

DETERMINATION AND STATEMENT OF REASONS

SYDNEY CENTRAL CITY PLANNING PANEL

DATE OF DETERMINATION	7 December 2022
DATE OF PANEL DECISION	7 December 2022
DATE OF PANEL MEETING	1 December 2022
PANEL MEMBERS	Abigail Goldberg (Chair), David Ryan, Brian Kirk, Richard Thorp, Sameer Pandey
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 24 November 2022.

MATTER DETERMINED

PPSSCC-340 – City of Parramatta - DA/53/2022 – 263, 265, 267, 269, 271, 273, 277-281 Pennant Hills Road, Carlingford - Residential units, 6 x 10-12 storey buildings comprising 629 residential units, childcare centre for 110 children, 17 neighbourhood retail shops and 1,146 basement car parking spaces; publicly accessible open spaces and through site links; landscaping; tree removal; demolition of existing 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) and (4) of the Parramatta Local Environmental Plan 2012 (PLEP 2012, formerly The Hills LEP), that compliance with cl. 4.3 (Height of Buildings) and cl. 4.4 (Floor Space Ratio) is unreasonable or unnecessary in the circumstances, the Panel was not satisfied that the Applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the PLEP 2012. The Panel was not convinced by the Applicant's request that there are sufficient environmental planning grounds to justify the proposed departures from the development standards. The Panel also considered that the proposal, in its current form, is contrary to the objectives of the development standard and the zone and is therefore not in the public interest.

Accordingly, consent cannot be granted to the proposal as it fails to satisfy jurisdictional preconditions to the grant of consent pursuant to cl. 4.6(4)(a) of the PLEP 2012.

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 DA was lodged on 18 January 2022, following a partial pre-lodgement process (Design Excellence Advisory Panel advice only) related to plans submitted to Council on 9 July 2021.

The Panel was briefed on this DA by Council and the Applicant on 3 March 2022, 28 July 2022, and 6 October 2022. The amended plans, the subject of this determination, were submitted on 31 August 2022.

The Panel was well informed about the history of this site including the existing consent (DA/1103/2011/JP) and while that history is a matter for consideration in the determination of this DA, it is not determinative, and the merits of the current proposal must stand alone.

The Panel notes that there are matters arising from the history of this site that remain unresolved and that potential inconsistencies may arise between the existing consent and the proposed development if approved. An example is the Voluntary Planning Agreement (VPA), initially between The Hills Shire Council and the previous developer, which was executed on 28 April 2015 over part of the current development site and was novated to Meriton (current developer/applicant) and Parramatta City Council.

The Panel recognises that due to the size of the site, held in single ownership, and its location within the Carlingford Precinct, it represents a splendid opportunity to deliver a key development which provides an important connection between the shopping precinct and the light rail stop. Furthermore, there is the potential to realise a high-density development within a landscape setting, that addresses its location along a main road and delivers new public open spaces. However, the proposal in its current form does not satisfactorily meet the strategic direction and environmental planning controls and objectives applicable to this site and the deficiencies of the proposal have been adequately detailed in the Council's assessment report and recommended reasons for refusal.

Furthermore, Council considers that there are outstanding site planning matters that are required to be satisfactorily resolved, including site isolation of neighbouring properties, stormwater management, and design and dedication of roads and parks. These matters will need to be carefully considered in any new design for development on this site.

The Panel did not agree to the Applicant's cl. 4.6 requests to vary the building height and floor space ratio development standards and determined to refuse the application generally for the reasons outlined in the Council assessment report. The Panel determined that those reasons are to be amended as follows and as marked in **red**:

7. Traffic Generating Development

*The application has not adequately demonstrated that the traffic modelling undertaken to inform the Traffic Impact Assessment has satisfactorily addressed the matters relating to the type/volume of traffic attending the site and road congestion of **Clauses 2.118 and 2.122** of the State Environmental Planning Policy (Transport and Infrastructure).*

8. Child Care Centre

The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the EP&A Act in that the proposal does not meet the matters for consideration in relation to visual privacy, and minimise potential noise and overlooking on neighbours and optimising solar access to internal and external play areas ~~and outdoor play areas are adequately protected from wind and other climatic conditions~~ as nominated in Section 3.23 of SEPP (Transport and Infrastructure) via the Child Care Planning Guidelines.

9. The Hills DCP 2012

The application is not satisfactory for the purposes of section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that the proposal does not demonstrate consistency with the principles, objectives and controls of Part B Section 5 and Part D Section 12 of The Hills Development Control Plan 2011 in relation to:

- a. The application is not consistent with the urban design principles for the Carlingford precinct. The principles aim to concentrate the highest residential flat buildings around the low ground of Carlingford light rail station in order to create orientating landmark for the village centre and provide an opportunity for the apparent height of high-rise buildings to be diminished when viewed in their topographic context. That the areas furthest from the station (such as the subject site) the built form, site coverage, setbacks and composition of boundaries and building placement are to create a garden suburb character. A maximum of 9 storeys buildings along Pennant Hills Road in order to achieve a presence associated with deep setbacks for major planting, footpath upgrades and pedestrian amenities.*

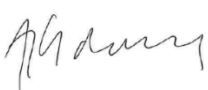

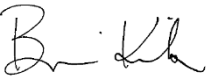


- ~~b. Provision of adequate and well designed communal open space and deep soil cover;~~
- c. Provision of an adequate 10 metre landscape setback from Pennant Hills Road which contains adequate deep soil for the planting of canopy trees.
- ~~d. Adequate consideration of the development potential of adjoining properties at 27 and 29 Lloyd Ave and address issues of site isolation.~~
- e. Additional overshadowing caused to adjoining properties at 27 and 29 Lloyds Avenue and 2-6 Shirley Street so not to receive 4 hours of solar access between 9am and 3pm midwinter.
- f. The proposal does not incorporate water sensitive design measures or satisfactorily satisfy stormwater management and groundwater issues.

