

## 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).



## Planning & Environment

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**

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

Dear Mr Edgar *Michael*

**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