

DATE OF DETERMINATION	28 August 2019
PANEL MEMBERS	Mary-Lynne Taylor (Acting Chair), Julie Savet Ward, Mark Grayson and Mark Colburt
APOLOGY	Paul Mitchell
DECLARATIONS OF INTEREST	Chandi Saba advised that she was involved with the VPA for Maitland Place and 40 Solent Circuit, as such has a conflict of interest.

Public meeting held at The Hills Shire Council on Wednesday 28 August 2019 opened at 12.30pm and closed at 1.05pm.

MATTER DETERMINED

2018SWC037 - The Hills Shire, DA21573/2018 AT Lot 22 DP 1034506, 2-6 Maitland Place, Norwest and Lot 2105 DP 1201899, 40 Solent Circuit, Norwest (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 adjourned during the meeting to deliberate on the matter.

The Panel has 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

Despite the receipt of a series of legal advices in this matter the Panel has sufficient doubt about the manner in which the allocation of an incentivised Floor Space Ratio should apply across this development.

The Panel notes the legal advice confirms there has been no decision directly on this point from the Land and Environment Court. Further, the Panel is not satisfied that design excellence has yet been achieved. Accordingly, the Panel unanimously refuses the application for the following reasons:

- The proposal does not meet the provisions of Clause 7.12 Development on certain land within the Sydney Metro Northwest Urban Renewal Corridor of The Hills Local Environmental Plan 2012. It is noted that Clause 4.6(8)(cb) of The Hills Local Environmental Plan 2012 cannot be used to grant development consent for development that would contravene Clause 7.12. (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).





- The proposed development does not adequately address the provisions of Clause 7.7 Design Excellence of The Hills Local Environmental Plan 2012. (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
- The proposal is considered an overdevelopment of the site as the residential flat building does not meet the FSR development standard and therefore does not meet the aims of The Hills LEP 2012 with regard to orderly and sustainable development and does not meet the strategic direction for the benefit of the community. (Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act,1979).
- The proposed development has not demonstrated that adequate regard has been given to the design quality principles contained within State Environmental Planning Policy No. 65. (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
- The proposal is not in the public interest as a result of its departure from the requirements under The Hills LEP 2012, State Environmental Planning Policy No. 65 and submissions received. (Section 4.15(1)(d) and (e) of the Environmental Planning and Assessment Act, 1979).

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered all written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Lack of provision of infrastructure, roads and access to accommodate the proposed development;
- Inconsistency with the character of the area and overdevelopment of the Norwest and Bella Vista precincts.

The Panel considers that concerns raised by the community have not been adequately addressed in the assessment report and issues requiring further assessment were raised during the public meeting. The Panel notes that many concerns were relevant to this development application.

PANEL MEMBERS	
 Mary-Lynne Taylor (Acting Chair)	 Mark Grayson
 Julie Savet Ward	 Mark Colburt

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018SWC037 - The Hills Shire, DA21573/2018
2	PROPOSED DEVELOPMENT	Construction of a 23 storey residential flat building containing 131

		units
3	STREET ADDRESS	Lot 22 DP 1034506, 2-6 Maitland Place, Norwest and Lot 2105 DP 1201899, 40 Solent Circuit, Norwest
4	APPLICANT/OWNER	Mulpha Norwest
5	TYPE OF REGIONAL DEVELOPMENT	CIV exceeding \$30million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development • State Environmental Planning Policy Infrastructure 2008 • State Environmental Planning Policy No. 55 – Remediation of Land • The Hills Local Environmental Plan 2012 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> • The Hills Development Control Plan 2012 • Planning agreements: Nil <ul style="list-style-type: none"> • <i>Environmental Planning and Assessment Regulation 2000</i>: 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 – 28 August 2019 • Written submissions during public exhibition: 3 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Support – Nil ○ Object – Nil ○ On behalf of the applicant – Helen MacFarlane – (Partner, Addisons); Adam Byrnes – (Director, Think Planners) and Michael Watt – (Planning Manager, Mulpha Norwest). ○ On behalf of Council - Cameron McKenzie, Paul Osborne and Cynthia Dugan
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing – 21 February 2019 • Site Inspection – 28 August 2019 • Final briefing to discuss council’s recommendation, 28 August 2019, 12.00pm.

		<ul style="list-style-type: none"> • Public Meeting – 28 August 2019 <p>Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Mary-Lynne Taylor (Acting Chair), Julie Savet Ward, Mark Grayson and Mark Colburt ○ <u>Council assessment staff</u>: Cameron McKenzie, Paul Osborne and Cynthia Dugan
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A