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Department Generated Correspondence (Y)

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Our ref: PP_2011_THILL_020_00 (11/22499)
Your ref: FP205

Mr Dave Walker
General Manager
The Hills Shire Council
PO Box 75
CASTLE HILL NSW 1765

Dear Mr Walker,

Re: Planning proposal to amend Clause 4.3 (Height of Buildings) to permit a range of building height from 10m to 22m; and to introduce Clause 4.4 (Floor Space Ratio) to include a maximum FSR of 2.3:1

I am writing in response to your Council's letter dated 1 December 2011 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the draft The Hills Local Environmental Plan 2010 to amend Clause 4.3 (Height of Buildings) to permit a range of building height from 10m to 22m; and to introduce Clause 4.4 (Floor Space Ratio) to include a maximum FSR of 2.3:1.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

The Department has noted the planning proposal seeks to amend the draft The Hills Local Environmental Plan 2010 only. Due to the uncertainty around the timing of the delivery of Council's Standard Instrument Local Environmental Plan, Council is to pursue one of the following two options:

- proceed with the planning proposal as is, solely amending the principal LEP (PLEP) but exhibiting the amendments after council's PLEP has been notified; or
- revise the planning proposal to amend the Height of Buildings control and introduce a maximum Floor Space Ratio standard, without making a specific reference to either the Baulkham Hills LEP 2005 or the draft The Hills PLEP, in which case the amendments will be applied to the LEP in effect at the time.

Council should liaise with the Department's Regional Team regarding the best option for progressing this planning proposal.

Council is required to pay particular attention to the potential impacts of the increased building height and FSR controls on the adjoining residential zones. Strategic urban design advice is required to identify any potential impacts with the adjoining residential areas. Any studies undertaken are to be placed on public exhibition with the planning proposal.

Council is to undertake consultation with Transport for NSW – Transport and Maritime Services to determine consistency with S117 Direction 3.4 Integrating Land Use and Transport. This consultation should occur prior to exhibition and the planning proposal should be amended (if necessary) prior to exhibition to reflect the outcomes of the consultation.

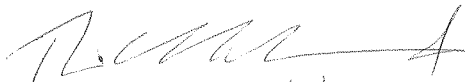
The Director General's delegate has also agreed that the planning proposal's inconsistencies with S117 Directions 2.3 Heritage Conservation, 3.1 Residential Zones and 4.4 Planning for Bushfire Protection are of minor significance. No further approval is required in relation to these Directions.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Derryn John of the Regional Office of the Department on 02 9873 8543.

Yours sincerely,


6/2/12

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning proposal (Department Ref: PP_2011_THILL_020_00): to amend Clause 4.3 (Height of Buildings) to permit a range of building height from 10m to 22m; and to introduce Clause 4.4 (Floor Space Ratio) to include a maximum FSR of 2.3:1 into the draft The Hills Local Environmental Plan.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the draft The Hills Local Environmental Plan 2010 to amend Clause 4.3 (Height of Buildings) to permit a range of building height from 10m to 22m; and to introduce Clause 4.4 (Floor Space Ratio) to include a maximum FSR of 2.3:1 should proceed subject to the following conditions:

1. Council is to proceed with the planning proposal adopting one of the following two options:
 - proceed with the planning proposal as is, solely amending the principal LEP (PLEP) but exhibiting the amendments after council's PLEP has been notified; or
 - revise the planning proposal to amend the Height of Buildings controls and introduce a maximum Floor Space Ratio standard, without making a specific reference to either the Baulkham Hills LEP 2005 or the draft The Hills PLEP, in which case the amendments will be applied to the LEP in effect at the time.
2. Council should liaise with the Department's Regional Team regarding the best option for progressing this planning proposal.
3. Council is required to pay particular attention to the potential impacts of the increased building height and FSR controls on the adjoining residential zones. Strategic urban design advice is required to identify any potential impacts with the adjoining residential areas. Any studies undertaken are to be placed on public exhibition with the planning proposal.
4. In relation to S117 Direction 3.4 Integrating Land Use and Transport, Council is to undertake consultation with Transport for NSW – Transport and Maritime Services for the planning proposal and take into account any comments made prior to exhibition.
5. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for **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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Transport for NSW – Roads and Maritime Services

This public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment

on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

7. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A 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).
8. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 6th day of February 2012.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure