

DETERMINATION AND STATEMENT OF REASONS WILLOUGHBY LOCAL PLANNING PANEL

DATE OF DETERMINATION	30 October 2018
PANEL MEMBERS	Garry West (Chair), Julie Savet Ward, Annelise Tuor and Philippa Hayes
DECLARATIONS OF INTEREST	NIL

Public meeting held at Willoughby City Council Chambers on 30 October 2018 opened at 2.05pm and closed at 2.17pm.

MATTER DETERMINED

DA-2017/262 at 6 Blue Gum Avenue CHATSWOOD NSW 2067 (as described in Schedule 1)

The following people addressed the meeting:

- 1) Yvonne Meng of 6 Blue Gum Ave Chatswood and
- 2) Craig Nobel of 6 Blue Gum Ave Chatswood

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 determined to **refuse** the development application as described in Schedule 1 pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

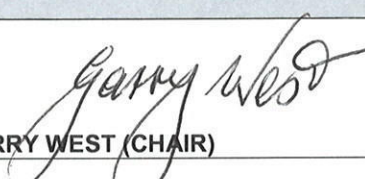

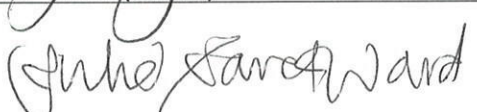

The decision was **unanimous**.

REASONS FOR THE DECISION

- 2.1 That the Clause 4.6 variation to the height of buildings control contained in Clause 4.3A(5) of *Willoughby Local Environmental Plan 2012* not be supported as it is not considered unreasonable and unnecessary to comply with the development standard for the following reasons:
 - 2.1.1 The proposed built form is incompatible in bulk and scale with surrounding developments, the topography of the land and the character of the locality.
 - 2.1.2 The proposed development, as viewed from the rear, is a three (3) storey structure which is inconsistent with the scale of development anticipated by the height limit of 5.7m.
 - 2.1.3 The proposal does not maintain an acceptable visual quality when viewed from the surrounding areas.
 - 2.1.4 The design and height of the proposed development is considered to be inconsistent with the objectives of the R2 – Low Density Residential zone.
- 2.2 That the Development Application DA-2017/262 for the retention of the existing dwelling and addition of a two storey dwelling and carport at the rear to create a detached dual occupancy development and associated works at 6 Blue Gum Avenue, Chatswood be refused for the following reasons:
 - 2.2.1 The development is inconsistent with the specific objectives of the R2 – Low Density Residential zone in terms of its compatibility with the scale and character of surrounding development and its likely adverse impacts in respect to residential amenity and visual and acoustic privacy.
 - 2.2.2 **The subject site and the surrounds are located in a high hazard flood area.** The proposed vehicular crossing extension traverses through the low point in the unmade section of Kareela Road and the flooding depths and velocities at this location exceed the vehicle stability thresholds in the design storm events and it is considered “unsafe for people and vehicles”.
 - 2.2.3 The proposed building exceeds the height of building development standard of maximum 5.7m above ground level as prescribed by Clause 4.3A(5) of the *Willoughby Local Environmental Plan 2012* by up to 1.43m (12.8% above the standard).
 - 2.2.4 The Clause 4.6 Variation request in relation to Clause 4.3 - Height of Building standard contained in the *Willoughby Local Environmental Plan 2012* is not well founded and fails to demonstrate that compliance with the development standard is unreasonable or unnecessary

in the circumstances of the case, neither does it demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.

- 2.2.5 The proposed development encroaches on the building height plane and does not provide progressive rear setbacks that are commensurate with the wall heights to minimise associated impacts on adjoining properties.
- 2.2.6 The proposal will result in unreasonable amenity impacts between dwellings within the site and poor amenity impacts on the surrounding properties including overlooking and privacy.
- 2.2.7 The applicant has not sufficiently demonstrated the suitability of the existing surface grades over the "special crossing" (as described in *Roads Act 1993*), the pavement's structural adequacy for construction access and the impact on the properties currently gaining access over this "special crossing".

PANEL MEMBERS	
 GARRY WEST (CHAIR)	 ANNELISE TUOR
 JULIE SAVET WARD	 PHILIPPA HAYES

SCHEDULE 1		
1)	DA NO.	DA-2017/262
2)	PROPOSED DEVELOPMENT	Retention of existing dwelling, addition of a two storey dwelling and carport at the rear to create a detached dual occupancy development and associated works.
3)	STREET ADDRESS	6 Blue Gum Avenue, CHATSWOOD NSW 2067.
4)	APPLICANT/OWNER	Ms Y Meng.
5)	REASON FOR REFERRAL	Contentious Development – More than 10 submissions. 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"> • SEPP BASIX. • Sydney Regional Environmental Plan (Sydney and Middle Harbour Catchment)(Deemed SEPP). • Willoughby Local Environmental Plan 2012. 2) Development control plans: <ul style="list-style-type: none"> • Willoughby Development Control Plan • 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 dated 30 October 2018. 2) Verbal submissions at the public meeting: <ul style="list-style-type: none"> • Support for the Development – Applicants Craig Nobel and Yvonne Meng
8)	MEETINGS AND SITE INSPECTIONS BY THE PANEL	Site inspection and briefing meeting on 30 October 2018.
9)	COUNCIL RECOMMENDATION	Refusal