

## SECTION 59 PLANNING REPORT

### Planning proposal details:

Planning Proposal (Department Ref: PP\_2017\_THILL\_005\_00) – Amendment to The Hills Local Environmental Plan 2012 to identify seniors housing as an additional permitted use for land at 434 Old Northern Road, 2 and 2A Fullers Road, Glenhaven (4/2017/PLP).

### Planning proposal summary:

The objective of the planning proposal is to facilitate a seniors housing development comprising of nine (9) independent living units on the subject site.

The proposed amendments are consistent with the adopted strategic policies of Council and the NSW Government.

Amendments to The Hills Development Control Plan 2012 have been adopted in association with the planning proposal to guide future development on the site and will come into force with the making of this plan.

### Date of Gateway determination:

4 July 2017

---

## 1.0 SUMMARY

The planning proposal was lodged with Council on 11 November 2016 seeking to rezone the site from E4 Environmental Living to R2 Low Density Residential to facilitate a seniors living development. The matter was reported to Council at its Ordinary Meeting of 23 May 2017 where it was resolved that:

1. *A planning proposal for land at 434 Old Northern Road, 2 and 2a Fullers Road, Glenhaven be forwarded to the Department of Planning and Environment for Gateway Determination to amend The Hills Local Environmental Plan 2012 as follows:*
  - a. *Amend Schedule 1 to include Seniors Housing as an additional permitted use on the site, capped at nine (9) self-care units; and*
  - b. *Identify the site on the Additional Permitted Uses Map.*
2. *Draft The Hills Development Control Plan Part B Section 2 – Residential, provided as Attachment 1 (ECM Document No. 15811696), be publicly exhibited concurrently with the planning proposal.*

On 4 July 2017, Council received Gateway Determination which required a minor amendment to a map within the planning proposal prior to community consultation. The Gateway Determination also required that consultation with the community be undertaken for a minimum of 28 days and public authorities for 21 days. The Gateway Determination provided written delegation for Council to exercise the functions of the Minister under Section 59 of the *Environmental Planning and Assessment Act 1979*.

The planning proposal was publicly exhibited from 17 August 2017 to 15 September 2017. Public authorities were consulted from 11 August 2017 until 26 September 2017. Council received a total of four (4) submissions, comprising two (2) from public authorities (Maritime Services and Transport for NSW) and two (2) individual submissions.

A post exhibition report was considered by Council at its Ordinary Meeting of 24 October 2017, where it was resolved that:

1. *The planning proposal be progressed to finalisation to amend The Hills Local Environmental Plan 2012 to:*
  - a. *Amend Schedule 1 to include Seniors Housing as an additional permitted use capped at nine (9) self-care units; and*
  - b. *Identify the site on the Additional Permitted Uses Map.*
2. *Draft amendments to The Hills Development Control Plan 2012 Part B Section 2 – Residential (Attachment 1 – ECM No.16294173) be adopted and come into force following the notification of the planning proposal.*

On 30 October 2017 Council forwarded the planning proposal to:

- Parliamentary Counsel – to request legal drafting of the instrument (this was issued by PC on 6 December 2017); and
- The Department of Planning and Environment – for confirmation that the draft maps are suitable for notification/ finalisation (this was confirmed on 29 November 2017).

All of the conditions included in the Gateway Determination have been complied with and it is considered that The Hills Local Environmental Plan 2012 (Amendment No. 50) can be made.

## **2.0 GATEWAY DETERMINATION**

On 4 July 2017, Council received Gateway Determination which required a minor amendment to a map within the planning proposal prior to community consultation. The Gateway Determination required that community consultation be undertaken for a minimum of 28 days and that consultation be undertaken with the following public authorities for at least 21 days:

- Transport for NSW;
- Roads and Maritime Services; and
- Family and Community Services – Ageing Disability and Home Care.

The Gateway Determination was accompanied by written delegation for Council to exercise the functions of the Minister under Section 59 of the *Environmental Planning and Assessment Act 1979*. The Gateway Determination provided a six (6) month timeframe for the completion of the planning proposal, making the completion date 4 January 2018. A Gateway extension was granted on 9 November 2017, with a completion date of 11 April 2018.

All of the conditions of the Gateway Determination have been complied with.

## **3.0 COMMUNITY CONSULTATION AND VIEWS FROM PUBLIC AUTHORITIES**

In accordance with the Gateway Determination, community consultation was required under section 56(2)(c) and 57 of the EP&A Act. The planning proposal and draft DCP were publicly exhibited from 17 August 2017 to 15 September 2017. Public authorities were consulted from 11 August 2017 until 26 September 2017.

