

SECTION 3.36 PLANNING REPORT

Planning proposal details:

Planning Proposal 17/2018/PLP (Department Ref: PP_2018_THILL_003_00) to amend the Hills Local Environmental Plan 2012.

Planning Proposal Summary:

The planning proposal is to amend The Hills Local Environmental Plan 2012 (clause 7.7) to exclude the Bella Vista, Kellyville and Showground Station Precincts from Design Excellence Panels.

Date of Gateway Determination:

22 May 2018

1.0 SUMMARY

- *This Planning Proposal applies to land within the Bella Vista, Kellyville and Showground Station Precincts.*
- *As Council currently operates a separate Design Excellence Panel, planning proposal has been prepared to amend Clause 7.7 of the Hills LEP to ensure that development proposed within the Station Precincts will not trigger referral to both panels.*
- *Referral to one design panel for development within these precincts will reduce confusion for applicants and costs for Council to convene two panels for one development application.*
- *The proposal was placed on public exhibition from Tuesday 10th July 2018 to Friday 27th July 2018. No submissions were received.*
- *The planning proposal will proceed as exhibited due to the fact that no submissions were received.*

2.0 GATEWAY DETERMINATION

On 22nd May 2018 the Department of Planning and Environment issued a Gateway Determination for the planning proposal. The timeframe specified for the completion of the planning proposal was 22 November 2018. An authorisation for Council to exercise delegation to make the plan was issued concurrently with the Gateway Determination.

The Gateway determination was not subject to a review request and all of the conditions of the Gateway Determination have been complied with.

3.0 COMMUNITY CONSULTATION

The Planning Proposal was exhibited from Tuesday 10 July 2018 to Friday 27 July 2018, in fulfilment of the Gateway Determination's requirement to exhibit the proposal for a minimum of 14 days.

The exhibition material was made available for viewing at Castle Hill Library, Vinegar Hill Memorial Library, Council's Customer Service Centre and on Council's website. The exhibition material included the following:

- Planning Proposal and attachments
- Council Report and Minute, 27 March 2018

- Gateway Determination, 23 May 2018
- The Hills Local Environmental Plan 2012
- Relevant State Environmental Planning Policies
- Section 9.1 Directions

Notification of the exhibition was also placed in The Hills Shire Times and Rouse Hill Times on Tuesday 10th July 2018.

No public submissions or submissions from the NSW Government Architect were received during the exhibition period.

Given no issues were raised, Council resolved that the planning proposal proceed to finalisation as exhibited.

4.0 VIEWS OF PUBLIC AUTHORITIES

In fulfilment of the Gateway consultation requirements, Council consulted the NSW Government Architect's Office.

A letter dated 2 July 2018 was sent to the NSW Government Architect, however no response was received.

5.0 CONSISTENCY WITH S.9.1 DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS

Greater Sydney Region Plan

The planning proposal is consistent with the Greater Sydney Region Plan as it supports the delivery of a diversity of housing with a focus on creating housing which contributes to great places consistent with objectives 10 (Greater Housing Supply), 11 (Housing is more diverse and affordable) and 12 (Great places that bring people together).

The majority of projects which will be reviewed by the Design Excellence Panel and Design Review Panel will be located in major growth areas in the Shire. Most will comprise an element of housing provision consistent with the direction of the Greater Sydney Region Plan. Requiring applications to be subject to two separate panels reviewing design against the same criteria would result in delays to the assessment process and subsequent delivery of housing.

Central City District Plan

The Central City District Plan is a 20 year plan to manage growth in the context of economic, social and environmental matters to achieve the 40 year vision of Greater Sydney. It is a guide for implementing the Greater Sydney Region Plan at a district level and is a bridge between regional and local planning. The District Plan also assists councils to plan for and deliver growth and change, and align their local planning strategies to place-based outcomes. It informs infrastructure agencies, the private sector and the wider community of expectations for growth and change.

The planning proposal aligns with Planning Priorities C5 and C6 in that the proposal is reducing delays in the assessment process without limiting opportunities to

improve design quality, creating great spaces and delivering on housing targets in a timely fashion.

The Hills Future Community Strategic Plan

The Hills Future Community Strategic Plan articulates The Hills Shire community's and Council's shared vision, values, aspirations and priorities with reference to other local government plans, information and resourcing capabilities. It is a direction that creates a picture of where the Hills would like to be in the future. The direction is based on community aspirations gathered throughout months of community engagement and consultation with members of the community.

The planning proposal will assist in the realisation of The Hills Future outcome of 'shaping growth' through a continued focus on achieving design excellence.

Local Strategy

In 2008 Council adopted its Local Strategy to provide the basis for the future direction of land use planning in the Shire and within this context implement the key themes and outcomes of the 'Hills 2026 Looking Toward the Future'. The Residential, Integrated Transport, Centres and Employment Lands Directions are the relevant components of the Local Strategy to be considered in assessing this proposal.

Residential Direction

The North West Subregional Strategy sets targets for the Shire to contribute additional housing to accommodate a share of Sydney's population growth. The Residential Direction indicates that there is sufficient capacity to accommodate these targets based on the existing planning framework and current projects.

Whilst the proposal does not directly contribute to housing targets, it will ensure that design excellence principles continue to be applied across the Shire without creating unnecessary time delays through assessment at multiple panels.

Section 9.1 Ministerial Directions and State Environmental Planning Policies

Relevant s9.1 Directions are detailed in the table below.

