



THE HILLS
Sydney's Garden Shire

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15 December 2023

Planning Panels Secretariat
Locked Bag 5022
PARRAMATTA NSW 2124

Our Ref: 4/2022/PLP
Your Ref: PP-2022-1202

Dear Sir/Madam,

PLANNING PROPOSAL SUBMISSION – 10-16 SEVEN HILLS ROAD, BAULKHAM HILLS

Thank you for the opportunity to comment on the planning proposal at 10-16 Seven Hills Road Baulkham Hills (Lot 1-2 DP 366137, Lot D DP 357085, and Lot F DP 363039). Given the timeframes for submissions, this submission has not been endorsed by the elected Council however it does align with the assessment completed and decision made by Council when it considered the planning proposal previously.

On 14 March 2023, Council resolved that the planning proposal for 10-16 Seven Hills Road, Baulkham Hills should *not* proceed to Gateway Determination as the proposal did not demonstrate strategic or site-specific merit. Subsequently, the Proponent lodged a Rezoning Review application and the Sydney Central City Planning Panel (SCCPP) overturned Council's decision, allowing the proposal to progress to Gateway Determination and subsequently public exhibition.

Council's submission on the planning proposal as part of the public exhibition period is provided below. It is the view of Council that the planning proposal should not proceed on the basis of inconsistency with the policy position contained in Council's Local Strategic Planning Statement (LSPS) and the lack of adequate solar access to ground floor common open space and neighbouring properties, which demonstrates an overdevelopment of the site.

The key issues with the planning proposal are detailed below:

Strategic Merit

Council's LSPS has a planning priority to discourage commercial and residential uplift in Baulkham Hills Town Centre until transport and traffic issues are resolved, given that much of the regional road network in this locality is considered to be at capacity.

On 6 July 2023, the Panel released its determination in relation to the planning proposal, which concluded that the proposal demonstrated strategic merit. The determination included a significant technical error in relation to the proposal's consistency with the strategic merit test, with the Panel determining that:

“The Panel notes in relation to The Hills Future 2036 Local Strategic Planning Statement (LSPS) that the site is not in the Baulkham Hills Town Centre”

This statement is incorrect as the site is located within the Baulkham Hills Town Centre and was repeatedly referenced by Council staff as being within this location.

Council’s Productivity and Centres Strategy which underpins The Hills Future 2036 Local Strategic Planning Statement clearly defines the boundary of the Baulkham Hills Town Centre, which includes the subject site. An extract of this map is provided below, with the site identified in yellow.

