

## Planning Services

### Gateway Determination Report

<b>LGA</b>	The Hills
<b>PPA</b>	The Hills Shire Council
<b>NAME</b>	Amendment to clause 9.7(1) Showground Station Precinct Residential Development Yield on Certain Land
<b>NUMBER</b>	PP_2018_THILL_010_00
<b>LEP TO BE AMENDED</b>	The Hills Local Environmental Plan 2012
<b>ADDRESS</b>	Land within the Showground Station Precinct that is subject to an Incentive Floor Space Ratio in The Hills local government area
<b>DESCRIPTION</b>	Multiple
<b>RECEIVED</b>	25 September 2018
<b>FILE NO.</b>	IRF18/5314
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## INTRODUCTION

### Description of planning proposal

The planning proposal seeks to amend clause 9.7(1) of The Hills Local Environmental Plan (LEP) 2012 to provide additional flexibility in the application of the 10,000m<sup>2</sup> site area requirement in instances where development sites are isolated.

The planning proposal does not seek to amend any development standards or land use zones.

### Site description

The boundary of the Showground Station Precinct is included in **Figure 1**.

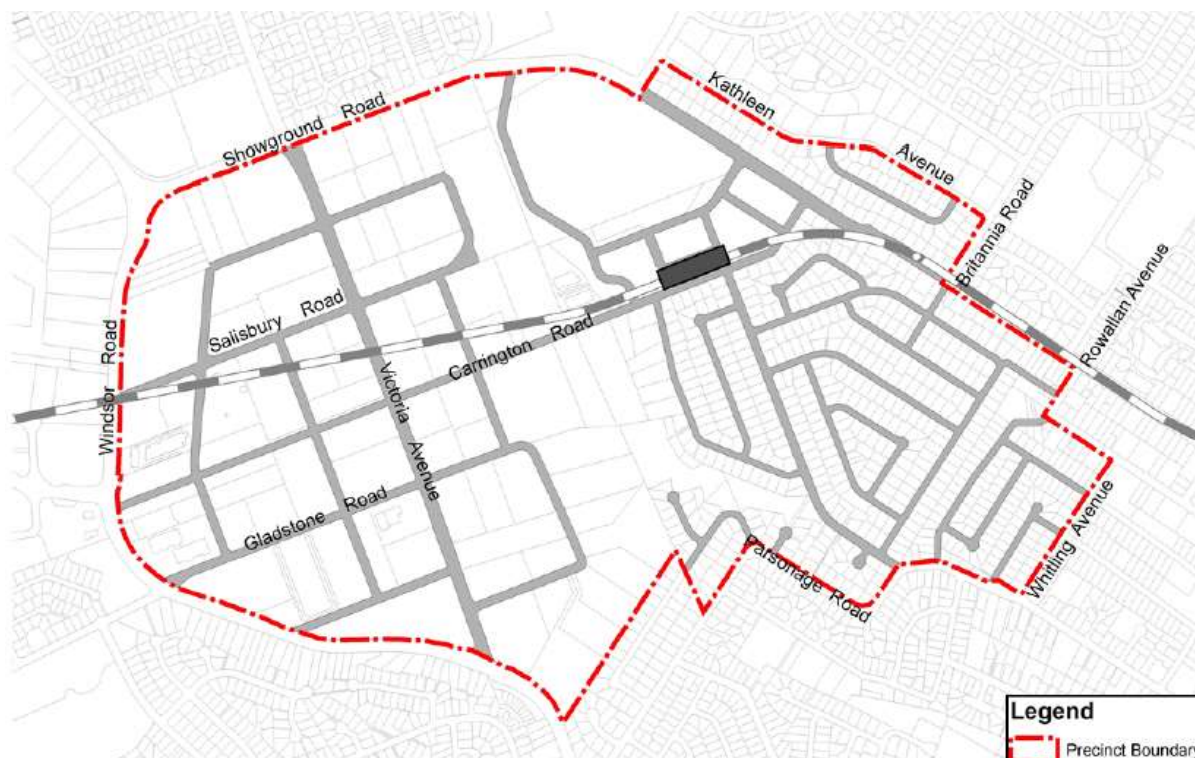


Figure 1: Boundary of the Showground Precinct (Source: Planning proposal document).

### Existing planning controls

Clause 9.7 of The Hills LEP 2012 is an incentive clause that permits bonus Floor Space Ratio (FSR) if a development provides:

- housing diversity with a minimum of 20% 3 bedroom apartments, a maximum of 25% 1 bedroom apartments and at least 40% of the 2 and 3 bedroom apartments to be over 110m<sup>2</sup>; and
- parking requirements with at least 1 parking space per dwelling, at least 1 visitor parking space per 5 dwellings.