DIRECTION		HOW PROPOSAL IS CONSISTENT
3.1	Residential Zones	Encourages the provision of housing that is of good design
3.4	Integrating Land Use and Transport	Will contribute to improved access to housing, jobs and services by walking, cycling and public transport
5.9	North West Rail Link Corridor Strategy	Will ensure development within the Showground, Bella Vista and Kellyville precincts is consistent with the proposals set out in the NWRL Corridor Strategy and precinct Structure Plans

List of state environmental planning policies:

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)		APPLICABLE TO THSC	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/CONSISTENT
No. 1	Development Standards	NO	-	
No. 14	Coastal Wetlands	NO	-	
No. 19	Bushland in Urban Areas	YES	NO	
No. 21	Caravan Parks	YES	NO	
No. 26	Littoral Rainforests	NO	-	
No. 30	Intensive Agriculture	YES	NO	
No. 33	Hazardous and Offensive Development	YES	NO	
No. 36	Manufactured Home Estates	NO	-	
No. 44	Koala Habitat Protection	NO	-	
No. 47	Moore Park Showground	NO	-	
No. 50	Canal Estate Development	YES	NO	
No. 52	Farm Dams and Other Works in Land and Water Management Plan Areas	NO	-	
No. 55	Remediation of Land	YES	NO	
No. 62	Sustainable Aquaculture	YES	NO	
No. 64	Advertising and Signage	YES	NO	
No. 65	Design Quality of Residential Apartment Development	YES	NO	
No. 70	Affordable Housing (Revised Schemes)	YES	NO	
No. 71	Coastal Protection	NO	-	
Affordable Rental Housing (2009)		YES	NO	
Building Sustainability Index: BASIX (2004)		YES	NO	
Educational Establishments and Child Care Facilities (2017)		YES	NO	
Exempt and Complying Development Codes (2008)		YES	NO	
Housing for Seniors or People with a Disability (2004)		YES	NO	
Infrastructure (2007)		YES	NO	
Integration and Repeals (2016) (Policy is to be repealed on 6.8.2018)		YES	NO	
Kosciuszko National Park – Alpine Resorts (2007)		NO	-	
Kurnell Peninsula (1989)		NO	-	
Mining, Petroleum Production and Extractive Industries (2007)		YES	NO	
Miscellaneous Consent Provisions (2007)		YES	NO	
Penrith Lakes Scheme (1989)		NO	-	
Port Botany and Port Kembla (2013)		NO	-	
Rural Lands (2008)		NO	-	
State and Regional Development (2011)		YES	NO	
State Significant Precincts (2005)		YES	NO	
Sydney Drinking Water Catchment (2011)		NO	-	
Sydney Region Growth Centres (2006)		YES	NO	
Three Ports (2013)		NO	-	
Urban Renewal (2010)		NO	-	
Vegetation in Non-Rural Areas (2017)		YES	NO	-
Western Sydney Employment Area (2009)		NO	-	-
Western Sydney Parklands (2009)		NO	-	-
Deemed SEPPs				

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)	APPLICABLE TO THSC	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/CONSISTENT
SREP No. 8 (Central Coast Plateau Areas)	NO	-	-
SREP No. 9 – Extractive Industry (No. 2 – 1995)	YES	NO	-
SREP No. 16 – Walsh Bay	NO	-	-
SREP No. 20 – Hawkesbury – Nepean River (No 2 – 1997)	YES	NO	-
SREP No. 24 – Homebush Bay Area	NO	-	-
SREP No. 25 – Orchard Hills	NO	-	-
SREP No. 26 – City West	NO	-	-
SREP No. 30 – St Marys	NO	-	-
SREP No. 33 – Cooks Cove	NO	-	-
SREP (Sydney Harbour Catchment) 2005	YES	NO	-

6.0 PARLIAMENTARY COUNSEL OPINION

Council requested Parliamentary Counsel opinion on 8 October 2018.
Parliamentary Counsel gave its opinion on 29 October 2018.

1.0 OTHER RELEVANT MATTERS

There are no other relevant matters.

8.0 MAPPING

The amendment relates only to the wording of Clause 7.7. No amendments to any maps of The Hills Local Environmental Plan 2012 are required.

9.0 RECOMMENDATION

In accordance with the authorisation issued by the Department of Planning and Environment, Council has delegation to make the plan. It is recommended that the Plan be made without variation.

ATTACHMENTS

Attachment 1: Council Report and Minute 27 March 2018

[Planning Proposal 17/2018/PLP - ATTACHMENT C - Council Report](#)

Attachment 2: Council Report and Minute 28 August 2018

[Council Report and Minute 28 August 2018.pdf](#)

Attachment 3: Gateway Determination 22 May 2018

[Gateway Determination 22 May 2018.pdf](#)

Attachment 4: Parliamentary Counsel Opinion

[Final PC Opinion.pdf](#)

ORDINARY MEETING OF COUNCIL**27 MARCH, 2018**

ITEM-3	ESTABLISHMENT OF DESIGN REVIEW PANEL (FP241)
THEME:	Balanced Urban Growth.
OUTCOME:	7 Responsible planning facilitates a desirable living environment and meets growth targets.
STRATEGY:	7.2 Manage new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations.
MEETING DATE:	27 MARCH 2018 COUNCIL MEETING
GROUP:	STRATEGIC PLANNING
AUTHOR:	STRATEGIC PLANNING COORDINATOR REBECCA TEMPLEMAN
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING STEWART SEALE

EXECUTIVE SUMMARY

This report recommends that Council endorse the establishment of The Hills Design Review Panel for the Bella Vista, Kellyville and Showground Station Precincts, consistent with a draft Terms of Reference and the General Manager be authorised to appoint members to the Panel. It is further recommended that Council forward a planning proposal to the Department of Planning and Environment for Gateway Determination, to ensure development in the precincts does not require design review by two Panels.

The establishment of the Design Review Panel is a result of the finalisation of the Bella Vista, Kellyville and Showground Station Precincts in December 2017. As part of the changes to Local Environmental Plan 2012 a Panel of three (3) or more persons, approved by the NSW Government Architect, is required to review development that is higher than 21 metres or six (6) storeys. An architectural design competition is required for development higher than 66 metres or 20 storeys.

The Government Architect's Office has indicated that it will be supportive of a Design Review Panel where the members have significant experience in a relevant design field such as architecture, urban design, landscape design or heritage. These criteria together with the specified matters for consideration and operational arrangements are contained in the draft Terms of Reference.

The introduction of the new design review requirements for development in the Bella Vista, Kellyville and Showground Station Precincts overlap with the existing Design Excellence requirements in LEP 2012. This provision requires development with a height of more than 25 metres (8 storeys) to be considered by Council's Design Excellence Panel that commenced operation on 22 February 2018. The planning proposal as recommended will ensure that a building proposed in the Bella Vista, Kellyville and Showground Precincts does not trigger referral to both of the Panels.

