

The Hills LEP 2012 - Amendment 19 (Rural Cluster subdivision in RU6 Zone)

Proposal Title : The Hills LEP 2012 - Amendment 19 (Rural Cluster subdivision in RU6 Zone)

Proposal Summary : To introduce the opportunity for rural cluster subdivision on land zoned RU6 Transition Zone.

PP Number : PP_2013_THILL_010_00 Dop File No : 13/08803-1

Proposal Details

Date Planning Proposal Received : 14-Jun-2013 LGA covered : The Hills Shire

Region : Sydney Region West RPA : The Hills Shire Council

State Electorate : BAULKHAM HILLS Section of the Act : 55 - Planning Proposal

LEP Type : Precinct

Location Details

Street :

Suburb : City : Postcode :

Land Parcel : RU6 Zones

DoP Planning Officer Contact Details

Contact Name : Cho Cho Myint

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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 : N/A

Regional / Sub Regional Strategy : Metro North West subregion Consistent with Strategy : N/A

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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 : To the best of the knowledge of the regional team, the Department's Code of Practice in relation to communications and meetings with Lobbyists has been complied with. Sydney West has not met with any lobbyist in relation to this proposal, nor has the Regional Director been advised of any meetings between other departmental officers and lobbyists concerning this proposal.

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

If Yes, comment : The Department's Lobbyist Contact Register has been checked on 14 June 2013, and there have been no records of contact with lobbyists in relation to this proposal.

Supporting notes

Internal Supporting Notes : **BACKGROUND**

When the Hills LEP 2012 was made, additional development opportunities for larger sites zoned RU2 Rural Landscape within Maraylya, Box Hill and Nelson locality, were given for Rural cluster subdivision. Rural cluster subdivision involves permitting a lesser subdivision size where development is subdivided through a community title scheme to achieve an environmental outcome. The large RU2 sites contain environmental sensitive land and conventional subdivisions (2ha) cannot be undertaken. The rural cluster subdivision enables significant vegetation communities to be managed in-perpetuity on a common lot. A local clause was included within LEP 2012 [Clause 4.1AA (3A)] to facilitate this form of development.

The density requirement within the clause would ensure that on a 10ha parcel of land a maximum of 5 development lots would be allowed. The clause also provides that development lots must have an area between 0.4 and 1 hectare to ensure an appropriate subdivision pattern. Further, a merit assessment of each individual site on key characteristics such as slope, bush fire and access is required to determine the extent of development potential. The assessment is supported by The Hills DCP 2012 controls for constraints layer map, which identifies a 'high conservation corridor' comprised of key endangered and threatened ecological communities, vegetation corridors along creek lines/linkages and Priority Conservation Lands in the State Government's Cumberland Plain Recovery Plan.

CURRENT LEP PROVISIONS (zoning maps/extracts, attached)

Council further investigated possible mechanisms for achieving sustainable development outcomes on highly vegetated sites, and particularly the need for an alternative method of subdivision that would promote the ongoing conservation and maintenance of significant biodiversity.

Council has advised that a small number of large lots, (20ha and over) zoned RU6 Transitional Zone in the LGA (mainly in Maraylya, Box Hill and Nelson) are unsuitable, and in most cases not achievable, for conventional 2ha subdivision under the DCP

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constraints layer map, given the extent of significant vegetation on the site such as endangered or threatened ecological communities.

Council is concerned that such subdivision outcomes would provide no provision for the protection or conservation of environmentally sensitive land and would result in undesirable outcomes in terms of lot location, arrangement and potential clearing.

External Supporting
Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The Planning Proposal is to enable rural cluster subdivision outcomes in all land zoned RU6 Transition within The Hills Shire.

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

Is an explanation of provisions provided? Yes

Comment : PROPOSED CHANGES TO THE HILLS LEP 2012

The proposed amendment will change clause 4.1AA (3A) Minimum subdivision lot size for community title schemes to include the RU6 Transition Zone in order to permit rural cluster subdivision, and will have criteria for qualification for rural cluster subdivision. The clause will apply to the entire RU6 Transition zone in the LGA which includes the Box Hill, Nelson and Maraylya areas.

The amendment would allow, with consent, sites of 10ha and over to be subdivided under a community plan to ensure the long term protection and management of significant bushland. The allowable lot sizes would range from 0.4 to 1 hectare and permit no more than one lot for each 2 hectares subdivided meaning development yield on sites which meet the 10ha minimum area would be restricted to an overall 2 hectare minimum density. This approach would ensure the status quo whilst providing landowners of highly constrained sites with a development option appropriate to the environmental capabilities of the land.

