

DETERMINATION AND STATEMENT OF REASONS

WILLOUGHBY LOCAL PLANNING PANEL

DATE OF DETERMINATION	6 February 2024
PANEL MEMBERS	Jacqueline Townsend (Chair), Robert Montgomery, Helen Deegan and Linda Tully
DECLARATIONS OF INTEREST	None

Electronic determination on 6 February 2024.
Papers circulated electronically 30 January 2024. Electronic communication sent between 30 January and 6 February 2024.

MATTER DETERMINED

DA-2022/385 at 23 Victoria Avenue, Middle Cove NSW 2068. Alterations and additions to existing dwelling, new carport, new spa pool, landscaping works and other 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.

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 (WLEP 2012)*, that has demonstrated that:

- a) compliance with cl. 4.3 (height of buildings) 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 *WLEP*; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (height of buildings) of the *WLEP* and the objectives for development in the R2 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 reasons outlined in the Council assessment report.

1. **The proposed development is considered to satisfy the general aims and objectives of the *Local Environmental Plan*.**
2. **The proposal will not have unreasonable impacts on THE streetscape or on the residential amenity of neighbouring properties.**
3. **The proposed development achieves the objectives of the development standards contained in the *Willoughby Local Environmental Plan 2012 (WLEP 2012)* and the objectives of the *Willoughby Development Control Plan (WDCP)***

CONDITIONS

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

Conditions 5 and 28 to be amended to read as follows:

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a construction certificate.

5. Detailed Stormwater Management Plan Including Rainwater Tank (SWMP)

Prior to the issue of the Construction Certificate, submit for approval by the Certifier, detailed stormwater management plans for collection of stormwater drainage from the site and connection to the kerb and gutter. The plans shall include a rainwater re-use tank(s) system with a minimum storage volume of 5m³, in accordance with Sydney Water's requirements and Part I of the *Willoughby DCP* and Technical Standard No. 1. Runoff from all roof areas shall be directed to the tank(s). The rainwater reuse tank system shall be connected to supply non-potable use including flushing of toilets, laundry use, landscape irrigation and car washing. Overflow from the rainwater tank(s) shall be directed to the receiving stormwater-system by gravity. Any above ground rainwater re-use tank shall be located behind the front **boundary fence alignment of the building** to which the tank is connected.

The construction drawings and specifications shall be prepared by a qualified and experienced civil engineer or suitably qualified stormwater drainage consultant and shall be in accordance with the concept stormwater management plans, prepared by Frank Espana Architect. All drawings shall comply with Part I of the *Willoughby DCP*, Technical Standard 1, AS/NZS 3500.3 – *Plumbing and Drainage Code*, Sydney Water's requirements and the National Construction Code.

(Reason: Ensure compliance)


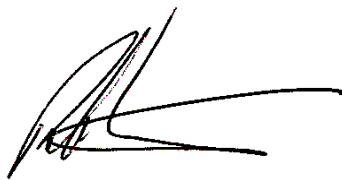

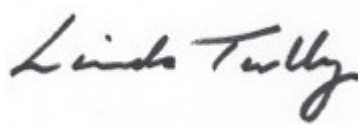
28. Rainwater Re-use - 5kL tank

Prior to the issue of any Occupation Certificate pertaining to any works other than internal renovations, and in perpetuity, the applicant shall supply and install rainwater re-use tanks with a minimum storage volume of 5m³ in accordance with the approved stormwater management plans, Sydney Water's requirements and Part I of **Council's Willoughby DCP** and Technical Standards 1 and 2. The rainwater reuse system shall be connected to supply non-potable use including, but not limited to laundry use, toilet flushing, washing of vehicles and landscape irrigation. Any above ground rainwater **re-use** tanks shall be located behind the front **boundary fence alignment of the building** to which the tank is connected. Runoff from all roof areas shall drain to the rainwater tank(s).

(Reason: Ensure compliance and stormwater management)

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel noted that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
	
JACQUELINE TOWNSEND (CHAIR)	ROBERT MONTGOMERY
	
HELEN DEEGAN	LINDA TULLY

SCHEDULE 1		
1)	DA NO.	DA-2022/385
2)	PROPOSED DEVELOPMENT	Alterations and additions to existing dwelling, new carport, new spa pool, landscaping works and other associated works.
3)	STREET ADDRESS	23 Victoria Avenue, Middle Cove NSW 2068.
4)	APPLICANT/OWNER	Bensen & Partners / Marleen Nominees Pty Ltd.
5)	REASON FOR REFERRAL	Departure from standard by more than 10%.
6)	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> SEPP Building Sustainability Index: BASIX 2004 (The BASIX SEPP). Willoughby Local Environmental Plan 2012. Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Willoughby Development Control Plan Section 7.12 (S94A) Plan Willoughby Local Infrastructure Contributions Plan. 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"> Council assessment report: 30 January 2024 Clause 4.6 variation requests: 4.3 Building Height Written submissions during public exhibition: Nilr
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. Panel Members: Jacqueline Townsend (Chair), Robert Montgomery, Helen Deegan and Linda Tully. Papers circulated electronically 30 January 2024. Panel briefing held on 6 February 2024. Attendees: <ul style="list-style-type: none"> Jacqueline Townsend (Chair), Robert Montgomery, Helen Deegan and Linda Tully. Council staff: Eric Kim and Ritu Shankar.
9)	COUNCIL RECOMMENDATION	Approval
10)	DRAFT CONDITIONS	Attached to the Council assessment report