



13 June 2019

Ms Ann-Maree Carruthers
Director, Sydney Region West
Planning Services
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Our Ref: 13/2018/PLP

Dear Ms Carruthers

REVISED PLANNING PROPOSAL SECTION 3.34 NOTIFICATION
Proposed The Hills Local Environmental Plan 2012 (Amendment No. #) – Amendments to Clause 4.1B
exceptions to minimum lot sizes for certain residential development

The planning proposal was submitted to the Department of Planning and Environment on 18 April 2018. On 31 July 2018, Council received a Gateway Determination for the subject proposal, requiring additional consideration of the minimum parent lot size and consistency with the provisions of the Low Rise Medium Density Housing Code. Council has updated the planning proposal to satisfy Condition 1 of the Gateway Determination as follows:

- a) *the total area of land zoned R3 Medium Density Residential and R4 High Density Residential in the LGA;*

Refer to the 'Background' section in the planning proposal.

- b) *a summary of the number of small-lot housing developments approved under clause 4.1B in the past five years, the minimum development lot size and the number of small housing lots produced;*

Refer to Attachment 'E' of the planning proposal

- c) *a summary of the number of multi-dwelling housing developments approved in the R3 and R4 zones under clause 4.1A in the past five years;*

Refer to Attachment 'F' of the planning proposal

- d) *details of any current development applications lodged with Council that utilise the provisions of Clause 4.1B to enable consideration of the need to introduce a savings and transitional provision for certain development applications;*

Refer to 'Part 2 Explanation of the Provisions' section in the planning proposal.

- e) *provide further evidence to demonstrate how the proposed minimum parent lot size of 1800m² was derived and whether this minimum lot size can be reduced as a result of further urban design testing. The planning proposal should also address how housing diversity in the R3 and R4 zones will be achieved if small lot housing can no longer be constructed on development lots less than 1800m²; and*

Refer to the assessment against Ministerial Direction 3.1 Residential Zones within the planning proposal.

- f) *consideration of the consistency of the planning proposal with the provisions and best-practice guide within the Low Rise Medium Density Housing Code, and an analysis of the implications associated with proposing a minimum parent lot size for small lot housing. Where inconsistencies are identified, the planning proposal should include information demonstrating why the revised minimum lot size and development controls would result in a better design outcome.*

At its Ordinary Meeting on 10 July 2018, Council considered a report on the implications of the incoming Low Rise Medium Density Housing Code and resolved to forward a planning proposal to the Department to amend Clause 4.1A to introduce a minimum lot size of 900m² for Manor Houses in the R3 Medium Density Residential zone. The planning proposal received a Gateway Determination on 11th January 2019 and is considered to adequately address Council's concerns with the impacts of the Code.

With respect to Condition 3 of the Gateway Determination, the requirement to individually notify all landowners is costly and unnecessary given the number of landowners it is likely to affect. The R4 High Density Residential zone is unlikely to take up small lot housing development where residential flat buildings are a permitted use and deliver substantially greater yield and uplift. Further, many developments in the R3 Medium Density Residential zone are urban release areas where recent development has been approved and is therefore unlikely to turn over modern housing stock. These factors would exclude much of the land required to be notified under the Gateway condition. The postage cost alone would be an unnecessary cost to Council. It is instead intended to notify all R3 Zoned land under the Hills LEP 2012 that is not already developed as medium density or small lot housing. I trust this approach is acceptable to the Department.

Given the above, it is requested that the timeframe for this small lot housing planning proposal be extended to a 12 month period following the Department's approval of the additional supporting information. This will allow for the timely completion of the public exhibition process, consideration of submissions and issues raised, post-exhibition amendments, Council's endorsement for finalisation and Parliamentary Counsel drafting. The project timeline in Part 6 of this planning proposal envisages completion and finalisation of the planning proposal by January 2020.

The planning proposal and additional supporting material is enclosed with this letter for your consideration in accordance with Condition 2 of the gateway Determination. Following receipt by Council of the Department's approval, Council will proceed with public exhibition of the planning proposal. Any future correspondence in relation to this matter should quote reference number 13/2018/PLP. Should you require further information please contact Kayla Atkins, Town Planner on 9843 0404.

Yours faithfully



Megan Munari
PRINCIPAL COORDINATOR FORWARD PLANNING

Attachment 1: Planning Proposal (including attachments)

PLANNING PROPOSAL

LOCAL GOVERNMENT AREA: The Hills Shire Council

NAME OF PLANNING PROPOSAL: Proposed The Hills Local Environmental Plan 2012 (Amendment No (#)) – Amendment to Clause 4.1B exceptions to minimum lot sizes for certain residential development

ADDRESS OF LAND: The Hills Shire Local Government Area – Land zoned R3 Medium Density Residential & R4 High Density Residential under LEP 2012

SUPPORTING MATERIAL:

Attachment A	Assessment against State Environment Planning Policies
Attachment B	Assessment against Section 9.1 Local Planning Directions.
Attachment C	Council Report and Resolution, 13 February 2018
Attachment D	Matter Arising, 14 November 2017
Attachment E	Summary of Small Lot Housing Developments Approved under Clause 4.1B
Attachment F	Summary of Multi Dwelling Housing Developments Approved under Clause 4.1A

BACKGROUND:

In its current form Clause 4.1B of The Hills Local Environmental Plan 2012 (LEP 2012) enables 'small lot' housing where certain criteria are met:

- Land is zoned R3 Medium Density Residential or R4 High Density Residential;
- A single development application is lodged for subdivision resulting in 3 or more lots and the erection of an attached dwelling or dwelling house on each lot; and
- Each resulting lot has a minimum size of 240m².

