

DETERMINATION AND STATEMENT OF REASONS

WILLOUGHBY LOCAL PLANNING PANEL

DATE OF DETERMINATION	29 MAY 2018
PANEL MEMBERS	Penny Holloway (Chair), Annelise Tuor, Gary Shiels, Robert Freestone
DECLARATIONS OF INTEREST	NIL

Public meeting held at Willoughby City Council Chambers on 29 May 2018 opened at 4.39pm and closed at 6.10pm.

MATTER DETERMINED

DA-2017/372 at 269 Edinburgh Road, CASTLECRAG NSW 2068

The following people addressed the meeting:

- 1) Garry Chapman of Chapman Planning on behalf of the applicant.
- 2) James Perry of fjmt Studio on behalf of the applicant.
- 3) Cameron Moore of 265 Edinburgh Road, "The Audette House"
- 4) Kate McCann of 269 Edinburgh Road - applicant

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel was satisfied that the applicant's request under cl 4.6(3) had demonstrated that the floor space ratio standard in Clause 4.4 of the *Willoughby LEP 2012* could be varied and that the proposal would be in the public interest as the objectives of the floor space ratio standard and the zone will be met, notwithstanding the variation.

The Panel was not satisfied that the applicant's written request under cl 4.6(3) adequately demonstrated that the height standard in clause 4.3 of the *Willoughby LEP 2012* could be varied and that a condition should be imposed to require compliance with the height standard..

The Panel determined to **approve** the development application as described in Schedule 1 pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to conditions, including the retention of additional trees and the submission of geotechnical and water reports to determine the impacts of the basement excavation and its size.

The decision of the Panel was unanimous.

REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

- A. Support the Clause 4.6 variation to the floor space ratio control contained in Clause 4.4 of *Willoughby Local Environmental Plan 2012* as it is considered unreasonable and unnecessary to comply with the development standard for the following reasons:
 - 1) The site has an area of 4,274m² but only 1,571m² is zoned E4 Environmental Living. The remainder of the site is zoned E2 Environmental Conservation and prohibits the construction of a dwelling house.
 - 2) The proposed dwelling house has an area of 592m². This equates to only 13.8% of the site area. This is well below the floor space ratio that applies to the site of 0.25:1.
 - 3) As most of the site area cannot be included in the calculation of floor space ratio, the actual FSR is 0.37:1. However, the proposal has to be considered in its context which is on a large site with an area of over 4,000m², well able to accommodate the proposed size of the dwelling house.
 - 4) It is considered that the amenity impacts to adjoining properties will be acceptable despite the floor space ratio non-compliance, subject to conditions.
 - 5) The proposed size of the dwelling house is consistent with the size of other dwelling houses in the Castlecrag locality generally.
 - 6) It is considered that the Clause 4.6 variation submitted with the development application establishes that the proposal is consistent with the objectives of the development standard and the objectives of the zone.
- B. Not support the Clause 4.6 variation to the Height of Building standard contained in Clause 4.3 of *Willoughby Local Environmental Plan 2012* as the written variation request did not satisfactorily demonstrate that compliance with the development standard is unreasonable and unnecessary.
- C. Approve Development Application 2017/372 for demolition of two dwellings and ancillary structures and construction of two storey dwelling, car parking, swimming pool, landscaping and associated works to 269 Edinburgh Road Castlecrag, subject to the conditions contained in Attachment 1, for the following reasons:

- 1) Subject to conditions, the proposal will have acceptable amenity impacts to neighbouring properties with regard to building bulk, views, overshadowing and privacy.
- 2) Subject to conditions, the proposal will have an acceptable impact on the environment.
- 3) Subject to conditions, the proposed dwelling house is considered to be consistent with development in the low density E4 Environmental Living Zone.
- 4) The proposed development has a bulk and scale consistent with the size of surrounding dwelling houses in Castlecrag and is considered to be consistent with the neighbourhood character.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment report with the following additional and amended conditions:

New conditions are to be included as follows:

PRIOR TO THE LODGEMENT OF APPLICATION FOR CONSTRUCTION CERTIFICATE

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

1a. Amendments

The area of the basement as shown on The Basement Plan 2001 is to be reduced in size to a maximum of 250m² including the driveway access and the thickness of the external walls as shown on Plan 2001 to reduce the environmental impacts of excavation unless geotechnical and water study information is provided to Council prior to the lodgement of application for construction certificate, which demonstrates that further excavation, up to the limit as shown on the Plan 2001 is acceptable.
(Reason: Ensure compliance and Amenity)

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

14a. Amended Plans – Tree retention

- (a) Plans are to be amended to indicate retention of trees numbered T6 (*Angophora costata*) and T14 (*Eucalyptus cinerea*) in the Arboricultural Impact Assessment Report dated May 2018 prepared by Earthscape Horticultural Services.
- (b) The new driveway within the site is to be designed to be constructed above existing ground levels where it traverses the Tree Protection Zone of Tree 6 in consultation with and to the satisfaction of the Project Arborist and such design is to be reflected on the amended plans.
- (c) Amended plans are to be provided to the Principal Certifying Authority for approval prior to issue of a Construction Certificate.
(Reason: Tree protection)

