



THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

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ABN 25 034 494 656 | DX 9966 Norwest

23 November 2020

Ms Abigail Goldberg
Chair - Sydney Central City Planning Panel
Locked Bag 5022
PARRAMATTA NSW 2124


Dear Ms Goldberg

Your Ref: 2018SWC076-
PP_2016_THILL_016_00
Our Ref: 19/2016/PLP

**FINALISATION OF PLANNING PROPOSAL AT BULL AND BUSH HOTEL
360-378 WINDSOR ROAD, BAULKHAM HILLS (19/2016/PLP)**

I am writing to express concern with regard to the Panel's upcoming consideration of the planning proposal for the Bull and Bush Hotel at 360-378 Windsor Road, Baulkham Hills. It is understood that the Sydney Central City Planning Panel (Panel) has been directed by the Department of Planning, Industry and Environment (DPIE) to consider and determine this matter before 31 December 2020.

While Council understands the importance of determining older applications, determination timeframes are not relevant matters in a planning authority's consideration of the merits of a proposal, nor are they defensible grounds to enable matters to proceed to finalisation without adequate resolution of key planning issues.

It is reiterated that Council's resolved position with respect to the planning proposal is that the matter should not proceed. Despite this position Council has, in good faith, participated in the process of trying to resolve outstanding planning matters associated with the proposal in accordance with the Panel's decision from 20 May 2020. Council has participated in this process on the understanding that if the Panel were to finalise the proposal and amend Council's LEP, such a decision would not be made in the absence of local infrastructure and site-specific matters being appropriately dealt with before rezoning occurred.

The Panel's reasons for deferral were well-founded and are not yet resolved. I would firmly submit that given the extent of unresolved issues with the proposal, if the Panel is required to make a final determination by 31 December 2020, the only reasonable and defensible decision would be for the planning proposal to *not* proceed.

To assist the Panel in its upcoming deliberations, I provide the following comments:

Update on Progress of VPA

- Following the Panel's deferral decision on 20 May 2020, it was not until August 2020 that Council received a draft VPA offer from the Proponent. Council officers promptly reported this VPA offer to the elected Council in September 2020, noting that both the Proponent and the

Panel were seeking urgent feedback on whether or not the Council would accept, in-principle, the VPA offer.

- The accelerated timeframe for reporting the VPA to Council meant that there was insufficient time for Council officers to complete the usual process of negotiating key issues with the Proponent before reporting to Council. As a result, while Council's resolution provided in-principal acceptance of the offer, this was clearly contingent on the resolution of a number of major outstanding issues, completion of a detailed legal review and incorporation of significant amendments to the VPA, prior to public exhibition. A copy of the Council report and resolution is provided as Attachment 1.
- Council has taken all action necessary to assist with this process in an efficient and timely manner and has met its obligations to provide progress updates to the Panel on 1 July, 17 August and 2 November 2020. However, there remains significant work still to be completed on the VPA, with no guarantee that the parties are in agreement on the final terms of the VPA, including the changes and details required within Council's resolution. A list of outstanding issues still to be resolved within the VPA based on a preliminary legal review is provided as Attachment 2.
- It is simply not achievable for either Council or the Proponent to have adequately reviewed, considered, publicly exhibited and executed a Voluntary Planning Agreement by 31 December 2020, especially noting that the VPA was only received by Council in August 2020.

Risk of Finalisation without VPA

- It is standard practice for VPAs to be executed and registered on title prior to any LEP amendment being made. This ensures that the obligations under VPAs are binding to both current and any future owner/developer of the land (for example, where land is on-sold to a developer not party to the agreement, following rezoning). The *EP&A Act 1979* is eminently clear that planning agreements are *voluntary*, with Section 7.7 explicitly stating that any environmental planning instrument that requires a planning agreement to be entered into will have no effect. There are no legal mechanisms or other agreements that Council is aware of that would provide adequate certainty that the VPA would be executed and registered on title, if an LEP amendment is allowed to proceed in advance of this occurring.
- It is understood that DPIE is currently investigating potential mechanisms and instruments which may be relied on as a pathway for proceeding with the planning proposal in the absence of a VPA being executed and registered on title. These *may* include:
 - *Deferred commencement (time-based) provision* – however as this is not inherently tied to a requirement to execute a VPA (nor could it legally be), this would not create any incentive or requirement for the developer to enter into the VPA, as the LEP amendment would take effect at a point in time, irrespective of the VPA status.
 - *Inclusion of requirement for Planning Secretary's concurrence prior to issue of development consent* – however, the ability for the Planning Secretary to facilitate and require a VPA between Council and a Developer is questionable. Further, any such provision would be unable to clearly articulate the basis on which concurrence would be granted or the local infrastructure contributions that would be required.
 - *Separate Deed whereby the Proponent agrees to enter into a future agreement* – however, there is general concern over the legality, enforceability and scope of such an agreement as an alternative to a VPA, especially given it would be necessary to resolve the same outstanding issues which are being negotiated as part of the VPA, in order for these terms to be adequately reflected in any such Deed. It is also noted that Council has not been provided with the opportunity to consider or form a resolved position on whether or not to enter into such a Deed.

