

The Hills LEP 2012 - Bull and Bush Hotel Site

Proposal Title : **The Hills LEP 2012 - Bull and Bush Hotel Site**

Proposal Summary : **This planning proposal is intended to amend The Hills Local Environmental Plan 2012, as it applies to the Bull and Bush Hotel site at 360-378 Windsor Road, Baulkham Hills (Lots 1 and 2 DP783941), as follows:**

- amend the land zoning from R1 General Residential to B2 Local Centre;
- amend the height of buildings to 49 metres; and
- amend the floor space ratio to 3.2:1.

The planning proposal also seeks to identify the site on the key sites map and require that any development on the site comply with a number of local criteria.

PP Number : **PP_2016_THILL_016_00**

Dop File No : **16/15091**

Proposal Details

Date Planning Proposal Received : **06-Dec-2016**

LGA covered : **The Hills Shire**

Region : **Metro(Parra)**

RPA : **The Hills Shire Council**

State Electorate : **BAULKHAM HILLS**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **360-378 Windsor Road**

Suburb : **Baulkham Hills**

City :

Postcode :

Land Parcel : **Lots 1 and 2 DP783941**

DoP Planning Officer Contact Details

Contact Name : **Chris Browne**

Contact Number : **0298601508**

Contact Email : **chris.browne@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Brent Woodhams**

Contact Number : **0298430443**

Contact Email : **bwoodhams@thehills.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Adrian Hohenzollern**

Contact Number : **0298601505**

Contact Email : **adrian.hohenzollern@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 :	
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	Both
No. of Lots :	0	No. of Dwellings (where relevant) :	200
Gross Floor Area :	0	No of Jobs Created :	119

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 :

Supporting notes

Internal Supporting Notes :

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.

External Supporting Notes :

The planning proposal seeks to amend the zoning of the Bull and Bush Hotel site at 360-378 Windsor Road, Baulkham Hills (being Lots 1 and 2 DP783941). The proposal also seeks to increase the achievable maximum height of buildings and floor space ratio applying to the site subject to compliance with a development incentive provision. The amendment will facilitate a mixed use retail/commercial and residential development on the site.

It is recommended that the planning proposal proceed subject to the deletion of proposed clause 7.12 - Housing Diversity. The issues with clause 7.12 are discussed in the Justification e) section of this report.

Adequacy Assessment

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

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

Comment : **The objective of the planning proposal is as follows:**

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

The built form is proposed to consist of three towers, two being 15 storeys and the remaining building being 8 storeys.

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

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

Comment : **The explanation of provisions is as follows:**

- amend the Land Zoning Map to rezone the site from R1 General Residential to B2 Local Centre;
- amend Part 7 of Local Environmental Plan 2012 to include a new local provision (Proposed Clause 7.12 Housing Diversity);
- amend Local Environmental Plan 2012 Key Sites Map to identify the site as 'Area Q'; and
- amend Clause 4.6 Exceptions to development standards to specify that the proposed clause (Clause 7.12 Housing Diversity) cannot be varied.

The maximum development potential on the site, being a floor space ratio of 3.2:1 and a maximum height of building of 49 metres is proposed to be written into the additional local provision under Part 7 of The Hills LEP 2012.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA : **2.3 Heritage Conservation**

* May need the Director General's agreement

Is the Director General's agreement required? **No**

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 : **The planning proposal is inconsistent with Section 117 Direction 2.3 Heritage Conservation and SEPP No 65 — Design Quality of Residential Apartment Development, see below.**

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

If No, explain : **SECTION 117 DIRECTIONS**

Council has identified that the planning proposal is consistent with all Section 117 Directions, except for Direction 2.3 Heritage Conservation.

2.3 HERITAGE CONSERVATION

Council notes that the planning proposal does not seek to amend any of the heritage provisions in The Hills Local Environmental Plan 2012, or remove/amend the heritage listing of the Bull and Bush Hotel. However, the proposal is considered to be inconsistent with this Direction as the proposal would involve the demolition of the

existing heritage item. It is proposed that the heritage item be reconstructed and incorporated into the redevelopment of the site.

The heritage assessment prepared by NBRIS and Partners recommends that future development should be preceded by:

- appropriate archaeological investigation;
- archival photographic recording;
- preparation and implementation of an interpretation strategy to identify significant aspects of the site to future users; and
- should the proposal be supported, appropriate controls are recommended to achieve the re-interpretation of the hotel on the site.

Department Response: This approach is considered appropriate, noting that should the planning proposal proceed, further heritage assessment would be required as part of any development application for the site.