Once the Terms of Reference are approved by the Government Architect, recruitment will commence for the Design Review Panel.

HISTORY

- 01/12/2017** State Environmental Planning Policy (Bella Vista and Kellyville Station Precincts) 2017 notified on NSW legislation website which introduced Clause 8.6 relating to Design Excellence in Bella Vista and Kellyville Station Precincts to LEP 2012.
- 15/12/2017** State Environmental Planning Policy (Showground Station Precinct) 2017 notified on NSW legislation website which introduced Clause 9.5 relating to Design Excellence in Showground Station Precinct to LEP 2012.
- 06/02/2018** Councillors briefed on the implementation of the Planned Precincts.

REPORT

The purpose of this report is to outline the requirements for the establishment and operation of the new Design Review Panel.

1. ESTABLISHING THE DESIGN REVIEW PANEL

Approval of the NSW Government Architect

Council officers have met with the NSW Government Architect's office to discuss their requirements for the Design Review Panel. They have advised their preference is for the Panel to consist of members who satisfy the following criteria:

- Significant experience in a relevant design field for example Architecture, Urban Design, Landscape Design or Heritage.
- Suitably qualified in their relevant field and either registered with their relevant professional body, or eligible for registration.
- The quorum for the Panel should comprise at least one architect, one landscape designer and one member from any of the abovementioned design fields.
- Not a Councillor or Council officer.

A draft Terms of Reference and Procedures Manual has been prepared that has regard to how Council's current Design Excellence Panel operates but includes the necessary requirements of the NSW Government Architect. This is included as Attachment 1.

Appointment of External Panel Members

Under the draft Terms of Reference individuals will be required to demonstrate that they meet the criteria established by the Government Architect as well as the following:

- A professional that can demonstrate a reasonable understanding of the existing values and desired development outcomes of The Hills Shire;
- A professional that possesses the relevant skills and experience, such as experience on other Panels, to provide independent expert input of development matters;
- An expert who does not undertake regular work in The Hills Shire;
- Professional indemnity insurance of \$5 million;
- Public liability insurance of \$10 million; and
- Certificate of currency for workers compensation insurance.

Operation of the Panel

As for Council's existing Design Excellence Panel, it is appropriate that members who have a pecuniary or non-pecuniary interest in any matter with which the Panel is concerned must disclose the nature of the interest as soon as practicable. A member who has a pecuniary interest or a significant non-pecuniary interest in a matter with which the Panel is concerned must not be present at any meeting of the Panel at which the matter is being discussed or considered. Such criteria will ensure that the Panel operates in a transparent way.

A Service Level Agreement is also proposed as part of contracts with external Panel members to ensure both parties are protected in the event of poor performance and that the expectations of Panel members are clear. In the event that an external Panel member resigns from the Panel during the initial term, it is recommended that Council grant delegation to the General Manager to appoint the next best applicant from the original evaluation as a replacement member.

Cost of Panel members

The table below suggests service fees for external members based on a review of similar Panels and discussions with the Government Architect's Office. The higher fee for the Chairperson reflects the additional duties required of the Chair.

	Half day	Full day
Panel Member	\$1,000	\$1,800
Chairperson	\$1,800	\$2,500

Table 1

Recommended service fees for Design Review Panel

Based on these fees and the requirement for three Panel members, the cost of a full day meeting will be \$6,100 and the costs of a half day meeting will be \$3,800. Council will seek Expressions of Interest for the Panel Membership for an initial 12 months and the cost of the Panel will be monitored to determine whether a Tender is required for future operation of the Panel.

Setting a fixed price as part of the recruiting process gives some certainty in regards to costs and is an approach that has been taken by neighbouring councils and the NSW Government Architect in the recruitment of members for similar Panels.

Funding of the Panel

The operation of the Panel will come at a cost to Council.

It is reasonable that the costs of the Panel meetings should be borne by the applicant via a set fee charged by Council. It is recommended that the fees be established based on the cost of the external Panel members to Council and included with the fees and charges.

The *Environmental Planning and Assessment Regulation 2000* specifies a maximum fee of \$3,000 for residential apartment development referred to the Design Review Panel for consideration and advice. The maximum fee is considered to be appropriate in this instance.

While there is some discretion in whether to charge applicants a second fee for applications that require a second meeting with Council's existing Design Excellence Panel (due to lower costs with only one external member), advice from the Government Architect and neighbouring Council's indicates that applicants who attend similar Design Review Panels are required to pay the specified fee each time they attend a Panel

meeting. Adopting this approach for the Design Review Panel will reduce the risk of the Panel meetings running at a loss.

Experience has shown that the number of items which can be heard in a half day or full day meeting is dependent on the complexity of the applications. Applications for master planned sites generally contain a larger amount of information and therefore require additional consideration time. As a result only two master plan applications are able to be considered in a full day agenda to ensure that enough time is available to give due consideration.

There are other costs associated with the operation of the Panel such as Council officers time and administration duties that need to be considered. The required duties of the Design Review Panel impose increased pressures on the typical work load and roles expected from Council staff. However, as there is a public benefit associated with the Design Review Panel, being the improved quality of buildings and public domain associated with new development, it is appropriate that some cost of the operation of the Panel be borne by the community.

Duties that are recommended to be covered by Council include the time of Council staff for administrative work in organising Panel meetings and development assessment officer time preparing briefings for the Panel.

2. RECOMMENDED AMENDMENT TO LEP 2012

Council commenced operation of its Design Excellence Panel on 22 February 2018. The establishment of this Panel commenced as part of the post exhibition consideration of the Castle Hill North Precinct Plan in 2015 and applies to all development over 25 metres (8 storeys).

The existing Panel composition (two internal and one external expert Panel member) is different to that required by the Government Architect for the new Design Review Panel however this format has benefits for Council in terms of reduced costs and allowing the external expert to develop a good understanding of the desired development outcomes for the Shire. This Panel fulfils an important role in achieving a high standard of architectural and urban design and it is proposed that it will continue to operate for applications outside of the Showground, Bella Vista and Kellyville Station Precincts.

The objectives and assessment criteria for the Design Excellence and Design Review Panels are essentially identical. Apart from the Panel membership, the main differences between the two are the increased height trigger for the Design Excellence Panel and the requirement for the NSW Government Architect to approve the Design Review Panel.

