

Amendment to the Height of Buildings and Floor Space Ratio Provisions for 488-494 Old Northern Rd, Dural - The Hills LEP 2012

Proposal Title : Amendment to the Height of Buildings and Floor Space Ratio Provisions for 488-494 Old Northern Rd, Dural - The Hills LEP 2012

Proposal Summary : The planning proposal seeks to amend The Hills Local Environmental Plan 2012 to apply a floor space ratio of 1.22:1 to the part of 488-494 Old Northern Rd, Dural zoned as B2 local Centre. In addition the proposal seeks to apply a maximum height of buildings of 18m to the southern portion of the B2-zoned land and 14m to the northern portion of the B2-zoned land. A local provision is sought to ensure that future development on the site can only reach 80 dwellings to ensure that Council's controls relating to apartment mix, apartment size and car parking will be met.

PP Number : PP_2015_THILL_010_00 **Dop File No :** 16/01381

Proposal Details

Date Planning Proposal Received : 27-Nov-2015 **LGA covered :** The Hills Shire

Region : Metro(Parra) **RPA :** The Hills Shire Council

State Electorate : CASTLE HILL HORNSBY **Section of the Act :** 55 - Planning Proposal

LEP Type : Spot Rezoning

Location Details

Street : 488-494 Old Northern Rd

Suburb : Dural **City :** NSW **Postcode :** 2158

Land Parcel : Lot 2 DP 839151

DoP Planning Officer 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 :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	80
Gross Floor Area :	0	No of Jobs Created :	118

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department's Lobbyist Contact Register has been checked on 9 May 2016 and there are no records of contact with lobbyists in relation to this proposal.**

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

If Yes, 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. Metropolitan Region (Parramatta) has not met with any lobbyist in relation to this proposal, nor has the Director been advised of any meetings between other departmental officers and lobbyists concerning this proposal.**

POLITICAL DONATIONS DISCLOSURE STATEMENT

Political donations disclosure laws commenced on 1 October 2008. The legislation requires the public disclosure of donations or gifts for certain circumstances relating to the Planning system.

"The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

The term relevant planning application means:

- A formal request to the Minister, a council or the Secretary to initiate the making of an environmental planning instrument..."

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Secretary is required to disclose all reportable political donations (if any).

The Department has not received any disclosure statements for this Planning Proposal.

Supporting notes

Internal Supporting Notes : **This report was delayed pending negotiations with Council on the Residential Development Yield provision due to concerns which were raised with Council about the potential inconsistency of the Residential Development Yield provision with SEPP No. 65 - Design Quality of Residential Apartment Development. As this proposal includes a similar provision consideration needs to be given to consistency with SEPP No. 65.**

It is recommended that the planning proposal proceed subject to the deletion of proposed

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clause 7.10 - Residential Development Yield. The issues with clause 7.10 are discussed in the Justification e) section of this report.

External Supporting
Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? **Yes**

Comment : The purpose of the proposal is to facilitate an amended development concept for a part four and part five storey residential flat building, comprising 80 dwellings, and ground floor retail uses on the southern portion of the site. The revised concept will provide a 4,500sqm retail/commercial building at the northern end of the site, zoned B2 Local Centre, to comprise a supermarket, specialty stores, office suites, restaurant and central plaza area with associated basement parking. 21 townhouses are proposed for the rear of the development, zoned R3 Medium Density Residential zone, however there are no changes proposed for this R3 zoned land.

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

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

Comment : The proposed outcomes will be achieved as follows:

- Amend the Height of Buildings map from 10m to 18m for the southern B2 zoned portion of the site
- Amend the Height of Buildings map from 10m to 14m for the northern B2 zoned portion of the site
- Amend the Floor Space Ratio map from 0.75:1 to 1.22:1 across the entire B2 zoned land
- Amend the Key Sites Map to identify the site as 'Area C'
- Insert the following new local provision into Part 7 of The Hills Local Environmental Plan 2012:

Part 7 Additional Local Provisions
7.10 Residential Development Yield
(1) The objectives of this clause are as follows:
(a) To ensure that residential flat building development does not over-tax existing and planned services, facilities and infrastructure;
(b) To provide opportunities for a suitable density housing form that is compatible with existing development and the future character of the surrounding area;
(c) To ensure the provision of a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets; and
(d) To promote development that suits larger household sizes and family household structures which are expected for The Hills Shire into the future.
(2) This clause applies to land identified as 'Area C' on the Key Sites Map.
(3) Residential development on the whole of the land specified in Column 1 of the Table is not to exceed the criteria and standards specified in Column 2.
or
(4) Residential development on the whole of the land specified in Column 1 of the Table may be less or equal to that specified in Column 3, where the development complies with all criteria and standards specified in Column 4.