- In this context, I respectfully request that the Panel meticulously consider the risks they would be exposing both Council and the community to, if the matter is allowed to proceed to finalisation in advance of a VPA being executed and registered on title. There is no instrument or mechanism which will provide Council and the community with certainty that adequate local infrastructure contributions will be made in association with the development, other than adherence to the proper, transparent and established planning process, whereby an LEP amendment is not made until there is a legally binding local infrastructure solution in place.

Lack of Adopted (or Adequate) Development Control Plan

- Concern is raised with respect to the potential for the proposal to be finalised in the absence of an adopted Development Control Plan which resolves key site planning issues. It is acknowledged that there may be a mechanism to require preparation of a DCP prior to lodgement of any development application, however this does not guarantee that any future DCP will adequately resolve the key site planning issues which have been identified by the Panel.
- Given the Panel previously found in May 2020 that achievement of an appropriate outcome on this site would be contingent on a site specific DCP, it would be premature to now form a different position and finalise the planning proposal before a satisfactory DCP has been prepared, reviewed by the Panel for adequacy, publicly exhibited for community comment and adopted. A number of key issues with the most recent draft version of the DCP are identified in Attachment 3.

Forum for Final Decision-Making

- All decisions made by Planning Proposal Authorities are generally conducted in a public forum to ensure transparency and integrity of decision making, especially where a matter is contentious. This allows stakeholders such as submission authors (which in this instance includes Council) to have continued involvement in the process. It is requested that any decision on the finalisation of the proposal be made by the Panel in a public forum, with this same level of transparency for Council and the community.

Should you wish to discuss this matter further, please contact me on [REDACTED]

Yours faithfully


Michael Edgar
GENERAL MANAGER

ATTACHMENT 1: COUNCIL REPORT AND MINUTE – 8 SEPTEMBER 2020
ATTACHMENT 2: KEY ISSUES REGARDING THE DRAFT VOLUNTARY PLANNING AGREEMENT
ATTACHMENT 3: KEY ISSUES REGARDING THE DRAFT DEVELOPMENT CONTROL PLAN

CC: ELIZABETH KIMBELL, PLACE MANAGER (THE HILLS & HAWKESBURY), DPIE

ITEM-1 CONFIRMATION OF MINUTES

A MOTION WAS MOVED BY COUNCILLOR DE MASI AND SECONDED BY COUNCILLOR JETHI THAT the Minutes of the Ordinary Meeting of Council held on 25 August 2020 be confirmed.

THE MOTION WAS PUT AND CARRIED.

501 RESOLUTION

The Minutes of the Ordinary Meeting of Council held on 25 August 2020 be confirmed.

7.17pm Councillor Preston MP arrived at the meeting during Mayoral Minute 10/2020.

MAYORAL MINUTE NO. 10/2020 - START THE CONVERSATION THAT COULD SAVE A LIFE

A MOTION WAS MOVED BY THE MAYOR AND SECONDED BY COUNCILLOR DE MASI THAT this Mayoral Minute be received.

THE MOTION WAS PUT AND CARRIED.

502 RESOLUTION

This Mayoral Minute be received.

COMMUNITY FORUM

There were no addresses to Council during Community Forum.

ITEM-3 PLANNING PROPOSAL - BULL AND BUSH HOTEL - VOLUNTARY PLANNING AGREEMENT (19/2016/PLP)

A MOTION WAS MOVED BY COUNCILLOR THOMAS AND SECONDED BY COUNCILLOR UNO THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

503 RESOLUTION

1. The draft Voluntary Planning Agreement (Attachment 2) be subject to legal review.
2. As part of the legal review of the draft Voluntary Planning Agreement, and prior to commencement of public exhibition, the following amendments be incorporated:
 - a) Inclusion of provisions which require the construction, fit-out and dedication of the community floor space to occur prior to the issue of an occupation certificate for a residential dwelling within the building containing the community facility;

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 8 September 2020

- b) Changes to the proposed design and layout of the facility and the specific area of each component, having regard to the future operation and maintenance of the facility; and
 - c) Inclusion of detailed specifications for the future fit-out of the facility to be completed by the developer.
3. Following legal review, the draft Voluntary Planning Agreement, incorporating any amendments arising from the legal review process, be publicly exhibited for a period of at least 28 days, in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Mayor Dr M R Byrne
Clr R Jethi
Clr R A Preston MP
Clr Dr P J Gangemi
Clr B L Collins OAM
Clr A N Haselden
Clr J Jackson
Clr M G Thomas
Clr E M Russo
Clr F P De Masi
Clr A J Hay OAM
Clr R M Tracey
Clr S P Uno

VOTING AGAINST THE MOTION

None

ITEM-2

ELECTION OF DEPUTY MAYOR

A MOTION WAS MOVED BY COUNCILLOR THOMAS AND SECONDED BY COUNCILLOR JETHI THAT

- 1. In accordance with Section 231(2), Council determine that a Deputy Mayor be elected for the period up until the end of this Council term in 2021.
- 2. Council determine the method of election to apply for the election of the Deputy Mayor be by open voting.
- 3. Council elect one of its members as Deputy Mayor for the period up until the end of this Council term in 2021.