The clause is a translation of an Integrated Housing clause in Council's previous Local Environmental Plan (LEP 2005). This previous clause only applied to the Rouse Hill development area, however strict provisions for standardising local instruments meant that when Council prepared LEP 2012 it was unable to limit the application of this provision to a specific geographic area. Instead, Council could only nominate land use zones. At this time, Council opted to apply this provision to R3 Medium Density and R4 High Density residential zones, being areas considered appropriate to facilitate a small lot housing outcome. Table 1 below demonstrates the amount of land within the Shire that is zoned R3 Medium Density Residential and R4 High Density Residential under LEP 2012 and is subject to the provisions of Clause 4.1B. This land excludes the North Kellyville and Box Hill Growth Areas as these localities are subject to the provisions of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and will not be impacted by this planning proposal.

Land Zone	Hectares
R3 Medium Density Residential (LEP 2012)	992 ha
R4 High Density Residential (LEP 2012)	160 ha
Total Area	1,152 ha

Table 1

Total Area of Land Applicable to Clause 4.1B of LEP 2012

As the Rouse Hill Development Area was the key location in which small lot housing outcomes were envisaged, specific controls for development under Clause 4.1B of LEP 2012 were included in The Hills Development Control Plan 2012 Part D Section 5 – Kellyville Rouse Hill Release Area. Other site specific controls for small lot housing are also contained within Part C Section 5 of the DCP, relating specifically to development on land at 64 Mackillop Drive, Baulkham Hills.

Development applications are now increasingly being received for small lot housing development outside of the areas subject to these parts of the DCP. While this form of development is permissible on all land in the Shire zoned R3 Medium Density or R4 High Density Residential, there are no development controls applicable to guide the design and assessment of this form of development. Recent development applications have shown that the current provisions enable developers to seek approval to compress three (3) attached dwellings onto a standard single 720m² residential lot, which can deliver an undesirable

outcome contrary to the intent of the clause, with minimal regard to street orientation, active frontages or open space areas of usable dimensions.

At its Meeting on 14 November 2017, Council considered a development application for land in Sherwin Avenue, Castle Hill, seeking approval for the demolition of existing structures, torrens title subdivision into three lots and the construction of a two storey dwelling on each lot (1806/2017/HA). As a Matter Arising, Council resolved that:

- "1. The General Manager provide a report on the preparation of a planning proposal to amend Local Environmental Plan 2012 to confine the permissibility of small lot integrated housing to land zoned R3 Medium Density Residential and R4 High Density Residential within the Rouse Hill Development Area (including Balmoral Road Release Area).*
- 2. The report also address Development Control Plan amendments in regard to the built form, character and potential amenity impacts of small lot integrated housing where permitted, including controls related to orientation of buildings to the street, site coverage, building setbacks, landscaping and open space requirements, visual and acoustic privacy, solar access, vehicular access and parking."*

At its Meeting on 13 February 2018, Council considered a report on a review of Clause 4.1B and the associated development outcomes and resolved that:

- "1. A planning proposal be forwarded to the Department of Planning and Environment for a Gateway Determination to amend Clause 4.1B of The Hills Local Environmental Plan 2012 in accordance with Option 2 in this report and Attachment 1 (ECM Doc. #171044598).*
- 2. Draft The Hills Development Control Plan 2012 Part F – Small Lot Housing (Integrated Housing (Attachment 2), Part G – Medium Density Residential (Terraces) (Attachment 3) and Part B Section 4 – Multi Dwelling Housing (Attachment 4) be exhibited concurrently with the planning proposal."*

Option 2 as resolved by Council retains the current application of Clause 4.1B to all R3 Medium Density Residential and R4 High Density Residential land but introduces a parent minimum lot size and a new minimum lot size for terrace housing (refer to Part 1 of this proposal).

Clause 4.1B was not intended for translation into established areas for infill development. The small lot housing product has been successfully delivered in Council's urban release areas such as the Balmoral Road and Rouse Hill localities. In these instances, appropriate development outcomes have been delivered on parent lots well above the proposed 1,800m² (see Attachment E for a summary of all known developments approved under Clause 4.1B in the last 5 years, including parent lot sizes and number of lots resulting from the development).

PART 1 OBJECTIVES OR INTENDED OUTCOME

The planning proposal seeks to create desirable outcomes under Clause 4.1B by amending the clause to require a minimum parent lot size of 1,800m² for small lot housing development and include a new minimum lot size resulting from subdivision of 180m² for terrace housing with rear lane access. The existing minimum lot size of 240m² for detached and attached front loaded small lot housing will remain.

The proposal ensures that development is of a sufficient size to enable high quality urban design outcomes and incentivises development designs to include rear lane access to improve streetscape outcomes.

