

Greater Sydney, Place and Infrastructure

IRF20/2969

Plan finalisation report

Local government area: The Hills Shire Council

1. NAME OF DRAFT LEP

The Hills Local Environmental Plan 2019 (Amendment No 8). The draft written instrument is at **Attachment LEP**.

2. SITE DESCRIPTION

The draft LEP relates to land located at 40 Solent Circuit, Norwest, Lot 2107 in DP 1216268 (Figure 1), also known as 'The Greens'. The site is 3.77 hectares in area and is located within the Norwest Residential East Precinct. This precinct is on the northern edge of the Norwest Town Centre, the Norwest Market Town Shopping Centre and Norwest Business Park. It is bordered by high density residential development to the north and west, and Castle Hill Country Club to the north. The site is within a 10 minute walk from the Norwest Metro Station which is to the south of the site.



Figure 1 – Site (outlined yellow)

3. PURPOSE OF PLAN

The draft LEP seeks to enable a residential development comprising of 864 residential units within nine (9) towers ranging in height between eight (8) and 26 storeys with additional non-residential uses generating approximately 500 jobs. These additional uses are to provide conveniences and services to support new residents, without detracting from Norwest Marketown (local centre), and will activate the development's street frontages. A

concept design (Figure 2) was prepared as part of the planning proposal (**Attachment A01**).

The site is zoned R4 High Density Residential. The draft LEP seeks to amend other built form development standards including:

- Increase the maximum building height from RL 116 metres (10 storeys) to RL 176 metres (26 storeys);
- Apply a maximum floor space ratio (base) of 1:1 and identify the subject site as 'Area A', subject to the provisions of Clause 7.11 of The Hills LEP 2019;
- Apply an incentivised floor space ratio of 2.9:1, which would be achievable subject to the provisions of Clause 7.11 of The Hills LEP 2019;
- Include a site-specific clause in Schedule 1 Additional permitted uses of The Hills LEP 2019 to enable the following additional permitted uses:
 - Business premises (GFA must not exceed 1,500m²),
 - Recreation facility (indoor) (GFA must not exceed 1,500m²),
 - Restaurant and café (GFA must not exceed 500m² combined), and
 - Shops (GFA must not exceed 1,000m²);
- Identify the site as an 'Urban Release Area' on the Urban Release Area map to enable a consent authority under the provisions of Clause 6.2 of The Hills LEP 2019 to require satisfactory arrangements be made for the provision for designated State public infrastructure to satisfy the needs that arise from development on the land.

