

THE HILLS SHIRE COUNCIL

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20 December 2016

Ms Catherine Van Laeren
Director, Sydney Region West
Planning Services
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Our Ref: 8/2017/PLP

Dear Ms Van Laeren

PLANNING PROPOSAL SECTION 56 NOTIFICATION

The Hills Local Environmental Plan 2012 (Amendment No. ##) – Proposed amendment to prohibit Animal boarding or training establishments from the RU6 Transition land use zone

Pursuant to Section 56 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), it is advised that Council has resolved to prepare a planning proposal for the above amendment.

The planning proposal seeks to prohibit Animal boarding or training establishments in the RU6 Transition zone across the Shire. Council has received several complaints regarding amenity impacts from Animal boarding or training establishments over a sustained period of time which are now considered to be beyond the effective management of development controls within the context of the RU6 Transition zone. Accordingly, it is considered that Animal boarding or training establishments can no longer operate in a manner consistent with the objectives of the RU6 Transition land use zone.

Please find enclosed the information required in accordance with the guidelines 'A guide to preparing planning proposals' issued under Section 55(3) of the EP&A Act. The planning proposal and supporting materials is enclosed with this letter for your consideration. It would be appreciated if all queries by the panel could be directed to Council's Strategic Planning Coordinator – Piers Hemphill on 9843 0511.

Generally, the proposal is considered to satisfactorily address the requirements under Section 73A (1)(b) and (c) of the EP&A Act as it would not have any significant adverse impact on the environment or adjoining land.

Following receipt by Council of the Department's written advice, Council would proceed with the planning proposal. Any future correspondence in relation to this matter should quote reference number 8/2017/PLP. Should you require further information please contact Isaac Kensell, Town Planner on 9843 0480.

Yours faithfully



Nicholas Carlton

PRINCIPAL COORINDINATOR FORWARD PLANNING

Attachment 1: Planning Proposal (including: Assessment against SEPPs and Section 117 Ministerial Directions)

PLANNING PROPOSAL

LOCAL GOVERNMENT AREA: The Hills Shire Council

NAME OF PLANNING PROPOSAL: Proposed The Hills Local Environmental Plan 2012 (Amendment No (#)) – Prohibition of Animal boarding or training establishments from the RU6 Transition land use zone (8/2017/PLP)

ADDRESS OF LAND: The Hills Shire Local Government Area

SUPPORTING MATERIAL:

Attachment A Assessment against State Environment Planning Policies

Attachment B Assessment against Section 117 Local Planning Directions

BACKGROUND:

There are currently eight (8) approved Animal boarding establishments in the Shire with half of these within the RU6 Transition zone.

During the notification of a recent development application for an Animal boarding or training establishment in the RU6 Transition zone, Council received significant feedback from the community about the potential land use conflict associated with this use in the RU6 Transition zone. This concern was reiterated during the recent exhibition of proposed amendments to The Hills Development Control Plan 2012 Part B Section 1 Rural, where 17 submission were received raising concerns regarding amenity impacts of Animal boarding establishments and the suitability of the use within the RU6 Transition zone.

Having regard to the community expectations of the use of the RU6 Transition zone and concerns about significant land use conflict, Council resolved at its Ordinary Meeting of 13 December 2016 that:

"Council prepare a planning proposal and forward to the Department of Planning and Environment to prohibit Animal Boarding or Training Establishments in the RU6 Transition zone under The Hills Local Environmental Plan 2012".

PART 1 OBJECTIVES OR INTENDED OUTCOME

The objective of the planning proposal is to prohibit Animal boarding or training establishments from the RU6 Transition land use zone. This proposal seeks to ensure that permissible land uses within the RU6 Transition land use zone are consistent with the zone objectives.

PART 2 EXPLANATION OF THE PROVISIONS

The proposed outcomes would be achieved by removing the words 'Animal boarding or training establishments' from the RU6 Transition zone Land Use Table under the heading '3 Permitted with Consent' and by virtue would be included within the meaning of the existing wording 'Any development not specified in item 2 or 3' under the heading '4 Prohibited'.

