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

Papers circulated electronically on 27 June 2022.

#### **MATTER DETERMINED**

**PPSSCC-339 - DA 1110/2022/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** - Concept Development Application for a Residential Flat Building Development and a Neighbourhood Shop.

#### **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 development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* for the following reasons:





1. The Amending Concept Development Application seeks to vary the terms of the original development consent directly by "removal of a dwelling cap and instead propose either a gross floor area cap or upper dwelling limit". In this regard, an appropriate modification in accordance with the Environmental Planning and Assessment Act 1979 has not been made and the application is inconsistent with the consent for the approved Concept Development Application under

Development Consent 1262/2019/JP. (Section 4.24(2) of the Environmental Planning and Assessment Act, 1979).

2. 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). • 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).
3. 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 110m<sup>2</sup>. The proposed development exceeds the FSR (base) development standard under Clause 4.4 of 1.6:1 by 40.2% or 7,982.8m<sup>2</sup>. 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).
4. The proposal has not demonstrated that adequate regard has been given to the design quality principles and the objectives specified in the Apartment Design Guide for the relevant design criteria as required under Clause 30 of 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).
5. The proposal does not comply with the built form character controls of Part D Section 19 Showground Station Precinct of The Hills Development Control Plan 2012. In particular, the development does not comply with the front setback and maximum buildings length controls under the DCP. (Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979).
6. The site is not suitable for the development as the proposal is inconsistent with the built environment of the locality. (Section 4.15(1)(b) and (c) of the Environmental Planning and Assessment Act, 1979).
7. The proposal is not in the public interest due to the incompatible bulk and scale, and its departure from the requirements of development standards under The Hills LEP 2019 and The Hills DCP 2012. (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 notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

| PANEL MEMBERS   |   |
|---|---|
| <br>Abigail Goldberg (Chair) | <br>Roberta Ryan    |
| <br>David Ryan               | <br>Robert Buckham |

Brent Woodhams

BTW

| SCHEDULE 1 |   |   |
|------------|---|---|
| 1          | PANEL REF – LGA – DA NO.                              | PPSSCC-339 - DA 1110/2022/JP – The Hills Shire  |
| 2          | PROPOSED DEVELOPMENT                                  | Amending Concept Development Application for a Residential Flat Building Development  |
| 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"> <li>• State Environmental Planning Policy (Planning Systems) 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• The Hills Local Environmental Plan 2019</li> <li>• Apartment Design Guide</li> <li>• DCP 2012 Part D Section 19 – Showground Precinct</li> <li>• DCP 2012 Part C Section 1 – Parking</li> <li>• DCP 2012 Part C Section 3 – Landscaping</li> <li>• DCP 2012 Part B Section 5 – Residential Flat Buildings</li> <li>• DCP 2012 Part B Section 6 – Business</li> </ul> |
| 7          | MATERIAL CONSIDERED BY THE PANEL                      | <ul style="list-style-type: none"> <li>• Council assessment report: 24 June 2022</li> <li>• Clause 4.6 variation requests: The Hills 2019 Clause 4.3 Height of Buildings</li> <li>• Written submissions during public exhibition: Zero</li> </ul>   |
| 8          | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> <li>• Kick Off Briefing: 17 March 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Abigail Goldberg (Chair)</li> <li>○ <u>Council assessment staff</u>: Cynthia Dugan, Paul Osborne</li> <li>○ <u>Applicant representatives</u>: Erin Crane, Adam Coburn, Liam Hancock, Paul Miron, Zhanna Miron, George Tisseverasinghe</li> </ul> </li> <li>• Council Briefing: 7 July 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Roberta Ryan, Brent Woodhams, Robert Buckham</li> <li>○ <u>Council assessment staff</u>: Cynthia Dugan, Paul Osborne</li> </ul> </li> </ul>  |
| 9          | COUNCIL RECOMMENDATION                                | Refusal   |
| 10         | DRAFT CONDITIONS                                      | Not Applicable  |