

DATE OF DETERMINATION	9 May 2023
DATE OF PANEL DECISION	9 May 2023
DATE OF PANEL BRIEFING	4 May 2023
PANEL MEMBERS	Abigail Goldberg (Chair), David Ryan, Steve Murray, Jarrod Murphy, Brent Woodhams
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 13 April 2023.

MATTER DETERMINED

PPSSCC-398 – The Hills – 672/2023/JP – 16-30 Dawes Avenue, 4-8 Hughes Avenue and 2-10 Cadman Crescent, Castle Hill. Residential Flat Building Development containing 315 units.

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings and the matters 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) to vary the height standard in clause 4.3 of the LEP, 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 is therefore not in the public interest.

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 noted that:

- The applicant elected not to attend:
 - a pre-DA meeting prior to lodgement of the Development Application with Council
 - a briefing session with the Panel, or
 - the final briefing and determination meeting (this meeting).
- Additional information was requested of the applicant by Council to enable full assessment of issues identified in the assessment of the application. This has not been provided.
- Clause 9.5 of the LEP requires that development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence. Further the clause requires where a building exceeds a certain number of storeys or height it

must not grant consent unless the application is reviewed by a design review panel and the consent authority considers the design review panel advice.

- As the proposed residential flat building exceeds 21 metres and 6 storeys the proposal is required to be reviewed by a design review panel. The applicant did not attend design review panel meeting.

The applicant has been provided adequate time and opportunity to meet with Council and the Panel, provide additional information in the support of the application, and seek review by the design review panel. Given the above, the Panel noted that the applicant had not provided the necessary information to consider the application for approval.

The Panel cannot grant consent to the application as the development has not satisfied the requirements of clause 9.5 of the LEP.



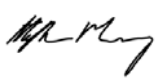


The Panel did not agree to the Applicant's cl. 4.6 requests to vary the building height development standard and determined to refuse the application for the reasons outlined in the Council assessment report. The Panel determined that reason 10 be amended as follows and as marked in **red**:

10. The site is not suitable for the development as the proposal is inconsistent with the built environment of the locality **due to the bulk and scale of the buildings and impact on visual amenity when viewed from the street.**

The Panel notes that the application is currently the subject of a Class 1 appeal before the Land and Environment Court.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered one written submissions made during the 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 
Steve Murray 	Brent Woodhams 
Jarrod Murphy 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-398 – The Hills – 672/2023/JP
2	PROPOSED DEVELOPMENT	Residential Flat Building Development containing 315 units.
3	STREET ADDRESS	16-30 Dawes Avenue, 4-8 Hughes Avenue and 2-10 Cadman Crescent, Castle Hill
4	APPLICANT/OWNER	<p>Applicant: PLACE STUDIO AU PTY LTD</p> <p>Owner: Stephen Nahirny, Veronica Linklater, Terrie Said. Julie Sultana, Joseph Harney, Denise Harney Jason Mercimek, Zhongzhu Yao, Pingang Wang, Damien Sutton, Pick Har, Richard Czereba, Victor Czereba, Matthew Aashour, Sun Ryou, Myung Sook and Mel Li</p>
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 (Planning Systems) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (BASIX) 2004 ○ State Environmental Planning Policy 65 – Apartment Design of Residential Development ○ The Hills Local Environmental Plan 2019 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ The Hills Development Control Plan 2012 - Part B Section 2 – Residential - Part B Section 5 – Residential Flat Building - Part B Section 6 – Business - Part C Section 1 – Parking - Part C Section 3 – Landscaping - Part D Section 19 – Showground Station Precinct • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</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: 13 April 2023 • Clause 4.6 variation requests The Hills Local Environmental Plan 2019, Clause 4.3 Height of Building, R4 High Density Residential zone • Written submissions during the public exhibition: 1

		<ul style="list-style-type: none"> • Total number of unique submissions received by way of objection: 1
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Kick Off Briefing: 2 March 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Steve Murray, Jarrod Murphy, Brent Woodhams ○ <u>Council assessment staff</u>: Cynthia Dugan, Paul Osborne ○ <u>Applicant representatives</u>: Nil • Final briefing to discuss council's recommendation: 4 May 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Steve Murray, Jarrod Murphy, Brent Woodhams ○ <u>Council assessment staff</u>: Cynthia Dugan, Paul Osborne ○ <u>Applicant representatives</u>: Nil
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not Applicable