

<b>DATE OF DETERMINATION</b>	10 December 2020
<b>PANEL MEMBERS</b>	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Linda McClure, Gail Giles-Gidney
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 3 December 2020.

#### **MATTER DETERMINED**

PPSSNH-102 – Willoughby – DA2019/79/A at 2 Broadcast Way Artarmon for modifications to an approved development application (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 4.16/4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The panel determined to approve the application for the reasons outlined in the council assessment report.

#### **CONDITIONS**

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

- Condition 29 amended to read as follows:

##### *Hours of Work*

*All demolition/excavation/construction work relating to this Development Consent within the City, unless varied by an Out of Hours Work Permit, or otherwise permitted by this Condition, must be carried out only between the hours of 7.00am to 7.00pm Mondays to Sundays, including Public Holidays. These hours are subject to the exceptions set out below under the headings 'Noisy Activities' and 'Hours of Work – Extended'.*

*Works may be undertaken outside the above hours where:*

- The delivery of materials is required by the Police or a public authority for the delivery of vehicles, plant or materials; or*
- It is required in an emergency to avoid the loss of life, damage to property to prevent environmental harm; or*
- A variation is approved in advance in writing by the Council.*

##### *Noise generating activities*

*Excavators, jackhammers, pneumatic hammers, and similar pneumatic or impact equipment may only be used between the following hours:*

- 7:00 am to 12:00 midday, Monday to Sunday; and*
- 2:00 pm to 5:00 pm Monday to Sunday.*

##### *Hours of work – Extended*

*Internal works may be undertaken outside of the approved hours as outlined in this Condition only after the completion of the external shell and sealing of the entire floor (whether by permanent or appropriate temporary materials as defined by an acoustic engineer) during the following hours.*

- a) Between 5.00pm and 7.00am, Mondays to Fridays inclusive; and
- b) Between 5.00pm Friday and 7.00am Saturdays and Sundays; and
- c) No works are to be undertaken externally without the prior consent of council; and
- d) No material delivery or removal of waste must take place during the extended hours; and
- e) Approval is not given for the use of any high noise intrusive plant and equipment other than hand operated power tools; and
- f) Construction noise must be inaudible inside the nearest residential receiver between midnight and 7.00am.

An application for an Out of Hours Work Permit to allow variation to these approved hours must be lodged with Council at least 48 hours prior to the proposed commencement of the work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and must be accompanied by the required fee. One (1) permit is required for each variation to the approved working hours within any 24 hour period.

If a variation to these approved hours for multiple or extended periods is sought, an application under Section 4.55 of the Environmental Planning and Assessment Act 1979 must be lodged with Council at least twenty-one (21) days in advance of the proposed changes to the hours of work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and be accompanied by the required fee. Note: This Section 4.55 application may require re-notification in some circumstances.



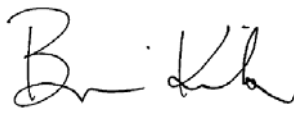


(Reason: Ensure compliance and amenity)

#### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and notes that issues of concern included:

- Landscape plans integration with cycle pathways
- Impacts on hours of work
- Modification application is significantly different from approved application.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Gail Giles-Gidney
 Linda McClure	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-102 – Willoughby – DA2019/79/A
2	PROPOSED DEVELOPMENT	Modification of the approved data centre building including changes to façade design, re-configuration of internal floor layout and uses, landscaping and conditions 29 and 51, and deletion of condition 82a.
3	STREET ADDRESS	2 Broadcast Way, Artarmon
4	APPLICANT/OWNER	NEXTDC Limited
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.56 Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy No.55-Remediation of Land</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy No.33 – Hazardous and Offensive Development</li> <li>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)</li> <li>Willoughby Local Environmental Plan 2012</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Willoughby Development Control Plan</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: 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	<ul style="list-style-type: none"> <li>Council assessment report: 3 December 2020</li> <li>List any clause 4.6 variation requests here</li> <li>Written submissions during public exhibition:7</li> <li>Number of unique submissions received by way of objection: 3</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 21 October 2020 <ul style="list-style-type: none"> <li><u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Gail Giles-Gidney, Linda McClure</li> <li><u>Council assessment staff</u>: Chi Kong, Ian Arnott, Ritu Shankar</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report