

Planning Services

Plan Finalisation Report

Local Government Area: The Hills

1. NAME OF DRAFT LEP

The Hills Local Environmental Plan 2012 - Amendment No. 51 (draft LEP).

2. SITE DESCRIPTION

The Planning Proposal applies to land at 488-494 Old Northern Road, Dural (Lot 2 DP 839151) (the site).

The township of Dural is located 12 kilometres north of the Paramatta CBD and 25 kilometres north west of the Sydney CBD. The density and footprint of the semi-rural suburb has been expanding in recent years around the Round Corner local retail and commercial centre, which comprises a Woolworths supermarket, service station, specialty retail shops, cafes, banks and grocers. The land surrounding Dural is dominated by large lot residential development, agricultural and light industrial uses (refer to **Figure 1**).

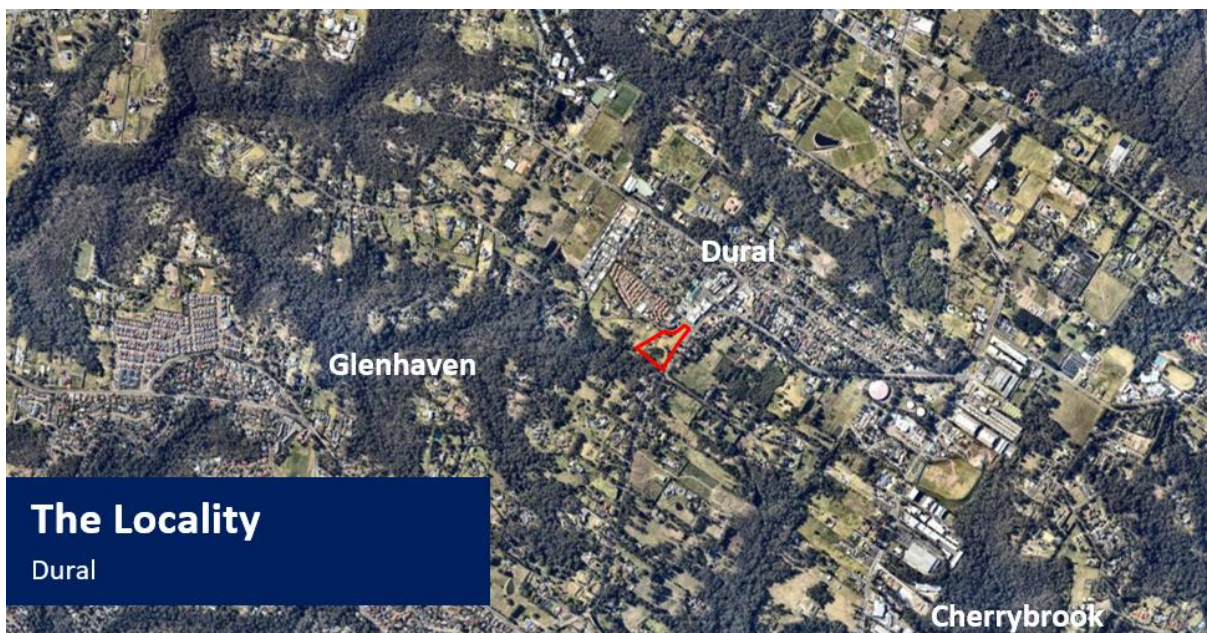


Figure 1: Locality Map

The site is a 2 hectare parcel of land which fronts Old Northern Road to the east, has a gradual south-east to north-west slope, comprises some pockets of remnant vegetation in the south and sits at the gateway to Dural and the Round Corner Commercial Centre (refer to **Figure 2**).



Figure 2: Site Identification

3. PURPOSE OF PLAN

The proposal seeks to amend the Height of Building (HOB) and Floor Space Ratio (FSR) controls that apply to the land under The Hills Local Environmental Plan (LEP) 2012. The Planning Proposal seeks to increase the maximum FSR within the B2 zoned land from 0.75:1 to 1.22:1, and increase the maximum HOB within the B2 zoned land from 10m to 18 metres in the south and 14 metres in the north.

The land was rezoned in 2014 to part B2 Local Centre and part R3 Medium Density Residential to facilitate a new 6,900m² gross floor area (GFA) shopping and commercial complex and 21 town houses (refer to **Figure 3** and **Figure 4**). Council also adopted a site-specific Development Control Plan (DCP) as part of the 2014 rezoning.

The proponent has revised the former concept design over the land zoned B2 Local Centre to locate commercial and retail components closer to the existing town centre, and provide increased housing options and densities on the site. This revised concept design proposes building heights and floor space ratios which are greater than those currently permitted under the LEP, and would permit up to 68 residential units within a 3-5 story residential flat building and 4,500m² of retail / commercial GFA (refer to **Figure 5**). This proposal would facilitate the proposed development.

