



# GATEWAY REVIEW

## Justification Assessment

**Purpose:** To request that the Independent Planning Commission review the Gateway determination of the subject planning proposal, consider the information provided by the Proponent and Council and provide advice regarding the merit of the review request.

<b>Dept. Ref. No:</b>	GR-2024-8
<b>LGA</b>	The Hills Shire Council
<b>LEP to be Amended:</b>	The Hills Local Environmental Plan 2019
<b>Address/ Location:</b>	The planning proposal applies to land at 34-46 Brookhollow Avenue, Norwest (Lot 1 DP 270106)
<b>Proposal:</b>	The planning proposal seeks to amend development standards for land at 34-46 Brookhollow Avenue, Norwest by increasing the maximum height of building and floor space ratio controls, and introducing residential flat buildings as an additional permitted use (PP-2023-2049).
<b>Review request made by:</b>	<input type="checkbox"/> The Council
	<input checked="" type="checkbox"/> A proponent
<b>Reason for review:</b>	<input type="checkbox"/> A determination has been made that the planning proposal should not proceed.
	<input type="checkbox"/> A determination has been made that the planning proposal should be resubmitted to the Gateway.
	<input checked="" type="checkbox"/> A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

Background Information																			
<b>Details of the planning proposal</b>	<p><b>Explanation of Provisions</b></p> <p>The planning proposal (<b>Attachment Proposal</b>) seeks to amend The Hills Local Environmental Plan 2019 as follows.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #cccccc;"> <th style="text-align: left;">Control</th> <th style="text-align: left;">Current</th> <th style="text-align: left;">Proposed</th> </tr> </thead> <tbody> <tr> <td>Maximum height of the building</td> <td>RL 116 m</td> <td>RL 112 -182 m</td> </tr> <tr> <td>Floor space ratio</td> <td>1:1</td> <td>Base: 2.4:1 Incentive 3:1</td> </tr> <tr> <td>Additional Permitted Uses (APU)</td> <td>Nil</td> <td>Residential flat buildings on part of site (Site A with a maximum of GFA of 9,567 sqm)</td> </tr> <tr> <td>Key Sites Map</td> <td>Nil</td> <td>Identify the site as 'Area M' on Key Sites Map relating to the application of Clause 7.11</td> </tr> <tr> <td>Floor Space Incentive Map</td> <td>Nil</td> <td>Identify the site as 'Area A' on the Floor Space Maps relating to a new site specific local provision detailed below</td> </tr> </tbody> </table> <p>In respect of the additional permitted use to enable a residential flat building on part of the site, the clause would also include a maximum cap on floor space</p>	Control	Current	Proposed	Maximum height of the building	RL 116 m	RL 112 -182 m	Floor space ratio	1:1	Base: 2.4:1 Incentive 3:1	Additional Permitted Uses (APU)	Nil	Residential flat buildings on part of site (Site A with a maximum of GFA of 9,567 sqm)	Key Sites Map	Nil	Identify the site as 'Area M' on Key Sites Map relating to the application of Clause 7.11	Floor Space Incentive Map	Nil	Identify the site as 'Area A' on the Floor Space Maps relating to a new site specific local provision detailed below
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(9,576 m<sup>2</sup>) or 76 dwellings and require 5% of these dwellings to be affordable rental housing for 10 years.

In respect of the incentive FSR provision of 3:1, it could only be achieved if:

- a minimum 38,304m<sup>2</sup> is used for employment purposes,
- a public plaza is included,
- the mix and size of dwellings and number of car parking spaces for dwellings complies with the standards in clause 7.11(3) of The Hills LEP, and
- a competitive design process is used for the development application.

### Proposal Objectives

The stated objectives of the planning proposal are to facilitate:

- a mixed-use development comprising 38,306m<sup>2</sup> of commercial gross floor area across three separate buildings, ranging from 4 to 23 storeys to facilitate 1,989 jobs, and
- a 10-storey residential flat building comprising 9576m<sup>2</sup> of residential gross floor area with a maximum of 76 dwellings.

### Site description and surrounding area

The site is located within the Norwest Strategic Centre adjacent to the Norwest Metro Station. It includes a number of strata titled office buildings 2-3 storeys in height and has a total area of 15,960m<sup>2</sup> (**Figure 1**).

The site is generally bound by Norwest Boulevard to the north-west, Brookhollow Avenue to the north-east and has a direct interface to low density residential areas on its southern and western boundaries as shown below.

The site is located within the SP4 Enterprise zone and abuts land zoned R3 Medium Density Residential to the south and is within close proximity to the Norwest Markettown and Hillsong Church.

