

Land Zoning (LZN)

| | | | |
|--|----------------------------|---|-------------------|
| B6 | Enterprise Corridor | RE1 | Public Recreation |
| R1 | General Residential | SP2 | Infrastructure |
| R3 | Medium Density Residential | | |

Figure 2
Existing and Proposed Zoning (LEP 2012)

Submitted with the planning proposal are two concept plans showing possible options for the layout of the landscape supply business on the site (Figures 3 & 4):

Option 1 (Preferred by the proponent):

- Demolition of existing buildings with the exception of the building on the eastern boundary);
- New commercial building (30 x 15m) on Windsor Road frontage with 3m setback;
- Landscape display area;
- Parking for 23 cars;
- Service and storage sheds on the western boundary adjoining Kellyville Pets;
- Amber landscaping display and plant nursery on the eastern boundary and fronting Wilkins Avenue; and
- Twenty-six (26) centrally located storage bins.

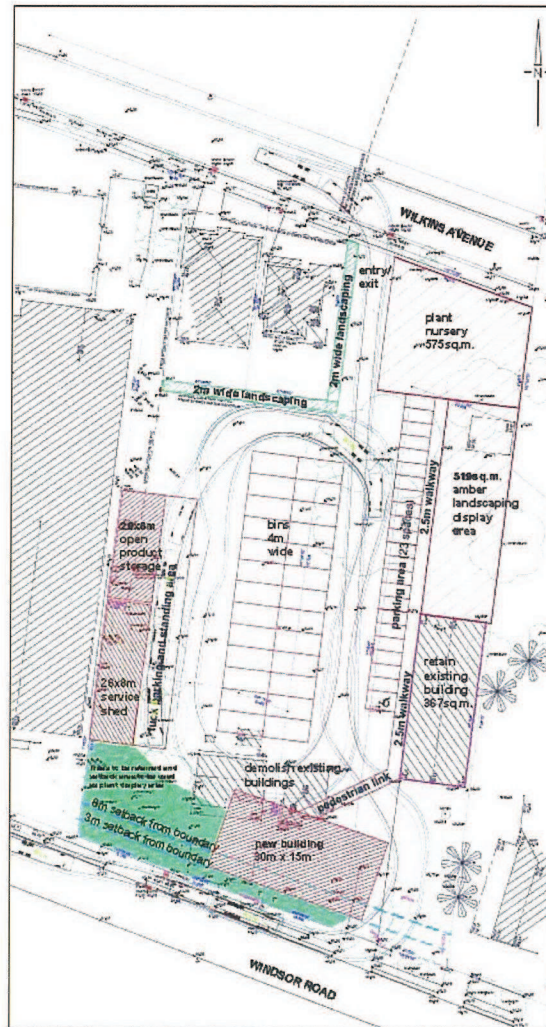


Figure 3
Development concept Option 1

Option 2:

- Demolition of existing buildings with the exception of the building on the eastern boundary);
- Landscape display area fronting Windsor Road;
- Service and storage sheds on the western boundary adjoining Kellyville Pets;
- Amber landscaping display and plant nursery on the eastern boundary and fronting Wilkins Avenue; and
- Thirty-one (31) centrally located storage bins.

