



Land and Environment Court
New South Wales

Case Name: DPG Project 38 Pty Ltd v Willoughby City Council

Medium Neutral Citation: [2025] NSWLEC 1115

Hearing Date(s): Conciliation conference held on 3 September, 29 October 2024 and 19 February 2025

Date of Orders: 19 February 2025

Decision Date: 19 February 2025

Jurisdiction: Class 1

Before: Dixon SC

Decision: The Court orders:

- (1) The written requests prepared by JV Urban made pursuant to cl 4.6 of the Willoughby Local Environmental Plan 2012 (WLEP) seeking the grant of development consent in contravention of the development standards WLEP is upheld.
- (2) The Applicant is to pay the Respondent's costs as a consequence of the amendments pursuant to s 8.15(3) of the Environmental Planning and Assessment Act 1979, as agreed or as assessed.
- (3) The appeal is upheld.
- (4) The Development Application DA-2023/166 as amended is determined by the grant of consent for the following at 691-699 Pacific Highway, Chatswood, which is legally known as Lot 1 in DP 187216, Lot 1 in DP 952311 and Lot 2 in DP 952311 subject to the conditions contained at Annexure A:
 - (a) a concept approval for demolition of existing buildings and construction of a 26 storey building with 4 basement levels; Stage 1 operational consent for the construction and use of 89 residential units comprising a mix of 16 x 1-bed; 26 x 2-bed; 45 x 3-bed and 2 x 4-bed and associated parking, through-site links for public

use, drainage works and landscaping; and construction only of the remainder of areas marked “communal” in the basement, ground floor, Levels 1 and 2 and strata subdivision.

Catchwords: APPEAL – Development application — Conciliation conference — Agreement between the parties — Orders

Legislation Cited: Contaminated Land Management Act 1997
Environmental Planning and Assessment Act 1979, ss 4.15, 8.7, 8.15
Land and Environment Court Act 1979, s 34
Protection of the Environment Operations Act 1997

Environmental Planning and Assessment Regulation 2021, s 38
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
State Environmental Planning Policy (Resilience and Hazards) 2021, Ch 4, s 4.6
State Environmental Planning Policy (Transport and Infrastructure) 2021, s 2.119
State Environmental Planning Policy 55 – Remediation of Land
Willoughby Local Environment Plan 2012 (Amendment No. 34), cl 1.8A
Willoughby Local Environment Plan 2012, cll 2.3, 4.1, 4.3, 4.4, 4.6, 5.10, 5.21, 6.2, 6.8, 6.10, 6.23

Texts Cited: Willoughby Development Control Plan 2023

Category: Principal judgment

Parties: DPG Project 38 Pty Ltd (Applicant)
Willoughby City Council (Respondent)

Representation: Counsel:
J Cole (Solicitor) (Applicant)
T To (Barrister) (Respondent)

Solicitors:
Messenger Cole Solicitors (Applicant)
HWL Ebsworth Lawyers (Respondent)

File Number(s): 2024/46467

Publication Restriction: Nil

JUDGMENT

1 These proceedings are an appeal by DPG Project 38 Pty Ltd under s 8.7 of the *Environmental Planning and Assessment Act 1979* (EPA Act) against the Sydney North Planning Panel's (the Panel) deemed refusal of development application DA-2023/166 (DA).

The proposal

2 The DA, as amended, seeks consent for the following works at 691-699 Pacific Highway, Chatswood, which is legally known as Lot 1 in DP 187216, Lot 1 in DP 952311 and Lot 2 in DP 952311 (site):

- (1) a concept approval for a 26 storey building with 4 basement levels; construction and use of 89 residential units within the building comprising a mix of 16 x 1br; 26 x 2br; 45 x 3br and 2 x 4br units and associated parking, through-site links for public use, drainage works and landscaping; and construction only of the remainder of areas marked "communal" in the basement, ground floor, Levels 1 and 2 and strata subdivision.
- (2) The DA does not seek use of the Ground Floor and First Floor levels which are to be the subject of a separate development application in stage 2 under the new Willoughby Local Environment Plan 2012 (Amendment No 34).

