

Greater Sydney, Place and Infrastructure

IRF20/5159

Report in support of the alteration of Gateway

LGA	The Hills Shire
PPA	The Hills Shire Council
NAME	Planning proposal to amend development controls for the Circa Commercial Precinct, Bella Vista
NUMBER	PP_2020_THILL_003_00
LEP TO BE AMENDED	The Hills LEP 2019
ADDRESS	2-6, 7-9 & 10-30 Norbrik Drive; 8 Elizabeth Macarthur Drive; and 1-3 & 2-4 Circa Boulevard, Bella Vista
DESCRIPTION	Lot 700 DP1198639 Lot 1 DP1217654 Lot 3 DP1195652 Lots 6052, 6053, 6054, 6055 DP1140054 Lot 6017 DP1107886 SP83109 Lot 6014 DP1104131 Lot 2 DP270592 Lots 3 & 4 DP 270592 Lot 102 DP1139109
RECEIVED	12 November 2020
FILE NO.	IRF20/5159
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.

1. INTRODUCTION

1.1 History of planning proposal

The planning proposal, initially lodged in August 2016, sought to facilitate 450,000m² of commercial floor space and 466 seniors housing units through amendments to the maximum building height and floor space ratio under *The Hills Local Environmental Plan (LEP) 2019* on 25.3 hectares of land at Norbrik Drive and Circa Boulevard, Bella Vista (Circa Precinct).

To enable the seniors housing additional permitted use to proceed in advance of the other proposed amendments, a new planning proposal was submitted to the Department of Planning, Industry and Environment (the Department) for Gateway assessment (PP_2015_THILL_009_00). A Gateway determination was issued for the seniors housing additional permitted use on 19 November 2015. This LEP amendment was made on 10 February 2017 to facilitate the 466 'independent living units' and 144 bed 'residential aged care facility'. The Retirement Precinct has a current masterplan approval comprising of 449 self-contained dwellings and 144 bed residential aged care facility.

A Gateway determination (**Attachment C**) was issued for the balance of the uses contemplated in the proposal to proceed subject to conditions on 8 September 2016 requiring:

- Prior to exhibition, the planning proposal is to be updated (including with flood mapping) to demonstrate consistency with Section 9.1 Direction 4.3 Flood Prone Land (or that any inconsistency is minor or justified) and for the Secretary's concurrence to be issued under this Direction (Condition 1);
- Prior to exhibition, consultation with a range of State agencies including Transport for NSW (TfNSW), Environment, Energy and Science (EES - former Office of Environment and Heritage), and Heritage NSW (HNSW - former Office of Environment and Heritage – Heritage Branch); and
- The proposal to be completed in 12 months from the week following the date of the Gateway determination.

Council submitted an updated planning proposal to the Department in December 2016 which including a detailed assessment to demonstrate consistency with Section 9.1 Direction 4.3 Flood Prone Land. Subsequently, the Department's delegate of the Secretary issued concurrence on 19 April 2017 (**Attachment C1**) stating the proposal was consistent with Section 9.1 Direction 4.3 Flood Prone Land and that no further approval was required.

Alterations to the Gateway determination were issued as follows:

- Gateway alteration issued 19 June 2017 removing the requirement for flood mapping to be placed on public exhibition (Condition 1);
- Gateway alteration issued 19 October 2018 extending the timeframe for completion to 15 December 2019; and
- Gateway alteration issued 29 October 2019 extending the timeframe for completion to 15 December 2020.

Gateway alterations extending the timeframe for the plan to be made were issued to allow sufficient time to resolve matters raised by Heritage NSW and Transport for NSW prior to exhibition, as required by the Gateway.

Council has been extensively consulting with agencies prior to exhibition and subsequently the proposal has been subject to a number of amendments (**Attachment A1**), including the concurrent development of a draft development control plan and draft local voluntary planning agreement. This planning proposal has not yet been publicly exhibited.

The Department has considered the ongoing delays to the finalisation of this planning proposal and notes the original Gateway determination as extended has lapsed. The Department is required to improve processing times for planning proposals to reduce uncertainty for the community. The Department has altered the Gateway determination to ensure the proposal is concluded without further delays.

1.2 Planning Proposal

The planning proposal seeks to facilitate an additional 299,211m² of commercial floor space (9,974 jobs) to equate to a total of 583,612m² of commercial floor space (approximately 19,454 jobs) through the following:

- Increase in floor space ratio from part 1.0:1 and part 1.49:1 to part 1.2:1, part 2.0:1 and part 3.0:1; and
- Increase in building height from part RL 108 and part RL 116 to part RL 116 and part RL 140.