Currently, an application for a new building in Showground, Bella Vista or Kellyville Station Precincts would require assessment by both Panels. There is no discernible benefit in requiring an application to be heard by both Panels, when the assessment criteria are largely identical and therefore likely to return a similar result. Alternatively, there is a risk that both Panels could return a different recommendation which would create confusion for applicants and assessing officers.

A Planning Proposal is required to exclude the Bella Vista, Kellyville and Showground precincts from the operation of Council wide Design Excellence clause. This approach will ensure that applications are heard by only one design Panel, reducing confusion for applicants and costs for Council in convening two Panels for one application.

The suggested change to Clause 7.7 is in bold text below:

7.7 Design excellence

- 1. The objective of this clause is to deliver the highest standard of architectural and urban design.*
- 2. This clause applies to development involving the erection of a new building or external alterations to an existing building if the building has a height of 25 metres or more, **excluding land in the Bella Vista, Kellyville and Showground Station Precincts as shown on the Sydney North West Metro Map.***
- 3. Development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.*
- 4. In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:*
 - a. whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
 - b. whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*
 - c. whether the development detrimentally impacts on view corridors,*
 - d. whether the development detrimentally impacts on any land protected by solar access controls established under a development control plan,*
 - e. the requirements of any development control plan to the extent that it is relevant to the proposed development,*
 - f. how the development addresses the following matters:*
 - (i) the suitability of the land for development,*
 - (ii) existing and proposed uses and use mix,*
 - (iii) heritage issues and streetscape constraints,*
 - (iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) bulk, massing and modulation of buildings,*
 - (vi) street frontage heights,*
 - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
 - (viii) the achievement of the principles of ecologically sustainable development,*
 - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,*
 - (x) the impact on, and any proposed improvements to, the public domain,*
 - (xi) the configuration and design of public access areas, recreation areas and communal open space on the site and whether that design incorporates exemplary and innovative treatments,*
 - g. the findings of a Panel of 3 or more persons that has been convened by the consent authority for the purposes of reviewing the design excellence of the development proposal.*

CONCLUSION

The finalisation of the Bella Vista, Kellyville and Showground Station Precincts require the establishment of a Design Review Panel to provide advice on design excellence for buildings with a height over 21 metres (6 storeys).

The Panel is to consist of three members approved by the NSW Government Architect.

As applications will shortly be received for new development in the Priority Precincts it is critical that the Design Review Panel be established as soon as possible. This report recommends that Council endorse the draft Terms of Reference for the Design Review Panel and proceed to recruit Panel members subject to approval of the Terms of Reference from the NSW Government Architect.

In addition this report recommends a Planning Proposal be prepared to exclude the Station Precincts from the operation of the wider Design Excellence clause, to prevent applications being reviewed by both Panels.

IMPACTS**Financial**

Cost of operating a Panel on a half day and full day is as follows:

The tables below give an indication of the fee income and costs for payment of external members associated with a full and half day Panel meeting dependant on the number of items. The fee assumed for the tables is \$3,000, the maximum fee under the Regulations.

	Half day	Full day
2 Panel Members	\$2,000	\$3,600
Chairperson	\$1,800	\$2,500
Total	\$3,800	\$6,100

As detailed below, revenue from the Design Review Panel is dependent on the number of matters dealt with by the Panel

Income	1 Item	2 Items	3 Items	4 Items
Income from fees	\$3,000	\$6,000	\$9,000	\$12,000

As the number of items which can be heard in a half day or full day meeting is dependent on the complexity of the applications, it is difficult to estimate whether this income can make a contribution towards the staff costs that are associated with the preparation of the Panel.

No funds are allocated in the current budget for the operation of the Panel. Required funding will be reflected in a future budget review.

Strategic Plan - Hills Future

The Design Review Panel is consistent with the outcomes and strategies of the Hills Future Plan in that it seeks to ensure that new development reflects Council's values and aspirations through achieving design excellence.

RECOMMENDATION

1. Council endorse the establishment of The Hills Design Review Panel consistent with the draft Terms of Reference contained in Attachment 1 (ECM 173206905) and proceed to recruitment.
2. Council adopt a fee of \$3,000 per review for consideration of development proposals by the Design Review Panel in Bella Vista, Kellyville and Showground Station Precincts.
3. The General Manager be authorised to appoint members to the Design Review Panel.
4. A planning proposal be forwarded to the Department of Planning and Environment for a Gateway Determination to amend Local Environmental Plan 2012 to ensure that a building proposed in the Bella Vista, Kellyville and Showground Precincts does not trigger referral to the Design Excellence Panel in addition to the new Design Review Panel.

ATTACHMENTS

1. Terms of Reference for Design Review Panel (5 pages)



THE HILLS
Sydney's Garden Shire

Design Review Panel Terms of Reference

The Hills Shire Council is committed to ensuring new high density buildings are of a high quality design.

The Design Review Panel ('the Panel') is to evaluate and critique design aspects of proposed development and provide recommendations as to whether development exhibits "Design Excellence".

This panel will operate as an Independent Panel and does not operate as a SEPP 65 Advisory Panel.

1. Purpose

1.1 The role of the Design Review Panel (the Panel) is to provide independent, expert and impartial design advice on the design quality of development within the Bella Vista, Kellyville and Showground Station Precincts as specified in Clauses 8.6 and 9.5 of The Hills Local Environmental Plan 2012.

1.2 The Panel will inform assessment and support proponents and assessing officers to achieve better outcomes which reflect the desired character of The Hills Shire.

1.3 The role of the panel is advisory only. Recommendations or comments provided in response to a proposal by the Panel will inform the development assessment process, but will not bind the consent authority.

1.4 The Panel will review the following development types within the Bella Vista, Kellyville and Showground Station Precincts:

- Any development (residential, retail, seniors housing, mixed use or commercial land uses) which contains a building with a height of 21 metres (6 storeys) or higher; or
- Any development for which the applicant wishes to achieve design excellence; or
- Any strategic planning matters for which design excellence is relevant.

2. Functions of the Panel

2.1 The Panel will provide the consent authority with recommendations on the design elements of a proposed development and may include recommendations on amendments to the design of the development.

