



THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL
3 Columbia Court, Baulkham Hills NSW 2153
PO Box 7064, Baulkham Hills BC 1755
ABN 25 034 494 656 | DX 9966 Norwest

24 April 2018

Ms Ann-Maree Carruthers
Director, Sydney Region West
Planning Services
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Our Ref 17/2018/PLP

Dear Ms Carruthers,

PLANNING PROPOSAL SECTION 3.34 NOTIFICATION

**The Hills Local Environmental Plan 2012 (Amendment No. #) – PROPOSED AMENDEMENTS
RELATING TO THE OPERATION OF CLAUSE 7.7 DESIGN EXCELLENCE**

Pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), it is advised that Council has resolved to prepare a planning proposal for the above amendment.

The planning proposal seeks to remove duplication in controls by excluding the Bella Vista, Kellyville and Showground Station Precincts from the operation of Clause 7.7 Design Excellence.

Please find enclosed the information required in accordance with the guidelines 'A guide to preparing planning proposals' issued under Section 3.33(3) of the EP&A Act. The planning proposal and supporting materials is enclosed with this letter for your consideration.

Following receipt by Council of the Department's written advice, Council will proceed with the planning proposal. Any future correspondence in relation to this matter should quote reference number 17/2018/PLP. Should you require further information please contact Rebecca Templeman, Strategic Planning Coordinator on 9843 0567.

Yours faithfully

Stewart Seale
MANAGER FORWARD PLANING

PLANNING PROPOSAL

LOCAL GOVERNMENT AREA: The Hills Shire Council

NAME OF PLANNING PROPOSAL: Proposed The Hills Local Environmental Plan 2012 (Amendment No (#)) – Proposed amendments to Clause 7.7 Design Excellence to exclude land in the Bella Vista, Kellyville and Showground Station precincts from the operation of the clause.

ADDRESS OF LAND: The Hills Shire Council Local Government Area (Excluding Growth Centres Precincts)

SUPPORTING MATERIAL:

Attachment A	Assessment against State Environment Planning Policies
Attachment B	Assessment against Section 9.1 Local Planning Directions.
Attachment C	Council Report and Resolution 27 March 2018

BACKGROUND:

The finalisation of the Bella Vista, Kellyville and Showground Station Precincts in December 2017 resulted in a requirement at Clauses 8.6 and 9.5 of the Hills LEP for the establishment of a design review panel to give advice in relation to design excellence in the Station Precincts. The design review panel is to consist of minimum 3 members appointed by the NSW Government Architect.

The inclusion of this requirement was, in part, at the request of Council who were at the time finalising amendments to Clause 7.7 to establish a Design Excellence Panel consisting of a minimum 3 members appointed by Council. However, where Council's intent was for the Design Excellence Panel to consider all applications for buildings with a height of 25 metres or more in the station precincts, the final clauses required the establishment of a separate Design Review Panel relating to building with a height of 21 metres or more.

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, applications in the station precincts for buildings with a height of 25 metres or more will trigger referral to both Panels.

Council resolved at its Ordinary Meeting of 27 March 2018 that:

"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."

PART 1 OBJECTIVES OR INTENDED OUTCOME

The objective of the planning proposal is to prevent duplication in the application of design excellence controls in the Bella Vista, Kellyville and Showground Station Precincts.

PART 2 EXPLANATION OF THE PROVISIONS

The proposed outcomes will be achieved by:

- Excluding the Bella Vista, Kellyville and Showground Station precincts from the operation of Clause 7.7 by amending the wording of Clause 7.7. Proposed changes to the clause are shown in bold font.

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.

PART 3 JUSTIFICATION

SECTION A - NEED FOR THE PLANNING PROPOSAL

1. *Is the planning proposal a result of any strategic study or report?*

No, the planning proposal is not a result of any strategic study or report.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

Yes, the planning proposal is considered to be the best option in this instance. Exclusion of the Station precincts from the operation of Clause 7.7 is the most straightforward way to reduce duplication of controls without compromising on the intent of the relevant design excellence clauses.

SECTION B - RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Yes, a discussion of consistency is provided below.

- **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, 11 and 12.

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.

4. *Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?*

Yes, a discussion of consistency is provided below.

- **The Hills Future Community Strategic Plan**

The Hills Future Community Strategic Direction 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 balanced urban 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 application.

- 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.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. An assessment of the planning proposal against applicable State Environmental Planning Policies is provided in Attachment A.

The proposal is consistent with the aims and objectives of State Environmental Planning Policy (SEPP) No.65. The Design Excellence Panel and Design Review Panel both give consideration to design excellence including consideration of the requirements of SEPP 65. The subject proposal will continue to ensure that due consideration is given to design excellence including the requirements of the SEPP.

