

Greater Sydney, Place and Infrastructure

IRF19/890

Plan finalisation report

Local government area: The Hills Shire

1. NAME OF DRAFT INSTRUMENT

The Hills Local Environmental Plan Amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (draft LEP).

2. SITE DESCRIPTION

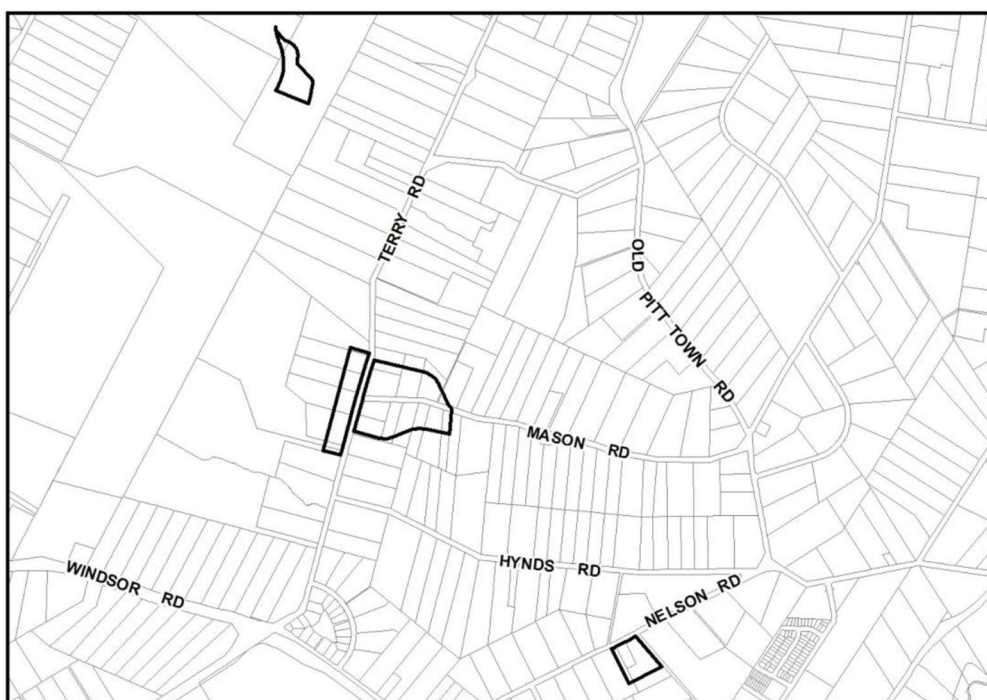
The proposal (PP_2017_THILL_008_00) includes multiple sites in or adjoining the commercial centres identified in the North Kellyville and Box Hill Precincts of SEPP (Sydney Region Growth Centres) 2006 shown in Figures 1 and 2. Specifically, it involves the B1 Neighbourhood Centre and B2 Local Centre zones in the North Kellyville Precinct; all land zoned B2 Local Centre (except the Windsor Road/Box Hill Inn Village Centre) and land zoned R1 General Residential in the Box Hill Precinct.



Land to which Planning Proposal Applies

 North Kellyville Sites

Figure 1: Land subject to the Planning Proposal in North Kellyville



Land to which Planning Proposal Applies

 Box Hill Sites

Figure 2: Land subject to the Planning Proposal in Box Hill

3. PURPOSE OF PLAN

The draft LEP seeks to amend two parts of the SEPP (Sydney Region Growth Centres) 2006 as follows:

Appendix 2 - North Kellyville Precinct Plan

- Deletion of clause 4.4(2A) that excludes residential component of buildings from the calculation of floor space in zones B1 & B2 zones;
- Amendment to objective (1)(b) of Clause 4.4; and
- An increase of floor space ratios for the neighbourhood centres (Hezlett Road and Stringer Road).

In summary, the draft LEP seeks to amend Appendix 2 North Kellyville Precinct Plan of SEPP (Sydney Growth Centres) 2006 floor space ratios as described in Table 1 below.