2.2 The Panel will provide advice on applications for development against:

- The Hills Local Strategy;
- The Hills Local Environmental Plan;
- The Hills Development Control Plan; and
- Any other plan, policy or guide necessary to ensure that the built form and design of the development responds to the site and locality.

These documents can be accessed via Council's website.

3. Panel Membership

3.1 The pool of Panel members must be able to demonstrate an understanding of the values and desired development outcomes of The Hills Shire. Extensive experience is required within one or more of the following disciplines:

- Architecture
- Landscape Architecture
- Urban Design
- Heritage

Members will be suitably qualified so as to be eligible for membership of their relevant professional body.

3.2 The Panel will comprise a pool of five (5) members approved by the NSW Government Architect.

3.3 A quorum comprises Three (3) members.

3.4 Two (2) alternate members may be called upon in the event that another member is unavailable or if specialist experience is required.

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Sydney's Garden Shire

Design Review Panel Terms of Reference

3.5 Panel members will be selected following an expression of interest. Should a selected Panel member chose to resign their position, Council may approach a new candidate from the list of respondents.

3.6 Panel member tenure will be for a period of two (2) years. Subject to satisfactory performance, the General Manager may (under delegation) extend the term of the agreement for up to a further one (1) year.

3.7 If the Agreement is extended or ended, Council will give at least one (1) month written notice to the Panel members of its decision to extend or end the term.

3.8 Council makes no representations, express or guarantee to the Panel members as to the volume of business that might reasonably be expected by the Panel members.

4. Panel Management

4.1 The Panel is established in accordance with the requirements of Clauses 8.6 and 9.5 of The Hills Local Environmental Plan 2012.

4.2 Council will appoint an officer to act as the Panel Coordinator. The Panel Coordinator will convene the Panel and provide administrative support. Panel meetings will be held at Council's offices at 3 Columbia Court, Baulkham Hills.

5. Role of the Chair

5.1 The Chair will be selected from among the Panel members at the commencement of each meeting.

5.2 The Chair is responsible for:

- Ensuring the orderly conduct of the meeting;
- Ensuring that adequate consideration has been given to the application of the design excellence criteria contained in Clauses 8.6 and 9.5 of The Hills Local Environmental Plan 2012;
- Endorsing meeting minutes, clarifying and summarising the Panels comments and recommendations;
- Monitoring due process; and
- Liaising with the Panel Coordinator and other Council staff about the operation of the Panel, as required.

6. Meetings and advice

6.1 The panel will be convened one day per month, with up to 4 development review sessions per day. The number of applications heard will be dependent on the nature and complexity of the applications.

6.2 Each meeting will comprise

- Site visit
- Briefing to Panel members by Council officers
- Presentation from proponent
- Panel questions and review
- Chair summary of advice
- Panel debrief and review of draft minutes

6.3 Final advice and recommendations, as endorsed by the Chair, will be recorded by the Panel Coordinator and will be distributed by Council to the assessing officer and proponent team within 14 days of the review.

6.4 Council makes no representation, express or guarantee to the Panel members as to the volume of business that might reasonably be expected by Panel members.

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Design Review Panel Terms of Reference

7. Meeting attendance

7.1 The proponents architect will present to the Panel and must attend all panel sessions relevant to the proponents application. Up to five key members of the proponent team (including the lead architect) are invited to attend the meeting.

7.2 Councillors and Council officers may attend the meeting to observe the proceedings.

8. Dealing with interests

8.1 All Panel members must adhere to Council's Public Interest Disclosures Policy. Any interests must be declared.

9. Confidentiality

9.1 All information relating to any proposal undertaking design review prior to lodgement of a Development Application is communicated to Panel members and review attendees in the strictest confidence. Upon lodgement of a Development Application, the final recommendations and advice which have been informed by the panel may be made available during any notification period.

10. Panel member remuneration

10.1 Panel member remuneration will be on a fixed fee basis, determined by the number of review sessions they are required to attend. The following fees exclude GST and include preparation time and travel costs:

	Half day	Full day
Panel Member	\$1,000	\$1,800
Chairperson	\$1,800	\$2,500

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Design Review Panel Procedures Manual

Meeting Procedure

1. A meeting schedule will be set at the beginning of the calendar year for Panel meetings. The Panel will meet on average once per calendar month.
2. Council may cancel a meeting before 5 business days prior to the scheduled meeting and notify Panel Members in the event that no matters are scheduled for that meeting.
3. Council may call an extra meeting with 14 days notice in the event that matters cannot be scheduled into the scheduled agenda.
4. Meeting agendas will be prepared by Council officers and provided prior to circulation to Panel Members.
5. On the date of the meeting a site visit will be conducted with the Panel Members and Council officers.
6. Prior to the Panel meeting, Panel members will be provided with time in closed session to discuss the agenda.
7. The Panel meeting will be held at Council's Administration Office and will not be open to the public.
8. Applicants will be invited to attend the Panel meeting and provided an opportunity to present their development concept (maximum 30 minutes) and to respond to questions from the Panel members.
9. Councillors and Council officers may attend the meeting to observe the proceedings.
10. The Chairperson will prepare draft meeting minutes on the outcome of the Panel Meeting. The report will detail the Panel's assessment of the design merits of the proposal and outline any further recommended design amendments or proposed conditions of development consent that are relevant to the achievement of design excellence.
11. The draft minutes will be reviewed and approved by the Panel members prior to Council officers receiving the minutes. The minutes will consist of the following sections:
 - A statement of status and purpose of the meeting;
 - Attendance;
 - Apologies;
 - Declarations of Interest; and
 - A record of advice and recommendations made by the Panel.
12. The Panel's minutes and recommendation must be delivered to the relevant Development Assessment Officer and the applicant within two weeks of the meeting.

