



THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL
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29 May 2018

Marcus Ray
Deputy Secretary – Planning Services
GPO Box 39
SYDNEY NSW 2001

Our Ref: 6/2018/PLP

Dear Mr Ray

PLANNING PROPOSAL FOR THE RU6 TRANSITION ZONE

I write in response to your letter dated 11th May 2018 requesting further information regarding a request for a Gateway Determination submitted by The Hills Shire Council for a planning proposal to strengthen the zone objectives, prohibit places of public worship and include site coverage controls in the RU6 Transition zone in The Hills Local Environmental Plan 2012.

Your letter is causing frustration as this is now the second time the Department has delayed issuing this Gateway Determination. I am of the opinion that the issues outlined in your letter could have been brought up back in December 2017 when Council was advised of the Department's review into cemeteries. To now send a further letter requesting information unnecessarily delays a decision on the proposal.

This is a local issue and the Department has caused unreasonable delay without proper explanation. Council was not 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 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 unnecessarily. I am concerned that the Department is interfering with the normal process as this really ought to have been dealt with under delegation much earlier. It is over six months and it is simple.

With respect to savings provisions, there are Development Applications currently lodged with Council for places of public worship in the RU6 zone. The planning proposal is a separate process that will run its course and is likely to take longer than the determination of any applications already lodged. It is disingenuous to flag savings provisions being necessary prior to issuing a Gateway Determination when the outcome of the applications and the proposal is unknown and this is an uncommon practice with amendments to the LEP.

Council's view is that the additional information requested is not necessary to assess the planning proposal and determine whether it will receive a Gateway Determination, given that the Department has seen fit to issue determinations in similar circumstances in the past. Nevertheless, the further information requested in your letter is provided in Attachment 1 and I now request a fast Gateway Determination.

I trust that this information provides you with sufficient detail to assess the planning proposal and issue a Gateway Determination as soon as possible. Stewart Seale, Manager Forward Planning is available to assist and may be contacted on 9843 0260.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michael Edgar', with a large circular flourish at the bottom.

Michael Edgar
GENERAL MANAGER

Attachment 1: Response to request for further information regarding Planning Proposal 6/2018/PLP

**RESPONSE TO REQUEST FOR FURTHER INFORMATION
PLANNING PROPOSAL FOR RU6 TRANSITION ZONE (6/2018/PLP)**

RU6 Zone Objectives

1. Why the proposed objectives are suitable for the RU6 zone given that the RU6 zone is to provide a transition between suburban areas and rural and scenic areas of the Shire.

The Department letter raises concerns that the proposed objectives are already included in some other land use zones within the Hills LEP 2012. Many zones within Local Environmental Plans share zone objectives, in fact there are compulsory zone objectives in the suite of rural zones that are the same. The mandated objectives in the RU6 Transition zone are as follows:

- To protect and maintain land that provides a transition between rural and other land uses of varying intensities or environmental sensitivities.*
- To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The zone objective related to minimising land use conflict is duplicated in the RU1 Primary Production, RU4 Primary Production Small Lots and R5 Large Lot Residential zones. It is accepted practice to have the same objective apply in multiple zones. To date this has not caused confusion or lack of certainty in the community.

Practice Note PN11-002 titled 'Preparing LEPs using the Standard Instrument: standard zones' indicates that the RU6 Transition zone is to be used in special circumstances to provide a transition between rural uses and other areas supporting more intensive settlement or environmental sensitivities. This is an important function of the zone but it does not preclude the zone objectives from addressing other land use issues in the locality.

In fact, the Department's Practice Note PN09-005 titled 'Local environmental plan zone objectives' 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 entirely consistent with this guidance.

It is important that the zone objectives are read in their entirety to gain an understanding of the purpose in applying the zone. This function of the RU6 zone in providing a transition between more urbanised areas of the Shire and rural areas is strengthened by having shared zone objectives with adjacent zones.

The addition of local zone objectives is not without precedent. When preparing the Hills LEP 2012, the selection of the RU6 Transition zone for this area followed changes to the name and objectives of the previously selected RU4 Rural Small Holding zone. This Standard Instrument change occurred after Council had received their certificate to exhibit draft LEP 2010 and gave the RU4 zone a more primary production focus that did not suit the intended outcomes for the locality. Therefore Council selected the RU6 Transition zone as a 'better fit' for this locality with an additional local objective:

To encourage innovative and sustainable tourist development, sustainable agriculture and the provision of farm produce directly to the public.

