



IRF23/2613

Gateway determination report – PP-2022-1202

10-16 Seven Hills Road, Baulkham Hills – Increase
height of building and FSR controls

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment A1 – Planning Proposal (28 July 2023)
Attachment A2 – Proponent cover letter (23 March 2023)
Attachment A3 – Proponent ‘Gateway Determination Review’ (23 March 2023)
Attachment B1 – Urban Design Report (14 July 2023)
Attachment B2 – Urban Design Council Response (6 December 2022)
Attachment B3 – Landscape Plans (25 November 2022)
Attachment B4 – Traffic Statement (28 November 2022).
Attachment C – Voluntary Planning Agreement (VPA) Letter of Offer (5 December 2022)
Attachment D – Council Meeting Agenda and Minutes (14 March 2023) – including Local Planning Panel Agenda and Advice (18 August 2022)
Attachment E1 – Sydney Central City Planning Panel Record of Decision (6 July 2023)
Attachment E2 – Sydney Central City Planning Panel Record of Decision (8 September 2023)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	The Hills Shire
PPA	Department of Planning and Environment
NAME	10-16 Seven Hills Road, Baulkham Hills – Increase height of building and FSR controls (66 dwellings)
NUMBER	PP-2022-1202
LEP TO BE AMENDED	The Hills Local Environment Plan 2019
ADDRESS	10-16 Seven Hills Road, Baulkham Hills
DESCRIPTION	Lots 1-2 DP 366137, Lot D DP 357085, and Lot F DP 363039
RECEIVED	5 September 2023
FILE NO.	IRF23/2613
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

1.2 Background

The planning proposal has background which is relevant to the assessment of the proposal and conditions of the Gateway determination. A summary of this is including in **Table 3**.

Table 3 Background

Date	Description
Jan to Dec 2021	Pre-lodgement meetings between council staff and proponent. Council staff raised concerns about bulk and scale, traffic issues, excessive FSR, inconsistency with strategic planning framework, built form, landscaping, overshadowing and compliance with The Hills Development Control Plan 2012 (DCP 2012).
7 April 2022	Planning proposal lodged with Council.
18 Aug 2022	Planning proposal reported to The Hills Local Planning Panel (LPP) for advice. The LPP advised that the planning proposal should not proceed to Gateway determination, having regard to a range of identified strategic and site-specific merit issues.

Date	Description
16 Sept 2022	Revised planning proposal material submitted to Council by proponent.
31 Oct 2022	Meeting between Council staff and proponent about the bulk and scale of the proposal, and visual and overshadowing impacts within the site and on adjoining properties. Previous advice about the strategic planning framework and council's LSPS was reiterated.
14 March 2023	Council resolved not to support planning proposal (Attachment D).
24 March 2023	Proponent submits a rezoning review (RR-2023-6) to the Sydney Central Planning Panel (the Panel).
6 July 2023	<p>The Panel determined that the planning proposal demonstrated strategic merit and subject to changes, site specific merit (Attachment E1). The panel recommended that the proposal be amended to:</p> <ul style="list-style-type: none"> • retain the existing zoning (R4 High Density Residential), • adopt an FSR of no more than 1.69:1 supported by built form modelling, and • demonstrate a transition from 25m to 16m, supported by modelling to address any potential impacts on properties to the south. <p>The Panel also recommended a revised draft site specific DCP be exhibited with the proposal and consultation with TfNSW be conducted during the exhibition period.</p>
8 Sept 2023	The Panel reviewed the revised planning proposal (Attachment A1) and found that it had adequately addressed the Panel's conditions for the proposal to proceed Gateway. The Panel recommended the proposal should be submitted to the Department for Gateway Assessment (Attachment E2).

This report assesses the revised planning proposal. It is recommended that the planning proposal and supporting documents be updated to reflect the intent of revised proposal prior to exhibition.

1.3 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The stated objectives of the planning proposal are to provide suitable building height and floor space ratio which facilitate urban renewal of the subject site and to locate additional residents on the fringe of the Baulkham Hills Town Centre.

The objectives of this planning proposal are clear and adequate.

1.4 Explanation of provisions

The planning proposal seeks to amend The Hills LEP 2019 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Maximum height of the building	16m	16m and 25m
Floor space ratio	No control	1.69:1
Number of dwellings	4 (Approximately 35-50 dwellings would be permitted under current planning controls)	66

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.5 Site description and surrounding area

The site is located at 10-16 Seven Hills Road, Baulkham Hills. The site is developed with four detached residential dwellings. It is zoned R4 High Density Residential under The Hills LEP, which permits the development of residential flat buildings. The site has a fall of approximately 6 metres from north to south.