The amended Gateway determination requires the planning proposal to be amended to include the RL103m height as proposed in the updated urban design concept (**Attachment A1**). The updated urban design concept responds to concerns raised by Heritage NSW (**Attachment F**) to mitigate the proposal's impact on significant views to Bella Vista Farm.

It is considered more appropriate the RL103 height is included in the LEP maximum building height map and supported by the development control plan to ensure transparency in the proposed height provisions. Heritage NSW advice from April 2020 (**Attachment F**) confirms support for the buffer zone/open space adjacent to the Norbrik roundabout. If this area is to be retained as a buffer zone/open space, Council should review whether the development standards and development control plan is appropriate to facilitate the desired outcome.

Under the current controls, 284,401m² of commercial floor space can be delivered. It should be noted the quantum of commercial floor space has not increased from the original proposal (450,000m²). The existing planning proposal only considered the potential increase in commercial floor space as a result of the proposal on land owned by the proponent, Mulpha. As this planning proposal would increase development potential on land owned by others, the quantum of commercial floorspace now reflects the desired outcome for the Circa precinct being 583,612m² of commercial floor space.

It is also recommended that Council review whether the LEP amendments proposed to the 'Retirement Precinct' are necessary considering the approved seniors housing development. If so, clarification regarding the increase in seniors housing facilitated as part of this proposal, the proposal is to be updated to reflect this.

Council has had an opportunity to satisfy itself that local infrastructure could be provided to service the proposed development over the four year period since the

original Gateway determination was issued. If it cannot conclude this assessment by May 2021 the Department will reconsider this Gateway determination.

1.3 Site description

The Circa Precinct is made up for 15 lots including two strata plans as outlined in Table 1 below. The precinct is not within a single ownership.

Table 1 Subject site

Street Address	Legal Description
2-6 Norbrik Drive, Bella Vista	Lot 700 DP1198639
26-30 Norbrik Drive, Bella Vista	Lot 1 DP1217654
24 Norbrik Drive, Bella Vista	Lot 3 DP1195652
18-20 Norbrik Drive, Bella Vista	6053 DP1140054
22 Norbrik Drive Bella Vista	6052 DP 1140054
16 Norbrik Drive, Bella Vista	Lot 6054 DP1140054
14 Norbrik Drive, Bella Vista	Lot 6055, DP1140054
12 Norbrik Drive, Bella Vista	Lot 6017 DP1107886
10 Norbrik Drive, Bella Vista	SP83109
8 Elizabeth Macarthur Drive, Bella Vista	Lot 6014 DP1104131
1 Circa Boulevard, Bella Vista	Lot 2 DP270592
3 Circa Boulevard, Bella Vista	Lot 4 DP270592
2-4 Circa Boulevard, Bella Vista	Lot 3 DP270592
7-9 Norbrik Drive, Bella Vista	Lot 102 DP1139109

The site includes approximately 25.3 hectares of developable land within the Bella Vista Business Park, including 4.6 hectares being already partially or wholly developed. The precinct currently includes Circa shopping centre, hospital and medical centre, Quest apartments and Q Central and a seniors living development as shown in Figure 1.



Figure 1: Planning proposal site location (left image - outlined yellow), precinct masterplan (right image). (Source: planning proposal).

2. KEY REASONS

The NSW Government is committed to reforming the planning system to be more streamlined and simplified in order to help unlock productivity by creating jobs and supporting on-going economic recovery. The reforms include delivering improved processes for assessing and finalising planning proposals more efficiently. As part of this, the Department is seeking to resolve and make final decisions on long-standing or legacy proposals which have had a Gateway determination for four or more years by 31 December 2020.

The Department has determined that considering the extensive public agency consultation undertaken, a clear pathway forward to resolving the outstanding issues within a reasonable timeframe, the existing strategic merit and Council's support for the proposal, it is appropriate to issue an amended Gateway determination for the planning proposal, with milestones for the finalisation of the proposal.

3. STRATEGIC ASSESSMENT

The proposal gives effect to the Central City District Plan and is consistent with Council's Local Strategic Planning Statement which are both discussed below, in addition to the Sydney Metro Northwest Urban Renewal Corridor Strategy.

3.1 State

3.1.1 Sydney Metro Northwest Urban Renewal Corridor Strategy

The Strategy (September 2013) for the Sydney Metro Northwest Urban Renewal Corridor (formerly the North West Rail Link) identifies growth for eight station precincts across The Hills local government area (LGA) including the Bella Vista Station Precinct.