Council has indicated a preference that the LEP controls and DCP be revised prior to the development application progressing. Revisions to the site specific DCP have also been proposed in conjunction with this proposal.

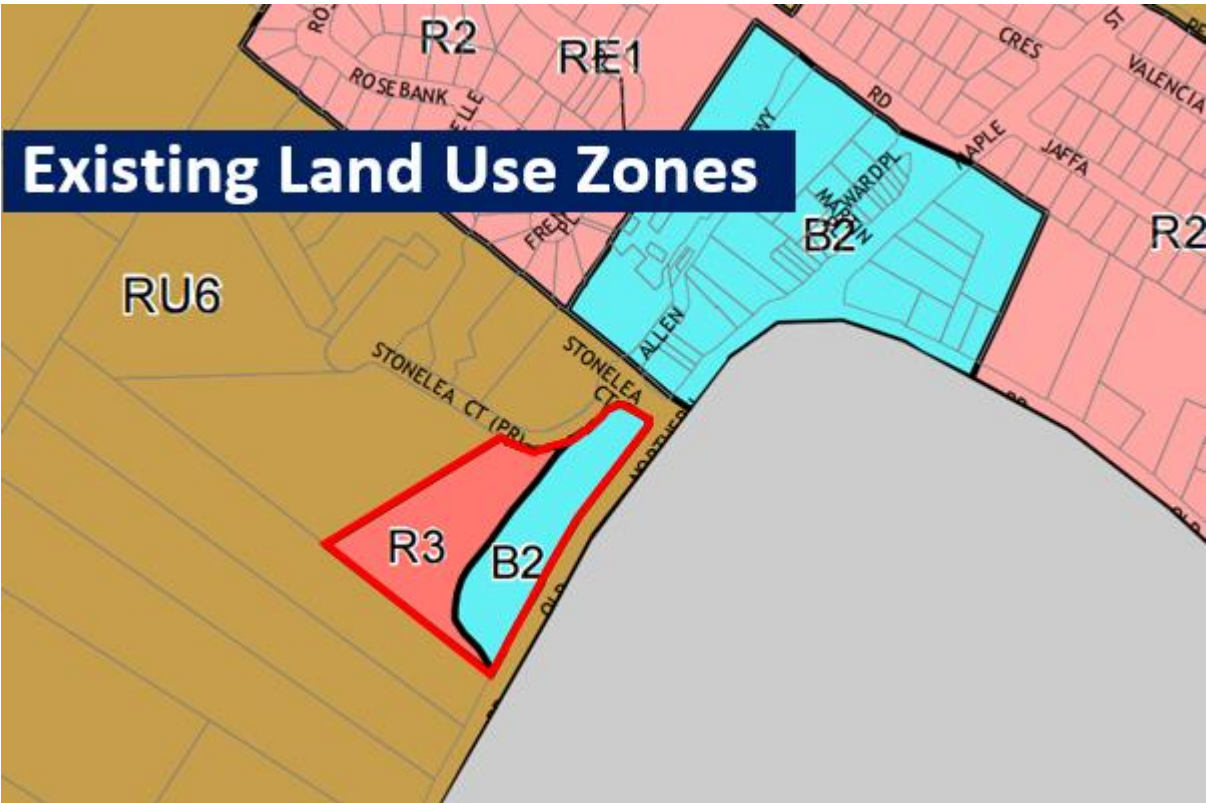


Figure 3: Existing Land Use Zones (These zones are not proposed to change)