Amendments to conditions in WLPP Report

Condition 2 is to be amended to read as follows:

2. Amendments

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

- (a) The proposed building is to have a maximum height of 8.5m above existing ground level. There is scope to reduce ceiling heights and the roof thickness of the proposed building.
- (b) All boundary walls to the south of the guest room terrace as shown on the ground floor plan are to have a maximum height of 1.2m above existing ground level.
- (c) All retaining walls, landscaping walls, gardens/terraces and the proposed swimming pool are to have a maximum height of 1.5m above existing ground level. The ground floor level may be adjusted to align with the rear terrace level if required. **To ensure the pool does not exceed 1.5m above existing ground level, the swimming pool is to be redesigned to align with the natural contours of the site.**
- (d) An amended Landscape Plan is to be submitted to the Principal Certifying Authority detailing the amendments included in this consent and including an additional dense indigenous landscape screen within the western side setback adjacent to the study and basement stair. The vegetation

- screen is to have a minimum width of 600mm and a height at maturity of 2m.
- (e) The pebble roof is to be non-trafficable apart from maintenance.
 - (f) The bedroom 2 window on the eastern side elevation is to have translucent glass either fixed or in an awning style window.

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

Condition 14 is to be amended to read as follows:

14. Tree Protection Plan

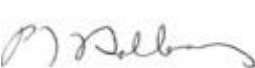



- (a) Submit to the accredited certifier a Tree Protection Plan drawing for approval prior to issue of a construction certificate.
- (b) The Tree Protection Plan is to be prepared by a qualified Arborist with minimum qualification AQF Level 5.
- (c) **Tree Protection Plan drawing shall address tree protection and management of all trees required to be retained (including those on adjoining properties and trees numbered T6 and T14 in the Arboricultural Impact Assessment Report dated May 2018 prepared by Earthscape Horticultural Consultants) in accordance with AS 4970-2009 'Protection of trees on development sites' and clearly mark tree protection zones as well as tree protection measures and fencing.**

(Reason: Tree protection)

45. Tree Trunk, Branch and Root Protection

- (a) **Retain and protect the following trees and vegetation throughout the demolition and construction period: All trees not indicated for removal in the Arboricultural Impact Assessment Report dated May 2018 prepared by Earthscape Horticultural Consultants, with the exception of trees numbered T6 (*Angophora costata*) and T14 (*Eucalyptus cinerea*), which are to be retained.**
- (b) The above trees must be clearly marked and protection devices in place to prevent soil compaction and machinery damage.
- (c) Tree protection measures must comply with AS 4970-2009 Protection of trees on development sites with particular reference to Section 4 Tree Protection Measures and with any recommendations contained in the Tree Protection Plan submitted in accordance with Condition 14.
- (d) Tree protection measures in accordance with c) above are to be certified by the Project Arborist prior to commencement of works.
- (e) Tree roots greater than 50mm diameter are not to be removed unless approved by The Project Arborist on site.
- (f) All structures are to bridge roots unless directed by The Project Arborist on site.

(Reason: Tree management)

PANEL MEMBERS	
 PENNY HOLLOWAY(CHAIR)	 ANNELISE TUOR
 GARY SHIELS	 ROBERT FREESTONE

SCHEDULE 1		
1)	DA NO.	DA-2017/372.
2)	PROPOSED DEVELOPMENT	Demolition of two dwellings and ancillary structures and construction of two storey dwelling, carparking, swimming pool, landscaping and associated works.
3)	STREET ADDRESS	269 Edinburgh Road, CASTLECRAIG NSW 2068.
4)	APPLICANT/OWNER	K J McCann.
5)	REASON FOR REFERRAL	Departure from standard by more than 10%.
6)	RELEVANT MANDATORY CONDITIONS	<ol style="list-style-type: none"> 1) Environmental planning instruments: <ul style="list-style-type: none"> • SEPP19 – Bushland in Urban Areas. • SEPP BASIX. • Sydney Regional Environmental Plan (Sydney and Middle Harbour Catchment)(Deemed SEPP). • State Environmental Planning Policy (Coastal Management) 2018. • Willoughby Local Environmental Plan 2012. 2) Development control plans: <ul style="list-style-type: none"> • Willoughby Development Control Plan 2016. • Sydney Harbour Foreshores and Waterways. • Section 94A Plan. 3) The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality. 4) The suitability of the site for the development. 5) Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations. 6) 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 for meeting 29 May 2018. 2) Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Support – Cameron Moore. ○ On behalf of the applicant – Garry Chapman, James Perry and Kate McCann.
8)	MEETINGS AND SITE INSPECTIONS BY THE PANEL	Site inspection and briefing meeting dated 29 May 2018.
9)	COUNCIL RECOMMENDATION	Approval