

**DA NO:** DA-2022/361

**ADDRESS:** 1 ORCHARD ROAD, CHATSWOOD NSW 2067

**PROPOSAL:** ALTERATIONS AND ADDITIONS TO EXISTING DWELLING, NEW CARPORT, LANDSCAPING AND ASSOCIATED WORKS.

**RECOMMENDATION:** APPROVAL

**ATTACHMENTS:**

1. SITE DESCRIPTION AND AERIAL PHOTO
2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
3. SUBMISSIONS TABLE
4. ASSESSMENT UNDER WDCP
5. APPLICANT'S CLAUSE 4.6 SUBMISSION – FSR
6. OFFICER'S CLAUSE 4.6 ASSESSMENT – FSR
7. SECTION 4.15 (79C) ASSESSMENT
8. SCHEDULE OF CONDITIONS
9. NOTIFICATION MAP

**RESPONSIBLE OFFICER:** RITU SHANKAR - TEAM LEADER

**AUTHOR:** AKSHAY BISHNOI – ASSESSMENT OFFICER

**REPORT DATE:** 23 MAY 2023

**MEETING DATE FOR ED** ELECTRONIC DETERMINATION

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## 1. PURPOSE OF REPORT

The purpose of this report is to seek determination by Willoughby Local Planning Panel (WLPP) of Development Application DA-2022/361 for alterations and additions to existing dwelling, new carport, landscaping and associated works at 1 Orchard Road, Chatswood.

The application is required to be referred to the WLPP for determination because the proposed overall floor space ratio exceeds the development standard by more than 10%.

## 2. OFFICER'S RECOMMENDATION

**THAT the Willoughby Local Planning Panel:**

**2.1 Support the Clause 4.6 exception contained in Attachment 5 as it is considered unreasonable and unnecessary to comply with the development standard of Clause 4.4 *Willoughby Local Environmental Plan 2012* (Floor Space Ratio) as the gross floor area of the proposed development exceeds the development standard for the following reasons:**

**2.1.1 The proposed alterations and additions are generally to be contained within the existing building footprint. The overall bulk and scale would remain consistent with the streetscape and the proposed floor space ratio is therefore not considered excessive;**

**2.1.2 The proposal was found to not have an adverse or unreasonable impact on the heritage conservation area, solar access, privacy and general amenity for the surrounding residences;**

**2.1.3 The proposed development achieves the objectives of the R2 Low Density Residential zone.**

**2.2 Approve Development Application DA-2022/361 for alterations and additions to existing dwelling, new carport, landscaping and associated works at 1 Orchard Road, Chatswood NSW 2067, subject to conditions contained in Attachment 8, for the following reasons:**

**2.2.1 The proposed development is considered to be satisfactory with all relevant planning policies including the objectives of *Willoughby Local Environmental Plan 2012 (WLEP)* and the *Willoughby Development Control Plan (WDCP)*.**

**2.2.2 The proposed development will not have unreasonable impacts on the streetscape, the residential amenity of the neighbouring properties or the surrounding locality. All likely impacts to adjoining properties including any submissions made have been addressed in the report, or are considered to be satisfactory.**

### **3. BACKGROUND AND PROPOSED DEVELOPMENT**

A pre-DA Meeting was held on 2 May 2022 and the proposal is generally consistent with the advice provided at the pre-DA stage, except for the height of the proposed front fence.

The proposal is for alterations and additions to existing dwelling, new carport, landscaping and associated works.

Specifically the proposal involves the following:

- Demolish existing rear addition
- Retain existing front bedroom (Bed 2) and reinstate Bed 3 to original size; convert lounge, dining and kitchen into a bedroom, main bathroom and stairwell
- Construct a new ground-level rear addition to accommodate a new kitchen, dining space and a larger living area
- Construct an upper-level rear extension to accommodate main bedroom, ensuite and storage areas
- Construction of new carport forward of the building line; reduce existing hardstand area and provide additional landscaping
- Front façade: Replace existing windows, make good and replace degraded timber fretwork, balusters and handrail, replace timber awning members and shingles, remove and replace existing anodized windows with a wide-framed, white powder-coated, double-glazed window, replace the front door.
- Modify the existing front fence to a 1800mm masonry fence