The Bella Vista Station Structure Plan (September 2013) identifies the site as part of an area of four to six storey commercial buildings to provide for employment needs

The proposal seeks to facilitate a range of building heights up to 17 storeys, exceeding the height in the Structure Plan. However, considering the site's context, more recent strategic work undertaken by Council and infrastructure planning the proposal's inconsistency with the height envisioned under the Structure Plan is justified.

3.1.2.1 Direction 2.3 – Heritage Conservation

As part of the consultation with Heritage NSW, an urban design response (**Attachment A1**) demonstrates that in order to protect and enhance significant views to and from Bella Vista Farm Park, RL103m height limit should be incorporated into the proposal in part of the site (Figure 2).

Heritage NSW (**Attachment F**) has advised that it was satisfied with the proposed amendments to the proposal and supporting draft site-specific development control plan and that the proposal could proceed to exhibition.

3.1.2.2 Direction 3.4 Integrating Land Use and Transport

Direction 3.4 encourages new development in locations that are accessible to public and active transport.

Council is currently working with TfNSW and the Department on comprehensive traffic modelling for the Norwest/Bella Vista Precinct. This modelling will enable Council and State Government to better analyse the traffic implications associated with development in the area and subsequently enable the introduction of a revised local contributions planning framework. Consultation between Council, the proponent and Transport for NSW are ongoing regarding anticipated growth and infrastructure provision in the area.

Transport for NSW has advised there is an in-principle agreement with the proponent regarding a contribution to regional infrastructure contributions (**Attachment G**).

The proposal is consistent with the Direction.

3.1.2.3 Direction 5.9 North West Rail Link Corridor Strategy

The objectives of this Direction are to promote transit-oriented development and manage growth around the eight train stations of the North West Metro Urban Renewal (previous North West Rail Link) Corridor and ensure development within the corridor is consistent with the proposals set out in the Corridor Strategy and precinct Structure Plans.

The proposal seeks to facilitate a range of building heights up to 17 storeys, however considering the site's context, more recent strategic work and infrastructure planning the proposal's inconsistency with the height envisioned under the Structure Plan and this Direction is justified and of minor significance.

3.2 District

Central City District Plan

Since the planning proposal was assessed at Gateway in 2016, the strategic planning framework has changed. The Central City District Plan which came into force in March 2018 and sets the 20-year vision for the District.

It is a guide for implementing the Greater Sydney Region Plan at a district level and forms a line of sight between metropolitan and local planning.

The planning proposal gives effect to the following Planning Priorities as outlined in the District Plan:

- Planning Priority 1 Planning for a City Supported by Infrastructure; and Planning Priority 9 Delivering integrated land use and transport planning and a 30-minute city

These Priorities aims to ensure infrastructure provision aligns with forecast growth and adapts to future needs. The planning proposal will contribute to the delivery of jobs close to the Bella Vista and Norwest Metro stations, maximising the utility of existing infrastructure assets. The proposal gives effect to these Priorities.

- Planning Priority 10 Growing investment, business opportunities and jobs in strategic centres

This Priority aims to provide access to jobs, goods and services in centres, create new centres and prioritise strategic land use and infrastructure plans for growing centres.

Norwest Business Park is identified as a strategic centre in the District Plan. The District Plan identifies an action for this strategic centre of relevance to this planning proposal being Strengthen Norwest through approaches that retain and growth commercial capacity to achieve the centre's job targets (Action 45(a)). Norwest has a 2036 jobs target of between 49,000 (baseline) and 53,000 (higher). This proposal would facilitate an additional 9,974 jobs taking the total number of jobs within the subject site to 19,454 jobs.

The proposal is strategically aligned with the desire for increased commercial density with increases in development standards in the B7 business park zone within Norwest Business Park. The jobs created through this proposal gives effect to this Priority.

- Planning Priorities 6 Creating and renewing great places and local centres, and respecting the District's heritage & 15 Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes

These Priorities aim to support biodiversity conservation, manage the urban-bushland fringe, identify scenic landscapes, protect scenic views, and to conserve and enhance areas of environmental heritage. The planning proposal includes a view analysis (**Attachment A1**) which indicates that the scenic view to the Bella Vista Farm is maintained. The proposal gives effect to these Priorities.

The planning proposal gives effect to the District Plan by delivering employment opportunities in the locality as required by section 3.8(2)(a) of the *Environmental Planning and Assessment Act 1979*.

3.3 Local

The Hills Local Strategic Planning Statement 2036

The Hills Local Strategic Planning Statement 2036 (LSPS) provides the land use vision for The Hills Shire and gives effect to the Greater Sydney Region Plan and Central City District Plan.