The site context (**Figure 1**) includes:

- A four storey residential development adjoining to the west.
- Detached dwellings adjoining to the south (rear).
- A public pedestrian link between Seven Hills Road and Yattenden Crescent adjoining to the east.
- A 9-15 storey mixed use development beyond the pedestrian link to the east on land zoned B2 Local Centre.
- Opposite the site on the northern side of Seven Hills Road is a three-storey business development on land zoned R1 General Residential, as well as Conie Avenue Reserve.
- The major intersection of Seven Hills Road, Old Northern Road, Windsor Road and Railway Street nearby to the east.
- The site is otherwise surrounded by mixed use and residential buildings.
- The area is serviced by bus stops on Seven Hills Road, Old Northern Road and Windsor Road.



Figure 1 Subject site (source: Council report – 14 March 2023)

1.6 Mapping

The planning proposal includes mapping showing the proposed changes to the height of building and floor space ratio maps (**Figures 2 and 3**). Due to the changes adopted through the rezoning review process, the floor space ratio map needs to be amended to reflect the revised FSR of 1.69:1. The proposal also includes visualisations of a proposed development concept (**Figure 4**).

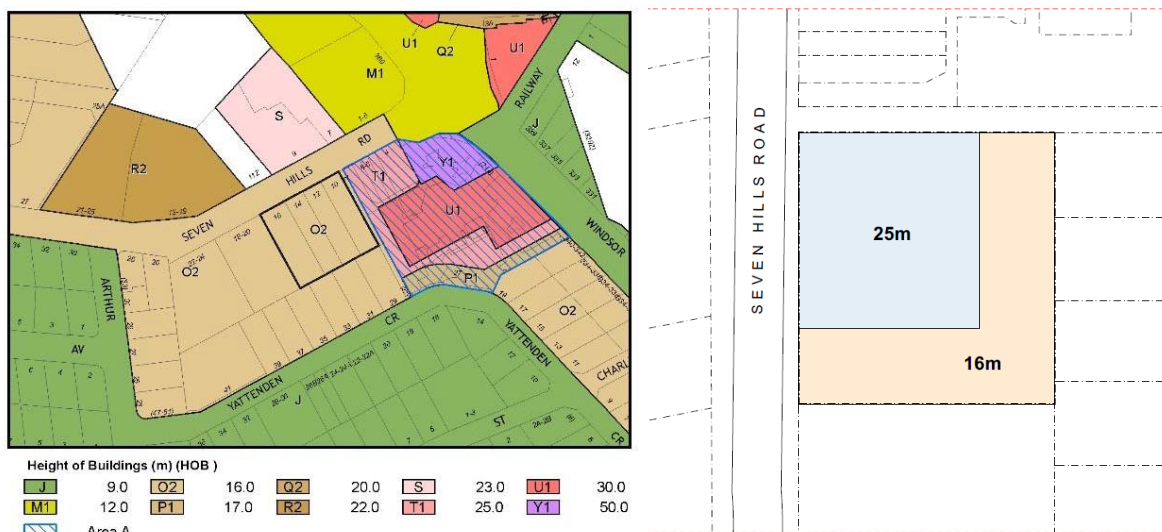


Figure 2 Existing and proposed height of building maps

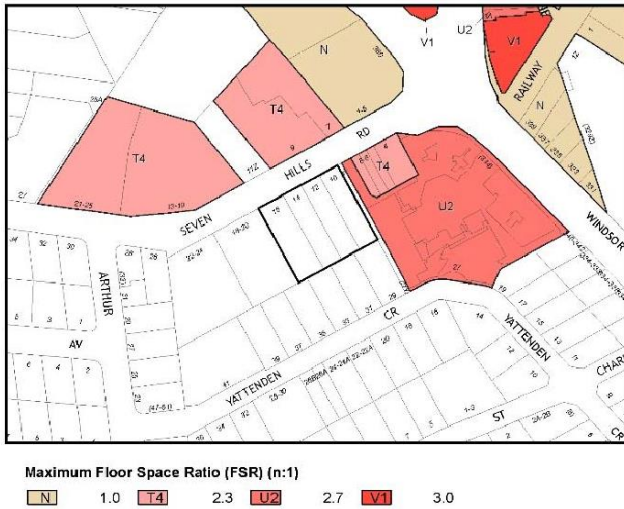


Figure 3 Existing and proposed floor space ratio (FSR) map (note the proposed FSR map will need to reflect the revised FSR of 1.69:1)



Figure 4 Concept perspective view from Seven Hills Road (northern boundary)

2 Need for the planning proposal

The planning proposal is not the result of a local strategic planning statement or Department approved local strategy. The planning proposal is a result of a proponent initiated proposal, where a rezoning review has demonstrated it has strategic and site-specific merit (Error! Reference source not found.1 - E2).

