



Planning & Environment

Your ref: 1/2018/PLP
File Ref: 17/10810

BATCH NO:
TIME:

Mr Michael Edgar
General Manager
The Hills Shire Council
PO Box 7064
BAULKHAM HILLS BC NSW 2153

- 6 NOV 2017

THE HILLS SHIRE COUNCIL

Dear Mr Edgar

Planning Proposal PP_2017_THILL_006_00 to amend The Hills Local Environmental Plan 2012

I am writing in response to Council's request for a Gateway determination under Section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) on 31 July 2017 and additional information received on 14 August 2017 in respect of the planning proposal to permit a future medium to high density residential development at 55 Coonara Avenue, West Pennant Hills.

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.

I have considered Council's proposed mechanism to facilitate the proposed controls for the site, however the Gateway determination requires Council to amend the planning proposal prior to community consultation to utilise the zones and land use table of the Standard Instrument (Local Environmental Plans) Order 2006, and seek amendments to development standards for height of buildings, floor space ratio and lot sizes, rather than permit the proposed development via an amendment to Schedule 1 of The Hills Shire Council Local Environmental Plan 2012.

While Schedule 1 can be used in certain circumstances it is not appropriate to utilise the Schedule for a significant change of planning controls for a site.

Council is requested to consider and propose appropriate residential, open space, environmental protection and any other relevant zones, to facilitate the envisaged development while ensuring high value vegetation on the site is protected. These amendments will ensure consistency with Section 117 Direction 6.3 Site Specific Provisions.

The amendments required by the Gateway determination will ensure the outcomes sought by Council are achieved through the application of appropriate land use zones and their objectives, and other controls. This will ensure the protection and conservation of environmentally sensitive areas, consistent with Section 117 Direction 2.1 Environment Protection Zones.

I have agreed, as delegate of the Secretary, that the planning proposal's inconsistency with Section 117 Directions 1.1 Business and Industrial zones, and 5.9 North West Rail Link Corridor Strategy, are of minor significance.

It should be noted that the consistency with Section 117 Directions 3.4 Integrating Land Use and Transport, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, and 6.2 Reserving Land for Public Purposes is currently unresolved and will require further justification as part of the Gateway and stakeholder consultation process.

Plan making powers were delegated to Councils by the Minister in October 2012. I note Council has not requested delegation to finalise the plan. I have considered the nature of the planning proposal and decided not to issue authorisation to exercise delegation in this instance given the site's proximity to the Cumberland State Forest and significant vegetation present on the site.

The amending LEP is to be finalised within 12 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made 8 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs 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 Greater Sydney Commission may take action under Section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any further enquiries about this matter, I have arranged for Mr Sebastian Tauni to assist you. Mr Tauni can be contacted on 02 8217 2018.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services

31/10/2017
Encl: Gateway Determination

Gateway Determination

Planning Proposal (Department Ref: PP_2017_THILL_006_00): to facilitate a future medium to high density residential development at 55 Coonara Avenue, West Pennant Hills.

I, the Deputy Secretary, 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 (LEP) 2012 to facilitate a future medium to high density residential development at 55 Coonara Avenue, West Pennant Hills should proceed subject to the following conditions:

1. Prior to undertaking community consultation, Council is required to:
 - (a) remove references to proposed amendments to Schedule 1 – Additional Permitted Uses;
 - (b) amend the planning proposal to seek to rezone the site from B7 Business Park to R4 High Density Residential, RE1 Public Recreation, RU3 Forestry, and appropriate environmental management zones (such as E4 Environmental Living, E3 Environmental Management, and E2 Environmental Conservation), in accordance with Part 2 of The Hills Local Environmental Plan 2012;
 - (c) amend the planning proposal to seek amendments to the minimum lot size map, floor space ratio map, and height of buildings map, in accordance with the Hills Local Environmental Plan 2012;
 - (d) update the planning proposal to provide more information regarding community benefits associated with the proposal, including the identification of traffic and transport accessibility improvement options for the Cherrybrook precinct and additional supporting information for local infrastructure to be provided, and updated supporting studies as identified in Council's report dated 25 July 2017;
 - (e) update the Explanation of Provisions to include a satisfactory arrangements provision for contributions to State public infrastructure;
 - (f) refer the planning proposal and its accompanying Ecological Assessment to the Rural Fire Service and update in accordance with any comments received;
 - (g) update the planning proposal as required to ensure the following matters are addressed:
 1. ecological values (flora and fauna);
 2. the use of appropriate land use zones;
 3. investigation of infrastructure and traffic considerations; and

- (h) submit the updated planning proposal to the Department for endorsement.
2. Community consultation is required under Sections 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979* (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 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 and/or to comply with the requirements of relevant Section 117 Directions:
- Transport for NSW;
 - Transport for NSW – Roads and Maritime Services;
 - Office of Environment and Heritage;
 - NSW Rural Fire Services;
 - UrbanGrowth NSW;
 - Hornsby Shire Council; and
 - relevant authorities for the supply of water, electricity, and the disposal and management of sewage.

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).



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5. The timeframe for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated *31st* day of *October* 2017.

Marcus Ray
Deputy Secretary, Planning Services
Department of Planning and Environment

Delegate of the Greater Sydney Commission

ITEM-7	GATEWAY DETERMINATION - IBM SITE 55 COONARA AVENUE, WEST PENNANT HILLS (1/2018/PLP)
THEME:	Balanced Urban Growth.
OUTCOME:	7 Responsible planning facilitates a desirable living environment and meets growth targets.
STRATEGY:	7.2 Manage new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations.
MEETING DATE:	12 DECEMBER 2017 COUNCIL MEETING
GROUP:	STRATEGIC PLANNING
AUTHOR:	SENIOR TOWN PLANNER PATRICE GRZELAK
RESPONSIBLE OFFICER:	MANAGER FORWARD PLANNING STEWART SEALE

EXECUTIVE SUMMARY

This report recommends that Council write to the Department of Planning and Environment and request that a revised Gateway Determination be issued for the planning proposal applicable to land at 55 Coonara Avenue, West Pennant Hills (IBM Site) (1/2018/PLP).