The exhibition material was made available for viewing at Castle Hill and Dural Libraries, Council's administration building and on Council's website and the public exhibition was advertised within The Hills News and The Rouse Hill Courier. Landowners within the vicinity of the site were notified of the exhibition and invited to comment.

Council received a total of four (4) submissions, comprising two (2) from public authorities (Maritime Services and Transport for NSW) and two (2) individual submissions. The key issues related to access and amenity impacts, including overshadowing, privacy and loss of views.

In recognition of matters raised within submissions, the following post exhibition amendments were made to the draft Development Control Plan 2012 (Part B Section 2 – Residential):

- Insert additional controls relating to future use of the development by seniors or people with a disability;
- Include an additional control requiring existing driveways along Old Northern Road to be replaced with kerb and gutter and to require a Construction Traffic and Pedestrian Management Plan to be prepared in consultation with the Roads and Maritime Services;
- Include additional objectives and controls requiring an Acoustic Report to be prepared by a qualified acoustic consultant and submitted with any development application for the site; and
- Minor amendments to clarify wording.

No post exhibition amendments were made to the planning proposal. The above post-exhibition amendments to draft DCP 2012 were adopted by Council at its meeting of 24 October 2017.

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

The planning proposal is generally consistent with the applicable s.117 Ministerial Directions. A discussion on the consistency of the proposal with each relevant Direction is provided below.

### **• Direction 2.1 Environmental Protection Zones**

The objective of this Direction is to protect and conserve environmentally sensitive areas. The Direction states that a planning proposal that applies to land within an environmental protection zone must not reduce the environmental protection standards that apply to the land, unless justified by a strategy or study. While the site does not feature vegetation or geotechnical constraints, its proximity to Sydney Blue Gum High Forest and a creek line mean that it is vital to the protection of environmentally sensitive areas.

Enabling seniors housing as an additional permitted use and introducing site specific DCP controls will provide greater certainty as to the type and scale of the development that will be delivered. Further, as the site is located opposite more intensive land uses, including a garden centre and seniors living development, the proposed development is considered suitable in this context.

### **• Residential Zones**

This Direction encourages a variety and choice of housing types to provide for existing and future housing needs. The Direction also requires that future residential development should ensure that new housing has appropriate access to infrastructure and services. As the site is located in an established residential area with sufficient access to infrastructure, the planning proposal is considered to be consistent with this Direction.

### **• Direction 3.4 Integrated Land Use**

The site is surrounded by well-maintained footpaths and is within 250 metres of north- and south-bound bus stops connecting the site to Round Corner Town Centre and Castle Hill Town Centre. The site is considered to be well connected to jobs and services and public transport. The proposal is considered consistent with Direction 3.4 Integrated Land Use and Transport as it improves access to housing, jobs and services in close proximity to walking, cycling and public transport.

- **Direction 6.1 Approval and Referral Requirements**

The purpose of this Direction is to ensure that Local Environmental Plan provisions encourage the efficient and appropriate assessment of development by minimising the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority. The proposal is considered to be consistent with this Direction as it does not include any concurrence, consultation or referral provisions and does not identify any development as designated development.

- **Direction 6.3 Site Specific Provisions**

Seniors Housing is currently prohibited on land zoned E4 Environmental Living and R2 Low Density Residential under Local Environmental Plan 2012. This planning proposal presents a unique opportunity to provide a low-care seniors housing option in the area where there is a strong need for such a use and existing public infrastructure available to support future residents. As such, the planning proposal seeks to facilitate the development via an additional use on the site. This is preferred over rezoning the site, as originally proposed, as it will allow for low scale development to operate with minimal impacts to adjoining neighbours and provides greater certainty as to the future development outcome on the site.

***Consistency with State Environmental Planning Policies***

- **State Environmental Planning Policy No. 19 – Bushland in Urban Areas**

The general aim of this Policy is to protect and preserve bushland within the urban areas because of:

- a) its value to the community as part of the natural heritage,
- b) its aesthetic value, and
- c) its value as a recreational, educational and scientific resource.

As the site is located within an environmental corridor, the policy is considered to apply. Retaining the E4 Environmental Living zone on the site and providing site specific controls within The Hills Development Control Plan Part B Section 2 – Residential requires future development on the site to be consistent with the aims of the SEPP:

- *To protect the remnants of plant communities which were once characteristic of land now within an urban area;*
- *To retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term;*
- *To protect rare and endangered flora and fauna species;*
- *To protect wildlife corridors and vegetation links with other nearby bushland;*
- *To protect bushland for its scenic values, and to retain the unique visual identity of the landscape;*
- *To maintain bushland in locations which are readily accessible to the community; and*
- *To promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation.*

Site specific development controls will ensure that future development on the site is consistent with the aims of this Policy and that the wildlife corridor, significant vegetation and endangered species in the vicinity are not impacted as a result of the development.