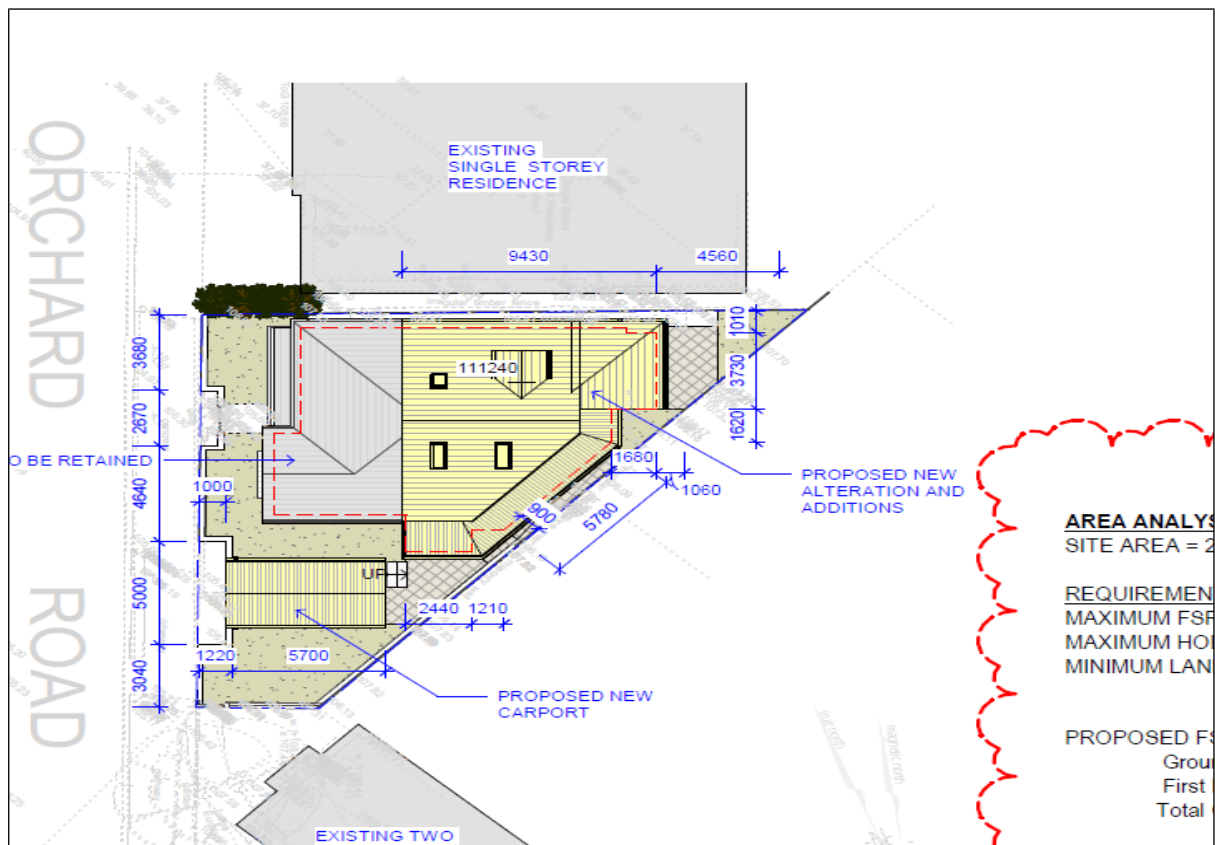


Figure – 1: Extract of the proposed Site Plan

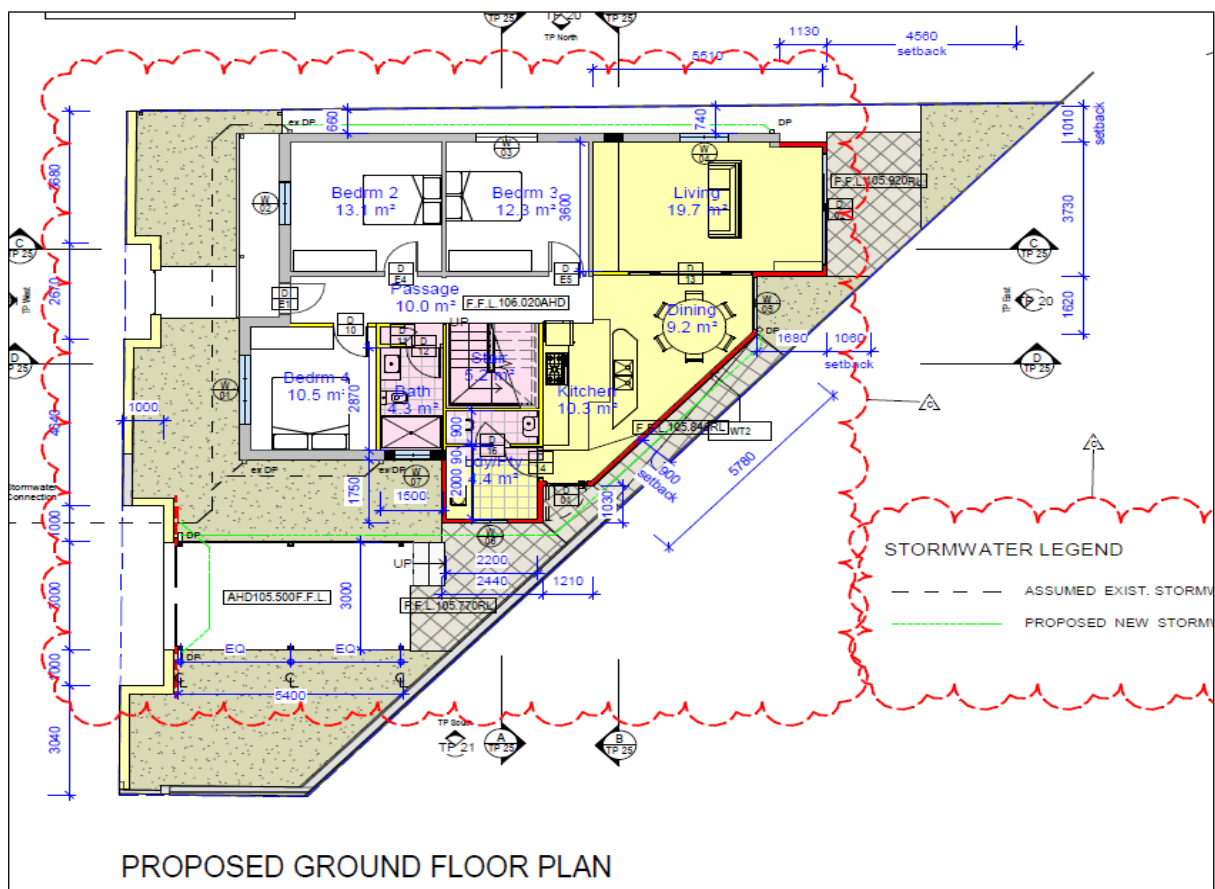


Figure – 2: Extract of the proposed Ground Floor Plan

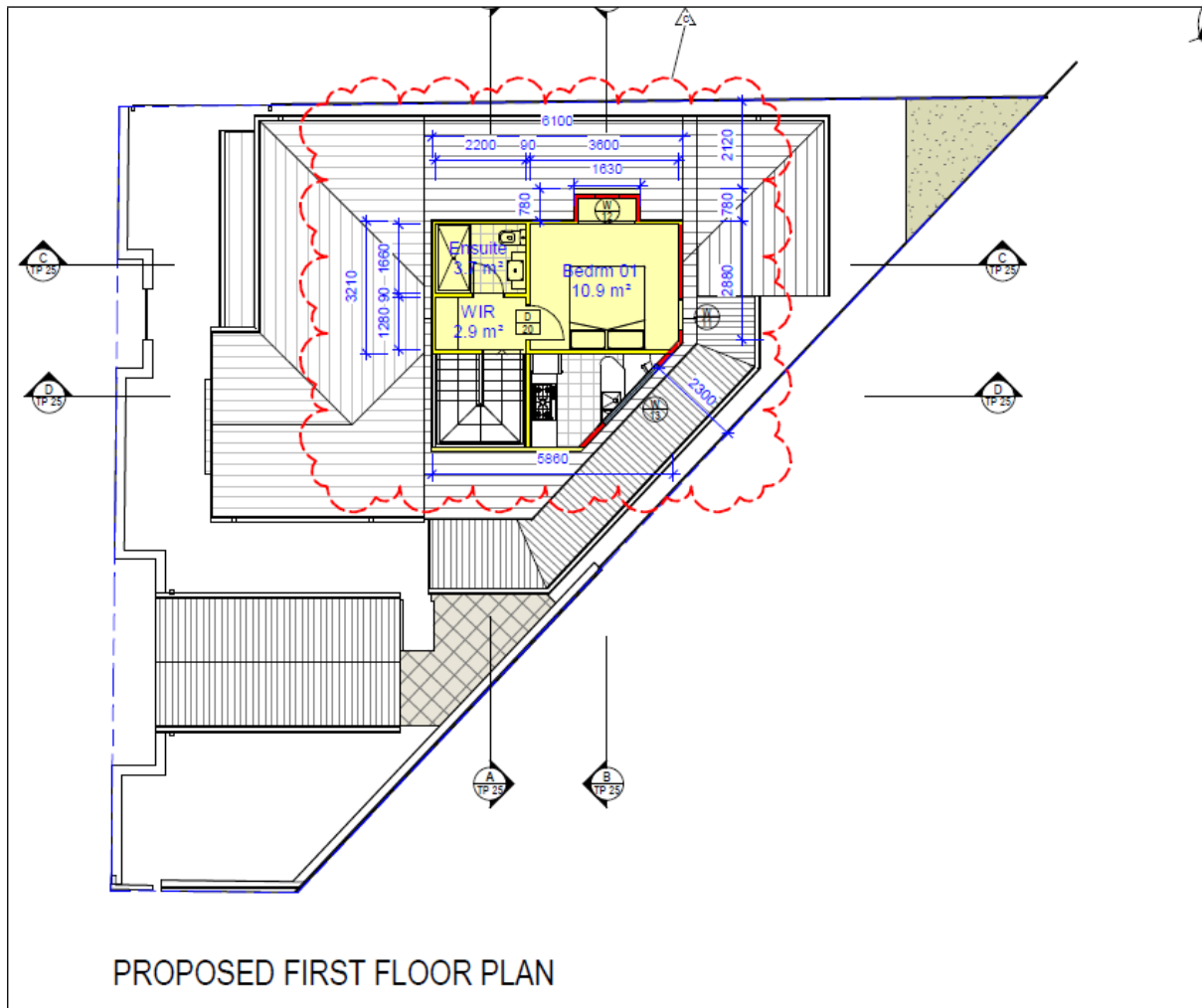


Figure – 3: Extract of the proposed upper level

#### 4. DISCUSSION

The proposed development seeks alterations and additions to the existing dwelling, where the proposed Floor Space Ratio (FSR) development standard is proposed to be varied by more than 10%.

The applicant has provided a Clause 4.6 written request to vary the Floor Space Ratio development standard. The written request was found to provide adequate environmental planning grounds to justify breach to the development standard. The assessment found the proposal does not have any unreasonable impacts to the general amenity for the surrounding locality or adjoining residences given the orientation of the site and nature of the proposed works.

The report contains the following:

**Attachment 1** contains a description of the site and surrounding area, including an aerial photograph.

**Attachment 2** contains the controls, development statistics and referrals that apply to the subject land.

**Attachment 3** contains the submissions table.

**Attachment 4** contains an assessment of the development application in accordance with the relevant controls of the *Willoughby Development Control Plan (WDCP)*.

**Attachment 5** contains the applicant's Clause 4.6 request to vary the FSR development standard.

**Attachment 6** contains Council's assessment of the applicant's request to vary the FSR development standard.

**Attachment 7** contains a table addressing matters for consideration under s4.15 of the EP&A Act.

The **plans** used for this assessment can be found in a file named **WLPP Plans** under the DA tracking functionality for this application on Council's website:

<https://eplanning.willoughby.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=524551>

## **5. CONCLUSION**

The Development Application DA-2022/361 has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, *WLEP 2012*, *WDCP*, and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in Attachment 8.



## ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO

The property is known as 1 Orchard Road, Chatswood legally described as Lot 12 in DP 4031, is an irregular shaped lot orientated generally on an east/west axis. The site is zoned R2 - Low Density Residential has an area of 257.2m<sup>2</sup> with a frontage of 19m to Orchard Road. Existing on the site is a single storey dwelling, a hard stand car parking space in the south-west corner of the site.

The site is not heritage listed, however, is identified as being located in the South Chatswood Heritage Conservation Area (C11). Immediately south of the site, at 333 Mowbray Road is a heritage listed item (I95) as per Schedule 5 of the *WLEP*. The site is relatively flat with a slight fall from the rear of the property to the street.



Figure – 4: Aerial view of the site and surroundings

Development in the surrounding locality comprises of relatively larger lots, as compared to the subject site, in the R2- Low density zone, which is characterised by a mixture of one and two storey dwelling house of varying ages and architectural styles that are consistent with the heritage of the area. There are examples of both original dwellings and dwellings with sympathetic additions with a range of architectural styles.



Figure – 5: Subject site as viewed from across the Orchard Road, looking east

**ATTACHMENT 2: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS**

<b><i>Willoughby Local Environmental Plan 2012 Zoning:</i></b>	<b>R2- Low Density Residential</b>
Existing Use Rights	No
Additional Permitted Use	No
Conservation area	YES – South Chatswood HCA
Aboriginal Heritage	No
Heritage Item	No
Vicinity of Heritage Item	No
Natural Heritage Register	No
Bushfire Prone Area	No
Foreshore Protection Area	No
Flood related planning control	No
Adjacent to classified road	No
Road/lane widening	No
BASIX SEPP	Yes
Infrastructure SEPP - Rail	No
Infrastructure SEPP – Road	No
Coastal Management SEPP	No
Acid Sulphate Soil Category	5
Development near Lane Cove Tunnel	No
Contaminated Land	No
Adjacent / above Metro	No
Other relevant SEPPS	SEPP (Biodiversity and Conservation) 2021 – Chapter 10 – Sydney Harbour Catchment
Relevant policies and resolutions	WDCP

Development Statistics (R2 & C4 – Dwelling House and/or ancillary development)					
Site Area (m²)		257.2m²			
<u>WLEP 2012</u>					
Clause	Control	Existing	Proposed	Standard	Numerical Compliance
Cl.4.3	Height (m)	5.47m	6.15m	8m	Yes
Cl.4.4 & Cl. 4.4A	GFA (m²)	100.9m²	123.9m²	102.8m²	No
	FSR	0.39:1	0.48:1	0.4:1	
<u>WDCP</u>					
Part	Control	Existing	Proposed	Standard	Numerical Compliance
C.4	Parking	1	1	2	No. No change to existing car parking requirement and is consistent with the



Development Statistics (R2 & C4 – Dwelling House and/or ancillary development)					
					street.
<b>C.5</b>	<b>Water management (%)</b>		The proposed impervious area is 73%.	< 50%-N/A 50%-55% - 3000L tank >55% 10,000L tank	Yes, complies with condition
<b>C.9</b>	<b>Tree preservation</b>		No trees are to be removed as a result of the proposal	Trees exceeding 4m, trunk girth 0.6m or crown exceeding 3 m subject to preservation controls	Yes
<b>D1.4.2.4</b>	<b>Colours</b>		Material and colours are consistent with the heritage character of the area.	Sensitive to surroundings	Yes
<b>D1.4.3.2</b>	<b>Two storey wall length</b>		The development avoids visible long lengths of wall.	6m max without articulation	Yes
<b>D1.7</b>	<b>Building Height Plane</b>		The proposal complies with the building height plane	envelope 3.5 m high at boundary and 45 degree angle inwards over site	Yes
	<b>Front Setback (m)</b>	2.7m	unchanged	Consistent with adjoining properties	Yes
	<b>North Side Setback (m)</b>	GF= 0.66m FF= N/A	unchanged FF= 2.12m	GF=0.9m FF=1.5m	No. Existing non-compliance.
	<b>South- west Side Setback (m)</b>	GF= 0.9 m FF= N/A	GF= 0.9 FF= 2.3m	GF=0.9m FF=1.5m	Yes
	<b>Rear Setback (m)</b>	GF=0.9 to 4.5m FF=N/A	Unchanged	6m for 2 storey dwelling and consistent with established line	No. Existing non-compliance.
<b>D1.8</b>	<b>Soft Landscaped Area (m<sup>2</sup>)</b>	12.6m <sup>2</sup>	68.6m <sup>2</sup>	(70.2m <sup>2</sup> )	No (1), see attachment 4
	<b>Land-scaping within front setback area (%)</b>	24%	>80%	70% where lot width 18m or greater (35m <sup>2</sup> )	Yes
<b>D1.9</b>	<b>Private open space</b>	<150m <sup>2</sup>	unchanged	The private open space	N/A

Development Statistics (R2 & C4 – Dwelling House and/or ancillary development)					
	(>400m <sup>2</sup> )			requirements only apply to lots greater than 400m <sup>2</sup>	
D1.11	Privacy		No significant privacy impacts are envisaged as a result of the development given the nature of works proposed and setbacks provided.	Need for privacy protection	Yes
D1.12	Solar access		The development will create minor additional shadowing to the properties at 329 and 331 Mowbray Road located south-west of the subject site. However, the orientation of the lots is east-west and shadowing impacts are inevitable. Notwithstanding the additional overshadowing, the adjoining properties would continue to receive 3 hours of solar access between 9am to 3pm on 22 June to their private open space. The proposed additional shadowing is therefore considered reasonable and ensure the POS of the affected properties are minimally impacted and the development overall maintain the character of the area.	3 hours between 9am to 3pm on 22 June to private open space and living areas	Yes
Heritage – C10 – North Chatswood Conservation area					
H3.11	Scale		The proposal generally complies with the controls of this part.	<ul style="list-style-type: none"> <li>• Low Residential Scale</li> <li>• 1 storey(2<sup>nd</sup> storey within roof)</li> <li>• 04:1 FSR</li> </ul>	Yes
	Setback (m)		Consistent with existing	Consistent with individual streetscapes	Yes
	Car parking	Hardstand area forward of the building	The proposed carport is located forward of the building alignment	Use rear lane access or side access to garages and carports behind	No (2), see attachment 4

		alignment		the building alignment, else single open stand area forward of building line.	
	<b>Front fencing</b>	1.2m fronting the house and 1.8m fronting the hardstand car parking area	It is proposed to have 1.8m solid front fence. Heritage officer has recommended a condition of consent requiring the height of the front fence to be reduced to 1.2m.	Low unpainted masonry or timber picket, palisade or timber & wire (maximum 1.1m)	Complies with Condition.
	<b>Ridge height (m)</b>		6.1m from the floor level	6-6.5m	Yes
	<b>Eave height (m)</b>		3.1m	3.6m from finished floor level	Yes
	<b>Roof pitch (degrees)</b>		Generally the roof pitch is within 25-35 degrees	25-35 degrees	Yes
	<b>Roof Form</b>		Hipped and gabled roof form maintained.	Dominant hipped and gabled roof with verandahs to front elevations	Yes

#### Developer's Contribution Plans:

<b>S7.11/7.12 Section 94A contribution:</b>	Yes
a. Applicable rate (%):	<b>1%</b>
b. The cost of development (Part A CI 25J) (\$)	<b>\$700,000.00</b>
c. Date of accepted cost of development:	<b>10/10/2022</b>
d. The total contribution payable (\$)	<b>\$7,000.00</b>

