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The Hills Local Environmental Plan 2019 Amendment
No. 20 – The Hills Local Strategic Planning Statement

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Contents

1	Introduction.....	3
1.1	Overview.....	3
1.1.1	Name of draft LEP	3
1.1.2	Site description	3
1.1.3	Purpose of plan.....	3
1.1.4	Proposed amendments removed from Planning Proposal	6
1.1.5	State electorate and local member.....	7
2	Gateway determination and alterations	8
3	Public exhibition and post-exhibition changes	8
3.1	Community submissions during exhibition	8
3.1.1	Rouse Hill, Beaumont Hills and Kellyville amendments.....	8
3.1.2	Grey Gum Estate Kellyville	10
3.1.3	Increase in minimum lot sizes in West Pennant Hills	11
3.1.4	Changes to permissible uses in rural zones.....	11
3.1.5	Reinstatement of underlying zoning in the Cattai Creek Deferred Matters Area	12
3.1.6	Mill Drive Estate.....	12
3.1.7	Site specific requests	13
3.1.8	Amendments to Castle Hill Strategic Centre	13
3.1.9	Amendments to Rouse Hill Strategic Centre	14
3.1.10	Rouse Hill amendments - Wentworth Community Housing	15
3.2	Advice from agencies.....	15
3.2.1	Sydney Water	16
3.2.2	NSW Heritage.....	16
3.2.3	Department of Primary Industries	16
3.2.4	NSW Rural Fire Service.....	17
3.2.5	Environment, Energy and Science Group	17
3.2.6	Transport for NSW.....	18
3.2.7	Department of Education – Schools Infrastructure	19
3.3	Post-exhibition changes.....	19
3.3.1	Council changes	19
3.3.2	The Department’s recommended changes	20
4	Department’s Assessment.....	29
4.1	State, regional and district plans	29
4.2	Section 9.1 Directions	29
4.2.1	Direction 3.1 – Residential Zones	29
4.2.2	Direction 4.4 – Planning for Bushfire Protection	30

4.2.3	Direction 6.2 – Reserving Land for Public Purposes	30
4.2.4	Direction 5.9 – Northwest Rail Link Corridor Strategy	30
4.3	State environmental planning policies	31
4.3.1	State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	31
4.3.2	State Environmental Planning Policy (Infrastructure 2007)	31
5	Post assessment consultation.....	31
6	Recommendation.....	32
	Attachments	33

1 Introduction

1.1 Overview

1.1.1 Name of draft LEP

The Hills Local Environmental Plan 2019 Amendment No. 20.

1.1.2 Site description

The local environmental plan (LEP) applies to all land to which The Hills Local Environmental Plan 2019 applies, being the majority of the Hills Shire except for areas to which *State Environmental Planning Policy (Sydney Growth Centres) 2006* applies including the Box Hill, Box Hill Industrial and North Kellyville precincts.

1.1.3 Purpose of plan

The LEP seeks to action a number of administrative and housekeeping amendments in addition to aligning the Hills LEP with strategic plans and policies, including the Central City District Plan and Hills Local Strategic Planning Statement.

The LEP (**Attachment LEP**) seeks a number of changes as summarised below:

(a) Serviced apartment provisions

The introduction of a new clause requiring that serviced apartments in the B7 Business Park and B4 Mixed Use zones (Rouse Hill, Castle Hill and Norwest Strategic centres) do not contribute to more than 60% of the total gross floor area of the building. This is to protect employment opportunities for commercial developments.

Provisions have also been included requiring that strata subdivision of a serviced apartment building can only be supported where the building achieves the same amenity and standards as a residential flat building.

(b) Cattai Creek West land use zone

The reinstatement of the underlying land use zone in the area along Cattai Creek in the Showground Precinct (which had been deferred under a previous planning proposal) while the master planning process for this area is completed.

(c) Land use conflict provisions

The inclusion of Clause 5.16 of the Standard Instrument to mitigate land use conflicts by requiring applications for subdivision to take into consideration existing and proposed development on land in rural, residential or environmental protection zones.

(d) Amendments to land use tables and objectives

Amend land uses in rural zones to grow productive capacity, support services and tourism as follows:

RU1 Primary Production zone

Permitted land uses to be removed*	Permitted land uses to be added
<i>Agricultural produce industries; Livestock processing industries; Stock and sale yards</i>	<i>Artisan food and drink industries; Rural industries; Service station</i>

*It is noted that while agricultural produce industries, livestock processing industries and stock and sale yards are to be removed as permissible uses, they will still be permissible as they are included in the group term 'rural industry', which is to be included as a permissible use.

RU2 Primary Production zone

Permitted land uses to be added
<i>Artisan food and drink industries; Markets</i>

RU6 Transition zone

Permitted land uses to be removed	Permitted land uses to be added	Prohibited land uses to be added
<i>Public administration buildings</i>	<i>Artisan food and drink industries; Cellar door premises; Markets; Rural industries</i>	<i>Livestock processing industries; Sawmill or log processing works; stock and sale yards;</i>

A new objective will be inserted into the RU6 Transition land use zone: 'to ensure that development does not have a detrimental impact on the rural and scenic character of the land'.

Amend permitted land uses in the B1 Neighbourhood Centre zone to facilitate land uses consistent with the intent for smaller retail centres, as follows:

B1 Neighbourhood Centre zone

Permitted land uses to be removed	Permitted land uses to be added
<i>shops</i>	<i>Artisan food and drink industries;</i>

Neighbourhood shops and neighbourhood supermarkets, which are included in the group term "shops" would continue to be permissible in the zone as they are separately identified as permissible uses. Business premises are also permissible in the zone. This amendment makes shops that are otherwise not defined as a neighbourhood shop or supermarket, prohibited uses. This may include stores for more specialist items, like music stores or homewares that may not be considered to be for day to day needs of people who live or work in the local area.

(e) Grey Gum Estate, North Kellyville

Amendments to the land use zones within Grey Gum estate in North Kellyville by rezoning R4 High Density Residential areas that are subject to a biobanking agreement to E2 Environmental Conservation. These areas are owned and managed by Council.

(f) Castle Hill and Rouse Hill Strategic Centres

Amendments to the development standards applying to the Castle Hill Strategic Centre, from a Floor Space Ratio (FSR) of 1:1 to 1.9:1 and a maximum building height of 12m to 46m, consistent with the approved Castle Towers development.

Inclusion of a maximum building height control for undeveloped land within Rouse Hill Town Centre. These amendments are discussed further in Section 3.1 of this report.

(g) Amendments to Schedule 1 Additional Permitted Use and 2 Exempt development

Introduce exempt development provisions for boundary 'retaining walls,' including a maximum height of 0.5m above or below natural ground level, under Schedule 2 Exempt Development.

Remove 'child care facility' from Schedule 1 Additional Permitted Uses at Excelsior Avenue, Castle Hill, as child care facilities are already permissible in R2 Low Density Residential zones in accordance with SEPP (Educational Establishments and Child Care Facilities) 2017 and the Standard Instrument (Local Environmental Plans) Order 2006.

(h) Housekeeping amendments to cadastral boundaries and associated mapping layers.

(i) Updates to under Schedule 5 Environmental heritage as follows:

Table 1 Changes to Addresses/Legal Descriptions

Item No	Item Name	Previous Property Description / Address	New Property Description / Address
I7	St Joseph's Novitiate	Lot 1002, DP 1190982	Lot 217, DP 1239622
I8	"Creasey's"	Lots 2 and 3, DP 1108855	Lot 34, SP 93170 & Common Property
I11	House	Lot B, DP 420528	Lot 5, SP 85667 & Common Property
I20	Thornbury Lodge	9-13 Owen Avenue	11 Owen Avenue
I30	Bull and Bush Hotel	378 Windsor Rd	360 Windsor Road
I63	Castle Hill Public School	264 and 266 Old Northern Rd	264-266 Old Northern Road
I64	Former police station	264 and 266 Old Northern Rd	264-266 Old Northern Road
I87	"The Pines"	656A Old Northern Rd	656Z Old Northern Road
I89	Emmanuel Anglican Church	31A Glenhaven Rd Lot 1, DP 1100022	31 Glenhaven Rd Lot 1, DP 1240537
I91	Felton Mather Marked Tree	Broadwater Rd	140 Broadwater Rd
I105	House	35-37 Annangrove Rd	33 Annangrove Rd
I130	"Dargle"	351-353 River Rd	312 River Rd
I187	Christchurch	Windsor Rd	2 Adelphi Street
I189	Private Burial Ground	Withers Rd	49Z Greensborough Ave
I206	St Mary Magdalene Church	Lot 37, DP 752025	Lot 37 DP 1247320
A2	Original section of road and culvert And Road and remnant post and rail fencing	Within the road reserve, Old Windsor Road Property description: Nil	Old Windsor Road between Seven Hills Road and Windsor Road Property description: Within road reserve

Item No	Item Name	Previous Property Description / Address	New Property Description / Address
A3	Bypassed section of road	Within road reserve in front of 162–170 Old Pitt Town Road Within road reserve in front of Lot 10A, DP 11104; Lot 11, DP 10157; Lots 121 and 122, DP 562991; Lot 1, DP 581760	Fronting 162-170 Old Pitt Town Road Within road reserve fronting Lot 10A, DP 11104; Lot 11, DP 10157; Lots 121 and 122, DP 562991; Lot 1, DP 581760
A12	Old Northern Road	Nil	Within road reserve
A12	Old Northern Road between Dural and Wisemans Ferry	Nil	Within road reserve
A14	Convict built road (Mr Sharps Track)	Crown Road Reserve between 2475 –2483 and 2391– 2429, River Road Between Lot 990, DP 818576 and Lot 11, DP 1052320	2475 –2483 and 2391– 2429, River Road Part of road reserve adjacent to and within Lot 11, DP 1052320
A15	Original section of Old Northern Road	3952–4006 Old Northern Road Within Lot 131, DP 752039, Crown Reserve No 74422	Crown Reserve No 74422, 3952–4006 Old Northern Road Lot 131, DP 752039
A16	Original section of Old Northern Road	In front of Lot 100, DP 650454	Within road reserve fronting Lot 100, DP 650454
A18	Bypassed section of Old Northern Road	In front of Lot 238, DP 752039	Within road reserve fronting Lot 238, DP 752039
A25	Great drain and stone cut Foundations	Stone Drain Reserve, 274 Pacific Park Road	274 Pacific Park Road

Table 2 Other Changes

Item No	Item Name	Previous Property Description / Address	Description of Change
I24	Pearce family graves	Seven Hills Road	Suburb name has changed from Baulkham Hills to Bella Vista.
I25	Avenue of Trees leading to Castle Hill Country Club	RMB 47 Spurway Drive and Castle Hill Country Club, 9 Spurway Drive	Suburb name changed to 'Norwest' to reflect current suburb boundaries.
I28	Windsor Road from Baulkham Hills to Box Hill	Windsor Road	Suburb name changed to 'Norwest' to reflect current suburb boundaries.

