

DATE OF DECISION	12 October 2020
PANEL MEMBERS	Abigail Goldberg (Chair), David Ryan and Ken McBryde
APOLOGIES	None
DECLARATIONS OF INTEREST	Ms Morrish advised that her company had worked on this site in 2017. Ms Saba and Mr Colburt advised that they had been involved in decision making regarding this proposal when it was considered by Council at its meeting of 9 June 2020.

REZONING REVIEW

2020CCI003 - The Hills Shire - RR_2020_THILL_001_00, Vivien Place road reserve in Castle Hill. The rezoning review seeks to amend The Hills Local Environment Plan 2019 to rezone the subject site known as Vivien Place, Castle Hill consisting of 11 lots and Vivien Place road reserve, from R2 Low Density Residential to R4 High Density Residential (as described in Schedule 1)

Reason for Review:

- ☒ The council has notified the proponent that the request to prepare a planning proposal has not been supported
- ☐ The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support

PANEL CONSIDERATION AND DECISION

The Panel considered: the material listed at item 4 and the matters raised and/or observed at meetings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel determined that the proposed instrument:

- ☐ **should** be submitted for a Gateway determination because the proposal has demonstrated strategic and site specific merit
- ☒ **should not** be submitted for a Gateway determination because the proposal has
 - ☒ not demonstrated strategic merit
 - ☐ has demonstrated strategic merit but not site specific merit

The decision was **unanimous**.

REASONS FOR THE DECISION

Strategic merit:

The Panel notes that the current planning controls applying to the subject site came into effect very recently following a comprehensive strategic planning process for the Castle Hill North (CHN) Precinct undertaken by Council in accordance with the Act. For a rezoning review to succeed in these circumstances, it requires the Panel to be satisfied that the planning proposal clearly meets the strategic merit test.

The Panel considers that the proposal is consistent with several key elements of the relevant strategic plans. However, the Panel observes that the outcomes of Council's holistic planning process for the CHN Precinct must, by necessity, have been deemed to have been consistent with and adequately given effect to those strategic plans and therefore Council's proposal must be assumed to have had strategic merit.

For the Panel to support this current proposal, it would require compelling reasons for this 'block specific' proposal to so immediately displace Council's Precinct wide PP.

For this purpose, the proposal primarily relies on technical reports that cast doubt on the adequacy of the current planning controls to facilitate viable redevelopment within the Precinct.

Whilst noting the contents of those reports, given the currency of Council's Precinct wide analysis and the fact that limited time has transpired to determine the efficacy of those controls to achieve financially viable development within the Precinct, the Panel is reluctant to establish an immediate precedent to challenge those controls on a single block basis.

The proposal has also not adequately demonstrated why the current 'base' plus 'incentive' FSR model applying to most of the rest of the Precinct (relating to unit sizes, mix etc) should not apply to the subject block.

The Panel observes that the proposed FSR is higher than the incentive FSR of other blocks within the precinct that appear at least equally well located relative to the Castle Hill Town Centre and Metro. In seeking to demonstrate the 'tipping point' for viable redevelopment of the subject block, the Panel is unable to determine the implications of a similar analysis for other blocks within the precinct and as such, support of the proposal may create an anomaly that could lead to further ad hoc proposals within the Precinct.

As such, the Panel is concerned that the proposal has the potential to undermine the comprehensive precinct wide strategic planning approach undertaken by Council by setting a precedent for a block-by-block or site-by-site approach based primarily on individual development feasibility modelling.

In the circumstances, the Panel considers that progressing this single block proposal immediately after the gazettal of a precinct based proposal, may undermine community confidence in consistent and orderly planning processes.

Notwithstanding this, the Panel would encourage the Council to carefully review the economic feasibility modelling accompanying this proposal in the light of current economic conditions to determine if the precinct wide controls warrant review to ensure housing targets in its LSPS and Housing Strategy can be met.

