

Greater Sydney, Place and Infrastructure

IRF19/6216

Gateway determination report

LGA	The Hills
PPA	The Hills Shire Council
NAME	Low Density Residential - Dural
NUMBER	PP_2019_THILL_005_00
LEP TO BE AMENDED	The Hills Local Environmental Plan 2019
ADDRESS	584, 586, 590, 600, 602, 606, 618 and 626 Old Northern Road and 7, 11, 21 and 27 Derriwong Road Dural (181 dwellings)
RECEIVED	13.08.19 (additional information provided directly by proponent 20.12.2019, 5.02.2020, 11.03.2020 and 19.03.2020)
FILE NO.	IRF19/6216
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 Description of planning proposal

The planning proposal (**Attachment A1**) seeks to enable and residential development including approximately 181 dwellings and seniors housing, health services facilities, potential associated support retail uses and public and/or private recreation space. It proposes to amend The Hills Local Environmental Plan (LEP) 2019 as it applies to 584, 586, 590, 600, 602, 606, 618 and 626 Old Northern Road and 7, 11, 21 and 27 Derriwong Road, Dural by:

- rezoning the sites from RU6 Transition to R2 Low Density Residential;
- reducing the maximum height of building from 10 metres to 9 metres;
- reducing the minimum lot size from 2 hectares to 700m²; and
- introducing a local provision enabling a minimum lot size of 600m² on the 'northern' site, with a yield capped at 101 dwellings.

1.2 Site description

The site consists of a northern and southern section (Figure 1 next page).

The northern section is 10.848 hectares and is composed of:

- 21 Derriwong Road - Lot 2 DP 567995;
- 27 Derriwong Road - Lot 9 DP 237576;
- 626 Old Northern Road - Lot 2 DP 541329; and

- 618 Old Northern Road - Lot X DP 501233.

The southern section is 10.617 hectares and is composed of:

- 606 Old Northern Road - Lot 1 DP 73652;
- 602 Old Northern Road - Lot 1 DP 656036;
- 600A Old Northern Road (also known as 11 Derriwong Road) - Lot 101 DP 713628;
- 600 Old Northern Road - Lot 100 DP 713628;
- 7 Derriwong Road - Lot 12 DP 866560;
- 590 Old Northern Road - Lot D DP 38097, Lot D DP 39261;
- 5 Derriwong Road (also known as 586 Old Northern Road) - Lot 11 DP 866560; and
- 584 Old Northern Road - Lot 1 DP 660184.

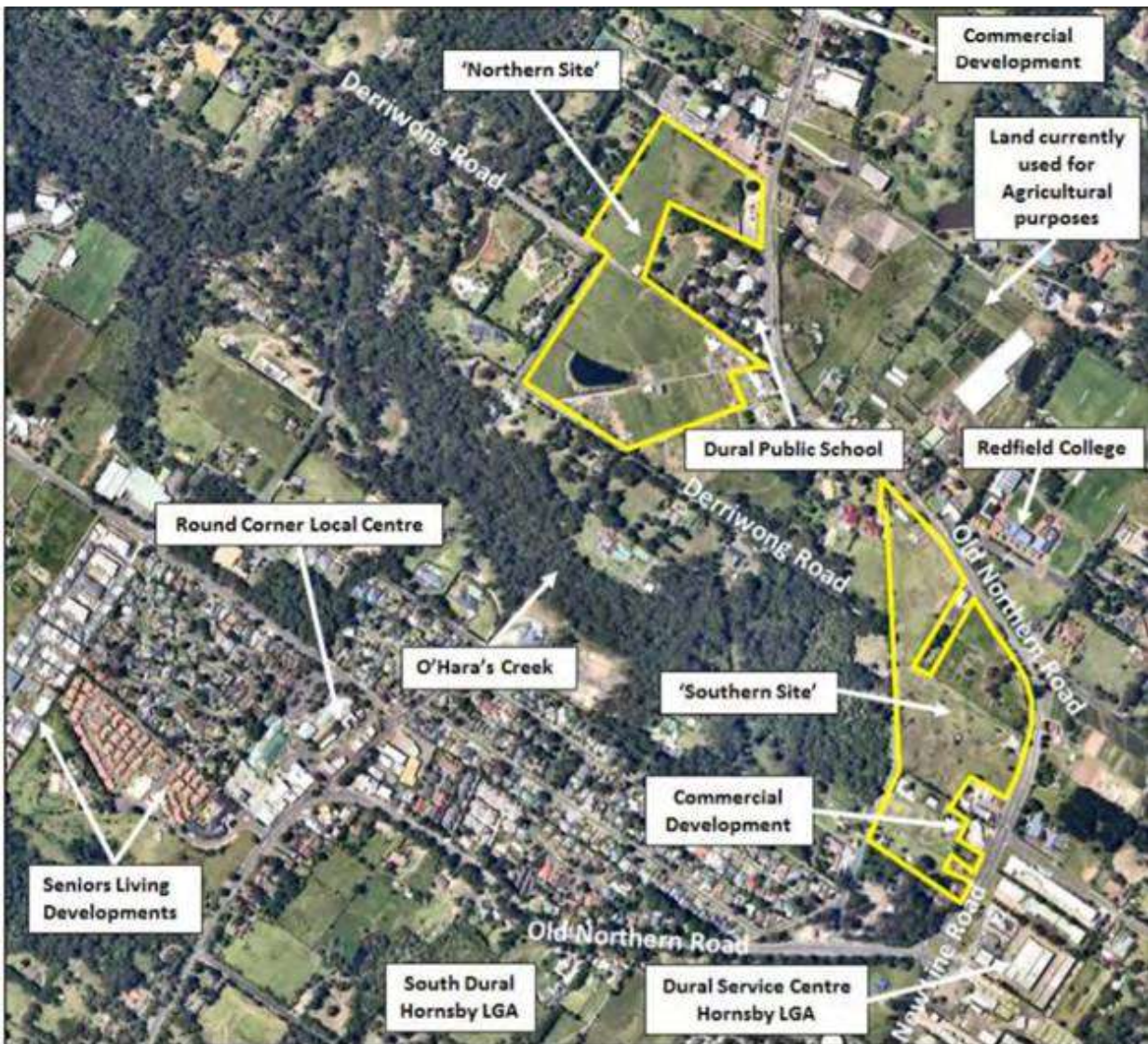


Figure 1: Land subject to the planning proposal.

Part of the northern section was used as orchards until around mid-2014 when the land was progressively cleared (Figures 2 to 3 below). There is no evidence that the land was cleared because it was no longer suitable for agriculture uses or rural activities. This is discussed in this report as part of the strategic assessment of the proposal under the District Plan.



Figure 2: Aerial photo of orchards on part of northern site 7 May 2014 starting to be cleared (Source: Nearmap)

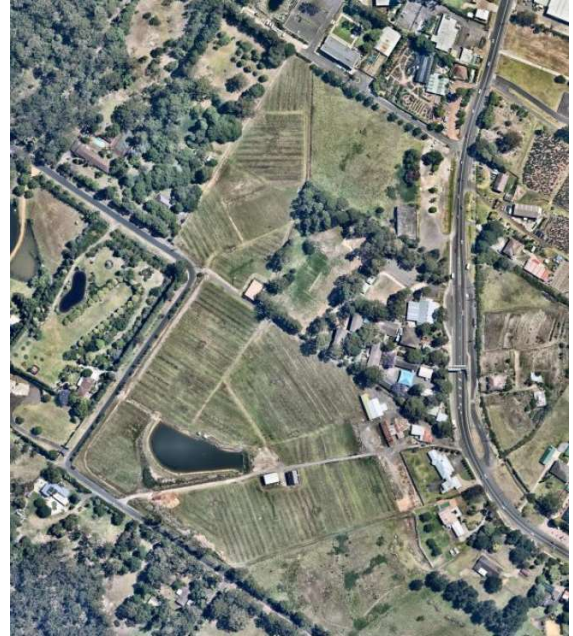


Figure 2: Aerial photo of orchards cleared on part of northern site 30 November 2014 (Source: Nearmap)