The conciliation conference

- 3 On 3 September 2024 the Court arranged a conciliation conference under s 34(1) of the *Land and Environment Court Act 1979* (LEC Act) between the parties. I presided over the conciliation conference.
- 4 The parties now propose resolution of the proceedings in accordance with the terms outlined in their executed s 34 written agreement dated 19 February 2025 (Agreement).
- 5 Under s 34(3) of the LEC Act, I must dispose of the proceedings in accordance with the parties' signed agreement if the Court could have made that decision in the proper exercise of its functions.

6 The parties have identified the jurisdictional pre-conditions that must be satisfied before the Court can exercise its functions under s 34(3) of the LEC Act to dispose of these proceedings and grant the orders sought. In that regard, I note the following:

Owner's consent

7 Owner's consent was given to the Council for lodgement of the DA (see the owner's consent letter filed with the Class 1 Application (Tab 3 of the Class 1 Application)).

Notification

8 The DA was notified by the Council from 20 July 2023 to 10 August 2023. The Council received eight submissions by way of objection during the notification period. The issues raised in the submissions related to:

- (1) overshadowing and reductions in solar access;
- (2) excessive height;
- (3) increased demand on local traffic networks; and
- (4) impacts on the availability of nearby parking.

9 On 6 March 2024, the Court granted the Applicant leave to rely upon an amended DA. The amended DA was notified by the Council from 4 April 2024 to 3 May 2024. Two submissions were received during the notification period and related to:

- (1) non-compliance with the Precinct Plan in Control 13.1.17 Part L of the Willoughby Development Control Plan 2023 in respect of site access;
- (2) overshadowing of bowling greens associated with the croquet club;
- (3) construction noise impacts; and
- (4) excessive height.

10 On 10 July 2024, the Court granted the Applicant leave to further amend the DA. The amended DA was notified by the Council from 25 July 2024 to 22 August 2024. One submission was received during the notification period and related to:

- (1) excessive height;
- (2) impacts on the availability of nearby parking; and
- (3) site access.

11 The parties confirm and I accept that the matters raised by the submissions have been considered.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

12 BASIX certificate no 782921M_05 dated 5 February 2024 has been submitted dealing with the plans the subject of the s 34 agreement.

13 The parties agree and I accept that the requirements of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 have been satisfied.

State Environmental Planning Policy (Transport and Infrastructure) 2021

14 Section 2.119(2) of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP) provides that development consent must not be granted to development on land with frontage to a classified road unless the consent authority is satisfied that:

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

15 The development has a frontage to the Pacific Highway, being a classified road.

16 The design has been developed so that vehicular access can be achieved from the Pacific Highway. Relevantly, Transport for New South Wales has given in principle approval for such access (see letter of 2 August 2023), and having considered the matters raised by s 2.119(2)(b) against the evidence I am satisfied that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development.

- 17 I am also satisfied that the development is not a type that is sensitive to traffic noise or vehicle emissions and includes appropriate measures to ameliorate traffic noise or vehicle emissions arising from the classified road.

State Environmental Planning Policy (Resilience and Hazards) 2021

- 18 The aim of State Environmental Planning Policy (Resilience and Hazards) 2021 (R&H SEPP) Ch 4 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
- 19 The Applicant has submitted a preliminary site investigation (PSI) prepared by Environmental Investigations (EI) with the DA that has confirmed that the site is suitable for residential development.
- 20 The report concludes and recommends the following:
- (1) the site was free of statutory notices and licensing agreements issued under the *Contaminated Land Management Act 1997* and *Protection of the Environment Operations Act 1997*. It was not included on the List of NSW Contaminated Sites Notified to the Environment Protection Authority;
 - (2) based on regional information, the subsurface condition onsite is likely comprised of fill and Blacktown residual soil over bedrock. Based on previous investigations conducted by EI in the Chatswood area, the depth to bedrock is expected to be below approximate 10m BGL;
 - (3) there was a low contamination risk for the site to site fill or surficial soil at the site. Given the site will require excavation to 6m BGL covering a majority of site area, this would alleviate any remaining concern relating to on-site contamination, as impacted materials (if present) would be removed and disposed of at licenced landfill facilities; and
 - (4) based on the findings of this PSI, conducted in accordance with the scope agreed with the Applicant and EI's Statement of Limitations, it was concluded that the potential for site contamination was low. The site was deemed suitable for the proposed residential development, in accordance with the State Environmental Planning Policy 55 – Remediation of Land, subject to the implementation of the recommendations outlined below.
- 21 Section 4.6(1)(a) of the R&H SEPP provides that a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

