



**REZONING REVIEW
RECORD OF DECISION**

STRATEGIC PLANNING PANEL of the
SYDNEY CENTRAL CITY PLANNING PANEL

DATE OF DETERMINATION	8 May 2024
DATE OF DECISION	4 April 2024
PANEL MEMBERS	Abigail Goldberg (Chair), David Ryan, Greg Woodhams and Jarrod Murphy
APOLOGIES	None
DECLARATIONS OF INTEREST	Local Council members Janelle Atkins, Cynthia Dugan, Brent Woodhams and Robert Buckham declared a conflict of interest as council officers who have previously dealt with the proposed development and planning proposal.

REZONING REVIEW

RR-2023-30 – The Hills Shire LGA – PP-2022-3644

Kentwell Avenue Precinct, Kentwell Avenue, Showground Road, Pennant Street and Castle Street, Castle Hill (Castle Towers) (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 115 days after the proponent submitted a request to prepare a planning proposal.
- ☐ The council has not submitted the planning proposal for a Gateway determination within 28 days of indicating its support for the proposal.

PANEL CONSIDERATION AND DECISION

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

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

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

The decision was unanimous.

REASONS FOR THE DECISION

The Panel considered the documentation, was briefed by the Department of Planning, Housing and Infrastructure (Department), and heard extensively from The Hills Shire Council (Council) and the proponent, Ethos Urban and QIC.

The Panel notes that there was some uncertainty and disagreement between the proponent and Council as to what constituted the Planning Proposal subject to this Rezoning Review. The proponent's Rezoning

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Review material referred only to the written documentation contained in the Planning Proposal (16 May 2023). Whereas, Council considered the latest Planning Proposal to include correspondence it received from the proponent on 5 September 2023 which flagged amendments to the Planning Proposal and that were the basis upon which Council indicated its support for the Planning Proposal, subject to further amendments, proceeding to a Gateway determination.

The Panel accepted that the Planning Proposal subject to this Rezoning Review includes the proponent's letter of 5 September 2023, which flagged two options for resolving Council's previously stated concerns in relation to the Planning Proposal.

- Option 1 involves a Voluntary Planning Agreement offer to the Council.
- Option 2 involves a reduction in the incentive building height on part of the subject site and a reduction in the residential development yield estimated to be achieved by the proposed amended planning controls.

Strategic Merit

The Panel agreed with the position of Council and the proponent that the planning proposal had Strategic Merit given that:

- It is generally consistent with applicable strategic planning documents, particularly as they relate to the general objectives for housing such as the Greater Sydney Region Plan 2018, Central City District Plan 2018, North West Rail Link Corridor Strategy 2013, The Hills Corridor Strategy 2015, The Hills Housing Strategy 2019 and Draft Castle Hill Precinct Plan 2023.
- The Hills Future 2036: Local Strategic Planning Statement 2019, (LSPS) identifies the site to redevelop for a mixed-use outcome, comprising of office, retail, restaurants and residential development, and recognises the nearby Castle Hill Metro Station as a catalyst to increase the existing density of the site.
- Delivering housing supply is a priority issue for Sydney for all levels of Government.
- The provision of additional housing in this location has strategic merit and is responding to a change in circumstances that has not been formally recognised by the existing planning framework.

Site Specific Merit

The Panel considered that the planning proposal should be able to achieve Site Specific Merit subject to revisions addressing site constraints noting that:

- The site is a large block (4ha), consisting of 38 lots in the same ownership of QIC with direct access to Pennant Street, Castle Street, Showground Road and Kentwell Avenue.
- The site is zoned MU1 Mixed Use allowing for office, retail, restaurants and residential development.
- The majority of the site is vacant and undeveloped.
- The site is located opposite Castle Towers Shopping Centre and within proximity of the Castle Hill Metro Station.
- Residential development supported by commercial uses in this location optimises the use of existing transport infrastructure connections of the nearby Castle Hill Metro Station to services, facilities and jobs in the North West Metro Line and wider metropolitan area.
- The provision of commercial and retail floor space on the site would compliment the commercial and retail uses in the adjoining Castle Hill Town Centre and would benefit the future residents of the site.

During the Panel's briefing, the proponent sought to quantify the likely impacts on Floor Space Ratio (FSR) and height associated with the changes it proposed to address Council's concerns about certain design elements (setbacks, podiums etc), and the reduced yield offered in the proponent's Option 2. The proponent was able to provide some clarity as to the impact of the design changes (reducing the

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proposed FSR from 4.5:1 to 4.3:1). However, whilst acknowledging that the residential yield reduction would result in a further reduction in FSR and providing an estimate of what that might represent cumulatively with the design changes (c. 4.1:1), the Panel considers that it would be unreasonable to expect a reliable figure to be provided without further analysis and testing.