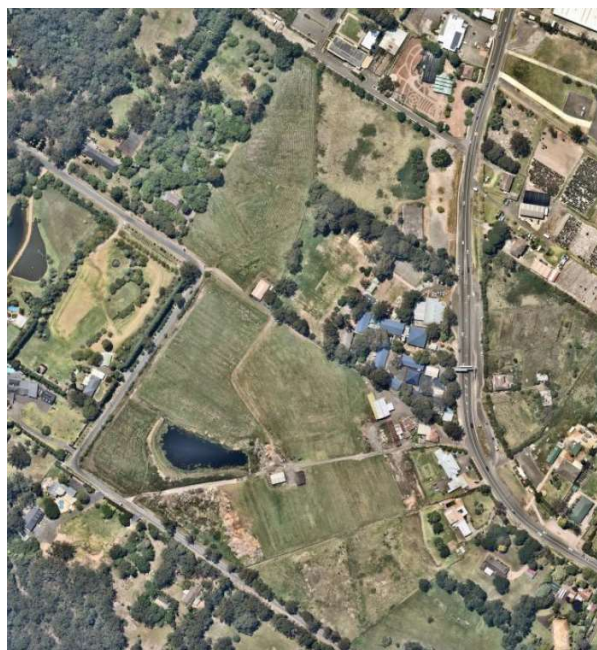


Figure 3: Aerial photo of part of northern site 29 October 2019 (Source: Nearmap)

1.3 Existing planning controls

The following planning controls (Table 1 below) apply to the subject land with zoning shown in Figure 4 (below).

Table 1: Planning controls applying to site

Zone	Minimum Lot Size	Height of Buildings	FSR
RU6 Transition	2 – 4.9 Ha	10 – 10.9m	N/A

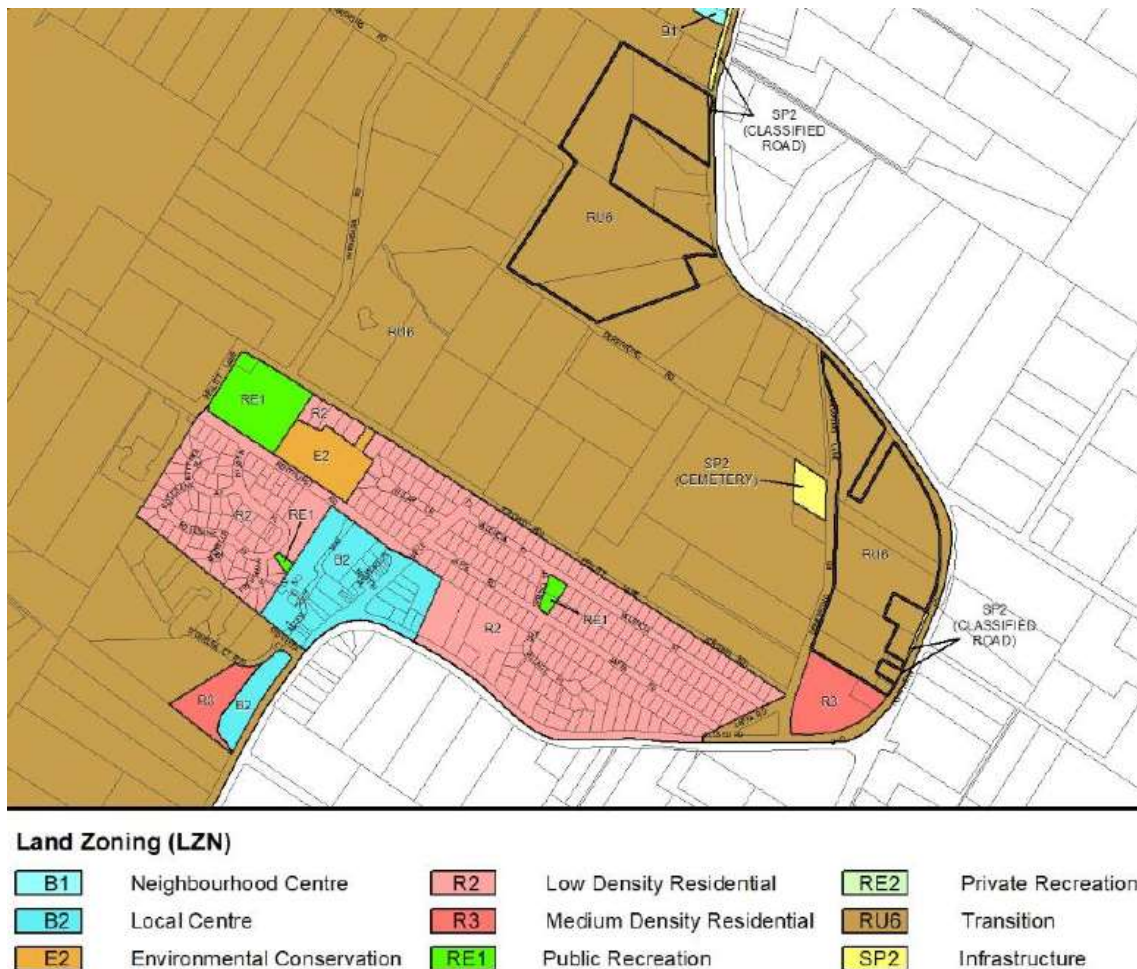


Figure 4: Zoning of subject land.

1.4 Surrounding area

The site is situated in Dural, in the north of the Central River City, approximately 14km north of Parramatta CBD (Figures 5 and 6 next page). It is approximately 5km north of Castle Hill and 6.5km west of Hornsby. The site consists of a northern and southern section. The northern section is within 200m of local shops including an IGA. The southern section is within 1km of the Dural shopping centre including Woolworths and a range of specialty shops.

The site is in a highland agricultural area of rural character and surrounded by vegetated gullies and is within the Metropolitan Rural Area (MRA). The main north-south link is Old Northern Road. Annangrove Road connects the site to the west and New Line road connects the site to the south-east. The closest station is Castle Hill Metro Station with frequent services to Macquarie Park and Chatswood.



Figure 5: Site and surrounding context.



Figure 6: Site and strategic location.

1.5 Background

Table 2 (below) provides a summary of the history of the planning proposal and the related Dural Urban Capacity and Capability Assessment.

Table 2: Proposal history

Date	Event
19 May 2016	Planning proposal initially lodged with The Hills Shire Council.
28 June 2016	Council resolved to undertake land use study for Dural Round Corner Precinct in partnership with Hornsby Council and discussed deferring the planning proposal with proponent to enable holistic master planning for the broader Dural area.
13 December 2016	Council resolved that the planning proposal be held in abeyance until wider Dural area investigations were completed.
10 February 2017	Proponent lodged rezoning review on the basis Council had failed to indicate its support 90 days after the planning proposal was lodged.
11 April 2017	Council allocated funding towards Phase 1 of the 'Dural Urban Capacity and Capability Assessment'.
20 April 2017	Sydney West Central Planning Panel considered the rezoning and determined that it should not proceed as it did not demonstrate strategic merit, particularly as the implications for the urban-rural interface were unresolved.
18 March 2018	The Greater Sydney Commission released the finalised Central City District Plan, which contains priorities relating to better management of rural areas, including limiting urban development to the urban areas.
15 March 2019	Phase 1 of the 'Dural Urban Capacity and Capability Assessment' completed. The Assessment concluded that while some land is environmentally capable of accommodating development, there is insufficient infrastructure capacity to facilitate development uplift in the Dural locality at this time.
26 March 2019	In response findings from Phase 1 of the 'Dural Urban Capacity and Capability Assessment', Council determined planning proposals for the Dural area are required to deliver local and regional infrastructure upgrades at no cost to Council.
19 June 2019	<p>Council officer's report to the Local Planning Panel recommended that the planning proposal be forwarded to the Department for consideration and Gateway Assessment.</p> <p>The Local Planning Panel recommended that the planning proposal <u>should not</u> proceed to gateway (Attachment A3) for the following reasons:</p> <ol style="list-style-type: none"> 1. <i>The proposal does not demonstrate strategic merit.</i>