1.1.4 Proposed amendments removed from Planning Proposal

Following the receipt of the revised planning proposal from Council, the Department has made post exhibition changes to the proposal. Justification for these changes are discussed in Section 3 of this report but can be summarised as:

- The LEP will be an amendment to The Hills LEP 2019, not a new comprehensive LEP;

- Remove the proposed local character provisions for the Showground Precinct;
- Remove the proposed height of building mapping amendments for the Rouse Hill Strategic Centre, with the exception of the undeveloped areas in the northern parts of the centre;
- Remove the proposed floor space ratio and key sites mapping amendments (referring to the 375 dwelling cap) for the Rouse Hill Northern Precinct;
- Remove the proposed amendments to rezone land in Beaumont Hills, Rouse Hill and Kellyville from R3 Medium Density Residential to R2 Low Density Residential, pending further investigations;
- Remove the proposed minimum lot size amendments for West Pennant Hills, pending further investigations;
- Remove the proposed amendments to rezone land in Grey Gums estate, Kellyville from R4 High Density Residential to R2 Low Density Residential; and
- Remove the proposed exempt development provisions for retaining walls.

1.1.5 State electorate and local member

The draft LEP relates to all land to which The Hills Shire LEP applies, and as such the planning proposal will amend planning controls in parts of the following State and Federal Electorates:

Table 3 State and Federal Electorates

Electorate	Member
<i>State Electorates</i>	
Baulkham Hills	David Elliot
Castle Hill	Ray Williams
Hawkesbury	Robyn Preston
Parramatta	Geoff Lee
Seven Hills	Mark Taylor
<i>Federal Electorates</i>	
Berowra	Julian Leeser
Mitchell	Alex Hawke
Parramatta	Julie Owens

Mr Ray Williams MP has made written representations to the Minister for Planning and Public Spaces on behalf of a constituent regarding this proposal, to object to the rezoning of R3 Medium Density Residential land to R2 Low Density Residential land. Consideration of public submissions is provided under Section 3.1 of this report.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Gateway determination and alterations

In accordance with Section 3.34 of the *Environmental Planning and Assessment Act 1979* and the Ministerial Direction issued on 27 September 2018, the planning proposal was referred to The Hills Shire Local Planning Panel prior to the issue of the Gateway determination on 19 September 2020.

The Panel found that the proposal generally had merit and recommended that the proposal proceed to Gateway (**Attachment D**).

The Gateway determination issued on 3 April 2020 (**Attachment G**) determined that the proposal should proceed subject to conditions and be submitted for finalisation by 30 June 2020. The Gateway determination required updates to the planning proposal prior to public exhibition.

The Gateway determination was altered on 26 May 2020 (**Attachment G**) to remove conditions relating to the name of the planning proposal and savings provisions and to update the reference to Council's precinct planning for Rouse Hill to be completed by December 2021.

3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council between 10 July and 7 August 2020. During this exhibition period, Council received 125 written submissions from the public, 11 from agencies and authorities (discussed in the section below), 380 phone calls, 62 in-person enquiries, and 30 enquires via the Council website.

Council has responded to matters raised during the consultation process in its 25 August 2020 the post exhibition report to Council (**Attachment C**) which is discussed below.

A further three submissions were received after the conclusion of the exhibition period and following the printing of the post-exhibition report to Council. Council has responded to the matters raised (**Attachments C and F**) as discussed below.

3.1 Community submissions during exhibition

The majority of community submissions raised the following:

- General enquiries for changes to the controls for specific properties.
- Clarifications on rural land uses and rural subdivision.
- Clarifications and concerns on the proposed changes to the R3 Medium Density Residential zone in Beaumont Hills, Rouse Hill and Kellyville; zoning in the Grey Gums Estate; and increases to Minimum Lot Size for sites in West Pennant Hills.

3.1.1 Rouse Hill, Beaumont Hills and Kellyville amendments

14 public submissions raised an objection to Council's proposed rezoning from R3 Medium Density Residential to R2 Low Density Residential in a number of locations at Rouse Hill, Beaumont Hills and Kellyville. Submissions objected to the rezoning of their land and raised that R3 zoned land is required to accommodate population growth in these areas particularly as they are in close proximity to schools, services and public transport. Submissions also raised concerns regarding changes to land value, the desire for compensation and some submissions requested further uplift of their land.

Council's response

Council notes that the number of submissions received represents the minority of residents in the subject area (0.6% of 2,128 affected land parcels) and that recent development in the subject R3 Medium Density areas has been for the purpose of conventional single dwellings. Council states

these parcels met criteria as outlined in Council's report (**Attachment C**) which align better with a R2 Low Density Residential zoning.

Council submits that the proposed amendments will not impact on meeting housing targets and while some incidental growth is likely to occur in established residential areas, the majority of growth is planned for in release areas around Box Hill and North Kellyville as further discussed in The Hills Local Strategic Planning Statement 2036.

As discussed in the planning proposal (**Attachment A1**) the areas in Beaumont Hills, Rouse Hill and Kellyville were part of a historic land release and identified under The Hills Historic Development Control Plan (DCP) No. 32. DCP 32 identified the parcels as 'Local Centre Density' at 15-20 dwellings per hectare. Council notes these areas were developed at an overall density of 13 dwellings per hectare and when Council was preparing the Standard Instrument Local Environmental Plan (The Hills LEP 2012), these 'Local Centre Density' areas were translated to R3 Medium Density Residential zoning.

Upon review, Council finds that the R3 zoning did not align with the built form outcomes that were being built at the time in those areas (predominantly 3-4 bedroom detached houses) and further R3 Medium Density outcomes generally anticipate 38 dwellings per hectare. Council also notes the finalisation package for the North West Growth Centres recommends 15-20 dwellings per hectare for R2 Low Density Residential areas.

Council notes these proposed amendments are consistent with maximising use of existing infrastructure and services and facilitating diversity of housing and density in well serviced locations. The planning proposal (**Attachment A1**) states the sites in Beaumont Hills, Rouse Hill and Kellyville have been developed within the last 20 years and due to the age of this housing stock; their location away from Metro stations and varying degrees of regular bus servicing– it is unlikely these sites will be redeveloped within the foreseeable future.

Quantitative analysis

The Gateway determination (**Attachment G**) required Council to update the planning proposal prior to public exhibition to provide a quantitative analysis to assess the potential impacts of the proposed changes on housing diversity and supply. The planning proposal (**Attachment A1**) notes the overall amendment will affect approximately 2,128 lots and of these approximately 1,780 are 'unconstrained' which could be redeveloped for the purpose of attached dwellings, multi-dwelling housing or seniors housing developments. Council notes constraints include strata title lots which would require 70% agreement from owners for redevelopment, bushfire prone land, heritage listed properties and battle-axe lots which don't meet minimum street frontage requirements.

The proposal notes of these 1,780 parcels:

- 77 lots have an area between 720-900m² which could theoretically provide 172 dwellings under Clause 4.1B; and
- 15 lots have an area in excess of 900m², which is the minimum lot size required to utilise provisions for manor homes (the highest medium density product that could be delivered in R3 on a single allotment) under the LEP or Exempt and Complying Development Code.

However, Council notes not all sites would be likely to redevelop or achieve the maximum theoretical potential.

Council therefore states this amendment will not have a significant impact on the area and will better reflect the prevailing built form, maintain the accessibility to infrastructure and services as well as protect amenity currently enjoyed by existing residents.

Land value and rates

As noted in Council's post-exhibition report (**Attachment C**) that rating assessments are undertaken based on unimproved land value as set by the Valuer General on behalf of Property NSW every three years. In further discussions between the Department and Council, Council has

also stated that there is no substantiated evidence demonstrating that the proposed amendments will result in adverse impacts on property values, given market forces.

Department comment

A significant amount of justification and consultation is required to support the rezoning of these sites because the amendments could result in changes in property value and the capacity of this neighbourhood to accommodate growth. The Department has amended the planning proposal to retain the existing controls at this time, pending further investigation by Council and consultation with the community to try and establish a broader view on the proposed amendments and to ensure that the proposed rezoning is the most appropriate way to achieve a desired future character for the area. Refer to Section 3.3 of this report for further discussion.

3.1.2 Grey Gum Estate Kellyville

Reaction to the proposed rezoning of Grey Gum Estate from R4 High Density Residential to part E2 Environmental Conservation, R2 Low Density Residential and R4 High Density Residential was mixed. A number of callers to the LEP2020 hotline were supportive of the changes and felt they reflected the character of the estate and better protected the biobanking sites. The majority of the submissions (9) objected to the proposed changes based largely on perceived impacts to land values and loss of development potential.

Council response

As noted in Council's post-exhibition report (**Attachment C**) the Grey Gums Estate is a residential estate comprising a mix of low density and high density dwellings as well as land reserved for environmental conservation.

Council states that the R4 High Density Residential zoning of the subject site was translated from a legacy zone, Residential 2(a), which permitted apartments. Council states while the site had been provisionally zoned as R4 High Density Residential, it was acknowledged that this would be reviewed subject to the final approval and development of the subdivision and it was not until the fine detail planning for Grey Gums Estate was undertaken that the appropriate scale and environmental controls would be established.

Council states the proposed amendments are consistent with the built outcomes on site. For land in the Grey Gums estate that has been developed with low density character, the application of an R2 Low Density Residential zoning and associated controls, will provide certainty for the community, owners and future purchasers that the established character will be protected. The E2 Environmental Conservation zone ensures environmental protection for key sites under the LEP.