Table 1: Summary of proposed North Kellyville Precinct Plan floor space amendments

Zone	Current	Proposed	SEPP Amendment
B1 Neighbourhood Centre	0.5:1	1:1	Amend Map Sheets FSR_008 & FSR_012

Appendix 11 – The Hills Growth Centre Precinct Plan - Box Hill Growth Centre

- Deletion of clause 4.4A(2) that specifies additional “bonus” floor space ratios for shop top housing within B2 Local Centre and R1 General Residential zones and the related FSR hatching;
- Increase the Box Hill Town Centre floor space ratio for development site areas of 3 hectares or more (i.e. to encourage site amalgamations);

- Increase the floor space ratios for the Box Hill Town Centre, Nelson Road and Mt Carmel Road villages; and
- Include a new clause requiring that a development application for a building containing shop top housing includes at least 50% of the total floor area of the building as non-residential uses for land zoned R1 General Residential adjoining the Box Hill Town Centre.

In summary, the draft LEP seeks to amend Appendix 11 The Hills Growth Centre Precinct Plan (Box Hill Centres) of the SEPP's floor space provisions described in Table 2 below.

Table 2: Summary of current and proposed Box Hill centres floor space amendments

Site	Current	Proposed	SEPP Amendment
Sites >3 ha	1:1	2:1	Amend clause 4.4A (1)
Box Hill Town Centre			
B2 Local Centre	0.5:1	1.5:1	Amend Map Sheet FSR_008
Nelson Road Village			
B2 Local Centre	0.5:1	1:1	Amend Map Sheet FSR_008
Mt Carmel Village			
B2 Local Centre	0.5:1	1:1	Amend Map Sheet FSR_008
Shop top housing within adjoining R1 Residential zone	Not applicable	Minimum 50% non-residential floor space	Add sub-clause to proposed clause 6.8 and add Area F to proposed Key Sites Map

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Castle Hill State Electorate. Ray Williams MP is the State Member for Castle Hill.

The site falls within the Mitchell Federal Electorate. Alex Hawke MP is the Federal Member for Mitchell.

To the planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION

The Gateway determination issued on 11 September 2017 (**Attachment B**) determined that the proposal should proceed subject to conditions. The Gateway required the plan to be finalised by 11 March 2018. Council submitted the plan to the Department for finalisation on 20 December 2017.

The plan's progress to finalisation was delayed until an approach to progressing The Hills 'split' LEP (PP_2016_THILL_004_00 which seeks to split The Hills Local Environmental Plan 2012 into The Hills and City of Parramatta local government areas as a result of realigned council boundaries) and associated proposals was clarified and agreed to. It was confirmed that the subject amendment does not have any implications for The Hills 'split' LEP and can proceed.

Council has met the conditions in the Gateway determination.

- Condition 1 required Council, prior to community consultation, to make the following map amendments:
 - In the Box Hill centre map entitled "Proposed floor space ratio map (whole precinct)" insert a floor space legend category "S" with a floor space category of 1.5:1.
 - Mapping was updated in accordance with this condition prior to community consultation.
- Condition 2 required Council to undertake community consultation under section 3.34(2)(c) and Schedule 1 Clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing local environmental plans* (Department of Planning and Environment 2016).
 - Council placed the proposal on public exhibition from 12 October 2017 to 10 November 2017.
- Condition 3 required consultation with the following public authorities and organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant Section 9.1 Directions:
 - Transport for NSW
 - Roads and Maritime Services
 - Endeavour Energy
 - Sydney Water
 - Telstra
 - Department of Planning and Environment – former Land Release Team
 - Council consulted with the above authorities as discussed in section seven of this report.
- Condition 4 noted a public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
 - No public hearing is required to be held by Council.
- Condition 5 required the timeframe for completing the LEP to be 6 months from the week following the date of the Gateway determination.

- Council have resolved to make the LEP within the timeframe (as discussed earlier in this report).

6. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 12 October 2017 to 10 November 2017.

Three submissions were received from community members and in summary raised the following concerns;

- a) Lack of recognition of shop top housing trends;
- b) Concern regarding overdevelopment;
- c) Inconsistency with the housing diversity package;
- d) Inconsistency with Section 9.1 Direction 3.1 – Residential Zones; and
- e) Inconsistent treatment of B2 Local Centre.

Council provided the following comments in response to matters raised.

a) Lack of recognition of shop top housing trends

One submission raised concern that the planning proposal will effectively limit the number of shop top housing proposals being submitted to Council, despite the changing residential market that demands a variety of housing. It was suggested that Council's Centres Direction should be reviewed in light of changing household trends and the growing market demand for mixed use centres and convenience shopping, rather than restricting development and limiting housing choice. It was requested that the planning proposal be revised in light of the importance of creating centres of mixed uses and activity.

Council comment: The planning proposal and Council's Centres Direction do recognise that today's centres are becoming increasingly diverse. Centres should be attractive places to live, work, shop and visit. However, it is important to ensure that the built form outcomes are appropriate, sustainable and in keeping with the Shire's Centres Hierarchy and the Growth Centre Development Control Plans. Allowing residential development within centres beyond what was envisaged during planning of the growth centre precincts has implications for infrastructure provision, traffic generation and the ability for centres to cater for the shopping and service needs of the surrounding community. No revision of the proposal is warranted.

b) Concern regarding overdevelopment

Two submissions raised concern regarding general overdevelopment within the Growth Centres. These concerns principally related to traffic congestion, telecommunication, and built form of development within the release areas.

Council comment: It is agreed that the higher density housing outcomes in the growth centres are inconsistent with the intended density and character envisaged as part of the precinct planning. This does raise concerns regarding the capacity of existing infrastructure in these locations to support the unanticipated additional population. Council has consistently raised these concerns with the Department of Planning & Environment, most recently in response to the exhibition of the North West Land Use and Infrastructure Implementation Plan and associated statutory amendments to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

The proposal in part seeks to better manage the residential development associated with the development of centres. The planning proposal seeks to ensure that future built form and density outcomes within centres for the North Kellyville and Box Hill Precincts more accurately reflect what is articulated in the respective development control plans for those Precincts. The proposal will not result in an increase in

achievable floor space over and above what was originally anticipated for these locations.

c) Inconsistency with the housing diversity package

One submission raised concern about the potential inconsistency of the planning proposal with the Housing Diversity Package that was introduced by the Department of Planning and Environment in 2014 in an effort to address demand for additional supply and a variety of housing. One key objective of this was the facilitation of greater housing choice and affordability. The submission states that the planning proposal discourages this.

Council comment: The introduction of the NSW Government's 'Housing Diversity Package' in August 2014 has allowed for development and growth within the North Kellyville and Box Hill Precinct, of a density and scale that is beyond that anticipated within the Precinct Planning.

The intent of the planning proposal is consistent with the current State level response that seeks to provide more certainty of yield and development outcomes. The planning proposal seeks to reinforce the business and retail role of centres within the Growth Centre and to ensure that the development outcome reflects what was anticipated for these locations during the master planning of these Precincts. It will also ensure that the residential densities that are achieved at these locations are in-line with the infrastructure planning undertaken as part of the release of these Precincts.

d) Inconsistency with Section 9.1 Direction 3.1 – Residential Zones

One submission raised concern that the planning proposal is inconsistent with the Section 9.1 Direction 3.1 – Residential Zones. One key objective of the Direction is to encourage a variety and choice of housing types to provide for existing and future housing needs. The submission states that the planning proposal is contradictory to the Direction as it does not encourage a variety of choice of housing types through the proposal to limit shop top housing.

Council comment: The planning proposal is considered consistent with the Direction as it will ensure that future development within the Box Hill and North Kellyville Growth Centre precincts are of high quality and in keeping with the built form outcomes envisaged by the respective development control plans. Furthermore, the planning proposal will not impact upon the choice of building types and locations available in the housing market.

Where this Direction applies, a planning proposal must include provisions that will broaden the choice of building types and locations available in the housing market, make more efficient use of existing infrastructure and services, reduce the consumption of land for housing and associated urban development on the urban fringe, and encourage the provision of housing that is of good design. The Direction requires that planning proposals must contain a requirement that residential development is not permitted until land is adequately serviced and not contain provisions which will reduce the permissible residential density of land.

As articulated within the planning proposal, the proposed amendments are consistent with the objectives of this Direction on the following grounds:

- The proposed amendments to the floor space ratio map and changes to the bonus floor space ratio provisions in the SEPP (Sydney Region Growth Centres) 2006 for land in Box Hill and North Kellyville will ensure that planning provisions better align with changes introduced by planning proposal 11/2016/PLP [Hills LEP 2012 Amendment No 41], which requires a minimum provision of non-residential premises for shop top housing and mixed use

developments. This planning proposal will help to balance the community's diverse housing needs whilst also supporting centres to provide an appropriate range of shopping and business activities to support the surrounding population.