The rationale for selecting the RU6 Transition zone was included in the report to Council and the use of the zone was supported by the Department at the time.

“The nature of the Shire’s rural lands is moving away from the more traditional agriculture operations to a mix of rural lifestyle and intensive plant growing activities.

Such objectives [the RU6 mandated objectives] better suit the intended outcomes for the areas that provide a transition between urban areas and the environmental characteristics of the RU2 – Rural Landscape zone. A focus on sustainable agriculture, tourist developments and farm produce can be retained by an additional local zone objective and retention of rural land uses.” (Council Report – Post Exhibition – 23/8/2011)

Given the location at the edge of the urban part of the Shire, Council is now seeing increased pressure for urban type development outcomes. This is not only places of public worship, there is pressure for residential development by way of planning proposals and pressure for seniors housing developments by way of Site Compatibility Certificates under the State Policy for Seniors Housing.

Council is seeking to ensure that any development in this rural locality is consistent with the character of the surrounding area and preserves the quality of life for existing residents. The current proposal is part of an overall focus by Council to better plan for and manage the rural locality to protect character and amenity.

In addition, the Central City District Plan advocates for the protection of scenic and cultural landscapes as well as the environmental, social and economic values in rural areas. The plan also acknowledges the RU6 Transition zone as a location for people to live in a rural or bushland setting.

“The Central City District’s rural areas contain some locations for people to live in a rural or bushland setting. These areas are primarily zoned RU2 Rural Landscape or RU6 Transition.”

The current zone objectives do not reflect the character of the area or encourage uses compatible with the rural residential lifestyle, despite this being a dominant use in the zone. The planning proposal seeks to redress this with the following additional zone objectives:

- *To maintain the rural and scenic character of the land*
- *To provide for a range of land uses compatible with the rural residential character.*

The proposed additional zone objectives are considered to be entirely suitable for the RU6 Transition zone as they reflect the character of the land within this area, facilitate the transition between urbanised areas to rural areas and are consistent with the outcomes advocated in the Central City District Plan.

Need for Places of Public Worship

2. How the proposal may impact on the current and future needs of the community for places of public worship.

Places of public worship are not a mandated use in the RU6 Transition zone. As shown in Table 1 they are mandated as permissible with consent in the following zones under LEP 2012:

R1 General Residential
R3 Medium Density Residential
R4 High Density Residential
IN1 Light Industrial
IN2 General Industrial

The mandating of the land use in these zones recognises that they are most appropriately located in the urban areas. They are also permitted with consent in the majority of other zones, excluding the Primary Production, Forestry, Recreation and Environmental Protection zones. The permissibility of places of public worship in the Rural Landscape zone and all Residential, Business and Industrial zones provides significant opportunity to respond to current and future needs of the community for this land use.

Zone <small>*mandated as permitted with consent under SI</small>	Permissibility	Zone Land Area (hectares)
Local Environmental Plan 2012		
RU1 Primary Production	No	1,139.04
RU2 Rural Landscape	Yes	18,164.12
RU3 Forestry	No	45.35
RU6 Transition	No	8,254.63
R1 General Residential*	Yes	50.64
R2 Low Density Residential	Yes	3,562.97
R3 Medium Density Residential*	Yes	993.29
R4 High Density Residential*	Yes	160.42
B1 Neighbourhood Centre	Yes	8.66
B2 Local centre	Yes	58.34
B4 Mixed Use	Yes	69.28
B5 Business Development	Yes	60.83
B6 Enterprise Corridor	Yes	79.78
B7 Business Park	Yes	201.12
IN1 General Industrial*	Yes	15.59
IN2 Light Industrial*	Yes	190.11
SP3 Tourist	Yes	7.25
RE1 Public Recreation	No	936.56
RE2 Private Recreation	No	319.65
E2 Environmental Conservation	No	694.92
E3 Environmental Management	No	3.86
E4 Environmental Living	No	429.28
W2 Recreational Waterways	No	523.28