The site is affected by a stratum subdivision established as part of the Sydney Metro Northwest, where the rail and associated infrastructure runs beneath the site.



**Figure 1 Subject site** (source: Planning Proposal)

**Reasons for Gateway determination**

On 29 April 2024 a Gateway determination (**Attachment Gateway**) was signed by the Executive Director, Local Planning and Council Support, as delegate of the Minister for Planning and Public Spaces, who determined that the planning proposal should proceed subject to the planning proposal being updated in accordance with the following conditions:

1. *Prior to exhibition, the planning proposal and supporting documents are to be amended and forwarded to the Minister under s 3.34(6) of the Act to:*
  - a. *remove the proposed inclusion of an additional permitted use of residential flat buildings on the site.*
  - b. *confirm approach to the proposed FSR incentive provision on the site,*
  - c. *provide a flood assessment,*
  - d. *provide an updated assessment relating to the draft or finalised Norwest Precinct Plan and justify any inconsistencies with this Plan,*
  - e. *update supporting documentation to address the amended planning proposal,*
  - f. *update the car parking rates after consultation with Transport for NSW,*
  - g. *update the project timeline to reflect the requirements of the Gateway determination.*

*The updated documentation is to be forwarded to the Department for review and endorsement.*

The proponent has lodged a Gateway review to remove condition 1(a), underlined for emphasis above.

The Department's assessment considered the residential component of the proposal was inconsistent with the District Plan, The Hills Local Strategic Planning Statement (2019), Norwest Precinct Plan (2024), The Hills Shire Corridor Strategy (2015), 9.1 Directions 1.16 North West Rail Link Corridor Strategy and 7.1 Employment zones. These inconsistencies were not adequately justified.

**1. The residential component of the proposal is inconsistent with the District Plan.**

*Planning Priorities C1 Planning for a city supported by infrastructure, C5 Provide housing supply, choice and affordability with access to jobs, services and public transport, C9 Delivering integrated land use and transport, C9 Delivering integrated land use and transport planning and a 30-minute city.*

The residential component of the proposal is broadly aligned to the objectives of priority C5 as the proposal seeks to increase diversity and supply of housing. However, this priority also outlines the need to ensure housing is provided in the right places and it is considered that the location of this component is not appropriate as the residential use would limit commercial development opportunities.

*Planning priority C10 Growing investment, business opportunities and jobs in strategic centres.*

The site is located in the Norwest Strategic Centre and has a target of 53,000 jobs. Employment growth is the principal underlying economic goal for metropolitan and strategic centres. The proposal is inconsistent with this priority for the following reasons.

- The proposed 20% residential development is not considered to be a minor variation to the requirement for the entire site to be made available for commercial development.
- The circumstances of the site are not considered unique or unlikely to be replicated in the precinct. A number of other sites in the precinct are

adjacent to a residential zone and close to the Metro station, particularly those along Brookhollow Avenue. There are also clear opportunity sites within the centre for which this proposal could act as a precedent for permitting residential uses. Additionally, the introduction of residential uses within this SP4 Enterprise zone could potentially create a precedent for other employment zones.

- Existing and planned residential development is, and will be, located within close proximity to urban amenities in the centre, particularly in Bella Vista and Baulkham Hills.

The Department was not satisfied the proposal gave effect to the District Plan in accordance with section 3.8 of the *EP&A Act*. The commercial component of the proposal is considered consistent with the Plan however the residential component of the proposal was not considered consistent with the Plan.

**2. *The residential component of the proposal is inconsistent with Council's local strategic planning framework***

*The Hills Local Strategic Planning Statement 2019 Planning Priority 2 – Build strategic centres to realise their potential.*

The LSPS recognises commercial office precincts such as Norwest are essential clusters of higher-order employment where business can agglomerate. It identifies that residential uses can detract from commercial functions. The proposal is inconsistent with this priority to retain the Norwest strategic centre for employment uses as the LSPS does not identify the site for residential uses.

The LSPS identifies that given large parts of the Shire's strategic centres are already considered suitable for higher density residential development, there is no need for further residential development in significant employment land.

*The Hills Shire Corridor Strategy 2015*

This strategy identifies the site for additional commercial floor space with a minimum employment FSR of 2:1. The proposal exceeds this minimum. The strategy identifies locations for residential development on land in the existing residential zones south of the site (R3 Medium Density Residential and R4 high Density Residential) and north of the Norwest Lake (R4 High Density Residential).

*The Hills Housing Strategy 2019*

The residential component of the proposal is inconsistent with this strategy as the strategy includes an action seeking to discourage planning proposals seeking to rezone employment for residential purposes. The draft Norwest Precinct Plan 2023 prepared by Council in response to an action in the strategy does not identify the site for residential uses.

