

## SECTION 59 PLANNING REPORT

### Planning proposal details:

Planning Proposal (Department Ref: PP\_2016\_THILL\_006\_00) – Amend The Hills Local Environmental Plan 2012 to increase the permissible building height from 16 metres to 36 metres and apply a base floor space ratio of 1:1 and an incentivised floor space ratio of 3:1 (with an associated local provision) to land at 98-102 Fairway Drive, Kellyville (legally known as Lot 2 DP 1210647).

### Planning proposal summary:

To increase the permissible building height on land at 98-102 Fairway Drive, Kellyville, from 16 metres to 36 metres; and to increase the floor space ratio for part of the site from 1:1 to 3:1.

### Date of Gateway determination:

2 November 2016

## 1.0 SUMMARY

The planning proposal applies to land at 98-102 Fairway Drive, Kellyville which is legally known as Lot 2 DP 1210647 (Figure 1). While there is already approval for the construction of residential flat buildings on the site containing 79 units, the planning proposal seeks to facilitate an increased residential outcome on the site of up to 213 units within a built form ranging in height from seven (7) to 12 storeys. To achieve this, the proposal seeks to amend LEP 2012 to:

- Increase the maximum building height applicable to the site from 16 metres (4-5 storeys) to 36 metres (12 storeys);
- Apply a 'base' floor space ratio of 1:1 to the site;
- Apply a maximum 'incentivised' floor space ratio of 3:1 to the portion of the site – this would only be achievable where future development complies with Council's new housing mix and diversity local provision for development within the Sydney Metro Northwest Corridor (Clause 7.12); and
- Amend Council's existing Design Excellence provision within LEP 2012 (Clause 7.7) to apply to all development with a height of 25 metres or more, with revised considerations for design excellence and provision for a Design Excellence Panel rather than architectural design competition. This proposed amendment has been included within a number of recent planning proposals (including the Castle Hill North Precinct).

### Background

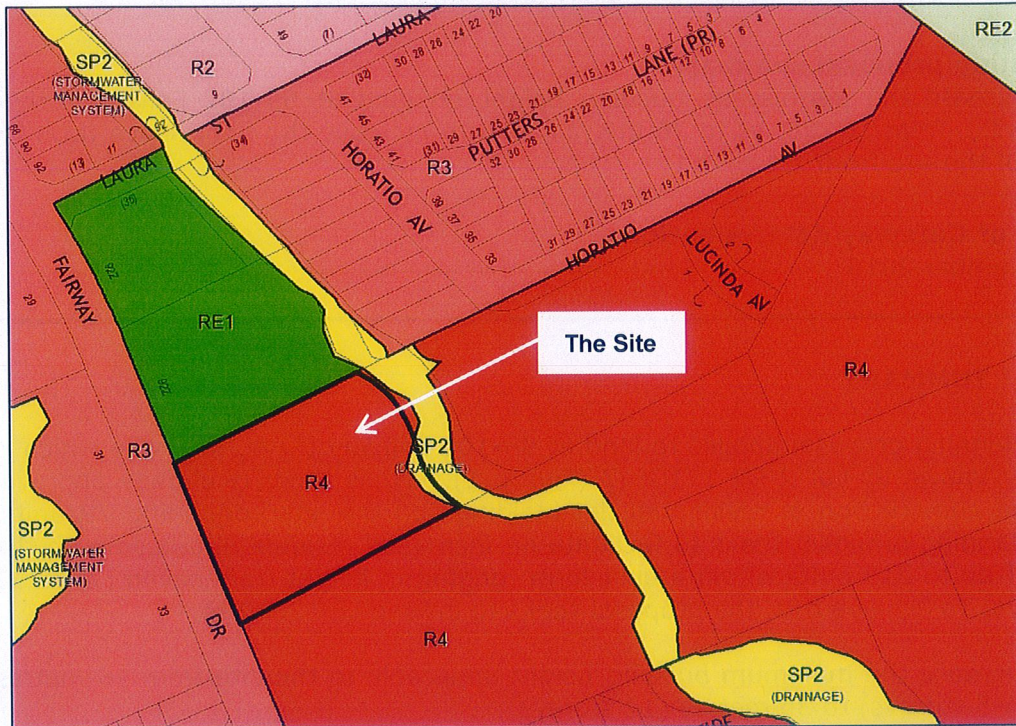
The site is commonly known as 98-102 Fairway Drive, Kellyville and legally known as Lot 2 DP 1210647. The site is irregular in shape and has an area of 7,108m<sup>2</sup> (or approximately 0.71 hectares). It has a frontage to Fairway Drive to the west (74m).

Located within the Balmoral Road Release Area, the site is approximately 700 metres in a direct line from the Norwest Rail Station, although via public pathways it is approximately 1.1km walking distance from the station. The site is included within the Norwest Station Precinct, as detailed within the NSW Government North West Link Corridor Strategy.

The site is currently zoned part R4 High Density Residential and part SP2 Infrastructure (Drainage Corridor). Adjacent the site is an integrated housing