10. The application is not satisfactory for the purposes of section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the following elements of the proposal are not satisfactory:

- a) Design of the internal roads;
- b) Outstanding information in relation to future dedication of open space and roads to Council
- ~~c) The provision of appropriate mitigation measures to manage wind impacts on the childcare centres outdoor play area;~~
- d) The reflectivity impact of the proposed buildings along Pennant Hills Road for vehicles; and
- e) Outstanding information in relation to stormwater management of the RE1 lands.
- f) Outstanding information in relation to landscaped areas and tree protection.
- g) Revised waste management plans are required for the demolition and construction phases
- h) Lack of clarity in the protections measures of the electricity easement as identified by Ausgrid.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered the written submissions made during public exhibition. The Panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
Abigail Goldberg (Chair) 	David Ryan 
Brian Kirk 	Richard Thorp 
Sameer Pandey 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-340 – City of Parramatta - DA/53/2022
2	PROPOSED DEVELOPMENT	Residential units, 6 x 10-12 storey buildings comprising 629 residential units, child care centre for 110 children, 17 neighbourhood retail shops and 1,146 basement car parking spaces; publicly accessible open spaces and through site links; landscaping; tree removal; demolition of existing buildings.
3	STREET ADDRESS	263, 265, 267, 269, 271, 273, 277-281 Pennant Hills Road, Carlingford
4	APPLICANT/OWNER	Applicant – Meriton Owner – KARIMBLA PROPERTIES (NO. 61) PTY LIMITED
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings and Apartment Design Guide (ADG) State Environmental Planning Policy (BASIX) 2004 State Environmental Planning Policy (Transport and Infrastructure) 2007 State Environmental Planning Policy (State Regional Development) 2011 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Precincts - Central River City) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards (2021) Parramatta (formerly The Hills) Local Environmental Plan 2012 Draft environmental planning instruments: <ul style="list-style-type: none"> Draft Consolidated Parramatta LEP R4 High Density Residential Planning Proposal Development control plans: <ul style="list-style-type: none"> The Hills Development Control Plan 2012 Planning agreements: <ul style="list-style-type: none"> An existing planning agreement which applies to part of the subject site at 18 Shirley Street and was executed in connection with the former development application DA1103/2011/JP in 2015. A draft planning agreement which applies to the development site which is in association with a planning proposal (2022) seeking additional permitted non-residential uses up to 2,000sqm. Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil 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: 24 November 2022

		<ul style="list-style-type: none"> • Clause 4.6 Variation - Parramatta (formerly The Hills) Local Environmental Plan 2012 <ul style="list-style-type: none"> ○ Clause 4.3 – Height of Buildings ○ Clause 4.4 Floor Space Ratio • Written submissions during public exhibition: 7 • Total number of unique submissions received by way of objection: 7
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Applicant Briefing: 3 March 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Brian Kirk ○ <u>Council assessment staff</u>: Myfanwy McNally, Brad Roeleven ○ <u>Applicant representatives</u>: Walter Gordon, Frank Ru, Ian Lim, Annie So, Rob Miriam, Aleksie Villis • Applicant Briefing: 28 July 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Abigail Goldberg (Chair), Roberta Ryan, Brian Kirk, Sameer Pandey, Richard Thorp ○ <u>Council assessment staff</u>: Myfanwy McNally, Brad Roeleven, Mark Leotta ○ <u>Applicant representatives</u>: Walter Gordon, Matthew Lennartz, Frank Ru, Annie So, Miriam Singh, Aleksie Villis, Rod Uriate, Jeff Mead • Council Briefing: 20 September 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Abigail Goldberg (Chair), Roberta Ryan, Brian Kirk, Sameer Pandey, Richard Thorp ○ <u>Council assessment staff</u>: Myfanwy McNally, Brad Roeleven, Bianca Lewis ○ <u>Planning Delivery Unit</u>: David Petrie • Applicant Briefing: 6 October 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Brian Kirk, Sameer Pandey, Richard Thorp ○ <u>Council assessment staff</u>: Myfanwy McNally, Bianca Lewis ○ <u>Applicant representatives</u>: Walter Gordon, Matthew Lennartz ○ <u>Planning Delivery Unit</u>: David Petrie • Final briefing to discuss council's recommendation: 1 December 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Brian Kirk, Richard Thorp ○ <u>Council assessment staff</u>: Myfanwy McNally, Bianca Lewis ○ <u>Applicant representatives</u>: Walter Gordon, Matthew Lennartz ○ <u>Planning Delivery Unit</u>: Elise Crameri
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not Applicable