- 22 A detailed site report has been prepared by EI Australia dated 30 October 2024, addressing contamination on the land. Based on that report, I am satisfied that the contamination of the land has been adequately addressed and that appropriate conditions are in place.

Willoughby Local Environmental Plan 2012

- 23 The DA was lodged on 28 June 2023. From 30 June 2023, a substantial revision to the Willoughby Local Environmental Plan 2012 came into effect. The revised instrument is described as Willoughby Local Environment Plan 2012 (Amendment No 34) (WLEP Amendment 34). This amendment changed the zoning and primary development standards applicable to the subject site.
- 24 The WLEP Amendment 34 contains a savings provision under cl 1.8A(2) therefore the WLEP Amendment 34 does not apply to this application, other than as a matter for consideration under s 4.15(1)(a)(ii) of the EPA Act.

Zoning and permissibility

- 25 For the purposes of the DA, the site is zoned R3 Medium Density Residential pursuant to the WLEP. The proposed development, being a residential flat building, is a permissible land use with consent under the relevant zoning of the site.
- 26 The objectives of the R3 zone are:
- To provide for the housing needs of the community within a medium density residential environment.
 - To provide a variety of housing types within a medium density residential environment.
 - To enable other land uses that provide facilities or services to meet the day to day needs of residents.
 - To accommodate development that is compatible with the scale and character of the surrounding residential development.
 - To allow for increased residential density in accessible locations, while minimising the potential for adverse impacts of such increased density on the efficiency and safety of the road network.
 - To encourage innovative design in providing a comfortable and sustainable living environment that also has regard to solar access, privacy, noise, views, vehicular access, parking and landscaping.

- 27 The Council accepts the proposal satisfies the stated zone objectives given that:

- (1) The development provides for increased residential accommodation close to shops and public transport;
- (2) the development is to provide a mix of dwelling sizes and configurations, suitable for various household types;
- (3) the site is to be zoned for a mix of uses that includes non-residential at the lower levels. The proposal allows for future conversion of lower levels to a variety of non-residential uses;
- (4) the amended DA plans demonstrate that the site is and/or can be compatible with the desired future character of the area adopted in the Council's various strategic planning studies and the recent rezoning in proximity to the site;
- (5) the site is located in a highly accessible location with short- and long-term access arrangements enabling efficiencies in the road network over time; and
- (6) the internal and external areas provided in the development will provide a high level of residential amenity for future residents.

28 Noting, that the application does not seek consent for any use of the Ground Floor or First Floor areas as part of this DA. The use of those areas will be the subject of a detailed proposal in a subsequent development application which will seek consent for either communal areas ancillary to the residential flat building or any other use that is permissible. This can be dealt with in a condition of consent imposed on any grant of consent to the concept application.

29 For the reasons outlined above it is accepted that the proposal is both permissible and consistent with the objectives of the zone pursuant to cl 2.3 of the WLEP.

Minimum Lot Sizes

30 Clause 4.1 of the WLEP provides the controls for minimum lot sizes generally. However, this clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme. Noting, that the completed development is proposed to be strata titled.

31 Clause 6.10 of the WLEP provides the minimum lot sizes for certain residential accommodation.

- 32 Pursuant to cl 6.10(2) development consent may be granted for a residential flat building located in Zone R3 Medium Density Residential where the area of the lot is equal to or greater than 1,100m².
- 33 The site comprises three lots – proposed to be amalgamated for the development. The site area is 1,808.4m².
- 34 The Council is satisfied that the development complies with cl 6.10 of the WLEP, and I accept that to be the fact.

