

Additional permitted uses at RMB104, 104A and RMB 105 Windsor Rd and part of 1-3 Wilkins Ave, Beaumont Hills

Proposal Title :	Additional permitted uses at RMB104, 104A and RMB 105 Windsor Rd and part of 1-3 Wilkins Ave, Beaumont Hills		
Proposal Summary :	The proposal seeks to amend Schedule 1 "Additional Permitted Uses" of The Hills LEP 2012 to permit 'landscaping material supplies' and/or 'garden centre' on RMB104, 104A and RMB105 Windsor Rd and part of 1-3 Wilkins Ave, Beaumont Hills		
PP Number :	PP_2014_THILL_002_00	Dop File No :	14/02795

Proposal Details

Date Planning Proposal Received :	03-Feb-2014	LGA covered :	The Hills Shire
Region :	Sydney Region West	RPA :	The Hills Shire Council
State Electorate :	HAWKESBURY	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :	RMB104 Windsor Rd		
Suburb :	Beaumont Hills	City :	NSW
Land Parcel :	Lot 7, DP 13822		Postcode : 2155
Street :	104A Windsor Rd		
Suburb :	Beaumont Hills	City :	NSW
Land Parcel :	Lot 80, DP 1014622		Postcode : 2155
Street :	RMB105 Windsor Rd		
Suburb :	Beaumont Hills	City :	NSW
Land Parcel :	Lot 104, DP 1124350		Postcode : 2155
Street :	Part of 1-3 Wilkins Ave		
Suburb :	Beaumont Hill	City :	NSW
Land Parcel :	Lot 101, DP 1124350		Postcode : 2155

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DoP Planning Officer Contact Details

Contact Name : Georgina Ballantine
Contact Number : 0298601568
Contact Email : georgina.ballantine@planning.nsw.gov.au

RPA Contact Details

Contact Name : Raquel Ricaford-Bleza
Contact Number : 0298430560
Contact Email : rricaford-bleza@thehills.nsw.gov.au

DoP Project Manager Contact Details

Contact Name : Derryn John
Contact Number : 0298601505
Contact Email : derryn.john@planning.nsw.gov.au

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro North West subregion	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	4	No. of Dwellings (where relevant) :	1
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 : At this point in time and to the best of the regional team's knowledge, the Department's Code of Practice in relation to communications with lobbyists has been complied with.

Supporting notes

Internal Supporting Notes : **SITE DESCRIPTION**
The subject site consists of four properties known as Roadside Mail Box (RMB) 104, 104A, and RMB105 Windsor Rd and part of 1-3 Wilkins Ave, Beaumont Hills, with a total area of approximately 7501sqm.

The land currently includes various properties containing uses that are prohibited in the R3 Medium Density Residential zone, including a real estate agent and plant and equipment storage and repairs.

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LOCATION AND PUBLIC TRANSPORT

The site is bound by Windsor Rd to the south, commercial development (including a large pet store, vet and cafe) and Millcroft Way to the west, 5-7 Wilkins Ave (including 2 dwellings) and vacant land to the north and RMB103 Windsor Rd to the east, containing a single residential dwelling and extensive vegetation. The subject land is located 400m to the east of Old Windsor Rd/the North-West T-Way and approximately 1.4km north of the future Kellyville Railway Station, which is due for completion in late 2019. The Windsor Rd off-road Cycle Way runs from Old Windsor Rd to the site and beside the North-West T-Way.

BACKGROUND

The land is zoned R3 Medium Density Residential and the proposal does not seek to amend the zoning. The addition of 'landscaping material supplies' and/or 'garden centre' to Schedule 1 "Additional Permitted Uses" will allow the site to maintain the current residential zoning while providing a practical solution to the need for an alternative trading site for Baulkham Hills Landscape Supplies/Amber. The supplies business has been operating for 35 years at its current site on Old Windsor Rd, approximately 500m from the proposed new location. The land was recently acquired by Transport NSW for the extension of the North West Rail Link, necessitating its relocation by September 2014. 37 employees will retain their jobs if the business continues to operate.