As such, it is considered that the planning proposal's inconsistency with Section 117 Direction 2.3 Heritage Conservation is of minor significance and that no further assessment is required through the planning proposal process.

STATE ENVIRONMENTAL PLANNING POLICIES

Council suggests that the planning proposal is consistent with all State Environmental Planning Policies. This is incorrect, as the planning proposal is inconsistent with SEPP 65, see below:

SEPP 65 - DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

Under SEPP 65, fixed minimum apartment internal floor sizes apply. The planning proposal contains a local provision, Clause 7.12 Housing Diversity, which proposes to identify the subject site as "Area Q" and allow a maximum building height of 49 metres and a maximum floor space ratio of 3.2:1, as long as the development:

- provides a minimum of 6,042sqm of commercial and retail floor space (including the hotel/pub);
- the development provides a minimum of 2,502sqm of community floor space;
- the development provides a Family Friendly Dwelling Mix;
- the development provides a Diversity of Housing; and
- the provision of car parking shall not be less than the following:
 - 1 space per 1 bedroom unit
 - 1.5 spaces per 2 bedroom unit
 - 2 spaces per 3 bedroom unit
 - 2 visitor spaces per 5 units

The proposed clause goes on to define the following:

Family Friendly Dwelling Mix means a mix of apartment types, providing housing choice for different demographics, living needs and household budgets. In The Hills Shire, based on the demographic profile of the area, a development is considered to provide Family Friendly Dwelling Mix if no more than 25% of all dwellings are studio or 1 bedroom dwellings and at least 20% of all dwellings are 3 or more bedroom dwellings.

Diversity of Housing means a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. In The Hills Shire, a development is considered to provide Diversity of Housing if at least 40% of all 2 bedroom dwellings and 40% of all 3 bedroom dwellings have a minimum internal floor area of 110 square metres and 135 square metres respectively.

Department Response: The proposed local clause 7.12 Housing Diversity is inconsistent with SEPP 65, and Council has not specifically addressed the discrepancies between SEPP 65 and the proposed local provision. The Department considers that the proposed clause's inconsistency with SEPP 65 is not adequately justified and that retaining access to SEPP 65 apartment floor sizes for the full capacity of the site will better meet the needs of a wider variety 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 local provision to that proposed for the Bull and Bush site planning proposal that varied apartment sizes from those contained in SEPP 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 65.

The Deputy Secretary's letter sets out parameters for the Department's acceptance of a 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 clause proposed for the Bull and Bush site. The Bull and Bush site is not in to Northwest Rail Corridor or in the Norwest Structure Plan area.

It is proposed that the planning proposal be supported for a Gateway determination, however the proposed local clause 7.12 Housing Diversity should be removed due to its inconsistency with SEPP 65, for which Council has provided insufficient justification.

SEPP 55 - REMEDIATION OF LAND

A Phase I Environmental Site Assessment Report was prepared in support of the planning proposal by Consulting Earth Scientists to determine whether the land was contaminated.

The report noted that the site and its vicinity had a mixed history of rural, residential, and commercial land use and that potentially contaminating land use activities had occurred on-site including:

- application of uncontrolled fill on the site; and
- demolition of former site structures possibly constructed from hazardous building materials.

The report recommended that an investigation of the soil and groundwater be carried out at the development application stage to assess the presence or absence of land contamination. The report continues by commenting that if subsequent intrusive investigation identifies contamination that is considered to pose an unacceptable risk to future site users, it may be possible to address these concerns at the construction phase (e.g. formation of basements) via excavation and off-site disposal to a suitably licensed landfill.

Department Response: The Department agrees with Council's proposed approach to potential site contamination and remediation.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Although indicative maps showing the subject land have been provided, mapping amendments have not been prepared as yet.**

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, Baulkham Hills Library and Castle Hill Library, and on Council's website. In addition, letters will be issued to adjoining and surrounding property owners.**

The planning proposal is proposed to be placed on public exhibition for a period of 28 days.

Given the nature of the planning proposal, the Department considers that the proposed exhibition period is appropriate.

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 :

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 planning proposal is not the result of any strategic study or report. Council notes that the proposal is consistent with the draft exhibited Master Plan for the Baulkham Hills Town Centre in terms of dwelling yield and strategic work undertaken to inform housing diversity provisions.**

Council states that it considers the planning proposal the best means of achieving its objectives, as rezoning the site to B2 Local Centre zone and the insertion of a development incentive provision to facilitate a maximum floor space ratio of 3.2:1 and maximum height of buildings of 49 metres, subject to the provision of an appropriate mix of uses and delivery of housing diversity.