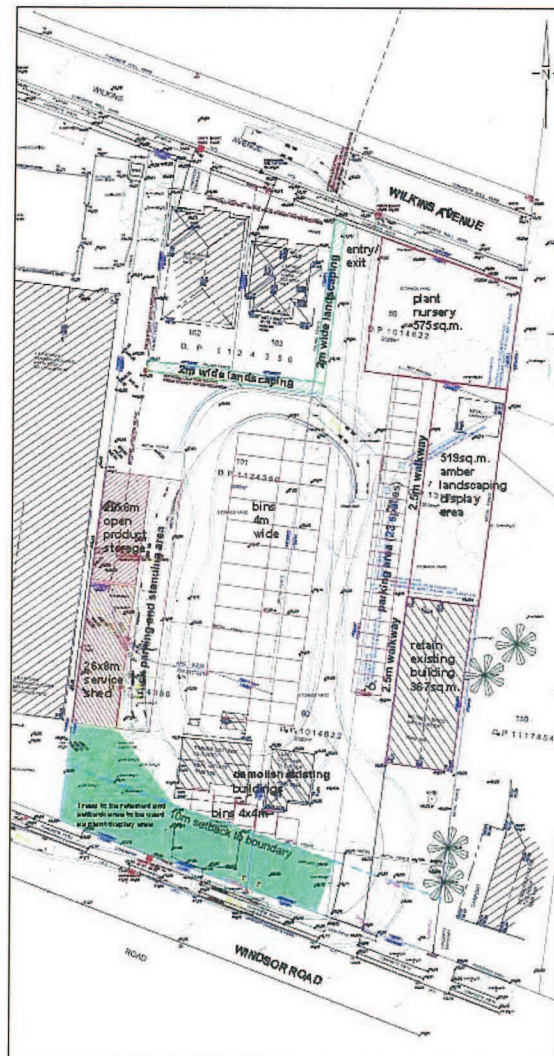


Figure 4
Development concept Option 2

Vehicular access to and from the site of the landscape supply business is proposed via Windsor Road (primary access) and Wilkins Avenue via Millcroft Way (secondary access), with both providing access to large trucks.

3. STRATEGIC CONTEXT

Metropolitan Plan for Sydney 2036

The strategic plan prepared by the NSW Government entitled the *Metropolitan Plan for Sydney 2036* aims to integrate land use and transport planning to provide a framework for the growth and development of the Sydney region to 2036. The Metropolitan Plan aims to grow and renew centres by locating the bulk of Sydney's new housing development within walking catchments of existing and planned centres, and to focus activity in accessible centres.

Being located approximately 800m from the future Kellyville Railway Station and within an area characterised by increasing residential development, the site is well-placed to contribute to employment opportunities close to a residential area.

Draft Metropolitan Strategy for Sydney 2031

The *Draft Metropolitan Strategy for Sydney* was released in March 2013 for public comment. Once finalised, the draft Strategy will replace the Metropolitan Plan for Sydney 2036. The draft Strategy establishes a vision with key objectives, policies and actions to guide the growth of Sydney to 2031 and is underpinned by the following key outcomes:

- Balanced growth;
- A liveable city;
- Productivity and prosperity;
- Healthy and resilient environment; and
- Accessibility and connectivity.

The draft Metropolitan Strategy policy puts a focus on strategic centres providing medium and high density housing and business and commercial growth with supporting infrastructure.

The planning proposal is generally consistent with the Strategy given its close proximity to Rouse Hill Major Centre and the North West Growth Centre precincts which will provide for the housing needs of a growing community. The site is suitably located to accommodate employment growth.

Draft North West Subregional Strategy

The draft *North West Subregional Strategy* was prepared by the NSW Government to implement the Metropolitan Plan and the State Plan. The draft strategy plans to accommodate some 130,000 jobs and 140,000 dwellings within the North West Subregion by 2031. Of these, 47,000 jobs (36%) and 36,000 dwellings (26%) are to be accommodated within The Hills Shire. An overarching theme of the strategy is for dwelling and employment growth to be concentrated within centres and near to public transport hubs.

As discussed above, the proposal is generally consistent with the strategy which aims to locate jobs close to transport connections and areas of population growth.

North West Rail Link Corridor Strategy

The Department of Planning & Infrastructure has produced a Corridor Strategy, adopted in September 2013 to guide future development around the eight (8) new stations of the North West Rail Link. The introduction of the North West Rail Link (NWRL) and a station at Kellyville has the potential to increase Kellyville's role as a residential area, origin station and Village Centre within the North West Subregion.

The Corridor Strategy (see figure 5) provides a vision for how the areas surrounding the railway stations could be developed to integrate new homes and jobs. Whilst the subject site is identified as an opportunity site for medium density housing development under the Strategy, it is important to note that detailed planning has yet to be undertaken and the particular constraints applying to the subject site need to be considered. In this regard, the existence of commercial type uses on the subject land is likely to inhibit the delivery medium density housing outcomes in the short term. There is considered to be opportunity to transition the uses of the site to residential purposes in the longer term if

the proposed use as landscape material supplies is allowed as an additional permitted use and the underlying R3 Medium Density Residential zone maintained (This is discussed further in Section 5 of the report).

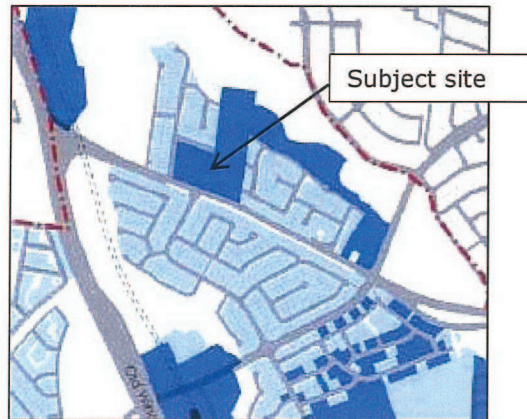


Figure 5
Location of Opportunity Sites (short term)
North West Rail Link Corridor Strategy Sept 2013

The Hills Shire Local Strategy

The Residential and Employment Lands Directions are the relevant components of the Local Strategy to be considered in assessing this application.