PART 2 EXPLANATION OF THE PROVISIONS

The proposed outcomes will be achieved by amending Clause 4.1B to include a requirement for parent lots to be 1800m² and allowing a minimum resulting lot size of 180m² for development that provides rear lane access. The draft changes to the clause are shown in red:

4.1B Exceptions to minimum lot sizes for certain residential development

- (1) The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.*
- (2) This clause applies to development on land in the following zones:*

- (a) *Zone R3 Medium Density Residential*
 - (b) *Zone R4 High Density Residential*
- (3) *Development consent may be granted to a single development application for development on land that is both of the following:*
 - (a) *The land to be subdivided is not less than 1800 square metres,*
 - (b) *The subdivision results in the erection of a dwelling house or attached dwelling on each lot resulting from the subdivision, if the size of each lot is equal to or greater than:*
 - (i) *For the erection of a dwelling house – 240 square metres, or*
 - (ii) *For the erection of an attached dwelling – 240 square metres, or*
 - (iii) *For the erection of multi dwelling housing (terraces) – 180 square metres.*
- (4) *Despite subclause (3), development consent may be granted to development on a lot in a zone shown in subclause (2) for a dwelling house, attached dwelling or multi dwelling housing (terraces) where the area of the lot is less than the area specified for that purpose in subclause (3), if Council is satisfied that:*
 - (a) *the form of the proposed structures is compatible with adjoining structures in terms of their elevation to the street and building height, and*
 - (b) *the design and location of rooms, windows and balconies of the proposed structures, and the open space to be provided, ensures acceptable acoustic and visual privacy, and*
 - (c) *the dwellings are designed to minimise energy needs and utilise passive solar design principles, and*
 - (d) *significant existing vegetation will be retained and landscaping is incorporated within setbacks and open space areas.*
- (5) *Despite subclause (3), development consent may be granted to development on a lot in a zone shown in subclause (2) for a dwelling house, attached dwelling or multi dwelling housing (terraces) where the land to be subdivided is less than 1800 square metres, if the development application was lodged prior to DD/MM/YYYY [insert gazettal date].*

Note: This clause is draft only and will be subject to legal review.

PART 3 JUSTIFICATION

SECTION A - NEED FOR THE PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

No, the planning proposal is not a result of any strategic study or report. However, the planning proposal is supported by Council's Residential Direction by providing for a diversity of housing choice that is appropriate to residents needs and promoting a range of housing that is affordable to households of varying financial capacity. The planning proposal will ensure that planning controls effectively provide for balanced growth in the Shire's population.

Introducing a minimum parent lot size along with appropriate complementary DCP controls will allow for orderly development to occur through master planned outcomes. The draft clause aims to respond to the challenge of providing terrace development by incentivising the provision of rear lanes through a smaller resulting lot size. Currently, this form is seen to be economically unviable and the planning proposal seeks to respond to these concerns to ensure that terraces are taken up in areas envisaged to provide a high quality higher density public domain.

The Sydney Metro Northwest envisages substantial transformation and redevelopment of several established infill areas of the Shire. The proposed parent lot size is an important development standard that

will assist in the provision of orderly development within the station precincts and will guide the appropriate transition towards the desired future character of the Hills locality. In establishing a transition of local character, it is not suitable for lots to develop incrementally where there are changes proposed to streetscape, public domain, setbacks and garage and driveway design. Incremental development constrains the ability to facilitate continuous rear lane access. Rear lanes are a positive feature of terrace development as they facilitate the opportunity to provide high quality landscaped and activated street frontages.

These measures are considered adequate to ensure that the small lot housing product can deliver high quality design outcomes and that terrace development is seen as a more economically viable housing choice.



Figure 1

Indicative floor plate and site plan of attached rear-loaded small lot housing (terrace) product

The planning proposal also seeks to strengthen certainty of outcomes for development consent granted under Clause 4.1B by setting minimum requirements that will facilitate high quality built form outcomes. Supporting DCP controls have been developed that have regard to street orientation and activation, site coverage, landscaping, neighbouring amenity, bulk and scale and parking. The planning proposal aims to facilitate diversity of housing choice in established medium density areas where existing housing stock is ageing but uptake of development is slow. This planning proposal is timely in ensuring a high quality turnover of housing stock that is in keeping with the desired character.

The proposed amendments will also facilitate the realisation of the desired future character for the Metro station precincts, where high quality public domain and master planned outcomes are envisaged. The terrace housing product is at the forefront of these outcomes and it is important to establish this typology as an attractive and viable option for development.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, the planning proposal is considered to be the best way to achieve the intended outcomes. Amending LEP 2012 to ensure certainty of development outcomes will increase housing choice in strategic locations. The introduction of a minimum parent lot size in LEP 2012 is the best way to ensure sites can achieve desirable design outcomes without reducing permissibility of certain development types. The introduction of a minimum lot size of 180m² for attached dwellings with rear lane access will be an incentive for the provision of rear lanes. This will facilitate a housing product with active street frontages free of driveway and garage-dominant streetscapes. The desired design outcomes are supported by the introduction of proposed new DCP controls.

In Council's Matter Arising from 14 November 2017, Council originally sought to exclude infill areas from the provisions of Clause 4.1B. It was concluded that this would reduce development options for land zoned R3 Medium Density Residential and would also affect the orderly redevelopment of the Sydney Metro Northwest Station Precincts. A parent lot size is the appropriate mechanism to facilitate high quality master planned outcomes without impact housing choice or delivery in infill areas of the Shire. It is therefore considered that

the delivery of housing, and more specifically, the missing middle, will not be adversely affected by this planning proposal as it seeks to introduce minimum requirements for development rather than confining permissibility.

SECTION B - RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Yes, a discussion of consistency is provided below.

• Greater Sydney Region Plan

The Greater Sydney Region Plan is a 40-year vision that seeks to accommodate a growing and changing population within three cities, the Western Parkland City, the Central River City and the Eastern Harbour City. The Plan will inform district and local plans as well as the assessment of planning proposals. It will also facilitate the alignment of infrastructure planning to support anticipated growth. The delivery and implementation of the Plan is supported by 10 directions, which will facilitate an integrated approach to realising outcomes.