THE MOTION WAS PUT AND CARRIED.

504 RESOLUTION

- 1. In accordance with Section 231(2), Council determine that a Deputy Mayor be elected for the period up until the end of this Council term in 2021.

ITEM-3	PLANNING PROPOSAL - BULL AND BUSH HOTEL - VOLUNTARY PLANNING AGREEMENT (19/2016/PLP)
THEME:	Shaping Growth
OUTCOME:	5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity.
STRATEGY:	5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.
MEETING DATE:	8 SEPTEMBER 2020 COUNCIL MEETING
GROUP:	SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS
AUTHOR:	SENIOR TOWN PLANNER KAYLA ATKINS
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING NICHOLAS CARLTON

EXECUTIVE SUMMARY

The Sydney Central City Planning Panel ('SCCPP') has been appointed as the Planning Proposal Authority, responsible for determining the planning proposal for the Bull and Bush Hotel site at 360-378 Windsor Road, Baulkham Hills. The Panel has required that the Proponent engage with Council with respect to the provision of community facilities, in order to ensure that a mechanism is in place to secure adequate community infrastructure contributions, should the Panel determine to proceed to finalisation of the planning proposal.

In response to the Panel's requirements, the Proponent has submitted an offer to Council to enter into a VPA. The draft VPA offer would require the Proponent to construct, fit-out and dedicate a public library and community centre on the site, with a combined area of 2,500m², at no cost to Council. The offer also includes the provision of 100 basement car parking spaces and a publicly accessible through site link between Windsor Road and Conie Avenue Reserve.

Notwithstanding Council's previous view and decision on the merits of the planning proposal outcome, the draft VPA offer is considered to represent a fair and reasonable development contribution in association with the proposed development, should the Panel finalise the planning proposal.

This report recommends that Council accept, in principle, the Proponent's VPA offer and progress the matter to the next stage of the process, being detailed legal review and community consultation. It is recommended that as part of the legal review process, a number of amendments be made to the draft VPA, as discussed further within Section 2 of this report.

PROPONENT

Dyldam Developments Pty Ltd

OWNERS

BNB 88 Pty Ltd

POLITICAL DONATIONS

Yes

BACKGROUND

On 24 February 2016, Council received a planning proposal for the Bull and Bush Hotel site at 360-378 Windsor Road, Baulkham Hills. The proposal sought to amend LEP 2019 to facilitate an 8-15 storey mixed use retail/commercial and residential development on the site comprising:

- 6,042m² of commercial and retail floor space (including a hotel/pub);
- 2,502m² of community floor space (including library and community centre); and
- 20,582m² of residential floor space (approximately 200 units).

