

DETERMINATION AND STATEMENT OF REASONS WILLOUGHBY LOCAL PLANNING PANEL

DATE OF DETERMINATION	25 September 2018
PANEL MEMBERS	Penny Holloway (Chair), Trevor Bly, John McInerney, Robert Freestone.
DECLARATIONS OF INTEREST	NIL

Public meeting held at Willoughby City Council Chambers on 25 September 2018 opened at 2.32pm and closed at 2.38pm.

MATTER DETERMINED

DA-2018/126 at 6 Johnson Street, CHATSWOOD NSW 2067 (as described in Schedule 1)

The applicant, Ivan Byak, was available for questions only.

PANEL CONSIDERATION AND DECISION

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

The Panel unanimously approved the applicant's request to vary the minimum subdivision lot size under Clause 4.1(3) and floor space ratio in Clause 4.4(2) of the *Willoughby Local Environment Plan 2012*. The Panel considered the applicant's submission had demonstrated the matters required by Clause 4.6 and the objectives of the minimum subdivision lot size and floor space ratio will be met notwithstanding the variation.

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*.

The decision was **unanimous**.


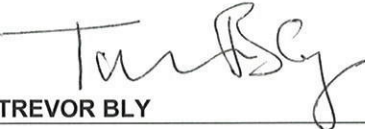


REASONS FOR THE DECISION

- A. Support the Clause 4.6 exception contained in Attachment 5 as it is unreasonable and unnecessary to comply with the development standard of Clause 4.1(3) *Minimum subdivision lot size of Willoughby Local Environmental Plan 2012*, as the proposed subdivision does not comply with the development standard for the following reasons:
- 1) A dual occupancy that was previously approved with DA 310/89 and BA 1063/89 exists on site and no building works are currently proposed. The proposed subdivision does not involve any physical change to the existing dwellings.
 - 2) 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.
 - 3) The subdivision will have negligible impacts on the significance of the South Chatswood Heritage Conservation Area.
 - 4) As the application does not include building works, the subdivision of the land will not impact the amenity of the neighbouring properties.
 - 5) The subdivision of the land will not create opportunities for future new buildings or additions to the existing dwellings.
- B. Support the Clause 4.6 exception contained in Attachment 5 as it is unreasonable and unnecessary to comply with the development standard of Clause 4.4(2) *Floor space ratio of Willoughby Local Environmental Plan 2012*, as the proposed subdivision exceeds the development standard for the following reasons:
- 1) The proposed subdivision does not change the existing, legally approved, gross floor area of the dwellings; however, the subdivision impacts the calculation of the floor space ratio.
 - 2) 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.

- 3) The proposed subdivision does not affect the built form and consequently does not affect the amenity of the adjoining neighbours.
 - 4) The subdivision of the land will have negligible impacts on the significance of the South Chatswood Heritage Conservation Area and is unlikely to create a precedent in the area due to the particularities of the case.
- C. Approve Development Application DA-2018/126 for subdivision to create two lots, one for each existing dwelling at 6 Johnson Street, Chatswood, subject to the conditions contained in Attachment 1, for the following reasons:
- 1) The proposed subdivision is consistent with the Aims of the Plan and with the objectives of the R2 Low Density Zone contained in the *Willoughby Local Environmental Plan 2012 (WLEP)* and is consistent with the Aims of the *Willoughby Development Control Plan (WDCP)*.
 - 2) The proposal will have no adverse impacts on the significance of the South Chatswood Heritage Conservation Area.
 - 3) The proposed subdivision will have negligible impacts on the amenity currently enjoyed by the neighbouring properties.
 - 4) The proposed land subdivision will not create opportunities for further intensification of the use when compared to existing situation.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment report.

PANEL MEMBERS	
 PENNY HOLLOWAY (CHAIR)	 TREVOR BLY
 JOHN MCINERNEY	 ROBERT FREESTONE

SCHEDULE 1		
1)	DA NO.	DA-2018/126
2)	PROPOSED DEVELOPMENT	Subdivision to create two lots, one for each existing dwelling.
3)	STREET ADDRESS	6 Johnson Street, CHATSWOOD NSW 2067.
4)	APPLICANT/OWNER	Mr I P J Byak.
5)	REASON FOR REFERRAL	Departure from standard by more than 10%.
6)	RELEVANT MANDATORY CONSIDERATIONS	<ol style="list-style-type: none"> 1) Environmental planning instruments: <ul style="list-style-type: none"> • <i>State Environmental and Planning Policy (Infrastructure 2007)</i>. • <i>Sydney Regional Environmental Plan (Sydney and Middle Harbour Catchment)(Deemed SEPP)</i>. • <i>Willoughby Local Environmental Plan 2012</i>. 2) Development control plans: <ul style="list-style-type: none"> • <i>Willoughby Development Control Plan</i> 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	Council assessment report for meeting 25 September 2018.
8)	MEETINGS AND SITE INSPECTIONS BY THE PANEL	Site inspection and briefing meeting on 25 September 2018.
9)	COUNCIL RECOMMENDATION	Approval.