At its Ordinary Meeting of 25 July 2017, Council resolved to proceed with the planning proposal to facilitate a medium to high density residential development comprising a maximum of 600 dwellings at 55 Coonara Avenue, West Pennant Hills. To provide certainty of key outcomes relating to the number of dwellings, building heights and apartment size, mix and car parking provision it was recommended that the revised concept be enabled through an amendment to Schedule 1 - Additional Permitted Uses of Local Environmental Plan 2012, rather than by amending the zone, height and floor space ratio as sought by the proponent.

Council has now received a Gateway Determination enabling the proposal to proceed to public exhibition (Attachment 1). However, the Gateway Determination requires that the proposal be amended to delete reference to Schedule 1 and instead enable the proposed development outcome through amendments to the zoning, minimum lot size map, floor space ratio map and height of buildings map.

The Gateway Determination requires the use of the R4 High Density Residential zone, the RU3 Forestry zone, the RE1 Public Recreation zone and an appropriate environmental management zone. The use of the RU3 Forestry zone and RE1 Public Recreation zone are not supported given that the RU3 Forestry zone does not reflect the function and private ownership of the land and the RE1 Public Recreation zone could trigger land acquisition liabilities, inconsistent with the intended dedication of this land.

To facilitate the intended outcomes the suitable zone selection would be the R4 High Density Residential zone, the R3 Medium Density zone and the E3 Environmental Management zone. These zones can be supported by minimum lot size and height of building mapping as set out in the report.

The Gateway Determination also contains no requirement to comply with the housing number, mix and diversity agreed for this site. This does not provide Council or the community with any certainty, does not align with the intent of the agreed methodology for housing mix and diversity within the Sydney Metro Northwest Corridor and does not meet Council's intent in resolving to proceed with the planning proposal.

It is recommended that Council request a revised Gateway Determination be issued which enables the planning proposal to proceed to public exhibition consistent with the intent of Council and the proponent. The revisions, as recommended, would:

- Remove the RU3 Forestry and RE1 Public recreation zones and include the R3 Medium Density Residential zone;
- Remove the requirement for amendment to the floor space ratio map; and
- Include a new local provision to facilitate the key site outcomes (single owner/developer, maximum 600 dwellings, agreed dwelling mix, size and car parking provision and small lot housing as an integrated product).

Utilising this approach would satisfy the Department's concerns (removing the use of Schedule 1), enable the proposed development outcome to occur and provide Council and the community with certainty that the master planned outcome with the agreed number and mix of dwellings are delivered.

It is further recommended that amendments be made to the draft Development Control Plan to be exhibited concurrently with the planning proposal. The changes include updating images to reflect the latest master plan layout, clearly identifying the land intended to be dedicated as public open space (in the absence of an RE1 Public Recreation zone) and requiring the main perimeter roadway to be constructed and dedicated as a public local road.

PROPONENT

Mirvac Capital Pty Limited

OWNERS

Mirvac Projects (Retail and Commercial) Pty Ltd

POLITICAL DONATIONS

Nil disclosures by the proponent.

REPORT

The purpose of this report is to advise Council of the implications resulting from the Gateway Determination issued for the planning proposal at 55 Coonara Avenue, West Pennant Hills (1/2018/PLP) and detail the response to the conditions of the Gateway Determination which prevents Council utilising Schedule 1 – Additional permitted Uses to facilitate the proposed development outcome.

1. BACKGROUND

The site is located on the eastern side of Coonara Avenue, close to the intersection of Castle Hill Road. The site is 25.87ha in area and has a walking distance of 860m to Cherrybrook Railway Station from the existing entry. The site slopes away from Coonara Avenue and two watercourses traverse the site.

The site is currently occupied by seven (7) low-rise commercial buildings and associated carparks surrounded by ecologically significant vegetation which includes Blue Gum High Forest and Sydney Turpentine Ironbark Forest. The vegetation on the site and adjoining land result in the site being identified as bushfire prone, both category one (1) and bushfire buffer. An aerial view of the site and surrounding locality is provided in Figure 1.

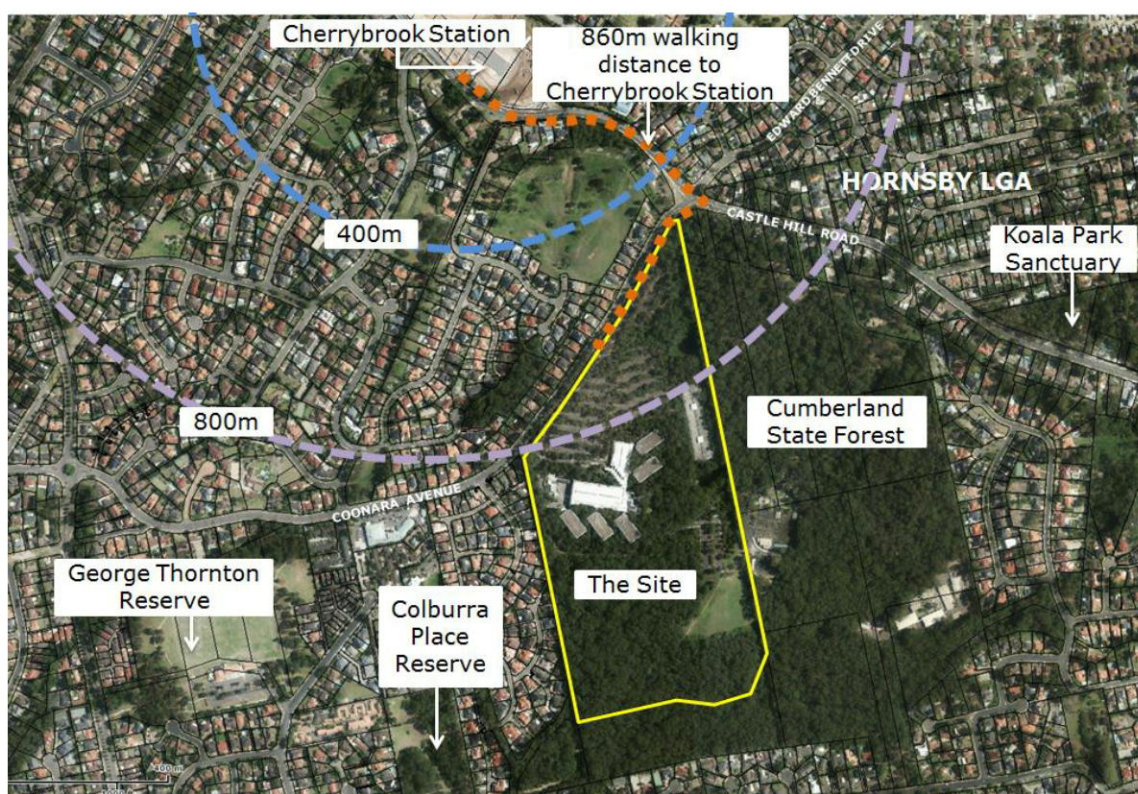


Figure 1
Aerial view of the site and surrounding locality

2. PLANNING PROPOSAL

The current development concept is the fourth concept that has been provided on the site with earlier concepts providing higher residential yields up to 1,270 dwellings. The planning proposal, as supported by Council at its Ordinary Meeting of 25 July 2017, seeks to facilitate a master planned residential outcome comprising a mix of 200 medium density dwellings at the front of the site and 400 apartment dwellings at the rear of the site. Buildings range from two (2) to six (6) storeys in height. The previous report providing an assessment of the proposal is included as Attachment 3.



Figure 2
Development Concept

The development concept included a number of key development outcomes, which supported a high and medium density development on the site. The provision of a community precinct was also proposed and included the dedication of land for public open space and associated at grade car parking and general purpose community facility room.

To ensure that these development outcomes are delivered as an integral part of any future development, Council resolved to enable the planning proposal to proceed by amending Schedule 1 (Additional Permitted Uses) of LEP 2012, rather than amending the zoning and development controls applicable to the site (height and floor space ratio). The use of Schedule 1 provides certainty that the proposed high density outcome could only be achieved where all key site development outcomes are delivered as part of the development.

On 25 July 2017, Council resolved as follows:

1. *A planning proposal be forwarded to the Department of Planning and Environment for a Gateway Determination to amend Schedule 1 Additional Permitted Uses of LEP 2012 to facilitate a medium to high density residential development incorporating a maximum of 600 dwellings at 55 Coonara Avenue, West Pennant Hills.*
2. *Council proceed with discussion with the Proponent to prepare a draft Voluntary Planning Agreement which secures the delivery of the proposed public road access, public open space, community facility room and a sports field as identified in the development concept and resolves how the Proponent will address the increased demand for local infrastructure generated by the proposed increase in residential density.*
3. *Following the preparation of the draft Voluntary Planning Agreement, and prior to any public exhibition of the planning proposal, a report on the draft Voluntary Planning Agreement be submitted to Council for consideration.*
4. *Draft The Hills Development Control Plan Part B Section 2 – as detailed in Attachment 1 (ECM Document No.16017113), be exhibited concurrently with the planning proposal.*

In accordance with Item 1 of Council's resolution, the planning proposal was forwarded to the Department of Planning and Environment for a Gateway Determination, which was received on 31 October 2017. The Gateway Determination is provided as Attachment 1 and is discussed further in Section 3 of this Report.

Ongoing dialogue is still occurring with the proponent in regards to the proposed Voluntary Planning Agreement and associated material public benefits. This matter is expected to be reported early next year.

3. GATEWAY DETERMINATION

On 31 October 2017 a Gateway Determination (Attachment 1) was issued by the Department of Planning and Environment. The Gateway Determination states that the planning proposal should proceed to public exhibition, subject to the following conditions:

1. *Prior to undertaking community consultation, Council is required to:*
 - a) *remove references to proposed amendments to Schedule 1 – Additional Permitted Uses;*
 - b) *amend the planning proposal to seek to rezone the site from B7 Business Park to R4 High Density Residential, RE1 Public Recreation, RU3 Forestry, and appropriate environmental management zones (such as E4 Environmental Living, E3 Environmental Management, and E2 Environmental Conservation), in accordance with Part 2 of The Hills Local Environmental Plan 2012;*
 - c) *amend the planning proposal to seek amendments to the minimum lot size map, floor space ratio map, and height of buildings map, in accordance with the Hills Local Environmental Plan 2012;*
 - d) *update the planning proposal to provide more information regarding community benefits associated with the proposal, including the identification of traffic and transport accessibility improvement options for the Cherrybrook precinct and additional supporting information for local infrastructure to be provided, and updated supporting studies as identified in Council's report dated 25 July 2017;*
 - e) *update the Explanation of Provisions to include a satisfactory arrangements provision for contributions to State public infrastructure;*
 - f) *refer the planning proposal and its accompanying Ecological Assessment to the Rural Fire Service and update in accordance with any comments received;*
 - g) *update the planning proposal as required to ensure the following matters are addressed:*
 1. *ecological values (flora and fauna);*
 2. *the use of appropriate land use zones;*
 3. *investigation of infrastructure and traffic considerations;*
 - h) *submit the updated planning proposal to the Department for endorsement; and*
2. *Community consultation for a minimum period of 28 days; and*
3. *Consultation with Transport for NSW, Transport for NSW - Roads and Maritime Services, Office of Environment and Heritage, NSW Rural Fire Services, UrbanGrowth NSW, Hornsby Shire Council; and relevant authorities for the supply of water, electricity, and the disposal and management of sewage.*

Critically, Condition No.1 (a) to (c) requires that Council remove reference to Schedule 1 and instead facilitate the development outcome by amending the zoning and development standards applicable to the land. The Department's Planning Team Report

(Attachment 2) does not support the use of Schedule 1, as proposed by Council, stating that it lacks transparency in terms of defining the future planning standards, and locations for future land uses on the site.

The approach required under the Gateway Determination does not align with Council's resolution to proceed with the planning proposal using Schedule 1 (Additional Permitted Uses). Rezoning the site and including development standards as identified under the Gateway Determination would enable a high density residential development to occur without any requirement to comply with the housing number, mix, diversity and car parking provision supported by Council for this site.

