

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY CENTRAL CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	23 February 2021
<b>PANEL MEMBERS</b>	Abigail Goldberg (Chair), David Ryan, Noni Ruker, Mark Colburt and Chandi Saba
<b>APOLOGIES</b>	Gabrielle Morrish
<b>DECLARATIONS OF INTEREST</b>	Nil

Public meeting held by public teleconference on 18 February 2021, opened at 12.30pm and closed at 1:08pm.

#### MATTER DETERMINED

PPSSCC-66 – The Hills Shire - DA906/2020/JP, Lot 11, DP 1011305, Nos. 24-26 Mile End Road Rouse Hill and Unformed Council Road, Proposed data facility constructed over 4 stages (as described in Schedule 1).

#### 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.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

#### 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:

- compliance with cl. 4.3 is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

the panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.3 of the LEP and the objectives for development in the IN2 Light Industrial zone; and
- 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

- In accordance with Clause 4.6 of the LEP, the Panel is satisfied that consent may be granted notwithstanding the variation to the maximum building height standard in Clause 4.3, for the reasons described above.
- The site is considered suitable for the development. The slope and biodiversity conditions of the site and its proximity to residential properties require a carefully considered response in terms of

design and land uses in the context of its Industrial zoning. The Panel considers that a data centre, which is a relatively low intensity use in terms of noise and other impacts, and which allows a built form that avoids significant impacts on the biodiversity values of the site, is a suitable use for the site.

- The Panel carefully considered the neighbours' concerns about impacts on their amenity, however, it is satisfied that the nature of the use, its design and separation from those properties, adequately mitigate potential impacts, even with 24/7 operation.
- The proposal adequately addresses relevant State and local planning provisions.
- The Panel is satisfied that because of the benefits associated with the economic use of vacant industrial land and the satisfactory mitigation of potential environmental and amenity impacts, approval of the development is in the public interest.

### CONDITIONS


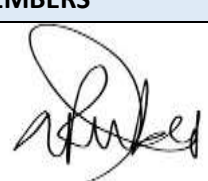
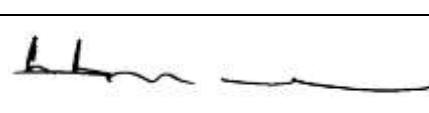
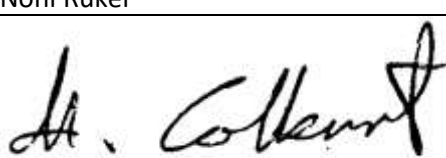

The development application was approved subject to the conditions listed in Council Assessment Report dated 18 February 2021.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that there were 11 written submissions received during the public exhibition. These submissions addressed issues of:

- Building height
- Privacy and overlooking
- Acoustic impacts
- Hours of operation
- Traffic impacts
- Support for the proposal

The Panel has carefully considered the issues raised by the submitters and believes that where possible they are addressed by the conditions recommended by Council. The Panel believes the issues do not warrant refusal of the application, which is generally compliant with the applicable zoning and planning controls.

PANEL MEMBERS	
 Abigail Goldberg (Chair)	 Noni Ruker
 Chandi Saba	 Mark Colburt
 David Ryan	

### SCHEDULE 1

1	PANEL REF – LGA – DA NO.	PPSSCC-66 – The Hills Shire - DA906/2020/JP
---	--------------------------	---

2	PROPOSED DEVELOPMENT	Proposed data facility constructed over 4 stages
3	STREET ADDRESS	Lot 11, DP 1011305, Nos. 24-26 Mile End Road Rouse Hill and Unformed Council Road
4	APPLICANT/OWNER	T J Mile Pty Ltd C/- Trifalga Owner - Blanjo Investments Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Capital Investment Value over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments:</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• Biodiversity Conservation Act 2016</li> <li>• State Environmental Planning Policy No 55 – Remediation of Land</li> <li>• State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>• Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River</li> <li>• The Hills Local Environmental Plan 2019</li> <li>• Draft environmental planning instruments: Draft Environment SEPP</li> <li>• Development control plans:</li> <li>• The Hills Development Control Plan 2012 Part B Section 7 – Industrial</li> <li>• The Hills Development Control Plan 2012 Part C Section 1 – Parking</li> <li>• The Hills Development Control Plan 2012 Part C Section 3 - Landscaping</li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i></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: February 2021</li> <li>• Clause 4.6 variation request</li> <li>• Written submissions during public exhibition: 11</li> <li>• Late submission dated 12 February 2021 by Steve Lancaster.</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In support – Nil</li> <li>○ In objection – Melissa Mitchell on behalf of Residential V Industrial Mile End Road Community Group and Kudzai Chipangura.</li> <li>○ On behalf of the applicant – Shane Harding. Also present were Tony</li> </ul> </li> </ul>

		<p>Merhi and Santhurie Naidoo</p> <ul style="list-style-type: none"> <li>○ Council's Manager Development Assessment– Cameron McKenzie, Paul Osborne and James Gibbeson</li> </ul>
8	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Site inspection: Site inspections have been curtailed due to COVID-19. Where relevant, Panel members undertook site inspection individually.</li> <li>• Final briefing to discuss council's recommendation, 18 February 2021 (teleconference) Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Noni Ruker, Mark Colburt</li> <li>○ <u>Council assessment staff</u>: Cameron McKenzie, Paul Osborne and James Gibbeson</li> </ul> </li> </ul> <p><u>Points discussed:</u></p> <ul style="list-style-type: none"> <li>• Previous Planning and Development proposals for the site</li> <li>• Site conditions, particularly biodiversity values and slope</li> <li>• Issues raised by objectors, particularly potential amenity concerns relating to height, privacy, noise and 24/7 operation</li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval subject to consent listed in Council Assessment Report February 2021.
10	<b>DRAFT CONDITIONS</b>	As listed in Council Assessment Report dated February 2021.