

## DETERMINATION AND STATEMENT OF REASONS

### WILLOUGHBY LOCAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	29 November 2022
<b>PANEL MEMBERS</b>	Abigail Goldberg (Chair), Trevor Bly, and James Harrison
<b>DECLARATIONS OF INTEREST</b>	Linda Tully – notes previous involvement in the Willoughby South Progress Association

Public meeting held at Willoughby City Council on 29 November 2022 by teleconference. The meeting opened at 2.00pm.

Papers circulated electronically between 23 November and 29 November 2022.

This item was heard between 2.27pm and 2.54pm.

#### MATTER DETERMINED

DA-2021/27/B at 16 & 18 Warners Avenue, Willoughby NSW 2068. Modification to approved application of demolition of existing buildings and construction of 8 townhouses to include addition of retaining walls.

#### 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 during the meeting to deliberate on the matter and formulate a resolution.

#### Modification application

The Panel determined to **approve** the modification application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979* subject to conditions.

The decision was unanimous.

#### REASONS FOR THE DECISION

The reasons outlined in the Council assessment report and:

- The proposed modification application will not have unreasonable impacts on the streetscape, the residential amenity of the neighbouring properties or the surrounding locality;**
- It is considered that the proposed modification application 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) 2006*.**

#### CONDITIONS

The development application was approved subject to the conditions in the Council assessment report with the following amendments:

The following condition 3A has been added with the amendments:

#### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

##### 3A. Structural Integrity of Retaining Walls

Prior to the issue of a Construction Certificate, a structural engineer is to certify that the **driveway, visitor space and the** retaining walls throughout the site will be structurally independent and not rely on adjoining lots of land (including structures) **and not adversely affect the structural integrity of structures on adjoining properties.**

(Reason: **Compliance Structural integrity of retaining walls**)

The following condition 3B is added:

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

**3B. Privacy**


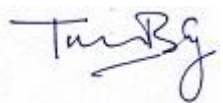

Prior to the issue of a Construction Certificate, an amended plan is to be provided to the relevant PCA showing details of a solid fence to a height of 2m above the driveway, visitor's parking space and ground level for the length of the eastern boundary where the adjoining fence does not achieve this height.  
(Reason: Privacy of neighbours)

**CONSIDERATION OF COMMUNITY VIEWS**

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

- Privacy
- Structural integrity of retaining walls
- Landscaping

The Panel considered that concerns raised by the community have been adequately addressed in the assessment report and that supplementary conditions have also been included by the Panel to address community concerns.

PANEL MEMBERS	
 <b>ABIGAIL GOLDBERG (CHAIR)</b>	 <b>TREVOR BLY</b>
 <b>JAMES HARRISON</b>	

SCHEDULE 1		
1)	DA NO.	DA-2021/27/B
2)	PROPOSED DEVELOPMENT	Modification to approved application of demolition of existing buildings and construction of 8 townhouses to include addition of retaining walls.
3)	STREET ADDRESS	16 & 18 Warners Avenue, WILLOUGHBY NSW 2068.
4)	APPLICANT/OWNER	Warners Willoughby Pty Ltd / Warners Willoughby Pty Ltd.
5)	REASON FOR REFERRAL	Contentious Development – more than 10 submissions.
6)	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <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 2000.</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>Council assessment report: 23 November 2022.</li> <li>Clause 4.6 variation requests: Nil</li> <li>Written submissions during public exhibition: 13</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>In Support: <ul style="list-style-type: none"> <li>Nil</li> </ul> </li> <li>In Objection: <ul style="list-style-type: none"> <li>Jeff Bulfin of 14 Warners Avenue Willoughby</li> <li>Leah Bulfin of 14 Warners Avenue Willoughby</li> <li>Doug Bennett of Precise Planning</li> </ul> </li> <li>On behalf of the applicant: <ul style="list-style-type: none"> <li>Sophie Litherland (Applicant)</li> <li>Duncan McGregor of Minter Ellison</li> </ul> </li> <li>Council staff: Patrick Williams, Ritu Shankar and Mitchell Noble</li> </ul> </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>Papers circulated electronically 23 November 2022.</li> <li>Final briefing to discuss Council's recommendation, 29 November 2022 at 3.37pm-4.15pm</li> <li>Attendees: <ul style="list-style-type: none"> <li>Abigail Goldberg (Chair), Trevor Bly and James Harrison.</li> <li>Council staff: Patrick Williams and Ritu Shankar</li> </ul> </li> </ul>
9)	COUNCIL RECOMMENDATION	Approval
10)	DRAFT CONDITIONS	Attached to the Council assessment report