

DETERMINATION AND STATEMENT OF REASONS

SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	17 December 2019
PANEL MEMBERS	Peter Debnam (Chair), Susan Budd, John Roseth, Gail Giles-Gidney, Linda McClure
APOLOGIES	Sue Francis
DECLARATIONS OF INTEREST	Gail Giles-Gidney declared a non-pecuniary conflict of interest as she is friends with the Chairman of the Board of Urbis. The Chairman is not directly involved in the application. Panel Chair determined that this does not preclude her from participating on the Panel.

Public meeting held at Christie Conference Centre, 100 Walker Street North Sydney, on 17 December 2019, opened at 2.15pm and closed at 2.36pm.

MATTER DETERMINED

2019SNH027 – Willoughby – DA2019/79 at 2 Broadcast Way Artarmon for a data centre (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 meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

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 proposal provides a building for use by the newly emerging digital economy and completes the development of a site that had been vacated by the Australian Broadcasting Corporation sixteen years ago.

The proposal complies with the objective of the B7 Business Park zone and the future desired character of the site.

The proposal has no material adverse impact on its surroundings.

CONDITIONS

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

- Condition 8 amended to read as follows:

8. Phasing Plan

The development may be constructed and occupied in two or more phases. Prior to the issue of the first Construction Certificate for excavation works, the applicant must obtain approval from Council regarding detailed Phasing Plan.

The Phasing Plan is to address to the Council's satisfaction:

- Overall phased construction and occupation strategy and program*

- b. *Details of interim arrangements for site access, pedestrian access, car parking and loading, and interim built form, fencing and landscaping outcomes during each phase of construction and occupation.*
- c. *Matrix setting out when relevant conditions of consent will be addressed at relevant phase of construction and occupation*

The Phasing Plan may be amended from time to time with the approval of Council pursuant to this condition.

(Reason: Ensure compliance)

- Condition 14, first paragraph, to be amended to read as follows:
Prior to the issue of the relevant Construction Certificate in accordance with the approved phasing plan, the applicant shall submit, for approval by the Certifying Authority, detailed stormwater management plans in relation to the pump-out drainage system. The construction drawings and specifications, shall be generally in accordance with the approved stormwater management plans with the following requirements:
- Condition 16, first paragraph, to be amended to read as follows:
Prior to issue of the relevant Construction Certificate in accordance with the approved phasing plan, the applicant must submit, for approval by Council as a road authority, full design engineering plans and specifications prepared by a suitably qualified and experienced civil engineer for the following infrastructure works:
- Condition 17, first paragraph, to be amended to read as follows:
Prior to issue of the relevant Construction Certificate in accordance with the approved phasing plan and in order to assess the susceptibility of vehicles to scraping as they pass over the proposed access driveways the applicant shall submit longitudinal sections for approval by the Certifying Authority along each side of the proposed vehicular access paths drawn at 1:20 Scale. The longitudinal sections shall include the following:
- Condition 18, first paragraph, to be amended to read as follows:
Prior to the issue of the relevant Construction Certificate in accordance with the approved phasing plan, the applicant shall submit to the Certifying Authority for approval, certification from a suitably qualified and experienced traffic engineer that the design meets the requirements of AS/NZS2890. The certification must be based on the Construction Certificate drawings and make specific reference to the following:
- Condition 19 amended to read as follows:
Prior to the issue of the relevant Construction Certificate in accordance with the approved phasing plan, the applicant is to gain approval from Community Association DP270714 for the works in Broadcast Way, including the modification of the kerb line at the carpark entrance. Any approval is to be based on the Construction Certificate civil and architectural drawings.
(Reason: Approval of works in community land)
- Condition 21, last paragraph, to be amended to read as follows:
Details of all mechanical ventilation and exhaust systems, and certification provided by an appropriately qualified person verifying compliance with these requirements, shall be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate in accordance with the approved phasing plan.
- Condition 22 amended to read as follows:
To minimise the impact of noise onto receivers on surrounding land, all mechanical services shall be designed to ensure “offensive noise”, as defined under the provisions of the Protection of the Environment Operations Act 1997, is not emitted from the development. Details of the proposed equipment, siting, appropriate noise criteria and any attenuation required shall be prepared by an

appropriately qualified acoustic consultant and accompany the application for the relevant Construction Certificate in accordance with the approved phasing plan.

