



DETERMINATION AND STATEMENT OF REASONS
SYDNEY CENTRAL CITY PLANNING PANEL

DATE OF DETERMINATION	17 September 2020
PANEL MEMBERS	Abigail Goldberg (Chair), David Ryan, Gabrielle Morrish, Mark Colburt and Chandi Saba
APOLOGIES	Nil
DECLARATIONS OF INTEREST	Nil

Papers circulated electronically on 4 September 2020.

MATTER DETERMINED

2018SWC017 – DA1103/2018 – The Hills Shire, Lot 86 DP 10157 - 29 Hynds Road, Box Hill, Demolition of Existing Structures, Construction of local roads and 78 townhouses (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered:

- The matters listed at item 6, the material listed at items 7 and 8 in Schedule 1.
- Owner's consent from 23 / 23A Mason Road, received 17 September 2020
- The need for owner's consent from other adjoining landowners
- The briefing by the Applicant's representatives
- Cut and fill requirements, and the need for retaining walls
- Access and private open space for townhouses without immediate road access
- Access to townhouses facing into cul de sac parking areas
- Provision of stormwater engineering within the site and on adjoining landholdings
- Swept path impacts within the development and impact on adjacent landholdings.

The Panel determined to **refuse** the development application pursuant to section 4.16 of the Environmental Planning and Assessment Act 1979.

The Panel agreed that Council staff should be delegated the authority to defend a Land and Environment Court appeal, should one be lodged.

REASONS FOR THE DECISION

- The proposal has not provided evidence of the consent of all relevant adjoining landowners (Nos. 21 Mason Road, Box Hill and No. 31 Hynds Road, Box Hill) to enable the partial construction of Aurora Street or proposed civil works on which the development is shown to depend.
- The application, as amended, is not supported by a revised BASIX certificate as required pursuant to State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- The proposed development does not satisfy the requirements of the Box Hill Development Control Plan 2018 with respect to cut and fill, adaptable housing, and car parking in Sections 4.1.1 – Cut and Fill, 5.2.8 Garages, Storage, Site Access and Parking and Table 18, 5.5 Adaptable Housing.
- Insufficient evidence has been provided to demonstrate compliance with the requirements of the Box Hill Development Control Plan 2018 with respect to site coverage controls in Table 18 – Key controls for multi dwelling housing.

- The proposal will not provide a reasonable level of amenity for future residents of the development or the adjoining landowners, particularly in relation to adaptable housing, proposed retaining walls, car parking, quality of common open space areas, relationship of private and communal open space, and the western boundary setback to adjoining land.
- The proposed adaptable housing solution is not supported by certification from a suitably qualified Adaptable Housing Consultant to demonstrate compliance with Adaptable Housing Standard (AS 4299-1995).
- The proposal has not adequately addressed landscaping, subdivision engineering, and waste management concerns previously raised by Council Officers, and additional concerns are raised in relation to the most recent plans which have prevented the approval of the application. The submitted plans are inadequate and contain errors which have prevented a complete assessment of the application.
- The proposal is not in the public interest since it does not provide an appropriate interface with adjoining land at No. 31 Hynds Road, the consent of the adjoining land owners at No. 21 Mason Road has not been obtained in relation to the partial construction of Aurora Street, the adaptable housing and car parking arrangement on site is unsuitable and may result in a reliance on street parking, and due to its departure from the requirements under the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and the Box Hill Development Control Plan 2018.

The decision was **unanimous**.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during the public exhibition and notes that issues of concern included:

- Consent from adjoining landowners not obtained (for access, road construction and drainage).
- Excessive density
- Poor amenity outcomes
- Potential traffic congestion
- Inadequacy of plans, with insufficient detail provided.

The Panel considers 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 meeting.