The proponents made submissions during the consultation period for The Hills LEP 2012, requesting the land be rezoned to B6 Enterprise Corridor, however Council considered that the R3 zoning should be retained as it is consistent with the density provisions in the Kellyville Rouse Hill Development Control Plan and North West Rail Link Corridor Strategy (Kellyville Area). The use of Schedule 1 will retain the potential for residential development in the long term in proximity to the future rail station. In addition, the B6 zone would permit a variety of other business uses, some of which have the potential to impact on the amenity of existing residential development in the locality.

Council considers that the use of the site for residential purposes will be constrained in the short term by the existence of commercial type uses on the site. The owner of the adjacent RMB103 Windsor Rd previously submitted a residential proposal for 30 residential lots. Council rejected the proposal due in part to vegetation (endangered ecological community) concerns and the site remains predominantly undeveloped.

ACCESS

Council consulted Transport NSW – Roads and Maritime Services (RMS) prior to submitting the planning proposal. RMS advised that they do not support Council's intent to provide sole access via Windsor Rd, due to traffic constraints. RMS recommends access via Wilkins Ave and/or Millcroft Way and will consider a left-turn only exit to Windsor Rd. Council is not in agreement due to the potential impact of heavy vehicles and customer traffic on the residential side streets. It is recommended that Council conduct a Traffic Study and continue consultation with RMS to resolve the access issue.

ENVIRONMENT

The site has no environmental constraints in relation to flora and fauna. Council are recommending controls in relation to noise (via acoustic fencing), dust, odour, setbacks, landscaping, access, stormwater and run-off. A number of controls have been inserted into The Hills Development Control Plan 2012 – Part B Section 6 – Business and any additional requirements will be addressed at the development application stage.

External Supporting
Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment :

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

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

Comment :

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

* May need the Director General's agreement

3.1 Residential Zones

3.4 Integrating Land Use and Transport

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

SEPP (Infrastructure) 2007

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

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

**Council has also identified 117 Direction 5.9 North West Rail Link Corridor Strategy as
applicable to the proposal.**

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

If No, explain :

Direction 1.1 Business and Industrial Zones

Although identified by Council, Direction 1.1 does not apply.

Direction 3.1 Residential Zones

Direction 3.1 applies as the proposal affects land within an existing residential zone. The proposal does not broaden the choice of building types and locations available in the housing market. Council's decision to retain the existing zoning allows for residential development on the land in the long term. However, the proposal will require extensive building and landscaping of the site. It is therefore considered that owners and Council are unlikely to seek residential development on the site for many years. The site is already used for commercial purposes and adjoins the large Kellyville pets site. In addition, residential development to the east is constrained due to the presence of ecologically endangered species. It is considered that the proposal to retain the site for commercial purposes is of minor significance due to the site attributes and potential loss of 37 jobs if the business cannot find an alternative location.

3.4 Integrating Land Use and Transport

Direction 3.4 applies as the proposal will create a provision relating to residential land. The proposal is considered to be consistent as it will improve access to jobs through walking, cycling and public transport. The site is located within 7 minutes walk of the North West T-Way and Windsor Rd and Old Windsor Road off-road Cycleways, and approximately 1.4km north of the future Kellyville station.

4.4 Planning for Bushfire Protection

The majority of the subject site is designated as Bushfire Prone Land Vegetation Buffer - 100m and 30m (see Fig. 4 of Planning Proposal). Council intends to consult with the NSW Rural Fire Service and refer to the relevant bushfire legislation when considering development options. The proposal is considered to be consistent with Direction 4.4.