#### Referrals

Building services	No objections subject to conditions of consent
Heritage	<p><i>The house is located on the eastern side of Orchard Road with a western orientation to Orchard Road. The site is triangular in shape and small in size. The subject site is adjacent to heritage item 333 Mowbray Rd – House (including original interiors) (195).</i></p> <p><i>A pre-DA meeting was held and heritage comments were made. It is noted the proposal exceeds the allowable FSR.</i></p> <p><i>The new rear addition is sympathetic in proportion and scale to the existing dwelling and streetscape. The apex of the ridge of the proposed hipped roof sits slightly above the ridge height of the front portion of the dwelling to be retained, and is complimentary to the existing roof form. The proposed roof will be slightly visible from the street, which is considered acceptable. A dormer is incorporated into the northern elevation of the new roof, which is</i></p>

	<p><i>set back and will not be highly visible from the street. The first floor addition presents as a 'room-in-roof' style addition, which is considered acceptable in the HCA. The proposed skillion roof extension in Colorbond Monument adjoining the main rear addition to the southern side of the house will be visible from the street, though is set back from the front of the house. This portion of the roof is subordinate to the main dwelling and will not dominate the streetscape. The HIS indicates the existing roof tiles are to be replaced with Terracotta tiles (not indicated on the plans) and the roof cladding to the rear addition is to match. Unglazed Terracotta Marseilles tiles are to be used – conditioned below.</i></p> <p><i>Proposed upgrades to the front façade: Aluminium framed windows to the front façade are not supported, and front windows should only be replaced if they are in very poor condition. Wide framed timber windows are recommended to the front façade, which is conditioned below. Replacement of shingles to the front awning are to match the existing. It is preferable for the existing front door with leadlight windows to be retained if possible. Vivid White is not supported – a more muted colour tone such as cream or off-white is recommended.</i></p> <p><i>The Pre-DA meeting noted that a 1.8m high wall to conceal the private open space to the front can be supported; however, the fence in front of the dwelling is to be compatible with the HCA. A condition has been added to ensure the front fence is compatible with the HCA in materiality, with a height of 1.2m.</i></p> <p><i>The proposed carport forward of the building line is acceptable in this instance, due to site constraints. The proposed Colorbond roof to the carport is also acceptable.</i></p> <p><i>The impact of the proposal on the adjacent heritage item (I95) is considered to be acceptable. The subject site is not in the immediate visual catchment of heritage item (I94).</i></p> <p><i>Unglazed Terracotta Marseilles tiles are to be used. Vivid white tones to the front façade as indicated on the schedule of finishes should be avoided. Muted / recessive colour tones are acceptable. There are generally no objections from a heritage viewpoint, subject to the below conditions.</i></p>
Landscape	<p><i>The plans and SEE indicate that no significant landscape features are affected by the proposed works.</i></p> <p><i>No objections are raised with regard to landscape issues subject to conditions.</i></p>

**ATTACHMENT 3: SUBMISSIONS TABLE**

The development application was notified to the adjoining properties from 02/12/2022 to 13/01/2023. No submissions were received during the consultation period.



#### **ATTACHMENT 4: ASSESSMENT UNDER WDCP**

This section of the report provides an assessment of the proposed development in accordance with the *Willoughby Development Control Plan (WDCP)* and any noncompliance with the relevant controls.

**(1) – D.1.8 – Soft Landscaping**

**(2) – H.3.12 – Carparking**

#### **1- D.1.8 – Soft Landscaping**

The site has an existing short fall in landscaped area, providing a mere 12.4m<sup>2</sup>, well short of the *DCP* required 70.02m<sup>2</sup>. The proposed development will increase the overall landscaped area significantly by providing pockets of permeable areas across the site and falling short by 2m<sup>2</sup>. The minor non-compliance is considered to be acceptable given proposed increase in the soft landscaping area, which is consistent with the objectives of the control given the irregular shape and size of the property.

#### **2– H.3.12 – Carparking**

Part H.3.12 requires the car parking structure to be located behind the front building alignment and the proposed carport fails to comply with this requirement. Notwithstanding, given the shape and size of the site, the proposed encroachment is acceptable. It is nearly impossible to achieve compliance with this requirement without having to alter the principle dwelling on the site, which would not be consistent with the objectives of the South Chatswood HCA.

In addition, Council's Heritage Officer has no objection to the proposal and considered it to be satisfactory in terms of its impact on to the adjoining heritage listed item and South Chatswood Heritage Conservation Area.

## ATTACHMENT 5: APPLICANT'S CLAUSE 4.6 SUBMISSION – FSR



### APPLICATION TO VARY A DEVELOPMENT STANDARD.

#### CLAUSE 4.6: Objection to Development Standard.

### PROJECT: ALTERATIONS & ADDITIONS TO EXISTING DWELLING.

#### 1 ORCHARD ROAD, CHATSWOOD NSW.

The following written application provides grounds for variation to development standards.

It is submitted as part of the Development Application (refer to EP&A Regulation 2000 Schedule 1 form).

#### Introduction.

This Clause 4.6 variation is a written request to vary a development standard to support a development application for the construction of additions and alterations to the existing house at the above address.

The specified maximum floor area of development on the subject site is 0.4:1, which equates to 102.9m<sup>2</sup> for this property (site area 257.2m<sup>2</sup>).

The development proposes a minor departure from this numerical standard and proposes a maximum floor area of 123.9m<sup>2</sup> or 0.48:1.

The additional area proposed will not impact adjoining neighbours and does not impact the views, privacy or sunlight access to neighbouring properties.

#### What is the name of the environmental planning instrument that applies to this land?

Willoughby Council Local Environmental Plan (WLEP) 2012

#### What is the zoning of the land?

R2 Low-Density Residential.

#### What are the objectives of the zone?

- To provide for the housing needs of the community within a low-density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To accommodate development that is compatible with the scale and character of the surrounding residential development.
- To retain and enhance residential amenity, including views, solar access, aural and visual privacy, and landscape quality.
- To retain the heritage values of particular localities and places.
- To encourage self-sufficiency with respect to energy and food supply

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Lot 12 in DP 4031, No 1 Orchard Road, Chatswood, NSW



### What is the development standard being varied?

The development standard being varied is Floor Space Ratio.

(WLEP) 2012 - Clause 4.4 Floor space ratio, part (2).

Clause 4.4 - Floor Space Ratio (FSR), being:

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#)

Where FSR is defined as

"the ratio of the gross floor area of all buildings within the site to the site area." and Gross floor area is defined as "the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, .....but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
  - (e) any basement:
  - (i) storage, and
  - (ii) vehicular access, loading areas, garbage and services, and
  - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
  - (i) terraces and balconies with outer walls less than 1.4 metres high, and
  - (j) voids above a floor at the level of a storey or storey above
- "

### What is the numeric value of the development standard in the environmental planning instrument?

The land size is 257.2 on title.

Control : FSR 0.40:1 (Gross Floor Area - 102.9 m<sup>2</sup>)

Proposal : FSR 0.48:1 (Gross Floor Area - 123.9 m<sup>2</sup>).

Percentage Variation: 20%.

### Clause 4.6 Exceptions to development standards

Clause 4.6 allows for exceptions to development standards under the following circumstances

- (1) The objectives of this clause are as follows—
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

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*(b) that there are sufficient environmental planning grounds to justify contravening the development standard*

- (5) In deciding whether to grant concurrence, the Planning Secretary must consider—*
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) the public benefit of maintaining the development standard, and*
  - (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

### **Justification**

The objectives of this clause allow for a degree of flexibility. We are seeking this flexibility for the following reasons:

Compliance with the development standard is unreasonable or unnecessary on this site due to the non-standard shape and size of the allotment, and it is in a Heritage Conservation Area where existing building elevations must be retained

The triangular site has resulted in a less efficient floor plan, particularly in the rear kitchen and dining areas. This has increased in transition areas (walkways) between spaces which would be reduced in a more conventional plan.

Allowing this flexibility has resulted in more contemporary and usable spaces. The proposal breach in Gross Floor Area at ground level is only 2.1m<sup>2</sup>

We also provide a small in-roof style addition for an extra bedroom and a small ensuite bathroom.

The WLEP requires a Minimum lot size for this site of 550m<sup>2</sup>; this allotment is less than half that minimum lot size, making this one of the smallest sites with a freestanding dwelling on it in the immediate area and is an undersized allotment not typically considered in the WLEP.