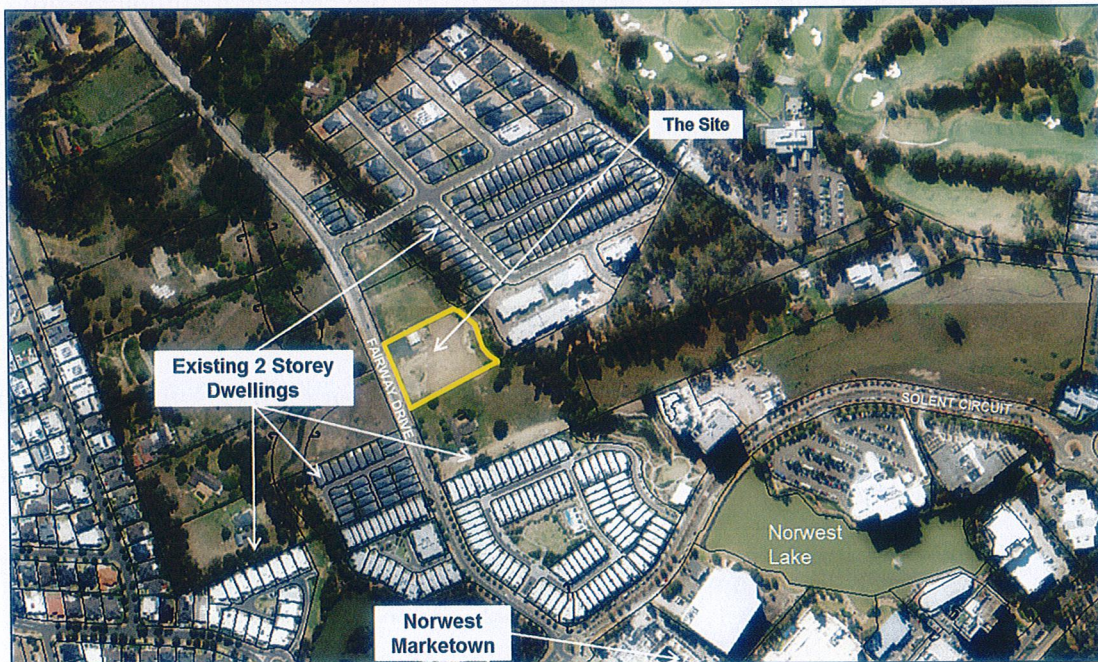


development (85 lots) to the north-east and land zoned RE1 Public Recreation is located to the north. The site is bound by the Norwest Town Centre Residential Development to the south and south-east. Castle Hill Country Club is located further north-east and residential land zoned R2 Low Density Residential and R3 Medium Density Residential is located to the west and north-west which is likely to be subject to residential subdivision as part of the Balmoral Road Release Area in the future.



**Figure 1**

The site and surrounding area - current land zoning map (site identified in black)



**Figure 2**

Aerial view of the site and surrounding locality



## 2.0 GATEWAY DETERMINATION

Council received a Gateway Determination on 2 November 2016 from the Department of Planning and Environment which authorised Council to exercise delegation to make the plan. The Gateway Determination required that the planning proposal be amended to be consistent with the methodology for Local Residential Development and that following this Council undertake consultation with the following public authorities and give each a minimum of 21 days to provide comments:

- Office for Environment and Heritage;
- Transport for NSW;
- Transport for NSW – Roads and Maritime Services;
- Integral Energy; and
- Sydney Water

Each public authority was provided with a copy of the planning proposal and given 24 days to provide comments. The planning proposal was required to be placed on public exhibition for a minimum of 28 days with the public exhibition period lasting from 19 January 2017 to 17 February 2017. All conditions of the Gateway have been complied with.

## 3.0 COMMUNITY CONSULTATION

In accordance with the Gateway Determination, the planning proposal and draft Voluntary Planning Agreement were publicly exhibited from Thursday 19 January 2017 to Friday 17 February 2017. The documentation was made available for viewing at Castle Hill Library, Vinegar Hill Memorial Library (Rouse Hill Town Centre), Council's administration building and on Council's website. The public exhibition was advertised in The Hills Shire News and The Rouse Hill Courier. All landowners in the vicinity of the site were notified by letter of the exhibition and invited to comment.

Council received six (6) individual submissions from the public and one (1) from the applicant. The submissions focussed solely on the planning proposal and did not comment on the draft VPA. The key issues raised within these submissions were:

- a) Distance from Norwest train station;
- b) Lack of traffic infrastructure;
- c) Insufficient car parking spaces;
- d) Height of buildings;
- e) Overdevelopment of the site and inconsistent with surrounding character; and
- f) Request from the applicant to increase the exhibited floor space ratio and height.

These issues are discussed below with planning comments in response to each.

### ***a) Distance from proposed Norwest train station***

Concern was raised that the planning proposal is not located within walking distance of the future Norwest train station.

#### **Comment**

The planning proposal is located 1.1km walking distance from the station which is at the outer limit of the walkable catchment according to usual transport orientated development benchmarks. However, the gradient is very conducive to walking and will ultimately be shorter as access via the lake and shops will link



direct to the station which does assist. There are opportunities for increased pedestrian permeability through the precinct as redevelopment occurs.

The site is identified as being suitable to accommodate high density development not only under the existing LEP 2012 controls (which zone the site R4 High Density Residential), but also under the strategic planning work completed to date for the Norwest Precinct including the NSW Government's Northwest Rail Link Corridor Strategy (2013) and The Hills Corridor Strategy (2015). Under the Northwest Rail Link Corridor Strategy, the site was identified by the NSW Government for high density apartment living in seven (7) to 12 storey buildings with a floor space ratio of 3:1 to 4:1 across the whole site. This planning proposal is less than that.

**b) Lack of traffic infrastructure**

Concern about a lack of traffic infrastructure along Fairway Drive and that the increased density will worsen traffic congestion should it proceed without any road widening or upgrades.

**Comment**

The site is currently subject to Section 94 Contributions under CP12 and would be required (under any future development consent issued) to make contributions valued at approximately \$2.1 million towards local infrastructure under CP12, in association with 79 units on the site.

Importantly, CP12 includes a number of local infrastructure items to be provided by Council as development within the Balmoral Road Release Area continues to occur. A number of these are within close proximity to the site including Fairway Drive Reserve (recently completed and adjoining the site), two (2) new roundabouts along Fairway Drive and the existing roundabout at the intersection of Fairway Drive and Solent Circuit. Further works for the upgrade of the full length of Fairway Drive will be completed by individual developers, as development fronting Fairway Drive occurs.

Additionally, the VPA in association with the planning proposal secures an additional monetary contribution of approximately \$5.1 million in association with the additional yield of 134 units (beyond that already planned and catered for under the existing contributions plan). It is considered that this contribution represents a fair and reasonable contribution towards new local infrastructure which will include, but not be limited to, traffic upgrades within this locality in the future.

