

DETERMINATION AND STATEMENT OF REASONS

SYDNEY CENTRAL CITY PLANNING PANEL

DATE OF DETERMINATION	4 July 2024
DATE OF PANEL DECISION	3 July 2024
PANEL MEMBERS	Abigail Goldberg (Chair), David Ryan, Steve Murray, Brent Woodhams, Jarrod Murphy
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 1 July 2024.

MATTER DETERMINED

PPSSCC-490 – The Hills Shire – 418/2024/JP - 2-4 Acres Road, Kellyville - Demolition of Existing Structures and Construction of a Centre Based Child Care Facility for 123 Children with Non-illuminated Signage.

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), 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 LEP; 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 LEP and the objectives for development in the R2 Low Density Residential zone; 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, replicated in part as follows.

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

The applicant's Clause 4.6 written request to vary The Hills Local Environmental Plan 2019 development standard at Clause 4.3 can be supported as it adequately justifies the contravention of the development standards having regard to the requirements of Clause 4.6(3). It is considered that the variation can be supported as compliance with the standard is unreasonable or unnecessary in this instance and there are sufficient environmental planning grounds to justify the contravention. The development is consistent with the objectives of the standards and the objectives for development within the zone.

The Development Application has been assessed against the relevant heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, Roads Act 1993, State Environmental Planning Policy (Planning Systems) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Industry and Employment) 2021, The Hills Local Environmental Plan 2019, and The Hills Development Control Plan 2012 and is considered satisfactory.

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 considered written submissions made during public exhibition. The panel notes that issues of concern included:

- Additional Traffic Generation and Ongoing Traffic Management
- Noise Generation
- Overlooking, Overshadowing
- Lack of Parking
- Bulk and Scale
- Consistency with the Local Character
- Property Devaluation
- Proximity to Other Childcares

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment.

PANEL MEMBERS	
Abigail Goldberg (Chair) 	David Ryan 
Steve Murray 	Jarrold Murphy 
Brent Woodhams 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-490 – The Hills Shire – 418/2024/JP
2	PROPOSED DEVELOPMENT	Demolition of Existing Structures and Construction of a Centre Based Child Care Facility for 123 Children with Non-illuminated Signage.
3	STREET ADDRESS	2-4 Acres Road, Kellyville
4	APPLICANT/OWNER	Applicant: Montessori Group Developments Pty Ltd Owner: Peninsula Group Projects Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 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 (Resilience and Hazards) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Industry and Employment) 202 The Hills Local Environmental Plan 2019 Roads Act 1993 Draft environmental planning instruments: Nil Development control plans: The Hills Development Control Plan 2012 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</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: 25 June 2024 Clause 4.6 variation request: Height of Buildings 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"> Briefing: 2 November 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>: Madison Morris, Paul Osborne <u>Applicant representatives</u>: Jason Huynh, Scott Barwick, Stuart Gordon, Frank Sartor, Daniel Bloomfield, Alastair Walker, Fiona Robbe, Lex Atkins, Hannah Wilkes
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report