PART 3 JUSTIFICATION

SECTION A - NEED FOR THE PLANNING PROPOSAL

1. *Is the planning proposal a result of any strategic study or report?*

No, the planning proposal is not a result of any strategic study or report. However, the planning proposal seeks to ensure that permissible land uses within the RU6 Transition zone reflect community expectations and are consistent with the objectives of the zone.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

Yes, the planning proposal is considered to be the best way to achieve the intended outcomes for the land use zone. Having regard to the historical configuration and size of lots within the majority of RU6 Transition zone areas (typically long, skinny allotments) it is considered that the potential amenity impacts resulting from Animal boarding or training establishments are beyond what can be effectively managed by development controls within the context of the RU6 Transition zone. Further, the enforcement of highly restrictive controls sufficient to minimise land use conflict would be unlikely to result in the humane treatment of animals.

SECTION B - RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?*

Yes, a discussion of consistency is provided below.

- **A Plan for Growing Sydney**

A Plan for Growing Sydney replaces the Metropolitan Plan for Sydney 2036 and seeks to make Sydney 'a strong global city, a great place to live'. The Plan does not provide any specific advice on Animal boarding or training establishment, however it is considered the proposal is not inconsistent with the Plan as the primary agricultural focus of rural lands would not be impacted by the proposal.

- **Draft North West Subregional Strategy**

The draft *North West Subregional Strategy* was prepared by the NSW Government to implement the Metropolitan Plan and the State Plan. The draft strategy plans to accommodate some 130,000 jobs and 140,000 dwellings within the North West Subregion by 2031. Of these, 47,000 jobs (36%) and 36,000 dwellings (26%) are to be accommodated within The Hills Shire. An overarching theme of the strategy is for dwelling and employment growth to be concentrated within centres and near to public transport hubs.

The proposal is consistent with the plan as it would have no impact on the delivery of houses or jobs.

4. *Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?*

Yes, a discussion of consistency is provided below.

- **The Hills Future Community Strategic Plan**

The Hills Future Community Strategic Direction articulates The Hills Shire community's and Council's shared vision, values, aspirations and priorities with reference to other local government plans, information and resourcing capabilities. It is a direction that creates a picture of where the Hills would like to be in the future. The direction is based on community aspirations gathered throughout months of community engagement and consultation with members of the community.

The planning proposal is consistent with The Hills Future as it provides for the effective and sustainable management of rural lands. The proposal is also considered to reflect community needs and aspirations given that the proposal would limit opportunities for land use conflicts within the RU6 Transition zone in response to sustained feedback from the community.

- **Draft Local Strategy**

In 2008 Council adopted its Local Strategy to provide the basis for the future direction of land use planning in the Shire and within this context implement the key themes and outcomes of the 'Hills 2026 Looking Toward the Future'. The Rural Lands Strategy is the relevant component of the Local Strategy to be considered in assessing this application.

- Rural Lands Strategy

The Rural Lands Strategy identifies strategies to plan for the future of the Shire's rural areas. It identifies a need to conserve agricultural lands and protect the existing and future rural economy. It is considered the proposal supports these objectives given there would be no impact on the operation of agricultural enterprises. With respect to supporting accommodation for rural workers, the proposal would limit land use conflicts and ensure that rural areas maintain their rural character and are attractive places to live.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. The consistency of the planning proposal with State Environmental Planning Policies is detailed within Attachment A. A discussion on the consistency of the proposal with the relevant Policy is provided below.

- **State Environmental Planning Policy No. 30 Intensive Agriculture**

The planning proposal would not impact on viability or operation of intensive agriculture permitted pursuant to the SEPP.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Yes. The consistency of the planning proposal with the s.117 Ministerial Directions is detailed within Attachment B. A discussion on the consistency of the proposal with each relevant Direction is provided below.

- **Direction 1.2 Rural Zones**

The planning proposal is consistent with this Direction as it does not propose to rezone rural land and would not increase the permissible density within any rural zones. The proposal would uphold the RU6 Transition zone objectives under The Hills Local Environmental Plan 2012 by reducing the potential for land use conflicts.

