

DATE OF DETERMINATION	5 June 2023
DATE OF PANEL DECISION	5 June 2023
DATE OF PANEL BRIEFING	1 June 2023
PANEL MEMBERS	Abigail Goldberg (Chair), David Ryan, Steve Murray
APOLOGIES	Sameer Pandey, Dan Siviero
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 16 May 2023.

MATTER DETERMINED

PPSSCC-401 – City of Parramatta – DA/843/2022 – 11-17 Shirley Street, Carlingford - Demolition of existing buildings, tree removal and construction of a 12 storey mixed use development consisting of a future 76 place centre based childcare centre with 87 residential units above 3 levels of basement parking. The proposal is a Nominated Integrated development pursuant to the Water Management Act 2000.

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 and the matters observed at site inspections listed at item 8 in Schedule 1.

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 clause 4.6 variation requests (for variation to the minimum size area for Residential Flat Buildings, building height, and floor space ratio) and to refuse the application for the reasons outlined in the Council Assessment Report as detailed below:

1. Minimum Size Area for Residential Flat Buildings – The panel is not satisfied that the clause 4.6 variation request to vary the minimum size area for Residential Flat Building standard in clause 4.1A of the Parramatta (Former The Hills) Local Environmental Plan 2012 has adequately addressed the matters required to be demonstrated by subclause 4.6(3). The panel is not satisfied that the proposed development will be in the public interest, because it is not consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
2. Height – The Panel is not satisfied that the clause 4.6 variation request to vary the height standard in clause 4.3 of the Parramatta (Former The Hills) Local Environmental Plan 2012 has adequately addressed the matters required to be demonstrated by subclause 4.6(3). The panel is not satisfied that the proposed development will be in the public interest, because it is not consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

3. FSR – The Panel is not satisfied that the clause 4.6 variation request to vary the floor space ratio standard in clause 4.4 of the Parramatta (Former The Hills) Local Environmental Plan 2012 has adequately addressed the matters required to be demonstrated by subclause 4.6(3). The panel is not satisfied that the proposed development will be in the public interest, because it is not consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
4. SEPP (TRANSPORT AND INFRASTRUCTURE) 2021 - The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that insufficient information has been provided to demonstrate compliance with the requirements of State Environmental Planning Policy (Transport and Infrastructure) 2021.
5. SEPP (RESILIENCE AND HAZARDS) 2021 - The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that insufficient information has been provided to demonstrate compliance with the requirements of State Environmental Planning Policy (Resilience and Hazards) 2021.
6. SEPP (BASIX) - The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that insufficient information has been provided to demonstrate compliance with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
7. SEPP 65 (Design Quality of Residential Apartment Development) - The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposal does not meet the design principles as nominated in State Environmental Planning Policy 65 (Design Quality of Residential Apartment Development)
8. Apartment Design Guide - The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposal does not meet the criteria and guidance in relation to deep soil zones, building separation, solar access, natural cross ventilation, balconies on the ground floor and length of as nominated in State Environmental Planning Policy (Design Quality of Residential Apartment Development) via the Apartment Design Guide. 59
9. Child Care Centre - The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposal does not meet the matters for consideration in relation indoor and outdoor play areas, site selection and location, local character, public domain interface, building envelope and design, landscaping, visual and acoustic privacy, traffic and car parking, ventilation and natural light, natural environment, fencing and soil assessment as nominated in Section 3.23 of State Environmental Planning Policy (Transport and Infrastructure) via the Child Care Planning Guidelines.
10. 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, Part B Section 4 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 the western side of Shirley Street to achieve a presence associated with deep setbacks for major planting, footpath upgrades and pedestrian amenities.




- b) Provision of sufficient and integrated landscaping and deep soil areas commensurate with the size of the site;
- c) Adequate consideration of the interface with the open space corridor and areas that bound the site;
- d) Impact of the non-compliant rear and side setbacks on the childcare facility, adjoining development to the west and the open space corridor;
- e) Additional overshadowing caused to the property at 1 – 9 Shirley Street during mid-winter.
- f) The proposal does not incorporate water sensitive design measures or satisfactorily satisfy stormwater management and groundwater issues.
- g) The proposal has not given regard to the accessibility of the site for those with accessibility issues.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered three written submissions made during the public exhibition. The panel notes that issues of concern included:

- Density, bulk and scale
- Height and overshadowing
- Streetscape and incompatibility with surrounding development
- Traffic
- Acoustic impacts
- Tree removal.

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 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-401 – City of Parramatta – DA/843/2022
2	PROPOSED DEVELOPMENT	Demolition of existing buildings, tree removal and construction of a 12 storey mixed use development consisting of a future 76 place centre based childcare centre with 87 residential units above 3 levels of basement parking. The proposal is a Nominated Integrated development pursuant to the Water Management Act 2000.
3	STREET ADDRESS	11-17 Shirley Street, Carlingford
4	APPLICANT/OWNER	Applicant: D.R Design (NSW) Pty Limited Owner: Hi-Tech Construction Australia Pty Ltd, Nahra Properties Pty Ltd, Shirley Street Project Pty Ltd
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"> Environmental Planning and Assessment (EP&A) Act 1979 EP&A Regulations 2021 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 SEPP (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards (2021) Parramatta (Former 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: The owner and developer proposed a monetary contribution of \$250,000, although a VPA prepared in accordance with Council's relevant policy has not been submitted. 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: 3 April 2023 Clause 4.6 variation requests - Parramatta (Former The Hills) Local Environmental Plan 2012 - Clause 4.1A – Minimum Lot Size for Residential Flat Building, Clause 4.3 – Height of Buildings, Clause 4.4 - Floor Space Ratio Written submissions during public exhibition: 3 Total number of unique submissions received by way of objection: 3
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Kick Off Briefing: 9 March 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Abigail Goldberg (Chair) <u>Council assessment staff</u>: Denise Fernandez

		<ul style="list-style-type: none"> ○ <u>Applicant representatives</u>: Nigel Dickson, Fady Habib, Alan Vidler, Kathleen McDowell, Lina Farfan, Hannah Fan • Final briefing to discuss council's recommendation: 1 June 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Steve Murray ○ <u>Council assessment staff</u>: Denise Fernandez, Myfanwy McNally, Claire Stephens ○ <u>Applicant representatives</u>: Nigel Dickson
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not applicable