The sites zoned R4 High Density Residential are not of sufficient size to allow for the development of residential flat buildings at this time. The minimum lot size requirement for residential flat buildings is 4,000m², which equates six properties needing to be consolidated. Council states that as a result any redevelopment potential is likely to be minimal and not likely to occur until the dwelling stock is of considerable age.

The proposed zoning changes will not impact on Council's ability to meet housing targets, as the proposed changes are not taking place in an area identified for growth. While some incidental growth is likely to be experienced in established residential areas, Council is anticipating growth will primarily be accommodated within release areas and urban renewal areas.

Land value

Council states that a higher premium for the land was not necessarily paid as a result of the R4 zoning and therefore the proposed rezoning would not have a significant impact on land value. A review of historic sale prices reveals the prices paid for the R4 High Density conventional single dwelling lots in Grey Gums estate is consistent with sales of nearby R2 Low Density Residential

land, reflecting potential for only single dwelling development as created by the initial subdivision. In discussions between the Department and Council, Council provided evidence to support this.

Department comment

The Department supports the retention of land to be zoned E2 Environmental Conservation.

As above, the Department has amended the planning proposal to retain the existing controls for the land zoned R4 at this time, pending further investigation by Council and consultation with the community to try and establish a broader view on the proposed amendments. Refer to Section 3.3 of this report for further discussion.

3.1.3 Increase in minimum lot sizes in West Pennant Hills

One submission objected to the increase of minimum lot sizes from 700m² to 2,000m² relating to two properties on Glenhope Road, West Pennant Hills. The submission requested that these sites should be considered for smaller subdivision given their proximity to the station and their location within the NSW Government's 2013 Cherrybrook Station Structure Plan study area, part of the North West Urban Renewal Corridor.

The submission raised that only a small portion of the lots reviewed by Council have a lot size greater than or equal to the proposed 2,000m² so the retention of the existing minimum lot size is not likely to result in a significant change to the character of the area.

Council response

The subject sites are part of the Cherrybrook Precinct and Council notes precinct planning for the Cherrybrook area is underway. Irrespective to this, the need to protect established residential character remains and the two lots identified in the submission are consistent with the established subdivision pattern of the area and should not be able to subdivide further.

As noted in Council's post exhibition report (**Attachment C**) the subject sites have significant local character, comprising dwellings on large sites in garden settings. While some sites in the subject area have been subdivided, the two subject sites raised in the submission are a reasonably rare and intact example of large estate subdivision that reflects the desired characteristics of West Pennant Hills.

Council notes in 2017 an approved subdivision for lots of around 700m² at 7-9 Governor Phillip Place was approved (DA 1551/2017/ZB). Council states that nearby residents raised concerns that the subdivision would adversely impact on the character of the street, detract from the original intent of the estate and did not meet the relevant objectives of The Hills Development Control Plan 2012.

Department comment

As above, the Department has amended the planning proposal to retain the existing minimum lot size controls at this time, pending further investigation by Council and consultation with the community to try and establish a broader view on the proposed amendments. Refer to Section 3.3 of this report for further discussion.

3.1.4 Changes to permissible uses in rural zones

Some submissions noted the introduction of a new zone objective in the RU6 Transition zone is not required and raised the following queries:

- Whether agricultural uses remain viable in The Hills;
- Existing use rights and whether they would apply to existing log processing operations in the RU6 Transition zone; and
- Minimum lot size requirements for rural subdivision and whether 5 acre properties could be subdivided in to more manageable lots of around 1 acre.

Council response

Amendments to permissibility in the rural zones will only apply to new development applications and will not affect current, lawful land uses.

The Central City District Plan and Council's adopted Local Strategic Planning Statement (LSPS) and Rural Strategy provide priorities and actions that relate to the biodiversity, scenic and productive qualities of the rural area, seeking to protect productive agricultural lands, minimise land use conflict, support rural industries and maintain the character of rural areas. The strategic planning framework for rural areas provides very limited capacity for increasing residential density.

The majority of areas where requests were made for change are located in and around roads which are already under strain including Old Northern Road, New Line Road and Annangrove Road. Council's LSPS and Integrated Transport and Land Use Strategy, identify an action to work with the NSW Government to revise the status of Annangrove Road to an arterial road to help focus attention and funding to upgrade the road, however at this time these projects are not funded. The LSPS and Rural Strategy contain an action to investigate limited residential expansion around established rural villages. This work is expected to be completed by June 2023.

Department comment

The proposed amendments to certain land uses in the RU1 Primary Production, RU2 Rural Landscape and RU6 Transition zones are consistent with prevailing character and intent of the zones and will encourage rural support industries and tourism.

3.1.5 Reinstatement of underlying zoning in the Cattai Creek Deferred Matters Area

Two submissions raised concerns the proposed amendments create uncertainty around the status of planning for the area, it is 'back zoning' and that any changes to the area should only be made as a result of master planning.

Council response

The zoning of land within the deferred matters area has not changed since the deferral has been in place. Whilst the land use map does not currently show a land zone over the subject land, the previous (or underlying) land zone still applies. The proposed reinstatement of the underlying zone does not prohibit any future changes to land zoning which may arise as a result of master planning.

Department comment

Council and the Department are collaborating to prepare a vision and master plan for this area. In late 2019, the Department handed over the draft master plan to Council. Council's LSPS identifies precinct planning for the area as a medium to long term project.

The controls for the site were previously deferred, pending the outcomes of the master planning process. Given the change in timeframe for this project, the planning proposal seeks to re-instate the previous controls as a placeholder until the master planning work is complete.

The next stage of the process for the Cattai Creek West area is the preparation of the planning and zoning controls through the statutory plan making process based on the recommendations of the Cattai Creek West Master Plan. This would include the preparation of any necessary supporting studies including the associated development controls and local contributions plans.

3.1.6 Mill Drive Estate

Nine submissions were about Mill Drive Estate, with most seeking additional planning controls to protect the residential character of the area and raising concerns about the permissibility of dual occupancies/secondary dwellings on the character of the area.

Council response

Dual occupancies and secondary dwellings are permissible with consent in the R2 Low Density Residential zone. In the past 20 years there have been two approvals for dual occupancies and two approvals for secondary dwellings within the estate and demand for turnover in housing stock within the estate is relatively low. The risk of new development impacting on streetscape character is relatively low.

The submissions do not make clear a preferred mechanism for protection of residential character within the Mill Drive Precinct. The existing R2 Low Density Residential zoning is appropriate within the context of the site and the pattern of development in the locality. Any application for development within the precinct will be assessed on its own merits.

Department comment

The Hills LEP contains suitable provisions for the Mill Drive Estate and any further policy relating to the character of the area is outside of the scope of this amendment and may be explored in future by Council.

3.1.7 Site specific requests

32 submissions from landowners were received requesting site specific changes to land zoning and/or height, floor space ratio and minimum lot size.

Council response

28 requests are not supported by Council as they are inconsistent with Council's strategic framework as they were requests for higher densities in areas which did not provide a logical transition of higher to lower densities.

The following requests were acknowledged by Council for their potential planning merit, however are out of the scope of the LEP and would require further investigation as part of a separate planning proposal process:

- Waterstone Crescent Estate, Bella Vista – request for a rezoning from R2 Low Density Residential to either R3 Medium Density or R4 High Density Residential as the built form outcome on the site (two storey attached and detached townhouses) is more consistent with a medium density outcome.
- Old Northern Road, Castle Hill – request for an increase in height for two sites on the southern side of Old Northern Road likely to be investigated as part of precinct planning for the remainder of the Castle Hill Station Precinct.

Department comment

Council provides a detailed response to each of the site specific requests raised during the public exhibition period (**Attachment C**) and no further action is required for the scope of this proposal.

3.1.8 Amendments to Castle Hill Strategic Centre

One submission was received from the owners of the Castle Towers Site, QIC, querying the application of floor space.

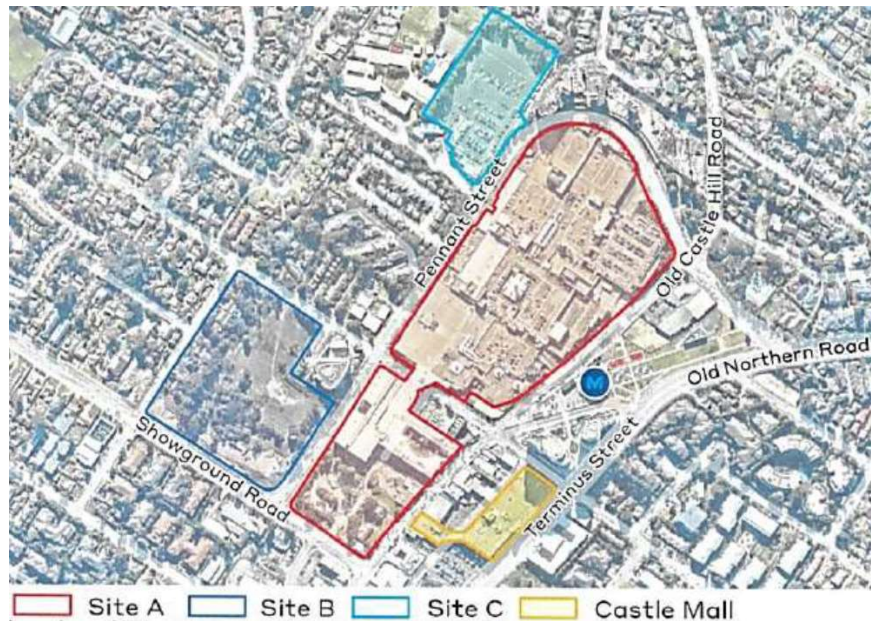


Figure 1 Castle Hill Strategic Centre

The submission seeks to increase the controls for Site B (**Figure 1**) to 4.4:1 and height to 45m.

Council response

The proposed FSR of 1.9:1 for Sites A and B reflects the approved variation to the existing FSR control for the site in accordance with development application for the Castle Towers Site (864/15/JP/B).

Site B is outside of the Castle Hill North Precinct which was rezoned on 17 July 2020. It forms part of the balance of Castle Hill Strategic Centre, and as such is identified for precinct planning work. The subject planning proposal does not seek to pre-empt the detailed investigations but rather reflect current approvals as an interim measure whilst more detailed precinct planning is being undertaken.