- **Direction 1.5 Rural Lands**

The planning proposal is considered to be of minor significance. The proposal would protect production value of rural land.

- **Direction 7.1 Implementation of the Metropolitan Plan for Sydney 2036**

The planning proposal is consistent with this direction as it would recognise and protect the value of a diverse mix of activities which define the Sydney Metropolitan Rural Area by minimising conflict between land uses and encouraging innovation in other land uses such as tourist and agricultural uses.

SECTION C - ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No, the proposal would simply prohibit a land use within the RU6 Transition zone and is unlikely to create any adverse impacts on critical habitat or threatened species, populations or economical communities and their habitats.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The proposal is not considered likely to have any other environmental impacts.

9. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal seeks to limit opportunities for land use conflict within the RU6 Transition zone by prohibiting Animal boarding or training establishments which have proven to contribute to a number of adverse amenity impacts to adjoining land uses. Animal boarding or training establishments would continue to be permissible within the RU1 Primary Production and RU2 Rural Landscape zones where they can be accommodated to support the economic development of rural lands without conflicting with the objectives of those land use zones. Any existing Animal boarding or training establishments within the RU6 Transition zone would be able to continue operation with existing use rights.

SECTION D - STATE AND COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

Not applicable. The planning proposal would prohibit one land use (Animal boarding or training establishments) from the RU6 Transition zone.

11. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal? (Note: The views of State and Commonwealth Public Authorities will not be known until after the initial gateway determination. This section of the planning proposal is completed following consultation with those public authorities identified in the gateway determination.)

It is envisaged the comments of the following public authorities will be required as part of the planning proposal:

- NSW Department of Primary Industries

A list of all relevant agencies would be determined as part of the Gateway Determination. Following the Gateway determination, all relevant agencies would be consulted.

PART 4 MAPPING

The amendment relates only to the Land Use Table and no amendments to any maps of *The Hills Local Environmental Plan 2012* would be required.

PART 5 COMMUNITY CONSULTATION

The planning proposal would be advertised in local newspapers and on display at Council's administration building and Castle Hill, Dural and Vinegar Hill Libraries. The planning proposal would also be made available on Council's website.

PART 6 PROJECT TIMELINE

STAGE	DATE
Commencement Date (Gateway Determination)	January 2017
Government agency consultation	February 2017
Commencement of public exhibition period (14 days)	February 2017
Completion of public exhibition period	March 2017
Timeframe for consideration of submissions	March 2017
Timeframe for consideration of proposal post exhibition	March 2017
Report to Council on submissions	April 2017
Planning Proposal to PCO for opinion	April 2017
Date Council will make the plan (if delegated)	May 2017
Date Council will forward to department for notification (if delegated)	May 2017

ATTACHMENT A: LIST OF STATE ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/CONSISTENT
No. 1	Development Standards	NO	-	-
No. 14	Coastal Wetlands	NO	-	-
No. 15	Rural Landsharing Communities	NO	-	-
No. 19	Bushland in Urban Areas	YES	NO	-
No. 21	Caravan Parks	YES	NO	-
No. 26	Littoral Rainforests	NO	-	-
No. 29	Western Sydney Recreation Area	NO	-	-
No. 30	Intensive Agriculture	YES	YES	CONSISTENT
No. 33	Hazardous and Offensive Development	YES	NO	-
No. 36	Manufactured Home Estates	NO	-	-
No. 39	Spit Island Bird Habitat	NO	-	-
No. 44	Koala Habitat Protection	NO	-	-
No. 47	Moore Park Showground	NO	-	-
No. 50	Canal Estate Development	YES	NO	-
No. 52	Farm Dams and Other Works in Land and Water Management Plan Areas	NO	-	-
No. 55	Remediation of Land	YES	NO	-
No. 59	Central Western Sydney Regional Open Space and Residential	NO	-	-
No. 62	Sustainable Aquaculture	YES	NO	-
No. 64	Advertising and Signage	YES	NO	-
No. 65	Design Quality of Residential Flat Development	YES	NO	-
No. 70	Affordable Housing (Revised Schemes)	YES	NO	-
No. 71	Coastal Protection	NO	-	-
Affordable Rental Housing (2009)		YES	NO	-
Building Sustainability Index: BASIX 2004		YES	NO	-
Exempt and Complying Development Codes (2008)		YES	NO	-
Housing for Seniors or People with a Disability (2004)		YES	NO	-
Infrastructure (2007)		YES	NO	-
Kosciuszko National Park – Alpine Resorts (2007)		NO	-	-
Kurnell Peninsula (1989)		NO	-	-
Major Development (2005)		YES	NO	-
Mining, Petroleum Production and Extractive Industries (2007)		YES	NO	-
Miscellaneous Consent Provisions (2007)		YES	NO	-
Penrith Lakes Scheme (1989)		NO	-	-
Port Botany and Port Kembla (2013)		NO	-	-
Rural Lands (2008)		NO	-	-
SEPP 53 Transitional Provisions (2011)		NO	-	-
State and Regional Development (2011)		YES	NO	-
Sydney Drinking Water Catchment (2011)		NO	-	-