- Residential Direction

The *North West Subregional Strategy* sets targets for the Shire to contribute additional housing to accommodate a share of Sydney's population growth. The Residential Direction indicates that there is sufficient capacity to accommodate these targets based on the existing planning framework and current projects.

It is acknowledged that the planning proposal as submitted would result in a reduction in the availability of residential zoned land. As previously stated however, the short term delivery of residential development is likely to be constrained by the existence of commercial type uses on the subject land. In order to maintain the potential for future residential development in proximity to the rail link, it is recommended that the applicant's proposal to rezone the subject land for business purposes not be supported. Section 5 of this report recommends an alternative approach that maintains the residential zoning but allows for the landscaping material supplies as an additional permitted use.

- Employment Lands Direction

The *North West Subregional Strategy* establishes an employment capacity target for the Shire from 2001 to 2031 of 47,000 jobs. The Employment Lands Direction demonstrates that there is capacity to meet this target with capacity for 55,574 additional jobs to 2031. The Direction also seeks to promote local business and employment opportunities and enhance the use and viability of existing employment lands.

The planning proposal would formalise the use of the site for landscaping material supplies thereby contributing to employment opportunities in the Shire.

Ministerial Section 117 Directions

Section 117(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) enables the Minister for Planning and Infrastructure to issue directions that councils must address when preparing planning proposals for a new LEP. The relevant Section 117 Directions are:

- Direction 1.1 Business and Industrial Zones

The objectives of this Direction are to encourage employment growth in suitable locations, protect employment lands in business and industrial zones and support the viability of identified strategic centres. In considering this planning proposal, the planning authority must, in part, give effect to the objectives of this direction, and retain areas and location of existing business and industrial zones.

It is not considered that the planning proposal would significantly affect the viability of any strategic centre. It is considered that the planning proposal is consistent with this Direction.

- Direction 3.1 Residential Zones

The objectives of this Direction are to encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and to minimise the impact of residential development on the environment.

The planning proposal is considered consistent with this Direction since it maintains the future residential development potential secondary to the proposed commercial functions of the site. The existing zoning provides for a range of housing opportunities including dwelling houses, dual occupancies and multi dwelling housing.

The following Directions are also relevant to the planning proposal and are considered to be consistent:

- Direction 3.4 Integrating Land Use and Transport
- Direction 4.4 Planning for Bushfire Protection
- Direction 6.1 Approval and Referral Requirements
- Direction 6.3 Site Specific Provisions
- Direction 7.1 Implementation of the Metropolitan Plan for Sydney 2036

4. MATTERS FOR CONSIDERATION

The planning proposal requires consideration of the following matters:

- a) Interface between residential and non-residential land uses;
- b) Isolation of adjoining residential properties (Nos. 5 and 7 Wilkins Avenue); and
- c) Traffic, parking and access.

a) Interface between residential and non-residential uses

The primary purpose of the planning proposal is to facilitate the relocation of the Baulkham Hills Landscape Supplies/Amber (*landscaping material supplies*) to the subject site. Although not included in the site intended for this business, the planning proposal includes the two adjoining residential dwellings. The existing R3 Medium Density Residential is compatible with the existing low density residential locality. The existing non-conforming uses on the site are neither intensive nor do they generate significant noise, dust or vehicular movements.

The planning proposal recognises the potential for a landscape supplies business to have impacts on the surrounding area particularly with regard to noise and dust and vehicular movements (both car and trucks) in Wilkins Avenue. For this reason, concept plans indicate the placement of the storage bins in a central location within the site with manoeuvring areas to be sealed and drainage connected to stormwater. Other measures such as water sprayers and management practices including keeping circulation areas free of debris to minimise dust generation may be considered at the development application stage.

The proposed development concepts also provides a 2m landscaped buffer areas between the two dwellings (5 and 7 Wilkins Avenue) and the proposed development and would maintain an existing shed and provide an area of plant nursery on the eastern boundary to provide a buffer to future residential development on the adjoining land. However, it is considered that the 2m landscaping would be insufficient to minimise the environmental impact on the existing dwellings.

The proposed use has potential to detract from the amenity enjoyed by nearby residents or the existing quality of the environment if it is not properly managed. Therefore, any future application would be subject to compliance with various noise and other guidelines including restrictions on the operating hours and delivery and loading times. An amendment to The Hills Development Control Plan 2012 Part B Section 6 Business is recommended to include appropriate controls relating to noise, dust, odour setbacks, landscaping and access.

