

## DETERMINATION AND STATEMENT OF REASONS

### WILLOUGHBY LOCAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	6 February 2024
<b>PANEL MEMBERS</b>	Jacqueline Townsend (Chair), Robert Montgomery, Helen Deegan and Linda Tully
<b>DECLARATIONS OF INTEREST</b>	None

Electronic determination on 6 February 2024.

Papers circulated electronically 30 January 2024. Electronic communication sent between 30 January and 6 February 2024.

#### MATTER DETERMINED

DA-2023/190 at 11 Darling Street, Chatswood NSW 2067. Internal and external alterations and additions, including; converting an existing garage into a living room; alterations to windows and front façade; new vergola roof and BBQ area; demolition and construction of a new swimming pool; 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:

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

The Panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the *WLEP*; and
- 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
- 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.

- The proposed development involves minor alterations and additions to an existing dwelling house that have been found to be consistent with the objectives for development within the R2 Low Density Residential zone.
- The site is located within the North Chatswood Heritage Conservation Area and the proposed alterations and additions have been found to have an acceptable impact on the heritage significance of the Conservation Area, pursuant to Clause 5.10(4) of the *WLEP 2012*.
- The proposed alterations and additions do not increase the gross floor area of the existing building which is non-compliant with the FSR development standard that applies to the site. As the proposal does not increase the existing gross floor area, the proposal is found to be acceptable and has been found to satisfy the objectives and provisions of Clause 4.6 of the *WLEP 2012*.
- The proposed development improves amenity for the occupants of the dwelling house without causing any unreasonable impacts to the character of the North Chatswood Heritage Conservation Area or the amenity of neighbouring properties and for the abovementioned reasons is considered to be in the public interest.

## CONDITIONS

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

### 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.

*Condition 45A is added as follows:*




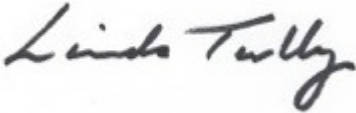
#### **45A Ongoing use of Cabana**

**The proposed cabana, apart from the bathroom as shown on the proposed ground floor plan (Dwg No. 01623-02-Rev 1), is to remain an open structure used for non-habitable purposes associated with outdoor recreation including the use of the swimming pool.  
(Reason: Ensure compliance)**

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel noted that no written submissions were made during public exhibition and therefore no issues of concern were raised.

The Panel noted that the Council assessment report was dated incorrectly and should be dated 30 January 2024.

PANEL MEMBERS	
	
JACQUELINE TOWNSEND (CHAIR)	ROBERT MONTGOMERY
	
HELEN DEEGAN	LINDA TULLY

SCHEDULE 1		
1)	DA NO.	DA-2023/190
2)	PROPOSED DEVELOPMENT	Internal and external alterations and additions, including; converting an existing garage into a living room; alterations to windows and front façade; new vergola roof and BBQ area; demolition and construction of a new swimming pool; and, associated works.
3)	STREET ADDRESS	11 Darling Street, Chatswood NSW 2067.
4)	APPLICANT/OWNER	Nsb Design Group / Mrs S Zhang and Mr H H Cheung and Y Zhang and H Y You.
5)	REASON FOR REFERRAL	Departure from standard by more than 10%.
6)	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>SEPP Building Sustainability Index: BASIX 2004 (The BASIX SEPP).</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021.</li> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021.</li> <li>Willoughby Local Environmental Plan 2012.</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Willoughby Development Control Plan</li> <li>Section 7.12 (S94A) Plan</li> <li>Willoughby Local Infrastructure Contributions Plan.</li> </ul> </li> <li>Provisions of the Environmental Planning and Assessment Regulation 2000.</li> <li>Provisions of the Environmental Planning and Assessment Act 1979.</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 Environmental Planning and Assessment Act 1979 or regulations.</li> <li>The public interest, including the principles of ecologically sustainable development.</li> </ul>
7)	MATERIAL CONSIDERED BY THE PANEL	<ol style="list-style-type: none"> <li>Council assessment report: 30 January 2024</li> <li>Clause 4.6 variation requests: cl. 4.4 Floor Space Ratio</li> <li>Written submissions during public exhibition: Nil</li> </ol>
8)	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<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: Jacqueline Townsend (Chair), Robert Montgomery, Helen Deegan and Linda Tully.</li> <li>Papers circulated electronically 30 January 2024.</li> <li>Panel briefing held on 6 February 2024.</li> <li>Attendees: <ul style="list-style-type: none"> <li>Jacqueline Townsend (Chair), Robert Montgomery, Helen Deegan and Linda Tully.</li> <li>Council staff: Jane McMillan and Ritu Shankar.</li> </ul> </li> </ul>
9)	COUNCIL RECOMMENDATION	Approval
10)	DRAFT CONDITIONS	Attached to the Council assessment report