

## DETERMINATION AND STATEMENT OF REASONS WILLOUGHBY LOCAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	26 July 2022
<b>PANEL MEMBERS</b>	Graham Brown (Chair), John McInerney, Gary Shiels and Philippa Hayes
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at Willoughby City Council on 26 July 2022 by teleconference. The meeting opened at 2.00pm. Papers circulated electronically between 20 July and 26 July 2022.

This item was heard between 2.07pm and 2.27pm.

### MATTER DETERMINED

DA-2021/318 at 1-5 View Street, Chatswood NSW 2067. Change of use to childcare centre and associated internal and external alterations - Hillsong Early Learning Centre.

### 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 /supplementary report and:

1. **The proposal provides a suitable and practical space for education and early learning.**
2. **The proposal satisfies the zone objectives and does not cause detrimental impacts on surrounding properties, including traffic impacts.**
3. **The proposal satisfies the Education and Care Services National Regulations, SEPP (Educational Establishments and Child Care Facilities) 2017 and the Child Care Planning Guideline.**
4. **The proposal is in the public interest.**

### CONDITIONS

The development application was approved subject to the conditions in the Council assessment report, amendment to condition 4 and additional conditions imposed by the Environmental Health assessment officer.

#### 4. Plan of Management

Prior to the issue of a Construction Certificate, the following action items must be added to the Plan of Management.

- (i) Staff must occupy the southern-most tandem car spaces (numbered 30, 32, 34, 36, 38 and 40 on the approved drawings) prior to the arrival of any guests or visitors each day.
- (ii) Parents and carers of children attending the Child Care Centre must be given clear instructions on the use of car spaces 29, 31, 33, 35, 37, 39, 41 for drop off / pick up.
- (iii) Traffic and Parking Operation Plan is to be prepared and include an accredited Traffic Marshall during the morning and afternoon peak hours to ensure the safe arrival and departure of children and minimise traffic impact in the local area.**

(Reason: Compliance)

## DURING DEMOLITION, EXCAVATION AND CONSTRUCTION

The following conditions are to be complied with throughout the course of site works including demolition, excavation and construction.

### 25A. Minimising Construction Noise

Construction noise shall be controlled to comply with the requirements as set out in the *EPA Draft Construction Noise Guideline 2020 (CNG)*.

A noise and/or vibration monitoring plan shall be implemented during construction in the event of a complaint being received by Council or the construction contractor. A report of the findings and action taken to mitigate any exceedances shall be submitted to Council within seven (7) days of its completion. Where noise criteria are exceeded, appropriate measures to control excessive noise shall be implemented immediately.

(Reason: Amenity and environmental compliance)

### 25B. Unexpected Finds Protocol

An unexpected finds contingency plan should be incorporated into site redevelopment works. In the event that previously unidentified contaminated soils or materials are identified during site redevelopment, works should cease in the immediate vicinity and the affected area isolated to minimise disturbance. A suitably qualified contaminated site consultant should be engaged to assess the degree, type and extent of contamination and establish a suitable remediation plan. The Site Manager/landowner shall notify Council in writing when they become aware of any contamination.

(Reason: Environment & Health Protection)

## PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

### 37A. Noise Management Plan

Prior to the issue of any relevant Occupation Certificate, the applicant shall complete and implement a Noise Management Plan to ensure its usage of the proposed development does not compromise the adherence to offensive noise control requirements.

The Noise Management Plan should include (but not be limited to) the recommendations made in the Acoustic report (Day Design Pty Ltd, Report 7275-1.1R, 12 August 2021):

