



Our ref: 16/06701

Mr David Walker
General Manager
The Hills Shire Council
PO Box 7064
Baulkham Hills BC NSW 2153

Dear Mr Walker

**Planning proposal to amend The Hills Local Environmental Plan 2012
Land at 28 Fairway Drive, Kellyville (PP_2016_THILL_006_00)**

I am writing in response to your Council's letter dated 28 April 2016 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal for land at 28 Fairway Drive, Kellyville, to increase the permissible building height on the western portion of the site from 16 metres to 36 metres and increase the floor space ratio for part of the site from 1:1 to 3:1.

As delegate of the Greater Sydney Commission, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

As you are aware the Department and Council have agreed on a methodology to deliver an appropriate mix of apartment sizes for the North-West Rail Corridor, while ensuring Government expectation for overall dwelling yields are met. The Gateway determination has been conditioned to require the amendment of the planning proposal to reflect this agreed methodology.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with Section 117 Direction 6.3 Site Specific Provisions are of minor significance. No further approval is required in relation to this Direction.

Plan making powers were delegated to councils in October 2012. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (the Plan) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the Plan should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request

is to be forwarded to the Department of Planning and Environment for administrative purposes.

The State Government is committed to reducing the time taken to complete Local Environmental Plans by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Commission may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

If you have any queries in regard to this matter, please contact Mr Chris Browne of the Department's Sydney Region West office on (02) 9860 1508.

Yours sincerely,

 2nd November 2016
Stephen Murray
Executive Director, Regions
Planning Services

Delegate of the Greater Sydney Commission

Encl:
Gateway Determination and Tab A,
Written Authorisation to Exercise Delegation, and
Delegated Plan Making Reporting Template.

Gateway Determination

Planning proposal (Department Ref: PP_2016_THILL_006_00): to increase the permissible building height on the western portion of the land at 28 Fairway Drive, Kellyville, from 16 metres to 36 metres; and increase the floor space ratio for part of the site from 1:1 to 3:1.

I, the Executive Director, Regions, Planning Services at the Department of Planning and Environment as delegate of the Greater Sydney Commission, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to *The Hills Local Environmental Plan 2012* to increase the permissible building height on the western portion of the land at 28 Fairway Drive, Kellyville, from 16 metres to 36 metres; and increase the floor space ratio for part of the site from 1:1 to 3:1; should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be amended to be consistent with the attached methodology for Local Residential Development Clause at Tab A. Please note that the planning proposal should be amended to state that clause attached to the methodology is indicative only and may be subject change as a result of legal drafting.

A copy of the amended planning proposal is to be forwarded to the Department for information prior to the commencement of community consultation.

2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning and Environment 2016).
3. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:
 - Office of Environment and Heritage
 - Transport for NSW
 - Transport for NSW - Roads and Maritime Services
 - Integral Energy
 - Sydney Water

Each public authority 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 EP&A Act, 1979. 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** from the week following the date of the Gateway determination

Dated *2nd* day of *November* 2016


Stephen Murray
Acting Executive Director, Regions
Planning Services

Delegate of the Greater Sydney Commission



Mr Dave Walker
General Manager
The Hills Shire Council
PO Box 7064
Baulkham Hills BC NSW 2153

16/13742

Attention: Michael Edgar

Re-lodgement of planning proposals containing local incentives provisions for residential apartment development

Dear Mr Walker

As you know, Council has submitted several planning proposals to the Department for which the Department has been unable to issue Gateway determinations due to proposed local incentives provisions which are inconsistent with *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development*. Staff of Council and the Department have recently been working together to find a compromise solution to this inconsistency, and I am pleased to inform you that we have now agreed on an approach.

The approach will ensure that the Government expectations for dwelling yields are achieved within the North-West Rail Corridor whilst providing a framework for Council to achieve its objectives in relation to dwelling mix in an environment that will be subject to significant change.

