

DETERMINATION AND STATEMENT OF REASONS WILLOUGHBY LOCAL PLANNING PANEL

DATE OF DETERMINATION	12 September 2023
PANEL MEMBERS	Abigail Goldberg (Chair), Jason Perica, Robert Montgomery and Philippa Hayes
DECLARATIONS OF INTEREST	None

Public meeting held at Willoughby City Council on 12 September 2023 by teleconference. The meeting opened at 2.00pm.

Papers circulated electronically between 4 September and 12 September 2023.

This item was heard between 2.33pm and 3.08pm.

MATTER DETERMINED

DA-2023/101 at 61 Sugarloaf Crescent, Castlecrag NSW 2068. Demolition of existing dwelling and carport and construction of new dwelling house, swimming pool, outdoor entertaining area, double garage, landscaping and associated works.

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7, the material presented at the meeting and briefings and the matters observed at site inspections listed at item 8 in Schedule 1 of this Determination and Statement of Reasons.

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

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 reasons outlined in the Council assessment report and:

1. **The proposal is consistent with the objectives of C4 – Environmental Living zone and objectives of the development standards.**
2. **The proposed development is considered to be consistent with the objectives for dwelling houses contained in Part D.1 of the *Willoughby DCP*.**
3. **The proposed development will have acceptable amenity impacts on neighbouring properties and is consistent with the streetscape and natural character of the locality.**
4. **The potential environmental impacts are appropriately managed and mitigated by the proposed design and subject to conditions, including as amended by the Panel.**

CONDITIONS

The development application was approved subject to the conditions in the Council assessment report with the following amendment(s).

Condition 9, 10, 13, 57 and 65 to be amended to read as follows:

PRIOR TO COMMENCEMENT

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. All of these conditions are to be complied with prior to the commencement of any works on site.

9. Tree Protection Plan

- (a) Submit to the registered certifier a Tree Protection Plan for approval prior to issue of a construction certificate.
- (b) The Tree Protection Plan is to be prepared by a qualified Arborist with minimum qualification

AQF Level 5.

- (c) Tree Protection Plan shall address tree protection and management of all trees not approved for removal, and shall specifically address protection of 1 x *Phoenix canariensis* located in the front yard of the adjoining property at No. 59 Sunnyside Sugarloaf Crescent and 1 x *Acer palmatum* located in the front yard of the adjoining property at No. 63 Sunnyside Sugarloaf Crescent, in accordance with AS 4970-2009 'Protection of trees on development sites' and clearly mark tree protection zones as well as tree protection measures and fencing.

(Reason: Tree protection)

10. Footing Design near Trees to be Retained

- (a) Footing structural layout plans for works adjacent to 1 x *Phoenix canariensis* located in the front yard of the adjoining property at No. 59 Sunnyside Sugarloaf Crescent and 1 x *Acer palmatum* located in the front yard of the adjoining property at No. 63 Sunnyside Sugarloaf Crescent shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture, and a qualified Structural Engineer, following a tree root investigation near the above mentioned trees to locate critical tree roots and recommend footing design and locations for the construction works.
- (b) The Arborist shall review, comment, recommend design revision as required and approve the footing layout, to ensure the locations of footings will be manageable in terms of tree protection measures.
- (c) The Arborist shall submit certification to the Certifier, that the locations of the footings are accepted.
- (d) The agreed footing structural layout plans shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate.

(Reason: Tree protection)

13. Geotechnical Report

The site, **including the rear rock outcrop**, and adjoining sites (including the road reserve or other public space) are to be inspected by an independent Geotechnical Engineer and a comprehensive report shall be submitted to the registered certifier prior to commencement of work. The report should indicate how the work is to be undertaken safely and with maximum protection for neighbouring amenity, with particular regard to acoustic and vibration impacts. The report should identify the stages at which the engineers' personal supervision is to occur during the works. The report should recommend when and where further study and investigation are to take place during construction.

All construction plans are to be referenced at the conclusions and recommendations of the report, including for further investigation, are to be followed during the works. The report shall be submitted to Council for record purposes.

In the event of the geotechnical conditions of the site results in instability during the excavation phase and more area than approved being excavated, all excavation work is to cease and Council to be contacted to allow the matter to be reviewed.

