

DATE OF DETERMINATION	11 July 2022
DATE OF PANEL DECISION	11 July 2022
PANEL MEMBERS	Abigail Goldberg (Chair), Roberta Ryan, David Ryan, Robert Buckham, Brent Woodhams
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 27 June 2022.

MATTER DETERMINED

PPSSCC-338 - DA1112/2022/JP – The Hills Shire - 7, 9, 11, 13, 15, 17, 19, 21, 23 Cadman Crescent, Castle and 18, 20, 1 22, 2 22, 24 Hughes Avenue, Castle Hill - Residential flat building development, Demolition of Existing Structures and Construction of a Residential Flat Building Development containing 255 units within Five Residential Flat Buildings.

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 listed at item 8 in Schedule 1.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of The Hills Local Environmental Plan 2019 (LEP), has **not** demonstrated that:

- a) compliance with cl. 4.3 Height of Buildings is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard.

The Panel is **not** satisfied that:

- a) the applicant's written request has demonstrated that the objectives of the development standard have been met or that sufficient environmental planning grounds have been provided to justify the contravention.
- b) the request addresses the matters required to be addressed under cl 4.6 (3) of the LEP.

Development application

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 determined to refuse the application for the following reasons:

1. The Applicant's written request seeking to justify the contravention of the development standard to Clause 4.3 Height of Buildings standard does not adequately address Clause 4.6(3)(b) or (4)(a) and development consent cannot be granted to the Development Application. (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).

2. The proposal does not comply with the Floor Space Ratio (FSR) development standards under Clause 4.4 or Clause 9.7 of the Hills LEP 2019. In particular, the proposal does not meet the incentive FSR provisions under Clause 9.7(2)(c) as less than 40% of all 2 bedroom dwellings contained in the development will have a minimum internal floor area of 110m². The proposed development exceeds the FSR (base) development standard under Clause 4.4 of 1.6:1 by 40.2% or 7,982.8m². No Clause 4.6 written submission has been provided to vary the FSR development standards. (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
3. The Development Application is inconsistent with an approved Concept Development Application 1262/2019/JP on the site which remains in force. (Section 4.24(2) of the Environmental Planning and Assessment Act, 1979).
4. The application does not satisfy the provisions under Clause 9.5 Design Excellence of the Hills LEP 2019. (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
5. The proposal does not satisfy the design quality principles contained within Clause 28 and 30 of the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development with respect to bulk and scale, provide for an appropriate landscaping, amenity and aesthetics or a consistent streetscape presentation. (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
6. The proposal has not demonstrated that sufficient residential amenity will be provided to the future occupants of the development in accordance with the design criteria of the Apartment Design Guide under Clause 28 and 30 of SEPP 65 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development. (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
7. The proposal does not comply with the streetscape built form character controls of Part D Section 19 Showground Station Precinct of The Hills Development Control Plan 2012.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Abigail Goldberg (Chair)	 Roberta Ryan
 David Ryan	 Robert Buckham
 Brent Woodhams	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-338 - DA1112/2022/JP – The Hills Shire
2	PROPOSED DEVELOPMENT	Demolition of Existing Structures and Construction of a Residential Flat Building Development with a ground level neighbourhood shop containing 255 units.
3	STREET ADDRESS	7-23 Cadman Crescent & 18-24 Hughes Avenue Castle Hill
4	APPLICANT/OWNER	Castle Hill Panorama Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • The Hills Local Environmental Plan 2019 • Apartment Design Guide • DCO 2012 Part B Section 6 – Business • DCP 2012 Part C Section 1 – Parking • DCP 2012 Part C Section 3 – Landscaping • DCP 2012 Part D Section 19 – Showground Precinct
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 24 June 2022 • Clause 4.6 variation requests: <ul style="list-style-type: none"> ○ The Hills Local Environmental Plan 2019 (LEP) ○ The Hills Clause 4.3 Height of Buildings ○ R4 High Density Residential zone • Written submissions during public exhibition: Zero
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Kick Off Briefing: 17 March 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Abigail Goldberg (Chair) ○ <u>Council assessment staff</u>: Cynthia Dugan, Paul Osborne ○ <u>Applicant representatives</u>: Erin Crane, Adam Coburn, Liam Hancock, Paul Miron, Zhanna Miron, George Tisseverasinghe • Council Briefing: 7 July 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Roberta Ryan, Brent Woodhams, Robert Buckham ○ <u>Council assessment staff</u>: Cynthia Dugan, Paul Osborne
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not Applicable