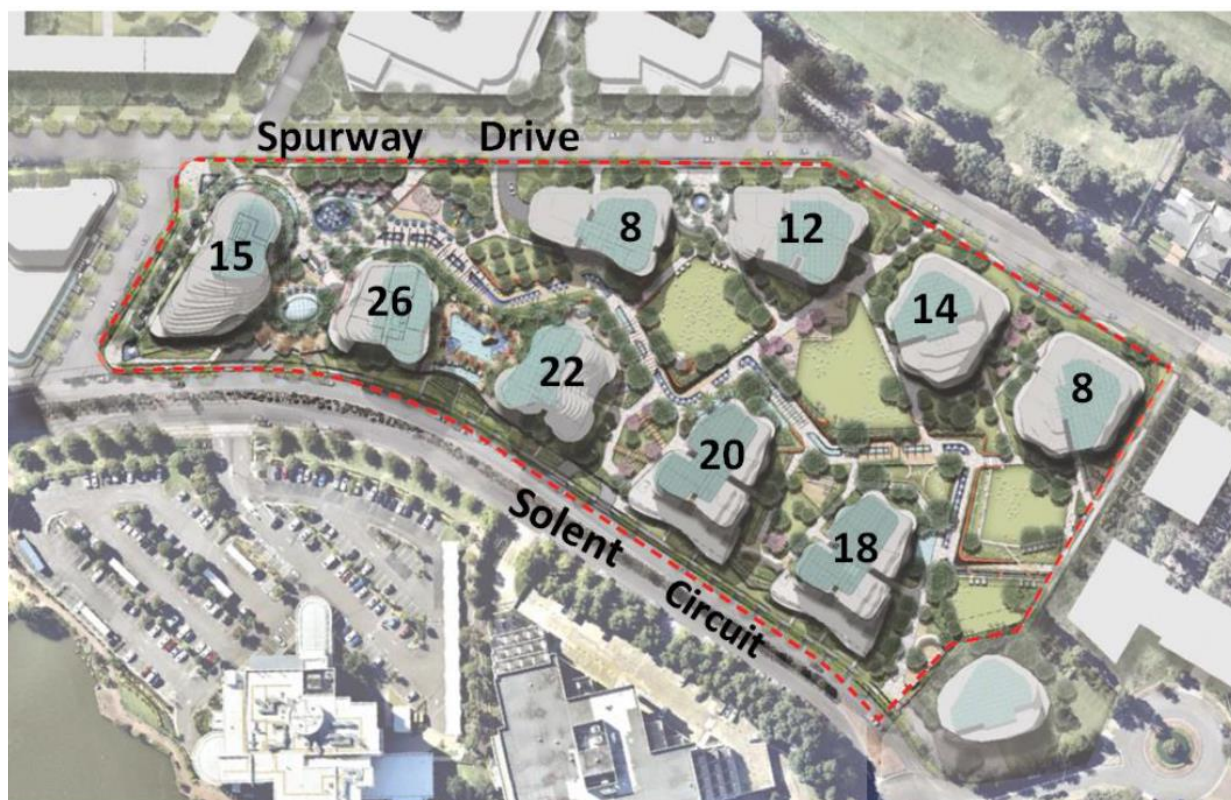


Figure 2 – Site plan showing concept building heights (Attachments A01, A08)

The draft LEP is supported by amendments to The Hills Development Control Plan Part D Section 8 (Norwest Town Centre – Residential Development) and an executed local Voluntary Planning Agreement.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Baulkham Hills State Electorate. David Elliott MP is the State Member.

The site falls within the Mitchell Federal Electorate. Hon Alex Hawke MP is the Federal Member.

To the planning team's knowledge, neither MP has made representations specifically relating to this planning proposal. David Elliott MP has made representations to the Sydney Central City Planning Panel in March 2018 regarding a 21 storey complex including a child care on 2-6 Maitland Place and 40 Solent Circuit, Baulkham Hills raising concerns about the potential lack of supporting infrastructure.

David Elliott MP has also made representations to a planning proposal within the locality (25-31 Brookhollow Avenue, Norwest) in August 2019 which included commentary regarding future proposals within Norwest. The representations requested for land in the North West Metro Corridor to not be rezoned until supporting infrastructure was delivered.

David Elliott MP has also made representations on behalf of his constituents in relation to development more broadly within The Hills Shire.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.
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NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway Determination issued on 31 January 2017 (**Attachment B**) determined the proposal should proceed subject to conditions. The Gateway Determination was altered on a number of occasions (**Attachment C1-C3**) as follows:

- 29 March 2018 to extend the timeframe for completing the LEP to by 31 October 2018;
- 29 October 2019 to extend the timeframe for completing the LEP to 30 April 2020; and
- 19 May 2020 to remove Council as the local plan making authority and revoke the Written Authorisation to Exercise Delegation issued on 31 January 2017. This amendment was required due to an unresolved objection from the former Roads and Maritime Services (RMS).

The finalisation date for this proposal expired on 30 April 2020 but the LEP can be validly made without extending the Gateway. The finalisation could not be made until the recent resolution of the pathway for securing contributions to State infrastructure improvements.

Council's request to the Department to finalise the planning proposal was made on 20 December 2019 prior to the due date. The Department is satisfied Council has met the conditions of the Gateway determination and the planning proposal is adequate for finalisation.

The planning proposal was not referred to the local planning panel under Section 2.19(1)(b) of the Act. The requirement for councils to seek advice from the Local Planning Panel on planning proposals prior to reporting to Council for a Gateway Determination came into effect in mid-2018. Council considered whether to forward this planning proposal to the

Department for a Gateway Determination on 8 November 2016. Therefore, the requirement to refer the matter to the Panel does not apply in this instance.

6. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council between 1 May 2018 and 15 June 2018 alongside proposed changes to The Hills Development Control Plan (DCP) 2012 and a draft local Voluntary Planning Agreement (VPA).