The Hills Shire has a target of 50,600 additional jobs by 2036. The Hills LSPS states Norwest is forecast to deliver 23,900 jobs by 2036. It contains a structure plan for Norwest which includes the subject site, as part of an innovation sub-precinct with an emerging health precinct with commercial offices and a local centre as shown in Figure 3. Development in this sub precinct will create longer term commercial capacity.

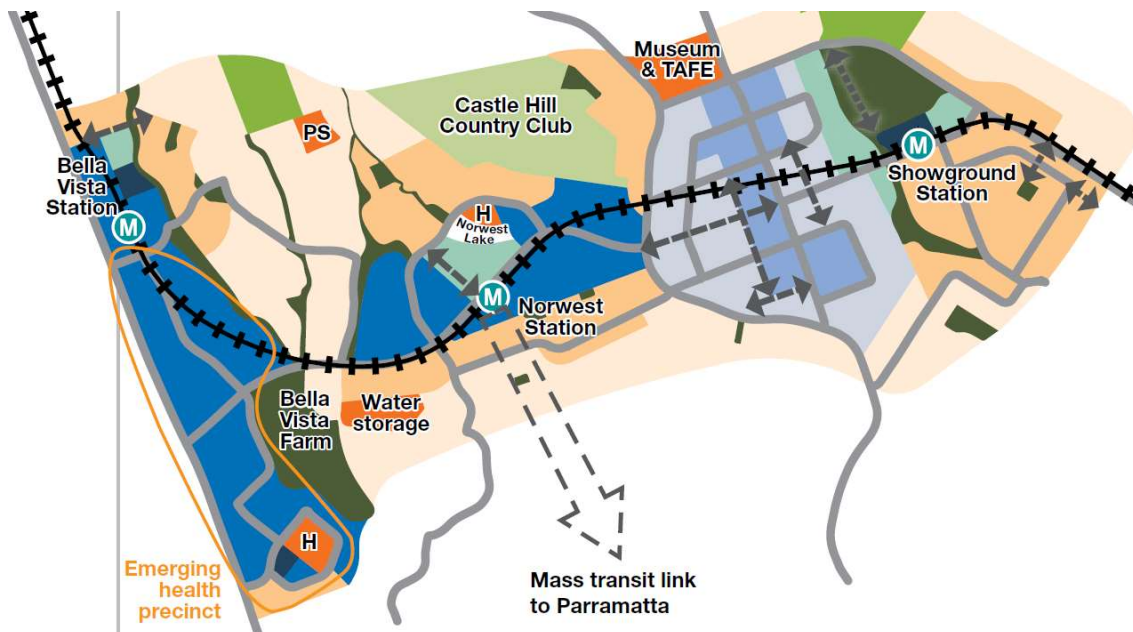


Figure 3: Norwest strategic centre structure plan (Source: The Hills LSPS)

The LSPS notes development near the local centre in this sub precinct is subject to traffic and built form implications which are discussed in the following sections of the report.

In summary the planning proposal gives effect to the LSPS; as well as the supporting Productivity and Centres Strategy; and Integrated Transport and Land Use Strategy; as it:

- Plans for jobs and supports the growth of the Norwest Strategic Centre;
- Retains and manages valuable industrial and urban services land; and
- Promotes the use of sustainable forms of transport to work and expands the potential for active transport.

The Department is satisfied that the proposal gives effect to the local strategic planning statement.

4. SITE SPECIFIC ASSESSMENT

4.1 Infrastructure

Since the traffic study was conducted in 2015 (**Attachment A5**), traffic and transport patterns have changed as the North West Metro line opened. It is noted that appropriate parking provision for the site, traffic volumes for the Bella Vista and Norwest precinct and mode shift with the operation of North West Metro are to be informed by the detailed traffic modelling for the Norwest/Bella Vista Precinct. This detailed modelling has commenced with a cumulative traffic and transport study, funded by Transport for NSW.

Further, Transport for NSW advised on 9 June 2020 (**Attachment G**) that an in-principle agreement had been reached with the proponent with respect to regional infrastructure contributions and that funding has been allocated to undertake a Strategic Business Case to investigate the potential future upgrade of a key intersection at Norwest Boulevard/Lexington Drive/Elizabeth Macarthur Drive.

It is recommended the Gateway be conditioned for the planning proposal to include a new concurrence clause to support the draft VPA and allow for the provision of State public infrastructure to support the rezoning. This should be supported by identifying the site on a clause application map within The Hills LEP. The clause will require that development consent not be granted for development in the areas subject of this rezoning unless the consent authority has obtained concurrence from the Planning Secretary.