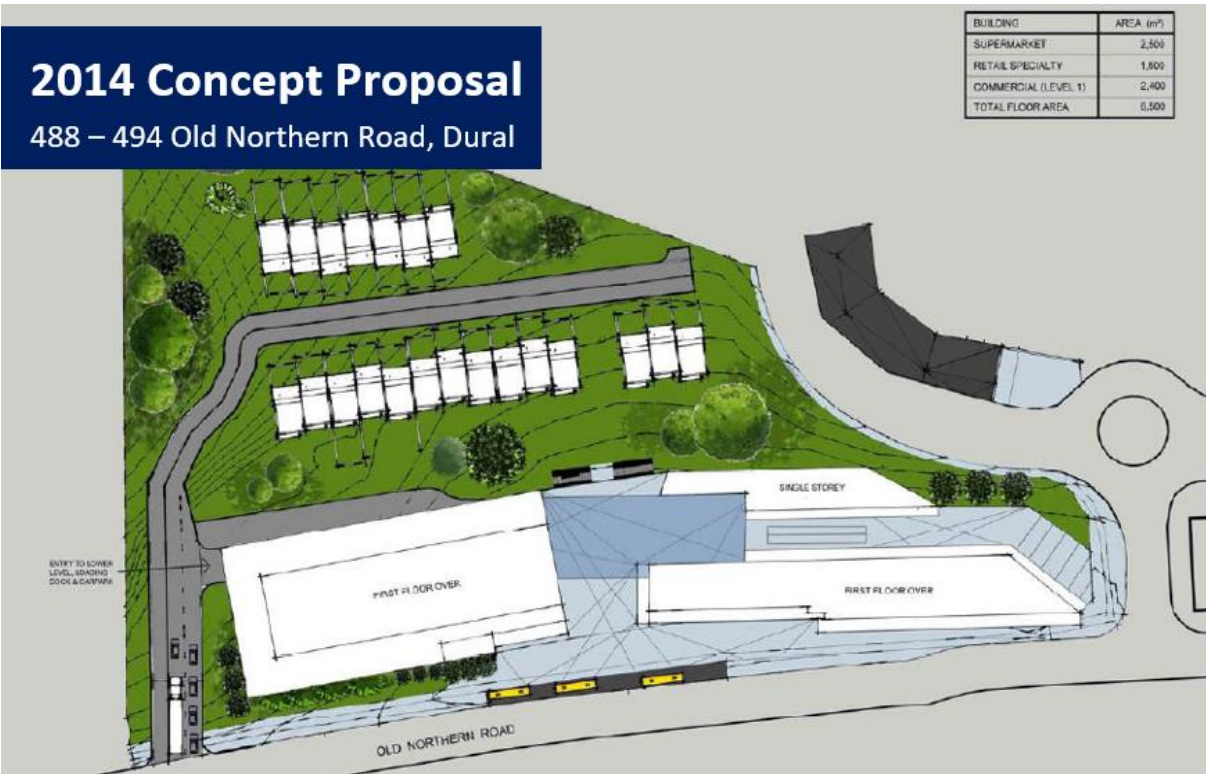


Figure 4: Initial concept design for the site (The site was rezoned in 2014 to facilitate this outcome)

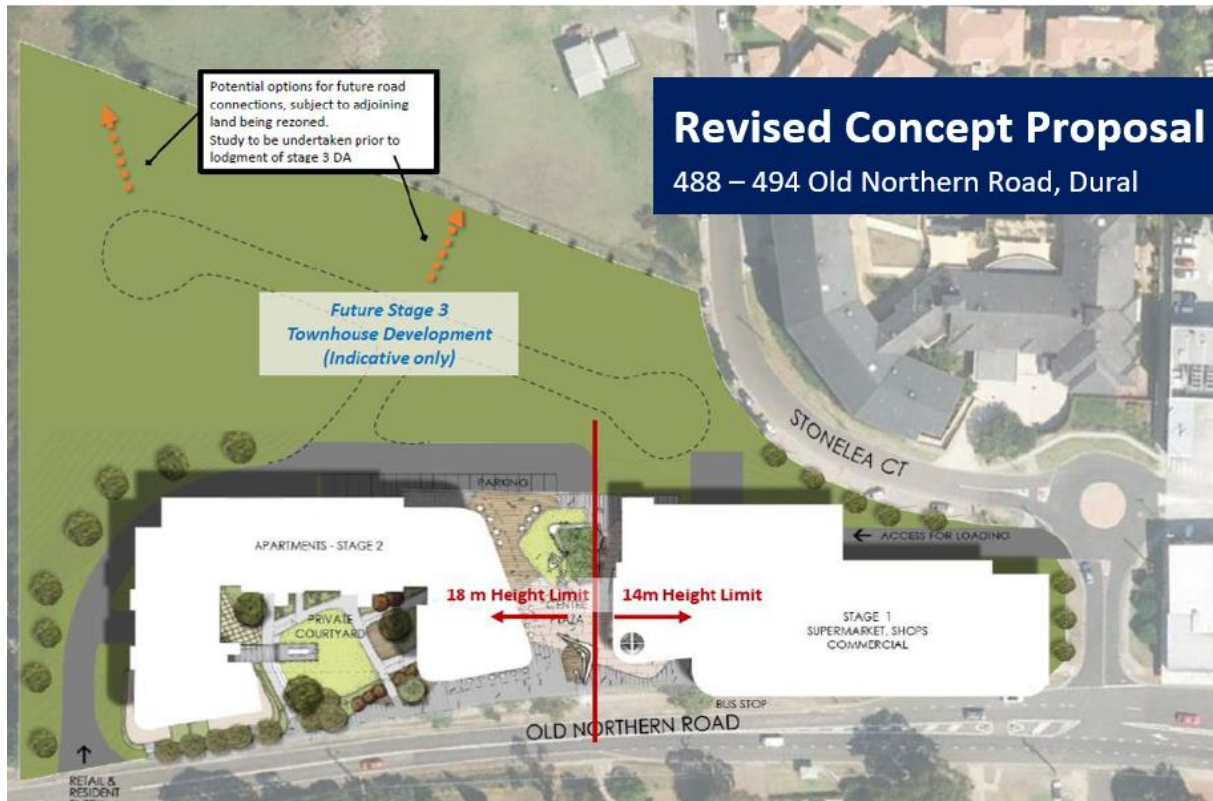


Figure 5: Revised concept proposal

4. THE DRAFT LEP

The Planning Proposal seeks to increase the maximum FSR within the B2 zoned land from 0.75:1 to 1.22:1, and increase the maximum HOB within the B2 zoned land from 10m to 18 metres in the south and 14 metres in the north. Maps identifying the existing and proposed controls are provided below.