A minimum site area of 10,000m<sup>2</sup> required to enable the provisions of Clause 9.7 to be considered. The minimum site area is not a development standard and therefore, cannot be varied under Clause 4.6 of the Hills LEP 2012.

The clause is currently written as follows:

#### *9.7 Residential development yield on certain land*

*1) This clause applies to development that involves the erection of one or more buildings that contain dwellings on a lot that is:*

- (a) within the Showground Station Precinct, and*
- (b) has an area of:*
  - (i) 10,000 square metres or more, or*
  - (ii) less than 10,000 square metres because of the creation of roads and the consent authority is satisfied that the development will promote the orderly development of the precinct.*

*(2) Despite clause 4.4, the consent authority may consent to development to which this clause applies with a floor space ratio that does not exceed the increased floor space ratio identified on the Floor Space Ratio Incentive Map, if the consent authority is satisfied that:*

- (a) no more than 25% of the total number of dwellings (to the nearest whole number of dwellings) contained in the development are to be studio or 1 bedroom dwellings, or both, and*
- (b) at least 20% of the total number of dwellings (to the nearest whole number of dwellings) contained in the development are to be 3 or more bedroom dwellings, and*
- (c) at least 40% of all 2 bedroom dwellings contained in the development will have a minimum internal floor area of 110 square metres, and*
- (d) at least 40% of all 3 bedroom dwellings contained in the development will have a minimum internal floor area of 135 square metres, and*
- (e) the following minimum number of car parking spaces are to be provided on the site of the proposed development:*
  - (i) for each dwelling—1 car parking space, and*
  - (ii) for every 5 dwellings—1 car parking space, in addition to the car parking space required for the individual dwelling.*

*(3) In this clause:*

*internal floor area does not include the floor area of any balcony.*

Land within the precinct that is subject to the incentive clause, and the maximum FSR, is identified in **Figure 2**.

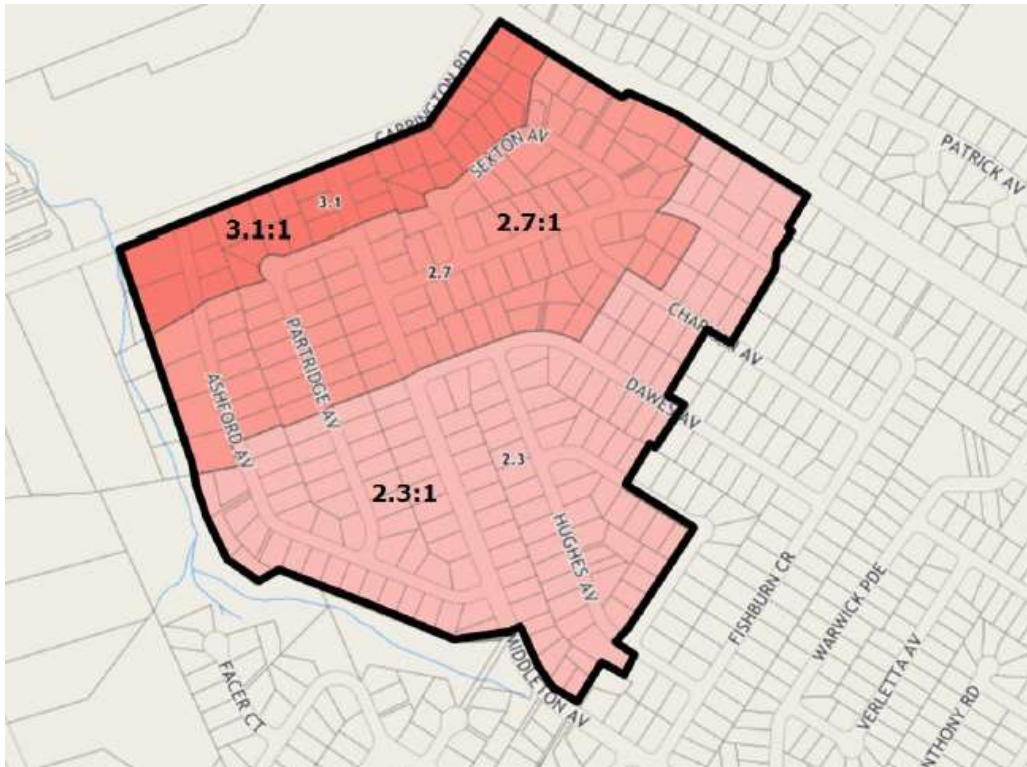


Figure 2: Land in the Showground Precinct subject to the incentive clause with maximum incentive FSR identified (Source: Planning proposal document).

