

<b>DATE OF DETERMINATION</b>	2 September 2024
<b>DATE OF PANEL DECISION</b>	29 August 2024
<b>PANEL MEMBERS</b>	Brian Kirk (Acting Chair), Susan Budd, Nicole Gurra, Tanya Taylor, Philippa Hayes
<b>APOLOGIES</b>	Peter Debnam, James Harrison
<b>DECLARATIONS OF INTEREST</b>	None

Panel Briefing held by teleconference on 28 August 2024, opened at 12pm and closed at 2:20pm.  
Papers circulated electronically on 22 August 2024.

#### **MATTER DETERMINED**

PPSSNH-402 - DA-2023/166 – Willoughby - 691-699 Pacific Highway, Chatswood – Mix of concept, construction and use and staged development.

#### **PANEL CONSIDERATION AND DECISION**

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

#### **Application to vary a development standard**

Consideration of a written request from the applicant, made under cl 4.6 (3) of the *Willoughby Local Environmental Plan 2012* (WLEP 2012), that sought to demonstrate:

- a) compliance with cl. 4.3 Height of buildings and 4.4 Floor space ratio WLEP (2012) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard.

The Panel is not satisfied that the applicant's written request adequately addresses the matters required to be addressed under cl 4.6(3) of the WLEP 2012.

#### **Development application**

The panel determined to refuse 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 Panel determined to refuse the application for the reasons outlined in the Council Assessment Report.

At the final briefing, the Applicant and its representatives made a presentation to the panel in response to each of the 16 recommended reasons for refusal. While some of the information presented may have merit, the Panel did have the benefit of a considered assessment of that information by Council and was not persuaded that the proposed development in its current form is worthy of approval and accepted all of the Council's recommended reasons for refusal.

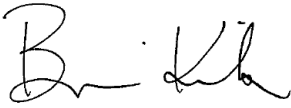

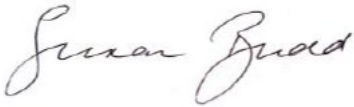

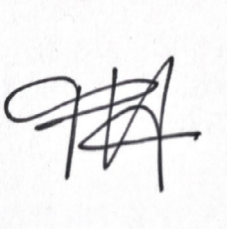
The Panel is not satisfied that the Applicant's two requests under clause 4.6 of the WLEP 2012 to contravene the building height and floor space ratio development standards are well founded, and accordingly, the Panel cannot grant development consent.

**CONSIDERATION OF COMMUNITY VIEWS**

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

- excessive height and overshadowing; and
- traffic and parking impacts

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

PANEL MEMBERS	
 Brian Kirk (Chair)	 Nicole Gurrán
 Susan Budd	 Tanya Taylor
 Philippa Hayes	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-402 – Willoughby – DA-2023/166
2	PROPOSED DEVELOPMENT	Mix of concept, construction and use and staged development. Nominated Integrated Development (WaterNSW). Demolition of existing structures, removal of all trees, residential flat building containing 89 residential units, amendments to the layout and arrangement of ‘communal’ space, 4 levels of basement parking containing 57 car spaces, landscaping and associated works, through-site links, strata subdivision.
3	STREET ADDRESS	691-699 Pacific Highway, Chatswood
4	APPLICANT/OWNER	DPG 38 Pty Ltd c/o- JV Urban
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
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 (Resilience and Hazards) 2021</li> <li>○ State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>○ State Environmental Planning Policy (Planning Systems) 2021</li> <li>○ SEPP No 65 - Design Quality of Residential Apartment Development and NSW Apartment Design Guide (ADG)</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>○ Willoughby Local Environmental Plan 2012 (pre and post amendment 34)</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>• Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></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: <b>21 August 2024</b></li> <li>• Written submissions during public exhibition: 8</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Preliminary Briefing: 4 October 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam, Brian Kirk</li> <li>○ <u>Council assessment staff</u>: Peter Wells, Ritu Shankar, Wil Robertson</li> <li>○ <u>Department staff</u>: George Dojas, Adam Iskander, Adam Williams</li> <li>○ <u>Applicant representatives</u>: Joe Vescio, Joanna Bezzina, Alex Deacon, Robert Sargis and Deb Mckenzie</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Assessment briefing: 28 February 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Tanya Taylor</li> <li>○ <u>Council assessment staff</u>: Peter Wells, Ritu Shankar, Clare Woods, Wil Robertson</li> <li>○ <u>Department staff</u>: Adam Iskander, Suzie Jattan</li> <li>○ <u>Apologies</u>: Nicole Gurrán, James Harrison</li> <li>○ <u>Applicant representatives</u>: Joe Vescio, Joanne Bezzina, Robert Sargis, Vince Squillace, John Cole, Alex Epstein, Karla Castellanos, Alex Lekovski</li> </ul> </li>   <li>• Council briefing: 28 August 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Brian Kirk (Acting Chair), Susan Budd, Nicole Gurrán, Tanya Taylor, Philippa Hayes</li> <li>○ <u>Council assessment staff</u>: Anthony Powe, Peter Wells, Sim Adeline, Wil Robertson, Clare Woods</li> <li>○ <u>Department staff</u>: George Dojas, Adam Iskander</li> <li>○ <u>Apologies</u>: Peter Debnam, James Harrison</li> </ul> </li>   <li>• Applicant Briefing: 28 August 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Brian Kirk (Acting Chair), Susan Budd, Nicole Gurrán, Tanya Taylor, Philippa Hayes</li> <li>○ <u>Council assessment staff</u>: Anthony Powe, Peter Wells, Sim Adeline, Wil Robertson, Clare Woods</li> <li>○ <u>Department staff</u>: George Dojas, Adam Iskander</li> <li>○ <u>Apologies</u>: Peter Debnam, James Harrison</li> <li>○ <u>Applicant representatives</u>: Joe Vescio, John Cole, Alex Deacon, Alex Lekovski, Angelo Konidaris, Ken Hollyoak, Robert Sargis, Vince Squillace</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	<b>Refusal</b>
10	<b>DRAFT CONDITIONS</b>	N/A