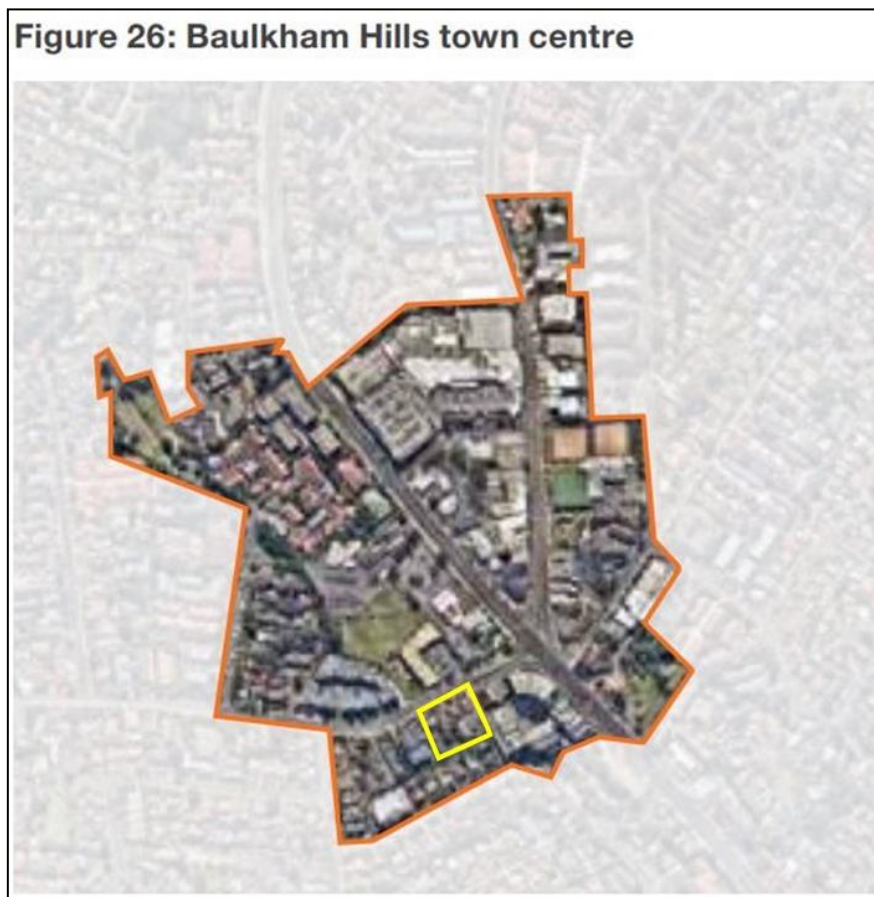


Figure 1
Baulkham Hills Town Centre and subject site (outlined in yellow)

This technical error is significant, given that the Panel considered another proposal for the nearby Hills Bowling Club (also within the Baulkham Hills Town Centre) on 17 March 2023, where the Panel was of the view that the site was within the Baulkham Hills Town Centre and gave determinative weight to Council’s LSPS, concluding that the proposal did not demonstrate strategic merit given it was inconsistent with the policy direction in the LSPS to discourage commercial and residential uplift in Baulkham Hills Town Centre until transport and traffic issues are resolved.

Considering the technical error, the Panel’s rationale for concluding that the proposal satisfied the strategic merit test was incorrect and the planning proposal remains inconsistent with the policy direction included in The Hills Future 2036 Local Strategic Planning Statement, which specifically discourages increased density within Baulkham Hills Town Centre, until the traffic congestion issues related to the major intersection of Windsor Road, Old Northern Road and Seven Hills Road are resolved.

There are significant issues with local and regional traffic infrastructure within the Baulkham Hills Town Centre, which is nearing full capacity on account of the high level of regional through traffic.

While Future Transport 2056 identifies a longer-term vision for transport connections, including a visionary mass transit link between Norwest and Parramatta via Baulkham Hills, there is no commitment or timeframe for delivery of this link.

Council has continually advocated for the necessary improvements to the road network and the public transport offered throughout Baulkham Hills. However, this issue has not yet resulted in a commitment from the NSW State Government. As such, the traffic and transport issues which impede further development in Baulkham Hills Town Centre have not been resolved and any uplift within the Town Centre would be inconsistent with the policy settings clearly established within Council's LSPS.

The planning proposal has limited to no scope to address these regional traffic issues. The proposal is not the source of the existing traffic congestion, and the planning proposal is likely to have a marginal impact on the regional road network. However, as the proposal seeks to create uplift in the town centre in advance of any commitment from the NSW State Government to resolve these issues, the planning proposal must be considered to be inconsistent with this element of the strategic planning framework and would likely exacerbate existing issues at this locality.

Site-Specific Merit

- Proposed LEP Controls

The retention of the existing R4 High Density land zoning currently applicable to the site is supported, given that the proposal is for a wholly residential outcome and is already permitted under the current land use zone.

On 6 July 2023, the Panel determined that an appropriate FSR of no more than 1.69:1 was to be determined from modelling that demonstrated the ability of a future DA to achieve consistency with the ADG. It should be noted that the development concept submitted has not demonstrated consistency with the ADG, especially in relation to solar access. The FSR of 1.69:1 represents the density and built form outcome that was considered by Council and the Panel when determining the proposal. As such, it does not represent a reduction in the density whereby built form issues are resolved.

- Building Height and Transition

The proposal will still result in significant visual and shadowing impacts to sites to the south, which may potentially prevent these adjacent sites from developing to their capacity in compliance with the current statutory controls. Furthermore, it is considered that the lower scale 4-5 storey outcome permitted under the current controls is likely to better balance the opportunity for uplift and redevelopment with a more appropriate relationship with these properties at the rear (which are also identified for future 4-5 storey residential flat buildings under the current controls). The proposed height is a concern in relation to the proposal's inability to achieve other urban design and built form outcomes and the potential visual impacts on lots to the rear of the site.

