



DETERMINATION AND STATEMENT OF REASONS
SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	21 October 2020
PANEL MEMBERS	Peter Debnam (Chair), Jan Murrell, Brian Kirk, Gail Giles-Gidney, Linda McClure
APOLOGIES	Julie Savet Ward
DECLARATIONS OF INTEREST	Gail Giles-Gidney declared a non-significant and non-pecuniary interest as in her capacity as Mayor of Willoughby City Council, Gail is a patron of 15 clubs, including the Chatswood RSL Club. Panel Chair noted that this does not exclude her from participating on the Panel.

Public meeting held by teleconference on 21 October 2020, opened at 11am and closed at 11.47am.

MATTER DETERMINED

PPSSNH-78 – Willoughby - DA2020/7 at 446 Victoria Avenue Chatswood for a concept approval of a commercial redevelopment incorporating the Chatswood RSL (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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Willoughby Local Environmental Plan 2012 (LEP), that has demonstrated that:

- a) compliance with cl.4.3 (height) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard.

The Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl.4.3 (height) of the LEP and the objectives for development in the B3 Commercial Core zone; and
- c) the concurrence of the Secretary has been assumed.

Development application

The Panel determined to approve 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 determined to uphold the Clause 4.6 variation to building height and approve the Concept DA for the reasons below and in the council assessment report.

Clause 4.3 of the Willoughby Local Environment Plan 2012 (WLEP 2012) imposes a maximum building height of 80m for the site. The proposal has a building height of 93.70m, which is a non-compliance of 13.7m. Under KE 20 of the Chatswood CBD Strategy, the maximum building height is RL246.8m as reduced by the Pan-Ops Plane, to allow sun access to Chatswood Oval. The shadow diagrams lodged with the DA indicate the proposal will not cause additional overshadowing of Chatswood Oval between 11am and 2pm on 22nd June. The proposal therefore complies with the height limit in KE20 and this is partially due to the setback of the top level (level 22) from the southern edge. Consequently, the Panel concurs with Council's assessment that the objectives of the Height Control Standard will be met despite the numerical variation.

The proposal will have a zero setback from the property at 440 Victoria Avenue and that site contains the Telstra exchange, which is built to the common boundary and contains no significant windows facing the site. Further, Telstra advised that the property at 440 Victoria Avenue is unable to be considered for redevelopment in the medium-long term due to critical infrastructure in the Northern Sydney Region. The proposal therefore satisfactorily addresses the Land & Environment Court site isolation principle.

The Panel also agrees with Council's assessment that, subject to conditions, the proposal will have reasonable impacts on the amenity of residential neighbours in terms of privacy, solar access, view loss and visual massing and will be consistent with the existing and future character and scale of development of the locality, as set out in the WLEP 2012, WDCP and Chatswood CBD Strategy.

The Panel also agrees, subject to conditions, that the proposed development meets the desired outcomes and objectives of the development standards and B3 zone contained in the WLEP 2012.

CONDITIONS

The Concept DA was approved subject to the conditions in the Council Assessment Report with the following amendments:


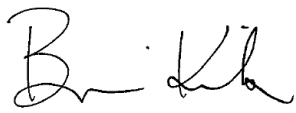



- Conditions updated to include reasons for each condition, document available on <https://www.planningportal.nsw.gov.au/planning-panel/chatswood-rsl> and titled "PPSSNH-78 Finals Conditions as approved by Panel 21 October 2020".
- Condition 1 amended to read as follows:
Concept Approval
*Pursuant to Section 4.22 of the Environmental Planning and Assessment Act 1979, concept approval is granted for demolition of the existing building and approval of a new building envelope for a commercial development incorporating Chatswood RSL Club. This consent does not authorise the carrying out of any development works (including demolition) on any part of the site concerned unless consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site (future DA).
(Reason: Information and ensure compliance)*
- Condition 14 amended to read as follows:
Privacy
*Where the proposed building is setback from the western side boundary by less than 12m, the building shall include at all levels privacy design measures which prevent overlooking of dwellings at 1 Katherine Street.
(Reason: Neighbouring amenity)*
- New Condition to read as follows:
Wind
Any Future Development Application shall include a wind assessment which:
 - a) Assesses wind effects caused by the proposal; and

- b) *Recommends appropriate measures to maintain a comfortable wind environment for the site and locality.*
(Reason: Public amenity)

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the public meeting. The Panel notes issues of concern included height, bulk and scale, traffic and pedestrian safety, construction noise and pollution, damage to neighbouring properties, adjoining site isolation, overshadowing, privacy, setbacks, views and wind effects.

The Panel considers that concerns raised by the community were adequately addressed in the Assessment Report, amended conditions and by Applicant and Council responses during the public meeting.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Brian Kirk
 Jan Murrell	 Gail Giles-Gidney
 Linda McClure	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-78 – Willoughby – DA2020/7
2	PROPOSED DEVELOPMENT	Demolition of the existing structure and concept approval for a building envelope for a commercial development incorporating Chatswood RSL Club.
3	STREET ADDRESS	446 Victoria Avenue, CHATSWOOD NSW 2067
4	APPLICANT/OWNER	Chatswood RSL Club Limited
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 (Infrastructure) 2007 - Schedule 3 – Traffic Generating Development ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy No.65 - Design Quality of Residential Apartment Development and NSW Apartment Design Guide ○ 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 2012 ○ Chatswood CBD – Planning and Urban Design Strategy • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • 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: 9 October 2020 • Clause 4.6 Variation Request (Height) • Council memo received: 15 October 2020 • Written submissions during public exhibition: 13 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Community members: Alex Chan on behalf of The Bentleigh Residents Group, Lisa Leong on behalf of Chatswood Mothers Group, Ariel Carthew ○ Council assessment officer – Mark Bolduan ○ On behalf of the applicant – Kate Bartlett, Josh Milston, Andrew Gibbons • Total number of unique submissions received by way of objection: 13
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 8 July 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Linda McClure ○ <u>Council assessment staff</u>: Ritu Shankar, Mark Bolduan • Final briefing to discuss council's recommendation: 21 October 2020

		<ul style="list-style-type: none">○ <u>Panel members</u>: Peter Debnam (Chair), Jan Murrell, Brian Kirk, Gail Giles-Gidney, Linda McClure○ <u>Council assessment staff</u>: Mark Bolduan, Ian Arnott, Ritu Shankar
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report