- Condition 51 amended to read as follows:
Prior to the issue of the Occupation Certificate for the first phase, forty (40) car parking spaces shall be physically identified on site and maintained free of obstruction. Prior to the issue of Final Occupation Certificate, eighty –nine (89) car parking spaces shall be physically identified on site and maintained free of obstruction. Under no circumstances are these car parking spaces to be used for storage of goods or waste products.
- Condition 62, first paragraph, amended to read as follows:
Prior to the issue of the Phase 1 Occupation Certificate, construct a 3.0m wide shared path for the full frontage of the development site in Campbell Street and Pacific Highway.
- Condition 69 amended to read as follows:
Prior to the issue of relevant Occupation Certificate in accordance with the approved phasing plan, any approved landscape works shall be consistent with the approved design, completed to a professional standard, consistent with industry best practice and published standards.
- Condition 70, first paragraph, amended to read as follows:
Prior to the issue of relevant Occupation Certificate in accordance with the approved phasing plan, trees are to be planted in accordance with the following table:
- Condition 71 amended to read as follows:
The necessary acoustic attenuation works shall be carried out in accordance with Section 5.3 of the acoustic report by Aurecon, Ref. 503243 Rev.2, dated 7 January 2019. Certification and accompanying acoustic measurement shall be provided by a suitably qualified and practising acoustic engineer, upon completion of the works, to the Certifying Authority prior to the issue of relevant Occupation Certificate in accordance with the approved phasing plan.
- Condition 72 amended to read as follows:
Prior to the issue of the relevant Occupation Certificate in accordance with the approved Phasing Plan, certification shall be provided from a suitably qualified mechanical engineer certifying that all work associated with the installation of the mechanical and/or natural ventilation systems has been carried out in accordance with the relevant Australian Standards and or alternative solution.
- New condition 6A to read as follows:
6A Compliance with Site Contamination Assessment
Prior to commencement of works, the applicant shall submit to the satisfaction of the Certifying Authority details of the proposed compliance with the recommendation of the “combined Preliminary and Detailed Site Assessment for 2 Broadcast Way, Artarmon, NSW” dated 6 march 2019 prepared by Arcadis.
(Reason: Ensure Compliance)
- New condition 73A to read as follows:
73A. Green Travel Plan
Prior to issue of the relevant Occupation Certificate the applicant shall prepare and submit to the satisfaction of the Certifying Authority a Green Travel Plan that incorporates use of public transport and active transport measures (including Cycling and Walking) to reduce private vehicle use.
(Reason: Public Amenity)
- New condition 82A to read as follows:
82A. Use of Auditorium and Training Room
The use of Auditorium and Training Room within the premises is to be restricted to on-site users and encourage the use of a Green Travel Plan.
(Reason: Ensure Compliance)

- New condition 82B to read as follows:

82B. Green Travel Plan






The recommendations of the Green Travel Plan are to be implemented on site and reviewed on a regular basis.

(Reason: Public Amenity)

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered one written submission made by Broadcast Australia following the public exhibition of the application. The Panel accepts the assessment report's conclusion that the applicant has satisfactorily responded to the concerns of the objector either by providing more information or by amendments to the proposal. The amendments are included in a condition limiting the height of the proposal.

No objector addressed the public meeting.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Susan Budd
 John Roseth	 Gail Giles-Gidney
 Linda McClure	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019SNH027 – Willoughby – DA2019/79
2	PROPOSED DEVELOPMENT	Construction of eight storey Data Centre, car parking, landscaping and associated works.
3	STREET ADDRESS	2 Broadcast Way Artarmon
4	APPLICANT/OWNER	NEXTDC Limited
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No.55-Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy No.33 – Hazardous and Offensive Development Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Willoughby Local Environmental Plan 2012 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Willoughby Development Control Plan 2012 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: 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	<ul style="list-style-type: none"> Council assessment report: 4 December 2019 Combined Preliminary & Detailed Site Assessment: 17 December 2019 Written submissions during public exhibition: 1 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Council assessment officer – Ritu Shankar, Chi Wai Kong On behalf of the applicant – Alison Brown, John Turner, Gerald Page
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 23 October 2019 <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, John Roseth, Gail Giles-Gidney, Linda McClure <u>Council assessment staff</u>: Ritu Shankar, Chi Wai Kong Final briefing to discuss council's recommendation, 17 December 2019 at 12.30pm. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair), Susan Budd, John Roseth, Gail Giles-Gidney, Linda McClure <u>Council assessment staff</u>: Craig O'Brien, Chi Wai Kong, Mark Bolduan, Ritu Shankar, Clare Wood
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report