The variation sought is 20%, but this has minimal adverse effects on the local environment. In addition, the soft landscape area is increased under this proposal, which benefits the council's stormwater infrastructure and increases green spaces. Finally, the proposal does not impact the neighbours' overshadowing or privacy and has minimal impact on the streetscape or heritage value of the building.

This variation sought is small; it would not adversely hinder the objectives of the Act.

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Lot 12 in DP 4031, No 1 Orchard Road, Chatswood, NSW



### Conclusion.

The development proposes a departure from the maximum floor area development standard. The proposal produces an appropriate development outcome. The variation in the floor area directly results from the shape and small allotment size.

This non-compliance will not result in any detrimental impact on the surrounding properties or the character of the locality.

Furthermore, the overall design is of good architectural quality, and the development satisfies the zone and heritage objectives and those of the development standard.

The proposal is not highly visible from the street and provides a bulk and scale compatible with the surrounding development.

As there is no material impact on adjoining properties or the public domain arising from the variation to the floor area development standard, and the objectives of the control are satisfied, it is considered that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

Therefore, we request that the council support the variation on the basis that there are sufficient environmental planning grounds to justify a variance to the development standard.



**ATTACHMENT 6: OFFICER'S CLAUSE 4.6 ASSESSMENT – FSR**

**Description of non compliance**

Development Standard	FSR Standard	Existing FSR	Proposed FSR	%Variation
CI 4.4/4.4A Floor space ratio	0.40:1 102.8m <sup>2</sup>	0.39:1 100.9m <sup>2</sup>	0.48:1 123.9m <sup>2</sup>	20.5% 21.1m <sup>2</sup> over the standard

**Key points of the applicant's submission:**

- i) *The triangular site has resulted in a less efficient floor plan, particularly in the rear kitchen and dining areas. This has increased in transition areas (walkways) between spaces which would be reduced in a more conventional plan.*
- ii) *The overall design is of good architectural quality, and the development satisfies the zone and heritage objectives and those of the development standard.*

**Objectives of Clause 4.6**

**4.6** (1) The objectives of this clause are as follows:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

CI 4.6 Criteria	Response
<b>4.6(2)</b> <i>Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</i>	The development standard is not expressly excluded from the operation of this clause.
<b>4.6 (3)</b> <i>Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—</i>	
a) <i>Has the applicant's submission demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and</i>	<p>The applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard</p> <p>In doing so, the applicant's written request has adequately demonstrated that the compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.</p>
b) <i>Has the applicant's submission demonstrated that there are sufficient environmental planning grounds to justify the non-compliance?</i>	<p>The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.</p> <p>Therefore council is satisfied that the applicant's</p>

	written request has adequately addressed the matters required to be demonstrated by Clause 4.6 (3)
<b>4.6(4) Development consent must not be granted for development that contravenes a development standard unless:</b>	
a) i) <i>Has the applicant's written request adequately addressed the matters required to be demonstrated in subclause 3</i>	The applicant's written request has adequately demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify the non-compliance
ii) <i>Is the proposed development in the public interest because it is consistent with:</i>	
• <i>objectives of the particular development standard</i>	Yes, see assessment below
• <i>objectives for the development within the zone in which the development is proposed to be carried</i>	Yes, see assessment below

**Consistency with the objectives of the Floor Space Ratio development standard:**

Consistency of the proposed development with the floor space ratio standard's objectives is discussed below:

<b>Floor Space Ratio Development Standard Objectives</b>	<b>Response</b>
a) <i>to limit the intensity of development to which the controls apply so that it will be carried out in accordance with the environmental capacity of the land and the zone objectives for the land,</i>	The development is consistent with the objectives of the zone and is within the environmental capacity of the land.
b) <i>to limit traffic generation as a result of that development,</i>	The proposal is for alterations and additions to an existing dwelling and would remain as a single dwelling with no additional traffic generation.
c) <i>to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,</i>	The proposed works are generally to be contained within the existing building footprint including 18.9m <sup>2</sup> of floor space proposed in form the attic space. The proposed attic style addition complies with the overall ridge height requirement of the WDCP and will be located approximately 2m below the Building Height development standard of WLEP. Therefore, the proposal will not have any significant impacts onto the adjoining properties in terms of overshadowing, visual impacts, disruption of views and privacy.
d) <i>to manage the bulk and scale of that development to suit the land use purpose and objectives of the zone,</i>	The proposed FSR of the development is consistent with the zone objectives and is consistent with the land use purpose.
e) <i>to permit higher density development at transport nodal points,</i>	N/A
f) <i>to allow growth for a mix of retail, business and commercial purposes consistent with Chatswood's sub-regional retail and business service, employment, entertainment and cultural roles while conserving the compactness of the city centre of Chatswood,</i>	N/A

g) <i>to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,</i>	N/A
h) <i>to provide functional and accessible open spaces with good sunlight access during key usage times and provide for passive and active enjoyment by workers, residents and visitors to the city centre of Chatswood,</i>	N/A
i) <i>to achieve transitions in building scale and density from the higher intensity business and retail centres to surrounding residential areas,</i>	N/A
j) <i>to encourage the consolidation of certain land for redevelopment,</i>	N/A
k) <i>to encourage the provision of community facilities and affordable housing and the conservation of heritage items by permitting additional gross floor area for these land uses.</i>	N/A

### Consistency with the objectives of the R2 Low Density Residential Zone:

Consistency of the proposed development with the Zone's objectives is discussed below:

<b>Zone Objective</b>	<b>Response</b>
<i>To provide for the housing needs of the community within a low density residential environment.</i>	The proposed development (alterations and additions to a dwelling house) is permitted within the R2 Low Density Residential Zone. The surrounding locality of South Chatswood is characterised by residential use predominantly containing dwelling houses. The proposal continues to provide for housing in a low density residential environment and is consistent with this objective of the zone.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	The proposed development represents an improvement in residential amenity relative to the existing residential accommodation on the site and is consistent with the second objective of the zone.
<i>To accommodate development that is compatible with the scale and character of the surrounding residential development.</i>	The proposal will not result in a development that is contrary to the surrounding development. As discussed above, the proposed works are generally to be contained within the existing building footprint and will not result in unacceptable amenity impacts to the adjoining properties.
<i>To retain and enhance residential amenity, including views, solar access, aural and visual privacy, and landscape quality.</i>	The development has been designed with respect to the surrounding properties ensuring the height, bulk and scale is consistent with the area and to not dominate. Given the nature of the works proposed and sitting of the existing building, the proposal will not result in unacceptable amenity impacts to the adjoining properties.
<i>To retain the heritage values of particular localities and places.</i>	The proposed development does has appropriately considered the impacts upon the significance of the adjoining heritage listed item and the South

	Chatswood HCA.
<i>To encourage self-sufficiency with respect to energy and food supply.</i>	The proposed alterations and additions are considered to be consistent with the BASIX commitments and the proposed non-compliance to the development standard would not have any detrimental impact upon energy and food supply to the property.

**Clause 4.6 4) b) The Concurrence of the Secretary has been obtained**

Based on the above considerations, the proposed variation to the development standard is acceptable. Variation of the standard is considered to be in public interest given that the relevant objectives of the zone and standard are met by the proposal despite its numerical non-compliance with the development standard.

The variation is not considered to raise any matter of regional and state significance, and concurrence of the Secretary in approving this variation can be assumed.

## ATTACHMENT 7 - SECTION 4.15 (79C) ASSESSMENT

The application has been assessed under the provisions of S.4.15 (79C) of the *Environmental Planning and Assessment Act*.