(b) Isolation of adjoining residential properties (5 and 7 Wilkins Avenue)

Two dwelling houses are located at 5 and 7 Wilkins Avenue within the site that is the subject of the planning proposal. However, the concept plans for the Baulkham Hills Landscape Supplies/Amber does not include these dwellings.

It is agreed that the existing dwellings currently appear slightly out of place within the existing large lot and more commercial/industrial focused context of the subject site. They are however, not out of place within the context of Wilkins Avenue as a whole, where similar dwellings line the northern side of the street. The demolition of these dwellings, being relatively recent in construction, is likely to be unviable in any redevelopment of the subject site. Therefore the possible isolation of these dwellings within a future commercial context must be carefully considered, and any future development would need to make sure the amenity of residents would not be adversely affected.

Whilst the applicant has proposed the inclusion of these two residential dwellings in the planning proposal it is recommended that they be excluded from proposal to use Schedule 1 of the LEP to allow for landscape material supplies. It is further recommended that site specific controls regarding setback, access, landscaping be included in The Hills DCP to support the proposed development.

(c) Traffic, parking and access

The subject site has two street frontages, with entry/exit points to the site currently available from Wilkins Avenue (via Millcroft Way) and Windsor Road. The planning proposal and associated development concept proposes access to the site from both Windsor Road and Wilkins Avenue, subject to approval by the Roads and Maritime Services. If the proposal is supported, access should be limited to Windsor Road to minimise amenity impact to residents in the Millcroft Way and Wilkins Avenue.

Windsor Road is a major arterial road with a four-lane divided carriageway. An exclusive right turning lane is available from Windsor Road for traffic accessing Millcroft Way. The right turning movement from Millcroft Way into Windsor Road is currently prohibited.

Baulkham Hills Landscape Supplies/Amber has agreed to fund the installation of traffic signals at the intersection of Windsor Road and Millcroft Way which will improve access for local residents and permit right turn movements from Millcroft Way onto Windsor Road.

The combined trip generation of all the existing and proposed land uses is likely to have a detrimental impact on the residential amenity in Millcroft Way and Wilkins Avenue. The continuous movement of cars and trucks is not one that would usually be associated as normal local residential traffic conditions. The resultant traffic volumes are considered inappropriate for the character and amenity of the predominantly detached housing area and the environmental values of the surrounding area.

Ongoing discussions and negotiation is needed between the Roads and Maritime Services and the proponent to determine the suitable access arrangements along Windsor Road as it is considered that access to Wilkins Way should be restricted to minimise amenity impacts.

5. OPTIONS FOR AMENDMENT OF LEP 2012

It is recognised that the site is somewhat unique due to its position on Windsor Road and its long history of non-residential activity. While the land has been zoned for residential purposes, the current activities on the land are not reflective of this zone and alternatives that retain the long term option of residential should be considered.

(a) Rezone the site to B6 Enterprise Corridor

The B6 Enterprise Corridor zone, as sought by the proponent, would formalise the existing uses on site since they would now be permissible and assist in resolving the current quasi-commercial setting. The zoning, however, would also 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. If the site was rezoned to B6 Enterprise Corridor, this would permit a range of additional uses including:

Hotel or motel accommodation, serviced apartments, business premises, office premises, Pubs, Restaurants and cafes, garden centres, hardware and building supplies, timber yards, landscaping material supplies, vehicle sales and hire, wholesale supplies, industrial retail outlets, vehicle body repair workshops, service stations and truck depots.

Despite the existing commercial uses on the site, it is not considered appropriate to introduce a wider range of commercial uses in this locality. The planning proposal has not provided sufficient evidence to support the rezoning of the site to B6 Enterprise Corridor Zone.

With respect to Kellyville Pets, the current R1 Residential zone is considered to provide sufficient recognition of the uses operating on that site and provides adequate opportunity for any further development. Therefore, no change to the existing zone is recommended.

(b) Retain the existing zones

The retention of the existing zoning pattern across the site would ensure existing dwellings located at 5 and 7 Wilkins Avenue are not subjected to possible impacts

resulting from the intensification of business activity directly adjoining their boundaries nor would they be rendered a prohibited use.

This option would also ensure the original residential intention of this site would be preserved and that future development would be consistent with and complimentary to the residential environment of Wilkins Avenue. It would also allow the phasing out of existing non-conforming uses over time, and avoid the creation of a small business precinct that was never envisaged in this location, with Kellyville Pets as the exception.