The planning proposal is consistent with the Greater Sydney Region Plan as it contributes to the supply of affordable housing, diverse housing options, and housing in strategic locations. The relevant objectives in the plan are discussed below:

Objective 10 – Greater Housing Supply

The plan recognises that providing ongoing housing supply and a range of housing types in appropriate locations will create more liveable neighbourhoods whilst supporting Greater Sydney's population growth. The delivery of a range of housing types and price points are needed to meet demand.

The planning proposal provides an opportunity to ensure high quality design outcomes for the 'missing middle' and certainty that a greater variety of housing can be provided without adversely impacting existing residential amenity or streetscape. As the planning proposal applies to all R3 Medium Density and R4 High Density Residential land under LEP 2012, it is considered that the proposal will facilitate capacity in appropriate locations that include Sydney Metro Northwest railway station precincts and local infill areas that are close to existing and future centres and services.

Additionally, Council is well on track to meet its dwelling targets identified in the Central City District Plan (Planning Priority C5). The development requirements proposed as part of this planning proposal will not affect the timely delivery of housing, but will seek to ensure the delivery of a diverse type of housing.

Objective 11 – Housing is more Diverse and Affordable

The plan acknowledges that housing plays an important social and economic role by meeting changing demographic needs and providing stability in the housing market. Additionally, housing must provide choices for a range of purchasers.

The planning proposal provides an opportunity to mitigate affordability challenges through a variety of housing choice and price points. This allows the market to capture a range of needs, workers and incomes, and sustains the importance of locating key workers close to centres and services. By clearly articulating the desired design outcomes of medium density housing products, the draft DCP that supports the planning proposal will ensure a high quality housing supply and turnover of older building stock during a period of transition in the Hills. The built form outcome will facilitate another viable housing option to cater to a range of households and their needs.

• Central City District Plan

The Central City District Plan is a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision of Greater Sydney. It is a guide for implementing the Greater Sydney Region Plan at a district level and is a bridge between regional and local planning. The District Plan also assists councils to plan for and deliver growth and change, and align their local planning strategies to place-based outcomes. It informs infrastructure agencies, the private sector and the wider community of expectations for growth and change.

Of particular relevance to this planning proposal is planning priority C5 – Providing housing supply, choice and affordability with access to jobs, services and public transport. The District Plan highlights the far-reaching impacts of poor quality housing and housing choice. The Plan acknowledges that housing is more than dwelling targets and must be considered in a local context with a place-based approach.

The planning proposal is consistent with this priority as it seeks to incentivise a diverse housing choice to ensure the appropriate and high quality turnover of older housing stock. The planning proposal aims to facilitate high quality design outcomes on land identified as being suitable for medium and high density development because of its proximity to centres and services. As Council looks to develop its housing strategy, this planning proposal forms part of a response to the key principles of housing supply under this priority including diversity, market demand, amenity, good design and local character.

4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Yes, a discussion of consistency is provided below.

- **The Hills Future Community Strategic Plan**

The Hills Future Community Strategic Direction articulates The Hills Shire community's and Council's shared vision, values, aspirations and priorities with reference to other local government plans, information and resourcing capabilities. It is a direction that creates a picture of where the Hills would like to be in the future. The direction is based on community aspirations gathered throughout months of community engagement and consultation with members of the community.

The planning proposal is consistent with The Hills Future as it ensures responsible planning that facilitates a desirable living environment and meets growth targets as well as managing new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations.

- **Local Strategy**

Council's adopted Local Strategy provides the basis for the future direction of land use planning in the Shire and within this context implements the key themes and outcomes of the 'Hills 2026 Looking Toward the Future'. The Residential Direction is the relevant component of the Local Strategy to be considered in assessing this application.

- Residential Direction

The Residential Direction indicates that there is sufficient capacity to accommodate growth targets based on the existing planning framework and current projects.

The planning proposal contributes to a diversity of housing choice in the existing urban environment, close to employment, services and transport infrastructure. The planning proposal is consistent with this direction in that it accommodates population growth in appropriate locations with a range of housing options that cater to differing demographics, household types and financial capacities.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. The consistency of the planning proposal with State Environmental Planning Policies is detailed within Attachment A.

6. Is the planning proposal consistent with applicable Ministerial Directions (s. 9.1 directions)?

Yes. The consistency of the planning proposal with the s.9.1 Ministerial Directions is detailed within Attachment B. A discussion on the consistency of the proposal with each relevant Direction is provided below.

- **Direction 3.1 Residential Zones**

The planning proposal is consistent with this direction as it encourages housing choices and facilitates desirable design outcomes that have regard to streetscape, bulk and scale and neighbouring amenity. In this regard, the planning proposal will not reduce the permissible residential density of land to which it applies,

particularly as the proposal seeks to introduce a minimum resulting lot size of 180m² where rear lane access is provided. This is less than the current permissible lot size of 240m². The planning proposal will make more efficient use of existing infrastructure and services by providing diverse housing choices in appropriate locations close to centres, employment opportunities and services. The planning proposal will also reduce the pressure of urban development on the fringe by facilitating appropriate outcomes in the right locations within the existing urban development area.

In Council's Matter Arising from 14 November 2017, Council originally sought to exclude infill areas from the provisions of Clause 4.1B. It was concluded that this would reduce development options for land zoned R3 Medium Density Residential. A parent lot size is the appropriate mechanism to facilitate high quality master planned outcomes without impacting housing choice in infill areas of the Shire. It is therefore considered that the delivery of housing, and more specifically, the missing middle, will not be adversely affected by this planning proposal as it seeks to introduce minimum requirements for development rather than reducing permissibility. While the clause aims to provide additional flexibility in development options, the outcomes achieved under this mechanism need to be regulated to facilitate high quality design outcomes and sustainable turnover of older building stock.

