

<b>DATE OF DETERMINATION</b>	5 April 2024
<b>DATE OF PANEL DECISION</b>	5 April 2024
<b>PANEL MEMBERS</b>	Abigail Goldberg (Chair), David Ryan, Steve Murray, Robert Buckham, Brent Woodhams
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 5 April 2024.

#### **MATTER DETERMINED**

PPSSCC-472 – The Hills Shire – 59/2024/JP – 17 Fishburn Crescent, Castle Hill - Demolition of Existing Structures and Construction of a Residential Flat Building Containing of 148 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.

#### **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 application for the reasons outlined in the council assessment report, replicated as follows:

1. 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). Therefore, development consent must not be granted to the development. (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
2. 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. 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).
3. The application does not satisfy the provisions under Clause 9.5 Design Excellence of the Hills LEP 2019. Therefore, development consent must not be granted to the development. (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
4. The application does not satisfy the provisions under Clause 9.3 Minimum Building Setbacks of the Hills LEP 2019. Therefore, development consent must not be granted to the development. (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
5. Insufficient information has been provided to make a complete assessment of the environmental impacts resulting from the development. It has not been demonstrated that the proposal satisfies the provisions for stormwater and water quality for the Hawkesbury and Nepean Catchment under Chapter 6 of the SEPP (Biodiversity and Conservation) 2021. (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
6. The proposal does not satisfy the design principles contained within Chapter 4 and Schedule 9 of the SEPP (Housing) 2021 with respect to context and neighbourhood character, built form

and scale, amenity, and aesthetics. (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).

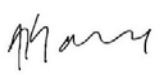

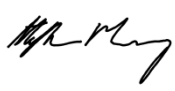


7. The proposal has not demonstrated that sufficient residential amenity will be provided to the future occupants of the development in accordance with the design criteria of the Apartment Design Guide under Chapter 4 and Schedule 9 of the SEPP (Housing) 2021. (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
8. The proposal does not comply with the streetscape and built form character controls of Part D Section 19 Showground Station Precinct of The Hills Development Control Plan 2012. (Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979).
9. The applicant has not submitted information requested to properly assess engineering, waste management, traffic, tree management and landscaping, land and spatial and contributions concerns raised by Council staff. (Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979).
10. The development is not suitable for the site as the bulk and scale is inconsistent with the built environment of the precinct and the proposal has not demonstrated a satisfactory design, planning and environmental outcome will be provided. (Section 4.15(1)(b) and (c) of the Environmental Planning and Assessment Act, 1979).
11. The proposal is not in the public interest due to its departure from the provisions under. The Hills LEP 2019 and the proposal has not demonstrated a satisfactory environmental planning outcome will be provided. (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 considered written submissions made during public exhibition. The panel notes that issues of concern included:

- Landowners consent and support not provided for eastern lot included in concept sketches
- Construction management of traffic, noise and dust

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 	Robert Buckham 
Brent Woodhams 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-472 – The Hills Shire – 59/2024/JP
2	PROPOSED DEVELOPMENT	Demolition of Existing Structures and Construction of a Residential Flat Building Containing of 148 Units.
3	STREET ADDRESS	17-23 Fishburn Crescent Castle Hill, 23-27 Chapman Avenue Castle Hill
4	APPLICANT/OWNER	Applicant: Archidome Pty Ltd Owner: Mr T Gavellas, Mrs D Gavellas, Mr C Efstathios, Miss A Gavellas, Mr C N Gavellas, Mrs S Peharda, Mr A Ghaffar, Ms D Ansari, Mr D Wyatt, Mrs F Wyatt, Mrs X Di, Mr Y Guo, Mr N Emanouel, Mrs H Emanouel and Ms L Lee, Ms M Lee
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 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 (Housing) 2021</li> <li>State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>The Hills Local Environmental Plan 2019</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <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: 26 March 2024</li> <li>Clause 4.6 variation request – Building Height</li> <li>Written submissions during public exhibition: 2</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 31 August 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Steve Murray, Robert Buckham, Brent Woodhams</li> <li><u>Council assessment staff</u>: Cynthia Dugan, Paul Osborne</li> <li><u>Applicant representatives</u>: Tarun Chadha, Oleg Sannikov, Jeet Singh, Eltin Milietic</li> </ul> </li> <li>Final briefing: 4 April 2024 <ul style="list-style-type: none"> <li><u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Steve Murray, Robert Buckham, Brent Woodhams</li> <li><u>Council assessment staff</u>: Cynthia Dugan, Paul Osborne</li> <li><u>Applicant representative</u>: Tarun Chadha</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not applicable