In deciding whether to grant the concurrence for the development, the Planning Secretary must consider the impact of the development on existing designated State public infrastructure and the cumulative impact of the development with other developments within the precinct. The impact from the development may require the need for additional State public infrastructure.

State public infrastructure means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:

- State and regional roads;
- bus interchanges and bus lanes;
- land required for regional open space; and
- social infrastructure and facilities (such as schools, emergency services and affordable housing).

Council also advise **(Attachment E)** discussions with the proponent are ongoing regarding a local infrastructure contributions mechanism comprising a local voluntary planning agreement and new Section 7.12 Contributions Plan. It is recommended that the Gateway include a condition requiring a draft local VPA and contributions plan be place on exhibition concurrently with the planning proposal.

It is also recommended for the Gateway determination to require the cumulative traffic and transport study for Norwest/Bella Vista to be delivered and assessed in relation to the subject proposal prior to finalisation and for discussions with Transport for NSW to be ongoing during exhibition.

5. TIME FRAME

Council proposes to finalise the LEP by September 2021 (table 2).

The Department recommends a timeframe of nine months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring Council to exhibit and report on the proposal by specified milestone dates. A condition to the above effect is recommended in the Gateway determination.

Table 2: Council proposed timeframe

Planning Proposal	Draft DCP	Draft VPA	Draft S7.12 CP
		Receive VPA Offer (Mid-Nov 2020)	Prepare S7.12 CP (Nov-Dec 2020)
		Review VPA Offer (Nov-Dec 2020)	
		Councillor Briefing on Draft VPA and S7.12 CP (Feb 2021)	
	Report to Council on Draft DCP, VPA and S7.12 CP (March 2021)		
		Legal review of VPA (April 2021)	
Public Exhibition of Planning Proposal, Draft DCP, VPA and S7.12 CP (May 2021)			
Review Submissions on Planning Proposal, DCP, VPA and S7.12 CP (June 2021)			
Post-Exhibition Report to Council on Planning Proposal, DCP, VPA and S7.12 CP (July 2021)			
			DPIE assess S7.12 CP* (Aug 2021)
Finalisation (Sept 2021)	Adoption (Sept 2021)	Execution & Registration (Aug-Sept 2021)	Commencement (Sept 2021)

6. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with Section 9.1 Direction 5.9 North West Rail Link Corridor Strategy is minor or justified.

It is recommended that the delegate of the Minister amend the Gateway determination to include the following conditions:

1. Prior to public exhibition, the planning proposal be amended to:
 - (a) review proposed heights and design response in accordance with the updated Urban Design Response and Report (DEM(Aust) Pty Ltd March 2020). Amend the building height map to incorporate the maximum height of RL103 and review any amendments required to land adjoining Norbrik roundabout;
 - (b) clarify whether the LEP amendments to the 'Retirement Precinct' are required and if so, identify how many additional seniors housing units will be facilitated by the proposal;
 - (c) note consultation to date with Heritage NSW and Transport for NSW;
 - (d) note the cumulative traffic and transport study underway for Norwest/Bella Vista;

- (e) update the assessment under the strategic framework to include an assessment under the Central City District Plan, Council's Local Strategic Planning Statement and supporting strategies; and
 - (f) include reference to a draft concurrence clause regarding the provision of State infrastructure to ensure development consent cannot be granted for development within the precinct unless concurrence of the Department of Planning, Industry and Environment's Secretary is obtained by Council. This should be supported by identifying the precinct on a clause application map to be inserted within the LEP.
2. Prior to finalisation, the proposal is to address the findings of the cumulative traffic and transport study (if available) for Norwest/Bella Vista;
 3. Public exhibition is required 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 planning proposal 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 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
 4. Consultation is required with the following public authorities/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;
 - NSW Heritage; and
 - Utility providers.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

5. 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 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).
6. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - (a) The planning proposal has satisfied all the conditions of the Gateway determination;
 - (b) The planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) There are no outstanding written objections from public authorities.
7. The time frame for completing the LEP is to be **9 months** from the date of the Gateway determination. Council is required to exhibit and report on the proposal in accordance with the specified milestone dates as follows:

- (a) Report to Council on the draft site-specific development control plan, draft voluntary planning agreement and Section 7.12 contributions plan – March 2021;
- (b) Public exhibition of the proposal, draft planning agreement and supporting plans - April 2021;
- (c) Post-exhibition report to Council on proposal and supporting plans, including resolution of State and local contributions - June 2021; and
- (d) Council to send package to the Department for consideration of finalisation – August 2021.



Jane Grose
Director, Central (Western)
Central River City and Western Parkland City