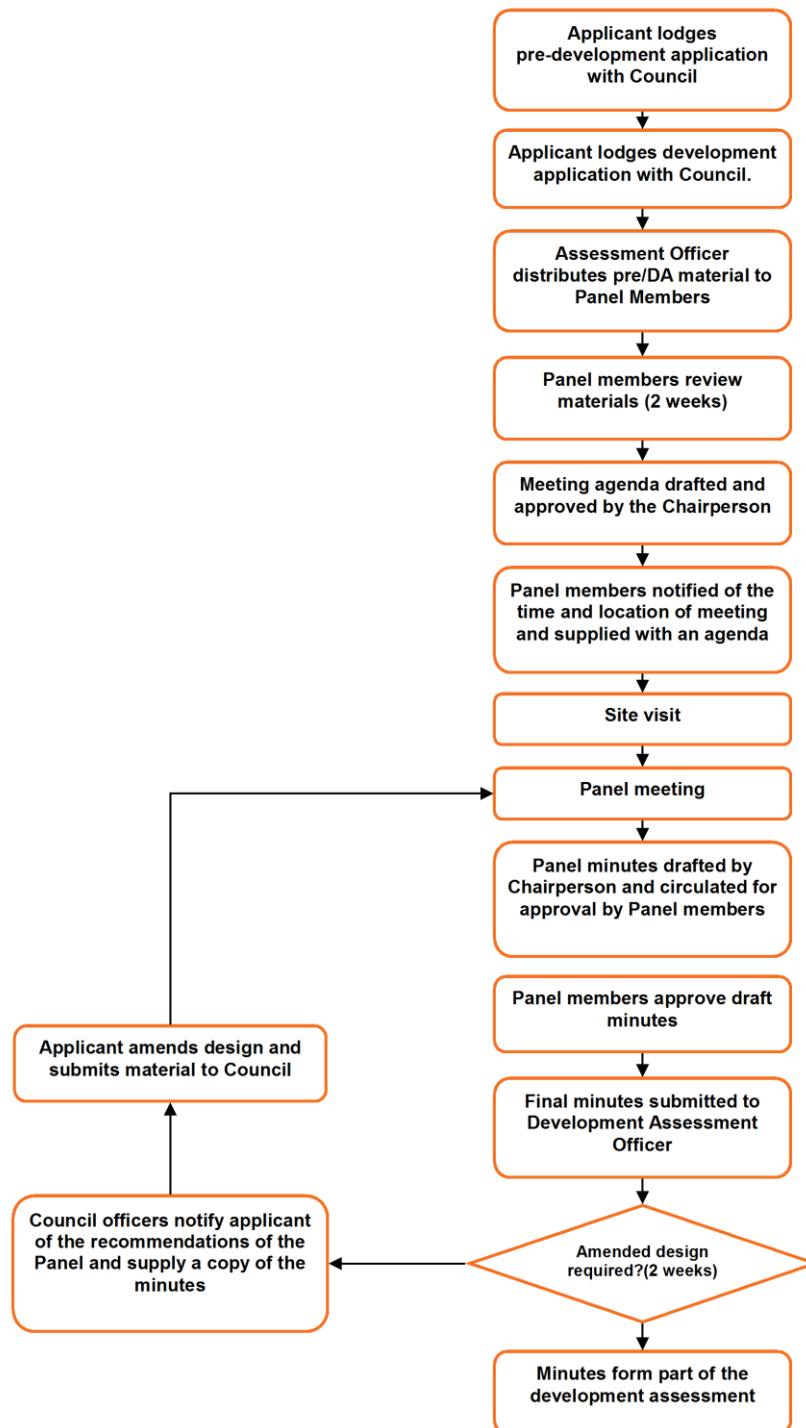
Note: Council reserves the right to change the procedures manual and terms of reference as required, subject to the written agreement of the Panel Members.

MARCH 2018



THE HILLS
Sydney's Garden Shire

Design Review Panel Meeting Process



MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 27 March 2018

ITEM-10	RESIGNATIONS AND APPOINTMENTS COMMITTEES - MARCH 2018	355
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128 RESOLUTION

1. **Heather Boyd** and **Vicky Qi** are appointed to the Bushland Conservation Committee as per Section 355 of the Local Government Act until the local government elections in September 2020.
2. **Marilyn Stoneham** is appointed to the Heritage Park Advisory Committee as per Section 355 of the Local Government Act until the local government elections in September 2020.
3. **Robert Cochrane** and **Leanne Boyce** are appointed to the Castle Hill Showground Advisory Committee as per Section 355 of the Local Government Act until the local government elections in September 2020.

ITEM-3	ESTABLISHMENT OF DESIGN REVIEW PANEL (FP241)
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A MOTION WAS MOVED BY COUNCILLOR HASELDEN AND SECONDED BY COUNCILLOR PRESTON THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED.

129 RESOLUTION

1. Council endorse the establishment of The Hills Design Review Panel consistent with the draft Terms of Reference contained in Attachment 1 (ECM 173206905) and proceed to recruitment.
2. Council adopt a fee of \$3,000 per review for consideration of development proposals by the Design Review Panel in Bella Vista, Kellyville and Showground Station Precincts.
3. The General Manager be authorised to appoint members to the Design Review Panel.
4. A planning proposal be forwarded to the Department of Planning and Environment for a Gateway Determination to amend Local Environmental Plan 2012 to ensure that a building proposed in the Bella Vista, Kellyville and Showground Precincts does not trigger referral to the Design Excellence Panel in addition to the new Design Review Panel.

ITEM-11 INFORMATION AND STATUS REPORTS

A MOTION WAS MOVED BY COUNCILLOR HAY OAM AND SECONDED BY COUNCILLOR HASELDEN THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED.

ITEM

**POST EXHIBITION - PLANNING PROPOSAL
TO AMEND THE HILLS LOCAL
ENVIRONMENTAL PLAN 2012 TO EXCLUDE
THE BELLA VISTA, KELLYVILLE AND
SHOWGROUND STATION PRECINCTS FROM
THE OPERATION OF CLAUSE 7.7 FOR
DESIGN EXCELLENCE**

THEME:	Shaping Growth.
OUTCOME:	5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity.
STRATEGY:	5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.
MEETING DATE:	28 AUGUST 2018 COUNCIL MEETING
GROUP:	SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS
AUTHOR:	STRATEGIC PLANNING COORDINATOR REBECCA TEMPLEMAN
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING STEWART SEALE

EXECUTIVE SUMMARY

This report recommends that a Council initiated planning proposal seeking to exclude the Bella Vista, Kellyville and Showground Station Precincts from the operation of Clause 7.7 of The Hills Local Environmental Plan 2012 (LEP) proceed to finalisation.

