

Planning Services

Gateway Determination Report

LGA	The Hills Shire Council
RPA	The Hills Shire Council
NAME	Proposed local incentive provision for delivery of transitional housing in The Hills Shire
NUMBER	PP_2017_THILL_007_00
LEP TO BE AMENDED	The Hills Local Environmental Plan 2012
ADDRESS	All land zoned either R4 High Density Residential, R1 General Residential or B4 Mixed Use in The Hills Shire Local Government Area
DESCRIPTION	Multiple
RECEIVED	9 August 2017
FILE NO.	17/11344
QA NUMBER	qA417018
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of Planning Proposal

The Planning Proposal is to amend The Hills Shire Local Environmental Plan (LEP) 2012 to insert a local provision to allow a floor space bonus to incentivise the provision of transitional group homes in The Hills Shire Local Government Area.

Site Description

The Planning Proposal applies to all land zoned either R4 High Density Residential, R1 General Residential or B4 Mixed Use in The Hills Shire Local Government Area. The planning proposal only applies to these zones under which residential flat buildings and shop top housing are permissible uses.

Summary of Recommendation

It is recommended that the proposal proceed with conditions given that it will assist in enabling the delivery of transitional group housing for people in need in The Hills Shire, while ensuring that any resulting increases in floor space will not result in any unreasonable impacts on the amenity of surrounding residents.

PROPOSAL

Objectives or Intended Outcomes

The planning proposal seeks to introduce a local provision that applies to all land zoned either R4 High Density Residential, R1 General Residential or B4 Mixed Use in The Hills Shire Local Government Area to allow additional FSR to incentivise the delivery of transitional housing as part of new residential flat developments.

Explanation of Provisions

The planning proposal seeks to amend The Hills Shire Local Environmental Plan 2012 by introducing a local provision under Part 7 (Additional local provisions):

“Floor space bonus for the provision of transitional group homes:

Despite clause 4.4(2) and clause 7.12, the consent authority may consent to development that results in a floor space ratio in excess of the maximum floor space ratio that would otherwise be permitted on the site under the Floor Space Ratio Map or Floor Space Ratio Incentives Map, if:

- a) The site is zoned either R4 High Density Residential, R1 General Residential or B4 Mixed Use, and*
- b) The site is subject to a Floor Space Ratio standard on the Floor Space Ratio Map or Floor Space Ratio Incentive Map, and*
- c) The development is for a residential flat building or shop top housing, and*
- d) The development includes transitional group home dwellings, and*
- e) The development includes no less than 50 dwellings (excluding transitional group home dwellings), and*
- f) The average internal floor area of all transitional group home dwellings within the development is no less than 100m², and*
- g) The excess floor space does not exceed 10% of the floor space permitted on the site, up to a maximum of 900m² Gross Floor Area, and*
- h) The excess floor space does not exceed Y:1, where:*
 - TG is the number of transitional group home dwellings within the development,*
 - SA is the area of the site in square metres, and*

$$Y = (300 \times TG) \div SA$$

In summary:

- The bonus floor space shall not exceed 10% of the maximum Floor Space Ratio permitted on the site, up to a maximum of 900m² GFA (capped regardless of the site area);
- An additional 300m² of GFA would be available for every ‘transitional group home’ provided, which would allow for 2 bonus dwellings (each with an average internal floor area of no less than 100m² GFA) comprising:
 - o 1 ‘transitional group home’ (to be used as a group home (subject to agreement with a suitable provider/s) and then returned to the developer after a period of use - potentially 10 years); and
 - o 2 standard dwellings above the yield otherwise achievable by the developer;

- The maximum additional yield achievable within the bonus floor space will be 9 dwellings (of which 3 would need to be a 'transitional group home'), as the average internal floor area of all transitional group home dwellings within the development is no less than 100m²;
- The timing of the developer's incentive is staged:
 - o Upfront: 2 bonus (unrestricted) dwellings; and
 - o After 10 years: 1 bonus dwelling (when use as a transitional dwelling has ceased).

Council's suggested new clause

It is recommended that Council amend the Explanation of Provisions of the planning proposal prior to community consultation to note that the final wording of the clause to be inserted in to The Hills LEP is subject to legal drafting and the suggested new clause is an example only.

Mapping

The planning proposal does not require any maps to be updated.

NEED FOR THE PLANNING PROPOSAL

This planning proposal is not a result of any strategic study or report. However, the planning proposal provides an appropriate response to and is consistent with the vision for The Hills Shire Local Government Area given in various strategic studies, including A Plan for Growing Sydney, the Draft Central West District Plan, The Hills Local Strategy, and the North West Rail Corridor Strategy. An assessment of the planning proposal against these strategies is provided later in this report.

The planning proposal is the best means of achieving Council's intended outcomes. Adding the proposed local provision to *The Hills Local Environmental Plan 2012* will ensure that there is sufficient incentive for developers to provide some transitional homes within their development. Proposed amendments to The Hills Development Control Plan 2012 will ensure that the bonus floor space is proportional to the scale of development and the increase in floor space will not result in any unreasonable impacts on the amenity of surrounding residents.

STRATEGIC ASSESSMENT

Regional / District

A Plan for Growing Sydney

The Directions of A Plan for Growing Sydney which apply to the proposal are:

- Direction 2.1: Improve housing supply across Sydney;
- Direction 2.3: Improve housing choice to suit different needs and lifestyles; and
- Direction 2.4: Deliver well planned new areas of housing.

The planning proposal aligns with these directions.

The actions of A Plan for Growing Sydney which apply to the proposal are:

- Action 2.1.1: Accelerate housing supply and local housing choices;
- Action 2.1.2: Accelerate new housing in designated infill areas (established urban areas) through the priority precincts and UrbanGrowth NSW programs;
- Action 2.2.2: Undertake urban renewal in transport corridors which are being transformed by investment, and around strategic centres;

- Action 2.3.1: Require local housing strategies to plan for a range of housing types; and
- Action 2.3.3: Deliver more opportunities for affordable housing.

The planning proposal is consistent with these actions with respect to housing diversity and growth in The Hills Shire.

Draft West Central District Plan

The actions of the draft West Central District Plan which relate to the proposal are:

- Action L3: Councils to increase housing capacity across the District;
- Action L4: Encourage housing diversity; and
- Action L6: Support councils to achieve additional affordable housing.

The planning proposal is consistent with these actions in that the proposed local provision would enable the delivery of diverse housing to meet the needs of The Hills Shire.

In addition, the planning proposal is consistent with the district planning priority to:

- Liveability Priority 2: Deliver housing diversity.

Local

The Hills Future 2017-2021 Community Strategic Plan

A key outcome from this plan is to be a vibrant community, where the aims are to ensure that public spaces are safe, well designed and well maintained, as well as providing access to a range of services and facilities to contribute to the health and wellbeing of the community.

The planning proposal is consistent with the outcomes of The Hills Future as it will facilitate a desirable and safe living environment for vulnerable members of the community, as well as providing services to accommodate for their personal needs.

Local Strategy – Residential Direction

In 2008 Council adopted its Local Strategy to provide the basis for the future direction of land use planning in the Shire and includes Council's Residential Direction. The Residential Direction indicates that there is sufficient capacity to accommodate these targets based on the existing planning framework and current projects. The planning proposal supports the Local Strategy's Residential Direction as it will facilitate a moderate supply of residential accommodation for socially disadvantaged people in distress.

The Hills Shire Local Environmental Plan 2012

The planning proposal is consistent with the existing provisions of The Hills Shire Local Environmental Plan 2012 and is discussed in further detail as follows.

Clause 7.12 Development on certain land with the Sydney Metro Northwest Urban Renewal Corridor

Clause 7.12 provides floor space ratio incentives for certain sites within the Sydney Metro Northwest Urban Renewal Corridor provided a particular mix of studio, 1 bedroom, 2 bedroom and 3 bedroom apartments and minimum internal floor areas are met. The proposed provisions of the subject planning proposal will not preclude utilising Clause 7.12. Any development may utilise Clause 7.12 as well as the proposed provisions of the planning proposal, with any additional floor space to be subject to a merit assessment and compliance with the Apartment Design Guide and State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development as applicable.

Section 117(2) Ministerial Directions

The planning proposal is consistent with the following relevant S117 Directions:

- 3.1 Residential Zones;
- 3.4 Integrated Land Use; and
- 5.9 North West Rail Link Corridor Strategy.