The traffic report submitted in support of the application identified that the proposal will not have an unacceptable impact on the local road network. The increase in residential yield is likely to result in an additional 33 peak morning and 26 peak afternoon traffic movements, compared with the existing development approved on the site. The primary vehicular access is via a Fairway Drive which is designed to be a future "enhanced collector" which is adequate to cater for the additional traffic. The planning proposal was forwarded to RMS and Transport for NSW for comment during the exhibition period and no objections were received from either agency.

Having regard to the minor increase in traffic likely to be generated by the proposal, the contributions payable by the developer under CP12 and the additional contributions secured through the VPA for expenditure on new local infrastructure, it is considered that the net impact of the proposal on local infrastructure and traffic is acceptable.



**c) *Insufficient car parking spaces***

Multiple submissions suggest that parking spaces along Fairway Drive are at capacity. Concern is raised that there is not sufficient spaces provided within the development and request that the planning proposal provide increased parking.

**Comment**

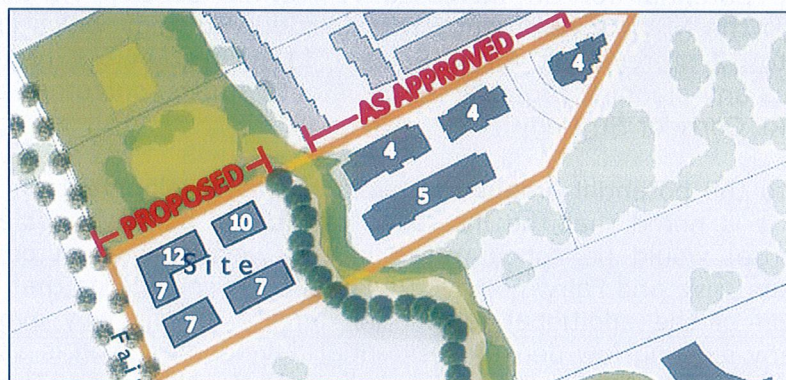
Any future development application will be expected to comply with Council's parking requirements. It is considered that compliance with these requirements will be adequate to ensure sufficient off-street parking spaces are provided and minimisation of any unreasonable impacts on existing on-street parking arrangements. The achievement of the 'incentivised' floor space ratio of 3:1 on the site would be dependent on future development fully complying with Council's minimum parking requirements and the applicant has indicated a commitment to this compliance, which will be further assessed as part of the subsequent development application process.

**d) *Height of buildings***

Concern that the proposed building height of 36 metres (12 storeys) is excessive.

**Comment**

The site is within the Norwest Station Precinct and has been identified under the NSW Government's Corridor Strategy as being suitable to accommodate a built form ranging in height from seven (7) to 12 storeys. While a maximum height of 36 metres would allow for buildings up to 12 storeys in height (consistent with strategic planning direction applicable to the land), the imposition of a maximum floor space ratio of 3:1 will ensure that a variation in heights is achieved across the site, with 12 storey elements being limited to key locations on the site (as demonstrated within the applicant's development concept below).



**Figure 3**

Approved (DA 824/2013/JP/A) and Proposed (6/2016/PLP) Built Form (Height in Storeys)

The development concept submitted in support of the proposal demonstrates the placement of the highest building elements in the north-western part of the site, fronting Fairway Drive and the adjoining local park (Fairway Drive Reserve). It is considered that the location of a 12 storey element at this point will provide a suitable built form which is appropriate for the northern entry to the Norwest Station Precinct. Further, a built form of 12 storeys at this location is considered to be appropriate in the context of the future character anticipated within the Norwest Business Park as well as anticipated built form within surrounding high density residential development to the south-east (ranging in height from six (6) to 26 storeys).

Importantly, the siting of the tallest building elements in the north-western part of the site will ensure that potential amenity impacts on any adjoining



development are limited given the separation provided between the site and any adjoining development as a result of Fairway Drive and Fairway Drive Reserve.

Noting the above, it is considered that there will be minimal amenity impacts on existing development. This is due to the proposed maximum building height, in combination with the proposed maximum floor space ratio and other relevant controls (such as landscaping, setbacks, building separation, privacy, solar access and design excellence) which will ensure that through the detailed design and development application process the site can accommodate an appropriate built form (in the context of the Norwest Precinct).

***e) Overdevelopment and out of character***

Concern that the proposal will result in overdevelopment of the site, which will be out of character with the locality and that the existing approval for the site is sufficient.

**Comment**

In assessing whether a proposal will result in 'overdevelopment' of a site, it is important to consider the strategic context of the site, the potential amenity impacts on adjoining development and the availability of local infrastructure to service the development.

With respect to the strategic context, the site is located within the Norwest Station Precinct and in close proximity to employment opportunities, retail services and public transport options. While the current controls would facilitate the provision of 79 units on the site (within a four (4) to five (5) storey built form), the Sydney Metro Northwest has appropriately prompted reconsideration of the development potential of land within the Norwest Station Precinct. In particular, the potential for an increased residential density on this site is identified under the NSW Government NWRL Corridor Strategy which anticipates a seven (7) to 12 storey built form (Section 117 Direction 5.9 requires that Council ensures any planning proposal is consistent with the outcomes envisaged under the NWRL Corridor Strategy).

With respect to the potential amenity impacts of the development on adjoining development, it is noted that the increased residential density enabled by the planning proposal would be concentrated in the western portion of the site, fronting Fairway Drive and Fairway Drive Reserve. It is considered that the siting and distribution of the additional residential density in this way avoids close proximity to any existing low density residential development and is appropriate to avoid any significant amenity impacts on adjoining development. The planning proposal is unlikely to have an adverse impact on the amenity of existing development. It is considered that the 213 units proposed on the site are appropriate given the sites strategic location and the surrounding character of adjoining development.

***f) Applicant request to amend the Planning Proposal***

A submission was received from the applicant, which requests that the planning proposal be amended to:

1. Increase the maximum building height from 36 metres to 38.7 metres; and
2. Increase maximum FSR from 3:1 to 3.3:1 (to allow for 248 dwellings).