The agreed approach is the subject land be identified on the Key Sites Map and an appropriate base floor space ratio for each site be established based on agreed densities for each walking catchment. The methodology also includes:

- the conversion of the density to correlating floor space ratio to express the base yield and incentive yield;
- the floor space ratio for the 400m-800m walking catchment is to be no less than 1.0:1, with the adjustment of the walkable catchment to reflect some site specific constraints (for example proximity to school or other sensitive uses), this recognises that some sites already have an existing floor space within this catchment at 1.0:1; and
- car parking rates are to be provided at a minimum rate of one space per apartment plus one visitor space per five apartments.

A brief explanation of the methodology is attached to this letter. In accordance with further discussions with Michael Edgar on the 20 October 2016, the indicative clause provided by Council has also been attached to the explanation to assist in providing clarity. It should be noted that this has been referred to for clarification and may be subject to change due to legal drafting.

The Department recognises that Council may wish to introduce the provision on a broader scale, but at this stage the methodology allows the resolution of the outstanding planning proposals. The Department's Sydney Region West Team will work with Council to facilitate a speedy resolution of these outstanding planning proposals.

Two options for the progression of the planning proposals are available:

- either the amendment of the planning proposals by the Council to be consistent with the methodology; or
- a condition in the Gateway determinations requiring amendment of the planning proposals prior to exhibition.

I would like to take this opportunity to thank your staff for their commitment to resolve this matter and I look forward to continuing this collaboration into the future.

Should you have any further questions, please contact Catherine Van Laeren, Director Sydney Region West, at the Department on 9860 1520.

Yours sincerely

Gary White
Chief Planner



Encl: Brief explanation of methodology
Indicative Council Clause

METHODOLOGY – LOCAL RESIDENTIAL DEVELOPMENT CLAUSE AND SEPP 65

Area to which the methodology applies

- The methodology is to apply to any planning proposals for land within the North West Rail Link Corridor Strategy (Cherrybrook, Castle Hill, Showground Road, Norwest, Bella Vista, Kellyville, Rouse Hill and Cudgegong Road), with the exception of land that is also covered by the Sydney Metro Northwest Priority Urban Renewal Corridor (Bella Vista, Kellyville and Showground precincts). In the latter case, the planning framework established by the Department's precinct planning process will prevail. It is noted that the boundaries of the two types of precincts do not necessarily align.

Methodology for establishing base yield

- The base yield is the minimum number of units which must comply with SEPP 65.
- Densities are applied in relation to walking catchments (<200m, 200m-400m, 400m+) around the railway station within the identified precincts, based on Queensland's *Transit Oriented Development Guide for Practitioners*.
- Council tested these densities using the walking catchment contours for the Castle Hill Precinct to produce an overall base yield for Castle Hill of 5,472 units (see Table 1 below).

Table 1

Walking catchment	Net Dev. Area	Dwelling Density	Precinct Base Yield
< 200m	1 ha	180/ha	180 units
200m-400m	2.9 ha	120/ha	348 units
> 400m	82.4 ha	60/ha	4,944 units
			5,472 units

- 5,472 units is consistent with the Department's expectations, being in excess of the 4,400 dwellings identified in the 2013 *North West Rail Link Corridor Strategy 2013*.
- The dwelling densities are then applied to individual lots, identifying a minimum yield for specific sites. Any yield above this may be inconsistent with SEPP 65 but comply with Council's proposed incentives provision.

Methodology for establishing base floor space ratio

- Floor space ratio is a density control, so it is possible to translate the density figures above into floor space ratios that can be applied via the map in the local environmental plan.
- Council has established base floor space ratios for the subject areas by assuming an apartment mix of 25% 1-bedroom, 55% 2-bedroom and 20% 3-bedroom apartments. This results in an average of 90m² per apartment (including circulation space) at SEPP 65-compliant sizes.
 - At 60 dw/ha (applicable to the >400m walking catchment), this delivers 5,400m² of apartment space, which means a floor space ratio of 0.54:1.
 - At 120 dw/ha (applicable to the 200-400m walking catchment), this delivers 10,800m² of apartment space, which means a floor space ratio of 1.08:1.
 - At 180 dw/ha (applicable to the <200m walking catchment), this delivers 16,200m² of apartment space, which means a floor space ratio of 1.62:1.
- These outcomes are considered reasonable for the <200m and 200m-400m walking catchments, but result in an unacceptable reduction in floor space ratio from the status quo in the case of the >400m walking catchment. In order to ensure that there is no reduction in development potential as a result of these planning proposals, the minimum floor space ratio that can be applied is to be 1.0:1.
- Mapping of the FSR will be adjusted to take into account site specific variations and sensitivities such as schools.