(Reason: Protection of the rear rock outcrop and adjoining properties/land)

57. Completion of Landscape Works

- (a) Prior to the issue of a Whole Occupation Certificate, any approved landscape works shall be consistent with the approved design and planting plans, completed to a professional standard, consistent with industry best practice and published standards, and certified in writing by a qualified horticulturalist, landscape architect or landscape designer.
- (b) Planting is to include a minimum of 6 7 trees capable of attaining a minimum height of 4 metres at maturity.

(Reason: Landscape amenity)

65. Noise Control – Offensive Noise and Vibration

To minimise the noise and vibration impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the *Protection of the Environment Operations Act 1997*. **Any air conditioning plant is to be located and acoustically treated to ensure compliance with this condition.**

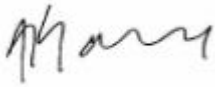



(Reason: Amenity)

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during the public exhibition and heard from all those wishing to address the Panel. The Panel noted that key issues of concern included:

- Privacy
- View loss
- Overshadowing
- Traffic and parking
- Bulk height and massing
- Construction noise, vibration and dust
- Operating noise and amenity
- Solar panel glare
- Boundary issues
- The extent of earthworks

The Panel considered that concerns raised by the community have been adequately addressed in the assessment report and through conditions amended and added by the Panel.

PANEL MEMBERS	
 ABIGAIL GOLDBERG (CHAIR)	 JASON PERICA
 ROBERT MONTGOMERY	 PHILIPPA HAYES

SCHEDULE 1		
1)	DA NO.	DA-2023/101
2)	PROPOSED DEVELOPMENT	Demolition of existing dwelling and carport and construction of new dwelling house, swimming pool, outdoor entertaining area, double garage, landscaping and associated works.
3)	STREET ADDRESS	61 Sugarloaf Crescent, Castlecrag NSW 2068.
4)	APPLICANT/OWNER	Third Wave Design Pty Ltd / Mr P M Seaberg and Ms M A Cahir.
5)	REASON FOR REFERRAL	Contentious Development – more than 10 submissions.
6)	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ <i>SEPP Building Sustainability Index: BASIX 2004 (The BASIX SEPP)</i>. ○ <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>. ○ <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>. ○ <i>Willoughby Local Environmental Plan 2012</i>. • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ <i>Willoughby Development Control Plan</i> ○ <i>Section 7.12 (S94A) Plan</i> ○ <i>Willoughby Local Infrastructure Contributions Plan</i>. • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>. • Provisions of the <i>Environmental Planning and Assessment Act 1979</i>. • Planning agreements: 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	<ol style="list-style-type: none"> 1) Council assessment report: 23 August 2023. 2) Clause 4.6 variation requests: Nil 3) Written submissions during public exhibition: 14 4) Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In Support: <ul style="list-style-type: none"> ○ Nil ○ In Objection: <ul style="list-style-type: none"> ○ Alyce Kliese from Shaw Reynolds Lawyers on behalf of 63 Sugarloaf Cres, Castlecrag ○ Bora Han on behalf of Chris Kim of 7 Jordan Ave, Newington ○ Nicole Robb of 17 Lincoln Ave, Castlecrag ○ Vicky Roper of 67 Sugarloaf Cres, Castlecrag ○ Bora Han on behalf of Cecilia Namok Kim of 63 Sugarloaf Cres, Castlecrag ○ Narelle Moffat of 15 Lincoln Ave, Castlecrag ○ On behalf of the applicant: <ul style="list-style-type: none"> ○ Paul Seaberg, Applicant/Owner ○ Council staff: Eric Kim and Ritu Shankar
8)	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> • Site inspections were undertaken individually by Panellists at their discretion due to COVID-19 precautions. • Papers circulated electronically 4 September 2023. • Final briefing to discuss Council's recommendation, 12 September 2023 at 3.35pm-3.49pm

		<ul style="list-style-type: none"> • Attendees: <ul style="list-style-type: none"> ○ Abigail Goldberg (Chair), Jason Perica, Robert Montgomery and Philippa Hayes. ○ Council staff: Eric Kim and Ritu Shankar
9)	COUNCIL RECOMMENDATION	Approval
10)	DRAFT CONDITIONS	Attached to the Council assessment report