The Gateway Determination does not align with the intent of the methodology agreed between Council and State Government with respect for housing mix and diversity within the Sydney Metro Northwest Corridor and as such does not meet Council's intent in resolving to proceed with the planning proposal.

The following section of the report considers an alternative approach to the use of Schedule 1 consistent with the intent of the Department's requirements whilst also enabling the development outcomes sought by the proponent and supported by Council to occur.

4. RESPONSE TO GATEWAY REQUIREMENTS

Conditions (a) to (c) require that the planning proposal be amended to remove the references to Schedule 1 and include recommend zones, floor space ratio, minimum lot size and height of building development standards. The following section considers an alternative approach to the use of Schedule 1 consistent with the intent of the Department's requirements whilst also enabling the development outcomes sought by the proponent and supported by Council to occur.

a) Land Use Zones

The Gateway Determination nominates the use of R4 High Density Residential, RE1 Public Recreation, RU3 Forestry and appropriate environmental management zones.

The R4 High Density Residential zone would best suit the residential flat buildings component of the proposal. However, the use of this zone for the proposed mixed housing precinct in the front portion of the site (Figure 2) is not supported given it would allow for high density residential development, inconsistent with the outcome supported by Council. The dwelling types proposed in the mixed housing precinct would fall within the definition of dwelling houses, attached dwellings and/or multi-unit housing all of which are permitted with Council consent in the R3 Medium Density Residential zone. The use of this zone would align with the development outcomes sought by the proponent and supported by Council.

The use of the RU3 Forestry zone is not supported. In preparing LEP 2012, the specific RU3 Forestry zone was applied specifically to Cumberland State Forest, to enable development such as the provision of roads and fire trails without consent, under the provisions of the Forestry Act 1916. It identifies specific land in State ownership with a different function to the environmental outcomes intended for the subject site.

Of the suggested environmental zones, the E4 Environmental Living zone is not appropriate as it allows for residential opportunities such as dual occupancies (attached), dwelling houses, and secondary dwellings. The suggested E2 Environmental Conservation zone is also not supported as it could potentially trigger land acquisition liabilities for Council and is not necessary given the framework proposed for the ongoing

management of the land as part of a Vegetation Management Plan under a privately titled development.

The E3 Environmental Management zone is best suited to conserving the existing high value vegetation and providing for ongoing management of this area. Under LEP 2012 this zone has been applied to geotechnical constrained land elsewhere in the Shire (Telfer Road locality) to recognise the specific constraints applying in this area. The objectives of this zone are:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To provide for residential development on the land having regard to the geotechnical constraints of the land.*

The permitted uses include home occupations, dwelling houses, environmental protection works and roads. Whilst dwelling houses are permissible, draft development controls (Attachment 4) will ensure that an appropriate Vegetation Management Area is set aside and preserved under the provision of a Vegetation Management Plan. The protection of significant vegetation located on the site will also be regulated by the provisions of Commonwealth and State biodiversity legislation.

The use of the RE1 Public Recreation zone is not supported. Whilst this zone would recognise the intended function and future public ownership of the land proposed to be dedicated, it could create a potential acquisition liability for Council. Specifically, under the provisions of the *Environmental Planning and Assessment Act 1979* (Section 27) if land is reserved for the purposes of public open space a relevant acquisition authority must be identified. Council is the identified acquisition authority for land zoned RE1 Public Recreation.

Whilst it is the intention of the Voluntary Planning Agreement (currently under negotiation) to dedicate the open space land at no cost to Council this dedication needs to occur before the land is rezoned so there is certainty that Council will not be subject to a land acquisition claim. It is therefore recommended that the land be zoned consistent with the surrounding land, in this case E3 Environmental Management. The area to be dedicated for open space can be more clearly identified within the draft DCP. Following dedication to Council, housekeeping amendments can then be undertaken to rezone the land to RE1 Public Recreation.

In summary the following zones best respond to the development outcomes sought and supported by Council:

- R3 Low Density Residential (Mixed Housing Precinct);
- R4 High Density Residential (Residential Flat Building Precinct & common areas); and
- E3 Environmental Management (Existing Vegetation Area and land identified for dedication as open space).

The recommended application of land zoning is shown in Figure 3 below.