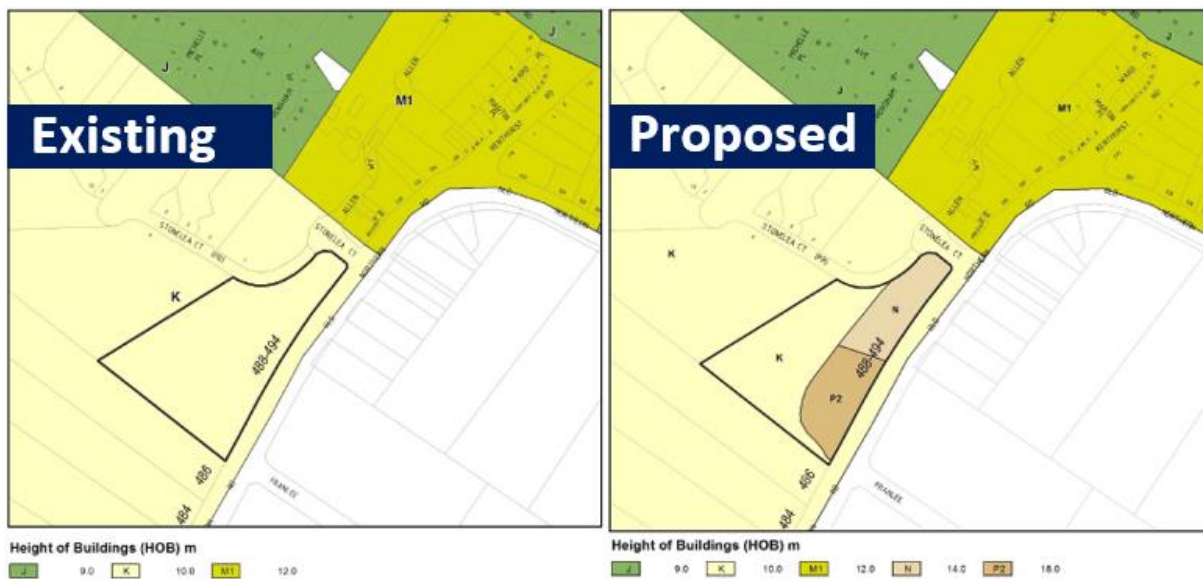


Figure 6: Revised Height of Building Controls

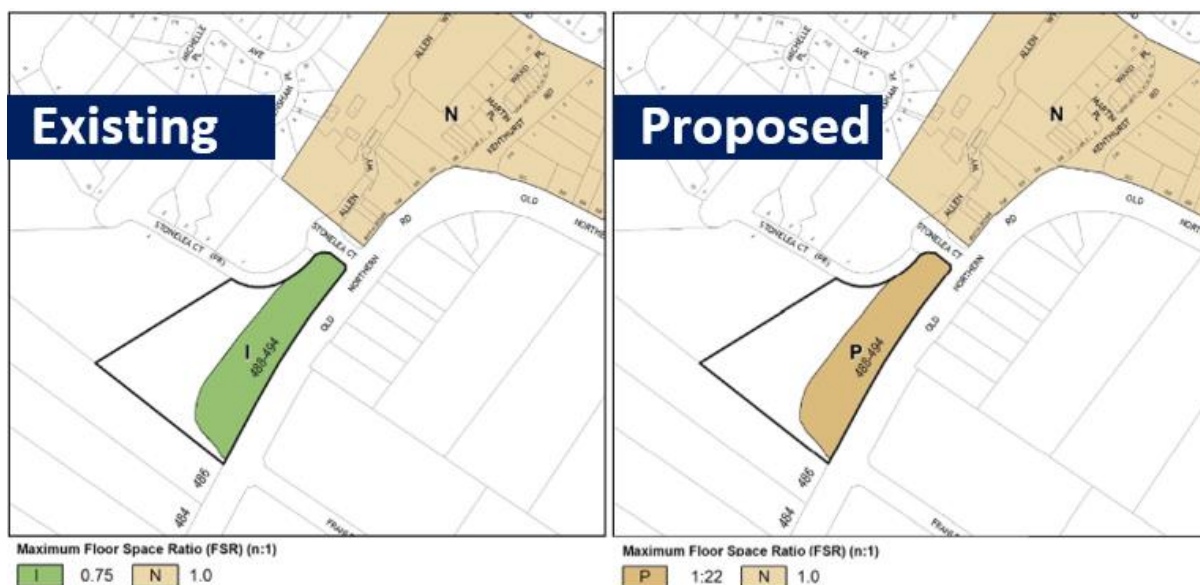


Figure 7: Revised Floor Space Ratio Controls

The draft LEP also seeks to apply a commercial GFA cap over the land, to address traffic concerns raised by the Roads and Maritime Services (RMS) during the plan making process.

