
ITEM-2	PLANNING PROPOSAL TO AMEND THE HILLS LEP 2012 TO PROHIBIT PLACES OF PUBLIC WORSHIP WITHIN THE RU6 TRANSITION ZONE (6/2018/PLP)
THEME:	Balanced Urban Growth.
OUTCOME:	5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity.
STRATEGY:	5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.
MEETING DATE:	23 OCTOBER 2018 COUNCIL MEETING
GROUP:	STRATEGIC PLANNING
AUTHOR:	PRINCIPAL COORDINATOR – FORWARD PLANNING MEGAN MUNARI
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING STEWART SEALE

EXECUTIVE SUMMARY

This report recommends that Council forward a revised planning proposal that prohibits places of public worship in the RU6 Transition zone to the Department of Planning and Environment for Gateway Determination, which would allow exhibition of the planning proposal. The revised approach removes the previously proposed additional zone objectives and site coverage controls from the proposal.

Council has twice considered a planning proposal for our RU6 Transition rural zone that seeks to strengthen the zone objectives, prohibit places of public worship and include site coverage controls in the zone. The Department of Planning and Environment have now requested further information for the third time with respect to the planning proposal. The information requested by the Department of Planning and Environment is believed to be beyond that required to determine whether the proposal should receive a Gateway Determination (to exhibit the Planning Proposal) or not.

The Department has caused unreasonable delay of this proposal. The revised approach addresses the concerns raised by the Department are consistent with the zone objectives and should be able to be appropriately and promptly issued a Gateway Determination. The place of public worship is not a mandated use for the zone and ought to be a simple exercise not unlike animal boarding and training establishments.

BACKGROUND

- 24/10/2017** Council resolved to forward a planning proposal to the Department of Planning and Environment for a Gateway Determination to:
1. *Include two additional local objectives within the RU6 Transition zone of The Hills Local Environmental Plan 2012:*
 - *To maintain the rural and scenic character of the land*
 - *To provide for a range of land uses compatible with the rural residential character*
 2. *Remove the following land uses as permitted within the RU6 Transition zone of The Hills Local Environmental Plan 2012:*
 - *Cemeteries*
 - *Places of public worship*
 3. *Introduce a local clause to reflect the DCP site coverage controls into our Local Environmental Plan.*
- 02/11/2017** Planning Proposal submitted for a Gateway Determination.
- 20/12/2017** Council advised prohibition cemeteries would not be supported.
- 13/02/2018** Council resolved to forward a revised planning proposal to the Department of Planning and Environment that removes the prohibition of cemeteries in the RU6 zone.
- 21/02/2018** Revised Planning Proposal submitted (omitting cemeteries).
- 16/04/2018** Letter from Mayor to Minister requesting Gateway be issued.
- 11/05/2018** Letter from Department of Planning and Environment requesting further information.
- 24/05/2018** Letter from Minister to Mayor advising further information requested.
- 31/05/2018** Further information and revised planning proposal submitted.
- 09/10/2018** Letter from Department of Planning and Environment requesting further information (Attachment 1).

REPORT

Council has now, six (6) months after submitting further information to the Department of Planning and Environment, received a third letter requesting additional information with respect to this planning proposal (refer to Attachment 1).

The issues outlined in the requests for further information could have been addressed in December 2017 when Council was advised of the Department's review into cemeteries. To

send further letters requesting information appears to be delaying a decision on the proposal unnecessarily.

The Department have indicated that further information is required to justify why places of public worship should be prohibited in the RU6 Transition Zone and why the new objectives should be incorporated into LEP 2012. The letter implies that the new zone objectives are not supported and that there would be no benefit of including site coverage controls in LEP 2012. They suggest that other development that has similar impact to places of public worship need to be appropriately addressed and Council should justify why those developments should be treated differently.

Council has previously provided a detailed response to these matters. In terms of the proposed zone objectives, the Department's suggestion that they are inconsistent with other zone objectives and depart from the purpose of the zone as a transition between rural and other land uses, is illogical and inconsistent with their own Practice Note PN09-005 titled 'Local Environmental Plan Zone Objectives'. This guidance indicates that local zone objectives can be added if the mandatory objectives do not cover all of the major land use issues in the zone or if they relate to a land use with major environmental impacts on the activities and amenity of the population. The proposed zone objectives are consistent with this guidance, reflecting the character of the land within this area and facilitating the transition between urbanised areas to rural areas.