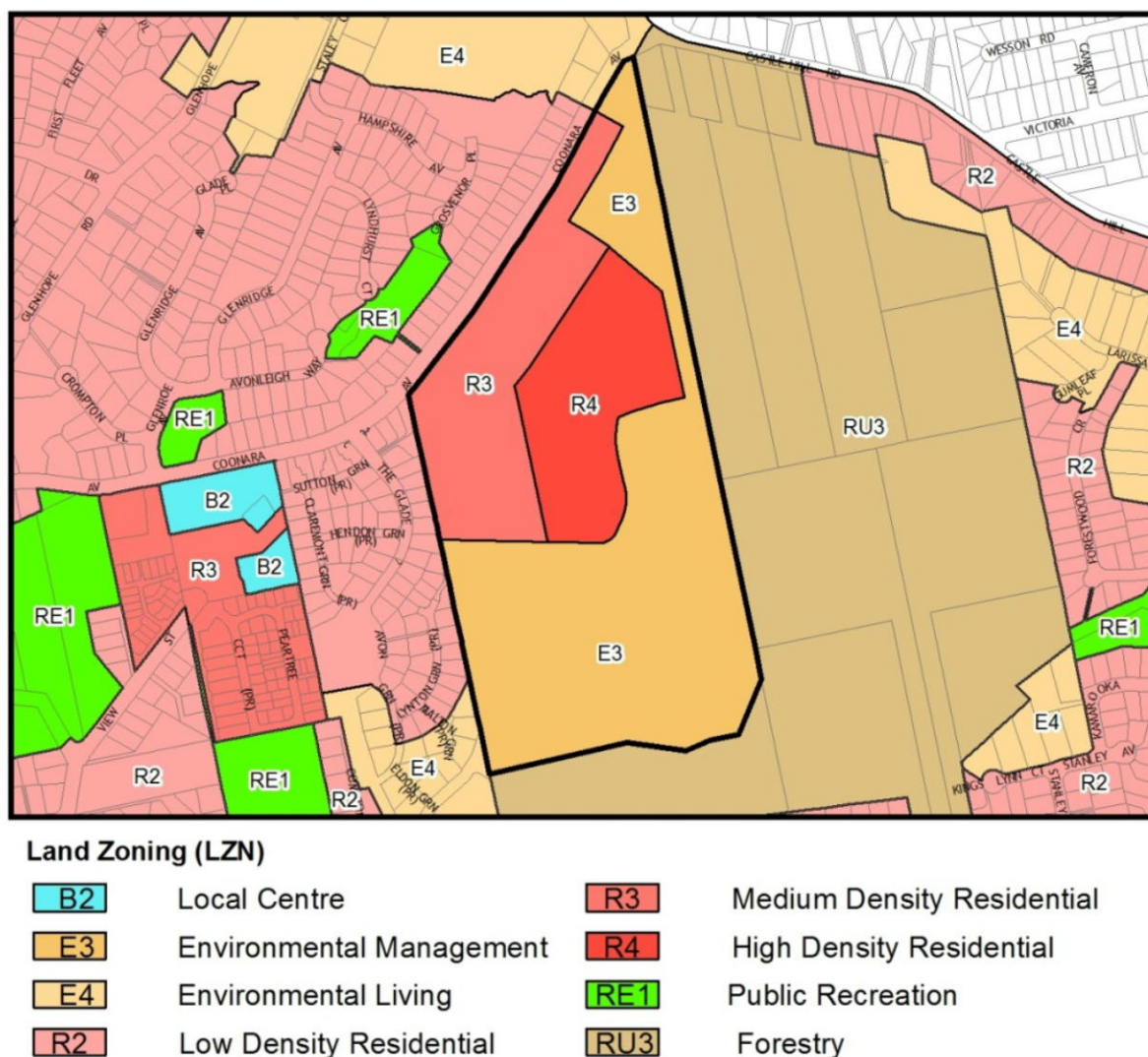
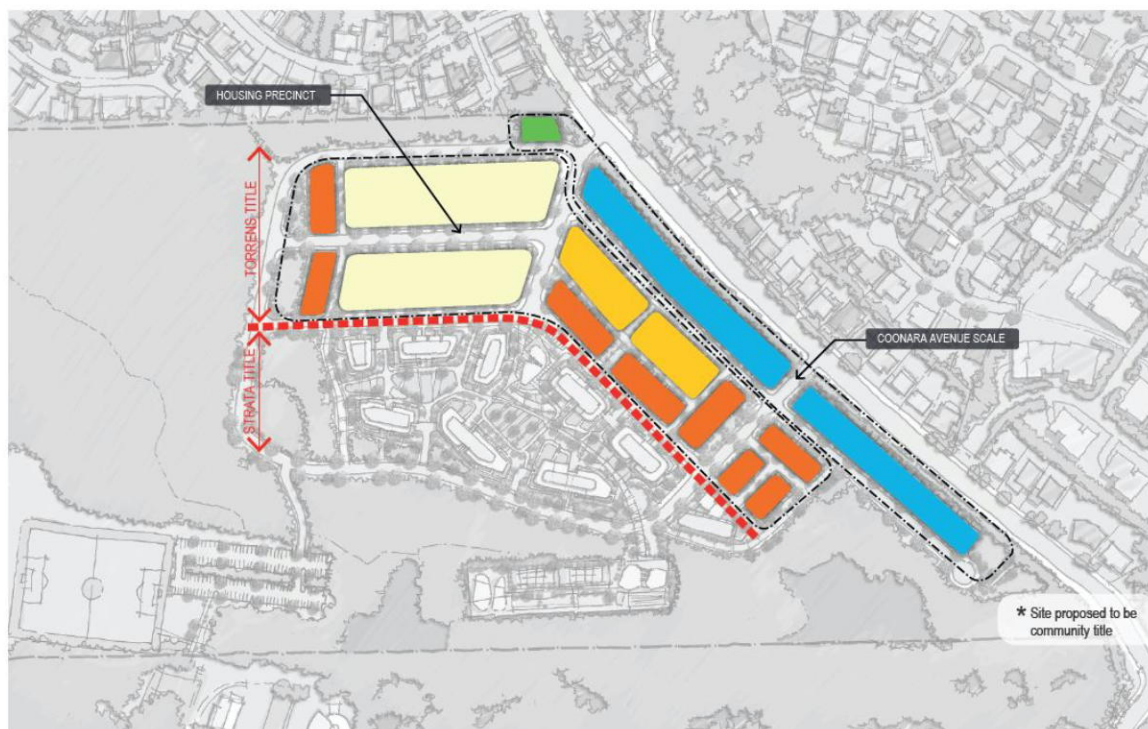


Figure 3
Proposed Land Zoning Map

b) Minimum Lot Size

The submitted development concept proposes a range of housing products and lot sizes including attached and detached dwellings with lot sizes ranging between 86m² – 300m² (refer Figure 4). The proposal for small minimum lot sizes down to 86m² would facilitate a new type of housing product in the Shire, being 3 storey terrace homes.



COONARA AVENUE SCALE		HOUSING PRECINCT	
Typical house types	Lot size	Typical house types	Lot size
Front-loaded 2 Storey (attached)	130 - 240 m ²	Front-loaded 2 Storey (detached, semi-detached, attached)	180 - 300 m ²
Front-loaded 2 Storey (detached)	300 m ²	Rear-loaded 2 Storey (attached)	150 - 175 m ²
		Rear-loaded 3 Storey (attached)	86 - 126 m ²

Figure 4
Proposed Housing Products and Lot sizes for Housing Precinct

In assessing the planning proposal the smaller lot outcome was considered on the basis that it was an integral part of the 600 dwelling master planned scheme. It was supported subject to an updated Urban Design Analysis being submitted prior to exhibition to demonstrate suitable outcomes in terms of design, amenity, privacy, landscaping and parking.

Whilst the proposed mixed housing component of the development has some lot sizes down to 86m², it is not recommended that this be included as part of the minimum lot size mapping given that such sizes have only been considered on the basis of a master planned outcome. More certainty will be provided for the community and Council by applying the conventional lot size for R3 Medium Density zoned land elsewhere in the Shire (700m²) across the housing precinct. The ability to create smaller lots as proposed under the development concept can then be enabled by a local provision that 'locks in' the maximum number of dwellings and the need for the subdivision and dwelling design of the small lot product to be considered together.