- **State Environmental Planning (Housing for Seniors or People with a Disability) 2004**

As the E4 Environmental Living zone is proposed to be retained, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 does not apply to the

site. Development on the site is guided through a site specific section in Part B Section 2 of The Hills Development Control Plan 2012.

### ***Consistency with Strategic Planning Framework***

The planning proposal is consistent with all State and Local Strategic Plans:

- **A Plan for Growing Sydney**

The Glenhaven area and surrounding neighbourhoods are primarily characterised by low impact developments, such as detached dwellings with large landscaped backyards. The planning proposal would facilitate a seniors housing development outcome in the form of townhouses that contributes to housing diversity and offers a low maintenance alternative to existing low density residential development, while offering more space than apartments. The proposal supports a key principle of A Plan for Growing Sydney to facilitate housing delivery for the ageing population, catering to the increasing population that are aged 55 years and over and offering an opportunity for existing residents to age in place.

Notwithstanding the need for seniors housing, Direction 4.1: Protect our natural environment and biodiversity aims to balance urban growth with the need to protect high conservation value areas. This is achieved by strategically managing biodiversity as housing and economic development occurs, rather than through site-by-site decision making.

The concept of a small-scale seniors housing development on the site is considered reasonable at this location as it will be seen in the context of the garden centre and seniors living development on the eastern side of Old Northern Road. Accordingly, retaining the existing E4 Environmental Living zone and permitting a small-scale seniors housing development through an additional permitted use, rather than a site specific rezoning is considered to be the most appropriate approach for the site. This approach is considered to be consistent with this Direction as it will allow for the development outcome sought by the proponent, without undermining the long-term strategic conservation of the environmental corridor.

This means that State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 will continue to not apply to the site, however suitable development controls are proposed to address requirements relating to site coverage, setbacks and private open space.

- **Draft Greater Sydney Region Plan**

Objective 6 of the draft Region Plan states that future development needs to respond to Sydney's changing demographic. With an increased demand for local aged care facilities, there is a particular emphasis on providing health services. Further, objective 10 seeks to deliver a diversity of housing types, including residential aged care that caters to a range of capabilities.

The Region Plan states that housing strategies play an important role in planning new housing that creates more liveable neighbourhoods and meet demand by providing diversity, through a mix of dwelling types, including residential aged care. The planning proposal will deliver low care seniors housing that would allow existing residents to age in place by offering a dwelling type that is not currently available in the locality.

- **Revised Draft Central City District Plan**

A 183 per cent proportional increase in people aged 85 and over, and a 95 per cent increase in the 65–84 age group is expected by 2036 within the Central City District. This means 16 per cent of the District's population will be aged 65 or over in 2036, up from 11 per cent in 2016. Parramatta and The Hills local government areas have the largest projected growth in the 65 to 84 age groups.

More compact housing types that require less maintenance will create opportunities for older people to continue living in their community where being close to family, friends and established health and support networks improves people's wellbeing.

Noting the above, the draft Plan recognises the need to provide a range of housing social infrastructure that supports people's needs through different stages of life (Planning Priorities C3 and C5). The planning proposal is consistent with the draft Plan as it provides opportunities for downsizing in an area predominantly characterised by single detached dwellings.

- **The Hills Future Community Strategic Plan**

The Hills Future Community Strategic Plan 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 outcomes and strategies of The Hills Future as it would contribute to housing diversity and supply for an ageing population in an area with a demand for seniors housing options.

- **Local Strategy**

The Residential Direction aims to accommodate an ageing population in well located areas supported by services and facilities. With an increasing number of seniors and people with a disability in the area, it is reasonable to consider appropriate locations for seniors housing development and provide more housing choice.

Whilst seniors housing developments located in close proximity to local centres are preferred, the proximity of the site to public transport services makes it an acceptable location for this type of development. The nine (9) self-care units are therefore considered suitable in that locality.

## **6.0 PARLIAMENTARY COUNSEL OPINION**

Opinion was received from Parliamentary Counsel on 6 December 2017 stating that the draft environmental planning instrument can be legally made. A copy of the Opinion is included as Attachment A to this report.

## **7.0 MAPPING**

The maps provided in support of the planning proposal are compliant with the Standard Instrument LEP Mapping Guidelines. The maps were sent to the Department of Planning and Environment on 22 August 2017 to review. The Department has since confirmed that they are satisfactory for notification.

## **8.0 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, 6 December 2017
<b>Attachment B</b>	Map Cover Sheet and Supporting Maps
<b>Attachment C</b>	Gateway Determination, 4 July 2017
<b>Attachment D</b>	Council Report and Minute (Post Exhibition), 24 October 2017