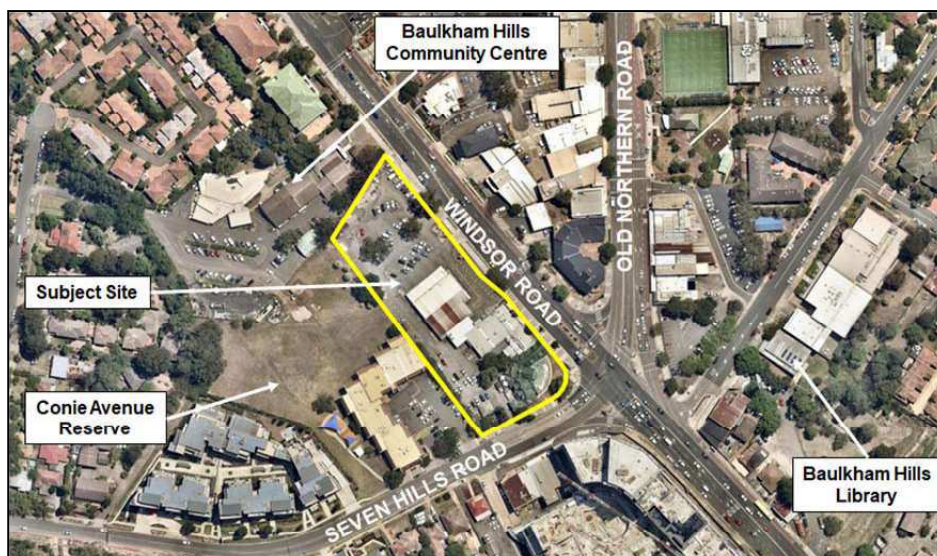


Figure 1
Site Context

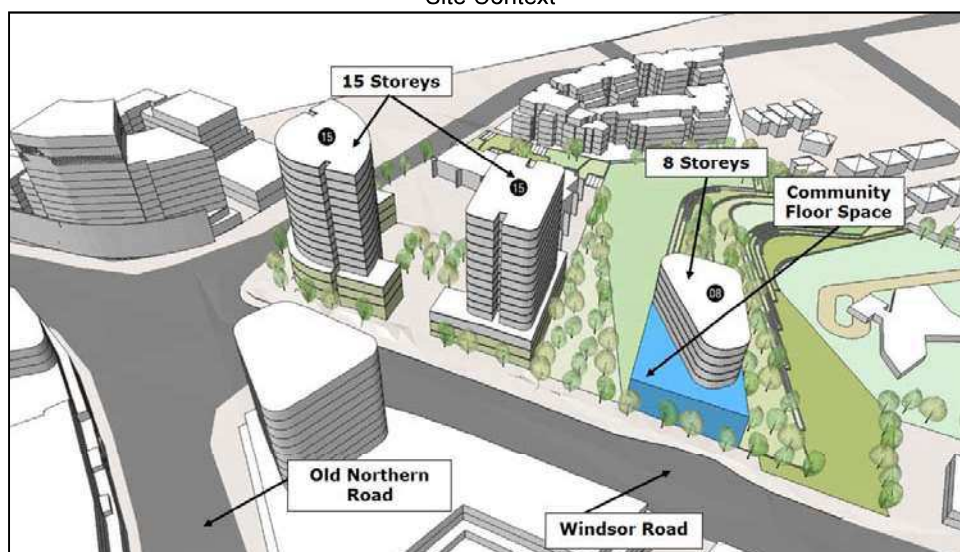


Figure 2
Development Concept – Built Form Massing

On 8 November 2016, Council resolved to forward the planning proposal to the Department of Planning, Industry and Environment for Gateway Determination. A Gateway Determination was issued for the site on 12 May 2017.

However, prior to public exhibition, at its meeting of 12 December 2017 Council considered a report on a previous draft VPA offer associated with the proposal and the conditions imposed within the Department's Gateway Determination and resolved as follows:

1. Council not proceed with the Planning Proposal (19/2016/PLP) which seeks to amend the land zoning, height of buildings and floor space ratio for the Bull and Bush Hotel site at 360-378 Windsor Road, Baulkham Hills (Lots 1 and 2 DP 783941).
2. The draft Voluntary Planning Agreement not proceed to public exhibition.

Following this decision, the Proponent wrote to the Department requesting that an alternate Planning Proposal Authority be appointed for the proposal. This request was granted on 12 June 2018 and the Sydney Central City Planning Panel ('SCCPP') was appointed as the Planning Proposal Authority. The proposal was subsequently publicly exhibited by the SCCPP from 5 December 2018 to 1 February 2019 (without a VPA).

The outcomes of the exhibition were considered by the SCCPP on 20 May 2020. Consistent with Council's resolved position, officers submitted that the proposal should not proceed. Officers also argued strongly that should the Panel be of a mind to allow the proposal to proceed that any decision should be deferred until such time as matters of local infrastructure could be further considered and dealt with. Ultimately the Panel unanimously determined to defer a decision on the finalisation of the proposal. Reasons for the deferral related to obtaining further advice from the Department on potential clauses to guide development outcomes on the site, the preparation of a site specific Development Control Plan and providing an opportunity for the Proponent to re-engage with Council with respect to its offer of community facilities. The Panel's decision is provided as Attachment 1.

Council is no longer the planning authority responsible for determining the final planning outcome and controls for this site, with the decision on whether to finalise the proposal to be made by the Panel. Notwithstanding Council's previous view and decision on the merits of the proposed outcome, the Panel's deferral requires for further engagement between Council and the Proponent with respect to securing adequate community infrastructure contributions, should the Panel determine to proceed to finalisation of the planning proposal.

REPORT

This report provides an overview and assessment of the revised VPA offer received by Council in July 2020, in association with the planning proposal at the Bull and Bush Hotel, 360-378 Windsor Road, Baulkham Hills (Lots 1 and 2 in DP 783941) (19/2016/PLP).

Council is not the planning authority responsible for determining the planning proposal. However, the VPA offer has been submitted to Council as a mechanism of establishing a fair and reasonable contribution towards future local infrastructure within the Baulkham Hills Town Centre, should the Sydney Central City Planning Proposal determine that the planning proposal will proceed to finalisation.

1. VOLUNTARY PLANNING AGREEMENT OFFER

Following the SCCPP's deferral of a decision on the finalisation of the planning proposal, the Proponent has submitted an offer to Council to enter into a VPA with Windsor Star Pty Ltd. The offer includes the construction, fit-out and dedication of a public library and community

centre on the site, at no cost to Council. The draft VPA offer is provided as Attachment 2 to this report.

