

DETERMINATION AND STATEMENT OF REASONS

SYDNEY CENTRAL CITY PLANNING PANEL

DATE OF DETERMINATION	16 December 2020
PANEL MEMBERS	Abigail Goldberg (Chair), Mark Colburt, Noni Ruker and Ken McBryde
APOLOGIES	David Ryan
DECLARATIONS OF INTEREST	Chandi Saba advised that she has been involved in internal Council discussions regarding this project and as such has a conflict of interest and would not participate.

Papers circulated electronically on 2 December 2020. Supplementary information provided by applicant on 11 December 2020.

MATTER DETERMINED

PPSSCC-90 – The Hills Shire – 1302/2020/JP, 8 Solent Circuit, Norwest, Commercial Development including Offices, Showroom, Food and Drink Premises and Basement Carpark (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered and debated the matters listed at item 6 and the material listed at items 7 and 8 in Schedule 1.

The Panel determined to **refuse** the development application for the reasons outlined in the Council Assessment Report.

In reaching its conclusion, the Panel noted that:

- The *built form* has been supported by Council's Design Review Panel, subject to changes including setbacks, which have been executed.
- Unresolved matters of contention are:
 - Performance of the intersection at 8 Solent Circle
 - Design of the intersection
 - Contribution to the cost of the intersection
 - VPA.

With regard to the intersection at 8 Solent Circle, which the Panel considers integral to the application, the Panel observes that the site has recently been rezoned resulting in an increase of development potential. Council asserts that this upzoning is subject to the applicant providing all the required road infrastructure at their cost, as set out in the VPA, which states that

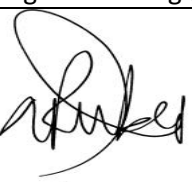
"The Developer, at its cost, agrees to provide all road infrastructure required to be provided under, and in accordance with, the Development Consent." (VPA, Clause 7 Road Infrastructure, pg 6)

Under these circumstances, the Panel considers that matters relating to the intersection must be resolved, but that the applicant has elected not to propose a conciliatory position despite Council making it clear that the proposal as submitted was not acceptable.

The decision to refuse was **unanimous**.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that there were no written submissions received during the public exhibition.

PANEL MEMBERS	
 Abigail Goldberg (Chair)	 Ken McBryde
 Noni Ruker	 Mark Colburt

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-90 – The Hills Shire – 1302/2020/JP
2	PROPOSED DEVELOPMENT	Commercial Development including Offices, Showroom, Food and Drink Premises and Basement Carpark
3	STREET ADDRESS	8 Solent Circuit, Norwest
4	APPLICANT/OWNER	EBH Investments Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	CIV exceeding \$30million
6	RELEVANT MANDATORY CONSIDERATIONS	Environmental planning instruments: • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy Infrastructure 2007 • State Environmental Planning Policy No 55 — Remediation of Land • The Hills Local Environmental Plan 2019 ○ Draft environmental planning instruments: ○ The Hills Development Control Plan 2012 ○ Planning agreements: Nil ○ Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> ○ 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	• Council assessment report: 4 December 2020 • Written submissions during public exhibition: 0

		• 11 December 2020 – Applicant response to Council Assessment Report (Stantec Memo re traffic matters) • 14 December 2020 – Council email response to Panel queries regarding VPA and CP • 14 December 2020 – Applicant written copy of submission made at briefing of 14 December 2020
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	• Papers were circulated electronically on 2 December 2020. • Site inspection - Site inspections have been curtailed due to COVID-19 precautions. Where relevant, Panel members undertook site inspections individually. • 20 August 2020 – Council Briefing <u>Attendees:</u> Panel Members - Abigail Goldberg (Chair), David Ryan, Susan Budd and Mark Colburt (Suzie Jattan in attendance on behalf of the Panel Secretariat) Council Assessment Staff - Cameron McKenzie, Paul Osborne and Cynthia Dugan • 14 December 2020 - Applicant Briefing to discuss Council's recommendation <u>Attendees:</u> Panel Members - Abigail Goldberg (Chair), Noni Ruker, Ken McBryde and Mark Colburt (George Dojas and Suzie Jattan in attendance on behalf of the Panel Secretariat) Council Assessment Staff - Cameron McKenzie, Paul Osborne and Cynthia Dugan, Rodney Pavitt and Michael Lathlean (traffic) Applicant Representatives – Peter Lee, Emily Hou, Michael Upton and Stuart Forman <u>Points discussed –</u> • <i>Administrative matter:</i> name of the applicant as it appears on the determination • Applicant response to Council's assessment and recommendation for referral, specifically: ○ The <i>built form</i> has been supported by Council's Design Review Panel, subject to changes including setbacks, which have been executed. ○ Matters of contention are: ▪ <i>Performance of the intersection at 8 Solent Circle.</i> The applicant contends in their submission of 11 December 2020 that this intersection is already failing. Council points out that they have had insufficient time to analyse the submission of 11 December, which includes new traffic modelling and assumptions not provided at the time of submission of the application. Council notes nevertheless that the same consultant who provided the 11 December Memo provided a report at the time of submission of the application which indicated that performance of the intersection

		was satisfactory. Moreover, this consultant has advised on adjacent developments, so is fully informed of traffic performance in the precinct. Council staff noted that there had been no customer service requests received regarding under-performance of the intersection. Council staff observed that their own experience of the intersection indicated that it was not failing, noting that Council offices are also in Norwest Business Park, requiring them to traverse the intersection. ▪ <i>Design of the intersection.</i> The applicant notes that they had proposed traffic signals but that this was not accepted by TfNSW. In the alternate, three design options were presented of which Option 2 was preferred by Council and Option 3 preferred by the applicant. A final preferred option has not been agreed. ▪ <i>Contribution to the cost of the intersection.</i> The applicant suggests that they will contribute 26% of the traffic utilizing the intersection, and should therefore be liable for 26% of costs only. Council notes that the site has been rezoned resulting in an 'upzoning' of the development potential, however this is subject to the applicant agreeing to provide all the required road infrastructure at their cost, as set out in the VPA, Clause 7 Road Infrastructure on page 6 which states that <i>"The Developer, at its cost, agrees to provide all road infrastructure required to be provided under, and in accordance with, the Development Consent."</i> ▪ <i>VPA:</i> the applicant asserts that the money agreed to in the VPA could cover the costs of the intersection improvements. Council notes that the VPA contribution is not for intersection improvements. Moreover, the preferred intersection design option has not been agreed, or costed. Council notes that in Norwest Business Park, site services have been located beneath the roadways and part of the cost would be relocating these services, which has not yet been estimated.
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A