	<ol style="list-style-type: none"> 2. <i>The proposal is not consistent with the Greater Sydney Commission Central Sydney City Plan, specifically planning priority C18 “Better Managing Rural Areas”.</i> 3. <i>The proposal is not consistent with Section 9.1 Ministerial Direction 1.2 Rural Zones.</i> 4. <i>The proposal is not consistent with Council’s Rural Lands Strategy.</i> 5. <i>The proposal has the potential to generate conflict with the RU2 zoned land in the Hornsby Local Government Area.</i> 6. <i>The proposal will have an adverse impact on the character of the Dural Precinct.</i>
<p>9 July 2019</p>	<p>Council officer’s report to Council recommended that the planning proposal be forwarded to the Department for consideration and Gateway Assessment.</p> <p>Council resolved (Attachment A2) that the proposal <u>should</u> be submitted to the Department for Gateway Assessment to determine State Government agency views on the merits of the proposal.</p> <p>Council also resolved if the Department determines that the proposal has strategic and site-specific merit and issue a Gateway Determination, the following matters should be resolved prior to any exhibition of the planning proposal:</p> <ol style="list-style-type: none"> a) <i>The need to increase the proposed minimum lot size at key locations, in order to soften the impact of the development on the Old Northern Road ridgeline and enable better visual transition between the development and surrounding rural land;</i> b) <i>Access arrangements and relationship between proposed residential lots and the planned arterial bypass road;</i> c) <i>Establishment of a mechanism to ensure that the proposed amendments would not facilitate a proliferation of seniors housing development proposals on adjoining rural land; and</i> d) <i>The ability to service the proposed residential yield with new local and regional infrastructure, at no cost to Council. This would include further resolution of ongoing discussions with State and Federal Government surrounding the funding of required regional road upgrades.</i>
<p>26 July 2019</p>	<p>Request for gateway determination letter sent to the Department.</p>
<p>19 November 2019</p>	<p>The Department met with the proponent and Hills Shire Council staff. At the meeting the Department emphasised that the proposal is to facilitate urban development in the Metropolitan Rural Area and the Department’s position relies on advice from the Greater Sydney Commission (Attachment D), which does not support the proposal to allow urban development within the MRA except where minor expansion of local villages meets local demand. The Department noted</p>

	<p>while the Central City District Plan does identify some growth of rural villages within the MRA, the Plan identifies this as background local growth existing rural villages. The GSC's advice predicts the acceptable background growth rate is 1% per annum (Attachment D) and any additional residential growth should be limited to identified growth precincts. It was noted this guideline of percentage of size is not contained in any strategic planning document and that the GSC has provided this growth rate as a guide.</p>
20 December 2019	<p>The proponent provided unsolicited SC advice (Attachment E) requesting for it to be considered as part of the assessment of the proposal. The additional information from the proponent is described as a policy weight test regarding rural village expansion within the MRA to meet growth of 1-1.5% of existing population/dwellings (discussed in the Strategic Assessment part of this report).</p>
5 February 2020	<p>The proponent provided unsolicited additional information (Attachment F) requesting the Department to consider issuing a conditional gateway determination approving the controls for the northern site and excising the southern site, providing for a total of 99 dwellings (however, it is noted the proposal seeks a cap of 101 dwellings for the northern site) (discussed in the Strategic Assessment and Site-specific Assessment parts of this report). The proponent provided this information in response to concerns raised by the Department and Transport for NSW regarding traffic generation prior to sufficient upgrades to the supporting road network.</p>
11 March 2020	<p>The proponent provided unsolicited additional information (Attachment G) outlining the public benefit of the proposed drop-off zone on the operation of the surrounding road network.</p>
19 March 2020	<p>The proponent provided unsolicited additional information (Attachments H-H5) including:</p> <ul style="list-style-type: none"> • A traffic report outlining the likely traffic generation of the reduced yield and benefits of the proposed drop-off zone on the surrounding road network and road safety. • Videos demonstrating how the existing operation of the buses affects the surrounding traffic flow.

1.6 Summary of recommendation

The planning proposal does not have strategic or site-specific merit and should not proceed to Gateway as the proposal:

- does not give effect to the Central City District Plan;
- is inconsistent with Section 9.1 Directions 1.2 Rural Zones, 2.3 Heritage Conservation, 3.1 Residential Zones, 4.4 Planning for Bushfire Protection, and 6.3 Site Specific Provisions;

- is inconsistent with the Hills Shire Council’s draft Local Strategic Planning Statement as the site is outside the urban area defined in the Statement’s structure plan;
- has no plans or funding to increase capacity on the surrounding road network to facilitate this proposal;
- although the proposal does offer some local benefits (**Attachment A4**) such as:
 - sewerage system upgrades in the immediate locality around the site enabling the removal of septic systems from the playground of the adjacent Dural Public School;
 - road widening to enable safer drop-off and pick-up of students at Dural Public School; and
 - provision of local open space;

it makes an insufficient contribution toward improving State infrastructure. This is because the site in isolation cannot adequately secure the scale of improvement required in the road network; and

- does not adequately demonstrate the site has no potential to accommodate agricultural uses under its existing zoning and land use conflict would not arise as a result of the proposal.

2. PROPOSAL

2.1 Objectives or intended outcomes

The planning proposal seeks to rezone the subject rural land to urban purposes to permit the delivery of health services facilities, potential associated support retail uses and residential development including approximately 181 dwellings and seniors housing along with public and/or private recreation spaces (Figure 7 below).

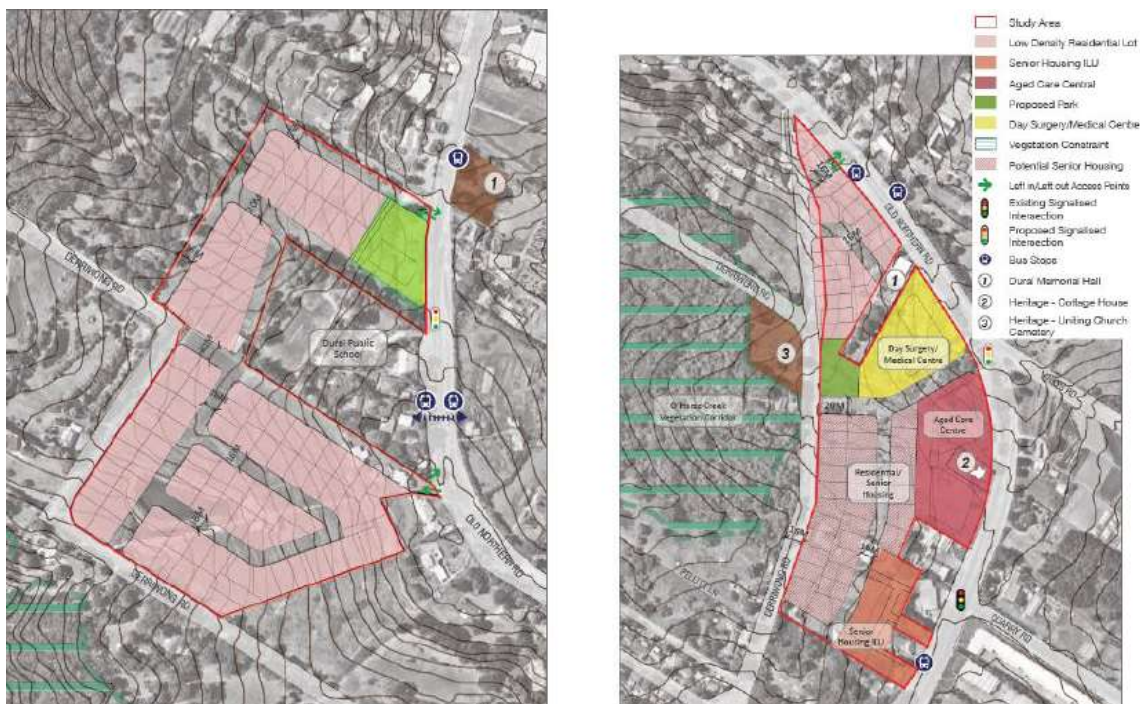


Figure 7: Indicative structure plan.