5.9 North West Rail Link Corridor Strategy

The North West Rail Link (NWRL) Corridor Strategy has been prepared to guide

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development over the next 20-25 years. The Strategy contains a Structure Plan for the Kellyville (Station) Study Area that designates the subject land and surrounds as 'Low Density Residential'. Permitting commercial uses on the site is therefore inconsistent with the Direction 5.9 (4) that a planning proposal must 'be consistent with the proposals of the NWRL Corridor Strategy, including the growth projections and proposed future character for each of the NWRL precincts.' Council has not prepared a strategy in support of the proposal. However, Council comments that the subject land is characterised as a short term opportunity area within the Corridor Strategy. The proposal facilitates the Strategy by maintaining the residential zoning and opportunities for medium to long-term residential development.

The proponents have purchased the site for relocation of their current business by September 2014. If the relocation is not permitted to go ahead, 37 jobs will potentially be lost. Council refused the proponents' original proposal to rezone the site to B6 Enterprise Corridor in order to preserve the current zoning of the land for future residential development.

The inconsistency is considered to be of minor significance due to the short term nature of the development and the potential loss of employment versus the temporary reduction in development potential on residential land, however it is recommended that the Gateway Determination conditions that Council provide further justification in relation to the proposal's inconsistency with Direction 5.9.

6.1 Approval and Referral Requirements

The proposal minimises the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority and is therefore considered consistent with Direction 6.1.

6.3 Site Specific Provisions

The proposal is inconsistent with Direction 6.3 as it seeks to impose site specific 'Additional Permitted Uses' on the subject land. The additional uses are considered minor and justified in this case due to the commercial uses already in place on the land and the fact that the proposal will facilitate the continued trading of a viable local business. It is therefore recommended that the Director General's delegate agree the inconsistency.

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 as it will sustain employment close to residential growth areas and is located close to public transport and existing services.

SEPP No. 55 - Remediation of Land

SEPP No. 55 states that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. The site is currently used as an estate agent's office and a plant/machinery repairs/equipment storage facility. Table 1 of the Planning Guidelines for SEPP 55 does not specifically list the abovementioned uses as an activity that may cause contamination, however some oil/chemical soil contamination may have occurred. In light of the intended uses ('garden centre' and 'landscaping material supplies') being not dissimilar to the current uses, it is considered that any potential contamination of the site is of minor significance in this case. Council intends to address any site contamination at the development application stage.

SEPP (Infrastructure) 2007

In general it is considered that the Infrastructure SEPP applies to larger developments with greater infrastructure implications and requirements. However, Section 104 - 'Traffic-generating development', in conjunction with Schedule 3, requires new

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development or an enlargement of existing premises for commercial/retail purposes to be referred to the Roads and Traffic Authority (now Transport NSW - Roads and Maritime Services (RMS). Council received advice from the RMS on 18 December 2013 in relation to the proposal, recommending a change in site access arrangements. Council subsequently requested that, as part of any gateway determination, specific consideration be given to the need to resolve access issues to both the satisfaction of Council and the RMS. However, it is considered that the access issue would be more appropriately addressed at the Development Application stage.

SREP No. 20 - Hawkesbury-Nepean River

The site is not flood-prone but is located in close proximity to Strangers Creek to the north east and Smalls Creek to the west. Council intends to address matters such as environmentally sensitive areas, water quality, water quantity, scenic quality, agriculture and metropolitan strategy at the development application stage.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment :

Council intends to advertise the proposal in local newspapers and on Council's website and display documentation at Council's administration building and Castle Hill and Rouse Hill Libraries. Letters will be issued to adjoining and nearby property owners and stakeholders within the locality. Resident information sessions will be arranged, if required.

Additional Director General's requirements

Are there any additional Director General's requirements? Yes

If Yes, reasons :

The Director General is requested to approve the proposal's inconsistencies with Directions 3.1 and 6.3 as being of minor significance. Direction 5.9 will require further justification from Council prior to the Director General's approval, as conditioned in the Gateway Determination.

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : October 2012

Comments in
relation to Principal
LEP :

The Hills Local Environmental Plan 2012 was notified on the NSW legislation website on 5 October 2012.

