

DATE OF DETERMINATION	30 August 2024
DATE OF PANEL DECISION	30 August 2024
DATE OF PANEL MEETING	28 August 2024
PANEL MEMBERS	Brian Kirk (Chair), Nicole Gurran, Sue Francis, Tanya Taylor and Philippa Hayes
APOLOGIES	None
DECLARATIONS OF INTEREST	N/A

Papers circulated electronically on 21 August 2024.

MATTER CONSIDERED

PPSSNH-403 - DA-2023/170 - 5-9 Gordon Ave, Chatswood - Demolition of existing structures and construction of shop top housing consisting of ground and first floor of 6 commercial premises, 25 storey residential tower comprising of 64 units, communal facilities, car parking and associated works. The application is nominated as integrated development requiring approval from Water NSW pursuant to s90 of the Water Management Act (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 listed at item 8 in Schedule 1.

Development application

The Panel determined to defer the determination of the development application.

The decision was unanimous.

REASONS FOR THE DECISION

The Council's Assessment report recommended two deferred commencement conditions requiring the reduction in on-site car spaces with consequential basement redesign, and an increase and redesign of the landscaped area. While the Applicant is willing to accept the imposition of the recommended deferred commencement conditions, the Panel considers these conditions offend the finality principle as they require significant redesign and defer important aspects of the development for future assessment, therefore lacking certainty.

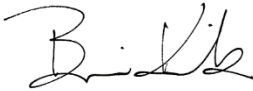




The Panel concurs with the Council that the proposed development is not without merit, however, in its current form it is not supportable. The Panel decided to defer the final determination of the application until the 9 October 2024, to allow sufficient time for the Applicant and Council to come to an agreement on the questions of on-site car parking and landscaped area.

Both parties are to note that given the location of the site and the proposed apartment mix, and the introduction of the new parking rates post PP and post DA submission without Savings Provisions, it is the opinion of the majority of the Panel that there may be grounds for some increase in parking above the maximum parking rate as indicated in Part F of the Willoughby Development Control Plan 2023. However, any potential increase if sought, would need to be fully justified and demonstrate adherence to the objectives of the controls in reducing car dependency and encouraging usage of the public transport infrastructure.

Philippa Hayes, while supporting the deferral of the application to allow for the Applicant and Council to come to an agreement on the questions of on-site car parking and landscaped area, holds a dissenting opinion in relation to whether there may be grounds for some increase in parking above the maximum parking rate in the Council's DCP. Her view is that the DCP (including parking rates) as discussed in the meeting was exhibited a full year before the DA was lodged. This DCP is based on the Willoughby CBD Planning and Urban Design Strategy 2036 (endorsed by DPIE in 2020) and the Willoughby Integrated Transport Strategy 2036 (adopted 2020) all the result of public consultation and exhibited, and they make it amply clear that reduced parking, deep soil planting and affordable housing are the requirements for the benefit of the huge uplift in the Willoughby CBD.

On the matter of landscaping, the Panel considers that an increase in deep soil area and soft landscaping generally together with the inclusion of more canopy trees is warranted.

The Panel is well aware of the age of this development application, it having been lodged on the 6 July 2023, and the need for balance between proper consideration of a proposal with a timely decision. The Panel hopes and encourages that the parties achieve an agreed position on the outstanding matters; however, the Panel is not contemplating a further delay in the determination of this application.

PANEL MEMBERS	
 Brian Kirk (Chair)	 Tanya Taylor
 Nicole Gurrán	 Philippa Hayes
 Sue Francis	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-403 - DA-2023/170
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of shop top housing consisting of ground and first floor of 6 commercial premises, 25 storey residential tower comprising of 64 units, communal facilities, car parking and associated works.
3	STREET ADDRESS	5-9 Gordon Ave, Willoughby
4	APPLICANT/OWNER	Applicant: Steven Macdessi - MAINWAY MANAGEMENT PTY LTD Owner: LFD Chatswood Pty Ltd
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"> Environmental Planning and Assessment Act 1979 (EP&A Act) Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Housing) 201, Chapter 4 Willoughby Local Environmental Plan 2012 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Willoughby Development Control Plan 2023 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> 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: 21 August 2024 Written submissions during public exhibition: 3
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 4 October 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair) and Brian Kirk <u>Council assessment staff</u>: Patrick Williams Applicant Briefing: 4 October 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair) and Brian Kirk <u>Applicant representatives</u>: Gemma Bassett and KC Lee Final briefing to discuss council's recommendation: 28 August 2024

		<ul style="list-style-type: none">○ <u>Panel members</u>: Brian Kirk (Chair), Nicole Gurran, Sue Francis, Tanya Taylor and Phillipa Hayes○ <u>Council assessment staff</u>: Akshay Bishnoi and Clare Woods○ <u>Applicant representatives</u>: Gemma Bassett, KC Lee, Steven Macdessi, Liam, James Lin, Jeannette, David Brandon Cooper, Benjamin Lin and Alex FJC
9	COUNCIL RECOMMENDATION	Deferral
10	DRAFT CONDITIONS	Attached to the Council Assessment Report