## Summary of recommendation

The proposal is suitable to proceed to the next stage as:

- it has the potential to provide certainty for isolated development sites to access the incentive FSR provision; and
- it has the potential to support the orderly development of land in the Showground Station Precinct.

However, it is considered that further information is required to demonstrate consistency with the above. It is recommended the planning proposal proceed subject to conditions.

## PROPOSAL

### Objectives or intended outcomes

As noted in the planning proposal (**Attachment A**), the objective of the proposal is to amend Clause 9.7 to provide additional flexibility in the application of the 10,000m<sup>2</sup> site area requirement in instances where a development site has become isolated.

The objective of the planning proposal is specific enough to identify a basis for proposing the LEP amendment.

## Explanation of provisions

The planning proposal proposes to update clause 9.7(1) of the LEP with a proposed amended change to the clause as underlined below.

### *9.7 Residential development yield on certain land*

*(1) This clause applies to development that involves the erection of one or more buildings that contain dwellings on a lot that is:*

*(a) within the Showground Station Precinct, and*

*(b) has an area of 10,000 square metres or more, except where:*

*(i) the site area is less than 10,000 square metres because of the creation of roads, or*

*(ii) the site is isolated and cannot aggregate to 10,000 square metres due to the existing lot configuration, and*

*the consent authority is satisfied that the development will promote the orderly development of the precinct....*

The planning proposal currently relies on a draft provision to explain the intended outcome of the LEP.

It is recommended that the planning proposal be updated to provide a plain English description of the explanation of provisions as the final drafting of the clause will be carried out by Parliamentary Counsel and the intended outcomes need to be clearly described in plain English to enable the intent of the planning proposal to be clearly understood and enable legal drafting.

## Mapping

No mapping changes are proposed.

## Background

### State Environmental Planning Policy Amendment (Showground Station Precinct) 2017

On 15 December 2017 the NSW government rezoned the precinct for high and medium density development. This rezoning was the outcome of an extensive planning process led by the Department of Planning and Environment which commenced in August 2014.

Following the rezoning Council prepared a draft development control plan, contributions plan and public domain plan to guide future development. The draft plans were exhibited from 9 January 2018 to Friday 9 February 2018. During the exhibition period a number of submissions raised concern with respect to the lack of flexibility in the application of the 10,000m<sup>2</sup> site area requirement.

At its meeting of 28 August 2018 Council considered a report on the outcome of the exhibition of the draft plans and resolved to adopt:

- The Hills Development Control Plan 2012 (Part D Section 19 – Showground Precinct), Development Contributions Plan No. 19 – Showground Precinct and Public Domain Plan – Showground Precinct.

- Forward a planning proposal to amend clause 9.7 of The Hills LEP 2012 to the Department for a Gateway determination.

## **NEED FOR THE PLANNING PROPOSAL**

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At present there is limited flexibility in the provision to enable a variation to the 10,000m<sup>2</sup> site requirement. As the area requirement is not a development standard it cannot be varied under clause 4.6.

As a result, if a development site is less than 10,000m<sup>2</sup> then the incentive clause currently does not apply.

As per the wording of the current provision within the LEP, the only way that the incentive FSR can apply to a development site which is less than 10,000 m<sup>2</sup> is for the creation of roads. Therefore, if a development site is less than 10,000m<sup>2</sup> for any other reason, the incentive clause does not apply and the maximum FSR achievable is the base FSR.

In certain instances a variation to the 10,000m<sup>2</sup> requirement may be necessary. This may be due to development sites being isolated as a result of the existing allotment configuration or as a result of adjoining applications for high density development that exclude residual land. Subsequently a site may therefore be unable to aggregate to 10,000m<sup>2</sup> as there are no remaining lots adjoining the site to amalgamate with. In these instances, some flexibility to the 10,000m<sup>2</sup> area requirement would be warranted.

The Department supports the proposal proceeding to Gateway determination as it supports the orderly development of land in the Showground Precinct.

## **STRATEGIC ASSESSMENT**

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### Greater Sydney Region Plan

The Greater Sydney Region Plan provides a 40-year vision for the Greater Sydney region. The following objectives are considered relevant for the proposal:

- Objective 10: Greater housing supply; and
- Objective 11: Housing is more diverse and affordable

Council's planning proposal notes the proposed amendment will facilitate the uptake of the Incentive FSR and will assist in maximising housing supply and diversity within the Showground Precinct which will have direct access to high frequency public transport services.