- Apartment Configuration and Mix

The proposal does not present a built form and bulk that achieves acceptable residential outcomes or compliance with baseline urban design controls and criteria. The development concept comprises a u-shaped block configuration which maximises FSR, however results in the arrangement of common open space within the centre of the "u", facing south. This creates privacy issues with corner apartments and solar access issues for the common open space.

The development concept includes two lower ground floor apartments (LG.01 and LG.02). These units would have compromised safety and privacy concerns and would result in poor amenity outcomes.

While the Proponent's material indicates that the development concept has been designed to be capable of achieving Council's preferred apartment size and mix, the proposal does not include any LEP mechanism that would provide certainty of this outcome. Should the planning proposal proceed, it is recommended that a local provision be included in the LEP to ensure compliance with Council's preferred apartment size and mix requirements and to reflect the Proponent's intent to comply with these requirements.

- Bulk and Scale

While building façade and address to the street could be improved through architectural treatments, the bulk, scale and visual impacts are driven by two key factors, being a site area that is marginally below the minimum of 4,000m² required for a residential flat building, and an FSR (and subsequent height control) that exceeds the capacity of the site.

The Proponent has indicated their intent to consider the provision of affordable rental housing on the site. It is understood that through the recent changes to the Housing SEPP (which, at the time of drafting this submission, were not made publicly available), there could be potential for a bonus FSR of 30% on the site. This additional FSR would further exacerbate the built form issues discussed throughout this submission and it is unclear to what extent this additional potential bonus (on top of the uplift being given through the planning proposal) has been considered by the Panel from a built form perspective. It is recommended that the Panel consider the built form implications in relation to the uplift being provided through the Planning Proposal *in combination with* the FSR bonuses that may be applicable to the site currently or as part of the recently announced reforms.

- Setbacks

The basement parking areas extend beyond the built form setback above, with a proposed 0 metre setback to the western boundary of the site, where the proposed vehicle entry point is located along the boundary. This is not compliant with the Hills DCP 2012 controls for setbacks of basement parking areas and it is generally preferable for vehicle entry points to be located under the building envelope to allow for higher quality landscaped setback areas and ground plane outcomes.

- Vehicular Access

The development concept is unable to demonstrate a conventional access for waste vehicles to enter and exit the site. The supporting material indicates a turntable arrangement would be required. Turntables are generally not supported in residential developments due to reliance on mechanical equipment for safe access and the high maintenance costs.

Alternative solutions should not need to be relied upon when seeking additional development uplift on a site beyond the current planning controls. Planning proposals should demonstrate superior built form outcomes beyond those currently achievable under the existing planning controls.

If the proposed density of development is unable to be serviced with waste services without alternative arrangements such as a turntable, this indicates that the site is potentially not able to accommodate the number of units proposed with appropriate provision for vehicle entry and exit.

- Solar Access

The Hills DCP 2012 requires 50% of common open space to receive at least 4 hours of solar access during winter. The Proponent's shadow diagrams illustrate that the ground floor common open space does not receive any solar access between 9am and 3pm in winter.

Communal open space on the ground floor is critical to the amenity of residents and should be high quality, well landscaped and provide residents with a private space to enjoy the outdoors. Communal

open space that is constantly shaded will not sustain quality landscaping and will result in a cold and unpleasant open space, especially in the winter months.

The Proponent's development concept relies on roof top provision of common space. This does not negate the need to provide high quality and useable common open space on the ground plane, with some level of solar access. Common open space under The Hills DCP is expected to be provided in a single centrally located parcel. Reliance on roof top provision of common open space is not compliant with The Hills DCP.

The proposed development will result in long shadows cast south of the site and significant overshadowing impacts on the residential properties at the rear (fronting Yattenden Crescent). These four dwellings currently experience shadow impacts from the existing 9-15 storey development at the corner of Windsor Road and Seven Hills Road between 9am and 11am. The proposed 8 storey built form on the subject site will worsen the solar access to these properties as the shadows would be cast over them in the afternoon, leaving limited hours between 9am and 3pm where these properties at the rear are unaffected by shadowing.