*Draft Norwest Precinct Plan 2023.*

The Council-led draft Norwest Precinct Plan was exhibited May-July 2023. At the time of Gateway assessment, the precinct plan had not been finalised. This was finalised and adopted by Council on 9 July 2024. Commentary about the amendments to the subject site are provided in Council's view below.

In terms of the commentary in the Gateway assessment, the subject site is located within the Norwest Central Precinct. The plan will provide a carefully planned balance of high density housing with diverse employment uses. The precinct will remain a key employment destination with a 'designated commercial area' close to the metro station and mixed-use area at Norwest Marketown with highest densities around those areas. The plan identifies that existing R3 Medium

Density Residential development adjoining this site will transform to high density residential.

The plan identifies the site within the designated commercial area, in the structure plan and key desired outcomes as ‘high density commercial offices’. The plan also notes the subject planning proposal being under assessment.

The Department’s assessment concluded the residential component is therefore inconsistent with the draft plan.

The Department advised Council in its letter regarding the Gateway determination allowing this proposal to proceed subject to conditions, that if Council wish to encourage increased residential outcomes in the Norwest precinct, this should be considered holistically in finalising the draft plan (**Attachment letter**).

**3. The proposed residential component is inconsistent with Section 9.1 Directions 1.16 North West Rail Link Corridor Strategy and 7.1 Employment Zones.**

*Direction 1.16 North-West Rail Link Corridor Strategy.*

The proposal is inconsistent with this direction as it seeks to introduce residential uses on land identified as ‘commercial’ in the NWRL Corridor strategy and fails to adequately justify the inconsistency. The inconsistency is not justified by an approved strategy, a study which gives consideration to the objective of the direction or a sub-regional delivery plan prepared by the Department, and it is not considered to be of minor significance.

*Direction 7.1 Employment zones.*

The proposal is inconsistent with the Direction as it reduces the total potential employment floor space area for residential uses and the objective to encourage and protect employment lands. The proposal seeks to justify the inconsistency stating it is of minor significance as the proposal protects and retains the majority of the site (80% - Sites B and C) for employment uses. 20% of the quantity of proposed additional floor area to be used for residential purposes is not considered to be of minor significance.

Further details of the Department’s Gateway assessment are provided in the Department’s Gateway assessment report (**Attachment Gateway Report**).

**Council Justification**

Details of justification

Council provided comments on the Proponent’s Gateway review request on 15 July 2024 (**Attachment D**). It reiterated Council’s position outlined in the documentation submitted for the Gateway Determination and also provided additional commentary in relation to the finalisation of the Council-led Norwest Precinct Plan 2023.

*Strategic Merits of the planning proposal*

Council acknowledged that the proposal would permit residential uses on approximately 3,450m<sup>2</sup> of land within Norwest’s designated commercial office precinct and therefore demonstrates a technical inconsistency with local and State strategies. However, it is considered that this minor departure from the strategic framework is justified for the following reasons:

- The proposal would retain an underlying zone of SP4 Enterprise across the entire site, and commercial uses would continue to be permitted across the entire site, should market demands dictate an alternate outcome to the residential component proposed.
- The proposed 38,306m<sup>2</sup> of employment floor space is an adequate contribution to meeting the employment targets established for the Strategic Centre, as identified in the local and State strategies, including the Norwest Precinct Plan.

- The site is irregular in shape, flanked by residential development on two frontages and the location of the proposed residential uses provides a logical land use transition.
- It is unlikely that these same unique circumstances could be replicated on other land within the strategic centre and as such, the proposal is unlikely to create an undesirable precedent. This includes the SP4 Enterprise zoned land along Brookhollow Avenue, which demonstrates a clear and logical distinction and separation between existing employment and residential land uses.
- Subject to the provision of an infrastructure solution that demonstrates a fair and reasonable local infrastructure contribution, it is considered that the demand for infrastructure generated by the residential development at this location can be adequately serviced. The Proponent has flagged entering into a Voluntary Planning Agreement with Council following the issue of a Gateway Determination.

*Finalisation of Norwest Precinct Plan 2023.*

The Norwest Precinct Plan was adopted by Council on 9 July 2024. It builds on the pre-existing local and State strategic planning framework and is the next step to inform potential changes to both the planning controls and infrastructure framework in a holistic manner.

