

<b>DATE OF DETERMINATION</b>	Tuesday, 27 September 2016
<b>PANEL MEMBERS</b>	Mary-Lynne Taylor (Chair), Bruce McDonald and Lindsay Fletcher
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Dave Walker and Michael Edgar both declared conflicts of interest because Council property was involved in the application

Public meeting held at The Hills Shire Council on Tuesday 27 September 2016, opened at 11:05 am and closed at 11:35 am.

#### **MATTER DETERMINED**

2015SYW002 - The Hills Shire Council, 864/2015/JP – Castle Towers Shopping Centre

(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 the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*. The decision was unanimous.

#### **REASONS FOR THE DECISION**

The Panel in determining this application accepted that planning decisions relating to development within Castle Hill warrant being informed by the definition of Castle Hill's role as a Strategic Centre and as a major node of the Northwest Rail Link now under construction. The Panel has considered the application in that context recognising that certain controls currently contained within The Hills Local Environment Plan 2012 (LEP) do not reflect that position.

The Panel considers that this important strategic role should be reflected in the LEP provisions applying to the centre in order to properly inform the community and other interested parties in their consideration of future development proposals. Accordingly the Panel recommends to the Council and the Greater Sydney Commission that the development of relevant LEP controls be addressed as a priority.

The reasons for the decision of approval made by the Panel were:

1. The proposed development will add to the supply of retail commercial facilities and urban amenities and entertainment within the West Central Metropolitan Subregion and The Hills local government area in a manner that will consolidate the role of Castle Hill as a strategic centre as nominated in *A Plan for Growing Sydney* and the strategy underlying the Northwest Rail Link
2. The Panel has considered the applicant's request dated 1 September 2016 to vary the development standard contained in The Hills LEP 2012 Cl. 4.3 relating to height and Cl. 4.4



relating to floor space ratio (FSR) and considers that variation of the standards is acceptable in the circumstances of this case as:

- The variations relating to height and FSR will result in development providing a significant increase in the provision of services consistent with the identified role of Castle Hill as the local government area's highest order centre by *A Plan for Growing Sydney* and the strategies associated with Northwest Rail Link Corridor.
- The resulting built form will not have a significant negative environmental impact on existing or planned buildings within the centre noting that neighbouring sites have been assigned significantly greater height and FSR limits.
- The development is not inconsistent with the underlying intent of the standard and the objectives of the zone.

When initially considering this request for variation of the standards the Panel was concerned that the use of Clause 4.6 of the LEP might not be an appropriate method of addressing approval of a building of the scale proposed given the large measure of the variations sought, and accordingly sought the advice of the Department of Planning and Environment. The Department has advised there is nothing problematic about this proposal.

Further, the Panel agrees with the applicant's submission that the standards have effectively been abandoned by Council's previous decisions relating to this site and the surrounding areas. The written request for variation adequately addresses matters to be satisfied by Clause 4.6. The Panel is satisfied that there are sufficient environmental planning grounds to justify variation of these development standards.

The Panel in consideration of the above factors considers the variation is not contrary to the public interest.

3. The proposed development adequately satisfies the relevant State Environmental Planning Policies including State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007 and State Environmental Planning Policy No. 32 - Urban Consolidation (Redevelopment of Urban Land)
4. The proposal adequately satisfies the objectives and provisions of The Hills LEP 2012 and The Hills DCP 2012, noting that departures in regard to height and FSR have been considered as a Clause 4.6 variation made under The Hills LEP 2012.
5. The proposed development, while of a scale and form differing from that of existing development in the locality, is considered to be appropriate given the proposed scale of residential development planned nearby and the scale of development required to perform the assigned strategic role of the centre.
6. The proposed development, subject to the conditions imposed and the provision of the works contained in the Voluntary Planning Agreement concluded with Council, will have no unacceptable adverse impacts on the natural or built environments including the amenity of nearby residential premises, the significance of the onsite and nearby heritage items or the operation of the local road system.
7. In consideration of conclusions 1-6 above the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

## **CONDITIONS**

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.


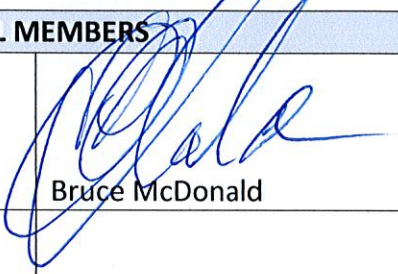

- Condition 46 to read:

#### 46. Castle Street Road Closure/Acquisition

The applicant/developer will be responsible for all costs required under the Lease Agreement associated with the closure of the portion of Castle Street between Pennant Street and Old Northern Road which is to be amalgamated into the development site.

NOTE: The extent of the closure and the resultant location of the road reserve/private property boundary at both ends of Castle Street must consider the following:

- (a) The applicant/developer creates an easement over the access road to the carpark at the intersection of Pennant Street and Castle Street to the satisfaction of Roads and Maritime
- (b) The Provision of a legal point of access to the public road network for the adjoining properties currently reliant on Castle Street for the same.

PANEL MEMBERS	
 Mary-Lynne Taylor (Chair)	 Bruce McDonald
 Lindsay Fletcher	



SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2015SYW002 - The Hills Shire Council, 864/2015/JP
2	PROPOSED DEVELOPMENT	Revised Stage 3 Expansion of Castle Towers Shopping Centre
3	STREET ADDRESS	Various Lots, Castle Towers Shopping Centre, Castle Hill
4	APPLICANT/OWNER	QIC LTD, The Hills Shire Council and Telstra Corp Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development with a Capital Investment Value of more than \$20 million, and development with a Capital Investment Value of more than \$5 million where Council has an interest
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• The Hills Local Environment Plan 2012</li> <li>• DCP Part C Section 1 – Parking</li> <li>• DCP Part B Section 6 – Business</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No. 32 – Urban Consolidation (Redevelopment of Urban Land)</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Regional Environment Plan No 20 – Hawkesbury Nepean River</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report dated 18 August 2016</li> <li>• Written submissions during public exhibition: 11</li> <li>• Verbal submissions at the panel meeting on 18 August 2016: <ul style="list-style-type: none"> <li>○ Object – Richard Bushell</li> <li>○ On behalf of the applicant – Paul Donohue, Matt James, Andrew Duggan, Michael Oliver and Robb Webb</li> </ul> </li> <li>• Supplementary Assessment Report dated 15 September 2016</li> <li>• Submission from applicant dated 26 September 2016</li> <li>• Verbal submissions at the panel meeting on 27 September 2016: <ul style="list-style-type: none"> <li>○ On behalf of the applicant – Andrew Duggan, Marcus Steele, Tony Dimasi, Herbert Smith Feehills</li> </ul> </li> </ul>
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing meeting and site inspection on 18 August 2016</li> <li>• Public meeting held on 18 August 2016</li> <li>• Briefing meeting on 27 September 2016</li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report