

DATE OF DETERMINATION	Wednesday 22 August 2018
PANEL MEMBERS	John Roseth (Chair), Sue Francis, Linda McClure
APOLOGIES	Peter Debnam
DECLARATIONS OF INTEREST	Gail Giles-Gidney, Hugh Ericksson, Norma Shankie Williams all declared a conflict of interest as the land is owned by Willoughby Council.

Public meeting held at Christie Conference Centre 100 Walker Street North Sydney on 22 August 2018, opened at 10.10am and closed at 1:30 pm.

MATTER DETERMINED

2017SNH051 – Willoughby – DA2017/157 at 67 Albert Avenue Chatswood (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 meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

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

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

The reasons for the decision of the Panel were:

This application was before the Panel at a public meeting on 23 May 2018, at which time the Panel deferred the determination in order to require additional information as well as three amendments to the proposal.

The three amendments required were:

- The provision of fixed external louvres to the northern and eastern elevation to ensure no cross-viewing to the adjacent View apartments building;
- The achievement of the separation distances between buildings suggested by the Apartment Design Guide (ADG); and
- Compliance with the maximum Floor Space Ratio of 8:1, with the reduction in floor space lessening the view impact on adjacent buildings.

The applicant has amended the proposal in response to two of the three items raised by the Panel at the meeting on 23 May 2018. The amended proposal is before the Panel at the second public meeting. The amended proposal provides fixed external louvres to the eastern elevation. The applicant contends that the northern elevation has no major windows and does not justify the imposition of louvres. The Panel accepts this.

The FSR of the proposal has been reduced, so that it now complies with the maximum Floor Space Ratio of 8:1 allocated to it by the Willoughby LEP 2012. The reduction in floor space has occurred predominantly on the western side, thus lessening the view impact on some of the apartments in the View building.

As regards the separation distances suggested in the ADG, the Panel accepts the applicant's contention that the ADG does not technically apply to commercial buildings, including where they are built near residential buildings although amenity considerations are relevant. The Panel notes that the proposal satisfies the separation distances required by the Willoughby DCP 2016. The planning assessment officer considers that the applicant has complied with the Panel's directions and recommends approval of the application.

The Panel has listened to the submissions made by residents and the local community whose issues raised concerns predominantly in relation to the proposal's impact on the nearby Garden of Remembrance and loss of view and amenity from the nearby View and Sebel buildings.

The Panel notes that the Garden of Remembrance is currently in shadow for extended periods of the day but the proposal will not increase the shadow between 12 noon and 2 pm as required by the WLEP 2012. The Panel notes that the DCP requires no additional overshadowing between 11.30 am and 2 pm; however, this is inconsistent with the requirement of the LEP and cannot take precedence over it.

In relation to the concern in respect of view, visual impact and amenity, the Panel has listened to the concerns of the residents of the Sebel and View buildings and notes that panoramic views from some of the apartments will be seriously impacted. The view impact has been reduced by the reduction of floor space in the amended application; however, for some apartments, it remains serious. The Panel notes that the site is zoned B3-commercial core and the WLEP 2012 anticipates a commercial building on the site consistent with the relevant development standards with which the building now complies.

The Panel has also noted concerns about covenants and rights-of-way over the site, however, it accepts that these do not stand in the way of a development consent.




Issues were raised in relation to the description of the site, the light 'spill from the building on adjoining properties and the terms of proposed conditions. Accordingly, conditions have been amended to address these issues.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments:

- Add a condition in relation to adding automated blinds to prevent light spill as follows 'Prior to the issue of the relevant construction certificate, plans are to be amended to show provision of motorised blinds to the façade glazing of the building's eastern elevation. The motorised blinds will be operated to close at dusk and open at dawn to mitigate impacts of lighting at night on adjacent residential properties'
- Add lot 19 DP 790323 to the property description prior to the issue of the development consent
- Amend conditions as provided in the submission from the Chatswood Interchange handed to the Panel on 22/8/18
- Amend condition 2(c) wind assessment to include the words '..and between buildings' to be inserted following the words '..Garden of Remembrance'.
- Amend condition 23 to include (g) use of proposed and existing neighbouring loading docks
- Amend Condition 41 to include the words 'any work the subject of this development' after the words 'to carry out'

- Delete condition 80
- Amend conditions 18 and 121 to insert the words 'After midnight until 7am daily the noise levels shall not exceed background ambient levels' after the words...noise assessment.

PANEL MEMBERS	
 John Roseth (Chair)	 Sue Francis
 Linda McClure	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017SNH051 – Willoughby – DA2017/157
2	PROPOSED DEVELOPMENT	<p>The application includes demolition of the existing podium level, removal of 18 trees and construction of a new commercial tower and associated public domain improvements. The proposed new tower comprises a 15 storey commercial office with a lobby retail space level and 2 levels of existing basement car parking. The land is owned by Willoughby City Council.</p> <p>The proposal is permissible in the B3 Commercial Core zoning and the proposal complies with WLEP 2012 height control and FSR</p>
3	STREET ADDRESS	67 Albert Avenue, Chatswood NSW 2067
4	APPLICANT OWNER	CorVal Partners Limited (long-term lease holders) Willoughby City Council
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy Building Sustainability Index BASIX 2004 ○ State Environmental Planning Policy No.65 Design Quality of Residential Apartment Development ○ Sydney Regional Environmental Plan Sydney Harbour Catchment (Deemed SEPP) ○ Willoughby Local Environmental Plan 2012 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Willoughby Development Control Plan 2017 ○ Chatswood Central Business District S94A Plan • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil

		<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Council assessment report: 10 May 2018 • Council supplementary report: 19 July 2018 • Letter from Design Collaborative dated 21 August 2018 • Response from Council to letter from Design Collaborative: 21 August 2018 • Request to vary conditions tabled by Simon Smith at the public meeting • Written submissions during public exhibition: 19 submissions and 3 petitions • Verbal submissions at the public meeting 23 May 2018: <ul style="list-style-type: none"> ○ Object – Karl Baumgart, Roger Chen, Steve Haggerty, George Smith, Michael Thompson, David Grover, Andrew Hoschke, Yuan Han, Simon Smith, Mark Keegan ○ On behalf of the applicant – Clare Swann, Harry Quartermain and James Fitzpatrick • Verbal submissions at the public meeting 22 August 2018: <ul style="list-style-type: none"> ○ Object –David Grover, Peter Hayes, Roger Chen, George Smith on behalf of owners for The Sebel and View buildings, Karl Baumgart, David Ginges, Craig Murray on behalf of the RSL, Simon Smith on behalf of the Chatswood Interchange, Yuan Han and Stephen Lowe on behalf of The Sebel ○ On behalf of the applicant – Clare Swann, Deborah Townsend and James Fitzpatrick
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 27 July 2018 • Final briefing to discuss council's recommendation, 23 May 2018 at 10.00am. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, John Roseth, Linda McClure ○ <u>Council assessment staff</u>: Ana Vissarion, Ritu Shankar • Final briefing to discuss council's recommendation, 22 August at 9.30am. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: John Roseth (Chair), Sue Francis, Linda McClure ○ <u>Council assessment staff</u>: Ana Vissarion, Ian Arnott, Jane Fielding and Jane Anderson
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report