Department comment

The Department notes Council is undertaking precinct planning for the Castle Hill Strategic Centre, including areas raised in the submission. Council's precinct planning is the suitable pathway for the controls for the subject sites to be reviewed. Council has provided an adequate response to this matter raised in public submissions.

3.1.9 Amendments to Rouse Hill Strategic Centre

Council received three submissions objecting to the proposed introduction of building heights and a maximum dwelling cap for the Rouse Hill Strategic Centre, with two of the submissions being from GPT and one being from Lendlease. In summary, the following matters were raised:

- Confusion as to whether there is a savings provision relevant to current planning proposals and development applications;
- Concern that the planning proposal and Gateway determination do not reference current planning proposals or development applications;
- Objection to the proposed dwelling cap and extension of the sunset clause, asserting that the measure is inconsistent with the approved master plan;
- Objection to the proposed height of buildings map controls over the northern precinct, asserting that the proposed controls are unnecessary in light of the recently submitted planning proposal and development application; and
- Suggests that the planning proposal is inconsistent with Ministerial Directions.

Council response

The proposed changes to heights and the inclusion of a dwelling cap are an interim measure only, pending precinct planning, or the finalisation of a planning proposal being sought for the land by GPT. The proposed controls reflect current approvals.

Department comment

The Department has made post exhibition changes. Refer to Section 3.3 of this report.

3.1.10 Rouse Hill amendments - Wentworth Community Housing

Wentworth Community Housing is the owner of 40 Civic Way, Rouse Hill, within the Rouse Hill Town Centre. The submission objects to the imposition of maximum building height control on the grounds that the controls duplicate the controls in the existing master plan and provide less flexibility than under the current planning framework.

The submission also raises concerns that the new height control does not take into consideration development applications with Council for this site and creates additional barriers to the delivery of affordable housing. Wentworth Community Housing request for the proposed amendments to the Rouse Hill Strategic Centre be delayed until updated precinct planning has been completed.

Council response

Development within the Rouse Hill Town Centre is informed by the approved master plan and more detailed precinct plan, which informed a site-specific development control plan. This framework was intended to provide certainty with respect to development outcomes, whilst also enabling some degree of flexibility to achieve optimal design outcomes as part of development applications for individual buildings in the Town Centre. The precinct plan includes a height of buildings map, and assumptions on the residential yield of the site.

The development standards identified in the planning proposal are consistent with the concept plan (1581/2005/HB) and provide certainty until such time as more detailed precinct planning and subsequent planning proposals are completed.

Department comment

The Department has amended the planning proposal to remove the maximum building heights for this site. Refer to Section 3.3 of this report.

3.2 Advice from agencies

Council was required to consult with the following agencies in accordance with the Gateway determination:

- Sydney Water
- NSW Rural Fire Service
- Department of Premier and Cabinet – NSW Heritage; and
- Greater Sydney Commission (GSC).

In respect of consultation with GSC, Council consulted with the GSC in the preparation of the LSPS. In this instance, and in considering the scope of the planning proposal, the Department is satisfied that this consultation satisfies the conditions of the Gateway determination.

Submissions were received from all public authorities (**Attachment E**). Key submissions are discussed below.

3.2.1 Sydney Water

Sydney Water agreed to be listed as the relevant acquisition authority for a number of lots identified in the planning proposal and nominated several other lots that it did not agree to be listed as the relevant authority.

Council response

The submission was received as part of early consultation, prior to the exhibition of the planning proposal and as such the requested changes were included in the exhibited documents. Refer to Council's response in its post exhibition report at **Attachment C**.

Department comment

Further information was provided by Council in November 2020 in response to specific questions from the Department. Refer to **Attachment B**. Council has adequately responded to matters raised by Sydney Water and no further action is required.

3.2.2 NSW Heritage

The Department of Premier and Cabinet – NSW Heritage identified that Council should review its existing Heritage Study and update this document as a matter of priority, to reflect any required changes in the LEP. It was further requested that Council consider preparing an Aboriginal Cultural Heritage Study in consultation with the local Aboriginal community and the Deerubbin and Metropolitan Local Aboriginal Land Councils.

The submission did not raise any objection to the proposed changes in the LEP, noting that Council would need to ensure that changes did not negatively impact heritage items or sites.

Council response

The intent of this planning proposal is to align Council's LEP with the LSPS and District Plan. Further strategic work will be undertaken to review Schedule 5 of the LEP in accordance with an action within Council's LSPS.

Department comment

NSW Heritage's submission is noted, and Council are encouraged to undertake this important work.

3.2.3 Department of Primary Industries

The Department of Primary Industries raises an objection to the change to permit service stations with consent in the RU1 Primary Production zone and requests that specific sites be nominated rather than implementing broad changes to permissibility.

Reasons for the objection are as follows:

- Inconsistency with planning priority 4 of the LSPS which seeks to retain and manage the Shire's rural productive capacity;
- Potential for the change to place additional pressure on the limited RU1 Primary Production zoned land; and
- Service stations are currently permissible in the adjoining RU2 Rural Landscape Zone.

Council response

Permitting service stations in the RU1 Primary Production land use zone will not result in the proliferation of this development and would support rural production activities. Any service station would be subject to a development application assessment process to consider its merit, including the potential for any land use conflicts and consistency with the intent of the RU1 Zone.

Department comment

The Department agrees that the proposed inclusion of service stations as a permissible use in the RU1 Zone is potentially compatible with zone objectives, subject to merit assessment through a development application process, and will enable the provision of a service to support surrounding rural industries.

3.2.4 NSW Rural Fire Service

Prior to exhibition, the NSW Rural Fire Service (RFS) were consulted in accordance with the requirements of the Gateway determination. RFS NSW noted it has no comments on the proposed amendments which are mostly general housekeeping and will not significantly increase density in bushfire prone land.

The RFS has ongoing concerns regarding the cumulative impact of rural cluster subdivisions in isolated rural areas on emergency management and evacuation of occupants. The NSW RFS has previously recommended that land use planning in the rural parts of the Shire be revisited to more appropriately reflect the bush fire risk that exists.

It is noted that under Priority 20 within The Hills Future 2036, there is an action to 'prepare a suite of information material to raise awareness of and prepare existing and future residents for environmental and urban risks and hazards'. It is envisaged that there will be further amendments to the LEP and this would be a good opportunity to revisit bushfire planning in the rural parts of the LGA. For this reason, we recommend a strategy bushfire and evacuation assessment be conducted to determine which areas may not be suitable for further increases in density to achieve safe emergency management and evacuation during a bushfire event.

A second letter submitted by RFS during the exhibition period did not raise any objection to the proposed amendments.

Council response

Council's adopted Rural Lands Strategy contains an action to investigate limited expansion of rural villages. Central to this work will be the consideration of risk avoidance, particularly in regard to bushfires.

No changes to Rural Cluster Subdivision have been proposed as part of the LEP review noting the concept was introduced to the LEP in 2012 following extensive rural strategy work. Applications are assessed on their merits and will continue to be referred to RFS for comment.

Department comment

The Department notes RFS' main concern relates to rural cluster subdivisions and that this proposal does not seek to amend those provisions. It is considered appropriate that Council investigate a strategy bushfire and evacuation assessment when considering expansion of rural villages or another amendment that focuses on rural cluster subdivision.

3.2.5 Environment, Energy and Science Group

The Environment, Energy and Science Group's submission provided the following suggestions, amongst others:

- Suggestion to update the aims of the LEP to reference conservation and resilience values and to take into consideration the urban heat island effect.
- The need to remove references to the application of Clause 5.16 to the E2 Environmental Conservation zone.
- The need to retain part of trunk drainage land between Windsor Road and Memorial Avenue Kellyville as RE1 Public Recreation rather than SP2 Infrastructure, which includes an objective to enhance the natural environment.

Council response

The planning proposal and supporting documents provides the following in response:

- The aims of the LEP are aligned with the themes of Council's Community Strategic Plan and subsequent LSPS, and as such are considered appropriate.
- The proposed drafting of Clause 5.16 is the subject of the Standard Instrument and cannot be amended as part of the planning proposal. The planning proposal does not seek to enable residential development or amend the permissible land uses in the E2 Environmental Conservation zone.
- Sydney Water has consented to the proposed changes to the trunk drainage land. The proposed change is administrative and does not affect the site's ability to support threatened species or its importance as part of the contiguous green link along Strangers Creek.

Department comment

The Department is a satisfied with Council's response.

3.2.6 Transport for NSW

Transport for NSW (and former RMS) provides the following suggestions, amongst others:

- A number of proposed changes to the relevant authority for the acquisition of certain land.
- The need for further consultation with Transport for NSW in the event of future uplift.
- Support for the proposed cap on residential development in the Rouse Hill Town Centre.
- The need for local distribution premises to be permitted with consent in the B4 Mixed Use zone, to promote and improve local freight hubs and consideration for the DCP to require new developments assess the demand for freight and servicing, point-to-point transfers, and coaches.
- Further detailed comments raised in relation to future works or objectives for the transport network and public domain.

Council response

The planning proposal and supporting documents identify the following responses:

- Transport for NSW's consent to proposed changes to the Land Reservation Acquisition Map and Land Zoning Map, as they relate to Transport for NSW property or land required to be acquired, are noted.
- Comments regarding future traffic and transport work in strategic centres and station precincts are noted. Council will continue to engage with Transport for NSW on any future strategic amendments to the LEP.

Department comment

The Department requested Council to consider making local distribution centres a permissible use in the B4 Mixed Use zone. Council noted in their November 2020 response (**Attachment B**) that the local government area has two areas zoned B4 Mixed Use – Castle Hill Town Centre and the Rouse Hill Town Centre, and so the impacts of this land use change on both places would need to be considered carefully. These investigations would be appropriate as part of a future planning proposal or the precinct planning to be undertaken for both centres.

In regard to Transport's support for the dwelling cap in Rouse Hill, which has since been removed from the planning proposal by the Department, it is submitted that the maximum building heights for the northern part of the Rouse Hill Town Centre will have the same effect of providing certainty about the development capacity of these sites.