The proposal includes the reservation and delivery of a portion of road bypassing Round Corner from Annangrove Road to Old Northern Road and New Line Road (Round Corner Bypass). This road connection would assist in better east-west connection and reduce congestion in Round Corner. However, approval and further investment would be required from State/ Federal Government, including an upgrade of New Line Road and Old Northern Road and reclassification of Annangrove Road.

The proposal also includes a public benefit offer to provide for local infrastructure contributions including:

- sewerage system upgrades in the immediate locality around the site enabling the removal of septic systems from the playground of the adjacent Dural Public School;
- road widening to enable safer drop-off and pick-up of students at Dural Public School; and
- provision of local open space.

2.2 Explanation of provisions

The following amendments to The Hills Local Environmental Plan (LEP) 2019 are proposed:

- rezoning the site from RU6 Transition to R2 Low Density Residential;
- reducing the maximum height of buildings from 10 metres to 9 metres;
- reducing the minimum lot size from 2 hectares to 700m² on the southern site and 600m² on the northern site; and
- introducing a local provision (under Part 7 of the LEP) enabling a minimum lot size of 600m² on the 'northern' site, with a yield capped at 101 dwellings.

Council states in its planning proposal (**Attachment A1**) a draft local provision would also be included, drafted as follows:

Residential development yield on certain land in Dural

(1) The objectives of this clause are as follows:

(a) To facilitate the provision of a road reserve to accommodate future road networks,

(b) To ensure development does not place an unreasonable burden on the provision of services, facilities and infrastructure in the area to which this clause applies.

(2) This clause applies to land identified as "Area M" on the Key Sites Map.

(3) The consent authority may consent to the subdivision of land to provide a maximum of 101 residential lots.

(4) Development consent must not be granted to the subdivision of land to which this clause applies if the development has minimum lot sizes of less than 600m².

Note: This clause is draft only and will be subject to legal drafting.

It is noted the proponent submitted additional information on 5 February 2020 requesting the Department to consider issuing a conditional gateway approval for the proposed amendments on the northern site and excising the amendments sought for

the southern site (**Attachment F**). The proponent states this would reduce the potential dwelling yield of the proposal from 181 dwellings to 99 dwellings, however it is noted the proposal seeks a dwelling cap of 101 dwellings for the northern site.

2.3 Mapping

The planning proposal seeks to amend the following The Hills LEP 2012 maps:

- Land Use Zoning: Sheet LNZ_023;
- Height of Buildings: Sheet HOB_023; and
- Minimum Lot Size: Sheet LSZ_023.

The proposal does not seek to amend the existing Floor Space Ratio map.

The planning proposal adequately shows the current maps and the proposed maps as shown in Figures 8 to 10 (below).

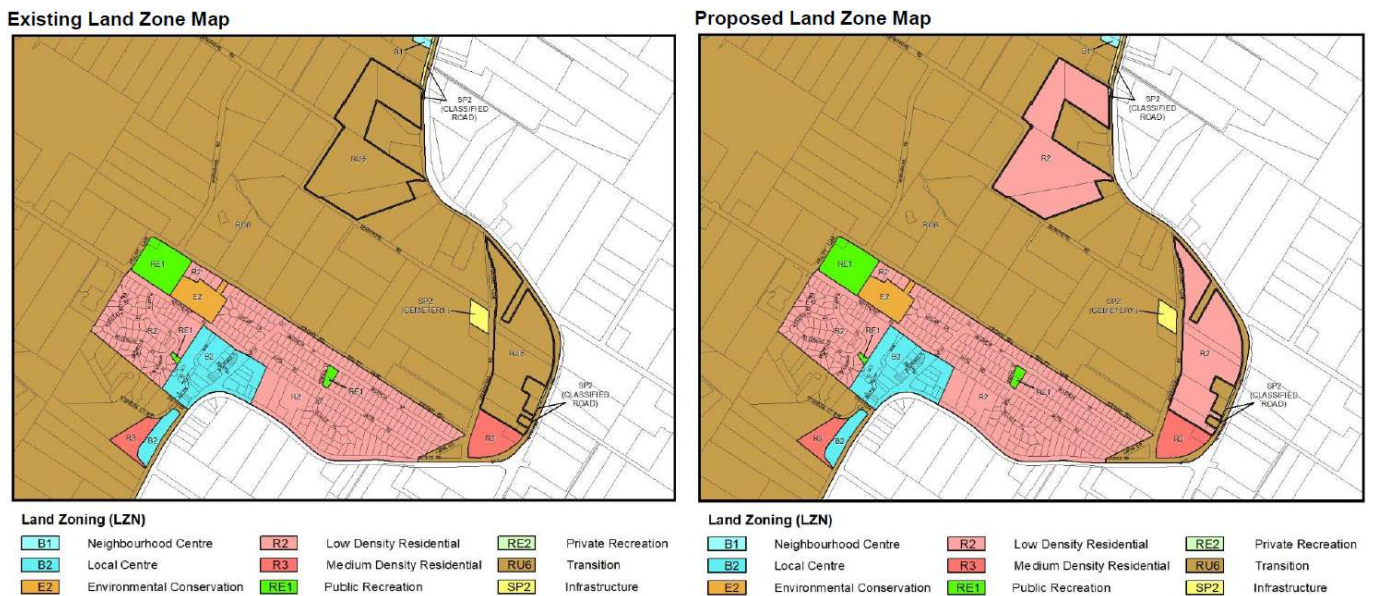


Figure 8: Existing and proposed land use zoning.

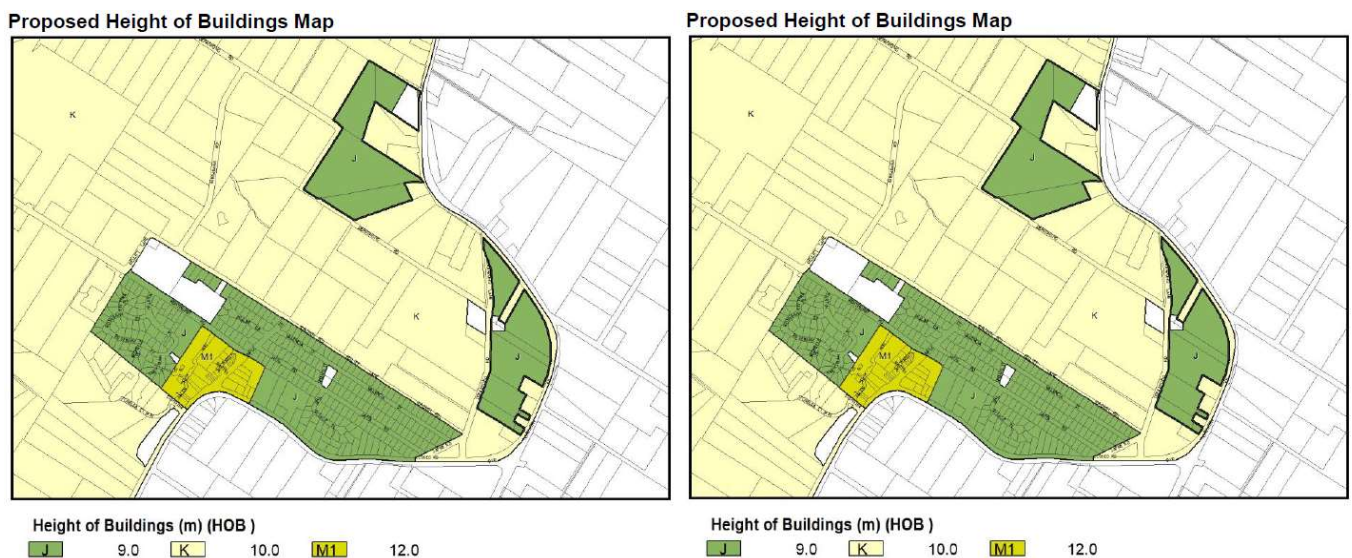
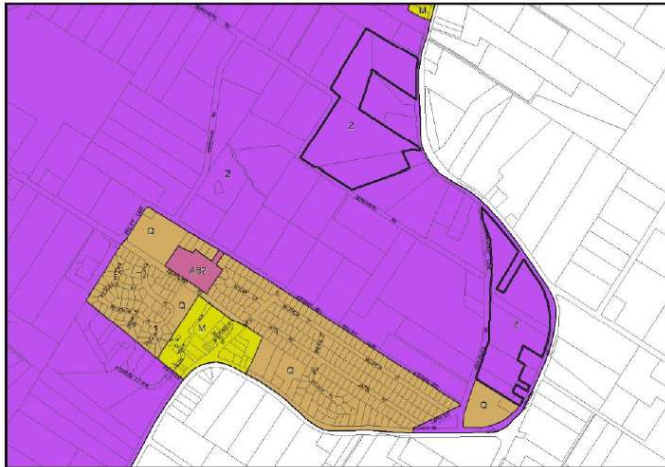