- a. Ensuring all staff and parents are provided with a copy of the Centre's Noise Management Plan and its implications for them during their time at the Centre.
- b. Neighbours should be provided with the name and contact details of the Centre's Manager, and an invitation to contact that person at any time the Centre is operating.
- c. Facilitating children's small group play when outside, and encouraging educators to engage in children's play and facilitate friendships between children.
- d. Crying children should be comforted as quickly as possible and moved indoors.
- e. Windows and doors to the indoor play rooms should be closed during noisy activities, such as when amplified music is being played.
- f. The outdoor play area (OPA1) should be limited to a maximum of 8, 0-2 yr old children.
- g. The outdoor play area (OPA1) should be limited to a maximum of 20 x 2-3 yr old children.
- h. The outdoor play area (OPA2) should be limited to a maximum of 27 x 3-5 yr old children.
- i. Use of Sound Barrier Walls (constructed from masonry, lapped timber, glass or polycarbonate sheeting) including;
  - Minimum 1.2 m high barrier along the western, northern and eastern sides of the ground floor outdoor play area (OPA1).
  - Minimum 1.5 m high barrier along the northern side of the ground floor outdoor play area (OPA2).
  - Minimum 2.6 m high barrier along the eastern side of the ground floor outdoor play area (OPA2).
- j. Reports of any noise complaints received by staff or management will be immediately documented in the complaints register.

The Noise Management Plan shall be submitted to the Principal Certifier for approval.

(Reason: Amenity, compliance)

**37B. Noise Management Plan**

To minimise noise, vibration and any nuisance impacts on the surrounding environment, the operation of the premises must be conducted in accordance with the Noise Management Plan at all times. Should there be any additional or altered activities/procedures to those specified in the approved Noise Management Plan that remain within the scope of the development consent, these must be appropriately reviewed and submitted to and approved by the Principal Certifier.





An up-to-date copy of the Noise Management Plan must be kept at the premises and made available to Council upon request.  
(Reason: Amenity, Operational Management)

**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:

- Noise
- Traffic and parking

The Panel considered that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 <b>GRAHAM BROWN (CHAIR)</b>	 <b>JOHN MCINERNEY</b>
 <b>GARY SHIELS</b>	 <b>PHILIPPA HAYES</b>

<b>SCHEDULE 1</b>		
1)	<b>DA NO.</b>	DA-2021/318
2)	<b>PROPOSED DEVELOPMENT</b>	Change of use to childcare centre and associated internal and external alterations - Hillsong Early Learning Centre.
3)	<b>STREET ADDRESS</b>	1-5 View Street, Chatswood NSW 2067
4)	<b>APPLICANT/OWNER</b>	Hillsong Church / Anglican Church Property Trust Diocese of Sydney.
5)	<b>REASON FOR REFERRAL</b>	Contentious Development – more than 10 submissions.
6)	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ <i>Education and Care Services National Regulations</i></li> <li>○ <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></li> <li>○ <i>SEPP BASIX</i>.</li> <li>○ <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>.</li> <li>○ <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>.</li> <li>○ <i>Willoughby Local Environmental Plan 2012</i>.</li> <li>○ <i>Draft 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 2000</i>.</li> <li>• Provisions of the <i>Environmental Planning and Assessment Act</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)	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ol style="list-style-type: none"> <li>1) Council assessment report: 19 July 2022.</li> <li>2) Clause 4.6 variation requests: Nil</li> <li>3) Written submissions during public exhibition: 12</li> <li>4) Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In Objection <ul style="list-style-type: none"> <li>○ Joy Kelly of 29 Fullers Road</li> </ul> </li> <li>○ On behalf of the applicant</li> <li>○ John Wynne of Urbis (Planner)</li> <li>○ Ken Hollyoak of The Transport Planning Partnership (Transport Planner)</li> <li>○ Marino Sugunarajan of Australian Christian Early Education and Care Services (Hillsong) - Applicant</li> <li>○ Council Staff – Peter Wells and Ritu Shankar</li> </ul> </li> </ol>
8)	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY</b>	<ul style="list-style-type: none"> <li>• Site inspections were undertaken individually by Panellists at their discretion due to COVID-19 precautions.</li> <li>• Papers circulated electronically 20 and 26 July 2022.</li> <li>• Final briefing to discuss Council's recommendation, 26 July 2022 at 10:30am</li> <li>• Attendees: <ul style="list-style-type: none"> <li>○ Graham Brown (Chair), John McInerney, Gary Shiels and Philippa Hayes.</li> </ul> </li> </ul>

		o Council staff: Peter Wells and Ritu Shankar
9)	<b>COUNCIL RECOMMENDATION</b>	Approval
10)	<b>DRAFT CONDITIONS</b>	Attached to the Council assessment report