Further, Clause 4.1B is an optional model clause of the Standard Instrument LEP and is not taken up by many Council's across Greater Sydney. The clause is not relied upon primarily for achieving housing targets. Throughout the Hills Shire, Clause 4.1B is generally implemented as per its original intent. That is, providing master planned outcomes in release areas such as Balmoral Road Release Area, Norwest Business Park and the Kellyville/Rouse Hill locality. This planning proposal aims to address the minority of applications received in infill areas that aim to maximise yield under the clause without addressing neighbourhood amenity or design outcomes. The minimum parent lot size will not affect the development of release areas, for which the clause was primarily intended. This is evident in Attachment E of the planning proposal, which provides a list of all known development applications approved under Clause 4.1B in the last 5 years. All of these applications have been in the R3 Medium Density Residential zone. This type of development, while permissible in the R4 High Density Residential zone is not a favoured development option given the yield and uplift that can be achieved by developing residential flat buildings. Attachment E demonstrates an overwhelming majority of the applications approved in the past 5 years were in release areas where the parent lot size was well above 1,800m².

The proposed parent lot size of 1,800m² is considered to be an appropriate balance that would not affect release area development but would also not require unreasonable amalgamation of parcels in infill areas with established subdivision patterns. The minimum lot size of 1,800m² for multi dwelling housing has served well for development outcomes in the R3 Medium Density Residential zone in infill areas, as evident in Attachment F of this planning proposal. Again, multi dwelling housing development rarely occurs within the R4 High Density Residential zone given the more favourable option to develop residential flat buildings. Both small lot housing and multi dwelling housing, with minimum lot sizes of 1,800m² would provide a flexible development option for sites that cannot reach the minimum required lot size for residential flat buildings.

The planning proposal is therefore consistent with Direction 3.1 as it does not seek to reduce permissibility or density of development, but set reasonable minimum requirements for high quality outcomes. The Department's concern regarding diversity of housing choice is also addressed in a later section of this report on the Low Rise Medium Density Housing Code.

- **Direction 3.4 Integrated Land Use and Transport**

The planning proposal is consistent with this direction as it ensures appropriate building forms in strategic land use locations that improve access to housing, jobs and services by walking, cycling and public transport. The envisaged housing typologies and design outcomes are anticipated in close proximity to the future rail corridor and existing and future centres where there is reduced car dependency. The proposal supports the efficient and viable operation of public transport services by providing a diverse medium density housing option that attracts a wide demographic to the station precincts and local centres. The proposal facilitates the principles of transit-oriented development and will help reduce travel demand, particularly the number of trips generated and distances travelled by car. In this way, the planning proposal is also consistent with the aims, objectives and principles of *Improving Transport Choice – Guidelines for planning and development (DUAP 2001)*.

- **Direction 5.9 North West Rail Link Corridor Strategy**

The planning proposal is consistent with this direction as it aims to facilitate good design outcomes that provide an appropriate transition of density away from future railway stations and existing centres and

services. In this regard the proposal is consistent with the principles of transit-oriented development. The planning proposal does not seek to increase density; rather it seeks to regulate the quality of design outcomes that can be achieved on land already zoned for medium and high density residential development. The proposal is consistent with the outcomes envisaged under the Northwest Rail Link Corridor Strategy and precinct Structure Plans as it seeks to introduce controls that facilitate the intended outcomes.

- **Low Rise Medium Density Housing Code**

The Low Rise Medium Density Housing Code and associated Design Guide not only seeks to address the missing middle part of the NSW housing stock between traditional single detached dwellings and high rise residential flat buildings, it also seeks to facilitate this housing stock with high quality urban design outcomes. Council's review of the use and implementation of Clause 4.1B revealed the following urban design issues:

- Overdevelopment of sites without consideration to bulk and scale, internal amenity or the amenity of adjoining neighbours;
- Lack of front façade articulation through architectural elements or windows addressing the street;
- Extensive paving on front setback areas eliminating deep soil and landscaping;
- Irregular and unusable private open space dimensions;
- Loss of urban tree canopy and trees in the streetscape; and
- Loss of visual and environmental amenity leading to a degraded urban environment.

Figures 2 and 3 below provide an example of a poor urban design outcome in the R3 zone of one of the Shire's established infill areas. The development not only exemplifies the urban design issues raised above, but is also inconsistent with the aims and intent of Clause 4.1B.