Concern is still raised that in combination with the overshadowing created by the existing development on the corner of Windsor Road and Seven Hills Road, the proposed development may create a situation where any future development for the purpose of a residential flat building on these sites to the rear would be unlikely to comply with the internal solar access requirements in the ADG and solar access requirements for common open space areas on the site.

Where an adjoining property does not currently receive the required hours of solar access, the proposed building must ensure solar access to neighbouring properties is not reduced by more than 20% (ADG). When combined with the impacts of existing development at the corner of Windsor Road and Seven Hills Road, residential dwellings adjoining the site's southern boundary receive 2-3 hours of solar access during winter, being less than the required minimum of 4 hours.

Furthermore, 20% of units within the design concept for the subject site receive no direct solar access, exceeding the ADG maximum of 15% between 9am and 3pm on 21 June.

The overshadowing issue is largely driven by the excessive FSR and height controls sought for the site (and that is before any additional FSR bonus under the Housing SEPP is accounted for). This was a foundational element that underpinned the Draft Baulkham Hills Town Centre Master Plan and the outcomes envisaged for the Seven Hills Precinct, including the subject land being limited to 4-5 storeys under the current controls.

- *Traffic and Transport*

The additional trips generated by the proposed development are not significant in isolation and will not materially impact on the current traffic situation around the Baulkham Hills Town Centre. The Hills LSPS states that commercial and residential uplift in Baulkham Hills Town Centre is to be discouraged until the broader transport and traffic issues are resolved. The traffic and transport issues predominantly relate to the regional road network and are largely contingent on commitment from Government to address the issues associated with significant regional through-traffic. Council has advocated to the NSW State Government on several occasions to obtain a funding commitment towards upgrades to the road network around the Baulkham Hills Town Centre, but to date this has not been secured.

The current policy approach to discourage further uplift in this locality is an acknowledgement that a broader government solution is required to address the existing issue, let alone the potential cumulative impacts of incremental uplift over time. The site's redevelopment to a more intense use would increase traffic utilising the regional road network, which is already at capacity.

- Infrastructure Demand & Voluntary Planning Agreement

The Proponent has offered to enter into a VPA with Council to provide contributions towards public domain improvements within the vicinity of the site. The Proponent contends that the site can currently achieve 50 dwellings and the proposal would therefore result in an uplift of 16 additional residential dwellings on the land. It is noted however that the draft Baulkham Hills Town Centre Master Plan, envisaged only 35 dwellings on the land.

The letter of offer to enter into a VPA proposes a contribution towards public domain upgrades within the Baulkham Hills Town Centre at a monetary contribution rate of \$25,000 per additional dwelling. The Proponent has valued their offer at a total of \$400,000 (based off the Proponent's calculation of the proposed development providing 16 additional units).

Council is currently undertaking negotiations with the Proponent in order to ensure an appropriate infrastructure contributions mechanism can be in place to support any increased development yields should the planning proposal proceed. If the planning proposal is to progress to finalisation in any form, this should not occur absent of the necessary infrastructure contribution mechanisms being in place.

Conclusion

Despite multiple iterations of the design concept, the planning proposal applicable to land at 10-16 Seven Hills Road, Baulkham Hills, has not demonstrated sufficient strategic or site-specific merit to warrant progression to finalisation.


It is ultimately inconsistent with the clear policy position articulated within Council's LSPS, which specifies that Council will *"discourage commercial and residential uplift in Baulkham Hills Town Centre until transport and traffic issues are resolved"*.

Further, the development concept, as submitted by the Proponent, fails to demonstrate adequate site-specific merit, as it depicts an outcome beyond the built form capacity of the site. The proposal has been unable to demonstrate that the changes to the planning controls sought would result in a superior outcome in comparison to the current settings, nor that future development at the density sought would be able to comply with some of the key urban design or amenity criteria within the Apartment Design Guide or Council's DCP.

Given the planning proposal has not demonstrated adequate strategic or site-specific merit, we reiterate Council's objection to the further progression of the planning proposal.

Should you have any further questions in relation to this submission, please contact Emma Langan, Senior Town Planner on 9843 0243.

Yours faithfully,



Nicholas Carlton
MANAGER – FORWARD PLANNING