



DATE OF DETERMINATION	26 September 2023
DATE OF PANEL DECISION	21 September 2023
DATE OF PANEL MEETING	20 September 2023
PANEL MEMBERS	Peter Debnam (Chair), Brian Kirk, Nicole Gurran, Tanya Taylor & James Harrison
APOLOGIES	N/A
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 20 September 2023, opened at 12.00pm and closed at Closing 12:30pm. Papers circulated electronically on 8 September 2023.

MATTER DETERMINED

PPSSNH-393 – Willoughby City Council – DA-2022/394, 2 TESSA STREET CHATSWOOD

Demolition of existing site structures and the construction of a multilevel centre-based childcare facility, to accommodate 145 children between the age 0 and 6 years, including a basement comprising of 28 car parking spaces (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 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 applicant has not sufficiently demonstrated that:

- a) compliance with cl. 4.4 (Floor space ratio) 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:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.4 of the LEP and the objectives for development in the R2 Low Density Residential zone.

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 below and in Council's Assessment Report.

The Panel noted Council's extensive recommended reasons for refusal and further noted during the public meeting that the lack of a report addressing possible Site Contamination was a threshold issue for the

proposal given it involved a child-care centre. As such, and notwithstanding the deficiencies of the Applicant's request under clause 4.6 of the LEP, development consent could not be granted.

The Panel further noted the Applicant did not attend the public meeting and had also declined a previous briefing meeting with the Panel and Council.

The Panel's decision to refuse the application was unanimous.


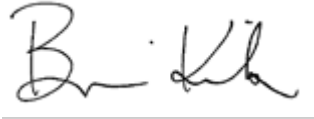



CONDITIONS

Not applicable

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. The Panel notes that issues of concern included: non-compliance with LEP and DCP, Local Environmental Plan and Development Control Plan, noise impacts, traffic impacts, over-development, streetscape character, privacy and overshadowing.

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

PANEL MEMBERS	
 Peter Debnam (Chair)	 Brian Kirk
 Nicole Gurrán	 Tanya Taylor
 James Harrison	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-393 – Willoughby City Council – DA-2022/394
2	PROPOSED DEVELOPMENT	Demolition of existing site structures and the construction of a multilevel centre-based childcare facility, to accommodate 145 children between the age 0 and 6 years, including a basement comprising of 28 car parking spaces (as described in Schedule 1).
3	STREET ADDRESS	2 TESSA STREET CHATSWOOD
4	APPLICANT/OWNER	The Trustee for the Wu & Kuo Family Trust
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 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); • Willoughby Local Environmental Plan 2012 (Willoughby LEP); • 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 (Planning Systems) 2021 • Education and Care Services National Regulations • Willoughby Development Control Plan (WDCP) • Child Care Planning Guideline 2021 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Willoughby Development Control Plan 2006 & 2023 • Planning agreements: Nil • Relevant provisions of the Environmental Planning and Assessment Regulation 2021 • 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: 8 September 2023 • List any clause 4.6 variation requests: FSR • Written submissions during public exhibition: 83 submission (including one petition) • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Graham Pearson ○ Cassie Kelly ○ Bridget Miall ○ Andrew Nelson ○ Councillor Jam Xia ○ Vikram Pulakhandam ○ Peter Baudish

		<ul style="list-style-type: none"> ○ Council assessment officer - Akshay Bishnoi ● Total number of unique submissions received by way of objection: 83
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> ● Briefing: Kick Off Briefing – 28-06-2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk ○ <u>Council assessment staff</u>: Akshay Bishnoi, Patrick Williams ● Final briefing to discuss council’s recommendation: 20-09-2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Nicole Gurran, Tanya Taylor & James Harrison ○ <u>Council assessment staff</u>: Akshay Bishnoi, Ritu Shankar, Alice Stapleton, Anthony Powe, Clare Woods
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A