The precinct plan recognises several active planning that were lodged and have been considered by Council prior to exhibition and adoption of the Plan. In respect of the subject site, it states *‘the final land use outcomes will be determined through the site-specific planning proposal in accordance with the resolved position of Council, if the planning proposal ultimately proceeds to finalisation’ (Attachment D2).*

Based on a holistic analysis of the Strategic Centre, the Precinct Plan identifies 3 ‘investigation’ sites within the employment core of Norwest Central. These ‘investigation’ sites flag the potential to permit a small amount of ancillary residential uses on these unique sites, contingent on achieving certain outcomes. These sites are not an entitlement and are ultimately subject to further investigation as part of site-specific PPs.

The subject site is not identified as an ‘investigation’ site however has satisfied the trigger for further detailed investigations through the site-specific planning proposal pathway.

Should the planning proposal not proceed to finalisation, the site will likely be included within the Council-led planning proposal for this Focus Area to facilitate an employment only outcome.

Material provided in support of application/proposal

Council’s letter recognising the Gateway review application is provided at **Attachments D-D2**. Council does not propose any further amendment to the planning proposal.

Attachment	Title
Attachment D	Council response to Gateway review 15 July 2024
Attachment D1	Council report and minutes 27 July 2021
Attachment D2	34-46 Brookhollow Avenue site specific response to submission to Norwest Precinct Plan 2023

**Proponent views**

Details of justification

The proponent sought the Gateway determination review on 20 June 2024 (**Attachment E**). A letter prepared by the proponent addresses the reasons listed

in the Gateway determination that the planning proposal remove the additional permitted use for residential flat buildings. These are summarised below.

**1. Department reason: the proposal is inconsistent with the District Plan.**

*Priority C5 Providing housing supply, choice and affordability, with access to jobs and services.*

The proponent outlines the site is of sufficient scale to enable both commercial and housing outcomes and the proposal does not limit commercial development opportunities, rather it increases this potential. Furthermore, the site's location is appropriate for housing because of its immediate proximity to the metro station, interface with the existing residential areas on two sides of the site.

*Priority C10 Growing investment, business opportunities and jobs in strategic centres.*

The proponent highlights that the proposal is consistent with this priority as it will result in significant employment uplift with commercial uses remaining the dominant use of the site.

The proposed inclusion of an additional permitted land use on the site (residential) improves the feasibility of delivery of employment floor space on the site, noting that the feasibility of development in Norwest for commercial office properties has been fundamentally altered by the COVID-19 pandemic, and as confirmed by the Council will deliver additional jobs on the site than would otherwise be delivered under the existing planning controls.

Furthermore, the existence of other areas for higher density residential development does not reduce the merit of the proposal nor negate the need for further residential development.

**2. Department reason: The proposal does not give effect to Council's local strategic planning framework.**

*Local Strategic Planning Statement*

The proponent reiterates that since the proposal will result in significant employment uplift, it will improve viability and desirability for future commercial investment. Whilst the site is not identified for residential uses, the LSPS was adopted by Council at a point in time, that pre-dates the decision on the Planning Proposal- accordingly the LSPS document doesn't reflect this.

*Draft Norwest Precinct Plan 2023*

The Norwest Precinct Plan (draft) directly acknowledges that a number of planning proposals have and continue to be progressed within Norwest. Section 5.2.2 of the draft documents, the Precinct Plan '*focuses on filling in the gaps to provide a holistic framework to guide future development and to enable Norwest to reach its full potential as a strategic Centre*'. The Norwest Precinct Plan accordingly does not seek to revisit nor question the merit of the planning proposal.

The draft Norwest Precinct Plan is not a draft EPI for the purposes of the Act.

**3. Department reason: The proposed residential component is inconsistent with 9.1 Directions 1.16 North West Rail Link Corridor and 7.1 Employment zones.**

*Direction 1.16 North West Rail Link Corridor Strategy*

Part of the vision established in the North West Rail Link Corridor Strategy is acknowledging that housing contributes to the growth and vibrancy of a centre. The proponent notes this in reiterating its consistency with the Direction.

The proponent indicates the inconsistency with the Direction is of minor significance given that the jobs targets will be achieved notwithstanding the proposed additional use, and noting that the additional land use is not the dominant land use on the site and is therefore considered of minor significance.

*Direction 7.1 Employment zones*

The proponent provides the following reasons to justify the additional permitted use is of minor significance.