Panel recommendations

The Panel recommends that prior to submitting the Planning Proposal for a Gateway determination, the Planning Proposal is to be revised to address the following:

1. Open Space

Confirmation is to be obtained from Council on its preparedness to accept dedication of the proposed publicly accessible park (shown as zoned RE1 in the Planning Proposal). The proposed RE1 zone should only be included with the express approval of Council, without which, no land zoning change should be implemented. The Panel notes that this would not preclude any part of the site being made available for open space use by the general public. This can be addressed at DA stage in consultation with Council. Should Council's confirmation not be available before the proposal is suitable for submission to Gateway determination, then this issue needs to be resolved prior to public exhibition.

2. Revised scheme changes

The proponent should undertake detailed analysis, to form the basis of a revised scheme, which addresses the following matters:

- a. Height and yield changes as offered by the proponent in its letter to Council dated 5 September, 2023. Noting that the Panel does not necessarily seek to reduce residential yield in this well located site, but understands the proponent's offer to be a method of reducing the scale of the development in response to Council's concerns. As such, this reduction in the scale of development on the site should be equivalent to that resulting from the proposed dwelling yield reduction, but does not necessarily need to result in the specific residential yield reduction nominated by the proponent (and should not affect the minimum commercial floor space referred to in the Planning Proposal).
- b. Design changes to address Council's design concerns (as generally presented to the Panel by the proponent)
- c. Demonstrate the scheme is reasonably capable of achieving the preconditions for activating the proposed incentive clause, and consistency with Apartment Design Guide (ADG) design criteria.

3. Floor Space Ratio and Building Height

Based on the outcomes of Point 2, updated FSR and Building Height Maps are to be prepared. In so doing, there should be clarity as to the site area to which each proposed FSR standard applies, and to which any FSR expressed as an "average" applies. In this regard, any areas of the site assumed to be subject to potential site acquisition or dedication for road widening or other public purposes should be clearly identified in the calculations.

4. Panel Review and Approval

The Panel requests that the Department of Planning, Housing and Infrastructure undertakes a review of the above material to confirm that it satisfactorily addresses the Panel's recommendations, and that it liaises with the proponent if necessary to obtain any clarification or further information, for confirmation to the Panel of the consequential FSR and height standards for the Planning Proposal before proceeding to Gateway Determination.

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5. Commercial/Non-Residential Floorspace

The Panel supports the minimum commercial floorspace (consistent with achieving the quantum outlined in the applicant's letter of 5 September 2023) as part of the incentive clause within the Planning Proposal.

6. Consultation with Transport for NSW

Further consultation should occur with Transport for NSW to confirm any specific requirements that may affect the site in terms of road widening or other matters (including the pedestrian bridge) relevant only to the Planning Proposal stage. Any such advice (if and as relevant) should be reflected in the revised scheme and associated calculations, including the proposed setbacks, FSR, Gross Floor Area and building heights.

The Panel also recommends that should a Gateway determination be issued, the revised scheme should form part of the exhibition material, and Council may give consideration to incorporating its contents into a site specific Development Control Plan (DCP) (at its discretion) should the Planning Proposal proceed to finalisation.

The Hills Shire Council has not supported the planning proposal as lodged with Council. In accordance with Section 3.32(1) of the *Environmental Planning and Assessment Act 1979*, the Planning Panel as delegate of the Minister for Planning has determined to appoint itself as the Planning Proposal Authority (PPA) for this planning proposal.





The Panel requires confirmation from the proponent, within two weeks from the date of this determination, that they agree to:

- a) revise the planning proposal to be consistent with the Panel's recommendations;
- b) pay the PPA fee; and
- c) subsequently provide a revised planning proposal to address the Panel's concerns.

Should the proponent agree to revise their planning proposal to address the Panel's concerns, then the proponent has up to a further three months to provide the revised planning proposal, including supporting reports and studies to the Panel.

The Panel will reconvene following the receipt of the revised Planning Proposal to assess and determine whether the Proposal has met the Panel's recommendations and has demonstrated site specific merit and is suitable for submitting to a Gateway determination.

Should the proponent fail to pay the PPA fee by the designated date, then the Panel will no longer proceed with the planning proposal and the making of a local environmental plan amendment.

PANEL MEMBERS	
 Abigail Goldberg (Chair)	 David Ryan
 Greg Woodhams	 Jarrod Murphy

