

Planning Services

Gateway Determination Report

LGA	The Hills
PPA	The Hills Shire Council
NAME	Provision of a minimum lot size for manor houses in the R3 Medium Density Residential zone
NUMBER	PP_2018_THILL_011_00
LEP TO BE AMENDED	The Hills Local Environmental Plan 2012
ADDRESS	All land zoned R3 Medium Density Residential under The Hills Local Environmental Plan 2012
RECEIVED	25 October 2018
FILE NO.	IRF18/6119
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

The planning proposal seeks to amend Clause 4.1A of the Hills Local Environmental Plan (LEP) 2012 to introduce a minimum lot size of 900m² for manor houses in the R3 Medium Density Residential zone.

The planning proposal has been prepared in response to the introduction of the Low Rise Medium Density Housing Code (the Code) under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP). The Code commenced on 5 July 2018 and permits the new types of medium density development, being manor houses and multi dwelling housing (terraces), as Complying Development in residential zones where multi dwelling housing is currently permitted under a council's LEP.

As per the Standard Instrument LEP Amendment (Low Rise Medium Density Housing) Order 2017, manor houses will be mandated as development that is permitted with consent in the R3 Medium Density Residential zone on commencement of the Code. The Hills Shire Council has been granted deferral of the Code by the Minister for Planning until 1 July 2019.

Clause 4.1A of The Hills LEP 2012 currently specifies minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings. However, as manor houses have not yet been introduced to The Hills LEP 2012 there is no minimum lot size specified for this type of development.

In addition, as residential flat buildings are not permitted in the R3 Medium Density Residential Zone, but manor houses will be, it is necessary to specify a minimum lot size.

Site description

The planning proposal relates to all land zoned R3 Medium Density Residential where manor houses will be permissible under The Hills LEP 2012.

Existing planning controls

There are no existing planning controls relating to manor houses under The Hills LEP 2012, as it is not currently listed as a land use term under The Hills LEP 2012.

Summary of recommendation

The planning proposal has merit and is supported to proceed. The proposal is consistent with state, regional and local strategic planning objectives and seeks to facilitate the orderly development of manor houses on appropriate sized lots in the R3 Medium Density Residential Zone.

PROPOSAL

Objectives or intended outcomes

The objective of the planning proposal is to amend The Hills LEP 2012 to introduce a minimum lot size for manor houses in the R3 Medium Density Residential zone to facilitate the orderly development of manor houses lodged under a Development Application.

Explanation of provisions

The proposal seeks to amend Clause 4.1A of The Hills LEP 2012 to include a minimum lot size of 900m² for manor houses in the R3 Medium Density Residential zone.

While it is considered that the explanation of provisions is suitable for exhibition purposes, it is noted that the planning proposal includes a proposed amended clause 4.1A to include a minimum lot size for manor houses. As manor houses are not a defined term in the standard instrument (this development type is defined in the Codes SEPP) and the clause will be subject to legal drafting, it is recommended that Council amend this part of the proposal by adding the following words immediately prior to the amended clause:

It is foreshadowed that the proposed amendments to the clause will be subject to legal drafting and this provision may be altered to meet legal drafting requirements.

Mapping

There are no mapping amendments associated with the planning proposal.

NEED FOR THE PLANNING PROPOSAL

The planning proposal is not the result of any local strategic study or report.

The changes to the Standard Instrument LEP, as a result of the making of the Code, will introduce manor houses as a new land use term in R3 zone. The planning proposal has been prepared in response, and seeks to include a minimum lot size

for manor houses in the R3 zone to facilitate the development of manor houses lodged under a Development Application.

The Hills Shire Council was granted a deferral from the operation of the Code and associated amendments to the standard instrument LEP until July 2019, specifically to enable the submission of a planning proposal to make any necessary preparations for the introduction of this new land use term to The Hills LEP 2012. The planning proposal is considered to be the best means of achieving the intended outcomes.

A Development Control Plan will also be prepared by Council to provide guidance for the development of manor houses lodged as a Development Application.

STRATEGIC ASSESSMENT

Regional / District

Greater Sydney Region Plan – A Metropolis of Three Cities (March 2018)

The Greater Sydney Region Plan provides a 40-year vision for the Greater Sydney Region. The planning proposal is generally consistent with the objectives and actions for liveability and sustainability in the plan, as:

- it does not remove the permissibility of manor house developments in the R3 zone but rather provides a minimum lot size that will support and guide the development of manor houses lodged under a Development Application, where compliance with the Code SEPP requirements cannot be achieved (Objectives 11 and 12),
- it would not significantly impact on housing supply or Council's ability to meet the housing target for the LGA (Objective 10), and
- it would provide an appropriate size allotment which will allow space to accommodate high-quality landscaping and more usable open space, and contribute to maintaining tree canopy cover (Objectives 26 and 30).

Central City District Plan

The planning proposal is generally consistent with the Central City District Plan and the following planning priority is relevant to the proposal:

- Planning Priority C5 – Providing housing supply, choice and affordability with access to jobs, services and public transport.

The planning proposal notes that Council is seeking to develop its housing strategy and the proposed amendments will contribute to key principles of housing supply, diversity, market demand, amenity, good design and local character.

Local

The Hills Future Community Strategic Plan

The Hills Future Community Strategic Direction articulates The Hills Shire community and Council's shared vision, values, aspirations and priorities with reference to other local government plans. The planning proposal notes that it will assist in the realisation of The Hills future outcome of 'Shaping Growth' as it will ensure community needs and expectations are met through responsible planning and the facilitation of a desirable living environment by facilitating the orderly development of manor houses on appropriately sized allotments within the R3 Medium Density Residential zone.