Zone <small>*mandated as permitted with consent under SI</small>	Permissibility	Zone Land Area (hectares)
Growth Centres SEPP North Kellyville Precinct		
R1 General Residential	Yes	32.62
R2 Low Density Residential	No	310.28
R3 Medium Density Residential	Yes	7.58
B1 Neighbourhood Centre	Yes	2.08
B2 Local centre	Yes	3.89
RE1 Public Recreation	No	44.65
E3 Environmental Management	No	35.00
E4 Environmental Living	No	245.00
Growth Centres SEPP Box Hill Precinct		
R1 General Residential	Yes	2.80
R2 Low Density Residential	Yes	464.31
R3 Medium Density Residential	Yes	149.04
R4 High Density Residential	Yes	33.83
B2 Local centre	Yes	13.55
B6 Enterprise Corridor	Yes	26.93
B7 Business Park	Yes	69.26
IN2 Light Industrial	Yes	6.51
RE1 Public Recreation	No	62.48
RE2 Private Recreation	No	2.66
E2 Environmental Conservation	No	63.89
Total		37,545.33
Total zoned area where places of public worship permitted		24,434.80 (65%)

Table 1

Permissibility of places of public worship in the Shire

Note: table excludes SP2 Infrastructure zones

Excluding land specifically identified for infrastructure purposes, the area of zoned land that permits places of worship totals approximately 24,435 hectares which is 65% of the zoned land in the Shire (37,545 hectares excluding infrastructure zoning). Many of these zones are better, more appropriate locations for places of public worship than in the RU6 Transition zone. The use is proposed to be retained in the RU2 Rural Landscape zone to ensure the distance to travel to a place of public worship is not too great for the rural localities, but ensures that these developments occur on sites that are capable of managing their impacts.

Some existing establishments would have to rely on existing use rights to continue operation, however this is appropriate to ensure the scale of the existing development remains appropriate in the rural context and that no new establishments are developed. The future needs of the community will be met by new developments in more appropriate locations to serve the future population in the Shire's urban areas.

Site Coverage Controls in LEP

- 3. *Why site coverage controls currently located in Council's Development Control Plan (DCP) should be duplicated into the LEP but the LEP control would apply only to the RU6 zone and not other zones where the DCP provisions apply.***

Part B Section 1 Rural Development Control Plan requires new development to meet site coverage requirements, depending on the size of the site. Changes to the Environmental Planning and Assessment Act have given DCPs substantially less weight when assessing and determining Development Applications. The impacts of intense development are felt more keenly on smaller rural lots such as in the RU6 Transition zone, which predominately has a lot size of 2 hectares. By bringing these controls into the LEP in the RU6 Transition zone, the site coverage controls will be given more weight in locations where limiting site coverage and intensity is really needed.

However it is noted that the introduction of site coverage controls across the rural areas more broadly, consistent with the existing Development Control Plan controls, would give these controls elevated status. A revised planning proposal has been prepared that amends the proposal to include all land zoned RU1 Primary Production, RU2 Rural Landscape and RU6 Transition in the clause related to site coverage proposed for the Hills LEP 2012. This will be uploaded to the Departments online portal.

Places of Public Worship and the RU6 Transition zone

- 4. *Why places of public worship should be prohibited in the RU6 zone, while they remain permissible in adjoining zones and while other uses in the RU6 zone that would have comparable impacts to places of public worship should not also be prohibited in the zone.***

The RU6 Transition zone adjoins multiple zones, where a variety of land uses are permitted. Each of these zones has some uses that are consistent with the RU6 Transition zone and other uses that are not. Places of public worship will remain permissible in the RU2 Rural Landscape zone, as the lots in this locality are larger and better able to manage amenity impacts on site.

In relation to other land uses Council previously requested that cemeteries also be prohibited in the RU6 Transition zone, however were advised by the Department that a review of cemeteries was being undertaken and no Gateway Determination would be issued until the completion of the review. In order to expedite the planning proposal, the prohibition of cemeteries was deleted and a revised proposal submitted to the Department. Council intends to revisit the permissibility of cemeteries following the completion of the Department's review.

The Department's letter does not specify the other uses that are considered to have comparable impacts to places of public worship that should also be prohibited. As set out in Council's covering letter, 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. This proposal was processed expeditiously being finalised in May 2017.

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 and respond to concerns regarding character and amenity and deserves to be dealt with as promptly as the proposal last year for animal boarding and training establishments.

Other uses that remain permissible in the RU6 Transition zone more closely align with the scenic and rural character of the locality, such as 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.