

PLANNING PROPOSAL

LOCAL GOVERNMENT AREA: The Hills Shire Council

NAME OF PLANNING PROPOSAL: The Hills Local Environmental Plan 2012 (Amendment No (#)) – proposed amendment to prohibit rural workers dwellings within The Hills Shire

ADDRESS OF LAND: All land zoned RU1 – Primary Production, RU2 – Rural Landscape and RU6 – Transition under The Hills Local Environmental Plan 2012

SUPPORTING MATERIAL:

Attachment A	NSW Department of Primary Industries 'Prime Facts' Rural Workers Dwellings
Attachment B	Assessment against State Environment Planning Policies
Attachment C	Assessment against Section 117 Local Planning Directions.
Attachment D	Council Report and Resolution, 23 June 2015

BACKGROUND:

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.

The intent for rural workers dwellings is 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 they are appropriate in isolated locations more than 200km from major population centres. In general, rural workers dwellings are 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. A copy of the guidance is provided in Attachment A.

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.

PART 1 OBJECTIVES OR INTENDED OUTCOME

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.

PART 2 EXPLANATION OF THE PROVISIONS

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

PART 3 JUSTIFICATION

SECTION A - NEED FOR THE PLANNING PROPOSAL

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

The planning proposal has arisen from a strategic review of the Shire's rural development controls as set out in Attachment D to the planning proposal. The proposal also reflects NSW Department of Primary Industries strategic policy guidance on rural workers dwellings. (Attachment A).

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 way to achieve the intended outcome of ensuring appropriate strategic management of the Shire's rural lands in consideration of broader advice provided by the Department of Agriculture.

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.

- **A Plan for Growing Sydney**

A Plan for Growing Sydney replaces the Metropolitan Plan for Sydney 2036 and seeks to make Sydney 'a strong global city, a great place to live'. The Plan does not provide any specific advice on rural workers dwellings, however it is considered the proposal is not inconsistent with the Plan as the primary agricultural focus of rural lands will not be impacted by the proposal. The plan supports efficient housing delivery objectives given secondary dwellings will continue to provide opportunity for landowners to build a second dwelling to service rural workers without the required locational and financial justification relating to rural workers dwellings. Additionally infrastructure improvements envisaged under the Metropolitan Plan such as the Sydney Metro Northwest will enhance accessibility for rural workers to nearby residential areas, enhancing mobility across the region and providing a more well-connected community.

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 is consistent with The Hills Future as it provides for the effective and sustainable management of rural lands. The proposal is also considered to reflect community needs and aspirations given there has been limited interest in rural workers dwellings in recent years and secondary dwellings provide a more flexible option should landowners wish to provide a dwelling to accommodate rural workers on site.

- **Draft 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 Rural Lands Strategy is the relevant component of the Local Strategy to be considered in assessing this application.

- Rural Lands Strategy

The Rural Lands Strategy identifies strategies to plan for the future of the Shire's rural areas. It identifies a need to conserve agricultural lands and protect the existing and future rural economy. It is considered the proposal supports these objectives given there will be no impact on the operation of agricultural enterprises. With respect to supporting accommodation for rural workers, secondary dwellings provide a more flexible alternative therefore increasing the sustainability of rural jobs and the rural economic activities which they service.

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

Yes. The consistency of the planning proposal with State Environmental Planning Policies is detailed within Attachment B. A discussion on the consistency of the proposal with each relevant Policy is provided below.

- **State Environmental Planning Policy No. 30 Intensive Agriculture**

The planning proposal will not impact on viability or operation of intensive agriculture permitted pursuant to the SEPP.

- **State Environmental Planning Policy No. 62 Sustainable Aquaculture**

The planning proposal will not impact on viability, operation or sustainability of aquaculture development permitted pursuant to the SEPP.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Yes. The consistency of the planning proposal with the s.117 Ministerial Directions is detailed within Attachment C. A discussion on the consistency of the proposal with each relevant Direction is provided below.

- **Direction 1.2 Rural Zones**

The planning proposal is consistent with this Direction as it does not propose to rezone rural land and will not increase the permissible density within any rural zones under The Hills Local Environmental Plan 2012.

- **Direction 3.3 Home Occupations**

The planning proposal is not inconsistent with this Direction as there will be no impact on the carrying out of home occupations in approved dwellings.

- **Direction 4.1 Acid Sulfate Soils**

Whilst the planning proposal applies to land that has potential for acid sulfate soils, the proposal is to prohibit rural workers dwellings and does not propose the intensification of land uses on the subject land. Therefore the proposal is not inconsistent with this Direction.

- **Direction 4.4 Planning for Bushfire Protection**

Whilst the planning proposal applies to land mapped as or in proximity to land mapped as bushfire prone land, the proposal is to prohibit rural workers dwellings and will not facilitate any intensification of development on the subject land. However in accordance with this Direction it is proposed to consult with the NSW Rural Fire Service as part of the public agency consultation for this planning proposal.