6. Is the planning proposal consistent with applicable Ministerial Directions (s. 9.1 directions)?

The proposal is consistent with Direction 5.9 – North West Rail Link Corridor Strategy. Each of the station precincts will retain a requirement for design excellence to be considered by a Design Review Panel. Removing them from the operation of the Design Excellence panel will not impact on responsible management of growth around the station precincts and will not detract from a desire to achieve design excellence in the precincts.

SECTION C - ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No, the planning proposal relates to procedural matters and does not directly create any adverse impacts on critical habitat or threatened species, populations or economical communities.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The proposal is not considered likely to have any other environmental impacts.

9. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal relates to procedural matters and does not have any direct adverse social or economic impact.

A positive economic impact of the proposal is that it will reduce costs for applicants by eliminating the requirement for applications in the station precincts to attend two design excellence panels.

SECTION D - STATE AND COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

The planning proposal does not create any additional demand for public infrastructure.

11. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

The NSW Government Architect has a role in approving members to the Design Review Panel for the station precincts required under clauses 8.6 and 9.5. Whilst the proposal does not impact on the on the requirement for or operation of the Design Review Panel, the NSW Government Architect may be consulted in regards to removing the precincts from the operation of Clause 7.7 Design Excellence.

PART 4 MAPPING

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

PART 5 COMMUNITY CONSULTATION

The planning proposal will be advertised in local newspapers and on display at Council's administration building and Castle Hill Dural and Vinegar Hill Libraries. The planning proposal will also be made available on Council's website.

PART 6 PROJECT TIMELINE

STAGE	DATE
Commencement Date (Gateway Determination)	May 2018
Commencement of public exhibition period (14 days)	June 2018
Completion of public exhibition period	June 2018
Timeframe for consideration of submissions	June 2018
Timeframe for consideration of proposal post exhibition	June 2018
Report to Council on submissions	July 2018
Planning Proposal to PCO for opinion	July 2018
Date Council will make the plan (if delegated)	August 2018
Date Council will forward to department for notification (if delegated)	August 2018

ATTACHMENT A: 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	YES	YES Refer Part B, Section C
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)				
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				
SREP No. 8 (Central Coast Plateau Areas)		NO		

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)	APPLICABLE TO THSC	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
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	

ATTACHMENT B: ASSESSMENT AGAINST SECTION 9.1 MINISTERIAL DIRECTIONS

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
1. Employment and Resources				
1.1	Business and Industrial Zones	YES	NO	
1.2	Rural Zones	YES	NO	
1.3	Mining, Petroleum Production and Extractive Industries	YES	NO	
1.4	Oyster Aquaculture	YES	NO	
1.5	Rural Lands	NO	-	-
2. Environment and Heritage				
2.1	Environment Protection Zone	YES	NO	
2.2	Coastal Protection	NO	-	-
2.3	Heritage Conservation	YES	NO	
2.4	Recreation Vehicle Area	YES	NO	
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	NO	-	-
3. Housing, Infrastructure and Urban Development				
3.1	Residential Zones	YES	NO	
3.2	Caravan Parks and Manufactured Home Estates	YES	NO	
3.3	Home Occupations	YES	NO	
3.4	Integrating Land Use and Transport	YES	NO	
3.5	Development Near Licensed Aerodomes	YES	NO	
4. Hazard and Risk				
4.1	Acid Sulfate Soils	YES	NO	
4.2	Mine Subsidence and Unstable Land	YES	NO	
4.3	Flood Prone Land	YES	NO	
4.4	Planning for Bushfire Protection	YES	NO	
5. Regional Planning				
5.1	Implementation of Regional Strategies	NO	-	-
5.2	Sydney Drinking Water Catchment	NO	-	-
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	NO	-	-
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	NO	-	-
5.8	Second Sydney Airport: Badgerys Creek	NO	-	-
5.9	North West Rail Link Corridor Strategy	YES	YES	YES Refer Part B Section C
5.10	Implementation of Regional Plans	YES	NO	

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
6. Local Plan Making				
6.1	Approval and Referral Requirements	YES	NO	
6.2	Reserving Land for Public Purposes	YES	NO	
6.3	Site Specific Provisions	YES	NO	
7. Metropolitan Planning				
7.1	Implementation of the Metropolitan Plan for Sydney 2036	YES	NO (Refer to comments on Greater Sydney Region Plan)	
7.2	Implementation of Greater Macarthur Land Release Investigation	NO	-	-
7.3	Parramatta Road Corridor Urban Transformation Strategy	NO	-	-
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	YES	NO	
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	-	-
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	-	-
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	NO	-	-