Height of Buildings

- 35 The development has a proposed height of 90m and is in breach of the 12m maximum height of building (HOB) standard for the site under cl 4.3(2) of the WLEP. Albeit, the development is compliant with the maximum building height standard for the site under the latest WLEP Amendment 34 at 90m.
- 36 To address this noncompliance the Applicant has sought to vary the height control in cl 4.3 of the WLEP and relies upon the cl 4.6 written request prepared by JV Urban dated 22 May 2024.
- 37 Having considered the written request I am satisfied that the requirements of cl 4.6 of the WLEP are met for the following reasons:
- (1) the development as proposed will deliver a superior built-form outcome in consideration of the site's characteristics and its location amongst the existing and likely future surrounding buildings;
 - (2) the development as proposed will provide environmental benefits particular to the site through improved amenity for future occupants of the development and for the surrounding area generally;
 - (3) compliance with the development standard would be both unreasonable and unnecessary in this instance because the development is not antipathetic to the intention of the objectives of the R3 – Medium Density Residential zone (as relevant) and the objectives of the HOB development standard;
 - (4) the development complies with the 90m HOB standard contained in the WLEP Amendment 34 and is commensurate with the likely future surrounding developments and the built form anticipated and planned to characterise the locality;
 - (5) it is also consistent with the design approach applied to other buildings and planning proposals within the immediate locality and within the defined Chatswood Town Centre area;

- (6) the development is consistent with the aim of cl 4.6 to provide an appropriate degree of flexibility to achieve better outcomes for and from development, a departure from the HOB development standard is considered appropriate in these circumstances where the 12m standard has been abandoned for the area by way of adoption of WLEP Amendment 34; and
- (7) the proposal will provide environmental benefits particular to the site through the provision of improved amenity for future occupants of the development and for the surrounding area generally. On this basis, the cl 4.6 variation to the WLEP HOB development standard is considered well founded and should be supported.

38 Therefore, for the reasons stated in the written request the height variation is upheld.

Floor Space Ratio

39 The site has a maximum permitted Floor Space Ratio (FSR) of 0.9:1 and the development has a proposed FSR of 6:1. Yet under the WLEP Amendment 34 the site has a maximum FSR of 6:1 and the development is compliant.

40 Pursuant to cl 4.6 of the WLEP the Applicant's cl 4.6 written request, prepared by JV Urban dated 22 May 2024, seeks a variation to the FSR development standard.

41 Clause 4.4 of the WLEP provides the controls for the maximum FSR. The objectives of cl 4.4 are:

4.4 Floor space ratio

- (1) The objectives of this clause are as follows—
 - (a) to limit the intensity of development to which the controls apply so that it will be carried out in accordance with the environmental capacity of the land and the zone objectives for the land,
 - (b) to limit traffic generation as a result of that development;
 - (c) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion;
 - (d) to manage the bulk and scale of that development to suit the land use purpose and objectives of the zone;
 - (e) to permit higher density development at transport nodal points;
 - (f) to allow growth for a mix of retail, business and commercial purposes consistent with Chatswood's sub-regional retail and business service, employment, entertainment and cultural roles while conserving the compactness of the city centre of Chatswood;

- (g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood;
- (h) to provide functional and accessible open spaces with good sunlight access during key usage times and provide for passive and active enjoyment by workers, residents and visitors to the city centre of Chatswood;
- (i) to achieve transitions in building scale and density from the higher intensity business and retail centres to surrounding residential areas;
- (i) to encourage the consolidation of certain land for redevelopment; and
- (k) to encourage the provision of community facilities and affordable housing and the conservation of heritage items by permitting additional gross floor area for these land uses.