In terms of other uses that remain permissible in the RU6 Transition zone, these uses have not been recommended for removal as they more closely align with the scenic and rural character of the locality. Such uses include agricultural produce industries, eco-tourist facilities, environmental facilities, farm buildings, farm stay accommodation, garden centres, intensive plant agriculture, landscaping material supplies, plant nurseries, recreation areas, recreation facilities (outdoor), roadside stalls and veterinary hospitals. These uses encourage tourism and agriculture, consistent with the zone objectives.

It is also noted that the Standard Instrument Local Environmental Plan only requires 'roads' and 'dwelling houses' as compulsory permitted land uses in the RU6 Transition zone. All other land uses, including places of public worship, should be at the discretion of Council to determine whether to permit or prohibit within the zone based on local circumstances.

Council has not been required to expand on matters such as these prior to the issue of Gateway Determinations in the past. In fact, a Gateway Determination was issued to prohibit animal boarding and training establishments in the RU6 Transition zone in February 2017. This was issued on the basis that the State strategic planning framework was silent on animal boarding and training establishments and supports the protection of rural land for rural purposes in the Metropolitan Rural Area.

Similarly, the State strategic planning framework, now being the Greater Sydney Region Plan and Central City District Plan, is silent on the provision of places of public worship and strongly advocates for protection of the Metropolitan Rural Area. This planning proposal seeks to achieve the objectives of the State strategic planning framework, yet it is being delayed.

The additional information requested by the Department is not necessary to assess the planning proposal and determine whether it will receive a Gateway Determination or not, given that the Department has seen fit to issue determinations in similar circumstances in the past. However, the Department considers this substantially different from the animal

boarding and training establishment proposal, in that this one proposes changes to zone objectives and a new local provision, rather than simply one land use being prohibited.

Given that the Department has raised concerns with various aspects of this proposal, it is recommended to forward a revised planning proposal to the Department of Planning and Environment that seeks to amend the land use table to prohibit places of public worship in the RU6 Transition Zone only and remove the proposed additional zone objectives and site coverage controls from the proposal.

Whilst Council's original proposal sought to provide a package of objectives and controls to better protect the character of the rural area, the matters raised by the Department are noted. Simplifying the proposal to prohibit places of public worship only, is consistent with RU6 zone objectives relating to protection and maintenance of transitional land and minimising conflict between land uses between zones. The revised proposal addresses the barriers raised by the Department, maintains the integrity of the zone and should be able to be appropriately and promptly issued a Gateway Determination.

IMPACTS

Financial

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

Strategic Plan - Hills Future

The planning proposal is consistent with The Hills Future Community Strategic Plan as it provides for the effective and sustainable management of rural lands and the minimisation of unreasonable land use conflicts within these areas.

RECOMMENDATION

Council forward a revised planning proposal that prohibits places of public worship in the RU6 Transition zone to the Department of Planning and Environment for Gateway Determination.

ATTACHMENTS

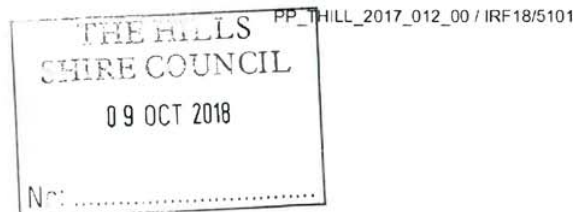
1. Letter from the Deputy Secretary of the Department of Planning and Environment (2 pages)



Planning &
Environment

ATTACHMENT 1

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



Dear Mr Edgar

Planning proposal PP_THILL_2017_012_00 to amend The Hills Local Environmental Plan 2012

Thank you for providing the updated planning proposal in relation to the RU6 Transition zone and additional information in response to the Department's letter dated 11 May 2018.

I recognise that planning controls in the metropolitan rural area are an important issue for Council and the community to regulate the intensity of land on the urban fringe.