**Comment (Regarding Maximum Building Height)**

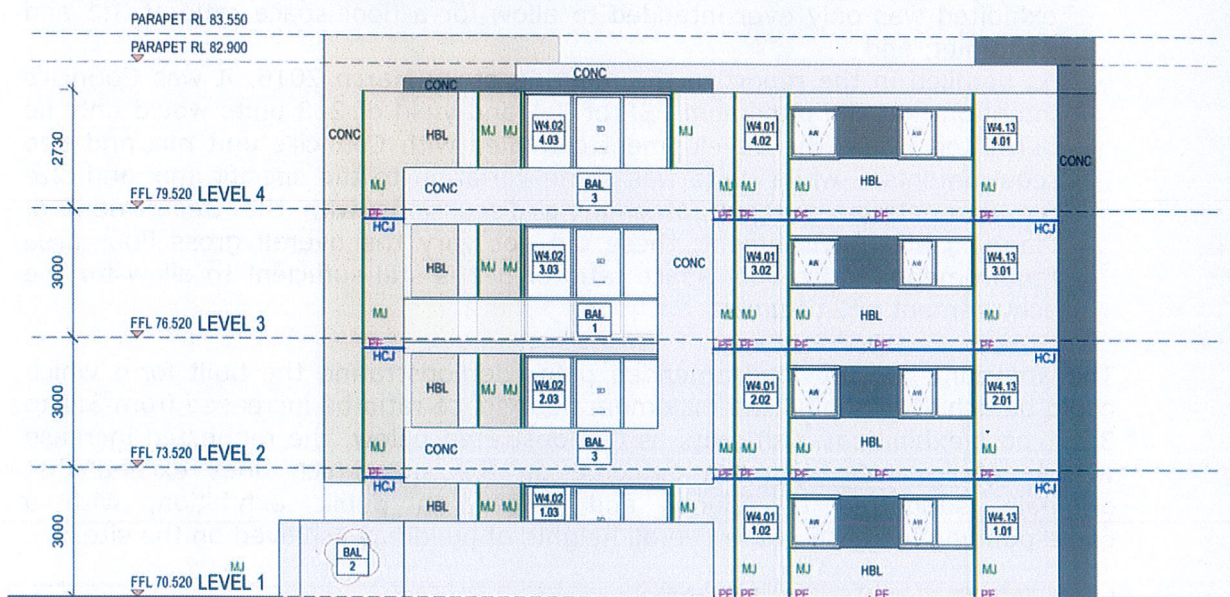
The request to increase the maximum building height is made on the basis that the applicant will require a height of 3.1 metres (floor-to-floor) per storey, rather



than the three (3) metres proposed. Further, an additional height allowance is requested to allow for a 1.5 metre lift overrun.

The proposed height limit of 36 metres has been applied to ensure that no opportunities are inadvertently granted for additional storeys or built form to be achieved at the development application stage. It is considered that a height limit of 36 metres will be adequate to allow for the achievement of a 12 storey building through the development assessment process noting that:

- It has been demonstrated that a height of three (3) metres (floor-to-floor) per storey is achievable in the construction of residential flat buildings, including those approved and already constructed by the applicant on the remainder of the site (below); and



**Figure 4**

Approved Elevation (DA 824/2013/JP/C) showing 3 metre height between finished floor levels

- Clause 5.6 of LEP 2012 (Architectural Roof Features) would provide flexibility for the building to exceed the maximum building height as a result of architectural roof features (including those which contain or support) lift overruns and should allow for a floor to ceiling height to result in a minor height encroachment. Most developments to comply with Apartment Design Guidelines propose finished floor to finished floor level of 3.0m to ensure a clear 2.7m finished floor level to finished floor level in the unit. Some designs use 3.05m which would result in a 12 storey building encroachment by 600mm.

#### **Comment (Regarding Maximum Floor Space Ratio)**

The request to increase the maximum floor space ratio from 3:1 to 3.3:1 has been made on the basis that the proposed maximum floor space ratio of 3:1 will not allow for the achievement of 248 units on the site and that as a result of Council's unit mix and size requirements, additional floor space entitlement is required in order to achieve 248 units on the site.

In response to this, the following is relevant:

- The applicant's original proposal, as submitted to Council, sought to allow for 248 units. However, as a result of Council's assessment of the planning



proposal, the applicant's proposal for 248 units was not supported. Rather, Council resolved to proceed with a planning proposal that allowed for a marginally lower yield than requested by the applicant – being a maximum floor space ratio of 3:1 and yield of 213 units;

- The decision to proceed with a planning proposal with a maximum floor space ratio of 3:1, which allowed for 213 units (rather than the requested 248 units), was made having regard to the strategic context of the site, the residential density on adjoining land and within the locality and the strategic planning policies applicable to the site;
- The outcomes of Council's assessment process were detailed in the report to Council's meeting of 22 March 2016 and were articulated in Council's resolution from this meeting. Accordingly, the planning proposal forwarded to the Department for Gateway Determination and subsequently publicly exhibited was only ever intended to allow for a floor space ratio of 3:1 and 213 units; and
- As detailed in the report to the meeting of 22 March 2016, it was Council's intention that the maximum FSR of 3:1 and yield of 213 units would only be permitted where the development complied with Council's unit mix and size requirements – while there was some variation to the specific mix and size requirements as a result of ongoing discussions with the Department of Planning and Environment, these did not vary the overall gross floor area requirements and a floor space ratio of 3:1 is still sufficient to allow for the achievement of 213 units.

The applicant has provided amended plans demonstrating the built form which could be achieved should the maximum floor space ratio be increased from 3:1 to 3.3:1 post-exhibition. Critically, as demonstrated below, the requested increase would enable a development outcome on the site which does exceed that originally submitted to Council and placed on public exhibition, with a corresponding increase in the overall heights of buildings achieved on the site.