The planning proposal includes a proposed new local clause 7.12 Housing Diversity which would implement the following:

- a Family Friendly Dwelling mix of no more than 25% of all dwellings being studios or 1 bedroom dwellings and at least 20% of all dwellings are 3 or more bedroom dwellings; and**

- a Diversity of Housing mix of at least 40% of all 2 bedroom dwellings and 40% of all 3 bedroom dwellings having a minimum internal floor area of 110sqm and 135sqm respectively.

Department Response: Whilst the planning proposal is generally considered to have merit, the Department does not support the proposed local clause 7.12 for the reasons outlined in the Justification e) section of this report. This clause should be deleted from the planning proposal.

Consistency with strategic planning framework :

A PLAN FOR GROWING SYDNEY

A Plan for Growing Sydney 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.

Department Response: As noted under the Justification e) section of this report, Council's emphasis on larger family households is contrary to SEPP 65. It is also considered to be contrary to A Plan for Growing Sydney's Direction 2.3 - Improve housing choice to suit different needs and lifestyles. Removing clause 7.12 Housing Diversity from the planning proposal will make the planning proposal more compliant with A Plan for Growing Sydney.

DRAFT WEST CENTRAL DISTRICT PLAN

The draft West Central District Plan identifies priorities and actions to realise the vision for the District, including improving housing choice, and improving housing diversity and affordability.

The draft West Central District Plan indicates that The Hills local government area has a housing target of 8,550 additional dwellings by 2021.

Department Response: Whilst the planning proposal will contribute to the housing target identified for The Hills local government area, the proposed local clause 7.12 Housing Diversity is considered to be inconsistent with Direction 4.3.3 Deliver West Central District's five-year housing supply target. It is recommended that the planning proposal is amended to remove this proposed local clause.

DRAFT BAULKHAM HILLS TOWN CENTRE MASTER PLAN

The draft Baulkham Hills Town Centre Master Plan was developed to guide the renewal and rejuvenation of the Baulkham Hills Town Centre and set the framework for future infrastructure and land use planning including the built form of future development. In recognition of the land ownership pattern, allotment fragmentation and other site constraints within certain parts of the town centre a number of 'Strategic Investigation Sites' were identified. Whilst these sites were considered to have significant development opportunity, it was recognised that they have unique characteristics which would need to be carefully addressed as part of future planning proposals/applications. One of these sites included the Bull and Bush Hotel.

Although at the time that this planning proposal was considered by Council the draft Master Plan had not been endorsed by Council, the draft master plan does envisage a high density mixed use outcome on the site. Preliminary analysis undertaken as part of the master planning process indicated approximately 200 dwellings with approximately 4,000sqm of retail and commercial floor space on the site.

Department Response: The Department considers that the planning proposal is in keeping with Council's draft Baulkham Hills Town Centre Master Plan.

Environmental social
economic impacts :

ENVIRONMENTAL IMPACTS

As noted in consideration of SEPP 55 under the Justification e) section of this report, a Phase I Environmental Site Assessment Report was prepared to determine whether the land was contaminated.

The report noted that the site and its vicinity was potentially contaminated due to past land uses and recommended that an investigation of the soil and groundwater be carried out at the development application stage to assess the presence or absence of land contamination.

Department Response: This Department agrees with Council's proposed approach to potential site contamination and remediation.

SOCIAL IMPACTS

HERITAGE

Due to the proposed demolition and reconstruction of the heritage listed Bull and Bush Hotel, a preliminary heritage assessment was prepared by NBRIS and Partners in support of the planning proposal.

This heritage assessment noted that the historic significance of the Bull and Bush Hotel is not in the built form of the development but rather its cultural importance from the continual use of the site as a hotel since the early 1800s.

The current Bull and Bush Hotel building, is the third hotel to be located on the site and has undergone substantial modification since it was built in the 1930s, mainly as a result of fire damage and further additions by the hotel operator.

The planning proposal suggests that the proposed demolition, reconstruction, and incorporation of the hotel into the redevelopment of the site will facilitate the continuation of the site's historic use. The proposal also notes that, should the proposal be supported, appropriate controls are recommended to achieve the re-interpretation of the hotel on the site.

Department Response: As noted under the Justification e) section of this report, the Department considers that this approach is considered appropriate, again noting that further heritage assessment would be required as part of any development application for the site.