The Table containing Columns 1-4 can be viewed on page 6 of the planning proposal.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

3.1 Residential Zones

* May need the Director General's agreement

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

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 65—Design Quality of Residential Flat Development

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

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

SECTION 117 DIRECTIONS

Based on the information in the planning proposal this proposal is consistent with all the Section 117 directions except as follows.

4.4 PLANNING FOR BUSHFIRE PROTECTION

This Direction does apply to the planning proposal as it will affect land mapped as bushfire prone land. A Gateway condition will require consultation with the Rural Fire Service. At this stage of the Planning Proposal, it is neither consistent nor inconsistent as the Direction requires consultation with the Rural Fire Service after issue of a Gateway determination and prior to public exhibition.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

Based on the information in the planning proposal this proposal is consistent with all the SEPPs except as follows.

SEPP No. 65 - DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

Under SEPP No. 65, fixed minimum apartment internal floor sizes apply. The planning proposal contains a local provision, Clause 7.10 Residential Development Yield (p. 6), in which the Internal Floor Areas section (Column 4) sets out the minimum internal floor areas for each type of unit proposed for the development. Of the 9 floor areas listed, only two comply with the minimum sizes identified within SEPP No. 65, being Type 1 - 1 bedroom and 2 bedroom. The remaining 7 internal floor areas exceed the minimum sizes by up to 45sqm.

Council has assessed the planning proposal as being consistent with SEPP No. 65 and has not specifically addressed the discrepancies between SEPP No. 65 and the local provision. Council comments that "a development compliant with SEPP 65 apartment sizes within the same floor area as the proposal could potentially yield within 90-100 dwellings". A general comment is made within Section C under Residential Yield that the local provisions "would yield 80 apartments which would generally comply with Council's size and mix controls within the development control plan". Council claims that "the size and mix of the proposed apartments is considered appropriate in the context of the surrounding Dural and Kenthurst localities which have a high proportion of family households".

Council's Residential Development Yield provision contains an objective "to promote development that suits larger household sizes and family household structures." It is questionable whether this objective is consistent with Objectives in SEPP 65:

2 c) to better satisfy the increasing demand, the changing social and demographic

profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities;

f) to contribute to the provision of a variety of dwelling types to meet population growth; and

g) to support housing affordability.

Similarly Council's emphasis on larger family households appears contrary to A Plan for Growing Sydney's Direction 2.3: Improve housing choice to suit different needs and lifestyles.

It is considered that retaining access to SEPP 65 apartment floor sizes for the full capacity of the site will better meet the needs of households such as singles and couples without children, and contribute to greater affordability.

On 22 April 2016 the Deputy Secretary wrote to Council (in documents) removing an objection to the planning proposal for 47 Spurway Drive, Baulkham Hills, which is situated within the North West Rail Link Corridor. The proposal contained a similar Residential Development Yield local provision to 488-494 Old Northern Rd that varied apartment sizes from those contained in SEPP No. 65. It was anticipated that the decision made for Spurway Drive would provide guidance on whether the Department would generally support local provisions in The Hills LGA that deviate from SEPP No. 65.

The Deputy Secretary's letter sets out parameters for the Department's acceptance of the Residential Development Yield provision in certain circumstances. Effectively the Department has agreed to consider Council's Residential Development Yield provision on land within the North West Rail Link Corridor, in cases where the dwelling yield in the Norwest Structure Plan has been achieved. For any development above the agreed Structure Plan dwelling yields Council may apply the Residential Development Yield provision. An additional concession was given in the case of Spurway Drive, which was allowed as the Residential Development Yield provision had been submitted some time before the 2015 amendments to SEPP 65, and the developer had made representations that it would accept the provision.

The approval of 47 Spurway Drive, and the agreed parameters therefore have no bearing on the local provision for 488-494 Old Northern Rd as the site is not within or close to the Rail Corridor and Norwest Structure Plan area.

It is considered that the proposal does not contain adequate arguments to justify the inconsistencies with SEPP No. 65 and A Plan for Growing Sydney in relation to apartment size. It is recommended that Council be requested to remove Clause 7.10 Residential Development Yield from the proposal prior to proceeding to public exhibition.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment : Council has provided existing and proposed Height of Buildings Maps, existing and proposed Floor Space Ratio Maps and a proposed Key Sites Map.

The key sites map will need to be deleted as it relates to Clause 7.10 Residential Development Yield.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment : Council has stated that the planning proposal will be advertised in local newspapers and placed on display at Council's administration building, at local libraries and on Council's website. In addition, letters will be issued to adjoining and surrounding property owners.