The most relevant matters for consideration are assessed under the following headings:

### Matters for Consideration Under S.4.15 (79C) EP&A Act Considered and Satisfactory ✓ and Not Relevant N/A

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> <li>State Environmental Planning Policies (SEPP)</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Regional Environmental Plans (REP)</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Local Environmental Plans (LEP)</li> </ul>	✓
	<b>Comment:</b> The proposal does not contravene any relevant matters for consideration under the provisions of any SEPPs, REPs or development standards under WLEP 2012	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> <li>Draft State Environmental Planning Policies (SEPP)</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>Draft Regional Environmental Plans (REP)</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>Draft Local Environmental Plans (LEP)</li> </ul>	N/A
	<b>Comment:</b> There are no draft SEPPs that apply to the subject land.	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> <li>Development control plans (DCPs)</li> </ul>	✓
	<b>Comment:</b> See assessment section	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> <li>Clause 92 EP&amp;A Regulation-Demolition</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Clause 93 EP&amp;A Regulation-Fire Safety Considerations</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>Clause 94 EP&amp;A Regulation-Fire Upgrade of Existing Buildings</li> </ul>	N/A
	<b>Comment:</b> Condition of consent has been recommended with regard to the prescribed matter relating to demolition works.	
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"> <li>Context &amp; setting</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Access, transport &amp; traffic, parking</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Servicing, loading/unloading</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Public domain</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Utilities</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Heritage</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Privacy</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Views</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Solar Access</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Water and draining</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Soils</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Air &amp; microclimate</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Flora &amp; fauna</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Waste</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Energy</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Noise &amp; vibration</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Natural hazards: Overland flowpath</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Safety, security crime prevention</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Social impact in the locality</li> </ul>	✓



**Matters for Consideration Under S.4.15 (79C) EP&A Act**  
**Considered and Satisfactory ✓ and Not Relevant N/A**

	<ul style="list-style-type: none"> <li>Economic impact in the locality</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>Site design and internal design</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Construction</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Cumulative impacts</li> </ul>	✓
	<b>Comment:</b> The proposal will not result in any significant adverse impacts on adjoining or nearby properties subject to conditions of consent.	
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> <li>Does the proposal fit in the locality?</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Are the site attributes conducive to this development?</li> </ul>	✓
	<b>Comment:</b> The proposed alterations and additions have been designed with respect to the topography and Low Density Residential zoning of the land. The proposed development fits into the locality, does not impact the streetscape and is considered a low impact development that is suitable for the site.	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> <li>Public submissions</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Submissions from public authorities</li> </ul>	N/A
	<b>Comment:</b> No submissions were received	
(e)	The public interest	
	<ul style="list-style-type: none"> <li>Federal, State and Local Government interests and Community interests</li> </ul>	✓
	<b>Comment:</b> The proposal will not adversely impact the character of the locality and therefore approval of the application is in the public interest.	

## ATTACHMENT 8: SCHEDULE OF CONDITIONS

### SCHEDULE

**CONDITIONS OF CONSENT:** (including reasons for such conditions)

#### CONSENT IDENTIFICATION

The following condition provides information on what forms part of the Consent.

#### 1. Approved Plan/Details

The development must be in accordance with the following consent plans electronically stamped by Council:

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Proposed Site Plan	TP 03	C	02/11/2022	Willoughby Architects
Demolition Ground Floor Plan	TP 10	B	10/10/2022	
Proposed Ground Floor & Stormwater Plan	TP 12	C	02/11/2022	
Proposed First Floor Plan	TP 13	C	02/11/2022	
Proposed Roof Plan	TP 14	B	10/10/2022	
Elevations 1	TP 20	C	02/11/2022	
Elevations 2	TP 21	C	02/11/2022	
Streetscape Elevations & 3D Views	TP 22	C	02/11/2022	
Sections	TP 25	C	02/11/2022	
Schedule – Finishes	TP 31	B	10/10/2022	

the application form and any other supporting documentation submitted as part of the application, except for:

- (a) any modifications which are “Exempt Development” as defined under S.4.1(1) of the *Environmental Planning and Assessment Act 1979*;
- (b) otherwise provided by the conditions of this consent.  
(Reason: Information and ensure compliance)

#### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a construction certificate.

#### 2. Local Infrastructure Contributions

For development that involves subdivision and/or building work, any contribution required under Council’s Local Infrastructure Plan must be paid to Council prior to the issue of the subdivision certificate or first construction certificate, whichever occurs first.

(Reason: Statutory requirement)

### **3. S7.12 Contribution**

Prior to the issue of the Construction Certificate, a monetary contribution is to be paid in accordance with section 7.12 of *Environmental Planning and Assessment Act, 1979* in the amount of **\$7,000.00** for the purposes of the Local Infrastructure identified in the *Willoughby Local Infrastructure Contributions Plan*.

This contribution is based on **1%** of the estimated cost of development, being **\$700,000.00** at **10/10/2022** and the adopted *Willoughby Local Infrastructure Contributions Plan*.

#### Indexation

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

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

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

Where:

**\$Co =** the original development contribution determined by the Council based on a percentage of the cost of development as set out in the Contributions Plan

**Current CPI =** the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter immediately prior to the date of payment

**Base CPI =** the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter ending immediately prior to the date of imposition of the condition requiring payment of a contribution

Deferred payments of contributions will not be accepted.

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

Copies of the *Willoughby Local Infrastructure Contributions Plan* are available for inspection online at [www.willoughby.nsw.gov.au](http://www.willoughby.nsw.gov.au)  
(Reason: Statutory requirement)

### **4. Sydney Water 'Tap In'**

Prior to the issue of the Construction Certificate, the approved plans must be submitted online to "Sydney Water Tap In" to determine whether the development will affect Sydney Water's sewer and water mains and to see if further requirements need to be met.

An approval receipt will need to be obtained prior to release of the Construction Certificate.  
(Reason: Ensure compliance)

**5. Unglazed Terracotta Tiles**

Unglazed terracotta colour and material Marseilles pattern roof tiles are to be used where existing tiles are to be replaced and to the new main roof form to the rear as indicated on the Schedule of Materials and Finishes. Details of compliance are to be shown on the Construction Certificate plans.

(Reason: Heritage conservation)

**6. External Finishes – Heritage Character**

All external building material shall be in colours and textures, which are compatible with the heritage character of the locality. In this regard the Schedule of Colours and Finishes submitted with the application is to be amended to replace Vivid White with a more neutral colour tone such as cream or off-white, and is to be provided to the Registered Certifier.

(Reason: Visual amenity)

**7. Heritage – New Windows to front elevation**

New windows in the front elevations shall be constructed in timber joinery. Details are to be shown on the Construction Certificate plans prior to the issue of the Construction Certificate.

(Reason: Heritage conservation)

**8. Front Fencing – Low Open Timber**

Details of front fencing being low open timber pickets not exceeding 1.2m in height and incorporating styling and detailing appropriate to the house and heritage character of the area are to be shown on the construction certificate plans prior to the issue of the Construction Certificate.

(Reason: Heritage conservation)

**9. Stormwater Conveyed to Street Drainage**

Stormwater runoff from the site shall be collected and conveyed to the street drainage system in accordance with Council's specifications. Any new drainage pipe connections to street kerb shall be made using a 125mm wide x 75mm high x 4mm thick hot dip galvanised Rectangular Hollow Section (RHS) with a grated drainage pit of minimum 450mm x 450mm provided within the property and adjacent to the boundary prior to discharging to the Council's drainage system. All drainage works shall comply with the requirements described in Part C.5 of Council's *DCP*, Technical Standards and AS 3500.3. In this regard, full design and construction details showing the method of disposal of surface and roof water from the site shall be shown on the Construction Certificate plans.

(Reason: Stormwater control)

**10. Driveway Longsection**

Prior to issue of the Construction Certificate and in order to assess the susceptibility of vehicles to scraping as they pass over the proposed access driveway the applicant shall submit longitudinal sections for approval by the Certifying Authority along each side of the proposed vehicular access path drawn at 1:20 Scale. The longitudinal sections shall include the following: -

- (a) Horizontal distance from the centreline of the road to the proposed parking slab, including provision of Council's standard layback as per Council's standard drawing SD105 which is available from Council's website. Council's standard layback is 500mm wide and back of layback is 100mm above the gutter invert.
- (b) Both existing and proposed levels (in AHD) and gradients represented in percentage (%) of the vehicular crossing and driveway.
- (c) Crossfall on road pavement shall be shown on long sections.

The design shall be prepared by a suitably qualified civil engineer using Council's standard vehicle profile (SD100). All driveway grades and transitions shall comply with AS/NZS 2890.1 -2004 and Council's specifications.

