

DATE OF DETERMINATION	3 December 2020
PANEL MEMBERS	Abigail Goldberg (Chair), Clare Brown and Ken McBryde
APOLOGIES	Gabrielle Morrish
DECLARATIONS OF INTEREST	<p>Chandi Saba and Mark Colburt advised that they had been at meetings when Bull & Bush was discussed at Council.</p> <p>David Ryan advised that City Plan provided advice to a client several years ago about a planning proposal for this site, resulting in a perceived conflict of interest.</p> <p>Stewart Seale advised that he was conflicted as he was the Manager Forward Planning at the time this Proposal commenced.</p>

Papers circulated electronically on 27 November 2020.

PLANNING PROPOSAL

2018SWC076 – The Hills Shire – PP_2016_THILL_016_00 AT 360-378 Windsor Road, Baulkham Hills, Bull and Bush Hotel (AS DESCRIBED IN SCHEDULE 1)



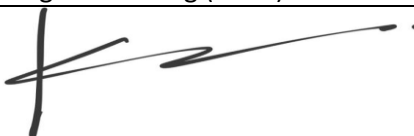
PANEL CONSIDERATION AND DECISION

The panel considered: the material listed at item 4, and the material presented at meetings and matters observed at site inspections listed at item 5 in Schedule 1.

As the planning proposal authority, the Panel determined to recommend to the Minister that the proposed instrument, as described in Schedule 1, should not be made. The decision was **unanimous**.

REASONS FOR THE DECISION

1. The applicant has failed to address the design issues identified in the determination and record of briefing from both May 2020 and September 2020 in relation to the planning proposal.
2. The panel does not support the deletion of the minimum non-residential floor space requirement from the planning proposal as amended and submitted for consideration of the panel.
3. Based on the information submitted in support of the planning proposal the panel is not convinced that the future development of the site can achieve design excellence. The submitted concept also fails to demonstrate how the built form will acknowledge both the visibility and high profile of the site, link into the local character and facilities of the surrounding area, address the heritage values of the site, deliver compatible public domain and built form and result in quality civic spaces being delivered.
4. Based on the available information the panel considers there is insufficient detail and clarity regarding the potential urban design outcomes, traffic implications and pedestrian and vehicle access outcomes for the site that would arise from future development under the planning proposal.
5. The draft voluntary planning agreement was the mechanism for the delivery of public benefits associated with the planning proposal. This agreement has not been advanced at this time to a stage where the panel is convinced that agreement can be reached between the parties.

PANEL MEMBERS	
 Abigail Goldberg (Chair)	 Clare Brown
 Ken McBryde	

SCHEDULE 1		
1	PANEL REF – LGA – PLANNING PROPOSAL NO. - ADDRESS	2018SWC076 - Bull and Bush Hotel – PP_2016_THILL_016_00 360-378 Windsor Road, Baulkham Hills
2	LEP TO BE AMENDED	The Hills Local Environmental Plan 2019
3	PROPOSED INSTRUMENT	<p>Planning proposal to amend the Hills Local Environmental Plan 2019 to rezone the site at 360-378 Windsor Road, Baulkham Hills from R1 General Residential to B2 Local Centre and increase the achievable maximum height of buildings and floor space ratio applying to the site under The Hills Local Environmental Plan 2019. The amendment would facilitate a mixed-use retail/commercial and residential development on the site, which includes the following:</p> <ul style="list-style-type: none"> • a minimum of 6,040m² of commercial and retail floor space (including a hotel/pub); • a minimum of 2,500m² of community floor space (including library and community centre floor space); and • 20,582m² of residential floor space (approximately 200 units).
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Department report – November 2020 • Submissions report: 22 April 2020 • Written submissions during public exhibition: 19 • Verbal submissions at the public panel meeting on 20 May 2020: <ul style="list-style-type: none"> ○ Jim Wand ○ Dianne Toner ○ Arjun Sekhar ○ David Reynolds on behalf of The Hills Shire Council ○ On behalf of the applicant – Nathan Wall, Planner
5	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • 31 October 2018 - Panel Decision – Exhibition of Planning Proposal • 29 April 2020 - Briefing • 20 May 2020 - Public meeting • Briefing with Department, 2 December 2020, 11.00am. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Abigail Goldberg (Chair), Clare Brown and Ken McBryde ○ <u>Department staff</u>: Elizabeth Kimbell, Jane Grose, Angela Hynes and George Dojas

○ Points discussed were –

- The Minister's direction that Planning Proposals such as the one before the panel (i.e. those that have been in the planning process for over 180 days) were required to be finalised by 31 December 2020, noting that the planning proposal under consideration had been in the system for more than four years.
- The key issues raised by the panel in the record of briefing dated 15 September 2020 and in particular:
 - i. No support for the removal of the minimum quantum of non-residential development on site,
 - ii. Unresolved issues relating to the nominated height of building controls
 - iii. Failure of the Applicant to meet the timeframes nominated in the determination and statement of reasons of 20 May 2020
 - iv. Failure of the revised draft DCP to address the design issues or consider the suggested design changes identified by the panel in September 2020
- The VPA between the applicant and the Council remains unresolved and was considered a critical element to the planning proposal progressing.
- The potential options available to the panel proffered by the Department in its correspondence of 26 November 2020. Given the nature and extent of unresolved issues in relation to the ultimate built form on site and its relationship to the site and the local context that there was no confidence that these issues could be resolved satisfactorily or in a reasonable period of time. Further, the panel did not consider that the nominated mechanisms which would defer resolution of critical issues was an appropriate outcome for this planning proposal.
- The need for design excellence to be achieved on this site under any future development proposal (which would be guided by the site specific DCP) having regard to the site's high profile, visibility, local context, heritage value, pedestrian connectivity, delivery of connected civic spaces, impact of future road widening and retention of trees on site in delivering a quality place and outcome. Consideration is required in any new planning proposal on how design excellence can be achieved having regard to existing provisions of The Hills LEP.
- The draft DCP as submitted was inadequate and did not adequately address the matters raised in the record of briefing of 15 September 2020.
- Should the applicant elect to lodge a new planning proposal the panel suggests that the Department:
 - i. request the Council provide a copy of the legal advice obtained in relation to the applicant's draft VPA and where appropriate

		<p>share that with the applicant</p> <p>ii. work with Council to provide a copy of a specification for a future community space to be delivered on site and share that with the applicant</p> <ul style="list-style-type: none">▪ Should the applicant elect to lodge a new planning proposal the panel suggests that it advance its discussions of the public benefit offering and draft VPA with Council in advance of submitting the new planning proposal.
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