



Land and Environment Court
New South Wales

Case Name: Wilbec Chatswood Pty Ltd v Willoughby City Council (No 2)

Medium Neutral Citation: [2024] NSWLEC 1263

Hearing Date(s): 13-15 February 2024, final submissions on conditions filed 14 May 2024

Date of Orders: 17 May 2024

Decision Date: 17 May 2024

Jurisdiction: Class 1

Before: Walsh C

Decision: The Court orders that:
(1) The applicant's written request under clause 4.6 of Willoughby Local Environmental Plan 2012, as applicable, relating to a contravention of the development standard for maximum height of buildings is upheld.
(2) The applicant's written request under clause 4.6 of Willoughby Local Environmental Plan 2012, as applicable, relating to a contravention of the development standard for floor space ratio is upheld.
(3) The appeal is upheld.
(4) Development Application No. DA-2022/240 for demolition of the existing 4-storey residential flat building on a site at 42 Archer Street, Chatswood, and construction of a 26-storey mixed use building comprising community facility uses and 42 residential units (21 x 2 bed; 20 x 3 bed; 1 x 5 bed) over four levels of basement parking is approved subject to the conditions at Annexure A.
(5) The exhibits are returned except for Exhibits 1, A, B, D, E and J, which are retained.

Catchwords: APPEAL – development application – mixed use
development – conditions of consent finalised – final
orders made

Cases Cited: Wilbec Chatswood Pty Ltd v Willoughby City Council
[2024] NSWLEC 1234

Category: Principal judgment

Parties: Wilbec Chatswood Pty Ltd (Applicant)
Willoughby City Council (Respondent)

Representation: Counsel:
A Galasso SC (Applicant)
M Wright SC (Respondent)

Solicitors:
Mills Oakley (Applicant)
Maddocks (Respondent)

File Number(s): 2022/343917

Publication Restriction: Nil

JUDGMENT

- (1) On 3 May 2024, my reasons for judgment in the Class 1 appeal, *Wilbec Chatswood Pty Ltd v Willoughby City Council* [2024] NSWLEC 1234 were handed down. At [115], I directed the parties to confer and amend the conditions of consent in accordance with the findings documented in my reasons for judgment and to provide a copy to the Court.
- (2) The parties subsequently provided the Court with a settled set of agreed conditions on 15 May 2024 which they indicate accord with my earlier findings.
- (3) Having reviewed the conditions of consent provided by the parties on 15 May 2024, I find that they are acceptable.

Orders

I can now make the following orders:

- (1) The applicant's written request under clause 4.6 of Willoughby Local Environmental Plan 2012, as applicable, relating to a contravention of the development standard for maximum height of buildings is upheld.
- (2) The applicant's written request under clause 4.6 of Willoughby Local Environmental Plan 2012, as applicable, relating to a contravention of the development standard for floor space ratio is upheld.
- (3) The appeal is upheld.

- (4) Development Application No. DA-2022/240 for demolition of the existing 4-storey residential flat building on a site at 42 Archer Street, Chatswood, and construction of a 26-storey mixed use building comprising community facility uses and 42 residential units (21 x 2 bed; 20 x 3 bed; 1 x 5 bed) over four levels of basement parking is approved subject to the conditions at Annexure A.
- (5) The exhibits are returned except for Exhibits 1, A, B, D, E and J, which are retained.

P Walsh

Commissioner of the Court

Annexure A

DISCLAIMER - Every effort has been made to comply with suppression orders or statutory provisions prohibiting publication that may apply to this judgment or decision. The onus remains on any person using material in the judgment or decision to ensure that the intended use of that material does not breach any such order or provision. Further enquiries may be directed to the Registry of the Court or Tribunal in which it was generated.