- The proposed amendments to the existing 'bonus' floor space ratio provisions (which sought to encourage the provision of shop top housing) and amendments to the floor space ratio map will reduce the potential for development outcomes that exceed what was anticipated within centres as articulated in the respective development control plans. It also seeks to achieve high quality developments that do not place excessive pressure on infrastructure and services and will assist with achieving zone objectives.
- In relation to the Box Hill Town Centre Interface Area (Area 'F' on the proposed Key Sites Map), the proposed requirement that at least 50% of the floor space in a shop top housing development consist of non-residential uses will assist with achieving the zone objectives. The planning proposal will ensure that such development achieves a suitable balance between meeting housing needs and providing facilities and services that meet the day to day needs of residents in the locality.

The planning proposal seeks to ensure that future development within centres in the Box Hill and North Kellyville release areas is of high quality and in keeping with the intended built form outcomes envisaged for these locations. As the planning proposal will not impact upon the choice of building types and locations available in the housing market it is not considered to be inconsistent with Direction 3.1 – Residential Zones.

e) Inconsistent treatment of B2 Local Centre

The planning proposal seeks to increase the mapped floor space ratio of Mt Carmel Village, The Box Hill Town Centre Interface, and Nelson Road Village from 0.5:1 to 1:1. One submission sought to increase the base floor space ratio of the Box Hill Inn Village from 0.5:1 to 1:1 to ensure consistent treatment to all B2 Local Centre land in Box Hill.

Council Comment: It is noted that land within the Windsor Road / Box Hill Inn Village centre was not included in this planning proposal as the 'bonus' shop top housing floor space ratio provisions in Clause 4.4A of Appendix 11 The Hills Growth Centre Precincts Plan in SEPP (Sydney Region Growth Centres) 2006 do not apply to this centre. Any amendment to the development standards applying to this centre would need to be subject to a separate planning proposal.

The Department considers all submissions have been adequately addressed.

7. ADVICE FROM PUBLIC AUTHORITIES

In accordance with the Gateway determination, Council requested comment from the following public authorities:

- Transport for NSW;
- Roads and Maritime Services;
- Endeavour Energy;
- Sydney Water;
- Telstra; and
- Department of Planning and Environment – former Land Release Team.

Three responses were received from public authorities – Sydney Water, Roads and Maritime Services and Endeavour Energy.

No objections were raised by public authorities.

8. POST-EXHIBITION CHANGES

Some minor mapping amendments to the proposed Floor Space Ratio Map (FSR_12) were made post-exhibition. The amendments are to align the floor space provisions with the allotment boundary. Figures 3 and 4 show where the realignment of the FSR map is proposed.

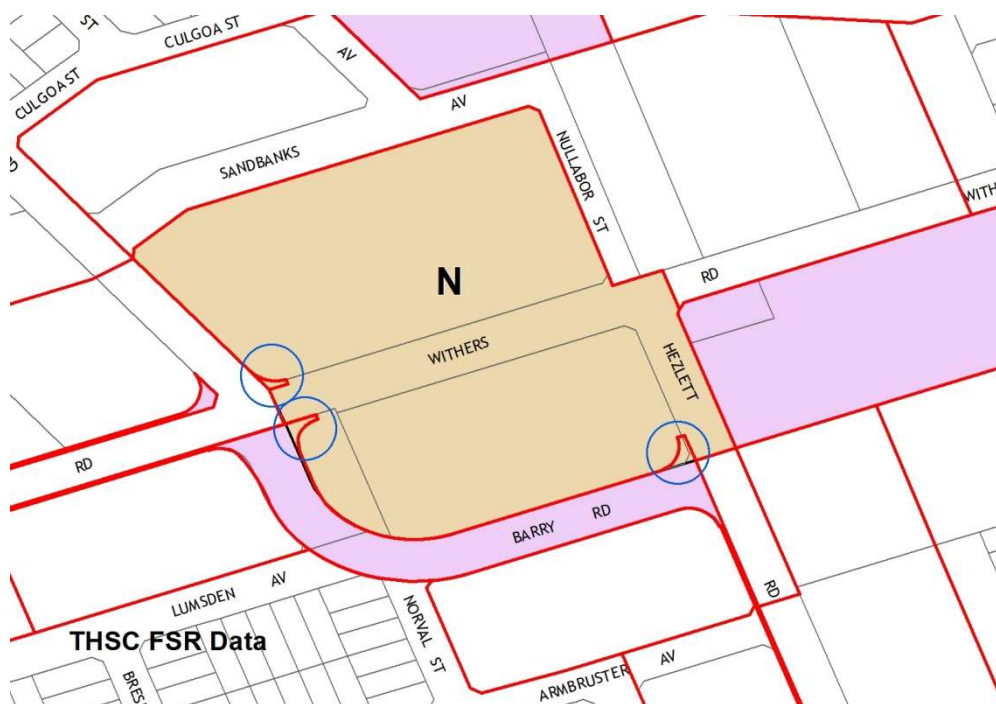


Figure 3: Previous alignment of FSR provisions with allotment boundary (circled in blue)