The planning proposal amendments will ensure that development proposed within the Station Precincts will not trigger referral to both Council's Design Excellence Panel and the Independent Design Review Panel. There are no apparent benefits for development in the precincts to be reviewed by both Panels against the same assessment criteria.

On 23 May 2018, Council received Gateway Determination from The Department of Planning and Environment for a planning proposal that will amend Clause 7.7 Design Excellence of The Hills Local Environmental Plan 2012. Delegation for making of the amendment has been issued to Council.

The planning proposal was publically exhibited from Tuesday 10 July 2018 to Friday 27 July 2018. No submissions were received during the notification period.

APPLICANT

Council initiated.

BACKGROUND

At its meeting of 27 March 2018 Council resolved to forward the subject planning proposal to the Department of Planning and Environment for a Gateway Determination. The Department issued Gateway Determination on 23 May 2018 delegating the making of the amendment to Clause 7.7 to Council.

REPORT

The purpose of this report is to consider the outcomes of the public exhibition for the planning proposal (17/2018/PLP) seeking amendments to LEP 2012 to exclude the Bella Vista, Kellyville and Showground Station Precincts from the operation of Clause 7.7 of LEP 2012.

1. SUMMARY OF PROPOSAL

Council commenced operation of its Design Excellence Panel on 22 February 2018. The establishment of this Panel commenced as part of the post exhibition consideration of the Castle Hill North Precinct Plan in 2015 and applies to all development over 25 metres (8 storeys).

The establishment of the Design Review Panel is a result of the finalisation of the Bella Vista, Kellyville and Showground Station Precincts in December 2017. As part of the changes to LEP 2012 a Panel of three (3) or more persons, approved by the NSW Government Architect, is required to review development that is higher than 21 metres or six (6) storeys in the Station Precincts. An architectural design competition is required for development higher than 66 metres or 20 storeys.

The objectives and assessment criteria for the Design Excellence and Design Review Panels are essentially identical. Apart from the Panel membership, the main differences between the two are the increased height trigger for the Design Excellence Panel and the requirement for the NSW Government Architect to approve the Design Review Panel.

Currently, an application for a new building in Showground, Bella Vista or Kellyville Station Precincts would require assessment by both Panels. There is no discernible benefit in requiring an application to be heard by both Panels, when the assessment criteria are largely identical and therefore likely to return a similar result.

The purpose of the planning proposal is to exclude the Bella Vista, Kellyville and Showground Precincts from the operation of Council wide Design Excellence clause. This approach will ensure that applications are heard by only one design Panel, reducing confusion for applicants and costs for Council in convening two Panels for one application.

The suggested change to Clause 7.7 is in bold text below:

7.7 Design excellence

- 1. The objective of this clause is to deliver the highest standard of architectural and urban design.*
- 2. This clause applies to development involving the erection of a new building or external alterations to an existing building if the building has a height of 25 metres or more, **excluding land in the Bella Vista, Kellyville and Showground Station Precincts as shown on the Sydney North West Metro Map.***
- 3. Development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.*

4. *In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:*

- a. *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- b. *whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*
- c. *whether the development detrimentally impacts on view corridors,*
- d. *whether the development detrimentally impacts on any land protected by solar access controls established under a development control plan,*
- e. *the requirements of any development control plan to the extent that it is relevant to the proposed development,*
- f. *how the development addresses the following matters:*
 - (i) *the suitability of the land for development,*
 - (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and streetscape constraints,*
 - (iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) *bulk, massing and modulation of buildings,*
 - (vi) *street frontage heights,*
 - (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
 - (viii) *the achievement of the principles of ecologically sustainable development,*
 - (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*
 - (x) *the impact on, and any proposed improvements to, the public domain,*
 - (xi) *the configuration and design of public access areas, recreation areas and communal open space on the site and whether that design incorporates exemplary and innovative treatments,*
- g. *the findings of a Panel of 3 or more persons that has been convened by the consent authority for the purposes of reviewing the design excellence of the development proposal.*

2. GATEWAY DETERMINATION

On 23 May 2018 a Gateway Determination was issued by the Department of Planning and Environment authorising Council to progress the proposal to public exhibition subject to the following conditions:

- 1. Community consultation be undertaken for a period of 14 days; and
- 2. Consultation with the NSW Government Architect

Consultation was undertaken in accordance with the above conditions.

Council has been issued with delegation to finalise the planning proposal subject to satisfaction of the conditions in the Gateway Determination.

3. EXHIBITION DETAILS

The proposal was publically exhibited from Tuesday 10 July 2018 to Friday 27 July 2018. The documentation was made available for viewing at Castle Hill Library, Vinegar Hill Memorial Library (Rouse Hill Town Centre), Council's Customer Service Centre and on Council's

website. The public exhibition was advertised in the Hills News and The Rouse Hill Courier. During this time, consultation with the NSW Government Architect was also undertaken.

No public submissions or submissions from the NSW Government Architect were received during the exhibition period.

CONCLUSION

The planning proposal is considered to be reasonable in order to avoid confusion and delays during the assessment process for applications in the Bella Vista, Kellyville and Showground Station Precincts whilst maintaining a commitment to Design Excellence across The Hills Shire as a whole.

In accordance with the Gateway Determination, the planning proposal and supporting material were publicly exhibited and consultation with the NSW Government Architect was undertaken. No submissions were received during the exhibition period.

It is recommended that Council proceed to finalisation of the planning proposal to remove the Bella Vista, Kellyville and Showground Station Precincts from the operation of Clause 7.7 of LEP 2012.

IMPACTS

Financial

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

Strategic Plan - Hills Future

The planning proposal is consistent with the Hills Future Community Strategic Plan as it ensures that the Shires built environment is well managed through urban planning that reflects community aspiration. The planning proposal ensures that Design Excellence is a key consideration for new development across the whole of The Hills Shire.

RECOMMENDATION

The planning proposal to amend The Hills Local Environmental Plan 2012 to exclude the Bella Vista, Kellyville and Showground Station Precincts from the operation of clause 7.7 of The Hills Local Environmental Plan 2012 proceed to finalisation.