3.2.7 Department of Education – Schools Infrastructure

The submission from Schools Infrastructure provides support for the planning proposal, but requests certain amendments including that the address of heritage item I63 be updated and that consideration be given to limiting the mapping and description of the former Castle Hill Public School and Kellyville Public School heritage items to only cover the areas of significance rather than the entire site.

The submission also identifies support for the proposed cap on residential development within the Rouse Hill Town Centre and that infrastructure upgrades be considered as part of any growth in the Castle Hill Strategic Centre to enable safe and continued access to Castle Hill Public School.

Council response

The planning proposal and supporting documents provide the following responses:

- The address listed for the former Castle Hill Public School under Schedule 5 of the LEP is correct.
- When heritage items are included in Schedule 5, it is common practice for it to be mapped across the whole lot, regardless of the position of the item within this lot.
- Any additional growth in the LGA will be the subject of a separate planning proposal or precinct planning, which will require consideration of infrastructure capacity and demand. Precinct planning for the strategic centre currently underway may include further consideration of pedestrian infrastructure.

Department comment

The Department notes that there is some flexibility in technical mapping requirements and requested further consideration by Council. The Department notes Council's response (**Attachment B**) and that the heritage listing mapping applying to the entire site does not prevent the school from accessing development pathways available under the Infrastructure SEPP and alternate pathways are available under Clause 5.10 of The Hills Local Environmental Plan for works which would not impact on the significance of the item.

The Department also notes in Council's response that, to date, the listing has not prevented the school from undertaking works on the site and has not created any significant burden when considering development applications across the school site. Only one development application has been lodged on the school site in the past ten years, for a new centre based childcare facility for out of school hours care. The listing did not impact on the application and the Education Department were not required to submit any additional information regarding the heritage item. The Department is satisfied with this response.

3.3 Post-exhibition changes

3.3.1 Council changes

At Council's Ordinary Meeting on 25/08/2020 (**Attachment C**) Council resolved to proceed with the planning proposal with a post exhibition administrative mapping change in relation to land on Vantage Crescent and Brayden Way, Kellyville, Lot 53 DP863912 and Lot 21 DP1102562.

The subject parcels are currently zoned SP2 Infrastructure (Stormwater Management) and R2 Low Density Residential. Both have been acquired by Council and form part of Council's network of recreational cycle and walking trails. It is proposed rezone this land to RE1 Public Recreation to reflect the role and function of the land. These changes are minor and do not alter the intent of the planning proposal as exhibited.

3.3.2 The Department's recommended changes

As discussed under Section 1.1.4, a number of amendments were removed from the proposal by the Department as post exhibition changes. The post exhibition changes are a result of:

- Further examination of the strategic merit;
- Response to submissions received by Council and representations made to the Minister of Planning and Public Spaces;
- Administrative changes; and
- Reflecting the Department's position on policy updates.

Given the above, it is considered the amendments described below do not require re-exhibition as they are minor amendment and do not alter the intent of the planning proposal.

Changes to title of instrument

This planning proposal was exhibited as a new comprehensive local environmental plan for The Hills LGA, being The Hills LEP 2020. As part of the Department's finalisation processes, the Department has reviewed the amendments within Council's final planning proposal and has determined the proposed changes are not on a scale warranting a new LEP. The Department has not viewed The Hills request in isolation. Numerous metropolitan councils across Greater Sydney have implemented LEP amendments to give effect to their LSPS and it has been determined the proposed changes are appropriately facilitated through an amendment to The Hills LEP 2019 rather than the creation of a new comprehensive LEP.

Showground Precinct local character statement

The Department's Codes team have been developing a consistent, state-wide approach to defining and implementing local character and desired future character.

From 12 November 2020 to 29 January 2021, the Department exhibited an *Explanation of Intended Effect – Local Character Provision* for a standardised approach to local character through a proposed local character model clause in the Standard Instrument LEP.

The local character provision will allow a council to adopt a map overlay and a local character statement. The exhibited local character provisions for showground were not prepared in accordance with this approach.

The Department does not support any bespoke local character clauses and the proposed Standard Instrument provision, once finalised, is to be adopted by councils. The risk of not proceeding with a local character statement for Showground Precinct at this stage is considered to be relatively low, as the desired local character for the area is largely reflected in the LEP and DCP for the Showground Precinct.

Rouse Hill Strategic Centre

The planning proposal sought a number of changes to Rouse Hill Town Centre including a 375 dwelling cap for the Northern Precinct (facilitated by a key sites map and local LEP provision) and introduction of maximum building height controls.

The Department does not support the introduction of a maximum 375 dwelling cap and has amended the building height controls to apply to the Northern Precinct only.

In arriving at this position, the Department has considered Council's aims for introducing these controls into the LEP, the origins of the dwelling cap, the masterplan approval for the Northern Precinct (354/2013/HB), development status of the town centre, status of precinct planning and the recent planning decision made by the Sydney Central Planning Panel.

Inclusion of the cap in the LEP is not supported for two reasons:

- It is considered that the cap is not required because the new maximum building height controls, when read with the existing adopted master plan and other controls and policies provide sufficient certainty as to the development potential of the Northern Frame; and
- The maximum dwelling cap of 375 dwellings originates from the master plan but is not expressed as a maximum number of dwellings. In the master plan the 375 dwelling number is presented as a likely outcome of development built in accordance with the master plan, but the ultimate number of apartments would be subject to land use mix, design and the size and mix of apartments delivered. More work is required to justify a maximum dwelling cap for the purposes of regulating built form and land use outcomes and ensuring the adequate provision of infrastructure.

In relation to the provision of maximum building heights across Rouse Hill Town Centre, the Department supports the introduction of building heights on the Northern Precinct only. The key reasons for this decision is that the Town Centre is largely developed and the controls are not required to manage built form outcomes. The Department supports the translation of approved Concept Master Plan heights into the LEP for the Rouse Hill Northern Precinct (**Figure 2**) which is not yet developed. Additional controls for the Northern Precinct and any new controls for the remainder of Rouse Hill Town Centre should be considered as part of Council's precinct planning process.

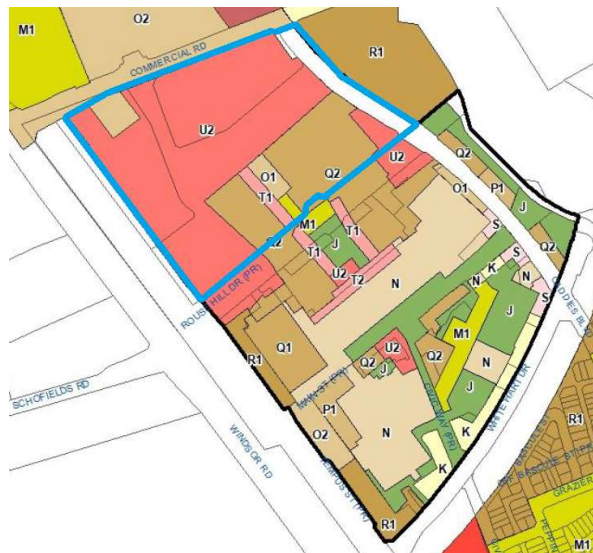


Figure 2 – Proposed heights in Rouse Hill Northern Precinct (outlined in blue)

The NSW Department of Health has announced the location of the Rouse Hill Hospital as being on the north-eastern side of Windsor Road. This reinforces the need for Council and NSW Government to work together to review the controls for the centre, particularly in terms of how this precinct might support and complement the operation of a new hospital as part of Council's precinct planning process.

Beaumont Hills, Rouse Hill, Kellyville amendments

Council have proposed to change the zoning in a number of neighbourhoods to ensure that development is consistent with a desired future character and that more dense housing types are concentrated near infrastructure. The Department agrees that this approach and the proposed zonings may have merit, but in this instance, because there are number of submissions objecting to this amendment and a small amount of submissions overall, further investigations are required before land is rezoned. The proposed rezonings need to be considered very carefully, because they will reduce the development potential of these impacted sites, potentially impact on property values, and reduce the LGA's capacity to deliver housing.

The Hills Local Strategic Planning Statement and supporting strategies

- A more detailed desired character statement for the area. What is it that makes this place special and needs to be retained? Can diverse housing types be designed in a way that supports this character?
- Exploration of planning control options for ensuring that development is consistent with local character, such as detailed DCP controls or other land use zone options.
- If possible, more evidence that the community is aware of, and supports these changes. The Department acknowledges that this community has been consulted on numerous occasions as part of the preparation of the LSPS and as part of the formal exhibition process for this planning proposal.

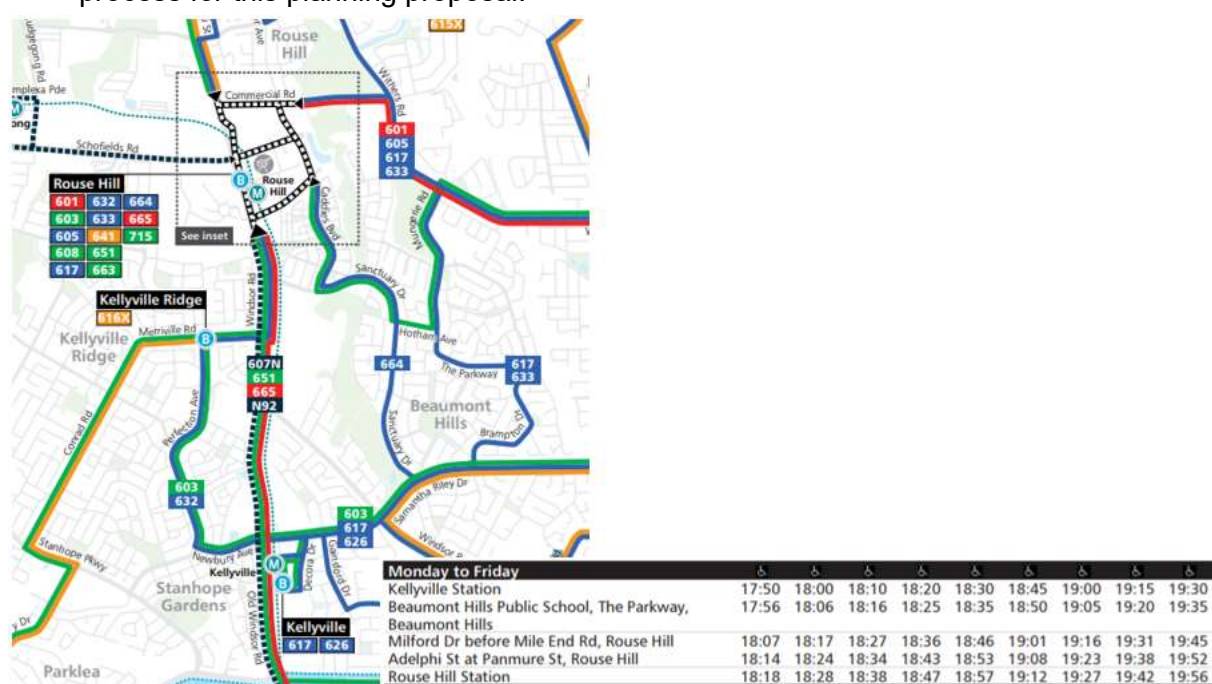


Figure 4 Bus routes servicing Beaumont Hills area and extract of 617 timetable

Kellyville

Council's Productivity and Centres Strategy identifies Wrights Road, Kellyville as a town centre. The proposed area to be rezoned in Kellyville (**Figure 5**) is close (within 800 metres) to the Wrights Road town centre, schools and recreational areas which are characteristics identified as desirable to support centres in the Strategy. There are also several local bus stops in Kellyville with frequent bus services connecting Kellyville to Rouse Hill and Castle Hill (**Figure 6**). This area is well serviced and does not appear to have any significant differences to R3 Medium Density Residential zones further away from the Wrights Road town centre and recreational areas and is an area suitable for delivery of future medium density housing.

The R3 Medium Density Residential zoning of this area is consistent with key planning priorities in The Hills Local Strategic Planning Statement and supporting strategies as well as the State strategic planning priorities to enable medium density housing. The Department has made a post-exhibition change to the proposal to retain the area outlined in black as R3 Medium Density Residential (**Figure 5**).

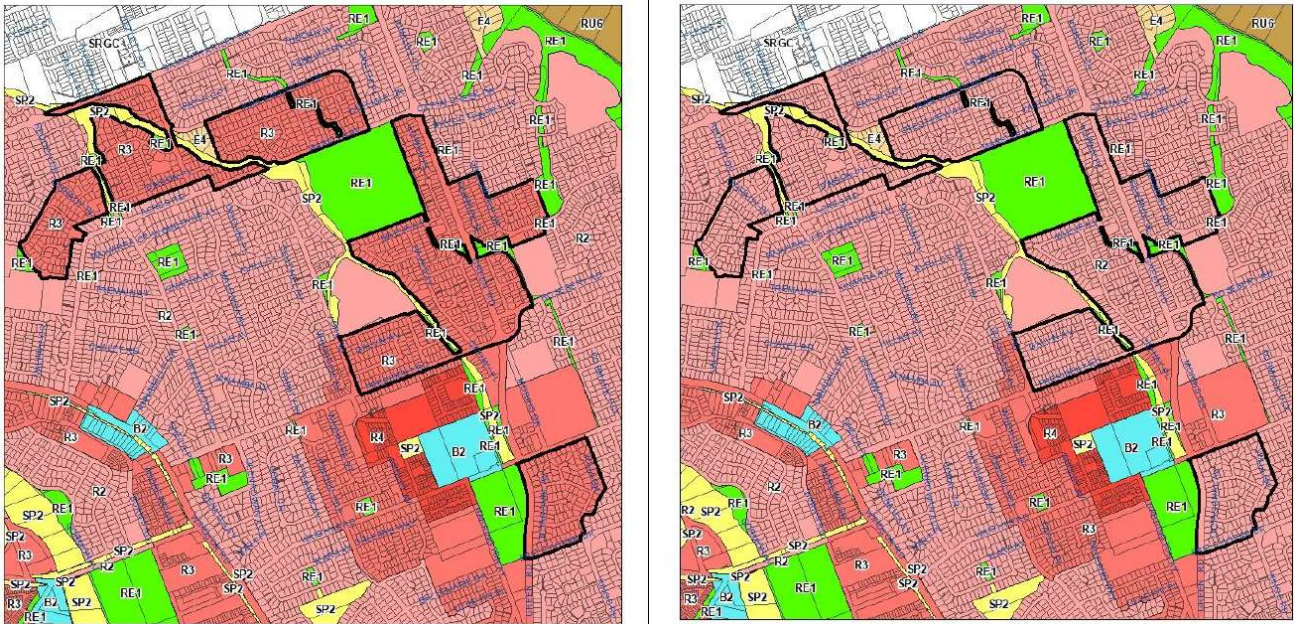


Figure 5 R3 Medium Density Residential area in Kellyville (left) and Council proposed rezoning to R2 Low Density Residential (right)

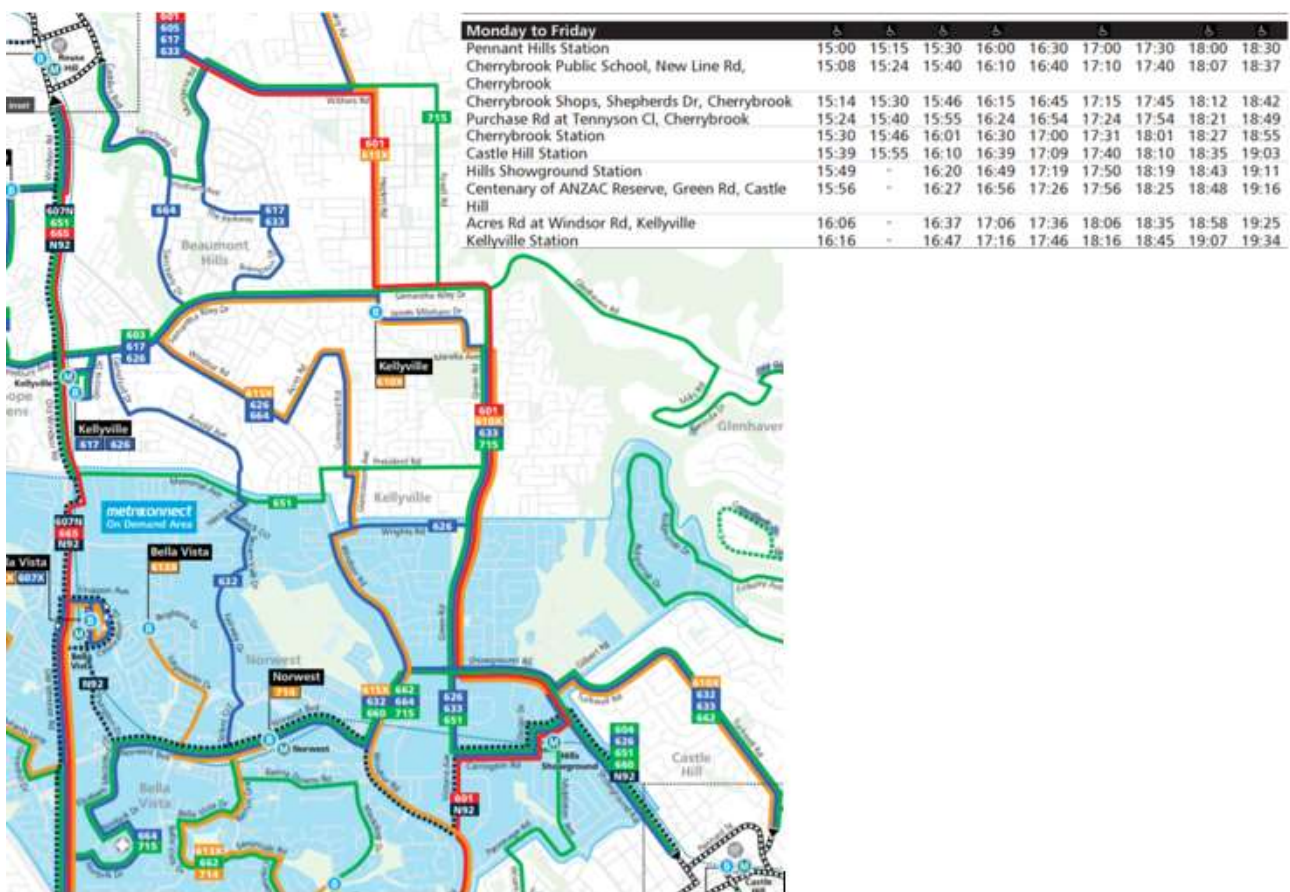


Figure 6 Bus routes servicing Kellyville area and extract of 626 timetable

As above, the proposed rezoning could be considered in the future as part of a new planning proposal once the following additional investigations and consultation has been undertaken.

Rouse Hill

The area in Rouse Hill proposed to be rezoned from R3 to R2 is well serviced by buses (**Figure 5**), is close to schools, open space and shops, provides a transition from adjoining IN1 General Industrial and is characteristically similar to R3 Medium Density Residential land opposite across Withers Road. Further, the lot at 19-25 Mile End Road is greater than 4,000m² and could potentially be redeveloped for medium density housing or subdivision similar to the adjoining property at 29 Mile End Road. Any future redevelopment of this larger lot or amalgamation and redevelopment of any smaller lots in this area would be subject to a development application process and assessment under Council's LEP and development control plan provisions, ensuring suitable consideration of residential amenity and design merit.

The R3 Medium Density Residential zoning of this area is consistent with key planning priorities in The Hills Local Strategic Planning Statement and supporting strategies as well as the State strategic planning priorities to enable medium density housing. The Department has made a post-exhibition change to the proposal to retain the area outlined in black as R3 Medium Density Residential (**Figure 6**).

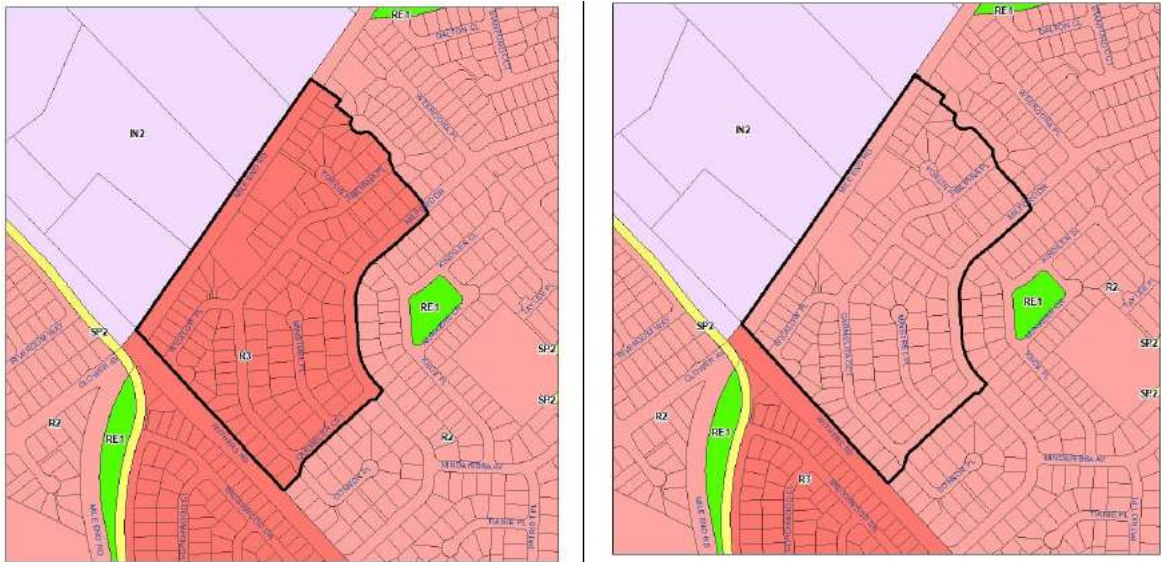


Figure 5 R3 Medium Density Residential area in Rouse Hill (left) and Council proposed rezoning to R2 Low Density Residential (right)

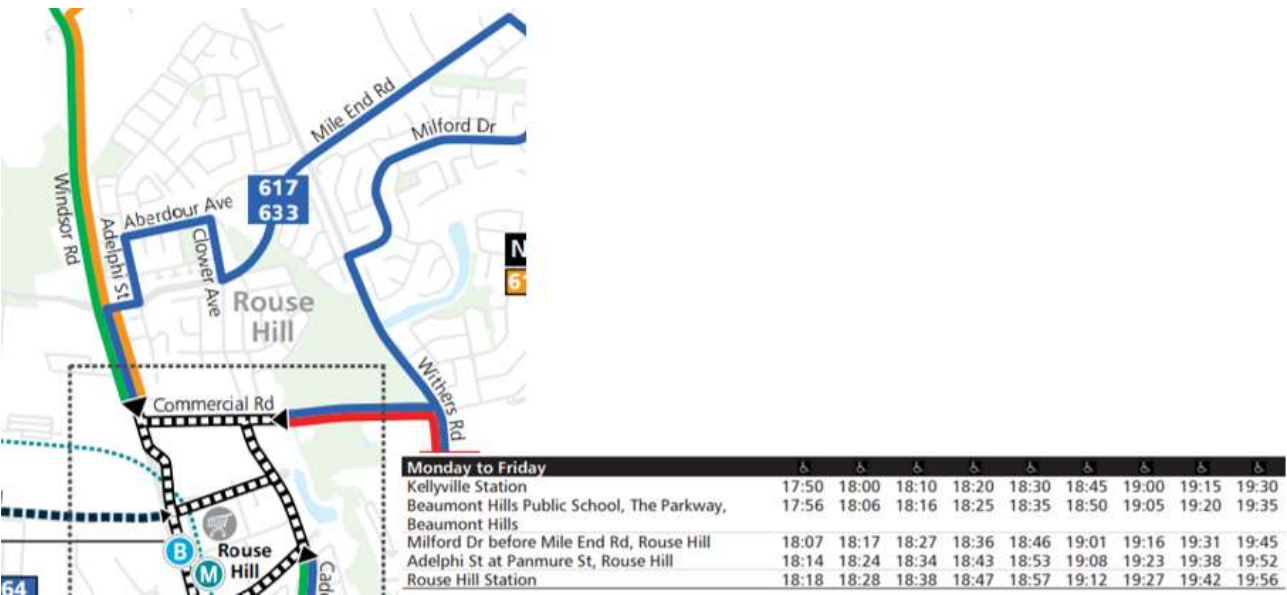


Figure 6 Bus routes servicing Rouse Hill area and extract of 617 timetable

As above, the proposed rezoning could be considered in the future as part of a new planning proposal once the following additional investigations and consultation has been undertaken.

West Pennant Hills

Council's Productivity and Centres Strategy identifies characteristics of their 11 village centres including Coonara Avenue as having a local bus stop with high frequency services and medium density housing around a town centre.

The proposed amendment for certain properties adjoining Glenhope Road in West Pennant Hills is to increase the minimum lot size from 700m² to 2,000m². This area is serviced by regular buses and is close to services including the Coonara Avenue village (**Figure 7**). The area has established subdivision pattern with most lots being between 1,000 m² and 1,200 m². Refer to **Figure 8**.

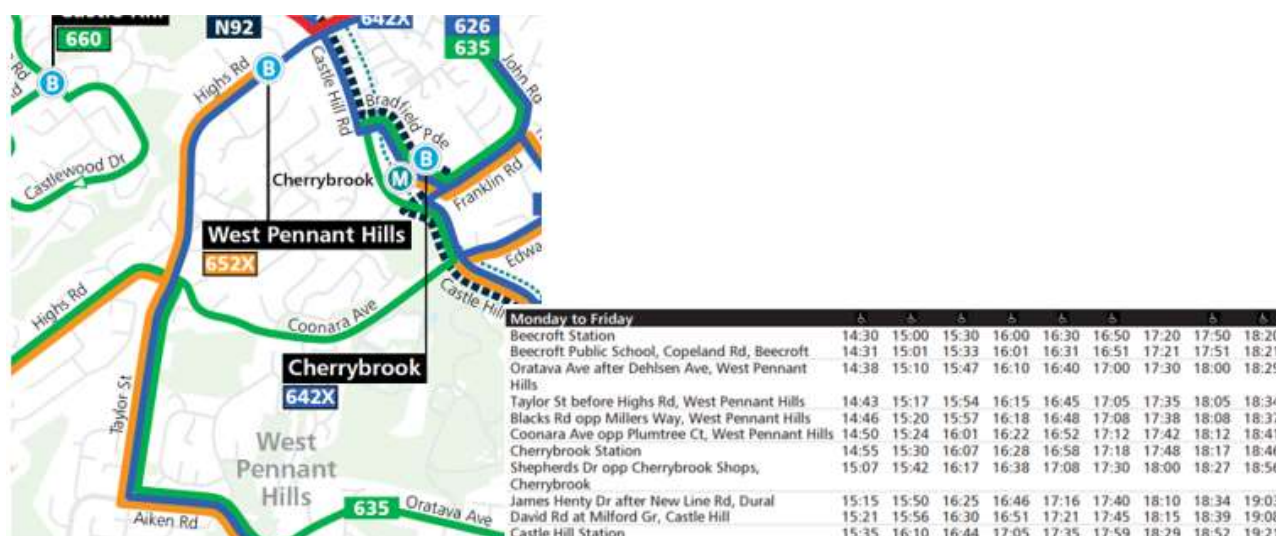


Figure 7 Bus routes servicing West Pennant Hills area and extract of 635 timetable

The 2013 Cherrybrook Station Structure Plan as part of the North West Urban Renewal Corridor identifies the area south of Castle Hill Road as being suitable for low density residential uses.

There are a number of existing lots in the area with a lot size greater than 1,400m² which can be subdivided in to 2 lots under current controls to create lots that are generally consistent with the surrounding subdivision patterns and the objectives of the R2 Low Density Residential zone (**Figure 8**).



Figure 8 Lot sizes of area around Glenhope Road, West Pennant Hills proposed for an increase in Minimum Lot Size from 700m² to 2,000m²



Figure 9 Lot sizes of area around Governor Phillip Place, West Pennant Hills proposed for an increase in Minimum Lot Size from 700m² to 2,000m²

The proposed amendment would have an impact on development capacity and potentially land value and must be considered carefully. The Department has made a post-exhibition change to the proposal to retain the existing minimum lot sizes in these areas. The proposed rezoning could be considered in the future as part of a new planning proposal once the following additional investigation is undertaken and further justification can be provided, as follows:

- A more detailed desired character statement for the area. What is it that makes this place special and needs to be retained? Can diverse housing types be designed in a way that

supports this character? For example, can two semi-detached dwellings be designed to appear as a house in a landscape setting?

- Exploration of planning control options for ensuring that development is consistent with local character, such as detailed DCP controls or other land use zone options.
- If possible, more evidence that the community is aware of, and supports these changes. The Department acknowledges that this community has been consulted on numerous occasions as part of the preparation of the LSPS and as part of the formal exhibition process for this planning proposal.

Grey Gums Estate

Council sought to rezone land in the R4 High Density Residential Zone to R2 Low Density Residential and E2 Environmental Conservation Zone, to reflect the largely constructed outcomes in this master planned estate. The Department supports this approach in principle, but further investigation is required to justify the proposed rezoning from R4 to R2 Zone. The proposed R2 zoning would prohibit the development of multi-dwelling housing and the application of the Low-Rise Housing Diversity Code (Code). Further work is required to establish the desired future character of the area and whether other types of medium density housing could be designed and delivered in a way that is consistent with this character.

It is recommended that only the areas proposed to be rezoned from R4 High Density Residential to E2 Environmental Conservation (and associated Height of Buildings and Minimum Lot Sizes for the proposed E2 land) proceeds (**Figure 10**).