(c) Retain the existing zones and permit *Landscape Material Supplies*

Schedule 1 *Additional Permitted Uses* of The Hills LEP 2012 provides a mechanism by which a use that would not normally be permitted in a particular zone can be specified as a permissible use in a particular circumstance or location.

The planning proposal seeks to specifically permit the development of the subject site (with the exception of Kellyville Pets) for a landscape material supplies business on that part of the site that is currently zoned R3 Medium Density Residential.

This option is similar to the previous Option 2 above but would allow the intended use envisaged by the proponent which is the relocation of the Baulkham Hills Landscape Supplies/Amber (landscape material supplies). This option would not change the existing non-conforming status of the existing uses on the site to ensure that they would eventually be phased out.

Also, not changing the zoning would allow the proposed use to locate here for a time but phase out eventually. Schedule 1 would provide certainty of development outcome rather than permitting a variety of different uses. The proposed development would only achieve consent if an application provides sufficient evidence and proposes adequate buffers and management practices to ensure the impact on the amenity of the surrounding residential area and 5 and 7 Wilkins Ave can be protected.

The approach being pursued through this proposal will provide Council with greater control over the extent of commercial development which can occur on the site and will also ensure that the long term predominant use of the site remains residential by retaining the current zoning. Alternative approaches such as rezoning the site to a B6 Enterprise Corridor zone will 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.

The Department of Planning and Infrastructure has prepared a draft Practice Note on the application of Schedule 1 'Additional Permitted Uses' of the Standard Instrument Local Environmental Plan. The draft Practice Note highlights that land use permissibility should preferably be controlled through zoning and the Land Use Table. However, the Practice Note also provides that where this is not possible and the intended outcome is adequately justified by Council, the use of Schedule 1 may be acceptable.

Figure 6 indicates the land to which the additional permitted use of *landscaping material supplies* would apply.



Additional Permitted Uses (APU)

□ refer to schedule 1

Figure 6
Proposed Additional Permitted Uses Map

6. PROPOSED AMENDMENT OF DCP 2012

As discussed throughout the report, the proposal to allow for landscaping material supplies has the potential to impact on the amenity of existing and proposed residents. A number of controls are recommended to address the potential impacts including:

- Setback of 3 metres to adjoin residential properties
- Setback of 6 metres to Wilkins Ave to allow for landscaping
- Setback of 2 metres to the adjacent Kellyville Pets development
- Noise attenuation measures
- Provision for acoustic fencing to residential properties and Kellyville Pets
- Provision for access and egress to Windsor Road only to the satisfaction of council and the RMS

The proposed DCP amendments are highlighted yellow in Attachment 1 to the report.

CONCLUSION

It is recommended that the planning proposal be forwarded to the Department of Planning Infrastructure to seek a Gateway Determination. It is recognised that the site is somewhat unique due to its position on Windsor Road and its long history of non-residential activity. While the land has been zoned for residential purposes, the current activities on the land are not reflective of this zone and an alternative that retains the long term option of a residential outcome is recommended. This involves retaining the R1 General Residential zone for Kellyville Pets site, retaining the R3 Medium Density Residential zone for the balance of the site and enabling the development of a landscaping material supply business by use of Schedule 1 Additional Permitted Uses.

Overall, the proposal is considered to be consistent with objectives related to promoting economic growth and employment opportunities. The proposed development is considered to have strategic merit, subject to appropriate controls on the extent of commercial development and further consideration of amenity and traffic impacts.

As set out in the report, a number of matters will need to be addressed to respond to the potential impacts of a landscaping supply business operating in a residential locality. To this end amendments to The Hills DCP part B Section 6 Business are also recommended.

IMPACTS**Financial**

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

The Hills Future - Community Strategic Plan

The planning proposal supports the key objective of achieving balanced urban growth by proposing a land use which will promote economic activity in the locality.

RECOMMENDATION

1. A planning proposal to amend Schedule 1 'Additional Permitted Use' of The Hills Local Environmental Plan 2012 to permit *landscaping material supplies* on land at RMB104, RMB104A and RMB105 Windsor Road and 1-3 Wilkins Avenue, Beaumont Hills be forwarded to the Department of Planning and Infrastructure for Gateway Determination.
2. The proposed amendments to Part B Section 6 Business of The Hills Development Control Plan 2012 as contained in Attachment 1 be exhibited concurrently with the planning proposal should Gateway Determination be received.

ATTACHMENTS

1. Proposed Amendments to Part B Section 6 Business of The Hills Development Control Plan 2012 (69 pages).

ATTACHMENT 1

The Hills Development Control Plan (DCP) 2012

Sydney's Garden Shire
THE HILLS

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DRAFT



Part B Section 6
Business

B6

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