Assessment Criteria

Need for planning
proposal :

The proposal is considered a practical solution to facilitate the relocation of Baulkham Hills Landscape Supplies/Amber from their current site to the subject site to ensure business and employment continuity. The current site has been acquired by Transport NSW for the North West Rail Link project and relocation must occur prior to September 2014. The business has been operating for 35 years and closure would incur a potential

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loss of 37 jobs.

Consistency with strategic planning framework :

The planning proposal is not a result of a strategic study or report. Retaining the R3 zoning ensures that the site may be used in the longer term for residential purposes, in line with the North West Rail Link Corridor Strategy (Kellyville Area). The draft Metropolitan Strategy for Sydney 2031 specifies an additional 142,000 jobs and 148,000 dwellings in the West Central/North West between 2011-2031. The proposal ensures that 37 jobs are protected and retains the potential for future dwellings on residentially zoned land. In addition, the proposal supports Objective 24 by maintaining opportunities for new housing and employment in areas close to existing public transport (North-West T-Way and Windsor Rd Cycleway).

Environmental social economic impacts :

The subject land is currently developed and contains a mix of business uses. It has not been identified as containing any biodiversity areas, riparian corridors or areas of significant vegetation. The site is not flood-prone. The proposed use of the site for landscaping material supplies and/or garden centre may require controls relating to noise, dust, odour, setbacks, landscaping and access. Council has amended The Hills DCP 2012 Part B Section 6 Business to include appropriate controls.

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 Rural Fire Service
Sydney Water
Telstra
Other**

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

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

If no, provide reasons : **Public Authority consultation 56(2)(d) should include Jemena (gas) and Endeavour Energy (electricity).**

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
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The Hills Shire Council_03-02-2014_The Hills Local Environmental Plan 2012 - 1-3 Wilkins Avenue, Beaumont Hills Part 1 of 6.pdf	Proposal	Yes
The Hills Shire Council_03-02-2014_The Hills Local Environmental Plan 2012 - 1-3 Wilkins Avenue, Beaumont Hills Part 2 of 6.pdf	Proposal	Yes
The Hills Shire Council_03-02-2014_The Hills Local Environmental Plan 2012 - 1-3 Wilkins Avenue, Beaumont Hills Part 3 of 6.pdf	Proposal	Yes
The Hills Shire Council_03-02-2014_The Hills Local Environmental Plan 2012 - 1-3 Wilkins Avenue, Beaumont Hills Part 4 of 6.pdf	Proposal	Yes
The Hills Shire Council_03-02-2014_The Hills Local Environmental Plan 2012 - 1-3 Wilkins Avenue, Beaumont Hills Part 5 of 6.pdf	Proposal	Yes
The Hills Shire Council_03-02-2014_The Hills Local Environmental Plan 2012 - 1-3 Wilkins Avenue, Beaumont Hills Part 6 of 6.pdf	Proposal	Yes
RMS Advice - 1-3 Wilkins Ave, Beaumont Hills.pdf	Determination Document	Yes
NWRL Kellyville Station Structure Plan.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 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 proceed, subject to the following conditions:

1. The Director-General (or delegate) agrees that the inconsistency of this proposal with Section 117 Directions 3.1 Residential Zones and 6.3 Site Specific Provisions is justified.
2. Council is to update the Planning Proposal prior to exhibition to provide further justification of the plan's inconsistency with Section 117 Direction 5.9 North West Rail Link Corridor Strategy with regards to the proposal's intent to permit commercial uses on land designated for low density residential development in the Kellyville Structure Plan.
3. Community consultation is required for a period of 28 days.
4. Consultation is undertaken with the following public authorities:
 - a) Endeavour Energy (electricity)
 - b) Jemena (gas)
 - c) NSW Rural Fire Service
 - d) Sydney Water
 - e) Telstra
5. Delegation is to be given to Council to exercise the Minister's plan-making powers.
6. The planning proposal is to be finalised within 9 months.

Supporting Reasons : The proposal has merit, ensuring continued employment and business retention close to public transport, while retaining the current R3 zoning for future residential development.

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Signature:

Derryn John

Printed Name:

DERRYN JOHN

Date:

17 FEBRUARY 2014