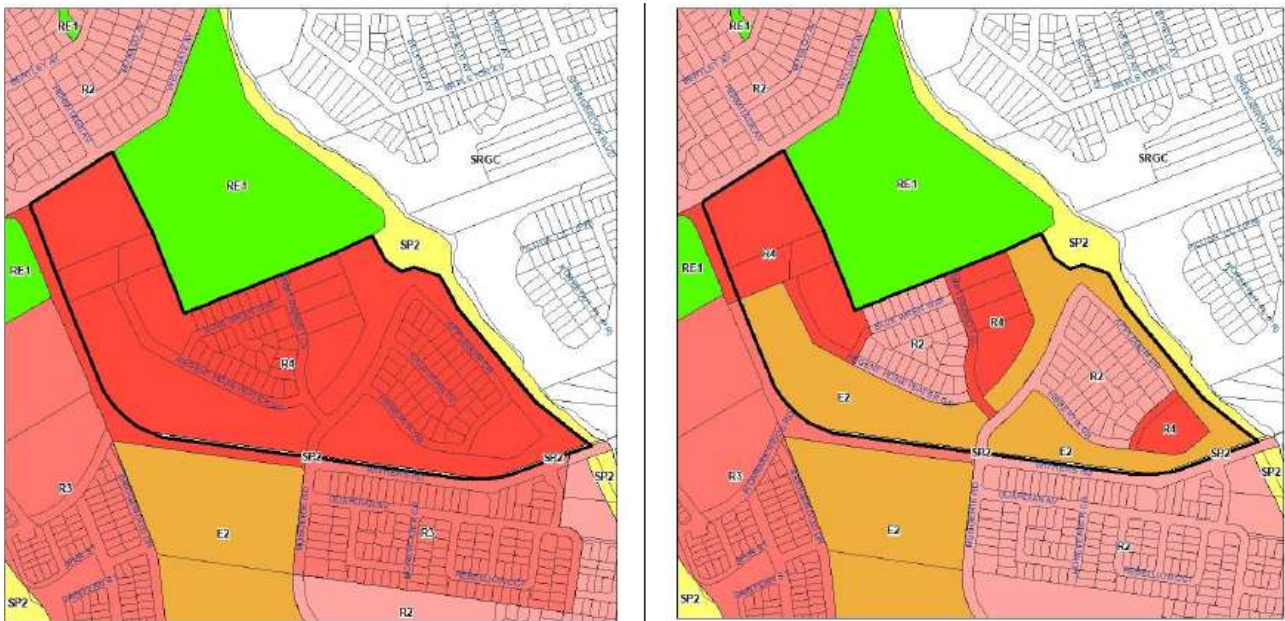


Figure 10 R4 High Density Residential area at Grey Gums estate Kellyville (left) and Council proposed rezoning to R2 Low Density Residential and E2 Environmental Conservation (right)

Exempt development provisions for retaining walls

The Department reviewed the proposed exempt development provisions for retaining walls and advice from Parliamentary Counsel. The Department does not support the inclusion of exempt development provisions for retaining walls in the LEP because Clause 1.9 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)

prevents an LEP from having exempt development provisions for a type of development otherwise provided for under the Codes SEPP. Department's Assessment

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

3.4 State, regional and district plans

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.

As discussed in Section 3.3 of this report, post-exhibition amendments were made to the proposal to remove amendments sought that did not give effect to the following priority of the Central City District Plan:

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

The Department is satisfied that the amended LEP gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

3.5 Section 9.1 Directions

At the time of the Gateway determination, it was decided to enable the planning proposal to proceed to exhibition notwithstanding inconsistencies with Directions 3.1 Residential Zones, 4.4 Planning for Bushfire Projection, and 6.2 Land Reservation for Public Purposes. Further information and justification was requested in relation to these Directions, which would be considered prior to plan-making to determine if this inconsistency is justified and/or of minor significance.

The planning proposal's inconsistencies with Direction 5.9 Northwest Rail Link Corridor Strategy and 6.3 Site Specific Provisions were considered to be acceptable at the Gateway determination in accordance with the terms of the Directions.

3.5.1 Direction 3.1 – Residential Zones

The objective of this Direction is to encourage diverse housing, make efficient use of infrastructure and services, minimise the impact of residential development on the environment and resource lands and to protect application of inappropriate zones and uncertainty for landowners. Planning proposals must not contain provisions that reduce the permissible residential density of land unless it is of minor significance, is justified by a strategy or study prepared in support of the planning proposal which gives consideration to the objectives, or is in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department.

This Direction applies as the proposal seeks to rezone a number of identified areas in Kellyville, Beaumont Hills and Rouse Hill from R3 Medium Density Residential to R2 Low Density Residential. These proposed changes would prohibit further development of manor homes and multi-dwelling housing either through the LEP or as a result of the Low Rise Housing Diversity Code no longer applying in these locations.

The planning proposal also amends the minimum lot size in two identified areas of West Pennant Hills from 700m² to 2,000m² and to rezone land at Grey Gums Estate in North Kellyville from R4 High Density Residential to a mix of R2 Low Density Residential, R4 High Density Residential which reduces the development capacity on these lots and therefore triggers consideration under Direction 3.1

Department's assessment

The proposal is inconsistent with this Direction as it seeks to reduce dwelling potential as discussed in Section 3.1 of this report.

The LSPS identify the need to review R3 Zones throughout the LGA in Action 8.1 which states:

Review residential zonings, objectives and provisions to provide for a diversity of housing in the right locations, with a focus on the capacity of land zoned R3 Medium Density Residential (June 2020).

The Department has formed the view that the LSPS, and the wording of this action does not provide a specific enough strategic planning platform to proceed with the proposed changes in zoning in the subject areas. Further work is required to establish the desired future character, explore options for ensuring this character is protected and enhanced, and to understand the impacts of the loss of development potential on the Council's capacity to meet housing targets.

As discussed in Section 3.3 of this report, the Department has recommended the subject amendments do not proceed. As such, the amended LEP is now consistent with this Direction.

3.5.2 Direction 4.4 – Planning for Bushfire Protection

This Direction requires that planning proposals have regard to Planning for Bushfire Protection 2006, introduce controls that avoid developments in hazardous areas, and be prepared in consultation with the NSW Rural Fire Service.

The planning proposal seeks to permit additional land uses with consent within the RU1 Primary Production, RU2 Rural Landscape and RU6 Transition zones, which may affect certain lots identified as Bushfire Prone Land. These additional land uses comprise service stations, artisan food and drink industry premises, and markets, which do not increase the residential density of bushfire prone areas.

Department's assessment

These additional permitted uses support tourism and rural industries; and will be subject to future development applications and consultation with NSW RFS. Further, the planning proposal was prepared in consultation with NSW RFS as discussed in Section 3.2 of this report. The LEP is consistent with this Direction.

3.5.3 Direction 6.2 – Reserving Land for Public Purposes

The objectives of this Direction are to facilitate the provision of public services and facilities by reserving land for public purposes or to facilitate the removal of reservations where the land is no longer required for acquisition. The Direction requires that a planning proposal must not create, alter, or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority.

Department's assessment

Consultation has been undertaken with the relevant authorities including Sydney Water, Transport for NSW, and DPIE in the preparation of the planning proposal as discussed in Section 3.2 of this report. The planning proposal facilitates a number of changes that address the acquisition of land and/or identify where acquisition liabilities have changed in consultation with the relevant authority. The LEP is consistent with this Direction.

3.5.4 Direction 5.9 – Northwest Rail Link Corridor Strategy

While the Gateway Determination confirmed that the departures from Direction 5.9 were agreed, compliance is discussed further here in recognition of the submissions received in response to the public exhibition of the planning proposal.

Showground Precinct

The LEP will re-introduce the underlying land use zoning for Cattai Creek in the Showground Precinct, which is identified as a deferred matter, while the master planning process for this area is completed. This amendment is not proposed to create uncertainty for the ongoing master planning of the area, which is being pursued concurrently to this planning proposal to determine the desired future character and development standards for the site.

Castle Hill Strategic Centre

The LEP will amend the maximum building height and FSR development standards applying to the Castle Towers site within the Castle Hill Strategic Centre. The revised development standards align with the scale of development on the site and recognise the role and function of the centre. The amendments are consistent with the Corridor Strategy.

3.6 State environmental planning policies

The planning proposal confirms that the draft LEP is consistent with the relevant SEPPs and deemed SEPPs or justified in the circumstances.

3.6.1 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The LEP introduces a new provision in Schedule 2 to enable retaining walls to be constructed as exempt development, up to a maximum height of 500mm. Whilst this height is more restrictive than the height achievable under the Exempt and Complying Development SEPP (600mm), this new provision in Schedule 2 of the LEP does not prevent the development of retaining walls separately under the SEPP on applicable land.

As discussed in Section 3.3 of this report Council's proposed rezoning of areas in Kellyville, Beaumont Hills and Rouse Hill from R3 Medium Density Residential to R2 Low Density Residential has been removed from the proposal by the Department, as these amendments will prohibit the further development of manor homes and multi-dwelling housing under the Low Rise Housing Diversity Code in these locations and is inconsistent with the SEPP.

The amended LEP is consistent with the SEPP.

3.6.2 State Environmental Planning Policy (Infrastructure 2007)

The LEP will rezone small portions of land from SP2 Infrastructure to match the adjoining zones based on current cadastral boundaries. The changes correspond to recent acquisitions for road widening or stormwater management and reflect final subdivision boundaries relating to these acquisitions.

The LEP is consistent with the aims of the SEPP in that the land being re-zoned is not specifically required for infrastructure purposes and therefore does not inhibit the effective and efficient delivery of infrastructure. The changes serve to more accurately identify land which is required for, or being used for infrastructure purposes.

4 Post assessment consultation

The Department has consulted with the following stakeholders after the assessment.

Table 4 Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Maps have been prepared by Council and checked by the Department's ePlanning team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> on 7 June 2021 (Attachment H).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	On 1/07/2021, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at Attachment PC .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

5 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the updated draft LEP under clause 3.36(2)(a) of the Act because:

- Aligns with Council's Local Strategic Planning Statement;
- Gives effect to the Central City District Plan in accordance with section 3.8 of the Environmental Planning and Assessment Act 1979; and
- Is consistent with other relevant Section 9.1 Directions and State Environmental Planning Policies.



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Attachments

Attachment A1 – Planning proposal for finalisation

Attachment A2 – Summary of proposed mapping changes

Attachment B – Additional information November 2020

Attachment C – Council post-exhibition report August 2020

Attachment D – Local Planning Panel report September 2019

Attachment E – Public agency submissions

Attachment F – Council consideration of late submissions

Attachment G – Gateway determination and alterations

Attachment H – DPIE request for Council comment on LEP