State Environmental Planning Policies

The planning proposal is consistent with relevant State Environmental Planning Policies (SEPPs) as discussed below. Note, consistency with the below SEPPs has also been confirmed by the Department's policy team.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The planning proposal is consistent with the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP).

The ARH SEPP provides a consistent planning regime for the provision of affordable rental housing, and facilitates a range of exempt and complying development provisions to deliver transitional group housing type. However, transitional group housing is not defined as a form of 'affordable housing' which is defined as housing for households on either very low, low, or moderate incomes, and therefore the proposal is not inconsistent with affordable rental housing provisions.

Transitional housing is contained within term 'group home' under the ARH SEPP and the planning proposal shares the aims and objectives of this SEPP, which is to facilitate the increased delivery of transitional housing through the provision of incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

The proposed local provision focuses solely on promoting and facilitating transitional housing as a form of temporary housing for those in crisis, and will not contradict provisions for group homes that are outlined within the ARH SEPP. Further, applicants will continue to be able to use the provisions of the ARH SEPP, or utilise Council's proposed clause if they wish to obtain the additional FSR provisions.

State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes)

State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes) (SEPP70) enables Councils to provide additional local provisions for affordable housing. However, transitional housing is not defined as a form of "affordable housing" and therefore SEPP 70 does not apply to the proposed local provision to incentivise transitional housing to be included in The Hills LEP.

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

The planning proposal is consistent with the design provisions of SEPP 65. The bonus floor space incentive resulting from the planning proposal will result in excessive increases to the development yield of future development. As discussed in the Council Report (**Attachment A**) the maximum number of additional dwellings that a development can achieve in utilising the proposed provisions is nine dwellings. Further, Council advise The Hills Development Control Plan 2012 will be amended to provide objectives and controls to accompany the proposed LEP provisions. DCP objectives will further ensure that the bonus floor space incentive will not create excessive yield to future development, and therefore will not unreasonably impact amenity within the Hills LGA.

SITE SPECIFIC ASSESSMENT

Social

As stated by Council (**Attachment A**) approximately 5 cases of domestic violence are reported in The Hills Shire per week – this equates to about 245 cases per year. As The Hills experiences significant residential growth, transitional housing will help current and future residents to live in a safe environment, and give them the opportunity to rebuild and rehabilitate their lives.

Environmental

Future Built Form

Council advise The Hills Development Control Plan 2012 will be amended to accompany the proposed local provision. DCP objectives will ensure that the bonus floor space incentive will not create excessive yield to future development, and therefore will not impact the amenity and character of local community centres throughout The Hills.

Economic

The planning proposal will not result in any significant economic impacts.

Infrastructure

The planning proposal will apply to land where residential flat buildings and shop top housing are proposed within the R1 General Residential, R4 High Density Residential, and B4 Mixed Use zones, which should be supported by sufficient infrastructure.

CONSULTATION

Community

A community consultation period of 28 days is considered an appropriate amount of time to gauge the response of the community.

Agencies

During the consultation period, it is recommended that Council liaise with the Department of Family and Community Services – Housing NSW and Ageing, Disability and Homecare and local service providers for group housing.

TIMEFRAME

A 12 month timeframe for completion of the amendment is appropriate in this instance.

DELEGATION

It is recommended that delegation of the Greater Sydney Commission **is not** issued in the instance given the proposal seeks to introduce a local provision that is not outlined in the *Standard Instrument – Principal Local Environmental Plan* and proposes floor space ratio incentives.

CONCLUSION

The planning proposal has merit and should proceed subject to conditions given it will ensure that there is sufficient incentive for developers to provide some transitional housing within their developments, while ensuring that the bonus floor space is proportional

to the scale of development and the increase in floor space will not result in any unreasonable impacts on the amenity of surrounding residents.

RECOMMENDATION

It is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal is to be amended to include a statement under the Explanation of Provisions that the proposed new clause is only an example only and the final wording of the clause is subject to legal drafting by Parliamentary Counsel;
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 RPA must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
3. Consultation is required with the following public authorities and/organisations under Section 56(2)(d) of the Act:
 - Department of Family and Community Services – Housing NSW;
 - Department of Family and Community Services – Ageing, Disability and Homecare; and
 - Local service providers for group homes.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body 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 LEP is to be **12 months** following the date of the Gateway determination.



7/9/17

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15/09/17

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