



**REZONING REVIEW
RECORD OF DECISION**

STRATEGIC PLANNING PANEL of the
SYDNEY CENTRAL CITY PLANNING PANEL

DATE OF DETERMINATION	28 February 2024
DATE OF DECISION	22 February 2024
PANEL MEMBERS	Abigail Goldberg (Chair), David Ryan, Stephen Leathley, Robert Buckham and Jarrod Murphy
APOLOGIES	None
DECLARATIONS OF INTEREST	Local Council members, Janelle Atkins, Cynthia Dugan and Brent Woodhams have declared a conflict of interest as council officers who have previously dealt with the proposed development and planning proposal.

REZONING REVIEW

RR-2024-1 – The Hills LGA – PP-2023-2300

87-97 Castle Hill Road & 121-131 Oratava Avenue, West Pennant Hills (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.
- ☐ 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 at item 5 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
 - ☐ not demonstrated strategic merit
 - ☐ has demonstrated strategic merit but not site specific merit

The decision was unanimous.

REASONS FOR THE DECISION

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

Strategic Merit

The Panel agreed that the planning proposal had Strategic Merit given that:

Planning Panels Team

4PSQ 12 Darcy Street, Parramatta NSW 2150 | Locked Bag 5022, Parramatta NSW 2124 | T 02 8217 2060 | strategicpanels@dpie.nsw.gov.au

- The planning proposal is consistent with applicable strategic planning documents, particularly as they relate to the general objectives for housing. These include the Greater Sydney Regional Plan (2018), Central City District Plan (2018), and The Hills Shire Community Strategic Plan 2017-2021.
- 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 will be of public benefit.

Site Specific Merit

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

- the Panel concurs with the proponent and the Council Officer Report to the Council meeting of 13 April 2021 that the sites are reasonably situated for the proposed residential redevelopment and would not impact on the recreational capacity of Cumberland State Forest.
- The Panel notes that while both sites are located on the edge of the Forest, they are in fact physically isolated from the wider forested area due to their geomorphological characteristics.
- Residential development on the sites would be contiguous with existing residential development.
- The proposed residential footprint would require removal of vegetation with minimal and acceptable impacts that would be addressed through an updated Biodiversity Development Assessment Report (BDAR).
- The environmental impacts associated with the delivery of housing on the sites are likely to be able to be managed subject to appropriate design.
- Any dwelling built on the additional lots could be appropriately serviced.
- A reduction of the minimum lot size is consistent with the majority of neighbouring land.
- The NSW Government's consideration of Council's proposal to transfer the Cumberland State Forest to a reserve category under the National Parks and Wildlife Act 1974, may run concurrently with the progression of the planning proposal, should it proceed.

The Panel was concerned with the potential for the proposed minimum lot size to create more than two lots on each site and concluded there is a need to ensure a more appropriate lot size that complements adjoining land uses and does not allow for more than two lots on each site. The Panel notes the proponent had agreed in principle to an increased minimum lot size as recommended by The Hills Local Planning Panel at its meeting of 18 February 2021 and recommended in the Council Officer Report to the Council meeting of 13 April 2021.

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:

- Amend the minimum lot size to 1,140m² for the Northern site and 1,700m² for the Southern site; and
- Update the Biodiversity Development Assessment Report, arborist report and vegetation management plan.

The Panel sought the Council's and proponent's views on these recommendations at the Panel briefings.

The Panel requires confirmation from the proponent that they agree to:

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

The proponent has up to two weeks from the date of this determination to confirm whether they agree to revise their Planning Proposal to be consistent with the Panel's recommendations. Should the proponent not agree to revise their proposal, then the Panel will reconvene to determine that the

Planning Panels Team






4PSQ 12 Darcy Street, Parramatta NSW 2150 | Locked Bag 5022, Parramatta NSW 2124 | T 02 8217 2060 | strategicpanels@dpie.nsw.gov.au

Planning Proposal does not have site specific merit and will not be submitted for a Gateway determination.

Should the proponent agree to revise their Planning Proposal to address the Panel's concerns, then the proponent has three months from the determination date to provide the revised Planning Proposal, including supporting reports and studies to the Panel via the Department of Planning, Housing and Infrastructure.

The Hills Shire Council has been given the opportunity to accept the role of Planning Proposal Authority (PPA) for this Planning Proposal, however Council has declined the PPA role. 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 PPA for this Planning Proposal.