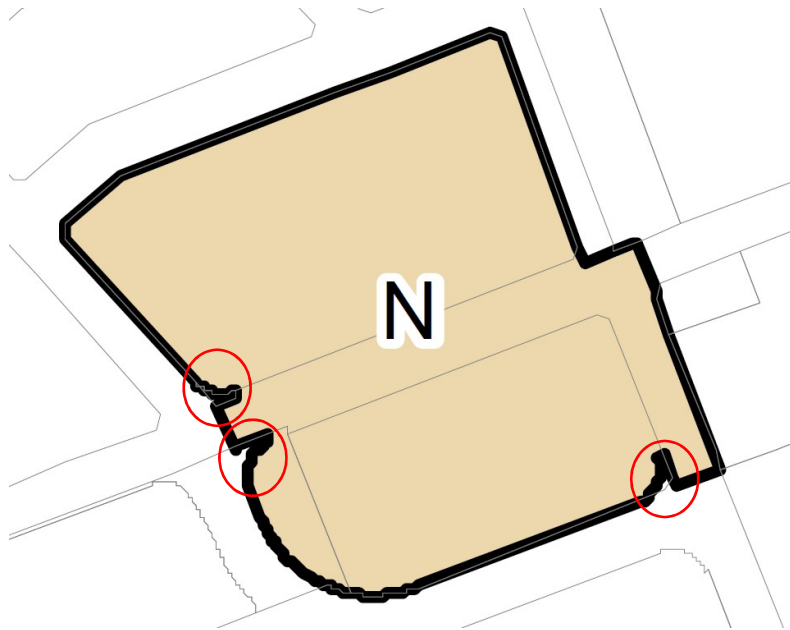


Figure 4: Post exhibition change to FSR Map FSR_012 (circled in red)

9. ASSESSMENT

Council states that current shop top housing controls are leading to undesirable outcomes with developments that have minimal non-residential floor space and are predominantly residential apartment blocks that utilise generous floor space bonus provisions.

The proposal will reduce the size and scale of shop top housing developments in and around the Box Hill and North Kellyville commercial centres in the SEPP. Setting a limit on the shop top housing component of mixed use developments by removing floor space bonuses for the residential component and requiring the non-residential component to occupy at least 50% of a building will avoid inappropriate over development of this housing type.

The proposed amendments to the SEPP are a satisfactory approach to achieving the desired town centres of North Kellyville and Box Hill Precincts.

State environmental planning policies

The draft LEP is consistent with all relevant state environmental planning policies.

Regional and district plans

The draft LEP is consistent with the Greater Sydney Region Plan and Central City District Plan particularly:

- Greater Sydney Region Plan Objective 14 – A Metropolis of Three Cities - integrated land use and transport creates walkable and 30-minute cities; and
- Central City District Plan Planning Priority N9 – Delivering integrated land use and transport planning and a 30-minute city.

The draft SEPP recognises the importance of reinforcing the strong focus on centres and the need to accommodate growth in demand for retail and associated services. The draft SEPP will also enable increasing the range of jobs and other opportunities people can access within 30 minutes which relies on strong centres and connectivity.

10. MAPPING

The draft LEP seeks to amend the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 floor space ratio map and key sites map to reflect the proposed amendments to maximum floor space ratios for particular sites and to identify the Box Hill Interface area as a key site, as described in section 3 of this report.

The mapping names, reference numbers and map cover sheet are correct and have been checked by the Department, Council and Parliamentary Counsel.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment C**). Council confirmed on 5 December 2019 that it was happy with the draft and that the plan should be made (**Attachment D**).

12. PARLIAMENTARY COUNSEL OPINION

On 11 December, 2019 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The proposed instrument is consistent with the intent and purposes of the planning proposal and Gateway determination;
- The proposed instrument gives effect to the Regional and District Plan in accordance with section 3.8 of the Act; and
- The proposed instrument provides a satisfactory approach to achieving the desired character for the North Kellyville and Box Hill Precinct neighbourhood and local centres.



16/12/2019

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