

## DETERMINATION AND STATEMENT OF REASONS WILLOUGHBY LOCAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	30 May 2023
<b>PANEL MEMBERS</b>	Graham Brown (Chair), Trevor Bly, Gary Shiels and Philippa Hayes
<b>DECLARATIONS OF INTEREST</b>	None

Electronic determination on 30 May 2023.

Papers circulated electronically 25 May 2023. Electronic communication sent between 25 and 30 May 2023.

### MATTER DETERMINED

DA-2022/361 at 1 Orchard Road, Chatswood NSW 2067. Alterations and additions to existing dwelling, new carport, landscaping and associated works.

### PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7, the material presented at the meeting and briefings and the matters observed at site inspections listed at item 8 in Schedule 1 of this Determination and Statement of Reasons.

#### Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the *Willoughby Local Environmental Plan 2012 (WLEP 2012)*, that has demonstrated that:

- a) compliance with cl. 4.4 (floor space ratio) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard.

The Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl. 4.6 (3) of the *WLEP*; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.4 (floor space ratio) of the *WLEP* and the objectives for development in the R2 zone; and
- c) the concurrence of the Secretary has been assumed.

#### Development application

The Panel determined to **approve** the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

### REASONS FOR THE DECISION

The reasons outlined in the Council assessment report.

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. **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.**

### CONDITIONS

The development application was approved subject to the conditions in the Council assessment report with the following amendments.

Condition 28 was amended to provide hedging along the street frontage consistent with the existing hedging at the front of the house so as to continue greenery in the streetscape of the heritage conservation area. Condition 37 was deleted given the small area of the site and the potential impact of a tree on the limited landscaped area of the site.

**Condition 37 is deleted.**

**Condition 28 to be amended to read as follows:**

**PRIOR TO OCCUPATION OF THE DEVELOPMENT**

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

**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 **including the provision of hedging along the street frontage consistent with the existing hedging at the front of the house.**  
(Reason: Landscape amenity/stormwater absorption)

The Panel received late correspondence from the Council of a need to include a new condition (2A) relating to the requirements of Ausgrid.

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

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

**2A. Ausgrid**

The following from Ausgrid must be complied with:

**Ausgrid Underground Cables are in the vicinity of the development**

Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways. It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD).

In addition to DBYD the proponent should refer to the following documents to support safety in design and construction:

SafeWork Australia – Excavation Code of Practice.

Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.

The following points should also be taken into consideration.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

**Ausgrid Overhead Powerlines are in the vicinity of the development**

The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at [www.ausgrid.com.au](http://www.ausgrid.com.au).

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost.


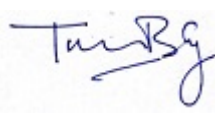


Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: [www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries](http://www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries)

For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable.

Visit the Ausgrid website for further details: <https://www.ausgrid.com.au/Connections/Get-connected>  
(Reason: Ensure compliance)

**CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel noted that no written submissions were made during public exhibition.

<b>PANEL MEMBERS</b>	
 <b>GRAHAM BROWN (CHAIR)</b>	 <b>TREVOR BLY</b>
 <b>GARY SHIELS</b>	 <b>PHILIPPA HAYES</b>

<b>SCHEDULE 1</b>		
1)	<b>DA NO.</b>	DA-2022/361
2)	<b>PROPOSED DEVELOPMENT</b>	Alterations and additions to existing dwelling, new carport, landscaping and associated works.
3)	<b>STREET ADDRESS</b>	1 Orchard Road, Chatswood NSW 2067.
4)	<b>APPLICANT/OWNER</b>	Willoughby Architects / H Jing and M Chen.
5)	<b>REASON FOR REFERRAL</b>	Departure from standard by more than 10%.
6)	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ <i>State Environmental Planning Policy (Industry and Employment) 2021</i></li> <li>○ <i>SEPP Building Sustainability Index: BASIX 2004 (The BASIX SEPP)</i>.</li> <li>○ <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>.</li> <li>○ <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>.</li> <li>○ <i>Willoughby Local Environmental Plan 2012</i>.</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ <i>Willoughby Development Control Plan</i></li> <li>○ <i>Section 7.12 (S94A) Plan</i></li> <li>○ <i>Willoughby Local Infrastructure Contributions Plan</i>.</li> </ul> </li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>.</li> <li>• Provisions of the <i>Environmental Planning and Assessment Act 1979</i>.</li> <li>• Planning agreements: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.</li> <li>• The suitability of the site for the development.</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations.</li> <li>• The public interest, including the principles of ecologically sustainable development.</li> </ul>
7)	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ol style="list-style-type: none"> <li>1) Council assessment report: 23 May 2023</li> <li>2) Clause 4.6 variation requests: cl. 4.4 Floor Space Ratio</li> <li>3) Written submissions during public exhibition: Nil</li> </ol>
8)	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY</b>	<ul style="list-style-type: none"> <li>• Site inspections were undertaken individually by Panellists at their discretion due to COVID-19 precautions.</li> <li>• Panel Members: Graham Brown (Chair), Trevor Bly, Gary Shiels and Philippa Hayes.</li> <li>• Papers circulated electronically 25 May 2023.</li> <li>• Panel briefing held on 30 May 2023.</li> <li>• Attendees: <ul style="list-style-type: none"> <li>○ Graham Brown (Chair), Trevor Bly, Gary Shiels and Philippa Hayes.</li> <li>○ Council staff: Akshay Bishnoi and Ritu Shankar.</li> </ul> </li> </ul>
9)	<b>COUNCIL RECOMMENDATION</b>	Approval
10)	<b>DRAFT CONDITIONS</b>	Attached to the Council assessment report