Council received ten (10) individual submissions from the public. All issues have been adequately addressed by Council as outlined in its post exhibition planning proposal (**Attachment A01**) and Council's post-exhibition report (**Attachment A04**). The key issues are discussed in brief below.

6.1 Character

Concerns were raised that the scale of the proposal was excessive and incompatible with the character of the locality.

Council response

- The character of the locality is undergoing a period of change, particularly following the opening of the Norwest Metro Station. Norwest is identified as a Strategic Centre in the Greater Sydney Region Plan and Central City District Plan.
- The Norwest Structure Plan under the Sydney Metro Northwest Urban Renewal Corridor (former North West Rail Link) Strategy anticipates the delivery of 4,350 homes and 13,200 jobs by 2036. The Structure Plan identifies the site as being appropriate for high density residential development. Future development will comprise buildings with a floor space ratio of around 3:1 and 4:1, carefully master planned around communal open spaces and incorporating landscaped setbacks to existing streetscapes.
- The density being delivered on the site is consistent with the thresholds identified in the Structure Plan when paired with the neighbouring development to the west of the site that makes up the remaining component of this high-density residential segment of the Structure Plan.
- While the maximum building height enabled under the LEP (eight to 26 storeys) is taller than what was envisaged in the strategic documents applying to the site (seven to 12 storeys), Council notes that the proposal is comparable in height to approved development occurring to the east and proposed elsewhere in this Strategic Centre. Strategies have also been developed to ensure an appropriate built form outcome is achieved. These include transitioning building heights to provide lower scale development at boundaries with sensitive receivers including existing residential development and providing larger landscaped areas at ground level.

6.2 Amenity

Submissions also raised concerns with respect to amenity impacts associated with noise, privacy, overshadowing, and solar access and environmental impacts on the site.

Council response

- Site specific controls have been developed and will be imposed through the DCP for building layout and orientation, the tower form, the location, size and placement of windows and balconies, and screening devices for privacy. These detailed design and assessment measures will be addressed as part of any development application for development on the site, as well as providing technical assessments of residential

amenity, acoustic impacts and other environmental impacts in accordance with applicable legislation.

- Any development application on the site for buildings with a height of 25 metres or more will also be subject to Clause 7.7 Design Excellence of LEP 2019. This provision requires development consent cannot be granted unless the consent authority considers the development exhibits design excellence. This provision also enacts Council's Design Excellence Panel which will review any future application.
- The proposal will not overshadow any existing residential development adjoining the site between 10am and 3pm in midwinter, and results in minimal overshadowing of the Norwest Lake foreshore. The concept design supporting the planning proposal demonstrates that a taller, slender design outcome has the potential to result in less overshadowing than compliance with the current controls. Internally, development on the site is also capable of meeting the minimum solar access requirements specified within the DCP.

6.3 Traffic and transport

Submissions raised concern with the cumulative impacts of development on the road network, the lack of bus laydown spaces and pedestrian amenity, and the high quantum of parking spaces nominated under the concept scheme for the future development of the site.

Council response

- Transport for NSW has committed to funding the required regional traffic modelling work for Castle Hill, Showground and Norwest Precincts.
- The local VPA between the proponent and Council provides for a monetary contribution towards traffic infrastructure upgrades, footpath and cycle improvements in the wider precinct.
- Existing bus routes are located in the vicinity of the site along Fairway Drive, Solent Circuit (east of Fairway Drive), Norwest Boulevard and Reston Grange. No bus routes currently adjoin the site and this situation is not projected to change in the near future. Future bus routes and services is a matter for Transport for NSW.
- Parking is to be provided on the site in accordance with Clause 7.11 of The Hills LEP 2019 (dwelling mix incentive clause for development on certain land within the Sydney Metro Northwest Urban Renewal Corridor). The parking rates reflect reduced anticipated future car ownership rates within the railway corridor.

Department comment

Further discussion of the cumulative transport study and infrastructure provision is outlined in Section 7 of this report.

6.4 Adequacy of social infrastructure

Submissions raised concern that the additional population enabled by the draft LEP is not adequately provided for through appropriate levels of investment in schools, hospitals, and other local infrastructure. Concern was also raised that open spaces provided on the site as part of future development would not be publicly accessible and that upgrades around the lake proposed in the concept scheme should not be considered as associated with this proposal.