42 I am satisfied that the requirements of cl 4.6 of the WLEP have been addressed by the Applicant's written cl 4.6 request which demonstrates that:

- (1) the development as proposed will deliver a superior built-form outcome in consideration of the site location and its interface with the adjoining zones;
- (2) the development as proposed will provide environmental benefits particular to the site through the provision of employment, supporting the local centre, improved accessibility and improved amenity for future occupants of the development and for the surrounding area generally;
- (3) compliance with the development standard would be both unreasonable and unnecessary in this instance because the development is not antipathetic to the intention of the objectives of the R3 – Medium Density Residential zone (as relevant) and the objectives of the FSR development standard;
- (4) the proposed additional FSR complies with the 6:1 FSR standard contained in the WLEP Amendment 34 and is commensurate with the likely future surrounding developments and the built form anticipated and planned to characterise the locality;
- (5) it is also consistent with the design approach applied to other buildings and planning proposals within the immediate locality and within the defined Chatswood Town Centre area;
- (6) it is consistent with the aim of cl 4.6 to provide an appropriate degree of flexibility to achieve better outcomes for and from development, a departure from the FSR development standard is considered appropriate in these circumstances where the 0.9:1 FSR standard has been abandoned for the area by way of adoption of the WLEP Amendment 34; and
- (7) the proposal will provide environmental benefits particular to the site through the provision of improved amenity for future occupants of the development and for the surrounding area generally. On this basis, the

cl 4.6 variation to the WLEP FSR standard is considered well founded and should be supported.

- 43 Therefore, for the reasons stated in the written request the FSR variation is upheld.

Heritage Conservation

- 44 Clause 5.10 of the WLEP provides the controls for Heritage Conservation. The site is not heritage listed and is not located within a Heritage Conservation Area (HCA).

- 45 A Heritage Impact Statement is submitted with the DA addressing any potential impacts on the HCA on the eastern side of the railway line.

Flood Planning

- 46 Clause 5.21 of the WLEP provides the controls for Flood Planning. The objectives of cl 5.21 are:

- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,
- (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,
- (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.

- 47 Pursuant to cl 5.21(2) development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (a) is compatible with the flood function and behaviour on the land, and
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

- 48 Further, pursuant to cl 5.21(3) the consent authority must consider the following matters:
- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,
 - (b) the intended design and scale of buildings resulting from the development,
 - (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,
 - (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.

49 I have considered the Flood Report submitted with the DA package, including figures A1.2, A1.3 & A1.4 which map the existing site conditions, flood hazard and probable maximum precipitation conditions for flooding. I am satisfied that the amended plans appropriately deal with these issues.

Earthworks

- 50 Clause 6.2 of the WLEP provides the controls for earthworks. The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.
- 51 Clause 6.2(3) requires the consent authority to consider the following matters:
- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality,
 - (b) the effect of the proposed development on the likely future use or redevelopment of the land,
 - (c) the quality of the fill or the soil to be excavated, or both,
 - (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,
 - (e) the source of any fill material and the destination of any excavated material,
 - (f) the likelihood of disturbing relics,
 - (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area,
 - (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

52 Having regard to the matters under cl 6.2(3) of the WLEP and the documents included in the s 34 agreement, I accept that the site is suitable and capable of the development proposed and that the recommendations in the contamination reports will be managed through the development application and construction certificate processes.

Affordable Housing

53 Clause 6.8 of the WLEP provides the controls for affordable housing. Clause 6.8 does not apply as the site is not mapped within Area 3 or Area 9 on the Special Provisions Area Map.

54 Under WLEP Amendment 34, cl 6.8 would however apply to the site.

55 The DA originally proposed design and allocation of a proportion of the units for use as affordable rental housing, this element has now been deleted. However, a Voluntary Planning Agreement (VPA) is proposed that allows for a monetary contribution towards affordable housing within the Willoughby Local Government Area.

Design Excellence at Certain Sites at Willoughby

56 Clause 6.23 of the WLEP provides the controls for design excellence at certain sites in the Willoughby local government area. Clause 6.23 does not apply as the site is not mapped within Area 12 on the Special Provisions Area Map.

57 Under WLEP Amendment 34, cl 6.23 would however apply to the site.

58 Notwithstanding that the Applicant undertook a voluntary design excellence competition process overseen by the Council, the proposal is consistent with the winning design prepared by Squillace Architects, deemed by the Panel as having achieved design excellence.

Willoughby Development Control Plan 2023

59 I am satisfied that the relevant provisions of the Willoughby Development Control Plan 2023 have been considered in the Council's assessment of the DA as required by s 4.15(1)(a)(iii) of the EPA Act.

Conclusion and orders

60 For the above reasons, I find that the parties' decision is within power as required by s 34(3) of the LEC Act. I now dispose of the proceedings in accordance with the parties' decision.

61 The Court notes that:

- (a) The Court notes that Willoughby City Council, as the relevant consent authority, approves under s 38 of the Environmental Planning and Assessment Regulation 2021 the Applicant amending Development Application no DA-2023/166 to include the following plans and material:

Plan Ref	Date	Description	Issue
Architectural Plans Prepared by Squillace			
CDA-000	18.11.24	COVER PAGE AND DRAWING LIST	G
CDA-001	18.11.24	LIST OF AMENDMENTS	G
CDA-001a	18.11.24	LIST OF AMENDMENTS SHEET 2	G
CDA-002	18.11.24	FACADE CONCEPT MATERIALS AND FINISHES	G
CDA-010	18.11.24	DEMOLITION PLAN	G
CDA-011	18.11.24	SITE PLAN	G
CDA-100	18.11.24	GROUND FLOOR PLAN	G

CDA-101	18.11.24	LEVEL 1 FLOOR PLAN	G
CDA-102	18.11.24	LEVEL 2 FLOOR PLAN	G
CDA-103	18.11.24	LEVEL 3-7 FLOOR PLAN	G
CDA-108	18.11.24	LEVEL 8-18 FLOOR PLAN	G
CDA-119	18.11.24	LEVEL 19-24 FLOOR PLAN	G
CDA-125	18.11.24	LEVEL 25 FLOOR PLAN	G
CDA-126	18.11.24	ROOF PLAN	G
CDA-127	18.11.24	LIFT ROOF PLAN	G
CDA-130	18.11.24	BASEMENT 1 FLOOR PLAN	G
CDA-131	18.11.24	BASEMENT 2 FLOOR PLAN	G
CDA-132	18.11.24	BASEMENT 3 FLOOR PLAN	G
CDA-133	18.11.24	BASEMENT 4 FLOOR PLAN	G

CDA-150	18.11.24	ADAPTABLE LAYOUTS - TYPICAL UNIT PLANS	G
CDA-151	18.11.24	ADAPTABLE HOUSING - TYPICAL UNIT PLANS	G
CDA-152	18.11.24	ADAPTABLE HOUSING - TYPICAL UNIT PLANS	G
CDA-200	18.11.24	SECTION	G
CDA-210	18.11.24	SECTION THROUGH VEHICLE ENTRANCE	G
CDA-300	18.11.24	WEST ELEVATION	G
CDA-301	18.11.24	NORTH ELEVATION	G
CDA-302	18.11.24	EAST ELEVATION	G
CDA-303	18.11.24	SOUTH ELEVATION	G
CDA-399	18.11.24	DEEP SOIL CALCULATIONS	G
CDA-400	18.11.24	LANDSCAPE AREA CALCULATION	G
CDA-401	18.11.24	FLOOR SPACE AREA CALCULATION - SHEET 1 OF 2	G

CDA-402	18.11.24	FLOOR SPACE AREA CALCULATION - SHEET 2 OF 2	G
CDA-500	18.11.24	SHADOW DIAGRAM SHEET 1	G
CDA-501	18.11.24	SHADOW DIAGRAM SHEET 2	G
CDA-502	18.11.24	DCP SUN ACCESS PROTECTION ZONE ANALYSIS	G
CDA-510	18.11.24	SUNPATH DIAGRAM SHEET 1	G
CDA-511	18.11.24	SUNPATH DIAGRAM SHEET 2	G
CDA-550	18.11.24	BUILDING HEIGHT PLANE DIAGRAM	G
CDA-600	18.11.24	STORAGE CALCULATIONS	G
CDA-700	18.11.24	3D MASSING VIEWS	G
CDA-800	18.11.24	PROPOSED FUTURE ACCESS EASEMENT PLAN	G
CDA-900	18.11.24	OVERSHADOWING TO 689 PACIFIC HWY STUDY SHEET 1	G