Site specific merit:

The Panel notes that in failing to demonstrate Strategic Merit, consideration of Site Specific Merit is unnecessary. However, for completeness, the Panel provides the following commentary on the Planning Proposal's site-specific merit as follows:

The natural environment:

- The Panel notes that there are no environmental encumbrances to development on the site.

Existing uses, approved uses and future uses of land in the vicinity:

- The Panel is satisfied, based on the proponent's analysis, that the proposed planning controls will allow for development on the site that will respect existing, approved and future uses of land in the vicinity, as follows:
- The proposed controls enable, subject to further detailed design work to demonstrate an effective response to adjoining building typologies, an appropriate transition between the adjoining high density, high-rise development to the south and the low density residential housing on the north side of Gilham Street.
- Subject to further detailed design investigations, shadow impacts, which have been tested in relation to preliminary design options, indicate that solar access to adjoining sites may not be adversely impacted.
- Building separation in preliminary design options has been demonstrated to be capable of addressing the Apartment Design Guidelines

Services and infrastructure:

- The site is well serviced by existing and proposed future infrastructure.
- The Panel notes the proponent's VPA offer that includes additional purported public benefits, particularly in relation to through-site links and connectivity. In this regard, the Panel considers that it is appropriate and necessary that a VPA that provides tangible and achievable public benefits accompanies this planning proposal, and is able to address Council's concerns in relation to the implications of the proposal on planned infrastructure associated with the draft Castle Hill North Contributions Plan. The Panel notes the Council's concerns about the current offer and agrees that elements of that offer warrant further consideration by the proponent. In particular, greater certainty is required as to whether the proposed new western road is appropriate and necessary for vehicles, or intended for pedestrians only; and whether public access utilising the through site link can be demonstrated to be able to be continued from the southern boundary of the site through adjoining properties to the south, and to the town centre. While the proponent indicated to the Panel that it is cognisant that further work is required in regard to its offer, noting that engagement with Council would be necessary to resolve this and explore the opportunity for further public benefit were the planning proposal to proceed, the Panel considers that the offer is not tangible and achievable in its current form for the reasons outlined.

PANEL MEMBERS	
 Abigail Goldberg (Chair)	 David Ryan
 Ken McBryde	

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	2020CCI003 - The Hills Shire - RR_2020_THILL_001_00 - Vivien Place road reserve in Castle Hill
2	LEP TO BE AMENDED	The Hills Local Environment Plan 2019
3	PROPOSED INSTRUMENT	The proposal seeks to rezone the subject site known as Vivien Place, Castle Hill consisting of 11 lots and Vivien Place road reserve, from R2 Low Density Residential to R4 High Density Residential, with associated changes in height, FSR and number of dwellings.
4	MATERIAL CONSIDERED BY THE PANEL	• Rezoning review request documentation • Briefing report from Department of Planning, Industry and Environment.
5	BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	• Site inspection: Site inspections have been curtailed due to COVID-19 precautions. Where relevant, Panel members undertook site inspections individually. • Briefing with Department of Planning, Industry and Environment (DPIE): 30 September 2020 ○ Panel members in attendance: Abigail Goldberg (Chair), David Ryan and Ken McBryde

		○ DPIE staff in attendance: Angela Hynes and Jane Grose ● Briefing with Council: 30 September 2020 ○ Panel members in attendance: Abigail Goldberg (Chair), David Ryan and Ken McBryde ○ DPIE staff in attendance: Angela Hynes and Jane Grose ○ Council representatives in attendance: Nicholas Carlton – Manager Forward Planning, Megan Munari – Principal Coordinator Forward Planning and Ashley Ascone – Senior Town Planner ● Briefing with Proponent: 30 September 2020 ○ Panel members in attendance: Abigail Goldberg (Chair), David Ryan and Ken McBryde ○ DPIE staff in attendance: Angela Hynes and Jane Grose ○ Proponent representatives in attendance: Stephen White – Town Planner, Moni Xinye An – the proponent, Greg Hynd – proponent representative, Rohan Dickson – urban designer. ● Papers were circulated electronically on 18 September 2020.
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