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Our ref: PP_2011_THILL_018_00 (11/21530)
Your ref: FP212

Mr Dave Walker
General Manager
The Hills Shire Council
PO Box 75
CASTLE HILL NSW 1765

Dear Mr Walker,

Re: Planning Proposal to rezone Lots 101 and 103 DP 122070, No. 301 Samantha Riley Drive, Kellyville from Employment Area 10(a) (Business Park) zone to the R1 General Residential zone under the draft Hills LEP 2010 or the 2(a4)(Town Centre) zone under Baulkham Hills LEP

I am writing in response to your Council's letter dated 17 November 2011 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend The Hills Local Environmental Plan LEP 2005 to rezone Lots 101 and 103 DP 122070, No. 301 Samantha Riley Drive, Kellyville from Employment Area 10(a) (Business Park) zone to the R1 General Residential zone under the draft Hills LEP 2010 or the 2(a4)(Town Centre) zone under Baulkham Hills LEP 2005 to enable mixed use business and residential apartment development.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

It is noted that the subject site is strategically located adjacent to the existing Transitway Bus Interchange facility along Old Windsor Road. The site is also adjacent to the proposed North West rail link corridor. These characteristics lend themselves to the site being developed for medium to higher density forms of development (residential, commercial and retail) to take advantage of public transport infrastructure. While it is acknowledged that the R1 General Residential Zone proposed for the site provides for a range of higher density development (eg multi dwelling housing, office premises, residential flat buildings), Council is encouraged to consider how an alternative zone may lend itself to higher density outcomes given the strategic context.

In addition, Council is to undertake a preliminary urban design and site capability assessment to determine whether increased residential densities and increased employment opportunities than those proposed, can be achieved for the site. The assessment should consider whether the proposed FSR of 1.6:1 and building height of 28 metres are appropriate given the site's strategic location and its potential to provide housing and employment opportunities in close proximity to public transport infrastructure. While it is acknowledged that Council has an existing Employment Lands Direction it is still necessary to demonstrate as part of this planning proposal how the proposed loss of employment capacity (approximately 100 jobs) on this site will be addressed across the LGA.

The Director General's delegate has also agreed that the planning proposal's inconsistencies with S117 Directions 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.3 Flood Prone Land and 7.1 Implementation of the Metropolitan Plan for Sydney 2036 are of minor significance. No further approval is required in relation to these Directions.

Council is to provide additional justification for the planning proposal against Section 117 Direction 1.1 Business and Industrial Zones taking into consideration the comments above relating to the loss of potential employment capacity on the site. Council is to include this additional justification in the material made available for public exhibition.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway Determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Gilead Chen of the Regional Office of the Department on 02 9873 8500.

Yours sincerely,



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_THILL_018_00): to rezone Lots 101 and 103 DP 122070, No. 301 Samantha Riley Drive, Kellyville from Employment Area 10(a) (Business Park) zone to the R1 General Residential zone under the draft Hills LEP 2010 or the 2(a4)(Town Centre) zone under Baulkham Hills LEP 2005.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to The Hills Local Environmental Plan LEP 2005 to rezone Lots 101 and 103 DP 122070, No. 301 Samantha Riley Drive, Kellyville from Employment Area 10(a) (Business Park) zone to the R1 General Residential zone under the draft Hills LEP 2010 or the 2(a4)(Town Centre) zone under Baulkham Hills LEP 2005 to enable mixed use business and residential apartment development should proceed subject to the following conditions:

1. Council is to undertake a preliminary urban design and site capability assessment to address the following:
 - a. Whether the site can support a higher density form of development (residential and employment) taking into consideration its strategic location adjoining public transport infrastructure;
 - b. The potential development capacity of the site to accommodate higher density outcomes and whether an alternative zone such as the R4 High Density Residential rather than R1 Low Density Residential would better reflect its development capacity;
 - c. Whether the proposed FSR of 1.6:1 and building height limit of 28 metres are appropriate for the site or whether these should be revised based on the site's development capacity; and
 - d. Whether the site can provide an increased employment capacity taking into consideration an amended FSR and the site's strategic location.
2. Council is to amend its planning proposal prior to public exhibition to reflect the outcomes of the above study, if necessary.
3. Council is to prepare and exhibit appropriate zoning (current and proposed) FSR and Height of Building maps for the subject site reflecting the outcomes of the above study and in accordance with the Department's Technical Guidelines for preparing Standard Instrument LEP Maps. Maps identifying the subject site and identifying the site's property description details are also to be provided for public exhibition purposes.
4. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Transport for NSW – Roads and Maritime Services

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
7. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

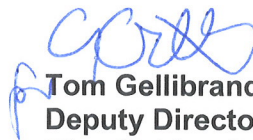
Dated

21

day of

12

2011.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure