

## DETERMINATION AND STATEMENT OF REASONS

### WILLOUGHBY LOCAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	30 April 2024
<b>PANEL MEMBERS</b>	Jacqueline Townsend (Chair), Robert Montgomery, Elizabeth Kinkade, and Emma Rogerson
<b>DECLARATIONS OF INTEREST</b>	None

Electronic determination on 30 April 2024.

Papers circulated electronically 23 April 2024. Electronic communication sent between 23 April and 30 April 2024.

#### **MATTER DETERMINED**

DA-2023/46 at 117 Neerim Road, Castle Cove NSW 2069. Alterations and first floor addition to existing dwelling, demolition of hardstand area, new driveway access with turning bay 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.

#### **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 C4 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 and email from council officer Adiba Kashfi dated 30 April 2024.

1. **The proposal is consistent with the objectives and development controls contained in *Willoughby DCP*,**
2. **It is considered that the proposed development meets the desired outcomes and objectives of the development standards contained in the *Willoughby Local Environmental Plan 2012 (WLEP)* and objectives of the *Willoughby Development Control Plan (WDCP)*.**
3. **There is no evidence of land contamination pursuant to the Resilience and Hazards SEPP based on Council's records. Additionally, the site has historically been used for residential and no change of use is proposed. Previously, it was used for residential purposes and the proposed use will remain the same. The proposed development satisfies the requirements of Chapter 4 of *State Environmental Planning Policy – (Resilience and Hazards) 2021***

#### **CONDITIONS**

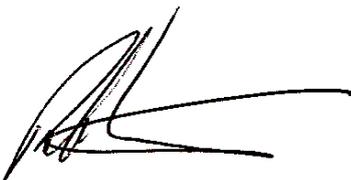
The development application was approved subject to the conditions in the Council assessment report.

**CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered written submissions made during the public exhibition. The Panel noted that key issues of concern included:

- Privacy
- View loss
- Overshadowing
- Compliance with FSR
- Compliance with height
- Streetscape view
- Overdevelopment of the site

The Panel considered that concerns raised by the community have been adequately addressed in the assessment report. The Panel also considered the request for late amendments made by the applicant but did not support the request.

PANEL MEMBERS	
 JACQUELINE TOWNSEND (CHAIR)	 ROBERT MONTGOMERY
 ELIZABETH KINKADE	 EMMA ROGERSON

SCHEDULE 1		
1)	DA NO.	DA-2023/46
2)	PROPOSED DEVELOPMENT	Alterations and first floor addition to existing dwelling, demolition of hardstand area, new driveway access with turning bay and associated works.
3)	STREET ADDRESS	117 Neerim Road, Castle Cove NSW 2069.
4)	APPLICANT/OWNER	D Prowse / Ms B Y Huang and Mr Z F Chen.
5)	REASON FOR REFERRAL	Departure from standard by more than 10%.
6)	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ <i>SEPP Building Sustainability Index: BASIX 2004 (The BASIX SEPP)</i>.</li> <li>○ <i>Willoughby Local Environmental Plan 2012</i>.</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ <i>Willoughby Development Control Plan</i></li> <li>○ <i>Section 7.12 (S94A) Plan</i></li> <li>○ <i>Willoughby Local Infrastructure Contributions Plan</i>.</li> </ul> </li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>.</li> <li>• Provisions of the <i>Environmental Planning and Assessment Act 1979</i>.</li> <li>• Planning agreements: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.</li> <li>• The suitability of the site for the development.</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations.</li> <li>• The public interest, including the principles of ecologically sustainable development.</li> </ul>
7)	MATERIAL CONSIDERED BY THE PANEL	<ol style="list-style-type: none"> <li>1) Council assessment report: 16 April 2024</li> <li>2) Clause 4.6 variation requests: 4.3 Building Height</li> <li>3) Written submissions during public exhibition: 1 (joint)</li> <li>4) Email to the Panel from council officer Adiba Kashfi dated 30 April 2024.</li> </ol>
8)	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> <li>• Site inspections were undertaken individually by Panellists at their discretion due to COVID-19 precautions.</li> <li>• Panel Members: Jacqueline Townsend (Chair), Robert Montgomery, Elizabeth Kinkade and Emma Rogerson.</li> <li>• Papers circulated electronically 23 April 2024.</li> <li>• Panel briefing held on 30 April 2024.</li> <li>• Attendees: <ul style="list-style-type: none"> <li>○ Jacqueline Townsend (Chair), Robert Montgomery, Elizabeth Kinkade and Emma Rogerson.</li> <li>○ Council staff: Adiba Kashfi and Ritu Shankar.</li> </ul> </li> </ul>
9)	COUNCIL RECOMMENDATION	Approval
10)	DRAFT CONDITIONS	Attached to the Council assessment report