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 : **All information necessary for assessment has been provided.**

Proposal Assessment

Principal LEP:

Due Date : **October 2012**

Comments in relation to Principal LEP : **The Hills Local Environmental Plan was made on 5 October 2012.**

Assessment Criteria

Need for planning proposal : **The amendment will facilitate an improved retail and commercial development outcome on the site that is consistent with overall objectives for the revitalisation of Round Corner Town Centre, Dural. The provision of a residential flat building on the southern portion of the site will act as an entry marker to the town centre, increase housing diversity and choice to the locality and support existing and new business activity through increased population.**

Consistency with strategic planning framework : **A PLAN FOR GROWING SYDNEY**
The Plan identifies the importance of creating mixed-use environments that provide a convenient focus for daily activities. The focus is placed on creating centres that are vibrant and well connected, have an interesting street life and an improved public domain. As the proposal seeks to facilitate the delivery of additional housing, retail facilities and civic space within a town centre it is consistent with some of the key goals and outcomes of A Plan for Growing Sydney.

As discussed above, it is considered that Council's emphasis on larger family households appears contrary to A Plan for Growing Sydney's Direction 2.3: Improve housing choice to suit different needs and lifestyles. By removing clause 7.10 Residential Development Yield from the planning proposal it will be more compliant with A Plan for Growing Sydney

DRAFT NORTH-WEST SUBREGIONAL STRATEGY

The draft North West Subregional Strategy identifies a need for 47,000 additional jobs and 36,000 additional dwellings to be accommodated within The Hills Shire by 2031. An overarching theme of the strategy is for dwelling and employment growth to be concentrated within centres and near to public transport hubs. The proposal will facilitate the delivery of up to 80 additional dwellings and up to 118 new jobs adjacent to Dural town centre with existing infrastructure and transport options.

Environmental social economic impacts : **ENVIRONMENTAL**
The site does not contain critical habitats or threatened species, populations or ecological communities, or their habitats. The land is predominantly cleared and adjoins residential development and is not mapped as Biodiversity on The Hills LEP 2012 - Terrestrial Biodiversity Map. No significant environmental impacts are likely to arise from the proposal.

SOCIAL AND ECONOMIC

By providing for 80 apartments this will improve housing choice options in the locality as

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the housing stock of the Dural and Kenthurst localities is predominantly detached dwellings in suburban or rural residential lots. The location of the site adjacent to the Dural town centre ensures that development is adequately supported by planned and existing services, facilities and infrastructure.

Assessment Process

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

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

Public Authority : **NSW Rural Fire Service**
Consultation - s56(2)(d) : **Transport for NSW - Roads and Maritime Services**
: **Sydney Water**
: **Telstra**

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

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

If no, provide reasons :

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 - 488-494 Old Northern Rd, Dural.pdf	Proposal Covering Letter	Yes
Planning Proposal pgs 1-12 - 488-494 Old Northern Rd, Dural.pdf	Proposal	Yes
Planning Proposal pgs 13-27 - 488-494 Old Northern Rd, Dural.pdf	Proposal	Yes
Council Report and Resolution - 488-494 Old Northern Rd, Dural.pdf	Proposal	Yes
Draft Development Control Plan pgs 1-100 - 488-494 Old Northern Rd, Dural.pdf	Proposal	Yes
Draft Development Control Plan pgs 101-199 - 488-494 Old Northern Rd, Dural.pdf	Proposal	Yes

Planning Team Recommendation

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

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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

Additional Information :

It is **RECOMMENDED** that the Deputy Secretary, Planning Services, as delegate of the Greater Sydney Commission, determine under section 56(2) of the Environmental Planning and Assessment Act that an amendment to The Hills Local Environmental Plan 2012 to modify the maximum height of buildings and floor space ratio provisions for 488-494 Old Northern Road, Dural should proceed with the following conditions:

1. The proposed local provision Clause 7.10 is considered to be inconsistent with State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65). This provision should be removed from the proposal prior to public exhibition.

2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 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 5.5.2 of 'A guide to preparing local environmental plans (Planning and Infrastructure, 2013)'.

3. Council is to consult with the Commissioner of the NSW Rural Fire Service as per the requirements of S.117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.

4. Consultation is required with the following public authorities under section 56(2)(d) of the Environmental Planning and Assessment Act:

- Endeavour Energy
- Sydney Water
- NSW Rural Fire Service
- Transport for NSW - Roads and Maritime Services
- Telstra

Each 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.

5. No public hearing is required to be held into the matter under section 56(2)(e) of the Environmental Planning and Assessment Act 1979. 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).

6. The timeframe for completing the draft Plan is to be 12 months from the week following the date of the Gateway determination.

DELEGATION TO COUNCIL

Given that the gateway determination is drafted to remove the provision that is contrary to State policy (SEPP 65), it is considered that The Hills Council should be authorised to use the Minister's plan making functions under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.

Supporting Reasons :

The planning proposal has merit as it will provide for additional housing choice in the

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Dural and Kenthurst localities, contribute to local employment and provide for additional services and facilities.

Signature:



Printed Name:

DERRYN JOHN

Date:

9 JUNE 2016

