

DETERMINATION AND STATEMENT OF REASONS

SYDNEY CENTRAL CITY PLANNING PANEL

DATE OF DETERMINATION	20 November 2020
PANEL MEMBERS	David Ryan (Acting Chair), Gabrielle Morrish, Susan Budd and Mark Colburt
APOLOGIES	Abigail Goldberg and Chandi Saba
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 6 November 2020.

MATTER DETERMINED

PPSSCC-82 – The Hills Shire – DA1093/2020/JP, 13 Red Gables Road and 9 Janpieter Road, Box Hill, Residential Flat Building Development containing 110 Units and Subdivision of One Lot into Two Torrens Title Lots (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 8 in Schedule 1.

The Panel determined to refuse the development application pursuant to section 4.16 of the Environmental Planning and Assessment Act 1979.

REASONS FOR THE DECISION

The Panel notes that in the absence of evidence of satisfactory arrangements for designated State public infrastructure under Clause 6.2 of The Hills Local Environmental Plan (LEP) 2019 and of the availability of sewage disposal and management under Clause 6.3 of the LEP, development consent cannot be granted to this application.

The applicant requested that the Panel defer the determination of the application until March 2021 to enable those conditions precedent to consent being granted to be satisfied.

The Panel was provided evidence that progress is being made by the applicant to satisfy Clause 6.2, however, the applicant was not able to provide the Panel with any information or confidence that adequate arrangements for sewage management are certain or imminent. Consequently, the Panel was not inclined to defer the determination of the application in the circumstances.

The Panel's reasons for refusal are:

1. The Planning Secretary has not certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to the proposed lots. (Clause 6.2 of The Hills Local Environmental Plan 2019 and Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979)
2. The consent authority is not satisfied that public utility infrastructure (the disposal and management of sewage) 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. (Clause 6.3 of The Hills Local Environmental Plan 2019 and Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979)

3. The proposal relies on a facilitating subdivision development application, to create the allotment and provide vehicular access, which has not been determined. (Section 4.15(1)(c) of the Environmental Planning and Assessment Act, 1979)
4. The proposal is not in the public interest given the outstanding concern regarding the provision of sewer infrastructure for the development. (Section 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979).

The decision was **unanimous**.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and notes that issues of concern included:

- Traffic, safety and amenity impacts;
- Inadequate infrastructure;
- Opposition to high density apartment building development;
- Vehicular access to site;
- Number of units in development and unit composition.

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

PANEL MEMBERS	
 David Ryan (Acting Chair)	 Susan Budd
 Gabrielle Morrish	 Mark Colburt

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-82 – The Hills Shire – DA1093/2020/JP
2	PROPOSED DEVELOPMENT	Residential Flat Building Development containing 110 Units and Subdivision of One Lot into Two Torrens Title Lots
3	STREET ADDRESS	13 Red Gables Road and 9 Janpieter Road, Box Hill
4	APPLICANT/OWNER	Three Fratelli Pty Ltd C/ J Cappello JA Capello
5	TYPE OF REGIONAL DEVELOPMENT	Capital Investment Value over \$30million
6	RELEVANT MANDATORY CONSIDERATIONS	• Environmental planning instruments: • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (State and Regional Development) 2011

		• State Environmental Planning Policy – Building Sustainability Index (BASIX) 2009 • State Environmental Planning Policy No. 55 – Remediation of Land • The Hills Local Environmental Plan 2019 • Sydney Region Environmental Plan No. 20 (Hawkesbury-Nepean River) No. 2 – 1997. • Draft environmental planning instruments: ○ Draft The Hills Local Environmental Plan 2020 • Development control plans: • The Hills Development Control Plan 2012 • Planning agreements: Nil • Provisions of the Environmental Planning and Assessment Regulation 2000 • 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 Environmental Planning and Assessment Act 1979 or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	• Council assessment report: November 2020 • Written submissions during public exhibition: 46 • Verbal submissions at the public meeting: ○ Nigel Ward & Dean Biddle ○ Council assessment officer - Robert Buckham and Cameron McKenzie ○ On behalf of the applicant – Robert Del Pizzo • Letter from Clayton Utz dated 13 November 2020.
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Site inspection - Site inspections have been curtailed due to COVID-19 precautions. Where relevant, Panel members undertook site inspections individually • Briefing: 18 June 2020 • <u>Panel members</u>: Abigail Goldberg – Chair, David Ryan, Noni Ruker, Mark Colburt and Chandi Saba • <u>Council assessment staff</u>: Harrison Depczynski, Paul Osborne, Robert Buckham and Cameron McKenzie • Final briefing to discuss council's recommendation: 19 November 2020 ○ <u>Panel members</u>: David Ryan (Acting Chair), Gabrielle Morrish, Susan Budd and Mark Colburt ○ <u>Council assessment staff</u>: Harrison Depczynski, Paul Osborne, Robert Buckham and Cameron McKenzie • <u>Points discussed were</u> – ○ Design issues with development generally satisfied ○ Status of public infrastructure and sewer management

		arrangements and implications for determination - Public meeting: 19 November 2020 <u>Panel members</u>: David Ryan (Acting Chair), Gabrielle Morrish, Susan Budd and Mark Colburt <u>Council assessment staff</u>: <u>Council assessment staff</u>: Harrison Depczynski, Paul Osborne, Robert Buckham and Cameron McKenzie
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A