The planning proposal is the best means of achieving the objectives of the proposal, being the redevelopment of existing low density housing to high density housing, which cannot be accommodated through the existing planning controls.

3 Strategic assessment

3.1 District Plan

The site is within the Central City District and the Greater Sydney Commission (now Greater Cities Commission) released the Central City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 5 District Plan assessment

District Plan Priorities	Justification
C1 Planning for a city supported by infrastructure	<p>The proposal will be adequately served by existing public infrastructure and proposed additional infrastructure including:</p> <ul style="list-style-type: none"> Established connections to electricity, water and sewer infrastructure, which currently service the established residential area and Baulkham Hills town centre. Local bus route connected to the Sydney CBD, Parramatta, Castle Hill, Rouse Hill and Blacktown.
C5 Providing housing supply, choice and affordability, with access to jobs, services and public transport	The proposal will facilitate additional housing in a location with access to retail, supporting services and public transport.
C9 Delivering integrated land use and transport planning and a 30-minute city.	The proposal is located approximately 5-13 km from the Parramatta metropolitan centre, and the Castle Hill and Rouse Hill strategic centres identified in the District Plan. The centres are accessible within 30 minutes by public transport (bus/metro) and Castle Hill by active transport (cycling).

The planning proposal includes a short assessment of the District Plan. It is recommended the Gateway determination include a condition requiring that prior to public exhibition, the planning proposal be updated to include a more detailed assessment of this strategy.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	<p>The LSPS was endorsed by the Greater Cities Commission on 4 March 2020 and outlines the Shire's 20-year vision for land use planning, population, housing, economic growth and environmental management.</p> <p>The planning proposal is consistent with the LSPS, in particular:</p> <ul style="list-style-type: none"> • Planning Priority 7 - Plan for housing in the right locations <p>The proposal will assist in the delivery of 600 additional dwellings capacity identified for the Baulkham Hills Town Centre by 2036.</p> <ul style="list-style-type: none"> • Planning Priority 8 - Plan for a diversity of housing <p>The proposal will provide housing diversity by replacing detached dwellings with apartments. A diversity of apartment size is likely to be provided to meet Council's requirements.</p> <ul style="list-style-type: none"> • Planning Priority 9 - Renew and create great places <p>Varying opinions on the strategic merit of the traffic and transport issues referred to in this priority were considered by the Panel. A summary of the discussion included:</p> <p><i>Council views</i></p> <ul style="list-style-type: none"> - Council considers the planning proposal is inconsistent with the LSPS objective to “discourage commercial and residential uplift in Baulkham Hills town centre until transport and traffic issues are resolved.” - The LSPS identifies traffic and transport issues at this location related to the regional road network and the level of service of the intersection of Seven Hills Road, Windsor Road and Old Northern Road. - Council has advocated for funding from the NSW Government to resolve these issues, but have been unsuccessful to date. - Council has consistently applied this approach from the LSPS to proposals in the Baulkham Hills Town Centre. <p><i>Proponent views</i></p> <ul style="list-style-type: none"> - The LSPS wording to discourage uplift serves to limit, rather than prohibit, additional development and permits the flexibility to support merit based planning proposals. - The traffic impacts of the proposal are not significant in isolation and will not substantially impact on the current traffic situation in the Baulkham Hills town centre, which are primarily a result of regional through-traffic. <p><i>Panel determination</i></p> <p>The Panel considered the opinions of Council and the proponent and determined that the proposal demonstrated strategic merit in respect to this priority. The Panel noted that delivering housing supply is a planning priority,</p>