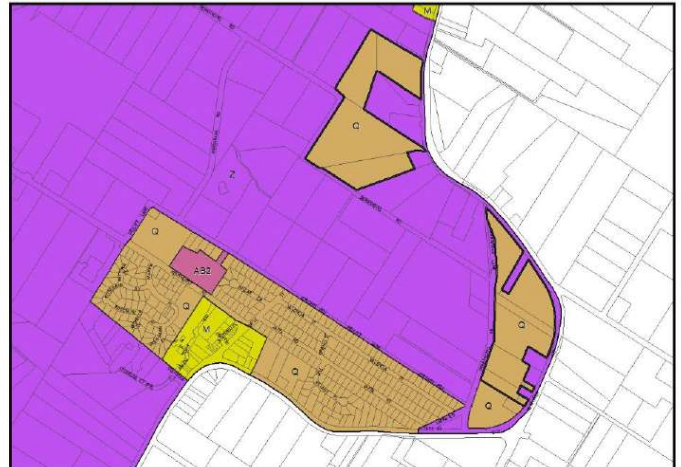
Figure 9: Existing and proposed building height provisions.

Existing Minimum Lot Size Map



Minimum Lot Size (sq m) (LSZ)
M 600 **Q** 700 **Z** 2 ha **AB2** 40 ha

Proposed Minimum Lot Size Map



Minimum Lot Size (sq m) (LSZ)
M 600 **Q** 700 **Z** 2 ha **AB2** 40 ha

Figure 10: Existing and proposed minimum lot size provisions.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is not the result of any strategic study or report. It is inconsistent with Council's draft Local Strategic Planning Statement which identifies the potential to expand some villages within the local government area, but not Dural. Council completed the Dural Urban Capacity and Capability Assessment in March 2019. This concluded while some land is environmentally capable of accommodating development, there is insufficient infrastructure capacity to facilitate development uplift in the Dural locality at this time.

The proposal was initiated by land owners as a means of enabling residential subdivision of their land by rezoning the land from RU6 Transition to R2 Low Density Residential and decreasing the minimum lot size from 2 hectares to 700m² on the southern site and 600m² on the northern site.

The intended outcome, residential subdivision, and the proposed amendments to principal development standards under The Hills LEP 2012 can only be achieved via the proposed amendment.

The site specific and strategic merits of the proposal are assessed in this report.

4. STRATEGIC ASSESSMENT

4.1 District

Central City District Plan

The site is within the Central City District and the Greater Sydney Commission (GSC) 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 proposal does not give effect to the following planning priorities of the Plan:

- Priority 1 Planning for a City Supported by Infrastructure

This priority aims to ensure infrastructure provision aligns with forecast growth and adapts to future needs. The planning proposal could help to deliver essential road /

east-west connections which is an action under this priority. However, this priority also refers to aligning forecast growth with infrastructure and maximising the utility of existing infrastructure assets. Irrespective of the proponent's additional information (**Attachment F**) seeking consideration of a conditional gateway approval only to proceed with the amendment sought for the northern site (seeking a total of 101 dwellings), there are currently no plans or funding to increase capacity on the surrounding road network to facilitate any part of the proposal.

Significant improvements to the State road network are required as outlined below and a contribution from this proposal towards the total cost is unlikely to bring forward investment such that it could be argued as a reason to support this proposal.

The Hills Shire has the potential to continue to provide for the needs of a growing population with timely provision of suitable infrastructure in Strategic Centres, Urban Renewal Areas and Land Release Areas. The site is not located in any of these areas.

Therefore, the planning proposal is inconsistent with Priority 1.

- Priority 5 Providing housing supply, choice and affordability, with access to jobs and services

This priority aims to provide greater housing supply and diversity and affordability through well designed, well located housing and a variety of housing stock to suit all stages of life. Although the planning proposal intends to deliver a variety of housing, it is not in a growth area or planned precinct, nor does it support the role of any strategic centres. The Hills Draft Housing Strategy 2019 states Council does not intend to rezone additional land for residential uses unless exemplary development and community outcomes are achieved and demonstrates housing targets can be met in existing residential zoned areas.

The planning proposal is inconsistent with Priority 5.

- Priority 18 Better managing rural areas

Priority 18 aims to use place-based planning to maintain or enhance the values of and limit urban development in the Metropolitan Rural Area. The Plan states maintaining and enhancing the distinctive rural village character is a high priority and further rural residential or urban development of a larger scale is generally not supported. The planning proposal does not maintain or enhance the character of the area.

Action 74 under Priority 18 is to limit urban development to within the Urban Area. The GSC's advice states while The Hills Draft Rural Lands Strategy and The Hills Draft LSPS are consistent with the District Plan, the planning proposal is not consistent with Action 74 of the District Plan as it seeks to enable urban development outside of the Urban Area.

Action 73 under Priority 18 is to maintain or enhance the values of the Metropolitan Rural Area using place-based planning to deliver targeted environmental, social and economic outcomes and the District Plan also notes the need for ongoing planning and management of rural towns and villages will need to respond to local demand for growth, the character of the town or village and the surrounding landscape and rural activities. While there is a role for village expansion to meet the needs of a local population, the GSC has given advice this should be in line with background growth at a rate of approximately 1% per annum. At an estimate, Dural village includes

approximately 500 dwellings. Local demand-led expansion would represent 5 dwellings per year.

On 20 December 2019 the proponent lodged additional information to the Department for consideration (**Attachment E**). In summary the proponent's additional information states:

- the Central City District Plan and supporting strategic documents do not provide a numeric restriction to the growth of rural village within the MRA.
- there are limited examples of large-scale planning proposals made in the MRA and accordingly in such circumstances there is limited evidence to suggest the policy has either been adhered to or departed from.
- The proposal is not entirely inconsistent with The Hills Draft Local Strategic Planning Statement, supporting Rural Strategy 2019 and Environment Strategy 2019 as well as Section 9.1 Direction Rural Zones as the proposal includes the provision of infrastructure as identified within the Dural Urban Capability Assessment.
- The growth anticipated in The Hills Draft LSPS for other rural areas far exceeds 1% overall growth from 15,500 dwellings in 2016 to 17,400 dwellings in 2036 (equating to approximately 12%).
 - Department Response: It is noted this is a misinterpretation of GSC's advice as the rate is background growth of 1% per annum rather than overall growth and when calculating growth in the rural area per annum, it is at a rate of approximately 1% per annum and the draft LSPS is consistent with this estimated rate of growth per annum in rural areas.

Irrespective of the proposal's exceedance of 1% growth per annum for Dural and the policy weight of this rate, the planning proposal is not supported to proceed to Gateway as it does not give effect to the Central City District Plan and is not supported by the GSC for a number of reasons as discussed in this report.

