi-dwelling housing, and shop top housing development in the R3 zone is viable under a 15% development margin, but is unviable against an 18-20% development margin. For this reason, a 3% contribution is not being recommended at this time for such new residential flat

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buildings, independent living units, multi-dwelling housing, and shop top housing development in any zone and instead a 1% contribution is proposed for such development in all zones. This component of the scheme is subject to Department of Planning, Housing and Industry (DPHI) 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.

New Housing SEPP wording

Council officers have been able to levy for affordable housing contributions for the loss of affordable housing under the old Affordable Rental Housing SEPP (ARHSEPP) 2009. They were able to do this as the old ARHSEPP had a clause that allowed Councils to levy affordable housing contributions under the provisions of 7.32(3)(b) of the Act, as follows:

“51 Contributions for affordable housing

(2) For the purposes of section 7.32(3)(b) of the Act, this Policy authorises a condition to be imposed under section 7.32 of the Act if

(a) the consent authority, when determining a development application referred to in clause 50 (1), is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, and

(b) the condition is imposed in accordance with the scheme for dedications or contributions set out in subclauses (3) and (4).”

The ARHSEPP was repealed in 2021 when it was combined into the Housing SEPP. However, the Housing SEPP does not have a clause that provides coverage for Councils to levy affordable housing contributions under Clause 7.32(3)(b) of the Act, meaning that Councils may need a clause in their LEP to authorise the levying of such a contribution.

Therefore a post-exhibition amendment to this Planning Proposal has been made to authorise the continued levying of these contributions.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

1.1 Description Statement

This Proposal will apply to residential flat buildings, independent living units, multi-dwelling housing, and shop top housing development excluding 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, and attached 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 flat buildings, independent living units, multi-dwelling housing, and shop top housing development of 1% of gross floor area at a flat \$ rate/sqm.
- A contribution (calculated at the time of planning proposal assessment) of gross floor area at a flat \$ rate/sqm towards affordable housing for sites that receive planning uplift through planning controls.

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- A change to the LEP to allow Council to continue to levy for loss of affordable housing contributions under the Housing SEPP 2021.

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
- Continue to levy Housing SEPP Chapter 2 contributions with greater certainty, given recent changes to the Housing SEPP.

PART 2 – EXPLANATION OF PROVISIONS

2.1 A new additional local provision

The intended outcomes will be achieved by including three new local provisions and a new Schedule in the WLEP 2012 that enables the collection of affordable housing levy contribution. For the purposes of illustrating the intent of this, three new proposed clauses are provided as follows. The proposed provisions will be subject to legal drafting by Parliamentary Counsel, should the proposal proceed.

Part 6 Additional Local Provisions

6.13 Affordable housing contribution for certain development

(1) This clause applies to all land in the Waverley Local Government Area.

(2) This clause applies to development for the purposes of a new residential flat building, multi dwelling housing, independent living unit, and shop top housing development.

(3) The consent authority may impose a condition requiring a contribution equivalent to the affordable housing contribution levy of 1% of the total new gross floor area of the residential component of applicable development.

(4) 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 (5), 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).

(5) 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.

(6) This clause does not apply to development for the purposes of any of the following –

