

The Hills LEP 2012 - Amendment to Prohibit Rural Workers Dwellings

Proposal Title : **The Hills LEP 2012 - Amendment to Prohibit Rural Workers Dwellings**

Proposal Summary : **This planning proposal seeks to prohibit rural workers dwellings as a permissible land use in all rural zones across the Shire.**

Council have advised that in recent times there has been limited interest in rural workers dwellings within the Hills Local Government Area. This is generally because of the proximity of the Shire's rural lands to the existing urban area, and development control plan requirements relating to the provision of financial evidence and locational justification for approval of a rural workers dwelling.

Additionally, the introduction of secondary dwellings in the rural areas as part of Local Environmental Plan 2012 provides opportunities for all landowners in rural areas to construct an additional dwelling without the required justification relating to rural workers dwellings.

Council therefore now considered it appropriate to prohibit this land use, to facilitate the sustainable management of the Shire's rural lands, and to ensure outcomes are consistent with State strategic policy advice on rural workers dwellings.

PP Number : **PP_2015_THILL_008_00**

Dop File No : **15/13044**

Proposal Details

Date Planning
Proposal Received : **26-Aug-2015**

LGA covered : **The Hills Shire**

Region : **Metro(Parra)**

RPA : **The Hills Shire Council**

State Electorate : **BAULKHAM HILLS**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Policy**

Location Details

Street : **Whole of LGA**

Suburb :

City :

Postcode :

Land Parcel : **All Rural Zones - (RU1, RU2, RU6)**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	N/A
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : **Council advise that the original intent of the provisions permitting rural workers dwellings was to allow a small-scale accommodation option for rural workers in isolated areas to prevent them from having to travel long distances to access their employment, and to ensure that the worker is within close proximity to the agricultural activity.**

The NSW Department of Primary Industries provide strategic policy guidance on rural workers dwellings and broadly advise these are appropriate in isolated locations more than 200km from major population centres. In general, rural workers dwellings are considered warranted when the scale and nature of the farm necessitates on site workers or managers to meet animal welfare requirements, such as large scale intensive livestock enterprises.

Existing rural workers dwellings in the Shire have been approved subject to conditions relating to occupation only by a person engaged in agricultural activity on that land. In recent times however, there has been limited interest in rural workers dwellings in this Shire. This is generally because of the increasing proximity of the Shire's rural lands to the urban area and the identified DCP requirements relating to the financial evidence and locational justification.

The introduction of secondary dwellings in the rural areas as part of Local Environmental Plan 2012 provides opportunities for all landowners in rural areas to construct an additional dwelling without the required justification relating to rural workers dwellings. Secondary dwellings also increase the amount of small scale rental accommodation available in rural areas therefore reducing opportunities for the justification of rural workers dwellings based on insufficient proximity to rental options. Since being implemented in October 2012, consent for over 110 secondary dwellings in the rural areas have been approved by Council.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The objective of the planning proposal is to enable Council to effectively manage rural lands and ensure development outcomes are consistent with State strategic policy advice on rural workers dwellings.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The proposed outcomes will be achieved by removing rural workers dwellings as a permissible land use with consent in the following land use zones under The Hills Local Environmental Plan 2012:**

- RU1 - Primary Production
- RU2 - Rural Landscape
- RU6 - Transition

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.2 Rural Zones

3.3 Home Occupations

4.1 Acid Sulfate Soils

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

7.1 Implementation of A Plan for Growing Sydney

* May need the Director General's agreement

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 30—Intensive Agriculture

SEPP No 62—Sustainable Aquaculture

e) List any other matters that need to be considered :

Council advise that "whilst the planning proposal will prohibit rural workers dwellings, it will not reduce living opportunities for rural workers given secondary dwellings will continue to provide an alternative for landowners that wish to provide residential accommodation for workers on their land. In addition the proposal will not impact on the operation of agriculture or any other rural economic activities" .

Council also advise that "Should they continue to operate within the conditions of their approval, existing rural workers dwellings will not be affected".

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

S117 DIRECTIONS

1.2 Rural Zones

The planning proposal does not rezone the land from a rural zone, nor does it increase the density of land within a rural zone therefore the proposal is consistent with this direction.

3.3 Home Occupations

The planning proposal does not change provisions related to the carrying out of home occupations in dwelling houses therefore the proposal is consistent with this direction.

4.1 Acid Sulfate Soils

The planning proposal applies to land containing acid sulfate soils, however as it prohibits rural workers dwellings and does not facilitate the intensification of development on rural land it is considered to be consistent with this direction.

4.4 Planning for Bushfire Protection

The proposal applies to bushfire prone land. Although the proposal is not inconsistent with the objectives of the Direction, and it will not facilitate the intensification of development it is still necessary to consult with the NSW Rural Fire Service as required by the Direction for any planning proposal affecting bush fire prone land.

6.1 Approval and Referral Requirements

This proposal does not include any additional approval or referral requirements therefore the proposal is consistent with this direction.

7.1 Implementation of a Plan for Growing Sydney

A Plan for Growing Sydney does not make any specific statement regarding rural workers dwellings therefore the proposal is considered to not be inconsistent with this direction.

SEPPS

SEPP 30 - Intensive Agriculture

The planning proposal will not impact on the viability or operation of intensive agriculture therefore the proposal is considered to not be inconsistent with SEPP.

SEPP 62 - Sustainable Aquaculture

The planning proposal will not impact on the viability, operation or sustainability of aquaculture development therefore the proposal is considered to not be inconsistent with SEPP.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment :

As the Planning Proposal involves a change to the written instrument only, no changes to existing maps are proposed. Council have advised that this planning proposal does not require the preparation of any maps.

Mapping is not required.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council intend that the planning proposal will be advertised in local newspapers and on display at Council's administration building and both Rouse Hill and Dural Libraries. The planning proposal will also be made available on Council's website.

It is proposed that the planning proposal be exhibited for a minimum of 28 days.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **October 2015**

Comments in relation to Principal LEP :

The Hills Local Environmental Plan came into effect in October 2012.

Assessment Criteria

Need for planning proposal :

Under The Hills Local Environmental Plan 2012 rural workers dwellings are a type of residential accommodation and are defined as 'a building or place that is additional to a dwelling house on the same lot and that is used predominantly as a place of residence by persons employed, whether on a long-term or short-term basis, for the purpose of agriculture or a rural industry on that land.' This dwelling type is currently permissible with consent in all the rural zones across the Shire (RU1 - Primary Production, RU2 - Rural Landscape and RU6 - Transition) and development controls require that applicants demonstrate a justified need for an on-site rural workers dwelling in relation to the nature of the agricultural activity or distance of the site from appropriate rental accommodation. In addition, applicants must demonstrate that the agricultural activity on the site generates enough income to support additional employees, and cannot operate without that employees labour.

Consistency with strategic planning framework :

Council advise that the planning proposal has arisen from a strategic review of the Shire's rural development controls. The proposal is also consistent with NSW Department of Primary Industries strategic policy guidance on rural workers dwellings. Given the existence of a policy on rural workers dwellings it would be appropriate to refer the planning proposal to the Department of Primary Industries for consultation.

Environmental social economic impacts :

The planning proposal has arisen from a strategic review of the Shire's rural development controls, as described in the Minutes of the Ordinary Meeting of The Hills Shire Council of 23 June 2015.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2) (d) :	NSW Department of Primary Industries - Agriculture NSW Rural Fire Service		

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Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **Council advise that the introduction of secondary dwellings in the rural areas as part of Local Environmental Plan 2012 provides opportunities for all landowners in rural areas to construct an additional dwelling without the required justification relating to rural workers dwellings. It is therefore proposed that the controls relating to rural workers dwellings be deleted from the Development Control Plan and a planning proposal to prohibit rural workers dwellings under the Local Environmental Plan be progressed. Should an existing rural workers dwelling cease to be occupied for its approved purpose a landowner may seek approval for its use as a secondary dwelling. Such an approach has been implemented in other Council areas, most recent being Lismore City Council.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Tag D - Letter to DP&E requesting a gateway determination 24_August_2015.pdf	Proposal Covering Letter	Yes
Tag E - Planning Proposal The Hills.pdf	Proposal	Yes
Tag F - Council Report.pdf	Proposal	Yes
Tag G - Council Resolution 23_June_2015.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.2 Rural Zones
3.3 Home Occupations
4.1 Acid Sulfate Soils
4.4 Planning for Bushfire Protection
6.1 Approval and Referral Requirements
7.1 Implementation of A Plan for Growing Sydney**

Additional Information : **DELEGATION**

Delegation of Gateway Determination

This proposal is for matters of relatively minor significance and there is not any inconsistency with State policy therefore it is recommended that Council be given delegation to make the plan.

GATEWAY DETERMINATION AND CONDITIONS

It is recommended that the proposal proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act as follows:

a) the planning proposal must be made publicly available for a minimum of 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 5.5.2 of A Guide to Preparing LEPs (Planning & Infrastructure 2013).

2. Council is to consult with the Commissioner of the NSW Rural Fire Service as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.

3. Consultation is required with the NSW Department of Primary Industries – Agriculture under section 56(2)(d) of the Environmental Planning & Assessment Act 1979 and/or to comply with the requirements of relevant Section 117 Directions. Primary Industries 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.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Environmental Planning & Assessment Act 1979. 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).

5. The timeframe for completing the Local Environmental Plan is to be 9 months from the week following the date of the Gateway determination.

6. Delegation is to be given for Council to exercise the Minister's plan making power.

Supporting Reasons :

The proposal has been assessed as being of minor significance, with no associated adverse environmental, economic or social impacts or outcomes.

Signature:



Printed Name:

DERRYN JOHN

Date:

25 SEPTEMBER 2015