Local Strategy

Council's Local Strategy is supported by seven Strategic Directions, of relevance to this proposal is the Residential Direction. A summary of the consistency of the planning proposal with this direction is provided below:

This direction aims to give Council, the community and developers a clear strategy for the future planning and management of residential development and growth to 2031. The Direction reviews progress in achieving additional dwellings and demonstrates the capacity to accommodate State Government dwelling targets into the future.

The Hills Council advises that the planning proposal is consistent with this Local Strategy as it assists in accommodating population growth.

Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all section 9.1 Directions, specifically the direction relevant to this planning proposal is:

Direction 3.1 Residential Zones

This Direction seeks to encourage a variety and choice of housing types to provide for existing and future housing needs. It also seeks to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure. The Direction ensures that the impacts of residential development on the environment and resource lands are minimised.

The planning proposal is consistent with this direction as it will not prohibit manor houses, but rather provide for a minimum lot size to ensure the orderly development, when lodged under a Development Application. Given that there is currently no minimum lot size specified for manor houses in the R3 Medium Density Residential zone, the proposal will also not reduce the permissible residential density of land.

State environmental planning policies

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is relevant to the planning proposal as it provided the catalyst for this planning proposal.

The new Code came into effect on 6 July 2018, however as discussed Council was granted a deferral until 1 July 2019.

In relation to the planning proposal, Council resolved to adopt a minimum lot size of 900m² for manor houses in the R3 zone. This would make the minimum lot size in The Hills LEP 2012 inconsistent with the minimum lot size of 600m² in the Codes SEPP. Adopting a similar lot size to that of the Codes SEPP would provide an avenue for landowners who are not able to meet the requirements of the Codes SEPP to still apply for a manor house on a similar sized parcel of land where dispensation to controls may be required.

The planning proposal states that adopting a minimum lot size of 900m² will allow for increased setbacks to create sufficient space for landscaping, communal and private open space, as well as improving solar access to adjacent properties and the public domain.

The minimum lot size for residential flat buildings specified in Clause 4.1A of The Hills LEP 2012 is 4000m². This lot size will continue to apply for manor houses mandated in other zones under the Hills LEP (i.e. R1, R4, B2, and B4 zones).

It is recognised that whilst manor houses are a form of residential flat building, it is generally not appropriate or necessary to apply a minimum lot size of 4000m² in the R3 Medium Density Residential zone, based on the anticipated density and built form provided by this dwelling type being consistent with a medium density outcome.

The proposed minimum lot size of 900m² represents a compromise between the standards of the Codes SEPP and the existing minimum lot size for residential flat buildings. Within the R3 Medium Density Residential zone, this approach will facilitate positive built form outcomes for development applications whilst not being so restrictive as to prohibit development or result in frequent requests to vary the minimum lot size control.

The planning proposal will not restrict the development of manor houses from being carried out under the Codes SEPP, as the proposed minimum lot size of 900m² only applies to developments lodged under a Development Application. The minimum lot size of 600m² will continue to apply to manor houses which are developed as complying development under the Codes SEPP.

SITE-SPECIFIC ASSESSMENT

Social

There are no known social implications for the planning proposal.

Environmental

The planning proposal is not considered likely to have any environmental impacts and any potential impacts will be assessed on a site-by-site basis upon lodgement of a development application.

Economic

The planning proposal seeks to facilitate residential development that addresses Greater Sydney's 'missing middle'. A growing population and changing demographics has emphasised the importance of diversity of housing choice, as well as the delivery of housing products that cater to a wide range of price points.

Infrastructure

The planning proposal will create minor demand for additional public infrastructure, however this is only considered marginal with existing infrastructure likely to sustain any increase in density directly related to the development of manor houses in the R3 Medium Density Residential zone.

CONSULTATION

Community

Council has indicated an exhibition period of 14 days. However, given that the proposal will affect all land zoned R3 in the LGA, it is recommended that an exhibition period of 28 days is provided as it will allow all affected landowners to review the material, seek advice and make a submission to Council.

Agencies

Consultation with other state agencies is not considered necessary. The planning proposal is unlikely to result in any significant impact or increased demand on infrastructure, nor does it have the potential to impact on the natural environment or heritage values.

TIME FRAME

Council has proposed to finalise the plan by August 2019. It is important to note that manor houses will not be introduced into The Hills LEP 2012 until the Codes SEPP deferral period expires on the 1 July 2019. The timeframe proposed is considered appropriate given that the proposal would not affect the application of the Codes SEPP.

LOCAL PLAN-MAKING AUTHORITY

Council has not requested to be the local plan-making authority. As the proposal applies to the entire LGA, it is recommended that Council is not authorised to be the local plan-making authority to make this plan.

CONCLUSION

The planning proposal has merit and is supported to proceed with conditions. The proposal is consistent with regional and local strategic planning objectives and will aim to facilitate the orderly development of manor houses in the R3 Medium Density Residential zone.

RECOMMENDATION

It is recommended that the delegate of the Minister for Planning determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to amend the planning proposal under Part 2 Explanation of Provisions is by adding the following words immediately prior to the proposed amending clause

It is foreshadowed that the proposed amendments to the clause will be subject to legal drafting and this provision may be altered to meet legal drafting requirements.

2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Given that the planning proposal is a result of the introduction of the Low Rise Medium Density Housing Code under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, it is recommended that Council is not authorised to be the local plan-making authority to make this plan.
4. The time frame for completing the LEP is to be **9 months** from the date of the Gateway determination.



6/12/2018

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