This cap will be applied to the land by inserting a new local provision under Part 7 of the LEP.

This cap was not publicly exhibited but does not change the intent of the proposal. This matter is discussed further under **Section 8** and **9** of this Plan Finalisation Report.

5. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Hawkesbury Electorate. Mr Ray Williams MP is the State Member for Hawkesbury.

The Hon. Alex Hawke MP is the Federal Member for Mitchell.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

6. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 14 July 2016 (**Attachment C**) determined that the proposal should proceed subject to conditions. The Gateway determination was

altered on 04 August 2017 to extend the timeline for completion. The revised completion date for the Gateway determination is 27 April 2018.

Council has met the requirements of the Gateway determination as discussed throughout this Plan Finalisation Report and summarised below.

Condition 1	
Condition Requirements	Response
Required Council to remove a proposed local provision that sought to limit dwelling yields on the site prior to the Planning Proposal being exhibited. This requirement to remove the dwelling yield cap provision from the LEP was a key consideration for the Gateway determination, and based on advice from the NSW Chief Planner	Council removed the proposed local provision and provided an updated copy of the Planning Proposal to the Department on 10 January 2017
Condition 2	
Condition Requirements	Response
Required Council to consult with the Commissioner of the NSW Rural Fire Service to address the requirements of Section 9.1 Direction 4.4 <i>Planning for Bushfire Protection 2006.(PBP 2006)</i> .	Council consulted with the NSW RFS, which responded on 6 March 2017 (Attachment E). The NSW RFS confirmed that it did not object to the proposal and outlined considerations for the site to address the requirements under <i>PBP 2006</i> .
Condition 3	
Condition Requirements	Response
Required Council to consult with the community on the proposal for a minimum of 28 days and in compliance with the public exhibition requirements under the Department's ' <i>A Guide to Preparing Local Environmental Plans</i> '.	The Planning Proposal was publicly exhibited for 29 days, from 23 March 2017 to 21 April 2017. The documentation was made available at Council Libraries, administration centre and website and was notified in the local newspapers. Adjoining landowners were also notified in writing.
Condition 4	
Condition Requirements	Response
Required Council to consult with Endeavor Energy, Sydney Water, Roads and Maritime Services and Telstra.	Each of the listed authorities / public agencies were consulted, as well as Hornsby Shire Council and Transport for NSW. The responses from these authorities / public agencies are discussed in detail

	under Section 8 of this Plan Finalisation Report.
Condition 5	
Condition Requirements	Response
Related to public hearing requirements under the <i>Environmental Planning and Assessment Act 1979</i> and <i>Local Government Act 1993</i> .	No public hearing was undertaken for the subject Planning Proposal
Condition 6	
Condition Requirements	Response
Related to the timeframe that the LEP was to be finalised.	This timeframe to make the LEP has not lapsed.
The Gateway determination has been altered to confirm that the LEP must be finalised 27 April 2018.	

7. PUBLIC CONSULTATION

The Planning Proposal was publicly exhibited for 29 days, from 23 March 2017 to 21 April 2017.

Council received 8 submissions from the community which raised concerns regarding impacts on traffic and access, loss of views, amenity and overshadowing, bulk, scale and bushfire risk. Council has reviewed these community submissions (**Attachment F**) and adequately addressed the concerns which have been raised in the final Planning Proposal.

Pedestrian Safety	
Submission Comments	Response
Concern was raised that pedestrian safety in the area is poor and that the proposed development would increase these risks due to additional traffic movements.	<p>The traffic modelling that supports the current concept proposals (under both the Planning Proposal and development applications) indicate that the current proposed development outcome on the site would generate less traffic movements than the 2014 concept design, which informed the existing planning controls on the site. This is caused by the reduced commercial floor space as proposed by this proposal.</p> <p>A commercial floorspace cap is however proposed to ensure that alterations are not proposed to the concept design for the site that would generate greater traffic movements than those considered in 2014.</p>