The new crossing is to be 3.0 metres wide with no splays and be constructed at right angle to street kerb. The footpath which forms part of the proposed crossing shall have a maximum crossfall of 2.5% towards the kerb. For the design levels of the vehicular crossing at the property boundary, the following shall be complied with, unless written approval is gained from Council for alternate levels:

- (a) At back of layback – 100 mm above and parallel to the gutter invert.
- (b) At property boundary – Match existing levels.
- (c) Within site – Maximum 5% grade for 6m

The suitability of the grade of driveway inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

(Reason: Safe vehicular access)

## **11. Damage Deposit**

Prior to the issue of the Construction Certificate, the applicant shall lodge a Damage Deposit of **\$4670** (GST Exempt) to Council against possible damage to Council's assets and any infrastructure within the road reserve/footway during the course of the building works. The deposit will be refundable subject to inspection by Council after the completion of all works relating to the proposed development. For the purpose of inspections carried out by Council Engineers, an inspection fee of **\$182** (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

**Total Payable = \$4670 + \$182 = \$4852**

(Reason: Protection of public asset)

## **PRIOR TO COMMENCEMENT**

**The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. All of these conditions are to be complied with prior to the commencement of any works on site, including demolition.**

## **12. Asbestos Sign to be Erected**

On sites involving demolition or alterations and additions to building where asbestos cement is being repaired, removed or disposed of a standard commercially manufactured sign not less than 400mm x 300mm containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" is to be erected in a prominent visible position on the site. The sign is to be erected prior to the commencement of works



and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility.

(Reason: Public Health and safety/Ensure compliance)

### **13. Neighbour Notification of Asbestos Removal**

The applicant/builder is to notify anyone occupying premises in the immediate vicinity of the site, five working days prior to demolition works involving removal of asbestos. Such notification is to be clearly written, giving the date work will commence.

As a minimum, this notification is to be placed in the letterbox of every property (including every residential flat or unit) either side and immediately at the rear of the site.

(Reason: Public health)

### **14. Application for Vehicle Crossing**

Submit an application with fees to Council for the construction of a plain concrete vehicular crossing.

(Reason: Protection of public asset)

### **15. Report Existing Damages on Council's Property**

Prior to commencement of any works on site, submit to Council and the Principal Certifier a report with digital photographs of any existing damages to Council's assets fronting the property and the immediate adjoining properties. Failure to do so will result in the applicant being liable for any construction related damages to these assets. In this respect, the damage deposit lodged by the applicant may be used by Council to repair such damages.

(Reasons: Protection of Council's Infrastructure)

### **16. Permits and Approvals Required**

Application is to be made to Council's Infrastructure Services Division for the following approvals and permits as appropriate:-

- (a) Permit to erect Builder's hoarding where buildings are to be erected or demolished within 3.50m of the street alignment. Applications are to include current fees and are to be received at least 21 days before commencement of the construction.
- (b) Permit to stand mobile cranes and/or other major plant on public roads. Applications are to include current fees and security deposits and are to be received at least seven days before the proposed use. It should be noted that the issue of such permits may also involve approval from the NSW Police Force and TfNSW (RMS). A separate written application to work outside normal hours must be submitted for approval.  
It should also be noted that, in some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.
- (c) Permit to open public roads, including footpaths, nature strip, vehicular crossing or for any purpose whatsoever. All applications are to include current fees. (Minimum one (1) weeks' notice required.)
- (d) Permit to place skip/waste bin on footpath and/or nature strip. (Maximum three (3) days).

- (e) Permit to work and/or place building materials on footpath and/or nature strip. (Maximum two (2) weeks).
- (f) Permit to establish Works Zone on Public Roads adjacent to the Development including use of footpath area. Applications must be received by Council at least twenty-one days prior to the zone being required. The application will then be referred to the Council's Local Traffic Committee for approval, which may include special conditions.
- (g) Permit to construct vehicular crossings over Council's footpath, road or nature strip.

The public footway must not be obstructed at any time unless written approval has been granted by Council. Council's footpath and footway shall be maintained in a safe condition for pedestrians and the general public at all times.

(Reason: Legal requirements)

## **17. Underground Utility Services**

Where excavation is proposed, locate and establish the size and levels of all utility services in the footpath and road reserve. Contact "Dial Before You Dig" Service" prior to commencement of any works.

All adjustments to public utilities' mains and services as a consequence of the development and associated construction works shall be at the full cost to the applicant.

(Reason: Protection of utilities)

## **DURING DEMOLITION, EXCAVATION AND CONSTRUCTION**

**The following conditions are to be complied with throughout the course of site works including demolition, excavation and construction.**

## **18. Hours of Work**

All construction/demolition work relating to this Development Consent within the City, unless varied by an Out of Hours Work Permit, must be carried out only between the hours of 7 am to 5 pm Mondays to Fridays and 7 am to 12 noon on Saturdays. No work is permitted on Sundays or Public Holidays.

An application for an Out of Hours Work Permit to allow variation to these approved hours must be lodged with Council at least 48 hours prior to the proposed commencement of the work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and must be accompanied by the required fee. One (1) permit is required for each variation to the approved working hours within any 24 hour period.

If a variation to these approved hours for multiple or extended periods is sought, an application under Section 4.55 of the *Environmental Planning and Assessment Act 1979* must be lodged with Council at least twenty-one (21) days in advance of the proposed changes to the hours of work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and be accompanied by the required fee. Note: This Section 4.55 application may require re-notification in some circumstances.

(Reason: Ensure compliance and amenity)

**19. Provide Erosion and Sediment Control**

Where work involves excavation or stockpiling of raw or loose materials, erosion and sediment control devices shall be provided wholly within the site whilst work is being carried out in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the *Protection of Environment Operations Act 1997* and the Department of Environment, Climate Change and Water guidelines. The control devices are to be maintained in a serviceable condition AT ALL TIMES.

(Reason: Environmental protection)

**20. Demolition Work AS 2601-2001**

Any demolition must be carried out in accordance with AS 2601 – 2001, *The demolition of structures*.

(Reason: Safety)

**21. Asbestos Removal and Disposal**

Works involving the removal of asbestos must comply with Councils Policy on handling and disposal of asbestos, and must also comply with the Code of Practice for "How to Safely Remove Asbestos" of the NSW Work Health and Safety Act 2011.

Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS 2601 – The Demolition of Structures.

All asbestos laden waste, including bonded or friable asbestos must be disposed of at a waste disposal site approved by the NSW Department of Environment, Climate Change and Water.

Upon completion of the asbestos removal and disposal the applicant must furnish the Certifier with a copy of all receipts issued by the waste disposal site as evidence of proper disposal.

(Reason: Environmental protection/Public health and safety)

**22. Sweep & Clean Pavement**

Sweep and clean pavement surface adjacent to the ingress and egress points of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council.

(Reason: Legal requirement)

**23. Street Signs**

The applicant is responsible for the protection of all regulatory / parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works are to be replaced at full cost to the applicant.

(Reason: Protection of public assets)

**24. Tree Protection**

- (a) Retain and protect the following trees and vegetation throughout the demolition and construction period: All trees not indicated for removal on

the approved plans unless exempt under relevant planning instruments or legislation.

- (b) The above trees must be clearly marked and protection devices in place to prevent soil compaction and machinery damage.
- (c) Tree roots greater than 25mm diameter are not to be removed unless approved by a qualified Arborist on site.
- (d) All structures are to bridge roots unless directed by a qualified Arborist on site.
- (e) Tree protection measures must comply with the AS 4970-2009 Protection of trees on development sites with particular reference to Section 4 Tree Protection Measures

(Reason: Tree management)

## **25. Storage of Materials on Council Land Prohibited**

The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in the Council reserve is prohibited.

(Reason: Safety, environmental protection)

## **PRIOR TO OCCUPATION OF THE DEVELOPMENT**

**The following conditions of consent must be complied with prior to the issue of an occupation certificate.**

### **26. Automatic Fire Detection**

Prior to the issue of any relevant Occupation Certificate, an automatic fire detection and alarm system complying with Part 3.7.2 of the Housing Provisions or smoke alarms complying with AS 3786 connected to the mains electricity and having a stand by power supply shall be provided to the dwelling. Smoke alarms must be interconnected and installed in a Class 1 building on or near the ceiling in:

- (a) any storey containing bedrooms
  - (i) between each part of the dwelling containing bedrooms and the remainder of the dwelling;
  - (ii) where the bedrooms are served by a hallway, in the hallway.
- (b) any other storey not containing bedrooms.