The GSC notes The Hills Draft Rural Land Strategy is silent on demographic demand for growth in Dural, and the Strategy prioritises future place-based planning for the villages of Kenthurst, Annangrove and Glenorie with local character statements for these villages which may identify opportunities for local growth at these locations. GSC notes Council have yet to undertake detailed place-based planning to define the distinctive character of Dural, its surrounding landscape and rural activities. It is also noted part of the northern site was historically used for orchards which started to be significantly cleared mid-2014. There is no evidence this clearing occurred because the land was no longer suitable for agriculture uses or rural activities. Therefore, there are insufficient grounds to say the proposal gives effect to Action 73 of the District Plan.

The planning proposal is inconsistent with Priority 18 of better managing rural areas.

The Department is not satisfied that the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

4.3 Local

The Hills Future Community Strategic Plan

Hills Future is the guiding strategic document for The Hills Shire until the Local Strategic Planning Statement is finalised.

Council's Rural Lands Strategy under the Strategic Plan aims to encourage and promote a diverse range of agriculture in rural areas and limit urban expansion.

The site's RU6 Transition zoning is consistent with the Rural Lands Strategy and permitted land uses include a number of traditional rural activities such as agricultural produce industries, farm buildings, garden centres, intensive plant agriculture, landscaping material supplies and plant nurseries.

As stated by Council (**Attachment A2**) the RU6 Transition Zone and its objectives are necessary to protect existing rural enterprises and encourage future investment in these and other rural lands. The zone provides an appropriate buffer between urban land and rural areas and allows the rural areas to develop and grow without being restricted by residential uses in close proximity. The Hills Shire's agricultural productivity is high, and the area's local and regional output values continue to increase despite growing pressure to rezone rural land.

The planning proposal is inconsistent with this local strategy as it seeks to enable urban development in an area identified as rural under Council's Rural Land Strategy.

The Hills draft Local Strategic Planning Statement 2036

The Hills draft Local Strategic Planning Statement (LSPS) 2036 provides the land use vision for The Hills Shire and gives effect to the Greater Sydney Region Plan and Central City District Plan. The draft LSPS includes planning priorities to retain and manage the Shire's rural productive capacity and to manage and protect the rural/urban interface. The planning proposal is inconsistent with this priority in the draft Hills LSPS as it seeks to enable urban development of a total of 181 residential lots (or as per the proponent's additional information at **Attachment F** a total of 99 dwellings for the northern site only) in the metropolitan rural area.

Dural Urban Capacity and Capability Study

The site is located within Council's Dural Urban Capacity and Capability Assessment area (Figure 11 next page). Phase 1 of the Dural Urban Capacity and Capability Assessment was completed on 15 March 2019 and concluded that there is insufficient infrastructure capability to facilitate development uplift in Dural at this time.

On 26 March 2019, Council resolved to discontinue any further investigation in respect to rezoning of rural land for urban development in Dural, including the land to which this planning proposal relates, and a planning proposal would only be considered by Council if it is able to demonstrate the delivery of required local and regional infrastructure at no cost to Council.



Figure 11: Dural investigation areas and planning proposal site (outlined in yellow).

On 9 July 2019, Council resolved (**Attachment A2**) that the subject planning proposal (shown in yellow in Figure 11 above) should proceed to Gateway to determine the State Government agency views on the merits of the proposal, particularly with regards to the reservation and delivery of a portion of a proposed new 'Round Corner bypass' road connection from Annangrove Road to Old Northern Road and New Line Road.

The wider investigation area also includes 'South Dural' in the Hornsby Shire (labelled in red in Figure 11). The South Dural planning proposal (PP_2014_HORNS_002_00) sought to rezone land at South Dural to facilitate urban development for residential (3000 dwellings), mixed-use and employment purposes (3000 jobs). A Gateway determination was issued on 7 March 2014 which contained a condition requiring an infrastructure strategy and a funding plan to cater for existing and future development at no cost to the NSW Government.

Transport studies subsequently undertaken by Transport for NSW (Roads and Maritime Services) and proponents in the South Dural catchment identified that substantial upgrades to Old Northern Road and New Line Road would be required prior to any significant development occurring in the area. TfNSW estimated that the cost for the two road upgrades would exceed \$300 million.

The Federal Government has announced a (capped) \$10 million contribution to fund a major business case to investigate the potential to upgrade New Line Road to a four-lane divided carriageway, with the NSW Government matching the \$10 million for the planning phase. However, TfNSW advises that the focus is on the southern end (Cherrybrook) – not into Dural. Depending on the release of funds – concept design and final business case is roughly a three-year timeframe.

On 5 February 2018, the Department advised Hornsby Shire Council that it no longer supported the 'South Dural' planning proposal to proceed as there was no equitable and feasible solution agreed to between all parties for the provision of required infrastructure.

As stated in Council's report dated 9 July 2019 (**Attachment A2**), Council has indicated the value in progressing the planning proposal for gateway determination for two reasons:

1. It will provide a framework through which Council can initiate meaningful discussions in advocacy for resolution of regional traffic issues.
2. The proponents have offered to provide with no cost to council a portion of road on the southern boundary of Dural Public School which forms one of three options for the 'Round Corner Bypass' road (Figure 12 below).

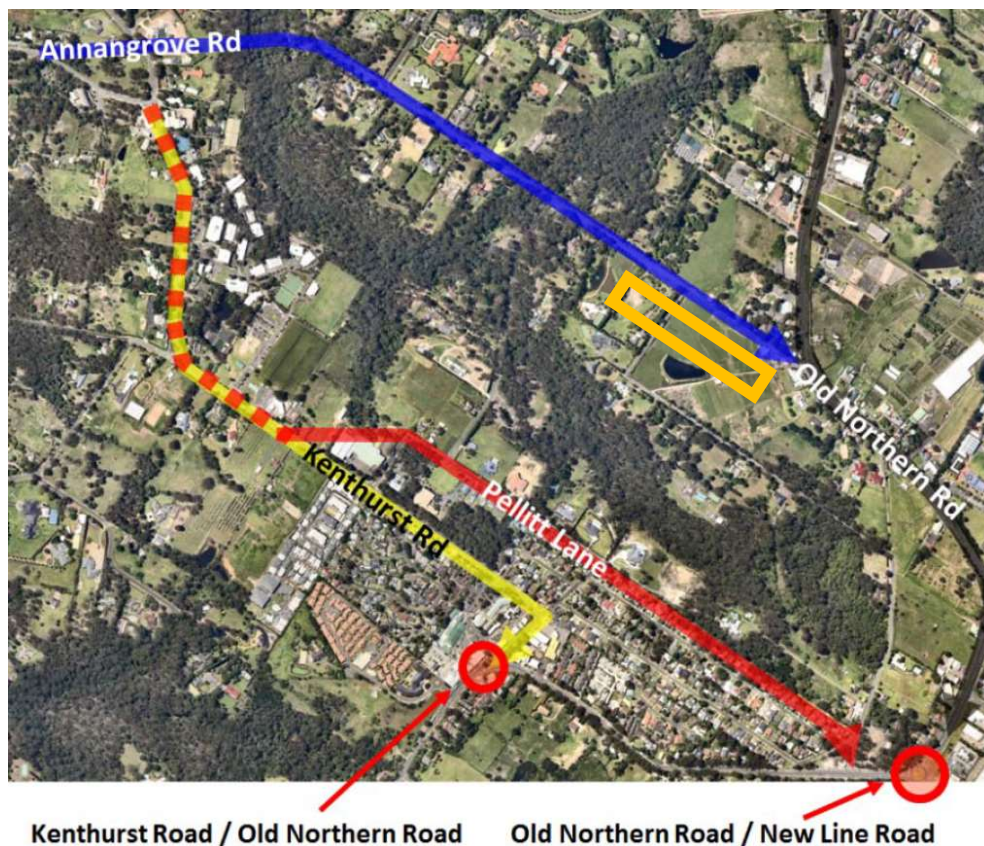


Figure 12: Possible 'Round Corner Bypass' with component provided through planning proposal south of Dural Public School (in amber)

The proponent's additional information (**Attachment F**) seeking consideration of a conditional gateway approval only to proceed with the amendment sought for the northern site (seeking a total of 101 dwellings), states "all public benefits included within the proposal for the "Northern Parcel" will continue to be delivered ... this includes the proposed drop-off and pick-up zone for Dural Public School which will also significantly offset any traffic impact in the short-term, and the provision of a regional road corridor across the site which will deliver long-term regional traffic improvements."