**Figure 5**

Comparison: Applicant's original concept (left) and revised concept based on increased FSR (right)

The amendment of a planning proposal post-exhibition to enable a higher yield and more intense built form outcome than originally approved by Council, approved by NSW Government (Gateway Determination) and publicly exhibited for community consultation, is considered beyond the scope of amendments which can be made post-exhibition (without the need for submission of a revised planning proposal for Gateway Determination and re-exhibition of the revised planning proposal following this). For these reasons it is considered best to proceed with the proposal as exhibited. It is noted that through the detailed design and development application process, there is scope for variation in design



of buildings and consideration of the merits of a specific proposal, which may be capable of achieving a marginally higher yield than 213 units, subject to Council assessment and approval.

#### **4.0 VIEWS OF PUBLIC AUTHORITIES**

In accordance with the Gateway Determination, Council consulted with the following public authorities under Section 56(2)(d) of the Act:

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

Council received four (4) submissions from public authorities (Office of Environment and Heritage, Roads and Maritime Services, Sydney Water and Endeavour Energy). The comments are discussed below:

##### **(a) Roads and Maritime**

Roads and Maritime Services (RMS) raised no objection to the planning proposal and supported the draft VPA which provides Council with funding towards public works, which may include the upgrade of the intersection of Norwest Boulevard and Solent Circuit.

##### **Comment**

While RMS formally supports the planning proposal, further consultation will be necessary during the development application stage.

##### **(b) Office of Environment and Heritage**

The Office of Environment and Heritage (OEH) raised no objection given no State Listed Heritage Items would be affected by the proposal. OEH also noted that the planning proposal did not impact on any locally listed heritage items under The Hills LEP 2012.

##### **Comment**

OEH raised no objection to the planning proposal.

##### **(c) Sydney Water**

Sydney Water raised no objection to the planning proposal, providing that the development does not encroach on the riparian corridor that Sydney Water is in the process of acquiring. Sydney Water also provided a number of other comments which would be given further consideration at the development application stage.

##### **Comment**

It is understood that Sydney Water is currently in the process of acquiring the SP2 Drainage corridor which traverses the site. The development concept submitted by the application does not indicate any intention to encroach on this land, nor would this land form part of a potential development site once under Sydney Water's ownership.

Sydney Water will need to be consulted and the relevant approvals from Sydney Water (including a Section 73 Compliance Certificate) must be obtained as part of any development application for the site.



#### **(d) Endeavour Energy**

Endeavour Energy raised no formal objection to the planning proposal but did provide a number of standard conditions that will be applicable to further development on the site. Endeavour Energy requested that all the required information be passed to the applicant prior to construction.

#### **Comment**

Further consultation with Endeavour Energy will occur at the development application stage. This will ensure an appropriate development outcome is achieved and appropriately distanced from identified easements. Endeavour Energy will have opportunity to request the imposition of any relevant conditions of consent at this time.

### **5.0 CONSISTENCY WITH S.117 DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS**

#### **• A Plan for Growing Sydney**

On 14 December 2014, the NSW Minister for Planning released 'A Plan for Growing Sydney'. The Plan is intended to guide land use planning decisions for the next 20 years and presents a strategy for accommodating Sydney's forecast population growth over this time. To achieve the Government's vision for Sydney as a "strong global City and a great place to live", the Plan sets out four (4) main goals, for Sydney to be:

- A competitive economy with world-class services and transport,
- A City of housing choice with homes that meet our needs and lifestyles,
- A great place to live with strong, healthy and well-connected communities, and
- A sustainable and resilient City that protects the natural environment and has a balanced approach to the use of land and resources.

A key principle for growth includes increasing and improving housing choice around centres. The planning proposal seeks to facilitate the delivery of housing close to the Norwest Business Park and the Norwest Rail Station. The site is already zoned R4 High Density Residential and the planning proposal would enable for higher density development on the site than that which could be achieved under planning controls in order to better capitalise on the strategic location of the site.

The planning proposal is consistent with the following relevant directions of the Plan:

- Direction 2.1: Improve housing supply across Sydney;
- Direction 2.2: Ensure more homes closer to jobs;
- Direction 2.3: Improve housing choice to suit different needs and lifestyles; and
- Direction 2.4: Deliver well planned new areas of housing.

#### **• Draft Greater Sydney Region Plan**

The draft Region Plan is built on a vision where the people of Greater Sydney live within 30 minutes of their jobs, education and health facilities, services and great places. Once finalized, the draft Region Plan will replace A Plan for Growing Sydney as a means of delivering the Greater Sydney Commission's vision for Greater Sydney by 2056.



Objective 10 of the draft Region Plan aims to provide ongoing housing supply and a range of housing types in the right locations to create more liveable neighbourhoods and support Sydney's growing population. The planning proposal seeks to facilitate the delivery of housing close to the Norwest Business Park and the Norwest Rail Station. The site is already zoned R4 High Density Residential and the planning proposal would enable for higher density development on the site than that which could be achieved under planning controls in order to better capitalise on the strategic location of the site with access to services, employment and transport.

- **Draft West Central District Plan**

The Draft West Central District Plan was prepared by the Greater Sydney Commission and proposes a 20 year vision for the West Central District, which includes the local government areas of Blacktown, Cumberland (former parts of Auburn, Parramatta and Holroyd), Parramatta and The Hills.

The draft Plan identifies 'liveability' priorities and actions for the West Central District which respond to improving housing choice, diversity and affordability. The draft Plan identifies a five-year housing supply target and predicts that the Hills will require an additional 8,550 dwellings by 2021. This planning proposal will contribute to the achievement of this target (Liveability Priority 1).

The draft Plan also proposes to improve housing choice for people to live within walking distance to transport services and easy access to jobs. The draft Plan proposes to improve housing diversity and affordability by providing a mix of different housing types that people need. The planning proposal will accommodate delivery of up to 213 units, in close proximity to transport services and employment opportunities within the Norwest Business Park. To deliver housing diversity, the draft Plan urges planning authorities to consider the needs of the local population base to deliver high quality design outcomes for both buildings and places (Liveability Priority 2).