OVERSHADOWING

The planning proposal notes potential overshadowing on Conie Reserve, and notes that this has been minimised as much as possible through 'slender' building forms and concentrating the higher building elements to the southern part of the site. Council notes that further assessment of the final built form will be undertaken through the development assessment process to ensure that the overshadowing impact is acceptable.

Department Response: The Department agrees with Council's proposed approach to addressing overshadowing.

PRIVACY

Council notes that privacy impacts are not expected to be significant as the site's separation from nearby residential areas is great enough (between 80 and 100 metres) that any impacts are minimal. The proposal notes that controls will be required to ensure that there is an appropriate transition of building height across the site, with the lower element located along the edges of the site, particularly along the sensitive interfaces.

Department Response: The Department agrees with Council's proposed approach to addressing potential privacy issues.

NOISE

The distance of the proposed development to the adjoining residential areas is considered to be sufficient to ensure that the potential impact of noise emanating from apartments is minimal. However, matters relating to acoustic privacy will be appropriately addressed at the development assessment stage.

Department Response: The Department agrees with Council's proposed approach to potential noise impacts.

TRAFFIC

A Traffic Impact Assessment was prepared by GTA Consultants in support of the proposal, with a dwelling yield of 200 units.

The results of the assessment indicates that following the completion of the proposed development the intersection of Windsor Road/Olive Street and the two site accesses points would continue to operate with acceptable traffic delays and level of service. Whereas, the Seven Hills Road/Conie Avenue intersection and Windsor Road/Seven Hills Road intersection would continue to operate at an unacceptable level of service if these intersections continue to operate under existing configurations.

Council has investigated future potential grade separation (via a tunnel along the Windsor Road alignment). Council notes that new development on the subject site would need to be located clear of any additional widening of the carriageway to accommodate the proposed upgrade.

Department Response: As Council's proposed local clause 7.12 is not support, the traffic study and planning proposal will need to be revised to take into account the potential difference in dwelling yield caused by the removal of this clause.

ECONOMIC IMPACTS

Council notes that redevelopment of the site will facilitate the delivery of around 6,042sqm of commercial and retail floor space (including a hotel/pub), 2,502sqm of community floor space (including library and community centre floor space) and around 200 apartments (approximately 400 people). Assuming an average employment ratio of around 38sqm of Gross Floor Area per employee the site could potentially accommodate around 159 jobs (excluding jobs generated on the community floor space).

In addition to the new employment opportunities which would be available on the site, future redevelopment would significantly improve the vibrancy of the town centre through the delivery of a new pub, shops and businesses, public domain improvements and pedestrian connections. These facilities and services would reinforce the strategic role of the Baulkham Hills Town Centre.

Department Response: The Department considers that the planning proposal will have a significant positive economic impact on the Baulkham Hills Town Centre.

Assessment Process

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

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

Public Authority : **Office of Environment and Heritage**
Consultation - 56(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
Planning proposal - Bull and Bush hotel site.pdf	Proposal	Yes
Attachment C - Council Report and Minute - 8 November 2016 - 19-2016-PLP#2.pdf	Proposal	Yes
Attachment D - Bull and Bush Urban Design Assessment, MAko Architects, September 2016#2.pdf	Study	Yes
Attachment E - Traffic Impact Assessment, GTA Consultants, February 2016 (including Updated Traffic Letter, dated September 2016)#2.pdf	Study	Yes
Attachment F - Phase 1 Environmental Site Assessment Report, Consulting Earth Scientists, June 2015#2.pdf	Study	Yes
Attachment G - Heritage Report, NBRIS & Partners, July 2016#2.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions: **2.3 Heritage Conservation**

Additional Information : **1. Prior to community consultation, the planning proposal is to be amended to remove the proposed local clause 7.12 – Housing Diversity, as this clause is considered to be**

inconsistent with State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65) and the associated Apartment Design Guide.

Specialist studies prepared in support of the planning proposal should be revised to take into account any amendments to the planning proposal as a consequence of the removal of the proposed clause.

2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:

(a) the planning proposal must be made publicly available for a minimum of 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 the Department's 'A Guide to Preparing Local Environmental Plans'.

3. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:

- Office of Environment and Heritage;
- Endeavour Energy;
- Sydney Water;
- Transport for NSW - Roads and Maritime Services; and
- 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.

4. No public hearing is required to be held into the matter under section 56(2)(e) of the Act. 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).

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

Supporting Reasons :

DELEGATION TO COUNCIL

As the Gateway determination has been conditioned to remove the proposed local clause 7.12 Housing Diversity, as it is contrary to SEPP 65, it is considered that The Hills Shire 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.

Signature: _____

Printed Name: _____

Date: _____