	<p>The DCP includes controls for ensuring pedestrian safety in the area is improved and identifies a number of opportunities for the development to provide additional pedestrian connections throughout the site and with the existing footpath network.</p> <p>It is noted that the concept designs identify new pedestrian connections between the proposed development and the existing Round Corner town centre.</p> <p>No further change to the proposal is considered necessary.</p>
Ad Hoc Development	
Submission Comments	Response
Concerns were raised that rezoning and development proposals in the area appear to be ad hoc and not strategically led.	<p>It is noted that Council has commenced a review of the Dural area to ensure future growth is strategically coordinated.</p> <p>The site is already zoned for urban development however, the FSR and building height controls are proposed to be amended to align the controls under the LEP and the development which has been proposed on the land (a development which is permitted and can already be considered under Clause 4.6 of the LEP).</p>
Traffic Congestion	
Submission Comments	Response
Concern was raised that the revised controls would increase traffic movements and congestion in the local area.	As noted above, the traffic modelling indicates that the local road network would not be detrimentally impacted by the proposed development.
Impact on View Corridor	
Submission Comments	Response
The submissions raised concern that the proposed increased building heights would impact views through the site and to the wider mountain ranges.	<p>Development Control Plan provisions apply to the site which specifically relate to the protection of view corridors in the area.</p> <p>Council has noted that it is working with the proponent to ensure an appropriate design outcome is achieved on the land, that maintains important scenic views for the area.</p>

	This is a matter to be addressed through the DA process.
Impacts on Amenity – Noise, Overshadowing and Privacy	
Submission Comments	Response
The submissions raised concerns that the construction and final design outcome will impact on the amenity of the local area through noise, shadow and loss of privacy. Suggestions were made that heights need to be reduced and setbacks increased.	<p>Council's DCP as well as the Apartment Design Guidelines include guiding principles for protecting and enhancing amenity.</p> <p>While not exhibited with the planning proposal, shadow diagrams have been prepared for the development applications which confirm that surrounding land uses would achieve a minimum of 4 hours of sunlight to private space areas.</p> <p>Council has also noted that the concept proposal achieves the minimum setback requirements under its DCP.</p> <p>A noise impact assessment has been prepared to support the development application. It indicates that appropriate noise amenity levels can be achieved on and surrounding the site during construction and occupation. The assessment includes a number of building design and construction measures to minimise noise impacts which can form part of any future development approval.</p>
Bushfire	
Submission Comments	Response
Concerns was raised that the proposal relies on establishing an asset protection zone on adjoining land, rather than within the site.	<p>Achieving compliance with the asset protection zone requirements under Planning for Bushfire Protection 2006 will be required through the development application process.</p> <p>Council has indicated that if asset protection zones are to be achieved by relying on adjoining land that mechanisms will be enforced to ensure this land is maintained to a suitable standard (such as a restriction on the title).</p>

New Road Connections / Intersection Designs	
Submission Comments	Response
Alternative site access arrangements were suggested due to concerns that the proposed signalised intersection at Old Northern Road and Franlee Road would detrimentally impact the immediate private property to the south and require vegetation removal.	<p>The traffic impact assessments which have been prepared to support the proposal and associated development applications indicate that a signalised intersection at the junction of Franlee Road, Old Northern Road and a new access road to the site would not detrimentally impact traffic flows in the area.</p> <p>The actual design and layout of this intersection, as well as future driveway access of the new internal road, is being reviewed by the Council and the RMS as part of the development application process.</p>
Stormwater Management	
Submission Comments	Response
Concerns have been raised that the concept proposal indicates that stormwater from the site would be discharged onto adjoining land.	<p>The management of stormwater is being considered through the development application assessment process.</p> <p>Preliminary studies have indicated that stormwater would be managed via a mix of onsite detention as well as drainage through the adjoining land.</p> <p>The development applications note that negotiations have commenced with the adjoining landowner to determine if this option is viable, otherwise an alternative arrangement will need to be confirmed prior to works commencing on the land.</p>
Bulk and Scale	
Submission Comments	Response
Concern was raised that the proposed bulk and scale for the site is inappropriate and out of character with the local area.	<p>The Hills Council strategic planning document, 'The Centres Direction', aims to create vibrant and accessible centres that meet community needs. In regard to Round Corner, the Direction promotes the revitalisation and redevelopment of the Town Centre.</p> <p>The Planning Proposal provides an opportunity to contribute to the revitalisation of Round Corner and will</p>