For the land zoned R4 High Density Residential a minimum lot size of 1,800m² is appropriate and consistent with the approach for land zoned R4 under LEP 2012 elsewhere in the Shire. It does not change the requirement under Clause 4.1A of the LEP for a minimum lot size of 4,000m² for residential flat building development.

The remainder of the site (excluding the mixed housing precinct and the residential flat building precinct) is proposed to have a larger minimum lot size of 2 hectares. This will facilitate subdivision to create the open space intended to be dedicated to Council as part

of the Voluntary Planning Agreement and discourage subdivision of the ecologically significant land for residential purposes (noting that biodiversity legislation and proposed development controls will also ensure protection of this land).

The recommended application of minimum lot size mapping is shown in Figure 5.

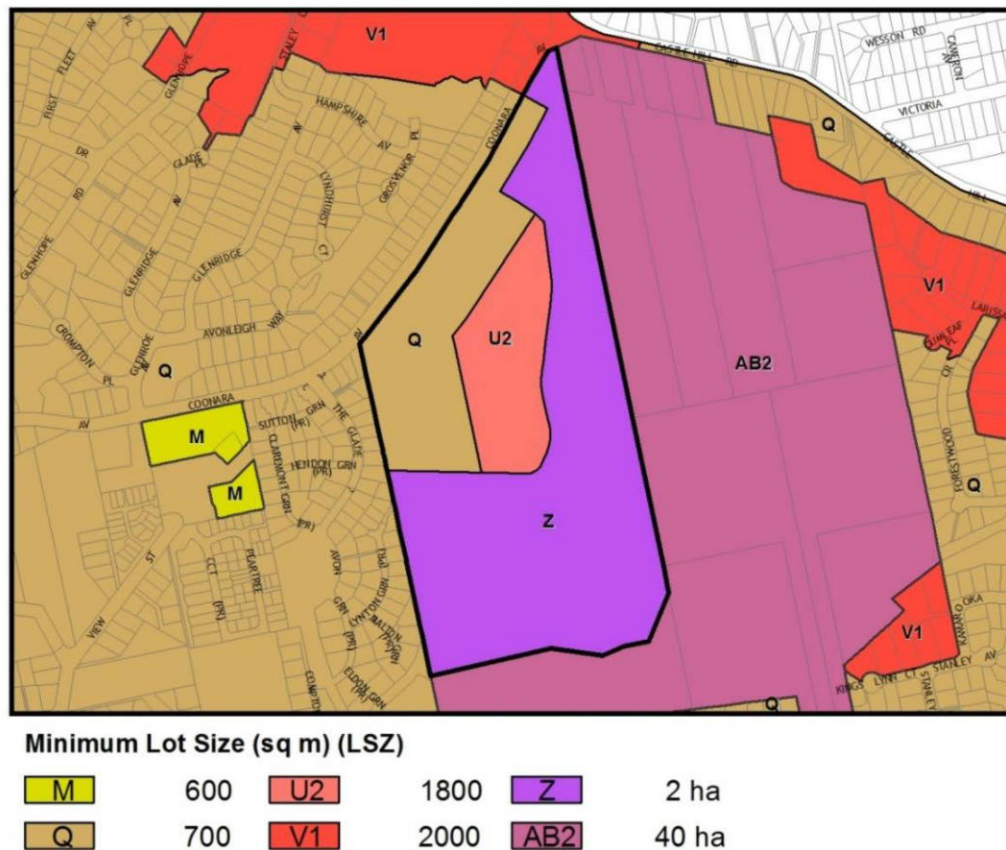


Figure 5
Proposed Minimum Lot Size Map

c) Height of Buildings

The proponent's design concept illustrates that the residential flat building precinct will have a maximum height of six (6) storeys and the mixed housing precinct will have a maximum height of three (3) storeys with the housing product along the Coonara Avenue frontage of the site limited to a height of two (2) storeys. The Gateway Determination requires the planning proposal to be amended to include a height of buildings map.

The current maximum height applying to the site under LEP 2012 is 22 metres. To facilitate the intended built form and provide certainty for the community it is recommended that a maximum height of nine (9) metres be applied to the Coonara Avenue frontage and the majority of the site of the site, which is consistent with the maximum building heights currently permissible in the surrounding residential locality. A maximum height of 10 metres is recommended for remaining part of the proposed mixed housing precinct and 19 metres for the proposed residential flat buildings location.

The recommended application of maximum height of buildings mapping is shown in Figure 6.