The planning proposal seeks to facilitate the delivery of housing close to the Norwest Business Park and the Norwest Rail Station. The planning proposal is located 1.1km walking distance from the station which is at the outer limit of the walkable catchment according to usual transport orientated development benchmarks. However, the gradient and amenity is very conducive to walking and will ultimately be more direct given access to the station via the lake and shops. There are also opportunities for increased pedestrian permeability through the precinct as redevelopment occurs. The planning proposal is considered to be consistent with the objectives of the draft Plan as it supports the delivery of new housing in close proximity to services, employment and transport, and will secure the delivery of a diversity of housing options (through the local provision/Clause 7.12).

- **Draft Central City District Plan**

In September 2017, the Greater Sydney Commission released a revised draft District Plan that aligned with the Greater Sydney Region Plan and NSW Government's Future Transport 2056 Strategy. The District Plans set out how the Region Plan will inform Council's Plans and guide the assessment of local planning proposals. The Hills is located within the Central City District to better align with its location within the Three Cities vision. The planning proposal is consistent with the following relevant Planning Priorities as listed in the revised Plan:



*Providing services and social infrastructure to meet people's changing needs*

The draft Plan states that planning must recognise the changing composition in population groups in local places and provide social infrastructure and services accordingly. Additionally, the Plan aims to provide the right local mix of services, programs and social infrastructure at the heart of walkable neighbourhoods to support them to live socially connected, active and healthy lives.

The Hills Shire Council's residents are predominately families with children. To cater to this demographic, The Hills is dedicated to providing family friendly apartments and local services that cater to their needs. Accordingly, the planning proposal is considered to be consistent with this Priority as it would comply with Council's housing diversity controls and proposes to provide public benefits through monetary contributions under an associated Voluntary Planning Agreement that can be used would cater to future resident's needs.

*Providing housing supply, choice and affordability with access to jobs and services*

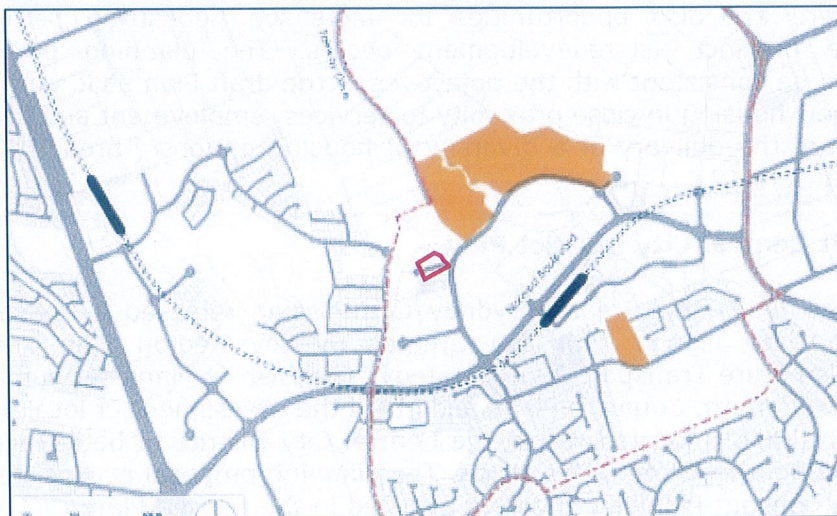
The revised draft Plan sets out five-year housing targets of 8,550 additional dwellings and The Hills is well on track to exceed these targets. The planning proposal is consistent with this objective as it seeks to facilitate the delivery of housing close to the Norwest Business Park and the Norwest Rail Station.

- **North West Rail Link Corridor Strategy**

The NSW Government Corridor Strategy provides a vision for how the areas surrounding the eight (8) new stations of the Sydney Metro Northwest could be developed to integrate new homes and jobs.

The Norwest Structure Plan projects that within the Norwest Station Precinct, an additional 4,350 dwellings will be provided by 2036 including approximately 2,700 new dwellings in three (3) to six (6) storey apartment buildings and 350 dwellings in seven (7) to 12 storey apartment buildings. The Structure Plan also projects that the Norwest Station Precinct will accommodate 13,200 additional jobs by 2036.

The Structure Plan identifies the site as being suitable for High Density Apartment Living which could comprise seven (7) to 12 storey apartment buildings, carefully master planned around communal open spaces and incorporating landscaped setbacks to existing streetscapes.



**Figure 6**

North West Rail Link Corridor Strategy 'High Density Apartment Living' character area



The planning proposal is consistent with the Corridor Strategy as it seeks to promote the redevelopment of the site in the short-term for high density residential development given its proximity to the station and Norwest Business Park and proposes a built form on the site of seven (7) to 12 storeys which is consistent with the identified character of the 'High Density Apartment Living' area.

- **Local Strategy**

Council's Draft Local Strategy was adopted in 2008, it is the principal document for communicating the future planning of the Shire and includes the objectives of longer term planning projects of the State Government as well as responding to, and planning for, local needs such as employment, housing and transport.

The draft Local Strategy was adopted principally as a land use planning document to guide local planning and reflect the following five (5) key themes of "Hills 2026 Community Strategic Direction: Looking Towards the Future":

- Resilient Local Leadership;
- Vibrant Communities;
- Balanced Urban Growth;
- Protected Environment; and
- Modern Local Economy.

The Local Strategy continues to provide a clear statement of the overall strategic land use management and planning objectives for the Hills Shire. However, it is noted that the dwelling and job growth targets detailed within the Local Strategy represent Council's projected growth targets as at June 2008.

The planning proposal is consistent with the principles of the Local Strategy Residential Direction as it seeks to provide additional residential accommodation in close proximity to the Norwest Town Centre, employment opportunities within Norwest Business Park and existing and planned services and infrastructure. Notwithstanding the strategic justification for residential development on the site, it is noted that residential development on the site is not required to meet Council's projected housing growth targets within the Local Strategy.