Council has advised that the majority of sites that would be suitable for rural cluster subdivision are in the Maraylya area (given the large lot sizes). As the cluster clause only allows subdivision up to an equivalent density of 2ha lots, it is unlikely that many cluster subdivision will occur in Annangrove and Glenhaven areas with only 18 lots (0.6% of the total 2,908 lots) that are 10ha or larger and capable of utilising the cluster subdivision provisions.

The overall residential density/development yield on RU6 zoned sites (with 10ha minimum area requirement) will be maintained.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

2.1 Environment Protection Zones

2.3 Heritage Conservation

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

7.1 Implementation of the Metropolitan Plan for Sydney 2036

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SREP No. 20 - Hawkesbury–Nepean River (No. 2 - 1997)

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

RELEVANT S117 DIRECTIONS

DIRECTION 1.2 RURAL ZONES

The proposal will not rezone land from a rural zone and does not contain provisions that will increase the permissible density of land within a rural zone. The planning proposal is consistent with this direction.

DIRECTION 2.1 ENVIRONMENTAL PROTECTION ZONES

Whilst this planning proposal does not seek to rezone any land to an environmental conservation zone, it will instead facilitate an additional form of development where a site contains significant vegetation community. The planning proposal is consistent with this direction.

DIRECTION 4.1 ACID SULFATE SOILS

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

The Hills LEP 2012 contains a local clause for Acid Sulfate Soils and includes an Acid Sulfate Soils map. The proposal does not involve specific intensification of land where the Acid Sulfate Soils map applies. The planning proposal is consistent with this direction.

DIRECTION 4.3 FLOOD PRONE LAND

Some of the RU6 zoned land are likely to be flood prone. However, the flood planning provisions of The Hills LEP 2012 and applicable flood related development controls have been prepared in accordance with the NSW Government's Flood Prone Land Policy and will apply to any future development on RU6 zoned land.

Therefore it is considered that the likely inconsistency of the planning proposal is of a minor significance.

DIRECTION 4.4 PLANNING FOR BUSHFIRE PROTECTION

Council has advised that much of the land within the RU6 Transition zone is identified as bushfire prone, containing Vegetation Category 1 and buffer.

The Direction requires that Council undertake consultation with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway Determination and prior to undertaking community consultation in satisfaction of section 57 of the EP&A Act. Council will also need to take into consideration any comments received as part of this consultation.

It is recommended that Council be advised accordingly.

DIRECTION 6.3 SITE SPECIFIC PROVISIONS

The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls. The proposal is consistent with this Direction as it provide an additional development opportunity within the RU6 Transition zone which will enable subdivision to occur whilst managing the significant vegetation on site.

DIRECTION 7.1 IMPLEMENTATION OF THE METROPOLITAN PLAN FOR SYDNEY 2036

The planning proposal is consistent with the Strategic Directions and Key Policy Settings of the Metropolitan Plan for Sydney 2036. The planning proposal will ensure the protection of productive agricultural land and the management of areas of high biodiversity and conservation significance which will be achieved through the implementation of the proposed provisions.

See below detailed assessment of the proposal against relevant strategies and State Environmental Plans.

METROPOLITAN PLAN FOR SYDNEY 2036

The planning proposal will assist/facilitate residential development in a more appropriate subdivision pattern which will ensure that significant vegetation communities are appropriately protected. The planning proposal is consistent with the objectives of the Sydney Metropolitan Plan for Sydney 2036.

DRAFT METROPOLITAN STRATEGY FOR SYDNEY TO 2031

The land within the RU6 Transition zone is identified in the draft Strategy as Metropolitan Rural Area. The draft Strategy identifies that this area provides opportunities for agricultural activities that contribute to Sydney's future ability to maintain a reliable and local source of fresh food and produce. The area is to be protected for its high value biodiversity and environmental assets.

The planning proposal will not impact on the priorities established for the Metropolitan Rural Area as it will ensure that areas of significant vegetation are appropriately identified and protected. The proposed provisions will have requirements for the consent authority to ensure productive agricultural land will not be lost.

DRAFT NORTH WEST SUBREGIONAL STRATEGY

The Draft North West Subregional Strategy (NW Subregional Strategy) was prepared in December 2007 and outlined how the key actions contained within the Metropolitan Strategy 2005 were to be implemented at the subregional level. The key actions applicable to this planning proposal are detailed below.

The planning proposal is consistent with Actions E2.2 Protect Sydney's Unique Diversity of Plants and E4.1 Maintain Rural Activities and Resource Lands. As discussed in the above sections the planning proposal will expand the application of a mechanism to enable the areas of high biodiversity significance to be protected in perpetuity. The proposed provisions will also have requirements to ensure protection of productive agricultural land.

LOCAL STRATEGIES

Council has advised that the planning proposal is consistent with Hills 2026 Community Strategic Direction, Draft Local Strategy and Rural Lands Strategy (see Planning Proposal).

