

<b>DATE OF DETERMINATION</b>	15 December 2023
<b>DATE OF PANEL DECISION</b>	15 December 2023
<b>PANEL MEMBERS</b>	Abigail Goldberg (Chair), David Ryan, Steve Murray, Jarrod Murphy, Brent Woodhams
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 12 December 2023.

#### **MATTER DETERMINED**

PPSSCC-471 – The Hills Shire – DA 1880/2023/JP - 10-32 Terry Road, Box Hill - Amending Development Application to the approved application (1057/2021/JP) for the redevelopment of an existing community facility, including demolition of day program building, additions to Ross House, restoration of Box Hill House and Nelson Hall, and construction of a Disability Support Centre.

#### **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 State Environmental Planning Policy (Precincts – Central River City) 2021 (SEPP), that has 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 satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the SEPP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 Height of Buildings of the SEPP and the objectives for development in the RE2 Private Recreation and R2 Low Density Residential zones; and
- c) the concurrence of the Secretary has been assumed.

#### **Development application**

The panel determined to approve 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 uphold the Clause 4.6 variation to building height; and approve the application for the reasons outlined in the council assessment report.

The key issues considered by the Panel are:

- The proposed variation to Building Height (maximum building height has been reduced from 15.35m as approved under DA 1057/2021/JP to 13.55m in the subject application); and

- The impact on the existing heritage buildings on site.

The development proposal seeks to vary the 8.5 metre maximum building height development control that applies to the subject site. Under development application 1057/2021/JP a maximum building height of 15.35m was approved for the development, the amended proposal seeks to reduce the building height to a maximum of 13.55m. This amounts to a variation of 59.4% to the building height control (reduced from 80.6% under approval 1057/2021/JP).

The proposed variation to the height has been considered in context with the future surrounding development, future streetscape and future character of the area. It is considered that the proposal demonstrates that the variation is acceptable and will not have any detrimental visual impacts on the locality or on the heritage items located within the site. Overall, the Clause 4.6 is considered supportable and in this instance strict compliance with the development standard is considered unreasonable and unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The amended development continues to respect and is sympathetic towards the heritage significance of items located on the site and will result in a positive heritage outcome for the site. As outlined in the assessment report, the proposed development will not have any significant adverse impact on the amenity of the surrounding area and will continue to facilitate positive heritage conservation outcomes through siting of the proposed development and through conservation works to Box Hill House and Nelson Hall.

No submissions were received against or in support of the development throughout this time.



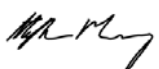


The proposal is defined as 'Nominated Integrated Development' under the provisions of Section 4.46 of the Environmental Planning and Assessment Act 1979 as the proposal requires approval from NSW Heritage under Section 58 of the Heritage Act 1977. General Terms of Approval have been issued.

#### CONDITIONS

The development application was approved subject to the conditions in the council assessment report.

#### 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) 	David Ryan 
Steve Murray 	Jarrold Murphy 
Brent Woodhams 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-471 – The Hills Shire – 1880/2023/JP
2	PROPOSED DEVELOPMENT	Amending Development Application to the approved application (1057/2021/JP) for the redevelopment of an existing community facility, including demolition of day program building, additions to Ross House, restoration of Box Hill House and Nelson Hall, and construction of a Disability Support Centre.
3	STREET ADDRESS	10-32 Terry Road, Box Hill
4	APPLICANT/OWNER	Applicant: Mostyn Copper/McCall Gardens Community Foundation Limited Owner: McCall Gardens Community Foundation Limited
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Industry and Employment) 2021</li> <li>State Environmental Planning Policy (Precincts – Central River City) 2021</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>The Box Hill Growth Centre Precincts Development Control Plan 2018</li> <li>The Hills Development Control Plan 2012</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 11 December 2023</li> <li>Clause 4.6 variation request – Building Height</li> <li>Written submissions during public exhibition: 0</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 10 August 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Steve Murray, Jarrod Murphy, Brent Woodhams</li> <li><u>Council assessment staff</u>: Robert Buckham, Paul Osborne, Cameron McKenzies</li> <li><u>Applicant representatives</u>: Mitchell Say, Belinda Colombrita, Michael Halls Johns, Lino Caccavo, Schandel Fortu, Gabriel Duque, Sun Kyoo Kim, Brian O'Mainins</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report