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)	APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
Sydney Region Growth Centres (2006)	YES	NO	-
Three Ports (2013)	NO	-	-
Urban Renewal (2010)	NO	-	-
Western Sydney Employment Area (2009)	NO	-	-
Deemed SEPPs			
SREP No. 8 (Central Coast Plateau Areas)	NO	-	-
SREP No. 9 – Extractive Industry (No. 2 – 1995)	YES	NO	-
SREP No. 16 – Walsh Bay	NO	-	-
SREP No. 20 – Hawkesbury – Nepean River (No 2 – 1997)	YES	NO	-
SREP No. 24 – Homebush Bay Area	NO	-	-
SREP No. 25 – Orchard Hills	NO	-	-
SREP No. 26 – City West	NO	-	-
SREP No. 30 – St Marys	NO	-	-
SREP No. 33 – Cooks Cove	NO	-	-
SREP (Sydney Harbour Catchment) 2005	NO	-	-

ATTACHMENT B: ASSESSMENT AGAINST SECTION 117 MINISTERIAL DIRECTIONS

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
1. Employment and Resources				
1.1	Business and Industrial Zones	YES	NO	-
1.2	Rural Zones	YES	YES	CONSISTENT
1.3	Mining, Petroleum Production and Extractive Industries	YES	NO	-
1.4	Oyster Aquaculture	YES	NO	-
1.5	Rural Lands	YES	YES	CONSISTENT
2. Environment and Heritage				
2.1	Environment Protection Zone	YES	NO	-
2.2	Coastal Protection	NO	-	-
2.3	Heritage Conservation	YES	NO	-
2.4	Recreation Vehicle Area	YES	NO	-
3. Housing, Infrastructure and Urban Development				
3.1	Residential Zones	YES	NO	-
3.2	Caravan Parks and Manufactured Home Estates	YES	NO	-
3.3	Home Occupations	YES	NO	-
3.4	Integrating Land Use and Transport	YES	NO	-
3.5	Development Near Licensed Aerodomes	YES	NO	-
3.6	Shooting Ranges	YES	NO	-
4. Hazard and Risk				
4.1	Acid Sulfate Soils	YES	NO	-
4.2	Mine Subsidence and Unstable Land	YES	NO	-
4.3	Flood Prone Land	YES	NO	-
4.4	Planning for Bushfire Protection	YES	NO	-
5. Regional Planning				
5.1	Implementation of Regional Strategies	NO	-	-
5.2	Sydney Drinking Water Catchment	NO	-	-
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	NO	-	-
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	NO	-	-
5.8	Second Sydney Airport: Badgerys Creek	NO	-	-
5.9	North West Rail Link Corridor Strategy	YES	NO	-

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
6. Local Plan Making				
6.1	Approval and Referral Requirements	YES	NO	-
6.2	Reserving Land for Public Purposes	YES	NO	-
6.3	Site Specific Provisions	YES	NO	-
7. Metropolitan Planning				
7.1	Implementation of the Metropolitan Plan for Sydney 2036	YES	YES	CONSISTENT