STATE ENVIRONMENTAL PLANNING POLICY NO 55 REMEDIATION OF LAND

The Policy requires a planning authority to consider the possibility that a previous land use has caused contamination of the site as well as the potential risk to health or the environment from that contamination.

It is likely that a number of properties within the RU6 Transition zone would have previously been used for agricultural activities. Council has advised that a contamination assessment is not considered necessary at the planning proposal stage,

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however, contamination will be addressed as part of the assessment of individual subdivision applications.

SREP NO 20 HAWKESBURY-NEPEAN RIVER

The SREP requires consideration of the impacts of the development on the environment, the feasibility of alternatives and consideration of specific matters such as environmentally sensitive areas, water quality, water quantity, flora and fauna, riverine scenic quality and agriculture. The planning proposal is not inconsistent with the SREP.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **No map changes are proposed. However, Council has provided relevant maps (i.e. existing RU6 zoned lands and DCP 2012 Constrained land map) as part of the proposal.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The planning proposal is proposed to be exhibited for a period of 28 days and is also to be made available on Council's website.**

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 :

Comments in relation to Principal LEP : **The Hills LEP 2012 is a SI LEP.**

Assessment Criteria

Need for planning proposal : **Council has advised that the planning proposal is the result of Council's strategic work relating to the rural areas of The Hills Shire including the Rural Lands Study, The Hills Local Environmental Plan 2012 and The Hills Development Control Plan 2012.**

The proposed changes to Rural cluster subdivision clause (clause 4.1AA (3A) Minimum subdivision lot size for community title schemes) would enable development to occur in a manner which ensures the on-going management and viability of significant vegetation communities. It will apply to a small number of large lots in the LGA that would be unsuitable for conventional 2ha subdivision.

Consistency with strategic planning framework : **See discussion in Adequacy section.**

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Environmental social
economic impacts :

Rural cluster subdivisions will involve permitting a lesser subdivision size where development is subdivided through a community title scheme to achieve an environmental outcome.

Clause 4.1AA (3B) of LEP 2012 requires that with any application for a rural cluster subdivision, appropriate management measures must be in place to ensure the protection of the landscape, biodiversity and rural setting of the land. This will occur through the preparation of a Community Management Statement which will be tied to any approval for a rural cluster subdivision. Specific requirements of the Community Management Statement are identified in The Hills DCP 2012.

There are no likely environmental effects which could result from the provision of this proposal.

Assessment Process

Proposal type : **Precinct** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 Month** Delegation : **RPA**

Public Authority Consultation - s56(2)(d) : **Hawkesbury - Nepean Catchment Management Authority
Office of Environment and Heritage
NSW Rural Fire Service
Transport for NSW - Roads and Maritime Services
Sydney Water
Transgrid
Other**

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

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

If no, provide reasons : **Council has advised that the planning proposal will require more than 6 months to complete. Public exhibiton is expected during August 2013 and the planning proposal is to be reported to Council during December 2013.**

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
Cover_letter.pdf	Proposal Covering Letter	Yes
DCP_extract.pdf	Proposal	Yes
Revised_Planning_Proposal.pdf	Proposal	Yes
Table_of_SEPPs_and_s117_Directions.pdf	Proposal	Yes

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Council Report word document.docx	Proposal	Yes
Map_showing_RU6_Zoned_land.pdf	Map	Yes
Relevant_LEP_Provisions.pdf	Proposal	Yes
Relevant_map_and_provisions_of_The_Hills_DCP_2012.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
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : It is recommended that the proposal proceeds subject to the following conditions:

- (1) The Director General's delegate agrees that the inconsistency with Section 117 direction 4.3 Flood Prone Land is of minor significance;
- (2) Consultation with the Commissioner of the NSW Rural Fire Service, in accordance with S.117 Direction 4.4 Planning for Bushfire Protection, prior to undertaking community consultation in satisfaction of section 57 of the Act, and taking into account any comments so made;
- (3) Community consultation for 28 days;
- (4) Consultation with:
 - Hawkesbury - Nepean Catchment Management Authority,
 - Office of Environment and Heritage,
 - NSW Rural Fire Service,
 - Transport for NSW - Roads and Maritime Services,
 - Sydney Water,
 - Transgrid, and
 - Endeavour Energy;
- (5) The timeframe for completing the local environmental plan is to be 12 months from the week following the date of the Gateway determination.

Council has not requested delegation for the making of this plan. However, it is considered that the nature of the planning proposal is the result of local strategies, and it is appropriate that Council use the Minister's delegation for the making of the plan.

Supporting Reasons : The proposed changes to Rural cluster subdivision clause (clause 4.1AA (3A) Minimum subdivision lot size for community title schemes) would enable development to occur in a manner which ensures the on-going management and viability of significant vegetation communities.

Signature:

RJ Cumming

Printed Name:

Rachel Cumming

Date:

21 June 2013