The purpose of the RU6 Transition zone is to provide a buffer between the more rural, environmental and scenic uses in the north of The Hills local government area (LGA) and the urban area to the south of the LGA.

Let me assure you that the Department is merely seeking to ensure that the Hills Council formulate this important planning proposal consistent with the zone objectives of its own plan and ensure that development that has similar impact to places of public worship are appropriately addressed by council in the planning proposal, or by council justifying why those other developments should be treated differently to places of public worship.

The Department has reviewed the additional information and considers that the proposal, in its current form, does not adequately justify why places of public worship should be prohibited in the RU6 Transition zone and why the new objectives and development controls should be incorporated into The Hills Local Environmental Plan (LEP) 2012.

I note Council's concern that the Department's approach for the subject planning proposal is inconsistent with a previously supported amendment to prohibit animal boarding or training establishments in the RU6 Transition zone (PP_2017_THILL_001_00). This proposal merely sought to omit animal boarding or training establishments from the land use table.

In this instance, the Department considers that the subject proposal is substantially different from that proposal as it proposes significant amendments to the objectives

of the zone and the inclusion of a new local provision, in addition to prohibiting places of public worship while retaining other comparable land uses.

The Department is not opposed to multiple zones having common or shared objectives, however in this case, Council is seeking to include zone objectives into the RU6 Transition zone that appear to depart from the purpose of this zone, which is primarily to provide a transition between rural and other land uses and would result in inconsistent zone objectives.

I note that Council has also sought to include the use of site coverage controls in the LEP as a local clause. However, insufficient information has been provided to demonstrate why the site coverage controls within the development control plan fail to achieve the stated outcomes, and what benefit would be achieved by transferring and duplicating these controls in the LEP. This information should be provided in an updated planning proposal.

Consistent with the Government's practice the proposal would need to include saving provisions so that the new local plan would not be applied retrospectively to development applications already lodged with Council.

The Department is available to discuss these matters in more detail and I have arranged for Ms Ann-Maree Carruthers, Director, Sydney Region West to assist you. Ms Carruthers can be contacted on 9274 6270.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services

3/10/18

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 23 October 2018

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 A N Haselden
Clr R A Preston
Clr B L Collins OAM
Clr J Jackson
Clr F P De Masi
Clr A J Hay OAM
Clr S P Uno

VOTING AGAINST THE MOTION

None

ABSENT

Clr E M Russo
Clr Dr P J Gangemi
Clr R Jethi`
Clr R M Tracey

ABSENT FROM THE ROOM

Clr M G Thomas

ITEM-2

**PLANNING PROPOSAL TO AMEND THE HILLS LEP
2012 TO PROHIBIT PLACES OF PUBLIC WORSHIP
WITHIN THE RU6 TRANSITION ZONE (6/2018/PLP)**

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

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

626 RESOLUTION

Council forward a revised planning proposal that prohibits places of public worship in the RU6 Transition zone to the Department of Planning and Environment for Gateway Determination.

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 A N Haselden
Clr R A Preston
Clr B L Collins OAM
Clr J Jackson
Clr F P De Masi
Clr A J Hay OAM
Clr S P Uno

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 23 October 2018

VOTING AGAINST THE MOTION

None

ABSENT

Clr E M Russo
Clr Dr P J Gangemi
Clr R Jethi`
Clr R M Tracey

ABSENT FROM THE ROOM

Clr M G Thomas

ITEM-3

**POST-EXHIBITION - REVIEW OF CONTRIBUTIONS
PLAN NO. 6 - EXTRACTIVE INDUSTRIES (FP44)**

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

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

627 RESOLUTION

Draft Contributions Plan No.6 – Extractive Industries, provided as Attachment 1 (ECM Doc. No.17311965), be adopted, by way of public notice being placed in local newspapers.

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 A N Haselden
Clr R A Preston
Clr B L Collins OAM
Clr J Jackson
Clr F P De Masi
Clr A J Hay OAM
Clr S P Uno

VOTING AGAINST THE MOTION

None

ABSENT

Clr E M Russo
Clr Dr P J Gangemi
Clr R Jethi`
Clr R M Tracey

ABSENT FROM THE ROOM

Clr M G Thomas