- **Direction 6.1 Approval and Referral Requirements**

The plan does not propose the inclusion of any approval or referral requirements.

- **Direction 7.1 Implementation of 'A Plan for Growing Sydney'**

As noted in Section B above, the Metropolitan Plan does not provide any specific guidance on rural workers dwellings. However it is considered the proposal is not inconsistent with the Plan as the agricultural integrity and economic productivity of rural lands will not be impacted by the proposal. Additionally whilst a significant amount of the Shire is comprised of rural land, it is in close proximity to nearby urban areas and greater accessibility to the Sydney metropolitan region will be provided by incoming infrastructure improvements such as the Sydney Metro Northwest.

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?

Prohibition of rural workers dwelling is not considered to have any impact on critical habitat or threatened entities, given the proposal is to limit rather than intensify development of rural lands.

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?

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

SECTION D - STATE AND COMMONWEALTH INTERESTS

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

The planning proposal will not require any additional public infrastructure given the proposal is to limit rather than intensify development of rural lands.

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? (Note: The views of State and Commonwealth Public Authorities will not be known until after the initial gateway determination. This section of the planning proposal is completed following consultation with those public authorities identified in the gateway determination.)

It is envisaged the comments of the following public authorities will be requested as part of the planning proposal:

- NSW Department of Primary Industries
- NSW Rural Fire Service

A list of all relevant agencies would be determined as part of the Gateway Determination. Following the Gateway determination, all relevant agencies will be consulted.

PART 4 MAPPING

This planning proposal does not require the preparation of any maps.

PART 5 COMMUNITY CONSULTATION

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.

PART 6 PROJECT TIMELINE

STAGE	DATE
Commencement Date (Gateway Determination)	September 2015
Government agency consultation	September 2015
Commencement of public exhibition period (14 days)	October 2015
Completion of public exhibition period	November 2015
Timeframe for consideration of submissions	November 2015
Timeframe for consideration of proposal post exhibition	November 2015
Report to Council on submissions	December 2015
Planning Proposal to PCO for opinion	December 2015
Date Council will make the plan (if delegated)	January 2016
Date Council will forward to department for notification (if delegated)	January 2016



Rural workers dwellings

Glenda Briggs

Resource Management Officer – Land Use Planning

The purpose of this Primefact is to help local councils to determine if rural workers dwellings (RWD) should be provided for in their Local Environmental Plan (LEP) and the relevant planning criteria.

All enquiries with regard to workers' dwellings should be directed to the relevant local council. Councils are the local planning and development authority in NSW. NSW DPI's role is to encourage strategic approaches to rural development and to help streamline the Development Application process.



Historic rural workers dwellings. Photo: Glenda Briggs.

Are rural workers dwellings needed?

The standard Local Environmental Plan defines a rural workers dwelling as an ancillary dwelling 'on the same landholding, used as the principal place of residence for persons employed for the purpose of agriculture or a rural industry on that land'.

Providing a principal residence for additional farm workers or a manager can be crucial where the scale and nature of the farm enterprise routinely requires additional employees and it is not feasible for them to travel to the property to work.

The animal welfare and 24/7 management needs of large-scale intensive livestock enterprises may also require more than one on-site residence.

In coastal regions and within 200 km of major population centres, additional rural workers dwellings are unlikely to be necessary. Relevant factors include:

- improved communications
- the accessibility of nearby residential zones and surplus dwellings on other properties
- smaller scale enterprises that do not need additional full-time or resident farm labour
- mobile farm workers / managers able to work on more than one property.

Permanent dwellings which are surplus to the sustainable and productive use of rural resource lands can restrict future primary industry development, conflict with zone objectives and undermine rural zone objectives and planning strategies.

Construction of a second or third dwelling on a rural property inflates property values and can prevent other farmers from purchasing land to start or expand farming operations. Multiple dwellings also create subdivision pressure.

Additional rural dwellings can also increase the demand for services, have adverse environmental impacts and be unsustainable.

Recommended approaches

To identify the need for rural dwellings, councils are encouraged to strategically review their desired planning outcomes, existing rural dwelling densities, current and future agricultural enterprises, and agricultural employment trends.

The next step is to decide the most appropriate dwelling options and develop relevant local planning controls and guidelines to manage the development of rural dwellings and minimise the risk of land use conflict and subdivision.

Demand for multiple dwellings on rural lands may not be clearly related to enterprise needs or the productive use of the land, especially in more settled areas. For instance, smaller properties with a non-resident owner may want a resident caretaker or



manager to provide on-farm security. Also, councils may want to facilitate affordable rural housing or enable tourist development.

To address such needs councils should consider alternatives such as duplex or dual occupancy development, relocatable dwellings, or rezoning.