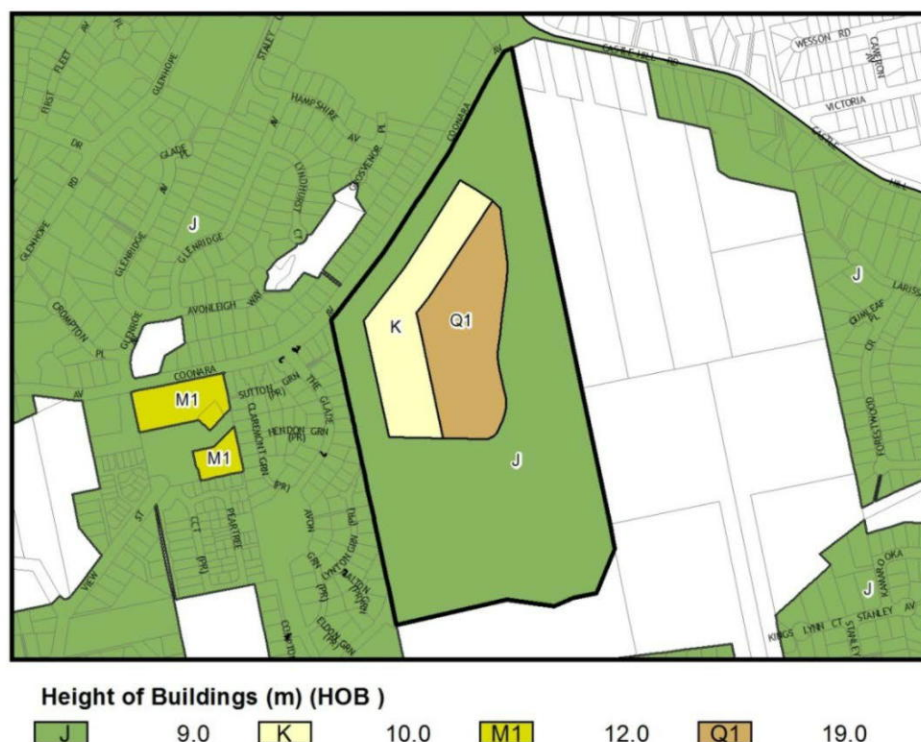


Figure 6
Proposed Height of Building Map

d) New Local Provision

Council previously supported the yield, dwelling mix and size proposed within the proponent's development concept as it was considered acceptable and consistent with the intent of Council's local provision to secure a diversity of housing suitable to larger households, typical of the Shire's population. This was proposed to be secured by the use of Schedule 1 – Additional Permitted Use.

As the Gateway Determination requires that all references to Schedule 1 be removed, an alternative mechanism is needed to secure the master planned outcomes, specifically:

- Development of the site by a single developer;
- The agreed dwelling mix, size and car parking provision;
- The maximum of 600 dwellings where no more than 400 are developed as units; and
- The small lot housing product where the subdivision and dwelling design are considered together.

It is recommended that the following draft additional local provision be used:

Part 7 Additional Local Provisions

7. XX Residential Development Yield for land at 55 Coonara Avenue, West Pennant Hills

- (1) *The objective of this clause is to provide for the redevelopment of the former IBM site at West Pennant Hills.*
- (2) *This clause applies to land at 55 Coonara Avenue, West Pennant Hills and comprising Lot 61, DP737386.*

- (3) *Development consent must not be granted to development on land to which this clause applies for more a maximum of 600 dwellings of which no more than 400 dwellings are in the form of a residential flat building.*
- (4) *Development consent for any purpose under sub-clause (3) may only be granted if:*
- *The land is owned and developed by a single entity;*
 - *At least 40% of all dwellings on the land are 2 bedroom dwellings;*
 - *At least 40% of all dwellings on the land are 3 bedroom dwellings (or larger);*
 - *At least of 15% of all 2 bedroom dwellings on the land will have a minimum internal floor area of 110m²;*
 - *At least of 50% of all 3 bedroom dwellings (or larger) on the land will have a minimum internal floor area of 135m²;*
 - *Car parking is to be provided at a rate of at least 1 space per residential dwelling and 1 visitor space per 5 residential dwellings.*
- (5) *For land zoned R3 Medium Density Residential or R4 High Density Residential development consent may be granted to lot sizes smaller than the minimum lot size map that involve the subdivision of land and the erection of a dwelling house or attached dwelling on each lot resulting from the subdivision.*

It is noted that the Department may raise concern that the revised approach is inconsistent with Ministerial Section 117 Direction 6.3 Site Specific Provisions. The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls. Given the outlined use of land use zones and development standards mapping where appropriate, the use of a local provision to secure the remaining agreed aspects of the development concept is considered warranted.

Application of a floor space ratio control as requested under the Gateway Determination could be unnecessarily restrictive when the master planning work has been done to identify the key outcomes that are able to be supported for this site. The recommended approach will facilitate the envisaged development outcome, ensure protection of high value vegetation and provide a reasonable level of certainty for Council and the community as to the yield and dwelling diversity to be accommodated on the site.

e) Other Gateway Conditions

As set out in section 3 of the report, prior to community consultation, the Gateway Determination also requires the planning proposal to be updated and/or expanded on a range of matters including:

- Community benefits associated with the proposal;
- Traffic and transport accessibility improvement options;
- Contributions to State public infrastructure;
- Any Rural Fire Service comments; and
- Ecological values (flora and fauna).

The additional information required is consistent with the planning proposal supported by Council and therefore it is not recommended that any change be sought to these Gateway requirements. The inclusion of further information on these matters will assist in effectively communicating the specific features of the proposal to the community.

This consultation will only be possible following endorsement of the planning proposal as required by Condition 1(h) of the Gateway Determination.

In relation to 'traffic and transport accessibility improvement options', clarification has been sought from the Department on the information needed to satisfy this requirement. The Department's Planning Team Report (page 15) indicates that the provision of the public open space, adjoining carpark and community facilities may need access to be improved for residents of the wider area. The access arrangements to this area could be improved by requiring the main perimeter roadway to be constructed and dedicated as public road and clearly distinguished from the private roadways. The location and requirements for public road access can be included in the draft DCP.

5. DEVELOPMENT CONTROL PLAN

The Development Control Plan previously considered by Council proposed amendments to Part B Section 2 – Residential of DCP 2012. The proposed development controls relate to site planning, streetscape and character, access, vegetation and courtyard fencing along Coonara Avenue.

In accordance with the approach outlined in this report further amendments draft DCP are recommended and would be exhibited with the Planning Proposal to secure the key development outcomes. The proposed amendments include the following:

- Update all images to reflect the latest master plan layout;
- Clearly identify the land intended to be dedicated as public open space; and
- Require the main perimeter roadway to be constructed and dedicated as a local road.

An updated copy of the draft DCP amendments is included in Attachment 4.

6. VOLUNTARY PLANNING AGREEMENT

The Planning Proposal would enable additional residential yield on the site, over and above that planned for in the locality and in advance of the finalisation of Contributions Planning for the Cherrybrook Precinct. The Proponent intends to enter into a Voluntary Planning Agreement which details how the additional demand for local infrastructure generated by this additional residential density will be addressed.

Items proposed to be provided include dedication of 2.49 hectares of public open space and associated at grade car parking, construction and dedication of a general community facility room in the order of 250m², delivery of public access to recreation and community facilities and pedestrian linkages/rights of access through the site.

A preliminary draft of the Voluntary Planning Agreement has been submitted by the Proponent and it is recommended that negotiations on this matter continue. Prior to any public exhibition of the planning proposal, the draft Voluntary Planning Agreement will need to be reported to Council for consideration.