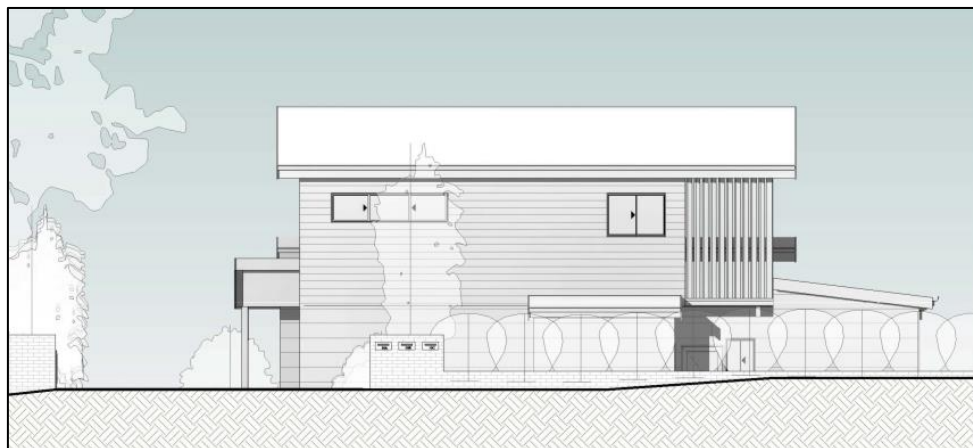


Figure 2
View from Street

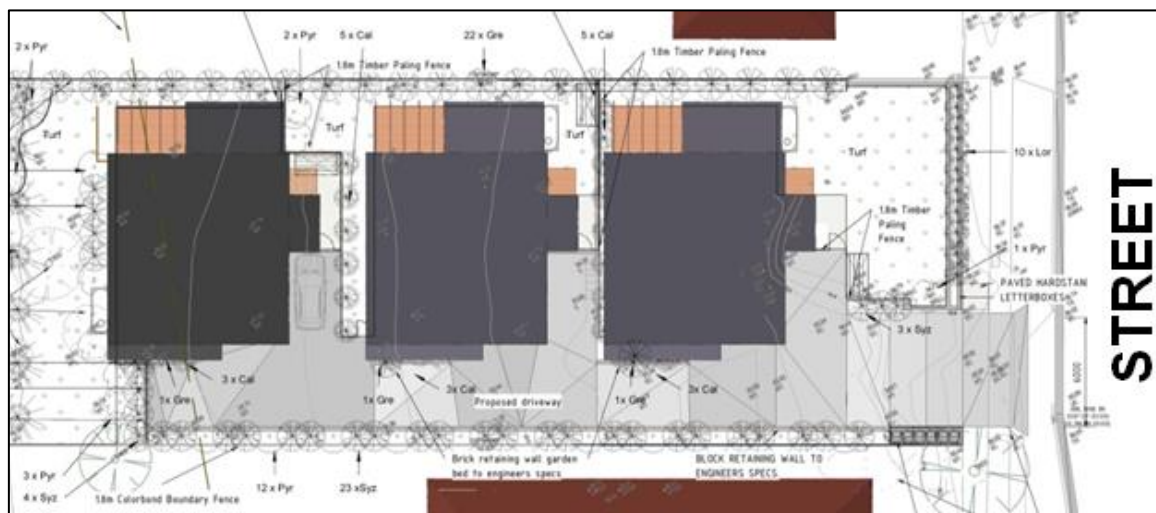


Figure 3
Site Plan

The planning proposal is consistent with the Code and Design Guide in that it aims to improve the design of medium density housing stock and facilitate diversity of housing choice. The proposed 180m² resulting lot size for developments that provide rear lane access seeks to incentivise a new terrace housing typology that is perceived as economically unviable. This new control seeks to facilitate a diverse housing option that has been envisaged in the future character of the Hills Shire's Sydney Metro Station Precincts and release areas. The planning proposal seeks to achieve the desired future character of the Hills whilst simultaneously regulating high quality built form outcomes in the turnover of building stock within established infill areas.

The Medium Density Design Guide also aims to deliver better quality design that responds to the character of the area, improve the quality of neighbourhoods and precincts and improve liveability by optimising internal and external dwelling amenity. There are instances where Clause 4.1B has facilitated design outcomes that are inconsistent with these objectives, with poor internal and external amenity, unusable dimensions of private open space and landscaping, garage dominant streetscapes and lack of street façade activation. This planning proposal seeks to strengthen the implementation of Clause 4.1B to deliver design outcomes that are consistent with the aims of the Design Guide and envisaged character of the Metro Station Precincts.

Housing diversity on lots less than 1,800m² will not be adversely affected by housing diversity. In addition to current permissible uses such as dual occupancies and secondary dwellings, the commencement of the Code will introduce manor houses as a new permissible use and development option. There remains a diversity of housing choice within the missing middle typology in instances where lots cannot reach the 1,800m² parent lot size. In recognition of providing greater flexibility, the revised planning proposal has included a new subclause that would still allow development on lots under 1,800m² where Council is satisfied that the development will adequately provide internal and external amenity, street address and activation, solar access and usable dimensions of landscaping and private open space.

The planning proposal is also consistent with the Code in that it seeks to integrate the new definition of multi dwelling housing (terraces) into the proposed amendments to Clause 4.1B. Where development cannot meet the requirements of the Code and must submit a development application, Clause 4.1B will be the mechanism within the LEP to facilitate Torrens Title multi dwelling housing (terraces) on lots as small as 180m². Additionally, the incoming Code stipulates that the new definition of multi dwelling housing (terraces) is a type of multi dwelling housing. Therefore, terraces already have a specified minimum development size of 1,800m² under Clause 4.1A. This further demonstrates the efficacy of the 1,800m² parent lot size and its consistency with the Code.

Table 2 below provides an analysis of consistency with terrace design elements of the code and the intent behind the proposed development controls.

Medium Density Design Guide	Planning Proposal Draft Development Controls	Intent of Control (where inconsistency is proposed)
N/A	Attached front-loaded dwellings	<ul style="list-style-type: none"> To provide diverse housing choice and flexibility in design outcomes To establish a consistent streetscape frontage and presentation of dwellings to the street To provide a flexible option in infill areas where street patterns are non-rectilinear and rear lane access is not suitable
Number of storeys: 2	Number of storeys: 3	<ul style="list-style-type: none"> To facilitate higher density in appropriate locations close to centres, transport hubs, services and a higher level of local infrastructure To incentivise terrace development, improve economic feasibility and encourage take up in envisaged areas
Primary road setback: 3.5m in R3	<u>Terraces</u> Primary road setback: 3m on 1 st and 2 nd storey 4m on 3 rd storey <u>Small Lot Housing</u> 4.5m except where an existing setback is already established	<ul style="list-style-type: none"> To facilitate architectural interest and articulation in front building façade To integrate infill development into existing character

Minimum landscaped area: 20% in R3	Minimum landscaped area: 40%	<ul style="list-style-type: none"> To facilitate deep soil landscaped street frontages and retain urban tree canopy in established areas To improve external amenity of dwellings by providing usable open space
Minimum dimension of landscaped area: 1.5m	Minimum dimension of landscaped area: 2m	
Rear lane minimum width between structures: 7m	Minimum carriageway 7.m 1.5m planting zones in entryways	<ul style="list-style-type: none"> To enable adequate access for Council's waste collection vehicles To improve amenity and streetscape feel of rear lanes
Minimum lot width: 6m	<u>Terraces</u> Minimum lot width: 6m <u>Small Lot Housing</u> 8m for attached front loaded 9m for detached front loaded	<ul style="list-style-type: none"> Terraces are consistent with the Design Guide Small Lot: to facilitate provision of single width garage without resulting in a garage dominant streetscape To allow articulation of building façade to reduce garage dominance
Minimum subdivision lot size: 200m ²	Minimum subdivision lot size: 180m ²	<ul style="list-style-type: none"> To incentivise take up of Torrens Title terrace development over other medium density typologies
Minimum area of private open space: 16m ² Minimum dimension: 3m	Minimum area of private open space: 16m ² Minimum dimension: 4m	<ul style="list-style-type: none"> Consistent To facilitate usable dimensions and improve external amenity
Maximum width of garage door opening: 3.2m	Garages must not exceed more than 50% of the property frontage Garages setback: 1.5m behind building entry	<ul style="list-style-type: none"> To establish garages as visually recessive element of built form outcome To discourage garage dominant streetscapes To reduce hard paved driveway elements and facilitate more landscaped elements within the front setback

Table 2
Consistency of Proposed Terrace Controls with Design Guide



Figure 4
Desired outcome for front loaded dwellings: green streetscape and single-width garages as visually recessive design elements

SECTION C - ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No, the proposal would not create any adverse impacts on critical habitat or threatened species, populations or ecological communities and their habitats. As the planning proposal applies to all land zoned R3 Medium Density Residential and R4 High Density Residential, the planning proposal will affect land that is already established with minimal existing vegetation or associated ecological communities.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

The planning proposal is not considered likely to have any other environmental impacts. Any potential impacts will be assessed on a site-by-site basis upon lodgement of a development application.

9. *How has the planning proposal adequately addressed any social and economic effects?*

The planning proposal seeks to facilitate residential development that addresses Greater Sydney's 'missing middle'. A growing population and changing demographics has emphasised the importance of diversity of housing choice.

Medium density housing types are affordable because they require smaller site areas to be developed. While this is an attractive selling point for some homeowners, design outcomes must be regulated to minimise amenity impacts on streetscape and adjoining landowners and built form, as well as strengthening the certainty of outcomes that can be achieved under LEP 2012. The proposed 180m² resulting lot size seeks to incentivise development that incorporates rear lane access and counteract the perception that terrace development is economically unviable.

The planning proposal has addressed social effects by seeking to improve the liveability and internal and external amenity of dwellings, as well as facilitate landscaped streetscapes and usable dimensions of private open space. The planning proposal will facilitate these desired design outcomes without compromising diversity of housing choice in instances where lots cannot reach the 1,800m² parent lot size.

SECTION D - STATE AND COMMONWEALTH INTERESTS

10. *Is there adequate public infrastructure for the planning proposal?*

The planning proposal does not create any additional demand for public infrastructure. It will regulate the desired built form outcomes that are already permissible in the R3 Medium Density Residential and R4 High Density Residential zones.

11. *What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?*

A list of all relevant agencies would be determined as part of the Gateway Determination. Following the Gateway Determination, all relevant agencies would be consulted.

PART 4 MAPPING

The amendment relates only to the written instrument. No amendments to any maps of *The Hills Local Environmental Plan 2012* would be required.

PART 5 COMMUNITY CONSULTATION

The planning proposal will be advertised in local newspapers and on display at Council's administration building and Castle Hill Library, Vinegar Hill Memorial Library, Baulkham Hills Library and Dural Library. The planning proposal will also be made available on Council's website.

It is proposed to notify all R3 zoned properties under LEP 2012 that are not currently developed with medium density housing products. This will appropriately capture landowners impacted by this proposal.