### Central City District Plan

The following planning priority of the Central City District Plan is relevant to the proposal:

- Planning Priority C5: Providing housing supply, choice and affordability, with access to jobs, services and public transport.

Council's planning proposal notes that the proposal will improve housing supply and diversity in a location which will have access to high frequency public transport services catering for a broader range of household types and budgets, which will ultimately assist in improving housing affordability.

### North West Rail Link Corridor Strategy – Showground Precinct

The North West Rail Link Corridor Strategy promotes urban renewal, transforming the low density residential corridor for the Sydney Metro North West into a series of activity centres based around eight new railway stations, including the Showground Station Precinct.

Council's planning proposal is consistent with the Strategy as it supports opportunities to increase residential densities within walking distance of the Showground Station and introduce a variety of housing types for the community.

### Showground Station Precinct Plan

The Showground Station Precinct is forecast to deliver approximately 5,000 new homes and 2,300 jobs over 20 years, transforming the area around Showground Station into a vibrant local centre and contributing to Castle Hill as a strategic centre. This dwelling number is capped through clause 9.8 of the LEP.

Council's planning proposal is consistent with the Showground Station Precinct Plan as it supports improving the flexibility of the planning and development controls to deliver the Showground Precinct. The issue of amenity impacts associated with the development of small sites is further discussed in the site-specific assessment of the report.

## **Local**

### The Hills 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.

Council's planning proposal notes that the proposal will assist in the realisation of The Hills Future outcome of 'Shaping Growth' as it will facilitate a well-planned and liveable neighbourhood around the future Showground Station which assists in meeting growth targets and maintains amenity.

### Local Strategy

There is no relevant local strategy for The Hills LGA that has been endorsed by the Department.

## **Section 9.1 Ministerial Directions**

The planning proposal is consistent with all section 9.1 Directions with the exception of Direction Local Planning Panels Direction – Planning Proposals (issued 23 February 2018). As the planning proposal is minor in nature and intends to introduce improved flexibility in the application of Clause 9.7(1), the inconsistency with the direction is considered to be of minor significance.

## **State environmental planning policies**

The planning proposal is considered to be consistent with all relevant State Environmental Planning Policies.

## **SITE-SPECIFIC ASSESSMENT**

### **Social**

The planning proposal will not facilitate development yields higher than what have been planned for within the precinct. The Showground Contributions Plan identifies improvements for new social infrastructure facilities including playing fields, open space, village plaza, pedestrian bridges and other pedestrian facilities.

### **Environmental**

The planning proposal is not anticipated to have any adverse impacts on critical habitats or threatened species.

### **Economic**

The planning proposal amends planning controls that improve the feasibility of development potential for sites below 10,000m<sup>2</sup>. Whilst the planning proposal will not facilitate development yields higher than what have been planned for within the precinct, it will support the orderly and economic development of land having regard to applicable zone objectives.

## **CONSULTATION**

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### **Community**

The planning proposal outlines a community consultation process that is consistent with *A Guide to Preparing Local Environmental Plans (2016)*.

Given the nature of the planning proposal it is recommended that a 14 day community consultation period should apply.

### **Agencies**

Consultation with other state agencies is not considered necessary. The proposal will not increase demands on infrastructure, nor does it have the potential to impact on the natural environment or heritage values.

## **TIME FRAME**

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The proposed timeframe to finalise this planning proposal is 6 months.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council has not requested to be the plan-making authority, however, given the matter is of local significance, it is recommended that Council be authorised to be the plan-making authority.

## **CONCLUSION**

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Subject to conditions of Gateway, the planning proposal has merit and is supported to proceed for the following reasons:

- it has the potential to provide certainty for isolated development sites to access the incentive FSR provision; and
- it has the potential to support the orderly development of land in the Showground Station Precinct.

## RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. agree that the consistency with section 9.1 Direction Local Planning Panels Direction – Planning Proposals is of minor significance.

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 undertaking community consultation, Council is required to update the explanation of provisions to provide a plain English explanation of the planning proposal.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of 14 days;
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016); and
3. No consultation is required with public authorities/organisation under section 3.34(2)(d) of the Act.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(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. Given the nature of the planning proposal, Council should be the local plan-making authority.
6. The LEP is to be completed by 1 March 2019.



23/10/2018

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24/10/2018

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