

## DETERMINATION AND STATEMENT OF REASONS WILLOUGHBY LOCAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	12 September 2023
<b>PANEL MEMBERS</b>	Abigail Goldberg (Chair), Jason Perica, Robert Montgomery and Philippa Hayes
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at Willoughby City Council on 12 September 2023 by teleconference. The meeting opened at 2.00pm.

Papers circulated electronically between 4 September and 12 September 2023.

This item was heard between 2.07pm and 2.32pm.

### MATTER DETERMINED

DA-2021/6/A at 1 Dorset Road, Northbridge NSW 2063. Modify original proposal to include alterations to entry lobby, lower ground and cabana, deletion of gym, and addition of drainage cavity to boatshed 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.

The Panel is satisfied that the proposed modification:

- is substantially the same development as the development for which consent was originally granted and before that consent was modified;
- has been notified in accordance with the Willoughby Community Participation Plan; and
- has been assessed having regard to the relevant matters in s4.15(1) EP&A Act.

The Panel has also taken into account the reasons of the consent authority that granted the original development consent that is sought to be modified.

The Panel adjourned after the meeting to deliberate on the matter and formulate a resolution.

### Modification application

The Panel determined to **approve** the modification application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

### REASONS FOR THE DECISION

1. **The proposal is consistent with the objectives of C4 – Environmental Living zone and objectives of the development standards under WLEP 2012.**
2. **The proposed development is considered to be consistent with the objectives for dwelling houses contained in Part D.1 of the Willoughby DCP.**
3. **The proposed development will have acceptable amenity impacts on neighbouring properties and is consistent with the streetscape and natural character of the locality.**
4. **The potential environmental impacts are appropriately managed and mitigated by the design and conditions, including as amended by the Panel.**

## CONDITIONS

The development application was approved subject to the conditions in the Council assessment report with the following amendment(s).

**Condition 1A is added as follows:**

### **1A. Unauthorised Works/Scope of Approval**

Unauthorised works already undertaken are not approved by this modification. However, approval is granted for the proposed works not yet undertaken and residential use of the works subject of the applicaiton.  
(Reason: Ensure compliance and clarify scope of approval)

**Condition 3 is amended to read as follows:**

## **PRIOR TO MAKING AN APPLICATION FOR A CONSTRUCTION CERTIFICATE**

The following conditions are to be complied with before any Construction Certificate Application is made to the Certifying Authority.

### **3. Submit the Following Information to Willoughby City Council**

Prior to the lodgement of an application for a construction certificate, the applicant shall submit plans and specifications satisfying the following requirements to Willoughby City Council for approval. Documentation confirming approval by Willoughby City Council shall then be submitted to the Certifier for the application of a construction certificate.

The proposal is to be amended in the following manner and shown on the amended architectural plans:

- (a) Indicate the dimensions of the existing and proposed development, in particular the distance from the existing dwelling house to the new lawn area, cabana and swimming pool to the south.
- (b) The southern eave of the proposed boatshed should not be projected beyond 3.5m in height measured from the existing ground floor level.
- (c) Install a screen below the swimming pool level. The screen should be in colour and textures which are compatible with the character of the locality. In this regard a schedule of these colours and textures shall be submitted to Council.
- (d) The boat shed and surrounding works are to be redesigned to ensure that existing ground levels are maintained for a minimum set back of 2 metres from the *Acacia terminalis* ssp *terminalis* as identified in the Flora and Fauna Report prepared by Eco Logical Australia. This will require redesign of the western wall of the boatshed to ensure the 2m setback is to be achieved and is not to involve relocation of the boatshed further east. Should evidence be provided from the Royal Botanic Garden that the subject *Acacia terminalis* is not a threatened species, then the modification of the boatshed specified in this sub-clause is not required to be complied with.
- (e) The cabana roof is to be lowered to RL 24.3.**  
(Reason: Reasonably mitigate and manage impacts, including lowering the cabana roof level, given the lowering of the ground level of the cabana, to reasonably reduce impacts to the eastern neighbour)

**Replace proposed Condition 76A with Condition 3A below:**

## **PRIOR TO MAKING AN APPLICATION FOR A CONSTRUCTION CERTIFICATE**

The following conditions are to be complied with before any Construction Certificate Application is made to the Certifying Authority.

### **3A. Building Certificate**





Prior to any Construction Certificate, an application for a Building Information Certificate (BIC) must be lodged with Council and approved for the remaining unauthorised works, in accordance with Division 6.7 of the Environmental Planning & Assessment Act, 1979, to ensure compliance with the National Construction Code.  
(Reason: Ensure works that have been undertaken are appropriately considered and to ensure any related matters subject to a BIC are able to be incorporated into the Construction Certificate)

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during the public exhibition and heard from all those wishing to address the Panel. The Panel noted that key issues of concern included:

- Unauthorised works
- Privacy
- View loss
- Overshadowing
- Compliance with FSR
- Street parking for a dwelling of this scale
- Impact on public land
- Parking during construction
- Construction noise, vibration and dust
- Bushfire compliance
- Stormwater concerns

The Panel considered that concerns raised by the community have been adequately addressed in the assessment report and conditions as amended by the Panel.

PANEL MEMBERS	
 <b>ABIGAIL GOLDBERG (CHAIR)</b>	 <b>JASON PERICA</b>
 <b>ROBERT MONTGOMERY</b>	 <b>PHILIPPA HAYES</b>

<b>SCHEDULE 1</b>		
1)	<b>DA NO.</b>	DA-2021/6/A
2)	<b>PROPOSED DEVELOPMENT</b>	Modify original proposal to include alterations to entry lobby, lower ground and cabana, deletion of gym, and addition of drainage cavity to boatshed and associated works.
3)	<b>STREET ADDRESS</b>	1 Dorset Road, Northbridge NSW 2063.
4)	<b>APPLICANT/OWNER</b>	Design King Company Pty. Limited / F M Mallyon.
5)	<b>REASON FOR REFERRAL</b>	Contentious Development – more than 10 submissions.
6)	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <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: 31 August 2023.</li> <li>2) Clause 4.6 variation requests: Nil</li> <li>3) Written submissions during public exhibition: 12</li> <li>4) Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In Support: <ul style="list-style-type: none"> <li>○ Nil</li> </ul> </li> <li>○ In Objection: <ul style="list-style-type: none"> <li>○ Norbert Wyzenbeek of 3A Dorset Rd, Northbridge</li> <li>○ Sharon Wyzenbeek of 3A Dorset Rd, Northbridge</li> <li>○ John Bradley from JB Architect on behalf of 3A Dorset Rd, Northbridge</li> </ul> </li> <li>○ On behalf of the applicant: <ul style="list-style-type: none"> <li>○ Steve Mallyon Owner</li> <li>○ Alexander Casser on behalf of Applicant</li> <li>○ Tanya Wallis of GSA Planning Applicant</li> </ul> </li> <li>○ Council staff: Patrick Williams and Ritu Shankar</li> </ul> </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>• Papers circulated electronically 4 September 2023.</li> <li>• Final briefing to discuss Council's recommendation, 12 September 2023 at 3.15pm-3.35pm</li> <li>• Attendees: <ul style="list-style-type: none"> <li>○ Abigail Goldberg (Chair), Jason Perica, Robert Montgomery and Philippa Hayes.</li> </ul> </li> </ul>

		○ Council staff: Patrick Williams and Ritu Shankar
9)	<b>COUNCIL RECOMMENDATION</b>	Approval
10)	<b>DRAFT CONDITIONS</b>	Attached to the Council assessment report