(Reason: Safety)

### **27. BASIX Certificate**

Prior to the issue of the relevant Occupation Certificate, a completion certificate is to be submitted to the Certifier demonstrating the manner in which the measures committed to in the latest BASIX Certificate have been satisfied.

(Reason: Environmental sustainability)

### **28. Removal of Impervious Areas**

Prior to the issue of a Whole Occupation Certificate, the impervious areas nominated on the approved plans for removal are to be removed and replaced with soft landscaping.

(Reason: Landscape amenity/stormwater absorption)

**29. Grated Box Drain**

Prior to the issue of any Occupation Certificate for the garage/car-space and for stormwater control, a minimum 200mm wide grated trench drain with a heavy duty removable galvanised grate is to be provided within the property along the front boundary to collect driveway runoff. The trench drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.

(Reason: Proper disposal of stormwater)

**30. On-site Water Management System**

Prior to the issue of any Occupation Certificate pertaining to any works other than internal renovations, the stormwater runoff from the site shall be collected and disposed of to the kerb and gutter in accordance with Sydney Water's requirements AS/NZS3500.3, Council's *DCP* and Technical Standards. All runoff from roof areas shall drain to the required rainwater tank. The construction of the stormwater drainage system of the proposed development shall be generally in accordance with the approved detailed stormwater management drawings required under this development consent and Council's specification (AUS-SPEC).

(Reason: Prevent nuisance flooding)

**31. Splay Corner for Fence**

Prior to the issue of any Occupation Certificate for any works / structures located forward of the building line including car spaces and in order to ensure adequate sight distances for pedestrians and traffic in the frontage road, the boundary fence shall be constructed with a minimum clear splay of 1m x 1m on both sides of the driveway exit.

(Reason: Pedestrian safety)

**32. Vehicular Crossing**

Construct a new vehicular crossing including the replacement of the existing layback and/or gutter and any associated road restoration as directed by Council's Engineers. All works shall be carried out in accordance with Council's specification AUS-SPEC C271 and Council's Standard Drawing SD105 - Council Vehicular Footpath Crossing and Kerb and Gutter details and any approved longitudinal sections. A separate application for the crossing including current fees and charges is to be submitted for approval by Council.

The crossing is to be 3.0 metres wide with no splays and is to be constructed at right angles to the street kerb in plain concrete. The new crossing shall be located no closer than 1 metre from any power pole and 2 metres from any street tree unless otherwise approved by Council. The centreline of the new crossing shall be "in-line" with the centreline of the parking space(s).

For the design levels of the vehicular crossing at the property boundary, the following shall be complied with unless written approval is gained from Council for alternate levels:

- (a) At back of layback – 100 mm above and parallel to the gutter invert.
- (b) At property boundary – Match existing levels.
- (c) Within property – Maximum grade of 5%

The footpath which forms part of the proposed crossing shall have a maximum crossfall of 2.5% towards the kerb. The nature strip and footpath is to be adjusted for a minimum distance of 1.0 metres on both sides of the crossing to suit the new levels.

The suitability of the grade of driveway inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant. All driveway grades and transitions must comply with AS/NZS 2890.1.

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier prior to issue of any Occupation Certificate.  
(Reason: Public amenity)

### **33. Removal of Redundant Crossings**

Remove all redundant crossings together with any necessary works and reinstate the footpath, nature strip and kerb and gutter accordingly. Such work shall be carried out in accordance with Council's specification.

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier prior to issue of any Occupation Certificate.  
(Reason: Public amenity)

### **34. Certification of Impervious Areas**

Prior to the issue of a Whole Occupation Certificate, an Architect, Engineer or Registered Surveyor shall provide certification, for approval by the Principal Certifier, that the as-constructed impervious area does not exceed 195m<sup>2</sup>. The constructed total impervious area shall include all roof areas (including eaves and gutters), all external paving (including driveways, paths and stepping stones), permeable paving, swimming pool surrounds and swimming pools. For further information relating to water management, please refer to Part C.5 (Water Management) of *WDCP*.  
(Reason: Compliance stormwater management/landscaping)

### **35. Vehicular Access and Garaging**

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B85 vehicles. In all respects, prior to the issue of any Occupation Certificate, the proposed vehicle access, including any parking spaces, shall be designed and constructed to comply with the minimum requirements of AS/NZS 2890.1 and Council's standard specification. Any columns shall be located in positions that comply with AS/NZS 2890.1.  
(Reason: Vehicular access)

### **36. Public Infrastructure Restoration**

Prior to the release of the Damage Deposit, any damaged public infrastructure caused as a result of the construction works on the subject site (including damage

caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) must be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.  
(Reason: Protection of public assets)

**37. Tree Planting**

Prior to the issue of a Whole Occupation Certificate, plant at least 1 new tree on the property.

The trees shall:

- (a) Have a minimum container size of 200mm and grown to NATSPEC 2 Guide Specifying Trees (2003);
- (b) Be flowering species, preferably locally occurring native species;
- (c) Palms, conifers, fastigiated and columnar trees are not acceptable for the purposes of complying with this condition;
- (d) Have the potential to attain a minimum height of 4 metres;
- (e) Be planted in an appropriate location to allow root growth;
- (f) Be planted, mulched, watered and maintained according to industry best practice.

(Reason: Landscape amenity)

**ONGOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

**The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land, and relevant legislation.**

**38. Heritage – Maintain Portion of Existing Building and No Demolition of Extra Fabric**

Alterations to, and demolition of, the existing building shall be limited to that documented on the approved plans (by way of notation) or conditioned in this consent.

No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

Should any portion of the existing building which is indicated on the approved plans to be retained be damaged, all the works on-site are to cease and written notification given to Council. No work is to resume until the written approval of Council is obtained.

(Reason: Heritage conservation and Ensure compliance)

**39. No Painting or Rendering of Masonry or Stone**

No painting or rendering shall be permitted to masonry or stone surfaces which have not previously been painted or rendered.

(Reason: Heritage conservation)

**40. Stormwater Kerb Outlet**

New stormwater connection outlets at the street kerb shall be made using 125mm wide x 75mm high x 4mm thick hot dip galvanised Rectangular Hollow Section

(RHS). Where there are multiple outlets required, a minimum distance of 100mm shall separate these outlets. A grated drainage pit (min. 450mm x 450mm) shall be provided within and adjacent to the property boundary prior to discharging to the Council's drainage system.

(Reason: Protection of public asset)

**41. Trees on Adjoining Properties**

No approval is given for the removal or pruning of trees on the nature strip, adjoining reserves, or neighbouring private land.

(Reason: Environmental protection)

**PRESCRIBED CONDITIONS**

**The following conditions are prescribed by Section 4.17 of the Environmental Planning & Assessment Act for developments involving building work.**

**42. Compliance with National Construction Code**

All building works must be carried out in accordance with the performance requirements of the National Construction Code.

(Reason: Compliance)

**STATUTORY REQUIREMENTS**

**The following advisory notes are statutory requirements of the Environmental Planning & Assessment Act and the Environmental Planning & Assessment Regulations and are provided to assist applicants**

**43. Construction Certificate**

This consent IS NOT an approval to carry out any building works. A Construction Certificate may be required PRIOR TO ANY WORKS BEING COMMENCED.

Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 9777 1000.

(Reason: Ensure compliance and statutory requirement)

**44. Notify Council of Intention to Commence Works**

In accordance with the provisions of Section 6.6 of the *Environmental Planning and Assessment Act 1979* the person having the benefit of the development consent shall appoint a Certifier and give at least 2 days' notice to Council, in writing, of the person's intention to commence the erection of the building.

(Reason: Information and ensure compliance)

**45. Occupation Certificate**

The building/structure or part thereof shall not be occupied or used until an occupation certificate has been issued in respect of the building or part.

(Reason: Safety)



ATTACHMENT 9: NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2022/361

At: 1 Orchard Road, CHATSWOOD NSW 2067