Bonus FSR

- The incentive FSR will be established by Council.
- Apartments will be provided in accordance with SEPP 65 up to the base FSR.
- Where the Bonus FSR is to be used the following Dwelling mix and apartment size provision shall apply.
 - Dwelling Mix – no more than 25% of all dwellings are studio or 1 bedroom; and at least 20% of all dwellings are 3 or more bedrooms.
 - Apartment sizes at least 40% of all 2 bedroom and 40% of all 3 bedroom apartments shall apply with the local Council provision.
- An indicative local provision, provided by Council, is attached.

Car parking

- Car parking is to be provided at a rate of 1 space per apartment and 1 visitor space per 5 apartments.

Summary

- Table 2 provides a summary of the applicable FSR and catchments.

Table 2

Walking catchment	Dwelling Density	Base FSR
< 200m	180/ha	1.62:1
200m-400m	120/ha	1.1:1
> 400m but within precinct		1.0:1

Clause 7.12

Insert after clause 7.11:

7.12 Dwelling mix and diversity within the Sydney Metro Northwest Corridor

- (1) The objectives of this clause are as follows:
 - (a) To support the provision of increased housing surrounding Sydney Metro Northwest rail stations at densities compatible with the future character of the surrounding area;
 - (b) To ensure the provision of a mix of dwelling types in residential flat buildings, providing housing choice for different demographics, living needs and household budgets;
 - (c) To promote development that accommodates the needs of larger households, consistent with the demographics and family household structures of the Hills Shire;
- (2) This clause applies to land identified as "Area A" on the Floor Space Ratio Map.
- (3) Despite Clause 4.4, development consent may be granted for development that exceeds the floor space ratio shown on the Floor Space Ratio Map but no greater than the floor space ratio shown on the Floor Space Ratio Incentive Map only if the development provides:
 - (a) a Family Friendly Dwelling Mix, and
 - (b) a Diversity of Housing, and
 - (c) car parking spaces at a minimum rate of 1 space per dwelling, plus 1 visitor space for every 4 dwellings within the development.

- (4) In this clause:

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

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

Exceptions to development standards

Insert after clause 4.6 (8) (ca):

- (a) clause 7.12

Written Authorisation to Exercise Delegation

The Hills Shire Council is authorised to exercise the functions of the Greater Sydney Commission under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2016_THILL_006_00	Planning proposal to amend The Hills Local Environmental Plan 2012 to increase the permissible building height on the western portion of the land at 28 Fairway Drive, Kellyville, from 16 metres to 36 metres; and increase the floor space ratio for part of the site from 1:1 to 3:1.

In exercising the Commission's functions under section 59, the Council must comply with the Department of Planning and Environment's 'A Guide to Preparing Local Environmental Plans' and 'A Guide to Preparing Planning Proposals'.

Dated 2nd day of November 2016



Stephen Murray
Executive Director, Regions
Planning Services

Delegate of the Greater Sydney Commission

Planning Proposal under *The Hills Local Environmental Plan 2012* for 28 Fairway Drive, Kellyville

Delegated plan making reporting template

Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the RPA's request to have the LEP notified

Table 1 – To be completed by Department of Planning and Environment

Stage	Date/Details
Planning Proposal Number	PP_2016_THILL_006_00
Date Sent to DP&E under s56	25 October 2016
Date considered at LEP Review Panel (if applicable)	N/A
Gateway determination date	

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&E requesting notification		

Table 3 – To be completed by Department of Planning and Environment

Stage	Date/Details
Notification Date and details	

Additional relevant information: