

DETERMINATION AND STATEMENT OF REASONS WILLOUGHBY LOCAL PLANNING PANEL

DATE OF DETERMINATION	16 July 2024
PANEL MEMBERS	Elizabeth Kinkade (Chair), Robert Montgomery, and Emma Rogerson
DECLARATIONS OF INTEREST	Jason Perica declared that he is currently the town planner for a different DA in another Local Government Area which has the same applicant. While they have no personal or financial relationship and were not involved in each other's appointment for that other DA, this may nonetheless be perceived as a Conflict of Interest, so Mr Perica took no part in deliberations or the decision related to this item.

Public meeting held at Willoughby City Council on 16 July 2024 by teleconference. The meeting opened at 2.00pm. Papers circulated electronically between 9 July and 16 July 2024.

This item was heard between 2.04pm and 2.09pm.

MATTER DETERMINED

DA-2023/217 at 3 Ellis Street, Chatswood NSW 2067. Demolition of the existing residential flat building and all structures, existing footings and site clearing.

PANEL CONSIDERATION AND DECISION

The Panel considered the matters listed at item 6, the material listed at item 7, the material presented at the meeting and briefings and the matters observed at site inspections listed at item 8 in Schedule 1 of this Determination and Statement of Reasons.

The Panel adjourned after the meeting to deliberate on the matter and formulate a resolution.

Development application

The Panel determined to **approve** the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to the conditions as amended by the Panel as documented below.

The decision was unanimous.

REASONS FOR THE DECISION

The reasons outlined in the Council assessment report and:

1. **The proposal does not contravene development controls contained in the *Willoughby Local Environmental Plan 2012 (WLEP)*.**
2. **The proposal is consistent with the objectives of the development controls contained in *WDCP 2023*.**
3. **The development satisfies the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.**
4. **The development satisfies the matters of contention raised in the 14 unique submissions by way of objection and assessment has shown that the likely adverse effects to the present and future amenity of the locality are not of such extent as to warrant refusal.**
5. **The conditions as amended by the Panel will ensure alignment with conditions relevant to demolition in the Notice of Determination for DA-2022/393.**

CONDITIONS

The development application was approved subject to the conditions in the Council assessment report as amended below.

Conditions 9(A), 9(B), 9(C) and 9(D) are added as follows:

PRIOR TO THE COMMENCEMENT OF ANY WORKS

9(A) Sydney Metro

Prior to the commencement of any works, the following information must be submitted to Sydney Metro for review and endorsement:

- machinery to be used during excavation/construction;
- demolition, excavation and construction methodology and staging;

Demolition works must not commence until the applicant/developer has received written confirmation from Sydney Metro that this condition has been satisfied.
(Reason: Ensure compliance)

9(B) Sydney Metro

Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Metro in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Metro in relation to the works.
(Reason: Ensure compliance)

9(C) Sydney Trains

Prior to the commencement of any works, the following final version rail specific items are to be submitted to Sydney Trains for review, comment, and written endorsement:

- Machinery to be used during excavation/construction.
- Demolition, excavation, and construction methodology and staging.

Demolition works must not commence until the applicant/developer has received written confirmation from Sydney Trains that this condition has been complied with.
(Reason: Ensure compliance)

9(D) Sydney Trains




Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.
(Reason: Ensure compliance)

CONSIDERATION OF COMMUNITY VIEWS

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

- Hours of work
- Noise, vibration and dust
- Air pollution
- Traffic congestion during demolition works

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

PANEL MEMBERS	
 ELIZABETH KINKADE (CHAIR)	
 ROBERT MONTGOMERY	 EMMA ROGERSON

SCHEDULE 1		
1)	DA NO.	DA-2023/217
2)	PROPOSED DEVELOPMENT	Demolition of the existing residential flat building and all structures, existing footings and site clearing.
3)	STREET ADDRESS	3 Ellis Street, Chatswood NSW 2067.
4)	APPLICANT/OWNER	Mpg Au Pty Ltd / Owners Corp Strata Plan 2715.
5)	REASON FOR REFERRAL	Contentious Development – more than 10 submissions.
6)	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ <i>State Environmental Planning Policy (Resilience and Hazards) 2021.</i> ○ <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021.</i> ○ <i>Willoughby Local Environmental Plan 2012.</i> • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ <i>Willoughby Development Control Plan</i> ○ <i>Section 7.12 (S94A) Plan</i> ○ <i>Willoughby Local Infrastructure Contributions Plan.</i> • Provisions of the <i>Environmental Planning and Assessment Regulation 2021.</i> • Provisions of the <i>Environmental Planning and Assessment Act 1979.</i> • Planning agreements: 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	<ol style="list-style-type: none"> 1) Council assessment report: 2 July 2024. 2) Clause 4.6 variation requests: Nil 3) Written submissions during public exhibition: 15 4) Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In Support: Craig Chung of MPG AU Pty Ltd ○ In Objection: Nil ○ On behalf of the applicant: Nil ○ Council staff: Akshay Bishnoi, Andre Vahldieck and Ritu Shankar
8)	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> • Site inspections were undertaken individually by Panellists at their discretion due to COVID-19 precautions. • Papers circulated electronically 9 July 2024. • Final briefing to discuss Council's recommendation, 16 July 2024 at 2.14pm-2.42pm • Attendees: <ul style="list-style-type: none"> ○ Elizabeth Kinkade (Chair), Robert Montgomery and Emma Rogerson. ○ Council staff: Akshay Bishnoi, Andre Vahldieck and Ritu Shankar
9)	COUNCIL RECOMMENDATION	Approval
10)	DRAFT CONDITIONS	Attached to the Council assessment report