	<p>assist in improving the overall functioning and viability of the Centre.</p> <p>While it is recognised that the proposed development is up to 18m in height and will adjoin land zoned RU6 Transition with a maximum height of 12m, the increased height is considered to be justified. In this instance, the increased height will be seen in the context of the broader development proposed for the Round Corner Village area, rather than the surrounding rural landscape.</p> <p>The proposed maximum height and density will allow flexibility in the design of the development, with specific design outcomes to be assessed under the associated development applications.</p> <p>There are a range of pending/approved applications in close proximity to the site which signify that the locality is entering a period of transition reflective of the Centres revitalisation and redevelopment. For example, a future townhouse development is proposed at the rear of the site (Stage 3 of the Planning Proposal) in addition to the adjacent potential land release area of South Dural which is currently on hold until an agreed infrastructure plan is prepared.</p> <p>These applications, if approved, will have a transformative influence on built form, density, scale and the increasingly urbanised character of the Round Corner Village area. The proposals will also continue the expansion of the Town Centre and contribute to the need for commercial and retail services.</p> <p>Council has adopted a site-specific Development Control Plan (DCP) to provide guidance to ensure that future development meets the built form and character objectives. In accordance with the DCP, the proposed five storey development will act as a 'gateway'</p>
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	<p>element and provide a sense of arrival to the Centre when approached from the south along Old Northern Road. The DCP also endorses the proposed commercial and retail components of the development, as well as the higher density residential uses.</p> <p>The development provides for an appropriate and logical expansion of the Town Centre. The character is generally compatible with that of the adjoining development and the scale is complimentary to the transitioning aesthetic of the locality. The proposed development will provide the opportunity to deliver positive benefits in supporting and activating the Town Centre and provide an increased diversity of housing types in a location close to the existing services of Round Corner.</p>
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8. ADVICE FROM PUBLIC AUTHORITIES

Council consulted with NSW Rural Fire Service (RFS), Endeavour Energy, Sydney Water, Roads and Maritime Services (RMS) and Telstra as required under the Gateway determination. Council also consulted with Hornsby Shire Council and Transport for NSW regarding the matter.

The majority of the public agencies generally supported the proposal and outlined matters that will need to be considered through any future development application. Hornsby Shire Council and the RMS requested that either the proposal be delayed and/or not progress until further studies are undertaken.

A review of the submissions is outlined below.

NSW Rural Fire Service	
Submission Comments	Response
<p>RFS raised no objection to the proposal subject to all future stages of development complying with Planning for Bushfire Protection 2006, with specific regard to:</p> <ul style="list-style-type: none">• Asset Protection Zones• Access; and• Servicing.	<p>The matters raised by the RFS relate to the detailed design / development application stage.</p> <p>It is noted that development applications for Stage 1 (commercial complex) and Stage 2 (residential flat development) have been submitted to Council and are supported by a Bushfire Protection Assessment which indicates that</p>

	development on the land can comply with the requirements of <i>PBP 2006</i>
Endeavour Energy	
Submission Comments	Response
Endeavour Energy raised no objection to the proposal and: <ul style="list-style-type: none"> confirmed that the land does not contain any easements over the site that benefit Endeavour Energy; identified the surrounding electrical network services; and provided advice regarding network connection requirements. 	The submission confirms that the land is not constrained by electrical services. Application and physical connection to the surrounding network will be undertaken as part of any future development works on the land.
Transport for NSW	
Submission Comments	Response
Transport for NSW did not raise any issues in relation to the Planning Proposal and listed matters that will need to be addressed through the development application process include: <ul style="list-style-type: none"> consultation with Transport for NSW; design considerations for bus shelters; foot path and cycle route design and planning; and construction Traffic Management Plans. 	<p>The matters raised by Transport for NSW do not relate to the Planning Proposal.</p> <p>It is understood that the current development applications which have been submitted to Council have been referred to Transport for NSW for comment. The applications also contain detail regarding a proposed new bus stop at the site, new pedestrian and cycle pathways and confirming that construction management plans will be required to be approved before works commence.</p>
Sydney Water	
Submission Comments	Response
Sydney Water confirmed that there is capacity in the potable and waste water network to service the site, however it noted that service extensions will be required. In this regard Sydney Water provided connection requirements that need to be resolved through the design and development application stage of the proposal.	<p>The submission from Sydney Water confirms that the land can be serviced provided appropriate extensions to the existing network are made.</p> <p>The development applications which have been submitted to Council indicate the proposed extensions to the existing network.</p>
Roads and Maritime Services	
Submission Comments	Response
RMS made a formal submission to the proposal on 11 May 2017 that objected to the proposal progressing until an updated site-specific traffic study was undertaken to confirm the suitability of	The issues raised by RMS have been addressed through consultation with this agency, Department, Council and proponent.