The proposed concept includes approximately 2,500m² of community floor space, capable of accommodating a new library and community centre. The Proponent has prepared preliminary concepts, shown in Figures 3, 4 and 5 below. The proposal also includes 100 basement car parking spaces and a publicly accessible through site link between Windsor Road and Conie Avenue Reserve (Figure 6 below).

In recognition of the contributions offered, the VPA offer proposes to exempt future development on the site from the payment of Section 7.12 developer contributions.

It is noted that the concepts provided in Figures 3 and 4 have been prepared by the Proponent. Should Council resolve to accept, in principle, the draft VPA offer, the final layout, fit-out and specifications would be the subject of further negotiations with the Proponent, prior to public exhibition.

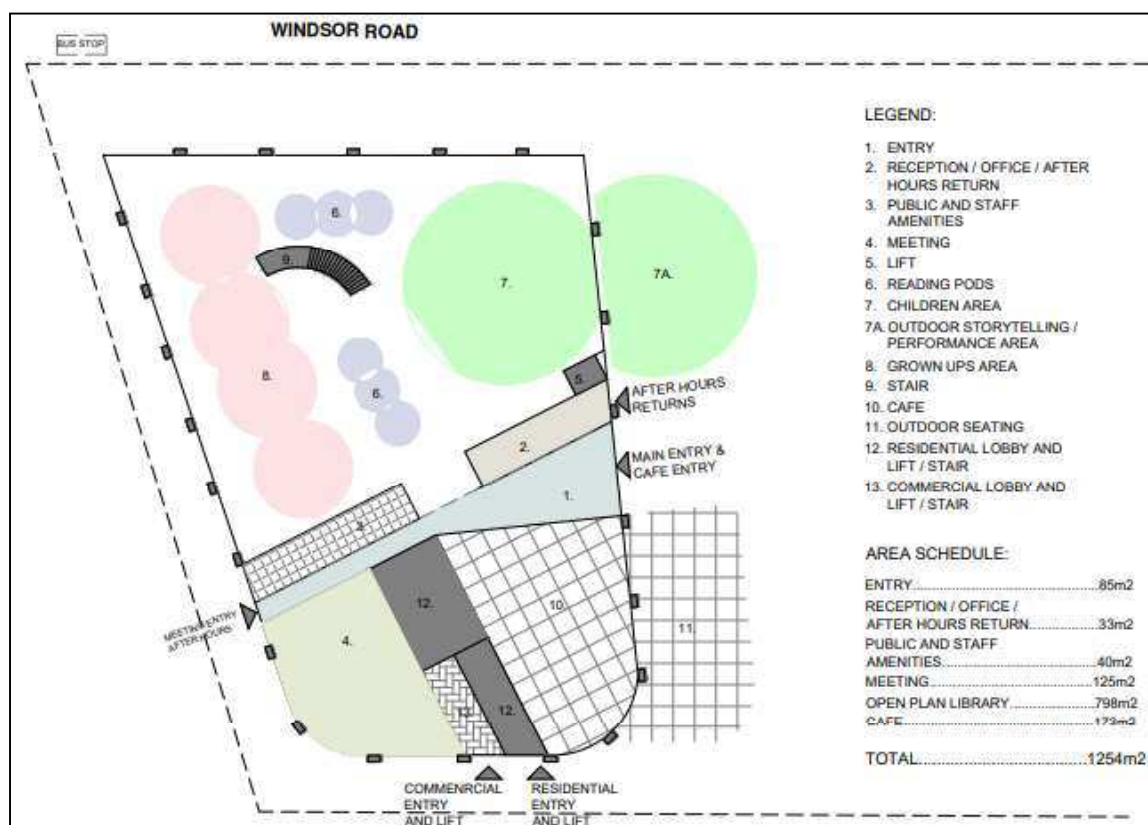


Figure 3
Ground Floor Concept Layout – Public Library and Community Centre

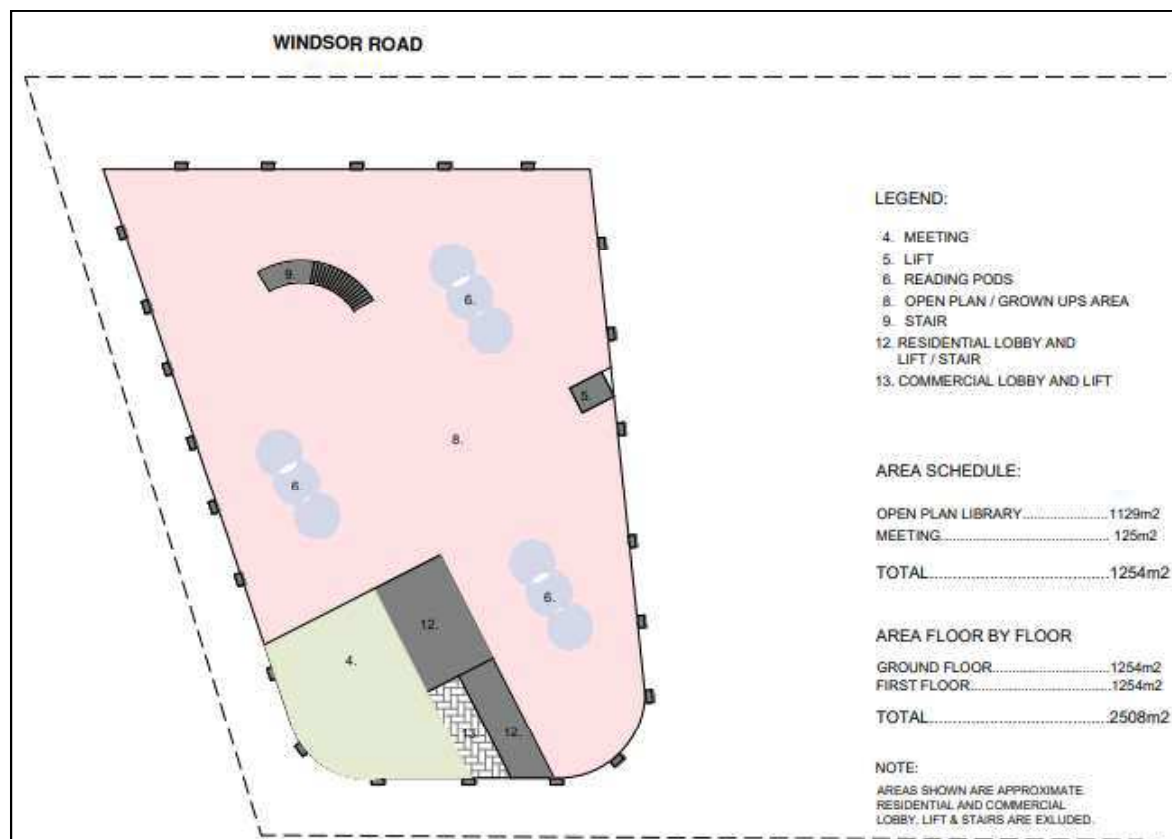


Figure 4
First Floor Concept Layout – Public Library and Community Space



Figure 5
External Concept view from Conie Avenue Reserve (left) and from Windsor Road (right)

**Figure 6**

Proposed location of publicly accessible through site link (blue)

Existing community floor space within Baulkham Hills Town Centre comprises a 556m² library (located on Crown land) and a 1,255m² community centre (located on Council owned land), as shown in Figures 7 and 8 below. These facilities are currently in separate locations, with limited scope for upgrades or expansion in the future.

The VPA offer would deliver approximately 2,500m² of new library and community floor space and provide Council with the opportunity to consider consolidating existing facilities within Baulkham Hills Town Centre at one single location and re-purposing the existing facilities and/or sites.

**Figure 7**

Baulkham Hills Library



Figure 8
Baulkham Hills Community Centre

2. ASSESSMENT OF VPA OFFER

The VPA offer has a combined public benefit value of approximately \$17.8 million, taking into account the estimated cost of construction and fitout and the value of the stratum space which would be transferred to Council.

Having regard to the proposed yield (200 units) and level of uplift sought through the planning proposal, the overall value of the contribution offered is considered to be fair and reasonable.

A preliminary review of the VPA offer has been undertaken and the following key issues have been identified for further negotiation with the Proponent:

1. **Clarification of Timing of Handover:** Should Council resolve to accept, in principle, the VPA offer, it is recommended that as part of the legal review process (prior to exhibition), the draft VPA be amended to more clearly link the required construction, fit-out and dedication of the facility to the achievement of residential yield within the development (for example, prior to the issue of an Occupation Certificate for a residential dwelling within the building containing the community facility).
2. **Layout:** Further consideration is required with respect to the proposed layout and design of the facility. While the offer will comprise a total combined area of 2,500m² of community floor space, further negotiations may be required with respect to the specific areas of each component (library, community space, meeting rooms) and the layout of the facility over the proposed 2 storeys (for example, locating the library wholly within the ground floor of the development with community space and meeting rooms above in order to reduce staffing and running costs).
3. **Fit-out Specifications and Cost:** Further negotiation is required to include more detailed specifications for the fit-out of the community space and identify key inclusions which must be provided by the developer. The VPA should also be amended to remove any “maximum cap” on the value of the fit-out and rather, ensure that the facility is delivered in accordance with the specifications, irrespective of the cost.

Should Council resolve to accept the VPA offer, in principle, the next steps would be for the draft VPA to be subject to legal review and public exhibition. It is recommended that should Council resolve for the VPA to proceed to this next step, that the above changes be made to the draft agreement through the legal review process, prior to the commencement of public exhibition.

Following the legal review and public exhibition process, a further report would be provided to Council. At this point, Council would be in a position to consider the final draft VPA and determine whether or not to enter into the agreement.

IMPACTS

Financial

The VPA offer would result in the construction, fit-out and dedication of a new public library and community facility at no cost to Council. As such, it represents a significant land and capital contribution. However, in considering this VPA offer, Council should also have regard to ongoing upkeep costs associated with the proposed new asset.