Irrespective of the proponent's additional information (**Attachments E and F**), the proponent has not demonstrated that sufficient infrastructure to support upgrades to

the regional road network can be wholly funded through the planning proposal and Council has determined that it is not willing to fund infrastructure delivery in the area. The planning proposal does not sufficiently demonstrate site-specific merit for the delivery of required funding and upgrades to the wider area's road infrastructure needs.

Local Planning Panel

The planning proposal was considered by The Hills Local Planning Panel on 19 June 2019 (**Attachment A3**). The panel reviewed the planning proposal and resolved that it should not proceed to Gateway Determination for the following reasons:

1. the proposal does not demonstrate strategic merit;
2. the proposal is not consistent with the Greater Sydney Commission Central Sydney City Plan, specifically planning priority C18 "Better Managing Rural Areas";
3. the proposal is not consistent with Section 9.1 Ministerial Direction 1.2 Rural Zones;
4. the proposal is not consistent with Council's Rural Lands Strategy;
5. the proposal has the potential to generate conflict with the RU2 zoned land in the Hornsby Local Government Area; and
6. the proposal will have an adverse impact on the character of the Dural Precinct.

The Panel's advice was considered by Council staff and addressed at the Council Meeting dated 9 July 2019 (**Attachment A2**). The advice of the Panel is acknowledged and reflects the application of the current strategic planning framework to this proposal. Despite the Panel's advice, Council are able to consider whether there is merit in progressing the proposal to the Department for consideration and Gateway Assessment in order to determine State Government agency views on the merits of the planning proposal and associated public benefits proposed.

4.4 Section 9.1 Ministerial Directions

Inconsistent: The planning proposal is inconsistent with the following Section 9.1 Ministerial Directions as discussed below.

Direction 1.2 Rural Zones

This Direction seeks to protect the agricultural production value of rural land and applies to this proposal as it will affect land within the existing RU6 Transition rural zone. The Direction states a planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.

The Direction states a proposal can be inconsistent with the Direction provided that the inconsistency is justified by a strategy or the Central City District Plan. The is inconsistent with this Direction as the planning proposal seeks to rezone land from RU6 Transition to R2 Low Density Residential.

The inconsistency with the Direction is not justified by any strategy or the Central City District Plan.

Direction 2.3 Heritage Conservation

This Direction seeks to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

There are a number of heritage items and archaeological sites adjoining the site that are listed under Schedule 5 of The Hills LEP 2012 and Hornsby LEP 2013 as listed in Table 3 (below) and shown in Figure 13 (below).

Table 3: Heritage items.

The Hills LEP 2012 – heritage items	Hornsby LEP 2013 – heritage items
Item 86: The Dural Soldiers Memorial, located at 604 Old Northern Road	Item 348: Dwelling, located at 857 Old Northern Road
Item 85: Dwelling, located at, located at 600A Old Northern Road	Item 349: Dwellings located at 873 Old Northern Road, Dural
Item 81: Uniting Church Cemetery, Derriwong Road	Item 448: Street Trees located along the eastern side of Old Northern Road
Item A12 (Archaeological item): Old Northern Road, between Dural and Wiseman’s Ferry	

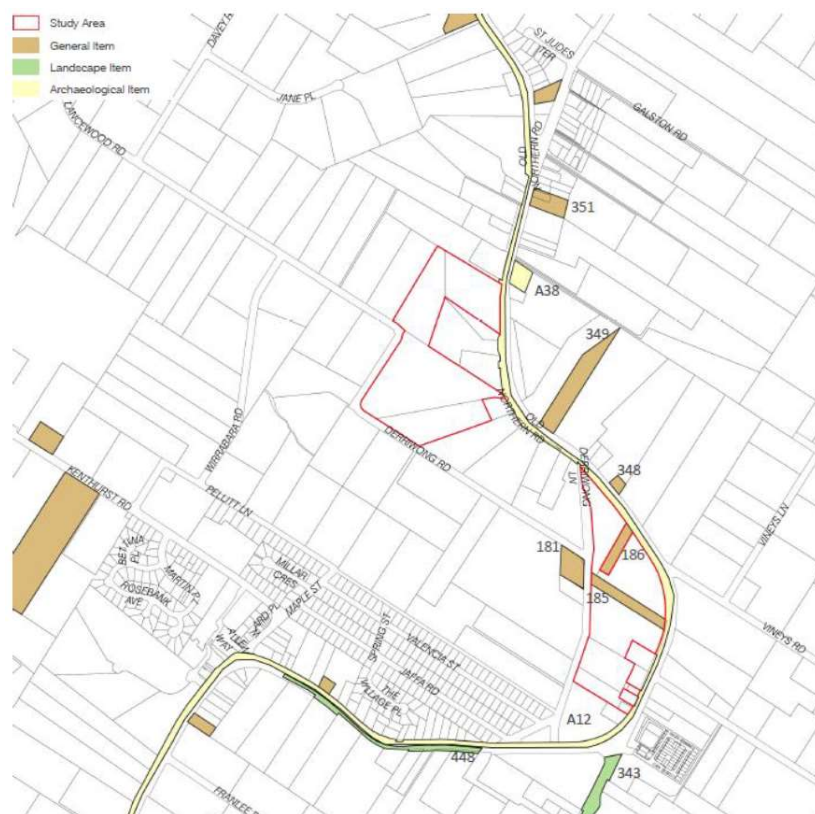


Figure 13: Heritage items under The Hills LEP 2012 and Hornsby Shire LEP 2013.

Further, under Council’s Rural Lands Strategy, the site is identified as Rural Living Mixed Use which aims to preserve the open rural landscape and its cultural heritage values.

The Direction states a planning proposal may be inconsistent with the Direction if the Department is satisfied the potential inconsistency is of minor significance. There are insufficient assurances in place to demonstrate that the planning proposal would not enable development that may result in adverse impacts on surrounding heritage items. Therefore, the planning proposal remains inconsistent with Section 9.1 Direction 2.3 Heritage Conservation.

Direction 2.6 Remediation of Contaminated Land

This Direction applies as the proposal seeks to enable residential uses on land which may have been previously used for agricultural/horticultural activities (a permissible land use under the current RU6 zoning). Agricultural/horticultural activities are listed as a land use that may cause contamination under the contaminated land planning guidelines.

The Direction notes that a LEP permitting a change of use/zoning cannot be made unless the planning proposal authority has considered whether the land is contaminated and any suitable mitigation measures if required.

Council (the planning proposal authority) does not consider or address land contamination in the planning proposal or Council report (**Attachment A2**), although the proponent did prepare preliminary site investigations and lodged them with Council. The preliminary investigation (**Attachment A6**) notes there is the potential for contaminants of concern to pose a low risk to the proposed future users of the site and that a detailed site investigation is required. The preliminary investigation also notes it is likely that any contamination detected during further investigations (if present) will be capable of being remediated such that the site is suitable for the proposed land use.

Given it is a requirement for appropriate contamination investigation to be carried out prior to making an LEP, rather than at the gateway assessment stage, it is considered any inconsistencies with this Direction are of minor significance.

Direction 3.1 Residential Zones

This Direction seeks to encourage a variety of housing types in areas supported by infrastructure to support existing and future housing needs while minimising residential development in environmental lands. This Direction applies to the proposal as it seeks to enable significant residential development.

The planning proposal is inconsistent with this Direction as it increases consumption of land for housing and associated urban development on the urban fringe which is against the requirements.

