

<b>DATE OF DETERMINATION</b>	7 February 2022
<b>DATE OF PANEL DECISION</b>	2 February 2022
<b>PANEL MEMBERS</b>	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk and Philippa Hayes
<b>APOLOGIES</b>	Kara Krason and James Harrison
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held by teleconference on 2 February 2022, opened at 11.30am and closed at 12.15pm.

#### **MATTER DETERMINED**

PPSSNH-264 - Willoughby – DA-2021/300, 452 - 460 Willoughby Road & 1A - 27 Walter Street, Willoughby, Demolition of existing dwellings and construction of 5 residential flat buildings comprising a total of 164 units over basement car parking, landscaping and public domain improvements as a two staged development (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.

#### **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 (LEP), that has demonstrated that:

- compliance with cl 6.10 (h) Minimum Lot Sizes for certain residential accommodation and cl. 4.3 Height of Buildings is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- the Applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl 6.10 (h) Minimum Lot Sizes for certain residential accommodation and cl. 4.3 Height of Buildings of the LEP and the objectives for development in the R4 High Density Residential zone; and
- the concurrence of the Secretary has been assumed.

#### **Development application**

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The Panel's decision was unanimous.

#### **REASONS FOR DECISION**

The current proposal is the result of extensive negotiations over recent years between the Applicant, Department and Council regarding planning proposals and development applications. In that time, the Applicant and Council also agreed a VPA, which provides significant community benefit.

The proposal flows from the Willoughby LEP changes made in 2020 which rezoned the site from R3 Medium Density Residential to R4 High Density Residential, increased the FSR and maximum allowable

heights, amended minimum lot sizes and affordable housing provisions. The changes also introduced a Design Excellence Clause.

The Willoughby Design Excellence Review Panel reviewed the proposal in August 2021 and made recommendations for design quality improvements and the current proposal was subsequently amended sufficiently to satisfy the requirements of the Willoughby LEP Design Excellence Clause.

The application excludes 462 Willoughby Road from the overall development site, which in the Planning Proposal supported Building A. The current application also excludes 29, 29A and 31 Walter Street which supported Building G in the Planning Proposal.

The proposal also dedicates 4% (9 units) as affordable housing.

During the public meeting, the Panel sought clarification of a number of issues (Confirmation of colours and materials, landscaping plan detail for the roof top terrace on building D, use of rock sawing instead of hammering during construction on the site perimeter, enclosure of fire hydrants, way-finding signage for the basement easement for waste disposal vehicles, emergency vehicles and other deliveries, condition wording to properly reflect project staging, allocation of 2 car share spots and deletion of the arborist's recommendations in relation to 462 Willoughby Road) and as a result amended the project's conditions which were amended by Council's Memos of 2<sup>nd</sup> (two memos) and 3<sup>rd</sup> February.

As a result of the above deliberations and given the DA was properly assessed in accordance with Section 4.15 (79C) of the EP&A Act 1979, Willoughby LEP 2012, Willoughby DCP and other relevant codes and policies and the proposal is suitable for this site, the Panel concurs with Council that approval is in the public interest.





#### **CONDITIONS**

The DA was approved subject to the conditions in Council's Assessment Report as amended by Council's memos of 2<sup>nd</sup> (two memos) and 3<sup>rd</sup> February 2022.

#### **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered sixteen written submissions made during the public exhibition of the latest proposal and heard from one member of the public during the public meeting. Issues of concern included: height, privacy, traffic and parking, infrastructure, permissibility, site isolation, character of the area, design, impact on flora and fauna, open space, removal mature trees, potential damage to nearby properties, contamination, sewerage, dust and noise impacts, solar access, loss nature strips, location of driveways and access during construction.

The Panel considers that concerns raised in the submissions have been adequately addressed in Council's Assessment Report, by Applicant and Council responses during the public meeting and in the conditions as amended.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Philippa Hayes

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-264 - Willoughby – DA-2021/300
2	PROPOSED DEVELOPMENT	Demolition of existing dwellings and construction of 5 residential flat buildings comprising a total of 164 units over basement car parking, landscaping and public domain improvements as a two staged development
3	STREET ADDRESS	452 - 460 Willoughby Road & 1A - 27 Walter Street, Willoughby
4	APPLICANT/OWNER	Applicant: Mo Chehelnabi (Architecture Urbaneia) Owners: Walter Projects Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Capital investment value (CIV) over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>SEPP (Infrastructure) 2007 - Schedule 3 – Traffic Generating Development</li> <li>SEPP No 55 – Remediation of Land</li> <li>SEPP (Vegetation in Non-Rural Areas) 2017</li> <li>SEPP No 65 - Design Quality of Residential Apartment Development and NSW Apartment Design Guide (ADG)</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>SEPP 70 – Affordable Housing (Revised Schemes) 2002</li> <li>Sydney Regional Environmental Plan (Sydney Harbour Catchment) – Deemed SEPP</li> <li>State Environmental Planning Policy No 19—Bushland in Urban Areas</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> <li>Site Specific 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: 21 January 2021</li> <li>Written submissions during public exhibition: 16</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>Members of the community – Kylie Boccanfuso</li> <li>Council Assessment Officers – Peter Wells, Gordon Farrelly and Wil</li> </ul> </li> </ul>

		<p>Robertson</p> <ul style="list-style-type: none"> <li>○ On behalf of the applicant – Andrew Darroch, Chris Rose, Brendan O’Sullivan and Mo Chehelabi</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Kick Off Briefing: 21 November 2021</li> <li>• Final briefing to discuss council’s recommendation: 2 February 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk and Philippa Hayes</li> <li>○ <u>Council assessment staff</u>: Peter Wells, Gordon Farrelly and Wil Robertson</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Deferred Commencement Consent
10	DRAFT CONDITIONS	Attached to the Council Assessment Report