▪ Library Facility

The current annual upkeep costs for the existing Baulkham Hills Library are estimated at approximately \$1.3 million for this 550m² facility.

The Proponent has offered to deliver the new library space across two (2) storeys. In accordance with the Proponent's suggested distribution of library and community facility, the annual upkeep costs for the proposed new library are estimated at approximately \$2.7 million (based on current operations at Vinegar Hill Memorial Library). As discussed earlier within this report, maintenance costs could be substantially reduced through reducing the area identified for library space and/or locating this on one single level of the development only. Changes of this nature could ultimately result in a running cost that is equivalent to or less than the existing Baulkham Hills library.

Should the offer be accepted, Council would have further opportunity to agree upon detailed design, layout and specifications for the facility as part of the legal review process and prior to public exhibition. If the library floor space were reduced and limited to one floor only, with community space and meetings rooms above, there would remain opportunity for Council to redesign or expand the library facilities in the future in response to changing community needs, within the overall 2,500m² of community floor space.

▪ Community Facility

The existing Baulkham Hills Community Centre is approximately 1,255m² in size and the annual upkeep costs are estimated at approximately \$79,000 (\$63 per square metre). As detailed earlier within this report, there would be scope for further discussions with the Proponent with respect to the detailed design specifications and layout which may provide the opportunity to reduce the potential cost of ongoing operation and upkeep. in order to meet the growing needs of the Baulkham Hills community.

Strategic Plan - Hills Future

The draft VPA would contribute to the delivery of community infrastructure to service the existing community of Baulkham Hills and provide additional capacity to support anticipated future growth in the locality.

RECOMMENDATION

1. The draft Voluntary Planning Agreement (Attachment 2) be subject to legal review.
2. As part of the legal review of the draft Voluntary Planning Agreement, and prior to commencement of public exhibition, the following amendments be incorporated:
 - a) Inclusion of provisions which require the construction, fit-out and dedication of the community floor space to occur prior to the issue of an occupation certificate for a residential dwelling within the building containing the community facility;
 - b) Changes to the proposed design and layout of the facility and the specific area of each component, having regard to the future operation and maintenance of the facility; and
 - c) Inclusion of detailed specifications for the future fit-out of the facility to be completed by the developer.
3. Following legal review, the draft Voluntary Planning Agreement, incorporating any amendments arising from the legal review process, be publicly exhibited for a period of at least 28 days, in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

1. Sydney Central City Planning Panel Decision, 20 May 2020 (2 pages)
2. Draft Voluntary Planning Agreement – 360-378 Windsor Road, Baulkham Hills (36 pages)



PLANNING PROPOSAL AUTHORITY
DETERMINATION AND STATEMENT OF REASONS
 SYDNEY CENTRAL CITY PLANNING PANEL

ATTACHMENT 1

DATE OF DETERMINATION	20 May 2020
PANEL MEMBERS	Abigail Goldberg (Chair), Clare Brown and Ken McBryde
APOLOGIES	Gabrielle Morrish
DECLARATIONS OF INTEREST	<p>Chandi Saba and Mark Colburt advised that they had been at meetings when Bull & Bush was discussed at Council.</p> <p>David Ryan advised that City Plan provided advice to a client several years ago about a planning proposal for this site, resulting in a perceived conflict of interest.</p> <p>Stewart Seale advised that he was conflicted as he was the Manager Forward Planning at the time this Proposal commenced.</p>

Public meeting held by teleconference on 18 May 2020, at 10.34am and closed at 11:25am.

PLANNING PROPOSAL

2018SWC076 – The Hills Shire – PP_2016_THILL_016_00 AT 360-378 Windsor Road, Baulkham Hills, Bull and Bush Hotel (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

The panel considered: the material listed at item 4, and the material presented at meetings and matters observed at site inspections listed at item 5 in Schedule 1.

The Panel adjourned after the meeting to deliberate on the matter and formulate a resolution.

As the planning proposal authority, the Panel determined to defer a decision on the Planning Proposal. The decision was **unanimous**.

REASONS FOR THE DEFERRAL

The Panel notes the concerns of community speakers as well as Council's representative, and resolved to defer a decision on the Planning Proposal to enable:




- The Applicant to review their offer of community facilities and encourage them to re-engage with Council to provide facilities that meet the community's needs, and which Council has a reasonable financial opportunity to implement.
- The Applicant is requested to prepare a site specific draft DCP for consideration by the Department and the Panel to address the design concerns raised by Council and the community, and to provide greater clarity regarding the built form and public domain proposed for the site.
- The Department to provide advice on potential clauses to address:
 - The transport corridor considerations;
 - Design excellence;
 - Vegetation on site; and
 - Provision of local infrastructure.

The Panel is satisfied that the State's position on traffic considerations is known, as per Transport for NSW's Future Transport 2056 which is reflected in The Hills Local Strategic Planning Statement. The Panel also notes that Transport for NSW has recently provided advice on the Applicant's study addendum.