- The planning proposal will achieve twice as many jobs than could potentially be delivered under the current planning controls.
- Under the current controls the site would be able to facilitate commercial development which could accommodate 816 jobs. Under the proposed controls the site would be able to facilitate commercial development which could accommodate 1,890 jobs.
- The site-specific provisions ensure that the minimum employment floorspace will be achieved with any redevelopment of the site.
- The zoning is not proposed to be changed, with residential only as an additional permitted use.
- It is considered that the approximate 20% of the site being utilised for residential purposes is minor. The predominant use of the site remains commercial premises.
- The additional permitted use will deliver not only much needed housing supply, but also provide a transition of land uses to the neighbouring residential community, and improve the feasibility of the delivery of a supply of a significant quantum of commercial floor space. The delivery of a residential component within a mixed-use outcome improves the feasibility of delivery commercial floorspace, which is otherwise challenging in Norwest.
- The delivery of a residential component within a mixed-use outcome improves the on-going attractiveness of commercial floorspace for business investment, by delivering levels of interest and vibrancy, activation (e.g. 18hr economy) and the creation of a safety community, consistent with CPTED principles through a variety of land uses and passive surveillance.

***Proponent's additional justification to support the proposal.***

*The proposal is aligned with Government priorities.*

There is clear alignment between the planning proposal and the published principles for Transport Oriented Development as the proposal:

- is located immediately opposite the Norwest Metro Station;
- the scale of the residential component is mid-rise and has been the subject of thorough testing and negotiation with The Hills Shire Council to determine an appropriate bulk and scale;



- a high level of amenity and liveability will be achieved – through solar access, natural cross ventilation and access to areas of both open space and public domain; and
- it is proposed that a minimum of 5% of residential floor space shall be used for affordable housing.

*Supporting Norwest Strategic centre reach its full potential*

This site has the potential to deliver a design-led and master planned vibrant place that will be a catalyst in investment for the broader business park. Aligned with broader trends for successful innovation precincts, including a focus on the achievement of an 18-hour economy. This is achieved in part through residential component, avoiding the situation where a business park activity traditionally has fallen away quickly from 5pm.

Material provided in support of application/proposal

The proponent has provided and referenced the documents below to support their Gateway review request.

Attachment	Title
Attachment E	Proponent Gateway Determination Review Request 20 June 2024
Attachment F	Local Planning Panel report and minute (17 September 2020)
Attachment G	Local Planning Panel report and minute (17 June 2020)
Attachment H	Local Planning Panel report and minute (16 October 2019)
Attachment I	Local Planning Panel report and minute (19 June 2019)
Attachment J	Updated political donations statement dated 07.08.2024

**Assessment summary**

Department's assessment

The Department's position on the inclusion of condition 1a. on the Gateway determination remains unchanged. The Department has considered both the Council and proponent submissions and maintains the proposal with the additional permitted use for residential flat buildings does not have strategic merit.

The proposal seeks to allow residential uses on a portion of the site, which is inconsistent with the District Plan and local strategic planning framework. The local strategic planning framework has consistently identified Norwest, as an employment focused strategic centre, with employment uses only on this site.

Council's latest piece of strategic planning work (Norwest precinct plan) adopted in July 2024, identifies the site with a maximum FSR of 3:1 and height of buildings between 4-23 storeys. The Gateway determination is based on a base FSR of 2.4:1 with an incentive of 3:1, with buildings up to 23 storeys.

The next step is for Council to prepare a planning proposal to amend the planning controls to give effect to the adopted precinct plan. If this proposal does not proceed, Council will likely include the site within the Council-led planning proposal for this area to facilitate an employment only outcome.

Residential uses are identified for defined locations with the precinct plan predicting an increase of approximately 5,863 additional dwellings within Norwest Central precinct by 2036, and a total of 9,311 by 2041. Some employment sites are flagged as investigation areas for minor residential development subject to meeting certain outcomes. The subject site was not identified.

The Gateway review application seeks to justify the unique characteristics of the proposal, given the site area and location to the metro station, interfacing with residential areas on two sides and the dominant use of the site remains commercial. The Department's position remains unchanged that the site

	<p>circumstances are not unique, and the additional residential use would set a precedent.</p> <p>Housing is a key priority for the NSW Government. The Department has announced programs to create more well-located homes close to transport, jobs and services, including the Transport Orientated Development Program, which did not identify Norwest Strategic Centre, and other reforms for diverse low-and mid-rise homes.</p> <p>In addition, as per Council's comments, Council's precinct planning work's identification of 'investigation' sites within Norwest Central Precinct has, in part, sought to respond to current Government housing priorities seeking to increase densities in close proximity to transit centres.</p>
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## COMMISSION'S RECOMMENDATION

**Reason for review: A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.**

<b>Recommendation</b>	The planning proposal should proceed past Gateway with the amendments suggested to the original determination.
	The planning proposal should proceed past Gateway in accordance with the original Determination (ie no amendments are suggested to the original determination)

**Any additional comments:**