

DETERMINATION AND STATEMENT OF REASONS WILLOUGHBY LOCAL PLANNING PANEL

DATE OF DETERMINATION	10 September 2024
PANEL MEMBERS	Graham Brown (Chair), Deborah Sutherland, Sue Weatherley and Rodney Lindsell
DECLARATIONS OF INTEREST	None

Public meeting held at Willoughby City Council on 10 September 2024 by teleconference. The meeting opened at 2.00pm. Papers circulated electronically between 3 September and 10 September 2024.

This item was heard between 2.01pm and 2.29pm.

MATTER DETERMINED

DA-2023/253 at 18-22 Smith Street, Chatswood NSW 2067. Demolition of existing structures and construction of a two storey premises to operate a 24 hour 7 days a week McDonald's takeaway food and drink premises to include 26 car parking spaces, landscaping, signage and associated works.

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*.

The decision was unanimous.

REASONS FOR THE DECISION

The reasons outlined in the Council assessment and additional conditions imposed by the Panel.

1. **The proposal is consistent with the objectives of the E4 – General Industrial and considered generally consistent with the objectives of the *Willoughby DCP*.**
2. **The proposed development, subject to recommended conditions, will not have unreasonable impacts on the streetscape, the residential amenity of the neighbouring properties or the surrounding locality.**
3. **The development will provide employment opportunities and a range of goods and services.**
4. **It is considered that the proposed development application meets the desired outcomes and objectives of the development standards contained in the *Willoughby Local Environmental Plan 2012 (WLEP)* and objectives of the *Willoughby Development Control Plan (WDCP)*.**

CONDITIONS

The development application was approved subject to the conditions in the Council assessment report with the following amendments.

Condition 13 & 114 are to be amended to read as follows:

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

13. Amendments

Prior to the issue of the Construction Certificate, the proposal is to be amended in the following manner:

- (a) The Solar Panels proposed on the upper level in the central island are to be relocated on the roof of the building.
- (b) The overall height of the pylon sign is a maximum of 6m**

Plans detailing the above amendments are required to be shown on the Construction Certificate plans.
(Reason: Visual amenity)

OCCUPATION AND ONGOING USE

114. Hours of Operation

The hours of operation of the approved development **for the Dine-in area and the Drive Thru is are-restricted to 6:00 AM to 10:00 PM, all days. those times listed below, i.e.:**

- ~~Drive-thru: 24 hours, 7 days a week~~
- ~~Dine-in: 6:00 AM to 10:00 PM, all days~~

Any extension to these hours is to be subject to the prior consent of Council **or condition 114A.**
(Reason: Amenity)

Condition 111A & 114A are added as follows:

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

111A. Registration of Plan of Consolidation

Prior to the issue of any Occupation Certificate, all individual allotments involved in the development site shall be consolidated into a single allotment and evidence of the registration of the plan of consolidation to be submitted to Council.

(Reason: Orderly land consolidation)

OCCUPATION AND ONGOING USE

114A. Hours of Operation Drive Thru Trial Period

The hours of operation of the approved development for the Drive Thru area is permitted 24 hours all days for a period of 12 months from the date of the commencement of the use of the premises in accordance with this consent. A further development application or S4.55 application may be lodged prior to the expiration of this 12 month period for Council’s consideration of the continuation of the operation of the Drive Thru 24 hours all days. The applicant is to advise Council in writing of the date on which the use commences within a period of 14 days from that commencement date.

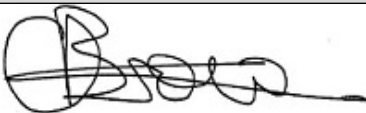



(Reason: Ensure impact on the surrounding community amenity is monitored)

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:

- Traffic and parking
- Permissibility
- Noise, odour and potential anti-social behaviour
- Landscaping
- Setbacks
- Visual impact
- Pedestrian accessibility

The Panel considered 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	
 GRAHAM BROWN (CHAIR)	 DEBORAH SUTHERLAND
 SUE WEATHERLEY	 RODNEY LINDSELL

SCHEDULE 1		
1)	DA NO.	DA-2023/253
2)	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a two storey premises to operate a 24 hour 7 days a week McDonald's takeaway food and drink premises to include 26 car parking spaces, landscaping, signage and associated works.
3)	STREET ADDRESS	18-22 Smith Street, Chatswood NSW 2067
4)	APPLICANT/OWNER	SLR Consulting Australia Pty Ltd / 18 Smith Pty Ltd.
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 (Industry and Employment) 2021</i> ○ <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> ○ <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 2023</i> ○ <i>Section 7.12 (S94A) 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: 3 September 2024. 2) Clause 4.6 variation requests: Nil 3) Written submissions during public exhibition: 22 4) Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In Support: Nil ○ In Objection: Nil ○ On behalf of the applicant in support: <ul style="list-style-type: none"> ○ Skye Baker of McDonald's ○ Tim Rogers of Colston Budd Rogers & Kafes Pty Ltd ○ Rachel McNeil of SLR Consulting (Applicant) ○ Council staff: Akshay Bishnoi and Dyalan Govender
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. • Papers circulated electronically 3 September 2024. • Final briefing to discuss Council's recommendation, 10 September 2024 at 3.13pm-4.13pm • Attendees: <ul style="list-style-type: none"> ○ Graham Brown (Chair), Deborah Sutherland, Sue Weatherley and Rodney Lindsell. ○ Council staff: Akshay Bishnoi
9)	COUNCIL RECOMMENDATION	Approval
10)	DRAFT CONDITIONS	Attached to the Council assessment report