

DETERMINATION AND STATEMENT OF REASONS WILLOUGHBY LOCAL PLANNING PANEL

DATE OF DETERMINATION	30 August 2022
PANEL MEMBERS	Abigail Goldberg (Chair), James Harrison, Gary Shiels and Robert Freestone
DECLARATIONS OF INTEREST	None

Public meeting held at Willoughby City Council on 30 August 2022 by teleconference. The meeting opened at 2.00pm. Papers circulated electronically between 24 August and 30 August 2022.

This item was heard between 2.06pm and 2.37pm.

MATTER DETERMINED

DA-2021/274 at 5 Dorset Road, Northbridge NSW 2063. Demolition of existing dwelling and construction of a new dwelling, driveway, 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.

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

Application to vary a development standard

Following consideration of written requests 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. 4.3 (height of buildings) and cl. 4.4 (floor space ratio) are 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 requests adequately address 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. 4.3 (height of buildings) and cl. 4.4 (floor space ratio) of the *WLEP* and the objectives for development in the C4 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 and:

1. **The proposed development will not have unreasonable impacts on the streetscape, the residential amenity of the neighbouring properties or the surrounding locality;**
2. **The proposed development meets the desired outcomes and objectives of the development standards contained in the *Willoughby Local Environmental Plan 2012 (WLEP)* and objectives of the *Willoughby Development Control Plan (WDCP)*.**

CONDITIONS

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

The Panel noted the concerns of the neighbours and the applicant and agreed to the amendment of the following condition:

Condition 3 to be amended to read as follows:

3. Amendments

Prior to the issue of the Construction Certificate, the proposal is to be amended in the following manner:

- (a) The materials and finishes of the building are to have a ~~minimum~~ minimal solar absorptance of ~~0.55~~ in accordance with the BCA, so as to avoid nuisance in the form of glare or reflection to nearby buildings and to Middle Harbour.
- (b) Any proposed side boundary fencing is to have a maximum height of 1.8m above natural ground level.
- (c) The front boundary fencing is to have a 1.1m maximum height above the finished ground level, measured at the front boundary.
- (d) Detail that the proposed access path to the foreshore:
 - Is constructed of materials that are visually compatible with the surrounding landscape such as stabilised crushed sandstone or decorative granite, low sandstone retaining walls (<1 metre high) and timber;
 - Be of nominal width 1.2 metres (as site conditions permit)
 - Incorporate native planting to assist in screening the path.
- (e) That any retaining walls are to be in harmony with the natural landscaped area, with use of sandstone blocks, masonry units incorporating planting, or timber.
- (f) The ~~horizontal~~ glass louvres servicing windows FF 05 and FF 07 are to be **vertical and** of translucent or obscured glass **and able to be opened to a maximum of 45 degrees**. Alternatively, privacy screening can be provided with fixed louvres that prevent any overlooking or direct line of sight to neighbouring windows or private open space including balconies and terraces.
- (g) All privacy louvres servicing windows on the development are to be fixed to prevent any overlooking or direct line of sight to neighbouring windows or private open space including balconies and terraces.
- (h) The privacy screen servicing the eastern stairwell windows, GF21 & FF08, is to have no individual opening more than 30mm and a total area of all openings that is no more than ~~30%~~ **50%** of the surface area of the screen.

Plans detailing these amendments are required to be shown on the Construction Certificate plans.
(Reason: Ensure compliance)

The Panel request that Council consider making the Geotechnical report and Noise & Vibration Monitoring Plan publicly available on Council's website.

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:

- View loss
- Privacy
- Compliance with Height and FSR
- Compliance with building envelope per the *WDCP*
- Parking onsite
- Construction noise, vibration and dust
- Excavation impacts

The Panel considered that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS



ABIGAIL GOLDBERG (CHAIR)



JAMES HARRISON



GARY SHIELS



ROBERT FREESTONE

SCHEDULE 1		
1)	DA NO.	DA-2021/274
2)	PROPOSED DEVELOPMENT	Demolition of existing dwelling and construction of a new dwelling, driveway, landscaping and associated works.
3)	STREET ADDRESS	5 Dorset Road, Northbridge NSW 2063.
4)	APPLICANT/OWNER	Ursino Architects / Mr N Stamatis and Mrs P N Stamatis.
5)	REASON FOR REFERRAL	Contentious Development – more than 10 submissions.
6)	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ <i>SEPP Building Sustainability Index: BASIX 2004 (The BASIX SEPP)</i>. ○ <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>. ○ <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>. ○ <i>Willoughby Local Environmental Plan 2012</i>. • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ <i>Willoughby Development Control Plan</i> ○ <i>Section 7.12 (S94A) Plan</i> ○ <i>Willoughby Local Infrastructure Contributions Plan</i> ○ <i>Sydney Harbour Foreshore and Waterways Area DCP</i> • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>. • Provisions of the <i>Environmental Planning and Assessment Act 1979</i>. • Planning agreements: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality. • The suitability of the site for the development. • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations. • The public interest, including the principles of ecologically sustainable development.
7)	MATERIAL CONSIDERED BY THE PANEL	<ol style="list-style-type: none"> 1) Council assessment report: 23 August 2022. 2) Clause 4.6 variation requests: <ul style="list-style-type: none"> ○ cl. 4.3 (height of buildings) ○ cl. 4.4 (floor space ratio) 3) Written submissions during public exhibition: 17 4) Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In Support: <ul style="list-style-type: none"> ○ John Bradley of John Bradley Architect ○ Norbert Wyzenbeek of 3A Dorset Road Northbridge ○ In Objection: <ul style="list-style-type: none"> ○ Candace Rutka of 7 Dorset Road Northbridge ○ Alex Welch of 7 Dorset Road Northbridge ○ David Tran of Tranplan ○ Zhong Ming (Charles) Chen of 3 Dorset Road Northbridge ○ On behalf of the applicant: <ul style="list-style-type: none"> ○ Robert Ursino (Applicant) ○ Bernard Moroz of Town Planning ○ Council staff: Janith DeSilva, Ritu Shankar and Mitchell Noble
8)	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> • Site inspections were undertaken individually by Panellists at their discretion due to COVID-19 precautions. • Papers circulated electronically 24 August 2022.

		<ul style="list-style-type: none"> • Final briefing to discuss Council's recommendation, 30 August 2022 at 3.02pm-3.37pm • Attendees: <ul style="list-style-type: none"> ○ Abigail Goldberg (Chair), James Harrison, Gary Shiels and Robert Freestone. ○ Council staff: Janith DeSilva and Ritu Shankar
9)	COUNCIL RECOMMENDATION	Approval
10)	DRAFT CONDITIONS	Attached to the Council assessment report