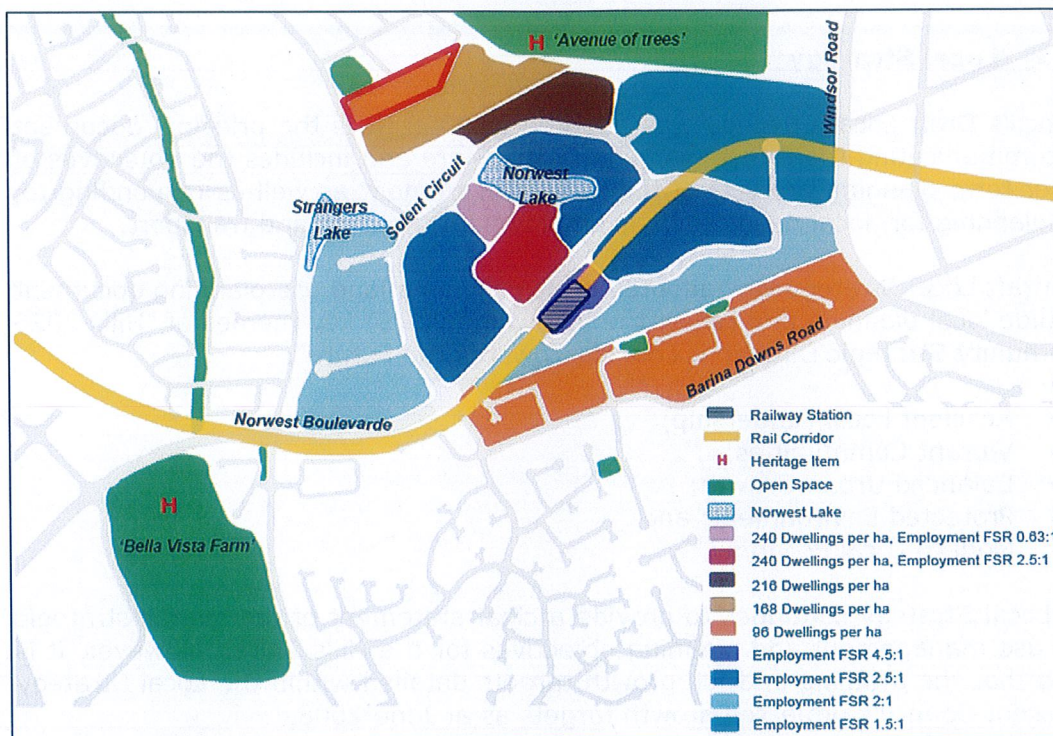
- **The Hills Corridor Strategy**

The Hills Corridor Strategy was adopted by Council on 24 November 2015 to build upon the platform established by the NSW Government's Corridor Strategy and articulate redevelopment opportunities arising from the Sydney Metro Northwest around each of the seven (7) stations that are within, or close to, the Shire. It is underpinned by guiding principles that reflect the long held strategic direction of Council that is embedded in Council's Local Strategy and Local Environmental Plan (LEP) with the key being a hierarchy of zones that see the greatest densities closer to the transport or centres, while maintaining low density housing choices in more peripheral locations.

The Strategy identifies Norwest Business Park as a major specialised centre and seeks to reinforce the centre as a key employment destination, becoming the largest employment centre for the North West. The Hills Corridor Strategy identifies opportunity for 5,320 additional dwellings and 14,450 additional jobs within the Norwest Precinct by 2036.



To achieve this, the Strategy identifies the site as being suitable for residential development with a residential density of 96 dwellings per hectare. This desired future character is reflective of the existing Development Approval for the site (yielding 184 dwellings) and seeks to provide a suitable transition in the intensity of development away from the Norwest towards planned and existing low density residential areas within the Balmoral Road Release Area.



**Figure 7**  
The Hills Corridor Strategy Norwest Station Precinct Desired Outcomes

- **Ministerial Section 117 Directions**

Section 117(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) enables the Minister for Planning and Environment to issue directions that Councils must address when preparing planning proposals for a new LEP. The relevant Section 117 Directions are:

- a) Direction 2.1 Environmental Protection Zones
- b) Direction 3.1 Residential Zones
- c) Direction 3.4 Integrating Land Use and Transport
- d) Direction 5.9 North West Rail Link Corridor Strategy
- e) Direction 7.1 Implementation of A Plan for Growing Sydney

- **Direction 2.1 Environmental Protection Zones**

The objective of this Direction is to protect and conserve environmentally sensitive areas. The Direction applies to all councils preparing a planning proposal and requires that a planning proposal includes provisions that facilitate the protection and conservation of environmentally sensitive areas and that where land is within an environment protection zone, a planning proposal shall not reduce the environmental protection standards that apply to that land.

The portion of the site to the east of the drainage corridor contains River-flat Eucalypt Forest (Endangered Ecological Community) and Cumberland Plain



Woodland (Critically Endangered Ecological Community). However, the planning proposal relates to portion of the site west of the drainage corridor, which is not an environmentally sensitive area.

It is critical to note that the subject site is currently zoned R4 High Density Residential and as such, development for the purpose of residential flat buildings is already permissible (and has been approved) under the current controls. The planning proposal relates to the scale and density of development on the site only and does not reduce the existing environmental protection standards that apply to the site.

It is considered that the planning proposal is consistent with this Direction on the basis that it does not seek to allow for a specific type of development to occur which is not already permissible on the land (residential flat buildings) and does not reduce or amend the existing the environmental protection standards that apply to that land under *The Hills Local Environmental Plan 2012* or any other planning instrument or legislation. Further, the portion of the site subject to the planning proposal does not contain any areas of significant vegetation.

