

## DETERMINATION AND STATEMENT OF REASONS WILLOUGHBY LOCAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	25 February 2020
<b>PANEL MEMBERS</b>	Penny Holloway (Chair), Trevor Bly, John McInerney and Philippa Hayes.
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at Willoughby City Council on 25 February 2020, opened at 2.00pm and closed at 4.07pm. Papers circulated electronically between 18 February and 24 February 2020.

This item was heard between 3.37pm and 3.51pm.

### MATTER DETERMINED

DA-2019/223 at 49 Herbert Street, ARTARMON NSW 2064. (as described in Schedule 1)

### PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at the meeting and briefings and the matters observed at site inspection listed at item 8 in Schedule 1.

#### 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. 4.4 (Floor space ratio) 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 *LEP*; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.4 (Floor space ratio) of the *LEP* and the objectives for development in the IN1 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 (previously section 80) of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

### REASONS FOR THE DECISION

The reasons outlined in the Council assessment report dated 25 February 2020

### CONDITIONS

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

**Conditions 3, 13(a), 41 and 73 are 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.**

#### 3. Amendments

Prior to the issue of the Construction Certificate, the proposal is to be amended in the following manner:

- (a) **The disabled car parking spaces (Nos. 25 and 26) with the shared area are to be exchanged with car parking spaces (Nos. 22 to 24) to provide a safe access to the catering kitchen and high-tech industries premises.**
- (b) Kitchen car parking space No. 14 should be labelled for 'Small Car' only.
- (c) Two loading bays are required to be provided within the site, one for the catering kitchen and one

for the hi-tech industries uses.

- (d) **A Level 5 AQF Project Arborist experienced in managing trees on building sites is to be appointed to prepare a Tree Management Plan (TMP). The TMP is to be implemented by the appointed Arborist and shall include the hold and certification points provided in Section 6.3 of the Arboricultural Impact Assessment prepared by Arboreport dated 13/08/19.**

Plans detailing these amendments are required to be shown on the Construction Certificate plans.  
(Reason: Ensure compliance)

### 13. Vehicle Access and Manoeuvring – Engineer’s Certification

Prior to the issue of the Construction Certificate, the Applicant shall submit, for approval by the Principal Certifying Authority, certification from a suitably qualified and experienced Traffic Engineer relating to the design of vehicular access and manoeuvring for the development. This certification must be based on the architectural drawings and the structural drawings, and must make specific reference to the following:

- (a) That a minimum aisle of ~~6.2m~~ **6.1m** has been provided for parking spaces to comply with AS2890.1.

### PRIOR TO OCCUPATION OF THE DEVELOPMENT

The following conditions of consent must be complied with prior to the issue of an occupation certificate.

#### 41. Identification of Car Parking Spaces

Prior to the issue of any Occupation Certificate, **the 25 car parking spaces (including 2 disabled parking spaces) plus 2 loading bays** one each for the catering kitchen and high-tech industries shall be physically identified on site and maintained free of obstruction. Under no circumstances are these spaces to be used for the storage of goods or waste products.

(Reason: Amenity)

### ONGOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land, and relevant legislation.

#### 73. Hours of Operation

The hours of operation of the business are to be restricted to those times listed below, i.e.:

##### High-tech Industries

Monday to Saturday

**7.00am to 7.00pm**

Sundays & Public Holidays


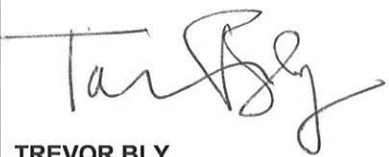
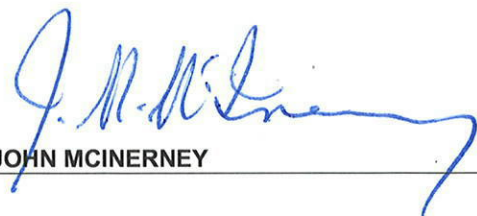

Nil

##### Catering Kitchen

24 hours a day and 7 days a week

Any variation to these hours is to be subject to the prior consent of Council.

(Reason: Amenity)

PANEL MEMBERS	
 <b>PENNY HOLLOWAY (CHAIR)</b>	 <b>TREVOR BLY</b>
 <b>JOHN MCINERNEY</b>	 <b>PHILIPPA HAYES</b>



SCHEDULE 1		
1)	DA NO.	DA-2019/223
2)	PROPOSED DEVELOPMENT	Alterations and additions to existing 2 storey industrial building including addition of 1 storey and change of use to catering kitchen with associated office and hi-technology industries.
3)	STREET ADDRESS	49 Herbert Street, ARTARMON NSW 2064.
4)	APPLICANT/OWNER	TPP Capital Pty Ltd
5)	REASON FOR REFERRAL	Departure from standard by more than 10%. Site coverage exceeds 45%.
6)	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li><i>State Environmental and Planning Policy (Infrastructure 2007)</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>Section 7.12 (S94A) Plan.</li> </ul> </li> <li>Planning agreements:- Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>:- 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: 25 February 2020</li> <li>Clause 4.6 variation requests: 4.4 Floor space ratio</li> <li>Written submissions during public exhibition: 0</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>In Support - Nil</li> <li>In objection – Nil</li> <li>Council assessment officer – Chi Wai Kong</li> <li>On behalf of the applicant –Jennifer Bautovich of Glyde Architects</li> </ul> </li> </ol>
8)	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> <li>Site inspection: 25 February 2019.</li> <li>Briefing: 25 February 2019.</li> <li>Final briefing to discuss council's recommendation, 25 February 2020 at 11.45am – 1.45pm.</li> <li>Attendees: <ul style="list-style-type: none"> <li>Penny Holloway (Chair), Trevor Bly, John McInerney and Philippa Hayes.</li> <li>Council assessment staff: Chi Wai Kong and Ana Vissarion</li> </ul> </li> </ul>
9)	COUNCIL RECOMMENDATION	Approval
10)	DRAFT CONDITIONS	Attached to the council assessment report