CDA-901	18.11.24	OVERSHADOWING TO 689 PACIFIC HWY STUDY SHEET 2	G
CDA-902	18.11.24	OVERSHADOWING TO 689 PACIFIC HWY STUDY SHEET 3	G
CDA-910	18.11.24	SUNPATH DIAGRAM - COMPLIANT BUILDING 1	G
CDA-911	18.11.24	SUNPATH DIAGRAM - COMPLIANT BUILDING 2	G
CDA-912	18.11.24	SUNPATH DIAGRAM - COMPLIANT BUILDING 3	G
Landscape Plans prepared by Habit8			
L01	13.09.24	Landscape Coversheet	G
L02	13.09.24	Design Philosophy _ Precedent imagery	G
L03	13.09.24	Landscape Masterplan – Ground floor	G
L04	13.09.24	Soil Depth – Ground floor	G
L05	13.09.24	Landscape Masterplan – Level 01	G
L06	13.09.24	Soil Depth – Level 01	G
L07	13.09.24	Landscape Masterplan – Level	G

		02	
L08	13.09.24	Soil Depth – Level 02	G
L09	13.09.24	Landscape Masterplan – Level 03-07	G
L010	13.09.24	Soil Depth – Level 03-07	G
L11	13.09.24	Landscape Sections 01	G
Stormwater plans prepared by SGC			
S01-SW100	13.09.24	COVER SHEET & DRAWING INDEX	C
S01-SW101	13.09.24	NOTES & LEGEND	C
S01-SW201	13.09.24	EROSION & SEDIMENT CONTROL PLAN & DETAILS	C
S01-SW301	13.09.24	STORMWATER DRAINAGE DESIGN BASEMENT 04 PLAN	C
S01-SW302	13.09.24	STORMWATER DRAINAGE DESIGN GROUND FLOOR PLAN	C
S01-SW303	13.09.24	STORMWATER DRAINAGE DESIGN LEVEL 01 PLAN	C
S01-SW304	13.09.24	STORMWATER DRAINAGE DESIGN ROOF PLAN	C
S01-	13.09.24	STORMWATER DRAINAGE	C

SW401		DESIGN DETAILS SHEET 01 OF 02	
S01- SW402	13.09.24	STORMWATER DRAINAGE DESIGN DETAILS SHEET 02 OF 02	C
S01- SW501	13.09.24	STORMWATER DRAINAGE DESIGN SITE CATCHMENT PLAN & DETAILS	C
S01- SW502	13.09.24	STORMWATER DRAINAGE DESIGN MUSIC CATCHMENT PLAN	C
S01- SW601	13.09.24	STORMWATER DRAINAGE DESIGN FLOOD MITIGATION MEASURES	C
Green Star Rating Statement prepared by Efficient Living			
Parking Access Statement prepared by Projected Design Management Pty Ltd dated 13 September 2024			
Flood Letter prepared by SGC dated 13 September 2024			
<i>Note - Plans and documents may be amended and added where required</i>			

62 The Court orders that:

- (1) The written requests prepared by JV Urban made pursuant to cl 4.6 of the Willoughby Local Environmental Plan 2012 (WLEP) seeking the grant of development consent in contravention of the WLEP is upheld.
- (2) The Applicant is to pay the Respondent's costs as a consequence of the amendments pursuant to s 8.15(3) of the *Environmental Planning and Assessment Act 1979*, as agreed or as assessed.

- (3) The appeal is upheld.
- (4) The Development Application DA-2023/166 as amended is determined by the grant of consent for the following at 691-699 Pacific Highway, Chatswood, which is legally known as Lot 1 in DP 187216, Lot 1 in DP 952311 and Lot 2 in DP 952311 subject to the conditions contained at Annexure A:
 - (a) a concept approval for demolition of existing buildings and construction of a 26 storey building with 4 basement levels; Stage 1 operational consent for the construction and use of 89 residential units comprising a mix of 16 x 1-bed; 26 x 2-bed; 45 x 3-bed and 2 x 4-bed and associated parking, through-site links for public use, drainage works and landscaping; and construction only of the remainder of areas marked “communal” in the basement, ground floor, Levels 1 and 2 and strata subdivision.

S Dixon

Senior Commissioner of the Court

Annexure A

Annexure B

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.