

DATE OF DETERMINATION	12 May 2025
DATE OF PANEL DECISION	12 May 2025
DATE OF PANEL BRIEFING	8 May 2025
PANEL MEMBERS	Abigail Goldberg (Chair), Natasha Harras, Steve Murray
APOLOGIES	None
DECLARATIONS OF INTEREST	David Ryan declared a perceived conflict of interest due to his companies previous involvement with Level33, the company identified behind the applicant listed.

Papers circulated electronically on 1 May 2025.

MATTER DETERMINED

PPSSCC-620 – The Hills Shire – 699/2025/JP – 301 Samantha Riley Drive, Kellyville - Mixed Use Development comprising Six Buildings and including 826 Residential Apartments, a Child Care Facility, Retail and Café Uses.

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 which have been summarised below:

The key issues associated with the proposal include:

- *Orderly Development - The proposed development has not satisfactorily demonstrated that the site can be developed in an orderly manner. The proposed development has not attempted to amalgamate with the adjoining R1 General Residential zoned land to develop the site in a coordinated and orderly manner, which will result in an inefficient development of the site that is inconsistent with the indicative layout of the site established under Part D Section 16 – 301 Samantha Riley Drive of the DCP.*
- *Building Heights – the proposed development does not comply with the maximum building heights stipulated under Clause 4.3 of The Hills Local Environmental Plan 2019. The building heights proposed are considered to be excessive and of a bulk and scale that is inconsistent with the intent of the building height controls and the existing prevailing character of the surrounding residential area.*
- *Design Excellence – The proposed development has not satisfactorily demonstrated that the development exhibits design excellence in accordance with Section 7.7 of the LEP and is inconsistent with the design principles outlined under Section 147 and Schedule 9 of State Environmental Planning Policy (Housing) 2021.*

- *Public Utility Infrastructure - The proposed development has not provided adequate documentation to demonstrate that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required, in accordance with Section 6.3 of the LEP.*
- *Stormwater and Flooding – The proposed development has not demonstrated that the development has adequately addressed the flood constraints of the site and has not provided a stormwater design which demonstrates that the development can drain to a lawful point of discharge.*
- *Acoustic Impacts – The proposed development has not demonstrated that the noise generated from the proposed childcare is within acceptable noise criteria.*
- *Contamination – The proposed development has not been accompanied with a Detailed Site Investigation to detail whether the site is suitable for its intended use and whether any remediation works are required.*
- *Transport for NSW – The proposed development has not considered the comments raised by Transport for NSW regarding future bus services along Samantha Riley Drive.*

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act 1979, the provisions of the relevant State Environmental Planning Policies, the provisions of The Hills Local Environmental Plan 2019 and The Hills Development Control Plan 2012 the proposal cannot be supported.

The orderly development issue is a fundamental issue and does not allow the application to be supported. The issues of building height, bulk and scale and design excellence are also critical issues, due to the significant non-compliances with the building height controls that apply to the application. The remaining issues relating to public utility infrastructure, stormwater, flooding, acoustic impacts and contamination are of a technical nature which, if the orderly development and building height issues were not apparent, are likely to have been resolved through amendments and/or additional information. The comments raised by Sydney Metro and Transport for NSW also remain unaddressed. These technical issues, along with the other critical issues, are still considered in this report in terms of the acceptability of the proposal as currently presented and accordingly contribute to the reasons for refusal.

A Class 1 deemed refusal appeal was lodged with the Land and Environment Court on 25 February 2025. The appeal is scheduled for a Section 34 Conciliation Conference on 9 July 2025.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the EP&A Act, DA 699/2025/JP is recommended for refusal subject to the reasons contained at Attachment A of this report.

CONDITIONS

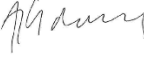

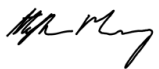
Not applicable

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition.

- Concerns raised regarding the orderly development of the site with respect to adjoining land.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
Abigail Goldberg (Chair) 	Natasha Harras 
Steve Murray 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-620 – The Hills Shire – 699/2025/JP
2	PROPOSED DEVELOPMENT	Mixed Use Development comprising Six Buildings and including 826 Residential Apartments, a Child Care Facility, Retail and Café Uses.
3	STREET ADDRESS	301 Samantha Riley Drive, Kellyville Lot 3 and 4 DP 1253073
4	APPLICANT/OWNER	Applicant: Ethos Urban/Kellyville Investments No.1 Pty Ltd Owner: Centro Holdings 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"> State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 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 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: 17 April 2025 Clause 4.6 variation request: Height of Buildings Written submissions during public exhibition: 1 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"> Final briefing to discuss council's recommendation: 8 May 2025 <ul style="list-style-type: none"> <u>Panel members</u>: Abigail Goldberg (Chair), Steve Murray, David Ryan <u>Council assessment staff</u>: Jacob Kiner, Paul Osborne, Cameron McKenzie <u>Applicant representatives</u>: Charbel Kazzi, Claudine Malanum, Ben Craig, Sophie Kuszniczuk
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not Applicable