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SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	RR-2023-30 – The Hills Shire LGA – PP-2022-3644– Kentwell Avenue Precinct, Kentwell Avenue, Showground Road, Pennant Street and Castle Street, Castle Hill (Castle Towers)
2	LEP TO BE AMENDED	The Hills Local Environmental Plan (LEP) 2019
3	PROPOSED INSTRUMENT	<p>The proposal seeks to:</p> <ul style="list-style-type: none"> • Rezone from MU1 Mixed Use to part MU1 Mixed Use and part RE1 Public Recreation; • Increase building heights from part 7m, part 9m, part 19m, and part 28 (2-9 storeys) to part 20m, part 43m, part 49m, part 55m, part 74m and part 94m (5-28 storeys); and • Increase FSR from 1.9:1 to 4.5:1, including minimum 23,000m² non-residential use.
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Rezoning review request documentation • Department of Planning, Housing and Infrastructure Rezoning Review Briefing Report, 25 March 2024 • Ethos Urban QIC Presentation Castle Green Rezoning Review – SCCPP Meeting, 2 April 2024
5	SITE INSPECTIONS AND BRIEFINGS BY THE PANEL	<ul style="list-style-type: none"> • Site inspections <ul style="list-style-type: none"> ○ were either held individually at the Panel members' discretion or not held as sufficient background information was provided to all Panel members and some members had previously seen the site. ○ Greg Woodhams – 2 April 2024 • Briefing with Department of Planning, Housing and Infrastructure (DPHI): 11:00am – 11:45am, 4 April 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Abigail Goldberg (Chair), David Ryan, Greg Woodhams and Jarrod Murphy ○ DPHI staff in attendance: Jazmin Van Veen, Jorge Alvarez, Peter Pham, Renee Ezzy, Lisa Kennedy and Adam Williams ○ Key issues discussed: <ul style="list-style-type: none"> • History of the planning proposal - was supported by The Hills Shire Council but with changes • Clarification of what version of the planning proposal the Panel is considering – proposal with 1,260 dwellings was considered by Council • Development concept proposal – apartments, commercial/retail, public park, private indoor recreation. • Proposed planning proposal controls – zoning, height of building & Floor Space Ratio and whether supported/not supported by Council • Proposed public park with RE1 zoning – Council doesn't wish to acquire or accept, management & maintenance • Strategic merit – council states is a change of circumstance to provide increase uplift for housing

		<ul style="list-style-type: none"> • Site specific merit – bulk, height, number dwellings, setbacks & urban design, public park, open space & solar design, traffic impacts, • Community benefits and an agreement between council and proponent • Proposed Woodward Sports Centre development application on Lot A - status; Panel is determining authority; status of Kentwell Road • Consideration of biodiversity issues in planning proposal – significant trees on site <ul style="list-style-type: none"> • Briefing with The Hills Shire Council: 11:45am – 12:30pm, 4 April 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Abigail Goldberg (Chair), David Ryan, Greg Woodhams and Jarrod Murphy ○ DPHI staff in attendance: Jazmin Van Veen, Jorge Alvarez, Peter Pham, Renee Ezzy, Lisa Kennedy and Adam Williams ○ Council representatives in attendance: Nicholas Carlton, Emma Langan, Kayla Atkins and Megan Munari. ○ Key issues discussed: <ul style="list-style-type: none"> • Complex planning history for the site • The Panel acknowledged the concessions that the Council had made in reaching its decision to support an amended proposal • Council did support significant development uplift for the site • Proponent’s letter 5 September 2023: Option 1 – what was submitted with an increase in the value of the Voluntary Planning Agreement (VPA) and Option 2 – to resolve built form issues and a subsequent reduction in dwelling numbers to 1,260 • Calculation of FSR for the site – applied across roads and open space to provide flexibility; 80% FSR for residential development • Strategic merit – doesn’t align to strategic planning documents however substantial weight was given to the Minister for Planning’s letter to encourage greater housing supply • Site specific merit – bulk/scale, open space, height transition to adjoining lower density residential with future development potential • DCP controls – car parking, building length and separation, consistency with opposite side of Castle Street • Consideration of biodiversity issues in planning proposal – significant trees on site • Proposed public park with RE1 zoning – concerned with embellishment, management & maintenance; lack of open space for residents • Traffic issues – consultation with Transport for NSW; modelling
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	<ul style="list-style-type: none"> • Briefing with QIC and Ethos Urban (Proponent): 12:30pm – 1:19pm, 4 April 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Abigail Goldberg (Chair), David Ryan, Greg Woodhams and Jarrod Murphy ○ DPHI staff in attendance: Jazmin Van Veen, Jorge Alvarez, Peter Pham, Renee Ezzy, Lisa Kennedy and Adam Williams ○ Proponent representatives in attendance: Michael Oliver, Matthew James, Matthew Di Maggio, Matthew Short, Joe Hampson, Jordan Curran and Murray James ○ Key issues discussed: <ul style="list-style-type: none"> • Project overview – key design; master plan; connectivity to four adjoining streets • Built form – podium; street setbacks; maximising solar into the park; overshadowing of adjoining residences • Planning proposal changes – park with a RE1 zoning will be publicly accessible; HOB in agreement with Council; FSR options 4.5:1 vs 3.5:1 and loss of 0.2 FSR to address design changes • Proposal doesn't contemplate affordable housing as Council does not have an affordable housing scheme • Contamination on the site requires the removal of some of the trees • Preparation of site specific DCP • Panel Discussion: 1:45pm – 2:38pm, 4 April 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Abigail Goldberg (Chair), David Ryan, Greg Woodhams and Jarrod Murphy ○ DPHI staff in attendance: Jazmin Van Veen, Jorge Alvarez, Peter Pham, Renee Ezzy, Lisa Kennedy and Adam Williams
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