Council response

- The uplift sought through the proposal is mostly consistent with the outcomes anticipated within the applicable strategic planning policies.

- The local VPA entered into between the proponent and Council is the appropriate mechanism through which the developer can make a fair and reasonable contribution towards the provision of new local infrastructure.
- The local VPA further requires the inclusion of a public access easement over a minimum 2,000m² 'urban plaza' space within the development.

Department comment

The Department is working with Schools Infrastructure NSW to plan for the education needs of the region. This includes identifying sites for new schools and upgrading existing schools. The Department anticipates that investment in education infrastructure will coincide with staged development occurring in Norwest and adjoining rail corridor precincts.

7. ADVICE FROM PUBLIC AUTHORITIES

In accordance with the Gateway Determination, Council consulted with the following public authorities:

- Transport for NSW (and former Roads and Maritime Services);
- Endeavor Energy;
- Sydney Water; and
- Telstra.

Council received a submission from each of these public authorities, with the exception of Telstra and Transport for NSW (other than the former RMS) which did not respond. The comments are discussed below.

7.1 Transport for NSW (former Roads and Maritime Services)

In 2018 TfNSW (the former RMS) raised an objection to the planning proposal as exhibited (**Attachment D1**), identifying the following matters in relation to the proposed amendments:

- The proposal precedes the completion of detailed precinct planning and the preparation of a precinct-wide traffic and transport study required in accordance with Ministerial Direction 5.9 North West Rail Link Corridor Strategy and the Norwest Structure Plan. RMS requested that the traffic impacts and associated potential mitigation measures of the cumulative impacts of the Norwest Structure Plan be developed in accordance with a provided methodology.
- While there is a local Voluntary Planning Agreement with Council, including provisions for regional road upgrades, without the benefit of the above cumulative transport study, it is difficult to determine if the proposed contribution offered in the local VPA is adequate for the provision of regional road infrastructure.

No specific objection was raised in relation to the proposed amendments to the DCP.

The former RMS issued a second submission (**Attachment D2**) reiterating that the cumulative traffic modelling for Norwest Precinct would enable planning for the entire precinct. However, advised to minimise delays the proposal could proceed if the monetary contributions towards regional road and transport infrastructure were able to be secured from the Proponent.

Department comment

Council, in consultation with Transport for NSW and the Department, began to prepare comprehensive traffic study for the Castle Hill, Showground and Norwest Precincts in 2019. Modelling as part of this will enable Council and State Government to better analyse the traffic implications associated with the cumulative impact of development in these areas. In advance of this Transport for NSW has identified and costed specific improvement to the

intersection of Norwest Boulevard and Lexington Avenue. The proponent will be required to contribute to the cost of this work.

Transport for NSW has been liaising within the proponent in respect of contributions to regional traffic infrastructure. The proponent has submitted a letter of offer to Transport to provide further monetary contributions for regional road upgrades (**Attachment E**). The inclusion of a Satisfactory Arrangements Clause within the final LEP will enable this contribution to be made before development occurs.

Should additional improvements be identified in the study to conclude by late 2020, the proponent will be required to contribute to the development's share of any State road network improvements through a voluntary planning agreement. This will be secured with the application of a Satisfactory Arrangements Clause within this LEP amendment. This will enable the State government to collect monies proportional to development towards any regional traffic infrastructure that may result from the broader study. This post exhibition change is discussed further in Section 8 of this report.

As the site does not have frontage to any State roads, there is no risk that this site may be required for State infrastructure.

7.2 Utility providers

Endeavor Energy and Sydney Water raised no objections to the proposal and identified requirements for any future development application.

8. POST-EXHIBITION CHANGES

No post-exhibition changes were proposed by Council.

Department comment

The Department removed the following additional permitted uses from the draft LEP in consultation with Council:

- Child care centres (maximum 500m²). This term can be defined as 'centre-based child care facilities' and is permitted in the R4 High Density Residential land use zone. This term is no longer required as an additional permitted use.
- Health consulting rooms and medical centres (1,000m²). These terms fall under the group term 'Health Services Facilities'. SEPP(Infrastructure) mandates 'Health Services Facilities' is permitted with consent in the R4 land use zone. Further, the group term 'Health consulting room' and sub-term 'Medical Centres' and 'Health Services Facilities' are not expressly prohibited in the R4 land use zone, they are considered to be permitted under the LEP 2019. These terms are no longer required as additional permitted uses.