The Applicant and Council are encouraged to provide written updates to the Department on progress on these matters in the following timeframes:

- Initial update: six weeks from the date of this deferral
- Interim update: three months from the date of this deferral
- Final update: five months from the date of this deferral.

The Panel will then meet once the Department has provided it with a further report, and the Secretariat's has undertaken it's due process.

PANEL MEMBERS	
 Abigail Goldberg (Chair)	 Clare Brown
 Ken McBryde	

SCHEDULE 1		
1	PANEL REF – LGA – PLANNING PROPOSAL NO. - ADDRESS	2018SWC076 - Bull and Bush Hotel – PP_2016_THILL_016_00 360-378 Windsor Road, Baulkham Hills
2	LEP TO BE AMENDED	The Hills Local Environmental Plan 2019
3	PROPOSED INSTRUMENT	<p>Planning proposal to amend the Hills Local Environmental Plan 2019 to rezone the site at 360-378 Windsor Road, Baulkham Hills from R1 General Residential to B2 Local Centre and increase the achievable maximum height of buildings and floor space ratio applying to the site under The Hills Local Environmental Plan 2019. The amendment would facilitate a mixed-use retail/commercial and residential development on the site, which includes the following:</p> <ul style="list-style-type: none"> • a minimum of 6,040m2 of commercial and retail floor space (including a hotel/pub); • a minimum of 2,500m2 of community floor space (including library and community centre floor space); and • 20,582m2 of residential floor space (approximately 200 units).
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Submissions report: 22 April 2020 • Written submissions during public exhibition: 19 • Verbal submissions at the public panel meeting: <ul style="list-style-type: none"> ○ Jim Wand ○ Dianne Toner ○ Arjun Sekhar ○ David Reynolds on behalf of The Hills Shire Council ○ On behalf of the applicant – Nathan Wall, Planner
5	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • 29 April 2020 - Briefing • 31 October 2018 - Panel Decision – Exhibition of Planning Proposal

Attachment 3 - Preliminary Comments and Key Issues - Draft Development Control Plan

Objectives and Controls

- Some of the language and wording of the objectives and controls is inconsistent.
- Any new DCP should also be read in conjunction with Part B Section 2 – Residential.
- Consistent phrasing and stronger language should be required throughout the draft document.

Parking

- Council's adopted car parking rates within Part C Section 1 of The Hills DCP 2012 should be used.
- Council's adopted rates are minimum rates and should continue to be expressed as a minimum.
- It is unclear how the number of bicycle spaces can be quantified (based on the percentage of customers and staff) given both customer and staff numbers are subject to fluctuation. Insufficient justification has been provided for deviation from Council's adopted bicycle rates. Bicycle parking should be provided for the development in accordance with Part C Section 1 of The Hills DCP 2012.

Height

- The Building Storeys Map (Figure 4) should be annotated to more clearly indicate building heights.
- The Building Storeys Map includes an additional storey on the north-western building as a post-exhibition change. Any proposed increase in height at the post-exhibition stage is not supported.

Commercial and Retail Uses

- The DCP should specify the minimum commercial and retail GFA required to be delivered as part of the development (minimum 6,040m² of commercial and retail GFA (including pub) and 2,500m² GFA for a library and community facility).

Land Use Map

- The Land Use Map (Figure 2) does not identify the location of the commercial and retail uses. This Map should be amended to, at a minimum, provide greater certainty with respect to the provision of a public plaza, address to Conie Avenue Reserve and provision of active frontages.

Active Frontages

- It is unclear what is meant by 'desired active frontage' on the Active Frontages Map (Figure 3). Greater certainty is required regarding the provision of active frontages, particularly in relation to Conie Avenue Reserve and the public plaza. A new control should be included which requires that 'active frontages should be provided along all frontages to Conie Avenue Reserve'.

Right of Way (Public Access)

- The Right of Way is not clearly depicted in the Section Map (Figure 11) and is inconsistent with public access maps provided within the VPA. A map should be included in the DCP that clearly details the extent of public access (this should be consistent with the right of way proposed within the draft VPA).

Overshadowing Conie Avenue Reserve

- The DCP should include minimum solar access requirements for Conie Avenue Reserve, rather than a general intent to minimise overshadowing. Open space should receive at least four hours of sunlight between 9am and 3pm on 21 June.

Public Plaza

- The location and extent of the public plaza should be indicated on a map (not a section plan) and should integrate with the redeveloped Bull and Bush Hotel. The public plaza should be a minimum of 45% of the site (this is consistent with the planning proposal as considered by Council and the Panel).

Communal Open Space

- A minimum of 25% of the communal open space should be provided at ground level to enhance the quality of the built environment by providing opportunities for landscaping and functional areas for informal recreation for future residents of the site.

Landscaping

- The proposed control of 7% landscaping is inadequately low and should be increased substantially.