- **Direction 3.1 Residential Zones**

This Direction applies when a planning proposal will affect land within any zone in which significant residential development is proposed to be permitted. This Ministerial Direction is applicable in this instance as it proposes an intensification of residential densities within an existing residential zone. The objectives of the Direction are:

- *to encourage a variety and choice of housing types to provide for existing and future housing needs,*
- *to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and*
- *to minimise the impact of residential development on the environment and resource lands.*

The planning proposal is considered to be consistent with this Direction as it will broaden the choice of building types and locations available in the housing market, make more efficient use of existing infrastructure and services, and reduce the consumption of land for housing and associated urban development on the urban fringe.

The application of an 'incentivised' floor space ratio and reliance on Clause 7.12 of LEP 2012 to achieve housing mix and diversity is entirely consistent with this Direction as it responds to the expected future demographics of The Hills Shire and aims to ensure housing product is provided which is appropriate for this demographic to meet the specific future housing needs of the area.

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

This Direction aims to ensure that development improves access to housing, jobs and services, increase choice of available transport, reduce travel demand, and provide for the efficient movement of freight. A planning proposal must locate zones for urban purposes and include provisions that are consistent with the aims, objectives and principles of *Improving Transport Choice – Guidelines for planning and development* (DUAP 2001) and *The Right Place for Business and Services – Planning Policy* (DUAP 2001).



The proposal is considered to be consistent with this Direction as it will facilitate development which meets the following key objectives:

- a) Improve access to housing, jobs and services by walking, cycling and public transport; and
- b) Increase the choice of available transport and reducing dependence on cars; and
- c) Reduce travel demand including the number of trips generated by development and the distances travelled, especially by car; and
- d) Support the efficient and viable operation of public transport services including the North West Transitway and the North West Rail Link.

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

The objectives of this Direction are to promote transit-oriented development and manage growth around the eight train stations of the North West Rail Link, and to ensure development within the rail corridor is consistent with the proposals set out in the Corridor Strategy and precinct Structure Plans.

The Norwest Structure Plan projects that within the Norwest Station Precinct, an additional 4,350 dwellings will be provided by 2036 including approximately 2,700 new dwellings in 3-6 storey apartment buildings and 350 dwellings in 7-12 storey apartment buildings. The Structure Plan also projects that the Norwest Station Precinct will accommodate 13,200 additional jobs by 2036.

The Structure Plan identifies the site as being suitable for High Density Apartment Living which could comprise 7-12 storey apartment buildings, carefully master planned around communal open spaces and incorporating landscaped setbacks to existing streetscapes.

The planning proposal is consistent with the Corridor Strategy as it seeks to promote the redevelopment of the site in the short-term for high density residential development given its proximity to the station and Norwest Business Park and proposes a built form on the western portion of the site (west of the drainage corridor) of 7 to 12 storeys which is consistent with the identified character of the 'High Density Apartment Living' area.

- **Direction 7.1 Implementation of A Plan for Growing Sydney**

The planning proposal is consistent with the policies, outcomes and actions of A Plan for Growing Sydney. Specifically, it contributes to the provision of housing supply in an appropriate location and ensures diversity of housing choice to suit different needs and lifestyles.

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

The planning proposal is considered to be consistent with SEPP No. 65 given it will facilitate a high quality development on the site with positive design and amenity outcomes. The proposal provides a maximum dwelling yield if the developer complies with Council's apartment size/mix and car parking controls given these controls are considered by Council to better suit the family demographic expected for the Shire into the future.



## **6.0 PARLIAMENTARY COUNSEL OPINION**

Pursuant to section 59(1) of the *Environmental Planning and Assessment Act 1979*, The Hills Shire Council sent a request to Parliamentary Counsel on 13 April 2017 to prepare a draft instrument in regard to the planning proposal. The information supplied to Parliamentary Counsel was in accordance with 'A guide to preparing local environmental plans' and included the following:

- Email notification to Parliamentary Counsel;
- Finalised planning proposal updated following completion of exhibition;
- Gateway Determination issued 2 November 2016;
- Council Report and Resolution dated 28 March 2017; and
- Delegated plan making reporting template.

A copy of the documentation sent to Parliamentary Counsel was also sent to the Department of Planning and Environment. Council received an Opinion from Parliamentary Counsel on 29 September 2017 that the plan may be legally made. A copy of the opinion is included as an attachment to this report.

## **7.0 OTHER RELEVANT MATTERS**

No other relevant matters.

## **8.0 MAPPING**

The maps in support of the planning proposal were sent to the Department of Planning and Environment on 19 April 2017.

Minor amendments were made to the maps to reflect the updated property address (due to subdivision) and adjustments to the north-eastern boundary of the site as a result of acquisition of the drainage corridor by Sydney Water. The proposed maximum height limit and floor space ratio controls will continue to apply to the boundary of the site (excluding land now owned by Sydney Water), as per the intent of the planning proposal endorsed by Council.

The maps provided in support of the planning proposal are consistent with the outcomes and intent of those previously endorsed by Council at its meeting of 28 March 2017 and have been prepared in the format compliant with the Standard Instrument LEP Mapping Guidelines.

On 7 November 2017, advice was received from the Department that the maps were suitable for notification.

## **9.0 RECOMMENDATION**

In accordance with the authorisation issued by the Department of Planning and Environment, Council has delegation to make the plan. It is recommended that the Plan be made.

### **ATTACHMENTS:**

<b>Attachment A</b>	Parliamentary Counsel Opinion, 29 September 2017
<b>Attachment B</b>	Map Cover Sheet and Supporting Maps
<b>Attachment C</b>	Gateway Determination, 2 November 2016
<b>Attachment D</b>	Council Report and Minute (Post-exhibition), 28 March 2017
<b>Attachment E</b>	Planning Proposal and Attachments



On 12/12/01, the Department of Justice received a letter from the American Civil Liberties Union (ACLU) regarding the proposed changes to the Federal Bureau of Investigation (FBI) Information Management System (IMS) database. The letter stated that the proposed changes would result in the deletion of certain information from the database, which would be a violation of the Privacy Act of 1974.

The Department of Justice has reviewed the letter and has determined that the proposed changes to the IMS database are necessary for the proper functioning of the system. The changes will not result in the deletion of any information that is protected under the Privacy Act of 1974.

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