PANEL MEMBERS	
	 David Ryan
Abigail Goldberg (Chair)	
	 Mark Colburt
Chandi Saba	
	
Gabrielle Morrish	

SCHEDULE 1

1	PANEL REF – LGA – DA NO.	2018SWC017 – DA1103/2018 – The Hills Shire
2	PROPOSED DEVELOPMENT	Demolition of Existing Structures, Construction of local roads and 78 townhouses
3	STREET ADDRESS	Lot 86 DP 10157 - 29 Hynds Road, Box Hill
4	APPLICANT/OWNER	J S Architects Pty Ltd S and H Evangelakos
5	TYPE OF REGIONAL DEVELOPMENT	CIV exceeding \$20million – lodged prior to 1 March 2018
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> • State Environmental Planning Policy (Sydney Region Growth Centres) 2006 – Appendix 11 The Hills Growth Centre Precinct Plan • State Environmental Planning Policy No 55 — Remediation of Land. • Sydney Region Environmental Plan No. 20 (Hawkesbury-Nepean River) No. 2 – 1997. • State Environmental Planning Policy – Building Sustainability Index (BASIX) 2009. • Draft Amendment to SEPP (Sydney Region Growth Centres) 2006 (North West Priority Growth Area Land Use and Infrastructure Implementation Plan). • Central City District Plan. ○ Draft environmental planning instruments: Nil ○ Development control plans: <ul style="list-style-type: none"> ○ Box Hill Development Control Plan 2018 ○ Planning agreements: Nil ○ Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> ○ Coastal zone management plan: [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	<ul style="list-style-type: none"> • Council assessment report: September 2020 • Written submissions during public exhibition: 4
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> • Briefing to discuss council's recommendation, 17 September 2020, 11.45am. Attendees: • <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Gabrielle Morrish, Chandi Saba and Mark Colburt • <u>Council assessment staff</u>: Kate Clinton, Paul Osborne and Cameron McKenzie

- Points discussed included –
 - Owner's consent from 23 / 23A Mason Road, received 17 September 2020
 - The need for owner's consent from other adjoining landowners
 - The briefing by the Applicant's representatives
 - Cut and fill requirements, and the need for retaining walls
 - Access and private open space for townhouses without immediate road access
 - Access to townhouses facing into cul de sac parking areas
 - Provision of stormwater engineering within the site and on adjoining landholdings
 - Swept path impacts within the development and impact on adjacent landholdings
 - Possible application of conditions, or a deferred commencement approval, to address issues
- Briefing to discuss council's recommendation, 17 September, 12.15pm. Attendees:
- Panel members: Abigail Goldberg (Chair), David Ryan, Gabrielle Morrish, Mark Colburt and Chandi Saba
- Applicant Representatives: Simon Ochudzawa - JS Architects Pty Ltd (Applicant), Michael Gheorghiu - Tudor Planning and Design (Urban Planner) and Jane Lam, legal representative
- Council assessment staff: Kate Clinton, Paul Osborne, Cameron McKenzie and Ben Hawkins
- Applicants representatives raised the following points in summary –
 - DCP compliance
 - Residential amenity
 - COS provision
 - Site coverage
 - Greater than required setbacks
 - Solar access
 - Separation between dwellings
 - Residential amenity
 - Stepping of footpath in future
 - Stormwater line alignment
 - Width of street reserve
 - Owners consents received for two properties
 - Reasons for delays with the DA concerning adjoining land owners
 - Compliance with SEPPs and other State documents
 - Site coverage
 - Clarification on private open space and pedestrian access
- Meeting to discuss Council's recommendations and Applicants commentary, 17 September 2020, 1.00pm.
- Attendees: Kate Clinton, Paul Osborne, Cameron McKenzie and Ben

		<p>Hawkins</p> <ul style="list-style-type: none"> • <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Gabrielle Morrish, Mark Colburt and Chandi Saba <p>Meeting closed at 1.12pm with all panel members confirming readiness to consider and receive the report for electronic determination</p> <ul style="list-style-type: none"> • Papers were circulated on 4 September 2020.
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A