PART 6 PROJECT TIMELINE

STAGE	DATE
Commencement Date (Gateway Determination)	May 2019

Government agency consultation	June 2019
Commencement of public exhibition period (28 days)	June 2019
Completion of public exhibition period	July 2019
Timeframe for consideration of submissions	September 2019
Timeframe for consideration of proposal post exhibition	September 2019
Report to Council on submissions	November 2019
Planning Proposal to PCO for opinion	December 2019
Date Council will make the plan (if delegated)	January 2020
Date Council will forward to department for notification (if delegated)	January 2020

ATTACHMENT A: LIST OF STATE ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)		APPLICABLE TO THSC	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/CONSISTENT
No. 1	Development Standards	NO	-	
No. 14	Coastal Wetlands	NO	-	
No. 19	Bushland in Urban Areas	YES	NO	
No. 21	Caravan Parks	YES	NO	
No. 26	Littoral Rainforests	NO	-	
No. 30	Intensive Agriculture	YES	NO	
No. 33	Hazardous and Offensive Development	YES	NO	
No. 36	Manufactured Home Estates	NO	-	
No. 44	Koala Habitat Protection	NO	-	
No. 47	Moore Park Showground	NO	-	
No. 50	Canal Estate Development	YES	NO	
No. 52	Farm Dams and Other Works in Land and Water Management Plan Areas	NO	-	
No. 55	Remediation of Land	YES	NO	
No. 62	Sustainable Aquaculture	YES	NO	
No. 64	Advertising and Signage	YES	NO	
No. 65	Design Quality of Residential Apartment Development	YES	NO	
No. 70	Affordable Housing (Revised Schemes)	YES	NO	
No. 71	Coastal Protection	NO	-	
Affordable Rental Housing (2009)		YES	NO	
Building Sustainability Index: BASIX (2004)		YES	NO	
Educational Establishments and Child Care Facilities (2017)		YES	NO	
Exempt and Complying Development Codes (2008)		YES	NO	
Housing for Seniors or People with a Disability (2004)		YES	NO	
Infrastructure (2007)		YES	NO	
Integration and Repeals (2016) (Policy is to be repealed on 6.8.2018)		YES	NO	
Kosciuszko National Park – Alpine Resorts (2007)		NO	-	
Kurnell Peninsula (1989)		NO	-	
Mining, Petroleum Production and Extractive Industries (2007)		YES	NO	
Miscellaneous Consent Provisions (2007)		YES	NO	
Penrith Lakes Scheme (1989)		NO	-	
Port Botany and Port Kembla (2013)		NO	-	
Rural Lands (2008)		NO	-	
State and Regional Development (2011)		YES	NO	
State Significant Precincts (2005)		YES	NO	
Sydney Drinking Water Catchment (2011)		NO	-	
Sydney Region Growth Centres (2006)		YES	NO	
Three Ports (2013)		NO	-	
Urban Renewal (2010)		NO	-	
Vegetation in Non-Rural Areas (2017)		YES	NO	
Western Sydney Employment Area (2009)		NO	-	
Western Sydney Parklands (2009)		NO	-	
Deemed SEPPs				

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)	APPLICABLE TO THSC	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
SREP No. 8 (Central Coast Plateau Areas)	NO	-	
SREP No. 9 – Extractive Industry (No. 2 – 1995)	YES	NO	
SREP No. 16 – Walsh Bay	NO	-	
SREP No. 20 – Hawkesbury – Nepean River (No 2 – 1997)	YES	NO	
SREP No. 24 – Homebush Bay Area	NO	-	
SREP No. 25 – Orchard Hills	NO	-	
SREP No. 26 – City West	NO	-	
SREP No. 30 – St Marys	NO	-	
SREP No. 33 – Cooks Cove	NO	-	
SREP (Sydney Harbour Catchment) 2005	YES	NO	

ATTACHMENT B: ASSESSMENT AGAINST SECTION 9.1 MINISTERIAL DIRECTIONS

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
1. Employment and Resources				
1.1	Business and Industrial Zones	YES	NO	
1.2	Rural Zones	YES	NO	
1.3	Mining, Petroleum Production and Extractive Industries	YES	NO	
1.4	Oyster Aquaculture	YES	NO	
1.5	Rural Lands	NO	-	-
2. Environment and Heritage				
2.1	Environment Protection Zone	YES	NO	
2.2	Coastal Protection	NO	-	-
2.3	Heritage Conservation	YES	NO	
2.4	Recreation Vehicle Area	YES	NO	
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	NO	-	-
3. Housing, Infrastructure and Urban Development				
3.1	Residential Zones	YES	YES	CONSISTENT
3.2	Caravan Parks and Manufactured Home Estates	YES	NO	
3.3	Home Occupations	YES	NO	
3.4	Integrating Land Use and Transport	YES	YES	CONSISTENT
3.5	Development Near Licensed Aerodomes	YES	NO	
3.6	Shooting Range	NO	-	-
4. Hazard and Risk				
4.1	Acid Sulfate Soils	YES	NO	
4.2	Mine Subsidence and Unstable Land	YES	NO	
4.3	Flood Prone Land	YES	NO	
4.4	Planning for Bushfire Protection	YES	NO	
5. Regional Planning				
5.1	Implementation of Regional Strategies	NO	-	-
5.2	Sydney Drinking Water Catchment	NO	-	-
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	NO	-	-
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	NO	-	-
5.8	Second Sydney Airport: Badgerys Creek	NO	-	-
5.9	North West Rail Link Corridor Strategy	YES	YES	CONSISTENT
5.10	Implementation of Regional Plans	YES	NO	
6. Local Plan Making				

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
6.1	Approval and Referral Requirements	YES	NO	
6.2	Reserving Land for Public Purposes	YES	NO	
6.3	Site Specific Provisions	YES	NO	
7. Metropolitan Planning				
7.1	Implementation of A Plan for Growing Sydney	NO	-	-
7.2	Implementation of Greater Macarthur Land Release Investigation	NO	-	-
7.3	Parramatta Road Corridor Urban Transformation Strategy	NO	-	-
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	YES	NO	
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	-	-
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	-	-
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	NO	-	-