

DETERMINATION AND STATEMENT OF REASONS WILLOUGHBY LOCAL PLANNING PANEL

DATE OF DETERMINATION	19 December 2024
PANEL MEMBERS	Stephen O'Connor (Chair), Helen Deegan, Sheridan Burke and Leah Bulfin
DECLARATIONS OF INTEREST	None

Electronic determination on 19 December 2024.

Public meeting was held on 3 December 2024 and the decision was deferred for the following reasons:

1. **The implications of the recommendations of the Aboriginal Heritage Due Diligence investigation need to be clarified by the Aboriginal Heritage Office.**
2. **To further clarify the implications of increasing the setback to the western boundary.**
3. **To seek clarification from the Architect's proposed treatment of the western elevation windows in terms of management of privacy issues.**

The supplementary report dated 12 December 2024 was sent to the Panel electronically 13 December 2024. Electronic communication sent between 13 and 19 December 2024.

MATTER DETERMINED

DA-2023/281 at 39 The Scarp, Castlecrag NSW 2068. Construction of a new dwelling house, secondary dwelling, workshop, tree removal, detached carport, car crossing landscaping 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.

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 reasons outlined in the Council assessment report.

The Panel has determined to refuse the development application for the following reason.

The Consent authority cannot be satisfied that the recommendations presented in the Aboriginal Cultural Due Diligence report dated 26 April 2024 and the subsequent peer review report prepared by the Aboriginal Heritage Office have been adequately addressed.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during the public exhibition. The Panel noted that key issues of concern included Aboriginal Heritage and neighbour privacy.

PANEL MEMBERS	
 STEPHEN O'CONNOR (CHAIR)	 HELEN DEEGAN
 SHERIDAN BURKE	 LEAH BULFIN

SCHEDULE 1		
1)	DA NO.	DA-2023/281
2)	PROPOSED DEVELOPMENT	Construction of a new dwelling house, secondary dwelling, workshop, tree removal, detached carport, car crossing landscaping and associated works.
3)	STREET ADDRESS	39 The Scarp, Castlecrag NSW 2068
4)	APPLICANT/OWNER	Mr Lester R Clifford
5)	REASON FOR REFERRAL	Departure from standard by more than 10%.
6)	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ <i>SEPP Sustainable Buildings 2022.</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</i> ○ <i>Section 7.11 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 supplementary report: 12 December 2024. 2) Clause 4.6 variation requests: cl. 4.3 (height of buildings) 3) Written submissions during public exhibition: 10
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. • Panel Members: Stephen O'Connor (Chair), Helen Deegan, Sheridan Burke and Leah Bulfin • Papers circulated electronically 13 December 2024. • Panel briefing held on 19 December 2024. • Attendees: <ul style="list-style-type: none"> ○ Stephen O'Connor (Chair), Helen Deegan, Sheridan Burke and Leah Bulfin. ○ Council Olivia Navratil and Ritu Shankar
9)	COUNCIL RECOMMENDATION	Deferred Commencement Consent
10)	DRAFT CONDITIONS	Attached to the Council assessment report