The site will be mapped as an 'urban release area' in the relevant LEP map. This would require the consent authority to consider the provision of Part 6 Urban Release Areas of The Hills LEP. Clause 6.2 of The Hills LEP 2019 will require the consent authority to ensure satisfactory arrangements are made for the provision for designated State public infrastructure to satisfy the needs that arise from development on the land prior to issuing development consent.

This post-exhibition change is required to resolve the concerns raised by Transport for NSW (former RMS) and to ensure that a suitable mechanism would be in place for developer contributions to be obtained for the provision of regional transport infrastructure required to support development uplift in Norwest Precinct.

It is recommended that the amendment be endorsed without requiring further exhibition as the amendments do not change the intent of the planning proposal as exhibited.

9. ASSESSMENT

9.1 Section 9.1 Directions

At the time of the Gateway determination, the delegate of the Secretary agreed that the planning proposal could be justifiably inconsistent with the following Directions:

- Direction 5.9 – North West Rail Link Corridor Strategy; and
- Direction 6.3 – Site Specific Provisions

All other relevant and applicable Directions have been complied with. There were no unresolved Section 9.1 Directions.

9.2 State environmental planning policies

The draft LEP is consistent with all relevant SEPPs and deemed SEPPs.

9.3 State, regional and district plans

Central City District Plan

The Central City District Plan is applicable to this planning proposal. The following key priorities are relevant:

- Planning Priority C5 - Providing housing supply, choice and affordability with access to jobs, services and public transport: the draft LEP aligns with this priority in providing new housing on vacant land within a Strategic Centre that benefits from nearby employment, services, and transport. The housing delivered on the site will contribute to the mix of housing within the Northwest Rail Corridor.
- Planning Priority C9 - Delivering integrated land use and transport planning and a 30-minute city: the draft LEP represents the integration of land use, transport and infrastructure planning. The draft LEP provides additional capacity within a Strategic Centre and within walking distance of jobs and transport. The draft LEP also supports satisfactory arrangements for additional and upgraded infrastructure to support the capacity provided on the site.
- Planning Priority C10 - Growing investment, business and job opportunities in strategic centres: The draft LEP enables high-density residential development consistent with the land use intended for the site within the Norwest Strategic Centre. The range of additional permitted uses will also provide local job opportunities and facilities and services to meet the needs of residents.

The draft LEP gives effect to the Central City District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

10. MAPPING

Minor amendments were made to the maps to reflect the inclusion of the site within the Urban Release Area map.

There are five maps associated with the LEP amendment as follows:

- Height of Building – HOB_016;
- Floor Space Ratio – FSR_016;
- Floor Space Ratio Incentive – FSI_016;
- Additional Permitted Uses – APU_016; and
- Urban Release Area – CL2_016.

The maps (**Attachment Maps**) and map cover sheet (**Attachment MCS**) have been checked by the Department's ePlanning Team and sent to Parliamentary Counsel.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment F**). Council confirmed on 7 July 2020 that it was satisfied with the draft and that the plan should be made.

12. PARLIAMENTARY COUNSEL OPINION

On 10 July, 2020 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. RECOMMENDATION

It is recommended that the Minister's delegate determine to make the draft LEP (**Attachment LEP**) under clause 3.36(2)(a) of the Act as:

- The LEP has strategic merit, particularly in relation to the Central City District Plan, Sydney Metro Northwest Urban Renewal Corridor (former North West Rail Link) Strategy and Norwest Structure Plan;
- The LEP supports the provision of additional transit-orientated, high quality housing and compatible non-residential uses to contribute to the growth of the Norwest Strategic Centre;
- The site will be subject to satisfactory arrangements for additional and upgraded infrastructure to support the density provided;
- The proposal adequately responds to matters raised in advice from public authorities and public submissions; and
- The LEP is consistent with other relevant Section 9.1 Directions and State Environmental Planning Policies.



13 July 2020

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