

DATE OF DETERMINATION	3 December 2024
DATE OF PANEL DECISION	29 November 2024
DATE OF PANEL MEETING	27 November 2024
PANEL MEMBERS	Peter Debnam (Chair), Brian Kirk, Sue Francis, Tanya Taylor and James Harrison
APOLOGIES	Nicole Gurran
DECLARATIONS OF INTEREST	None

Public meeting held by videoconference on 27 November 2024, opened at 9:35am and closed at 11:19am.

MATTER DETERMINED

PPSSNH-458 – Willoughby – DA-2024/13 at 100 Edinburgh Road Castlecrag.

The development application proposes the following:

- a) Demolition of minor structures including substation and removal of trees;
- b) Construction of part three (3) and part five (5) storey mixed-use development comprising commercial/retail use, and 38 residential apartments, adopting the following mix:
 - Ground floor Commercial/retail:
 - o Supermarket – 1687m²
 - o Speciality retail – 686m²
 - The residential component is configured into two pods sitting above commercial/retail comprising 38 dwellings and communal facilities. Unit mix:
 - o 2 bedroom – 7 units
 - o 3 bedroom – 29 units
 - o 4 bedroom – 2 Units (including an affordable housing unit)
- c) Basement parking comprising 163 car spaces, inclusive of 8 additional public car parking spaces (required by VPA) including:
 - o 55 residential (including 9 visitors) o 8 public spaces
 - o 74 Supermarket
 - o 26 Retail
- d) Landscaping and associated works, including removal of 16 trees, including 1 street tree.
- e) Building Identification signage, labelled as “Castlecrag” on the eastern elevation
- f) Operational hours for the commercial uses - 7am to 10pm all days.

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.

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), the Panel is satisfied that the applicant has demonstrated that:

- a) compliance with cl. 4.3 and cl. 4.3A(6) (Height of buildings) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard as the site is subject to a maximum height of RL 97.49 pursuant to Clause 4.3 of the WLEP and the proposal seeks a variation of 1.2m to this standard. As the Applicant’s proposal noted, the site was subject to a site-specific planning control that established specific heights in relation to the

roof, lifts, stair access, shared facilities and service installations. The proposal's detailed heights were determined to allow a 3.8m clearance for garbage trucks entering and exiting the basement and this established the height across the entire site. However, as Council and Panel acknowledge, the original planning controls did not allow for a subsequent change requiring a 4.5m clearance for garbage trucks to service the development. The Panel concurs with Council that given the increased height has no significant impact on views, overshadowing or privacy, it is acceptable in the circumstances.

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 Panel determined to uphold the Clause 4.6 variation to building height and approve the application for the reasons below and in Council's comprehensive Assessment Report.

The prominent site has a total area of 5,166 square meters including a narrow RE1-zoned strip (69.8 square metres) and slopes moderately, descending around 4 metres from the primary street frontage on Edinburgh Road toward the rear. The existing Quadrangle Shopping Village served as a local commercial hub for Castlecrag offering a range of retail and essential services, including cafes and boutique stores but has been in need of redevelopment for some years and there has been considerable community debate over a preferred redevelopment.

The Panel notes a planning proposal was approved and gazetted in June 2023 to allow mixed use development, increase height to RL 97.49, increase FSR to 1.8:1 above ground level, allow RFBs on the site and identify the site as 'Area 9' (Clause 6.8 Affordable Housing applies) and 'Area 12' (Clause 6.23 Design Excellence applies) and WDCP was updated to incorporate the site-specific planning controls.

The subject application was lodged in January 2024 and has been significantly amended after extensive feedback from the community, Council departments, Design Excellence Review Panel and Government agencies including two periods of public notification. Key issues of Supermarket Permissibility, Building Height, Encroachment into RE1-zoned land, Building Separation, Overshadowing and Privacy Impacts and Tree Removal have been canvassed thoroughly.

In summary, the Panel concurs with Council that the application has been properly assessed against relevant planning controls, is suitable for the site and would deliver an appropriate redevelopment of the key site. Consequently, the Panel believes it would be in the public interest for the proposal to be approved.

CONDITIONS

Draft conditions were discussed with the Applicant and Council during the public meeting and for clarification of intent 17d, 42 and 43 were amended and 64 and 129 deleted. The Development Application was approved subject to the updated conditions in Council's email of 27th November 2024.


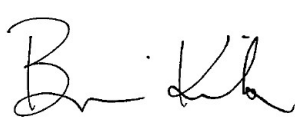



CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel during the public meeting. The Panel notes community issues of concern included:

- Lack of affordable housing
- Lack of internal amenities
- Overshadowing and privacy impacts
- Noncompliance with applicable standards
- Traffic and public transport issues
- Removal of trees
- Lack of public amenities
- Retail space

- Heritage and local character
- Safety concerns during demolition and construction
- Environmental sustainability
- Developer survey inaccurate
- Drainage
- Parking
- Building separation

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and conditions as amended and notes no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Brian Kirk
 Sue Francis	 Tanya Taylor
 James Harrison	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-458 – Willoughby – DA-2024/13
2	PROPOSED DEVELOPMENT	Construction of a new mixed use building containing retail uses including a supermarket, residential units, basement car parking, with associated landscaping and Stratum subdivision. The application is identified as nominated integrated development requiring approval from Water NSW pursuant to s90 the Water Management Act 2000.
3	STREET ADDRESS	100 Edinburgh Road Castlecrag
4	APPLICANT OWNER	Matthew Nesbitt – Project Edinburgh Pty Ltd Greencliff Castlecrag 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&ARegulation) 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 (Planning Systems) 2021 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Housing) 2021, 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: 14 November 2024 Clause 4.6 variation request by LJB Urban Planning: 27 August 2024 Written submissions during public exhibition: 549 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Adrienne Kabos, Mark Crew, David Hayman, Daniel Barber, Michael Richards, Kate McCann, Keiran Lane, Andrew Gee, Roger Grinter, Suzie Gold, Rod Gillespie, David Goodrich OAM, David Lawson, Ross De la Motte, Taylor Tsieng, Judith Last and Theresa Oo Council assessment officer – Ritu Shankar On behalf of the applicant – Larissa Brennan, Michelle Ho and Jake Jansen
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Preliminary Briefing: 24 April 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair), Nicole Gurran, Brian Kirk <u>Council assessment staff</u>: Akshay Bishnoi, Clare Woods, Wil

		<p>Robertson and Ritu Shankar</p> <ul style="list-style-type: none"> ○ <u>Applicant representatives</u>: Matthew Nesbitt, David Haseler, Michelle Ho and Larissa Brennan ○ <u>Department staff</u>: George Dojas, Adam Iskander and Suzie Jattan <ul style="list-style-type: none"> ● Briefing: 24 July 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Brian Kirk (Acting Chair), Sue Francis, Susan Budd, Tanya Taylor and James Harrison ○ <u>Council assessment staff</u>: Akshay Bishnoi, Clare Woods, Wil Robertson and Ritu Shankar ○ <u>Applicant representatives</u>: Larissa Brennan, Ilya Melnikoff, Stanley Quek, David Hasler, Richard Francis-Jones, Michael Goldrick and David Butt ○ <u>Department staff</u>: George Dojas, Adam Iskander and Joel Burgess ● Final briefing to discuss council's recommendation: 27 November 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Sue Francis, Tanya Taylor and James Harrison ○ <u>Council assessment staff</u>: Clare Woods Wil Robertson, Ritu Shankar, Anthony Power and Sylvania Mok ○ <u>Department staff</u>: Lillian Charlesworth, Lisa Foley and Jade Buckman
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report and as amended by the Panel and uploaded to the Portal on 28 Nov 2024.