The proponent is to pay the PPA fee within two weeks of confirming they wish to revise their Planning Proposal to be consistent with the Panel's recommendations. 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
 Stephen Leathley	 Robert Buckham
 Jarrod Murphy	

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	RR-2024-1 – The Hills LGA – PP-2023-2300 – at 87-97 Castle Hill Road & 121-131 Oratava Avenue, West Pennant Hills
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 the sites from RU3 Forestry to R2 Low Density Residential • Introduce a maximum building height of 9m • Amend the minimum lot size from 40ha to 700m²
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Rezoning review request documentation • Briefing report from Department of Planning and Environment, 16 February 2024
5	SITE INSPECTIONS AND BRIEFINGS BY THE PANEL	<ul style="list-style-type: none"> • Site inspections were undertaken individually: <ul style="list-style-type: none"> ○ Stephen Leathley – 20 February 2024 ○ Jarrod Murphy – 21 February 2024 ○ Abigail Goldberg, David Ryan and Robert Buckham - have knowledge of the site from previous site inspections of the locality • Briefing with Department of Planning, Housing and Infrastructure (DPHI): 9:30am – 9:55am, 22 February 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Abigail Goldberg (Chair), David Ryan, Stephen Leathley, Robert Buckham and Jarrod Murphy ○ DPHI staff in attendance: Jazmin Van Veen, Jorge Alvarez, Kimberley Beencke, Michael Tran, Lisa Kennedy and Taylah Fenning ○ Key issues discussed: <ul style="list-style-type: none"> • Planning proposal overview – location, proposal, history • Proposed change to the minimum lot size in response to Environment, Energy & Science and The Hills Local Planning Panel concerns and recommendations • Context of nearby residential development at 55 Coonara Avenue, West Pennant Hills and the dedication of land into the Cumberland State Forest. The Sydney Central City Planning Panel determined the development application. • Briefing with The Hills Shire Council: 10:15am – 10.41am, 22 February 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Abigail Goldberg (Chair), David Ryan, Stephen Leathley, Robert Buckham and Jarrod Murphy ○ DPHI staff in attendance: Jazmin Van Veen, Jorge Alvarez, Kimberley Beencke, Michael Tran, Lisa Kennedy and Taylah Fenning ○ Council representatives in attendance: Megan Munari, Nicholas Carlton, Kayla Atkins and Gideon Tam ○ Key issues discussed:

		<ul style="list-style-type: none"> • Council meeting – deferral of planning proposal until NSW Government concludes its consideration of the proposal to transfer Cumberland State Forest to a reserve under the National Parks and Wildlife Act. • Should Panel support the planning proposal going to a Gateway determination then needs to consider the proposed larger minimum lot sizes and a C4 Environmental Living zone for the northern site. • Minimum lot size map for the locality and application of varying lot size to accommodate ecological and scenic issues. • Proposed larger minimum lot size and how this was calculated and supported by proponent, Environment, Energy & Science and The Hills Local Planning Panel & Council. <ul style="list-style-type: none"> • Briefing with Mecone (Proponent): 11:00am – 11:20am, 22 February 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Abigail Goldberg (Chair), David Ryan, Stephen Leathley, Robert Buckham and Jarrod Murphy ○ DPHI staff in attendance: Jorge Alvarez, Kimberley Beencke, Michael Tran, Lisa Kennedy and Taylah Fenning ○ Proponent representatives in attendance: Chris Shannon, Troy Darcy and Prisha Singh ○ Key issues discussed: <ul style="list-style-type: none"> • Need to update Biodiversity Development Assessment Report, arborist and landscaping reports as identified in the Council officer report. • Response to Council’s suggestion of a C4 Environmental Living zone for the northern site • Consideration of the transfer of Cumberland State Forest to a reserve under the National Parks and Wildlife Act. • Proposed larger minimum lot size supported by proponent. • Panel Discussion: 11:20am – 11:42am, 22 February 2024 <ul style="list-style-type: none"> ○ Abigail Goldberg (Chair), David Ryan, Stephen Leathley, Robert Buckham and Jarrod Murphy ○ DPHI staff in attendance: Jorge Alvarez, Kimberley Beencke, Michael Tran, Lisa Kennedy and Taylah Fenning
--	--	--