Local Strategies	Justification
	<p>particularly in existing urban areas located near services, centres and public transport.</p> <p>The Panel also noted that the site is not located within the Baulkham Hills town centre.</p> <p><i>Department assessment</i></p> <p>The LSPS does not include definition of the boundary of the Baulkham Hills town centre. Other Council documents demonstrate differing approaches to the town centre boundary, including the DCP 2012 and Draft Baulkham Hills Town Centre Master Plan 2014.</p> <p>Despite this, the proposal is generally consistent with this LSPS priority. It is noted that the LSPS does not seek to strictly prohibit commercial and residential uplift in the Baulkham Hills town centre, only to discourage it until traffic and transport issues are resolved.</p> <p>Prohibiting uplift in the town centre until these issues are resolved could effectively restrict uplift in the centre indefinitely, contrary to objectives of the District Plan and other objectives of the LSPS and the Local Housing Strategy, which seek to deliver additional, well located housing. The Department notes that the proposal is unlikely to have a significant impact on worsening the existing traffic conditions.</p>
Local Housing Strategy (LHS)	<p>The proposal is consistent with the LHS, conditionally approved by the Department on 6 July 2021.</p> <p>The planning proposal is consistent with the objectives and priorities of the LHS, in particular:</p> <ul style="list-style-type: none"> • the delivery of 600 additional dwellings identified for the Baulkham Hills Town Centre by 2036, • aligning growth with infrastructure and housing densities appropriate to the town centre and removing barriers to delivery, • delivering additional housing in an identified infill development area, • delivering housing diversity, including a greater range of apartment types, and • renewing and creating great places focussed on local character, high quality built form, affordable living, amenity and lifestyle. <p>The planning proposal does not include an adequate assessment of the LHS. It is recommended the Gateway determination include a condition requiring that prior to public exhibition, the planning proposal be updated to include a more detailed assessment of this strategy.</p>

3.3 Local planning panel (LPP) recommendation

The planning proposal was reported to The Hills Local Planning Panel (LPP) for advice on 18 August 2022. The LPP advised that the planning proposal should not proceed to Gateway Determination, having regard to a range of identified strategic and site-specific merit issues, including:

- The application fails to demonstrate adequate site-specific merit, noting that the development concept depicts an outcome which is beyond the built form capacity of the site and which unreasonably impacts on the amenity of adjoining residential land.
- In the absence of a commitment from the NSW State Government to resolve regional traffic and transport issues impeding development within the Baulkham Hills Town Centre, the proposal is inconsistent with the LSPS objective to “discourage commercial and residential uplift in Baulkham Hills Town Centre until transport and traffic issues are resolved”.
- It is unclear if the VPA letter of offer can adequately address the local infrastructure demand that would be generated by the uplift sought by the planning proposal.

The planning proposal has subsequently been revised to address site specific issues with a reduction of heights on part of the site and a reduced floor space ratio to address amenity impacts.

3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.4 Site-specific Provisions	Consistent	<p>The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls, including imposing any development standards or requirements in addition to those already contained in the planning instrument being amended.</p> <p>As outlined in the explanation of provisions section (Section 1.3) of this report, the proposal will introduce a split height of building control of 25m and 16m to the site. The control will support the development application process in reducing adverse amenity outcomes, particularly in terms of reduced overshadowing of adjoining land.</p>
5.1 Integrating Land Use and Transport	Consistent	The proposal will facilitate an increase in dwellings in proximity to town centre services and public transport.
6.1 Residential Zones	Consistent	The planning proposal will increase the supply of apartments on the site, broadening housing choice within the LGA. As the proposal will facilitate the redevelopment of an existing site, it will make more efficient use of existing infrastructure and services and reduce the consumption of land for housing and associated urban development on the urban fringe.

The planning proposal includes an assessment of section 9.1 Ministerial Directions. It is recommended the Gateway determination include a condition requiring that prior to public exhibition, the planning proposal be updated to reflect the current Directions.

3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP 65 – Design Quality of Residential Apartment Development	The design of residential apartment must meet the principles of the SEPP and the Apartment Design Guide (ADG).	Yes	The Department's preliminary assessment of the urban design analysis indicates the proposed controls will permit development which can be consistent with the principles of the SEPP 65 and the ADG. A detailed assessment of compliance will be required at the development application stage.

It is recommended the planning proposal be updated to address the new consolidated SEPPs.

4 Site-specific assessment

The planning proposal is considered to demonstrate site-specific merit. In response to a rezoning review, the Panel also determined the proposal demonstrates site-specific merit. Additional detail is provided below.

4.1 Environmental

The subject site is located in an established residential area, adjacent to a 9-15 storey mixed use development, and surrounded by other mixed use and residential buildings in and around the Baulkham Hills town centre.

