

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY CENTRAL CITY PLANNING PANEL

|                                 |   |
|---------------------------------|---|
| <b>DATE OF DETERMINATION</b>    | 23 May 2019   |
| <b>PANEL MEMBERS</b>            | Paul Mitchell (Acting Chair), Stuart McDonald, Julie Savet Ward, Chandi Saba and Mark Colburt   |
| <b>APOLOGIES</b>                | Mary-Lynne Taylor   |
| <b>DECLARATIONS OF INTEREST</b> | <p>Ms Julie Savet Ward advised that she knew Steve Kennedy of Kennedy Associates professionally and has no personal relationship and has not discussed this application in anyway.</p> <p>Mr Stuart McDonald advised that he is familiar with architect for the project, Steve Kennedy, in a professional capacity. He has not been approached by Mr Kennedy regarding this DA or any other person associated with the DA. He has no personal interaction with Mr Kennedy in a professional capacity for a number of years.</p> |

Public meeting held at The Hills Shire Council on 23 May 2019, opened at 2.33pm and closed at 3.33pm.

#### MATTER DETERMINED

Panel Ref – 2018SWC009 – LGA – The Hills Shire – DA1225/2018 at Nos. 1-5 Terry Road and No. 779 Windsor Road, Box Hill (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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

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

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 Panel declines to uphold the applicant's request to contravene Clause 4.3 of the SEPP (SRGC) relating to building height. The Panel is not satisfied with the applicant's written request that compliance with standard is unnecessary or unreasonable.
- The Panel does not believe that the applicant's written request has demonstrated that there are sufficient environmental planning grounds to justify the contravention.
- In the Panel's opinion granting the contravention sought would not be in the public interest because the contravention would not be consistent with objectives of the standard.
- The Panel's decision is therefore to refuse the application.

The Panel also notes various additional concerns about the merits of the application:

- 1) That some necessary information has not been provided including updated details about traffic, landscaping, contamination, waste disposal, drainage, parking and shadowing.
- 2) That the proposed density seems to be excessive and could cause unreasonable demands on local infrastructure.
- 3) That the RMS does not support the application in its current form and requires further traffic analysis which has not been provided.
- 4) That the scale of development proposed appears to be inconsistent with the desired future character of the locality, given that it is markedly higher than in nearby recently approved developments.
- 5) While the Panel considers that the proposed building height is excessive, the Panel is supportive of the opinion expressed in the Council's assessment report that the principle of a higher built form at the corner of Windsor Road and Terry Road could have merit, but as stated in the reasons above the present contravention of the development standard is not justified.

#### CONSIDERATION OF COMMUNITY VIEWS

The Panel notes that no issues of concern were raised by members of the public.

| PANEL MEMBERS   |   |
|---|---|
| <br>Paul Mitchell OAM (Acting Chair) | <br>Stuart McDonald |
| <br>Julie Savet Ward               | <br>Mark Colburt  |
| <br>Chandi Saba                    |   |

| SCHEDULE 1 |                                   |   |
|------------|-----------------------------------|---|
| 1          | PANEL REF – LGA – DA NO.          | Panel Ref – 2018SWC009 – LGA – The Hills Shire – DA1225/2018  |
| 2          | PROPOSED DEVELOPMENT              | Construction of a mixed use development comprising three residential flat buildings, neighbourhood shop and road construction   |
| 3          | STREET ADDRESS                    | Lot 1381 DP 1105145, Lots 136, 137, 139, 139A DP 10157<br>Nos. 1-5 Terry Road and No. 779 Windsor Road, Box Hill  |
| 4          | APPLICANT/OWNER                   | Box Hill Property Trust   |
| 5          | TYPE OF REGIONAL DEVELOPMENT      | General development over \$30 million   |
| 6          | RELEVANT MANDATORY CONSIDERATIONS | <ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (State and Regional Development) 2011</li> <li>○ State Environmental Planning Policy (Sydney Region Growth Centres) 2006</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</li> <li>○ State Environmental Planning Policy – Building Sustainability Index (BASIX) 2009</li> <li>○ Draft Amendment to SEPP (Sydney Region Growth Centres) 2006 (North West Priority Growth Area Land Use and Infrastructure Implementation Plan)</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Box Hill Development Control Plan 2017</li> <li>○ Central City District Plan</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>• Coastal zone management plan: Nil</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: 23 May 2019</li> </ul>  |

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|    |  | <ul style="list-style-type: none"> <li>• Attachment 13 – Applicant’s Clause 4.6 Variation Request</li> <li>• Written submissions during public exhibition: 0</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In support – Nil</li> <li>○ In objection – Nil</li> <li>○ Council assessment officer – Kate Clinton, Cameron McKenzie, Robert Buckham and Paul Osborne</li> <li>○ On behalf of the applicant – Warwick Gosling and Steve Kennedy</li> </ul> </li> </ul> |
| 8  | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY | <ul style="list-style-type: none"> <li>• Site inspection: 23 May 2019</li> <li>• Final briefing to discuss council’s recommendation, 23 May 2019, 1.30pm. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Paul Mitchell (Acting Chair), Stuart McDonald, Julie Savet Ward, Chandi Saba and Mark Colburt</li> <li>○ <u>Council assessment staff</u>: Kate Clinton, Cameron McKenzie, Robert Buckham and Paul Osborne</li> </ul> </li> </ul>   |
| 9  | COUNCIL RECOMMENDATION   | Refusal  |
| 10 | DRAFT CONDITIONS   | N/A  |