ATTACHMENTS

Nil.

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 28 August 2018

3. Upon Council receiving the Auditor's written Report:-

- (a) The Financial Statements (Attachment 1) be advertised and forwarded to the NSW Office of Local Government;
- (b) Following advertising, be presented to the next available Meeting of Council.

4. The Capital Improvement Budget Variations, Carryover Funds and Proposed Transfers to Reserves as detailed in Attachment 5 Pages 1 to 17 be adopted.

5. Council authorise payment to the NSW Audit Office for the FY1718 Audit as per the Audit Client Service Plan for \$115,200.

8.54pm *Councillor Jethi left the meeting during Item 2 and returned at 8.57pm during Item 7.*

ITEM-2

POST EXHIBITION - PLANNING PROPOSAL TO AMEND THE HILLS LOCAL ENVIRONMENTAL PLAN 2012 TO EXCLUDE THE BELLA VISTA, KELLYVILLE AND SHOWGROUND STATION PRECINCTS FROM THE OPERATION OF CLAUSE 7.7 FOR DESIGN EXCELLENCE

A MOTION WAS MOVED BY COUNCILLOR HASELDEN AND SECONDED BY COUNCILLOR DR GANGEMI THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED.

492 RESOLUTION

The planning proposal to amend The Hills Local Environmental Plan 2012 to exclude the Bella Vista, Kellyville and Showground Station Precincts from the operation of clause 7.7 of The Hills Local Environmental Plan 2012 proceed to finalisation.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Mayor Dr M R Byrne
Clr R A Preston
Clr Dr P J Gangemi
Clr B L Collins OAM
Clr J Jackson
Clr M G Thomas
Clr E M Russo
Clr F P De Masi
Clr A J Hay OAM
Clr R M Tracey
Clr A N Haselden
Clr S P Uno

VOTING AGAINST THE MOTION

None

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 28 August 2018

ABSENT FROM THE ROOM

Clr R Jethi

CALL OF THE AGENDA

A MOTION WAS MOVED BY COUNCILLOR UNO AND SECONDED BY COUNCILLOR RUSSO THAT Items 6, 8, 13, 14, 15 and 17 be moved by exception and the recommendations contained therein be adopted.

THE MOTION WAS PUT AND CARRIED.

493 RESOLUTION

Items 6, 8, 13, 14, 15 and 17 be moved by exception and the recommendations contained therein be adopted.

ITEM-6

**POST EXHIBITION - REVIEW OF LOCAL APPROVALS
POLICY - SKIP BINS, ON-SITE SEWAGE MANAGEMENT,
DOMESTIC SOLID FUEL HEATERS AND MOBILE FOOD
VANS**

494 RESOLUTION

1. The Local Approvals Policy 2018 (excluding any exemptions) be adopted.
2. The exemptions in the Local Approvals Policy 2018 be adopted subject to receipt of consent from the Chief Executive of the Office of Local Government.

ITEM-8

**PROPERTY DEALINGS RELATING TO DEVELOPMENT
MATTERS**

495 RESOLUTION

1. Council consent to the cancellation of temporary 3.0 metre wide easement to drain water from the title of Lot 2 DP 286745 (Stringer Road, North Kellyville), and the associated request document/ dealing be authorised for execution under Council seal.
2. Council consent to the release of a 3.048 metre wide easement for the drainage of water from the title of Lot 18 DP 838563 (344 Annangrove Road, Rouse Hill), and the associated Section 88B instrument be authorised for execution under Council seal.

ITEM-13

STRATEGIC PLANNING PROCESS

496 RESOLUTION

The Strategic Planning Process and timetable outlined in this report be adopted.



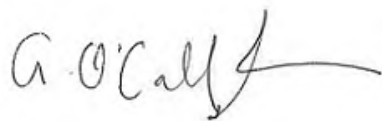
PARLIAMENTARY COUNSEL

Opinion

Environmental Planning and Assessment Act 1979
Proposed The Hills Local Environmental Plan 2012 (Amendment No 55)

Your ref: PP_2018_THILL_003_00
Our ref: e2018-262.d03 FG

In my opinion the attached draft environmental planning instrument may legally be made.



(A O'CALLAGHAN)
Parliamentary Counsel
29 October 2018



New South Wales

The Hills Local Environmental Plan 2012 (Amendment No 55)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

.....

The Hills Local Environmental Plan 2012 (Amendment No 55)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *The Hills Local Environmental Plan 2012 (Amendment No 55)*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

This Plan applies to land in the Bella Vista Station Precinct, Kellyville Station Precinct and Showground Station Precinct within the meaning of *The Hills Local Environmental Plan 2012*.

4 Amendment of The Hills Local Environmental Plan 2012

Clause 7.7 Design excellence

Insert after clause 7.7 (4):

- (5) This clause does not apply to development on land within the Bella Vista Station Precinct, Kellyville Station Precinct or Showground Station Precinct.

Gateway Determination

Planning proposal (Department Ref: PP_2018_THILL_003_00): to amend The Hills Local Environmental Plan 2012 Clause 7.7 Design excellence to exclude the Bella Vista, Kellyville and Showground Station Precincts.

I, the Director, Regions, Sydney Region West at the Department of Planning and Environment, as delegate of the Greater Sydney Commission, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to The Hills Local Environmental Plan (LEP) 2012 to amend Clause 7.7 Design excellence to exclude the Bella Vista, Kellyville and Showground Station Precincts should proceed subject to the following conditions:

1. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016) and must be made publicly available for a minimum of **14 days**; and
 - (b) the planning proposal 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 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
2. Consultation is required with the NSW Government Architect under section 3.34(2)(d) of the Act. The NSW Government Architect is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the 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).
4. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - a. the planning proposal authority has satisfied all the conditions of the Gateway determination; and
 - b. there are no outstanding written objections from public authorities.

5. The time frame for completing the LEP is to be **6 months** following the date of the Gateway determination.

Dated 22nd day of May 2018.



Ann-Maree Carruthers
Director, Regions
Sydney Region West
Planning Services
Department of Planning and Environment

Delegate of the Greater Sydney Commission