The proposal is compatible with the local character of the area and is not considered to have the potential to adversely impact the surrounding built or natural environment. The proposal has been amended through the rezoning review process to ensure a suitable transition to adjoining land. The Panel has identified a need for a supporting development control plan, a framework for which should be in place prior to finalisation. A condition has been recommended to ensure this is addressed.

There is no known natural habitat of note on the site nor environmental constraints which require further consideration at this stage. Further environmental assessment will occur at the development application stage.

4.2 Social and economic

The subject site is located in an established residential area adjacent to the Baulkham Hills town centre. The proposal will provide a social and economic benefit to the local area by providing additional diverse housing in a location well serviced by existing supporting infrastructure.

4.3 Infrastructure

The subject site is located in an established residential area adjacent to the Baulkham Hills town centre with access to various bus services.

The proposal can likely be adequately served by existing public infrastructure including:

- Established connections to electricity, water and sewer infrastructure.
- Local bus route connections to Sydney CBD, Parramatta, Castle Hill, Rouse Hill and Blacktown.

The traffic modelling provided by the proponent indicates the proposal would generate a minor increase in traffic movements in the AM and PM peak hours. The increase equates to an inconsequential five additional traffic movements compared to the existing height and FSR controls for the site.

A draft letter of offer to enter into a planning agreement has been provided to Council (Error! Reference source not found.), which proposes contributions towards upgrades to local infrastructure in the vicinity. Any planning agreement will be subject to Council's consideration.

The proposal is considered unlikely to adversely impact the existing infrastructure of the site or the local area. It is recommended the Gateway determination include a condition requiring that Transport for NSW, Sydney Water and other utility providers are consulted to confirm any infrastructure impacts or considerations.

5 Consultation

5.1 Community

The planning proposal is categorised as standard under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Transport for NSW
- Sydney Water
- Other utility providers

As the Panel is the planning proposal authority, consultation with Council is also required.

6 Timeframe

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard proposal.

The Department recommends an LEP completion date of 7 August 2024 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

As the planning proposal was not supported by Council prior to the Panel's rezoning review determination, the Panel has been appointed the role of planning proposal authority. As such, the Department will retain the role of local plan-making authority.

8 Assessment summary

The planning proposal demonstrates strategic and site-specific merit. The proposal provides an opportunity to provide additional, diverse housing in The Hills Shire, in a location well serviced by transport and other infrastructure.

The proposal is supported to proceed with conditions for the following reasons:

- It is consistent with the objectives and priorities of the Central City District Plan.
- It is consistent with the strategic direction and objectives of The Hills Council's Local Strategic Planning Statement and Local Housing Strategy.
- It is consistent with all relevant section 9.1 Ministerial Directions.
- It is not considered to have adverse impacts overall, or environmental, social, economic, traffic and infrastructure impacts.
- It will appropriately respond to the determination and recommendations made by the Sydney Central Planning Panel as a result of the rezoning review on 8 September 2023 when updated, according to the Gateway determination conditions.

As discussed in the previous sections 3 and 4, the proposal and relevant supporting material should be updated to include the Gateway conditions included in Section 9 of this report.

9 Recommendation

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

1. Prior to public exhibition, the planning proposal and supporting documents are to be updated to:
 - Reflect the revised planning proposal considered by the Sydney Central Planning Panel on 8 September 2023, including the following controls:
 - retain the existing zoning of R4 High Density Residential,
 - increase the height of building controls from 16m to 16m and 25m, and
 - insert a floor space ratio (FSR) control of 1.69:1.
 - Provide an assessment of the consistency of the revised planning proposal with all relevant strategic plans and policies, in particular the:
 - Central City District Plan
 - Local Strategic Planning Statement
 - Local Housing Strategy
 - Section 9.1 Local Planning Directions
 - State Environmental Planning Policies
2. Consultation is required with the following public authorities for a minimum of 30 working days:
 - The Hills Shire Council
 - Transport for NSW
 - Sydney Water
 - Other utility providers
3. The planning proposal is to be made available for community consultation for a minimum of 20 working days.

4. A site-specific Development Control Plan or identification of similar LEP mechanism must be in place prior to finalisation.

As the planning proposal was not supported by Council prior to the Panel's rezoning review determination, the Panel has determined to appoint itself as the PPA for this planning proposal (**Attachment E1**).

The timeframe for the LEP to be completed is on or before 7 August 2024.



28 September 2023

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11 October 2023

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