<p>the proposal in terms of the wider traffic network, planned upgrade works to Old Northern Road and required infrastructure designs. RMS also sought confirmation for how funding and/or provision of infrastructure for the required intersection upgrades will be secured.</p> <p>RMS in email dated 8 September 2017 reiterated its comments made in the 11 May 2017 submission, however noted that it would lift the objection if the LEP included caps that limited commercial GFA and dwelling numbers across the site.</p> <p>RMS in email dated 4 December 2017 confirmed that it would not object to the proposal proceeding if a commercial floorspace cap of 6,900m² was applied to the site, but no longer required a residential floorspace cap (Attachment E1).</p>	<p>A commercial floorspace cap of 6,900m² is proposed to be applied to the land by inserting a new local provision under Part 7 of the LEP.</p> <p>The proposed cap is the same commercial floorspace area that was considered suitable under the 2014 rezoning, provides a greater commercial floorspace area than what has been proposed for the site under the concurrent development applications, will provide flexibility in design and is supported by Council, the proponent and RMS.</p>
Hornsby Shire Council	
Submission Comments	Response
<p>Hornsby Shire Council indicated that in principle, there were no concerns with the proposal.</p> <p>However, Council did recommend that the proposal be delayed until the State Government commits to work with the local councils to prepare an integrated infrastructure and funding plan for the wider area.</p>	<p>As noted above, the proposal will not generate traffic and infrastructure demands greater than that already permitted on the land. Delaying the proposal until the completion of this review would seem unnecessary in the case.</p>

9. POST EXHIBITION CHANGES

No post exhibition changes have been proposed by Council.

As noted above, it is proposed to include a new local provision under Part 7 of The Hills LEP 2012 to limit the maximum commercial GFA over the site.

This has been a negotiated outcome with the RMS, who was concerned that the revised controls could permit new development opportunities on the land that could generate unsupportable traffic movements.

10. ASSESSMENT

The draft LEP is considered to have merit given it will assist in the delivery of new housing and commercial opportunity on a site that was rezoned for this purpose in 2014.

Development on the land will contribute to the existing Round Corner Commercial precinct, providing greater housing supply and diversity, additional retail and commercial services for the area and improved road and pathway links and intersections.

A site specific DCP has been prepared for the site and updated to correspond with the revised controls for the land. This DCP includes controls to guide the development proposals and or decisions over the land and consider matters such as creating a new gateway statement to the Dural urban area, protecting views, contributing to the public domain and improving access and services in the area.

Section 9.1 Direction 4.4 Planning for Bushfire Protection

The site is mapped within a bushfire prone buffer area.

The Gateway determination noted that consultation with the NSW Rural Fire Service was required prior to the Plan being finalised. Council consulted the NSW RFS, which did not raise an objection to the proposal and outlined that any future development proposal would need to demonstrate consistency with *PBP 2006*

It is noted that a Bushfire Protection Assessment has been prepared to support the Stage 1 and 2 development applications which are currently before Council, and these assessments indicate that the requirements of *PBP 2006* can be met. The inconsistency with the Direction has been justified

Section 9.1 Direction 6.3 Site Specific Provisions

This Direction seeks to limit site specific development standards being imposed in LEPs. The proposed commercial floorspace cap is therefore inconsistent with this Direction.

The inconsistency can be justified as of minor significance given the justification for the proposed cap, as noted above.

Regional and District Plans

The Greater Sydney Region Plan was released on 18 March 2018. It provides a 40-year vision for Greater Sydney promoting collaboration across government to align land-use planning with future transport services. It is designed to inform district plans, local plans and the assessment of Planning Proposals. The proposal is generally consistent with the Directions outlined in the draft Region Plan given that it will contribute to housing and employment opportunity on urban zoned and unconstrained land.

The Greater Sydney Commission also released the Draft Central City District Plan the same day.

Of particular note, the proposal is consistent with the *Planning Priority C5 Providing housing supply, choice and affordability, with access to jobs and services* and *Planning Priority C18 Better managing rural areas* given that it will assist in the delivery of new housing and employment opportunity on land that is located in the Metropolitan Rural Area but already zoned for commercial and residential use.

State Environmental Planning Policies

The proposal does not change permissible land uses over the site. The Planning Proposal is consistent with relevant state environmental planning policies.

11. MAPPING

The draft plan proposes amendments to The Hills LEP 2012 maps. The proposed changes are identified in **Figure 6** and **Figure 7** above and summarised below.

Height of Buildings Map	
Map Sheet	Proposed Amendment
HOB_023	Amend the Height of Buildings Map from 10 metres to 18 metres for the southern portion of the land zoned B2 Local Centre, and from 10 metres to 14 metres for the northern portion of the land zoned B2 Local Centre.
Floor Space Ratio Map	
Map Sheet	Proposed Amendment
FSR_023	Amend the Floor Space Ratio Map from 0.75:1 to 1.22:1 across the whole of the land zoned B2 Local Centre

12. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument (**Attachment G**). Council raised no objections and requested a minor correction in relation to the address on 12 January 2018. On 17 January 2018 Council advised they had consulted the proponent on the draft instrument, Council provided final comments to the Department on 12 March 2018. (**Attachment H**).

13. PARLIAMENTARY COUNSEL OPINION

On 8 March 2018 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at (**Attachment PC**).

14. RECOMMENDATION

It is recommended that the Greater Sydney Commission's delegate determine to make the draft LEP without variation.



21/03/2018

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