IMPACTS

Financial

As this proposal will increase the planned population under the LEP for this area it will demand additional infrastructure to service the additional population. If this proposal is further advanced, a further report will be brought forward highlighting how the increased demand for additional infrastructure will be funded.

Strategic Plan - Hills Future

The amendments to LEP 2012 proposed within this report are consistent with the vision and objectives of The Hills Future – Community Strategic Plan as they will facilitate a desirable living environment and assist Council in meeting its growth targets. It is also consistent with the key strategy of managing new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations.

RECOMMENDATION

1. Council write to the Department of Planning and Environment requesting that a revised Gateway Determination be issued that:
 - Removes references to RU3 Forestry, RE1 Public Recreation, E4 Environmental Living and E2 Environmental Conservation zones and removes reference to Floor Space Ratio mapping;
 - Requires the site to be rezoned from B7 Business Park to R3 Medium Density Residential, R4 High Density Residential, and E3 Environmental Management consistent with Figure 3 in the report;
 - Requires Minimum Lot Size mapping for the site of 700m², 1800m² and 2 hectares consistent with Figure 5 in the report;
 - Requires Maximum Height of Building mapping of 9 metres, 10 metres and 19 metres consistent with Figure 6 in the report; and
 - Requires a local provision to facilitate key site outcomes - single owner/developer, maximum 600 dwellings (no more than 400 in form of residential flat buildings), agreed dwelling mix, size and car parking provision and small lot housing as an integrated product.
2. Council continue discussions with the proponent with respect to the preparation of a Voluntary Planning Agreement which resolves how the proponent will address the increased demand for local infrastructure generated by the proposed increase in residential density.
3. Council request additional information from the Proponent required by Council and the Gateway Determination (Geotechnical Analysis, Ecological Analysis, Urban Design Analysis and Investigation of Infrastructure and Traffic Consideration).
4. Following the preparation of the draft Voluntary Planning Agreement, and prior to any public exhibition of the planning proposal, a report on the draft Voluntary Planning Agreement be submitted to Council for consideration.
5. Draft The Hills Development Control Plan Part B Section 2 – Residential as detailed in (Attachment 4) be exhibited concurrently with the planning proposal.

ATTACHMENTS

1. Gateway Determination (5 Pages)
2. Department of Planning and Environment - Planning Team Report (19 Pages)
3. Previous Council Report – 25 July 2017 (30 Pages)
4. Draft The Hills Development Control Plan – Part B Section 2 (70 Pages)

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 12 December 2017

ITEM-7

**GATEWAY DETERMINATION - IBM SITE 55
COONARA AVENUE, WEST PENNANT HILLS
(1/2018/PLP)**

Proceedings in Brief

Carol Flanagan – President of West Pennant Hills Valley Progress Association (Objector) representing the residents of the local area addressed Council regarding this matter.

Adrian Checchin on behalf of Mirvac (Applicant) addressed Council regarding this matter.

A MOTION WAS MOVED BY COUNCILLOR HASELDEN AND SECONDED BY COUNCILLOR JETHI THAT Council not proceed with the Planning Proposal (1/2018/PLP) which seeks to facilitate a future medium to high density residential development at 55 Coonara Avenue, West Pennant Hills.

THE MOTION WAS PUT AND LOST.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Mayor Dr M R Byrne
Clr R M Tracey
Clr R Jethi
Clr A N Haselden

VOTING AGAINST THE MOTION

Clr R A Preston
Clr S P Uno
Clr B L Collins OAM
Clr M G Thomas
Clr E M Russo
Clr F P De Masi
Clr Dr P J Gangemi
Clr R K Harty OAM

ABSENT

Clr A J Hay OAM

A MOTION WAS MOVED BY COUNCILLOR TRACEY AND SECONDED BY COUNCILLOR HASELDEN THAT the planning proposal for a revised gateway determination which seeks to facilitate a future medium to high density residential development at 55 Coonara Avenue, West Pennant Hills be deferred to a Councillor workshop in February 2018.

THE MOTION WAS PUT AND LOST

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Mayor Dr M R Byrne
Clr R M Tracey
Clr R Jethi
Clr A N Haselden

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 12 December 2017

VOTING AGAINST THE MOTION

Clr R A Preston
Clr S P Uno
Clr B L Collins OAM
Clr M G Thomas
Clr E M Russo
Clr F P De Masi
Clr Dr P J Gangemi
Clr R K Harty OAM

ABSENT

Clr A J Hay OAM

A MOTION WAS MOVED BY COUNCILLOR PRESTON AND SECONDED BY COUNCILLOR HARTY OAM THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED.

660 RESOLUTION

1. Council write to the Department of Planning and Environment requesting that a revised Gateway Determination be issued that:
 - Removes references to RU3 Forestry, RE1 Public Recreation, E4 Environmental Living and E2 Environmental Conservation zones and removes reference to Floor Space Ratio mapping;
 - Requires the site to be rezoned from B7 Business Park to R3 Medium Density Residential, R4 High Density Residential, and E3 Environmental Management consistent with Figure 3 in the report;
 - Requires Minimum Lot Size mapping for the site of 700m², 1800m² and 2 hectares consistent with Figure 5 in the report;
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 - Requires a local provision to facilitate key site outcomes - single owner/developer, maximum 600 dwellings (no more than 400 in form of residential flat buildings), agreed dwelling mix, size and car parking provision and small lot housing as an integrated product.
2. Council continue discussions with the proponent with respect to the preparation of a Voluntary Planning Agreement which resolves how the proponent will address the increased demand for local infrastructure generated by the proposed increase in residential density.
3. Council request additional information from the Proponent required by Council and the Gateway Determination (Geotechnical Analysis, Ecological Analysis, Urban Design Analysis and Investigation of Infrastructure and Traffic Consideration).
4. Following the preparation of the draft Voluntary Planning Agreement, and prior to any public exhibition of the planning proposal, a report on the draft Voluntary Planning Agreement be submitted to Council for consideration.
5. Draft The Hills Development Control Plan Part B Section 2 – Residential as detailed in (Attachment 4) be exhibited concurrently with the planning proposal.