Developing relevant criteria for rural workers dwellings

Verifying the bona fide need for a resident farm worker requires consideration of complex factors such as the nature of farm activities, the relative isolation of a property, primary producer status and financial sustainability. This greatly increases the cost of submitting and assessing the application and typically requires expert advice. The need for a resident farm worker can also vary over time.

Measures seeking to restrict rural workers dwellings to farm family members have proved ineffective.

Where planning strategies confirm the ongoing need for rural workers dwellings, councils are consequently encouraged to adopt planning controls that avoid land use conflict and resource alienation, minimise the risk of incremental subdivision and prevent de-facto rural lifestyle developments.

To support sustainable primary industry development, all dwellings in rural areas should:

- meet LEP and zone objectives
- be consistent with strategies and relevant development control guidelines
- have suitable site access and services, and
- avoid adverse environmental, heritage and amenity impacts.

Additionally, rural workers dwellings should:

- be situated on the same legal title as the principal farm dwelling
- share the same road access, power and communication infrastructure as the principal farm dwelling
- be located within reasonable proximity to other farm buildings (e.g. within 300 m), and
- be appropriately separated from farm boundaries and potentially conflicting land uses (e.g. intensive livestock operations, livestock yards, dairies, etc.).

Additional Information

The NSW DPI website (www.dpi.nsw.gov.au) has additional information about planning for primary industries and minimising conflict. See in particular [Buffers - planning for sustainable agriculture](#) and [The Living and Working in Rural Areas handbook](#).



Dairy farm dwelling at sunset. Photo: Graham Johnson.

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www.dpi.nsw.gov.au/primefacts

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (November 2008). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of New South Wales Department of Primary Industries or the user's independent adviser.

Job number 9057

ATTACHMENT B: LIST OF STATE ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/CONSISTENT
No. 1	Development Standards	NO	-	-
No. 14	Coastal Wetlands	NO	-	-
No. 15	Rural Landsharing Communities	NO	-	-
No. 19	Bushland in Urban Areas	YES	NO	-
No. 21	Caravan Parks	YES	NO	-
No. 26	Littoral Rainforests	NO	-	-
No. 29	Western Sydney Recreation Area	NO	-	-
No. 30	Intensive Agriculture	YES	YES	CONSISTENT
No. 32	Urban Consolidation (Redevelopment of Urban Land)	YES	NO	NO
No. 33	Hazardous and Offensive Development	YES	NO	-
No. 36	Manufactured Home Estates	NO	-	-
No. 39	Spit Island Bird Habitat	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. 59	Central Western Sydney Regional Open Space and Residential	NO	-	-
No. 62	Sustainable Aquaculture	YES	YES	CONSISTENT
No. 64	Advertising and Signage	YES	NO	-
No. 65	Design Quality of Residential Flat 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	-
Exempt and Complying Development Codes (2008)		YES	NO	-
Housing for Seniors or People with a Disability (2004)		YES	NO	-
Infrastructure (2007)		YES	NO	-
Kosciuszko National Park – Alpine Resorts (2007)		NO	-	-
Kurnell Peninsula (1989)		NO	-	-
Major Development (2005)		YES	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 ENVIRONMENTAL PLANNING POLICY (SEPP)	APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
SEPP 53 Transitional Provisions (2011)	NO	-	-
State and Regional Development (2011)	YES	NO	-
Sydney Drinking Water Catchment (2011)	NO	-	-
Sydney Region Growth Centres (2006)	YES	NO	-
Three Ports (2013)	NO	-	-
Urban Renewal (2010)	NO	-	-
Western Sydney Employment Area (2009)	NO	-	-
Deemed SEPPs			
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. 18 – Public Transport Corridors	NO	-	-
SREP No. 19 – Rouse Hill Development Area	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	NO	-	-

ATTACHMENT C: ASSESSMENT AGAINST SECTION 117 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	YES	CONSISTENT
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	-
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	YES	CONSISTENT
3.4	Integrating Land Use and Transport	YES	NO	-
3.5	Development Near Licensed Aerodomes	YES	NO	-
3.6	Shooting Ranges	YES	NO	-
4. Hazard and Risk				
4.1	Acid Sulfate Soils	YES	YES	CONSISTENT
4.2	Mine Subsidence and Unstable Land	YES	NO	-
4.3	Flood Prone Land	YES	NO	-
4.4	Planning for Bushfire Protection	YES	YES	CONSISTENT
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	NO	-

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
6. Local Plan Making				
6.1	Approval and Referral Requirements	YES	YES	CONSISTENT
6.2	Reserving Land for Public Purposes	YES	NO	-
6.3	Site Specific Provisions	YES	NO	-
7. Metropolitan Planning				
7.1	Implementation of 'A Plan for Growing Sydney'	YES	YES	CONSISTENT