

## DETERMINATION AND STATEMENT OF REASONS

### WILLOUGHBY LOCAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	26 March 2019
<b>PANEL MEMBERS</b>	Garry West (Chair), Trevor Bly, Julie Savet Ward and Robert Wilson
<b>DECLARATIONS OF INTEREST</b>	NIL

Public meeting held at Willoughby City Council Chambers on 26 March 2019 opened at 2.05pm and closed at 2.27pm.

#### **MATTER DETERMINED**

DA-2018/326 at 49 Frenchs Road, WILLOUGHBY NSW 2068 (as described in Schedule 1)

#### **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 site inspection listed at item 8 in Schedule 1.

The Panel unanimously refused the applicant's Clause 4.6 request to vary the minimum lot size in Clause 4.1 of the *Willoughby Local Environment Plan 2012*.

The Panel determined to refuse the development application pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*.


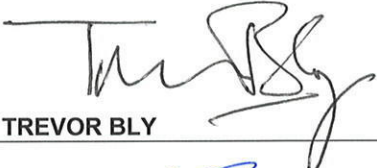


The decision was **unanimous**.

#### **REASONS FOR THE DECISION**

The Panel resolved to:

- A. Not support the Clause 4.6 variation to the minimum lot size standard contained in Clause 6.10 of *Willoughby Local Environmental Plan 2012* for the following reasons:**
1. The applicant has not demonstrated that the proposed development will achieve the objectives of Clause 6.10 in respect to enabling development sites to be of sufficient size to provide adequate area for landscaping and separation between buildings for privacy. Compliance is therefore not 'unreasonable or unnecessary'.
  2. The variation request has not demonstrated that the proposed development will provide adequate setbacks, privacy, useable private open space or a landscaped setting appropriate for medium density housing, or that there are sufficient environmental planning grounds to justify contravening the development standard.
  3. The proposal does not achieve the objectives of the R3 zone pertaining to compatibility with the scale and character of the surrounding residential development and provision of a comfortable and sustainable living environment. Furthermore, the proposal does not achieve the objectives of Clause 6.10. The proposal is therefore not in the public interest.
- B. Refuse Development Application DA-2018/326 for the following reasons:**
1. The proposed development does not achieve the minimum lot size development standard of 1,100m<sup>2</sup>, as prescribed by Clause 6.10 of the *Willoughby Local Environmental Plan 2012*, by 557m<sup>2</sup> (51% above the standard).
  2. The Clause 4.6 variation request in relation to the Clause 6.10 development 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, that there are sufficient environmental planning grounds to justify contravening the development standard, or that contravening the standard is in the public interest.
  3. The development is inconsistent with the specific objectives of the R3 – Medium Density Residential zone in terms of its compatibility with the scale and character of surrounding residential development due its excessive site coverage and insufficient setbacks, and its failure to provide a comfortable and sustainable living environment due to its insufficient soft landscaping, private open space and reduced privacy due to inadequate setbacks.

4. The proposal is an overdevelopment of the site, as demonstrated by the breaches of the *Willoughby Development Control Plan* in respect to car parking, site coverage, setbacks, recreational area, private open space, soft landscaping and privacy.
5. The proposal will not provide suitable amenity for neighbours as a result of the breach of the *Willoughby Development Control Plan* side setback controls.
6. The proposal will not provide suitable amenity for residents as a result of the failure to provide adequate car parking spaces, setbacks, recreational area, private open space, soft landscaping and privacy.

PANEL MEMBERS	
 GARRY WEST (CHAIR)	 TREVOR BLY
 JULIE SAVET WARD	 ROBERT WILSON

<b>SCHEDULE 1</b>		
1)	<b>DA NO.</b>	DA-2018/326
2)	<b>PROPOSED DEVELOPMENT</b>	Demolition of existing dwelling and construction of a multi dwelling housing development comprising three (3), two (2) storey dwellings with at grade parking within garage and strata subdivision.
3)	<b>STREET ADDRESS</b>	49 Frenchs Road, WILLOUGHBY NSW 2068.
4)	<b>APPLICANT/OWNER</b>	D Rahme.
5)	<b>REASON FOR REFERRAL</b>	Contentious Development – More than 10 submissions.
6)	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ol style="list-style-type: none"> <li>1) Environmental planning instruments: <ul style="list-style-type: none"> <li>• SEPP BASIX.</li> <li>• Sydney Regional Environmental Plan (Sydney and Middle Harbour Catchment) (Deemed SEPP).</li> <li>• Willoughby Local Environmental Plan 2012.</li> </ul> </li> <li>2) Development control plans: <ul style="list-style-type: none"> <li>• Willoughby Development Control Plan</li> <li>• Section 7.12 (S94A) Plan.</li> </ul> </li> <li>3) 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>4) The suitability of the site for the development.</li> <li>5) Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations.</li> <li>6) The public interest, including the principles of ecologically sustainable development.</li> </ol>
7)	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ol style="list-style-type: none"> <li>1) Council assessment report for meeting dated 26 March 2019</li> <li>2) Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>• Objector - Garry O'Neill of 47 Frenchs Road, Willoughby</li> <li>• Support - Nil</li> <li>• On behalf of the applicant – <ol style="list-style-type: none"> <li>a. Warren Long of Longitude Planning Pty Ltd (Town Planner for applicant)</li> <li>b. Daniel Younan of Daniel Younan &amp; Associates (Architect for applicant)</li> </ol> </li> </ul> </li> </ol>
8)	<b>MEETINGS AND SITE INSPECTIONS BY THE PANEL</b>	Site inspection and briefing meeting on 26 March 2019.
9)	<b>COUNCIL RECOMMENDATION</b>	Refusal