The Direction states a proposal can be inconsistent with the Direction provided that the inconsistency is justified by a strategy or is the Central City District Plan. The inconsistency with Direction 3.1 Residential Zones is not justified.

Direction 4.4 Planning for Bushfire Protection

This Direction seeks to protect life, property and the environment from bushfire hazards. In accordance with the terms of the Direction, a planning proposal must have regard to Planning for Bush Fire Protection 2006 and introduce controls that avoid placing inappropriate developments in hazardous areas. The site is identified as Vegetation Buffer on the 2019 Bush Fire Prone Land Mapping (Figure 14 next page).

A planning proposal may only be inconsistent with this Direction if the council has obtained written advice from the Commissioner of the NSW Rural Fire Service that it does not object to the proposal. Council anticipates that NSW RFS will be consulted as a condition to any gateway determination.

The Proponent has submitted a bushfire assessment in support of the planning proposal to demonstrate how the proposed development can meet the requirements of Planning for Bush Fire Protection. As NSW RFS is yet to be consulted, the planning proposal is inconsistent with Direction 4.4 Planning for Bushfire Protection.

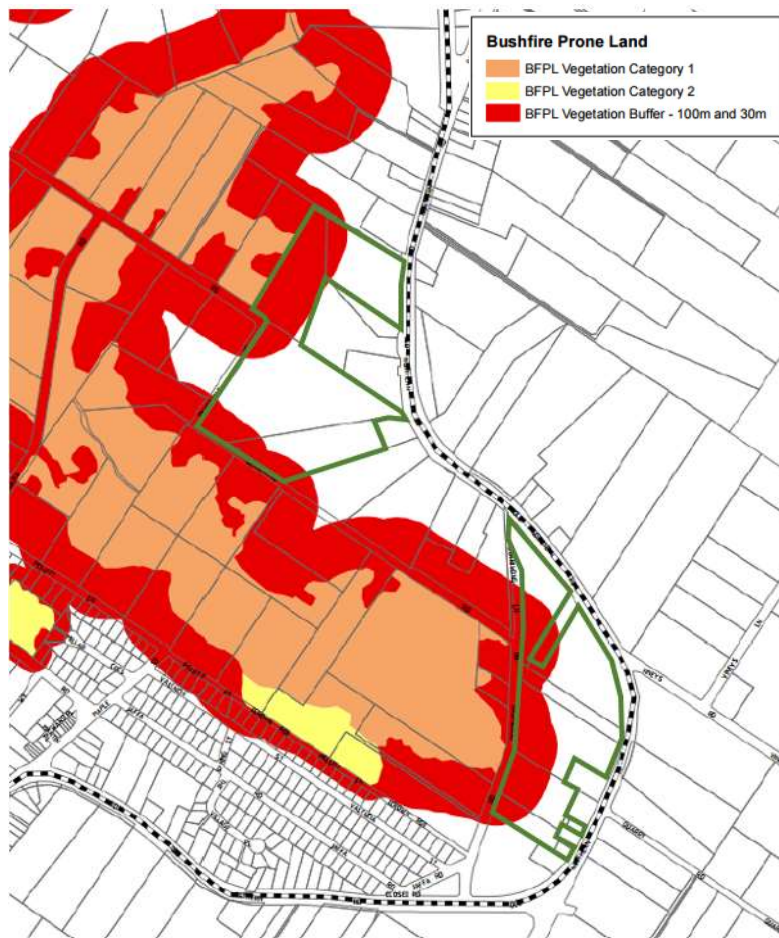


Figure 14: Bushfire prone land – Hills Shire Bushfire Planning map (site outlined in green).

Direction 6.3 Site Specific Provisions

This Direction seeks to discourage unnecessarily restrictive site-specific planning controls. The planning proposal aims to introduce a local provision for site-specific lot sizes (600m²) and a cap of 101 lots to the 'northern site.' Council states these controls are to be implemented as proposed by the Proponent and are critical to ensuring delivery of the intended development outcome.

The proposal does not explore an alternative to introducing site specific provisions and how the desired outcome could be achieved through development standards under other parts of the LEP. Therefore, the planning proposal is inconsistent with Direction 6.3 Site Specific Provisions.

4.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

Residential development at the site will bring about a need for social infrastructure which Council estimates to be 29% of an active open space facility and 8,797m² of passive open space (**Attachment A2**).

As noted previously, The Hills Draft Housing Strategy 2019 states that Council does not intend to rezone additional land for residential uses unless exemplary development and community outcomes are achieved and demonstrates that housing targets can be met in existing residential zoned areas. This demonstrates there is no social strategic merit to support the proposal.

5.2 Environmental

Land use conflict

The site is within 1km of RU2 Rural Landscape zoned land which permits intensive livestock agriculture. The proposal does not sufficiently address the extent or mitigation measures for land use conflict if residential uses of an urban scale were to be developed on the site and how they will be affected by noise, odour and servicing of potential nearby livestock agriculture uses.

Views and vistas

Old Northern Road has landscape value with vistas to the Blue Mountains that showcase the rural character of the area. The proposal does not sufficiently address the affect that future residential development may have on views. Council's report (**Attachment A2**) notes the planning proposal can consider larger lot sizes on the periphery of the site and a Development Control Plan be drafted to address this.

5.3 Economic and Infrastructure

Agricultural potential

Agricultural output in The Hills was \$32 million in 2015-2016, with nurseries and cut flowers accounting for three quarters of the total. Rezoning the site from RU6 Transition to R2 Low Density Residential makes less land available for agricultural type uses. The proposal does not sufficiently demonstrate that the site has no potential to accommodate agricultural uses under its RU6 Transitional zoning, particularly as part of the northern site was used for orchards up until mid-2014 when the land was significantly cleared and there is no evidence the land was no longer suitable for rural activities/agricultural purposes.

Road and local infrastructure

As discussed, Transport for NSW (Roads and Maritime Services) have identified that substantial upgrades to Old Northern Road and New Line Road would be required prior to any significant development occurring in the area. TfNSW estimated that the cost for the two road upgrades would exceed \$300 million.

Although the proposal does offer some local benefits (**Attachment A4**) such as:

- sewerage system upgrades in the immediate locality around the site enabling the removal of septic systems from the playground of the adjacent Dural Public School;
- road widening to enable safer drop-off and pick-up of students at Dural Public School; and
- provision of local open space;

it makes an insufficient contribution toward improving State infrastructure. This is because the site in isolation cannot adequately secure the scale of improvement required in the road network.

The planning proposal does not sufficiently demonstrate site-specific merit for the delivery of required funding and upgrades to the wider area's road infrastructure needs.

6. CONSULTATION

Consultation is not required as the proposal is not recommended to proceed.

7. TIME FRAME

No timeframe is required as the proposal is not recommended to proceed.

8. LOCAL PLAN-MAKING AUTHORITY

There is no requirement to appoint a local plan-making authority as it is not recommended for the proposal to proceed.

9. RECOMMENDATION

It is recommended the delegate of the Minister determines the planning proposal should not proceed as it does not demonstrate sufficient strategic or site-specific merit as the proposal:

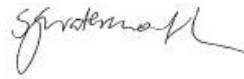
- does not give effect to the Central City District Plan;
- is inconsistent with Section 9.1 Directions 1.2 Rural Zones, 2.3 Heritage Conservation, 3.1 Residential Zones, 4.4 Planning for Bushfire Protection, and 6.3 Site Specific Provisions;
- is inconsistent with the Hills Shire Council's draft Local Strategic Planning Statement as the site is outside the urban area defined in the statement's structure plan;
- there are currently no plans or funding to increase capacity of the surrounding road network to facilitate development of this scale;
- makes an insufficient contribution toward improving local and State infrastructure as the site in isolation cannot adequately secure the scale of improvement required in the road network; and

- does not adequately demonstrate the site has no potential to accommodate agricultural uses under its current zoning and land use conflict would not arise as a result of it proceeding.



19/04/2020

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