

ITEM-4	POST EXHIBITION - PLANNING PROPOSAL - 582 AND 582A OLD NORTHERN ROAD, DURAL (7/2015/PLP)
THEME:	Balanced Urban Growth.
OUTCOME:	7 Responsible planning facilitates a desirable living environment and meets growth targets.
STRATEGY:	7.2 Manage new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations.
MEETING DATE:	24 APRIL 2018 COUNCIL MEETING
GROUP:	STRATEGIC PLANNING
AUTHOR:	SENIOR TOWN PLANNER ASHLEY COOK
RESPONSIBLE OFFICER:	MANAGER FORWARD PLANNING STEWART SEALE

EXECUTIVE SUMMARY

This report recommends that a planning proposal to facilitate a townhouse development of up to 57 dwellings at 582 and 582A Old Northern Road, Dural, proceed to finalisation. It also recommends that draft Development Control Plan amendments and a draft Voluntary Planning Agreement be exhibited to support the planning proposal. The finalisation of the planning proposal will be subject to the execution of the draft Voluntary Planning Agreement (VPA) to secure funding for local infrastructure.

The planning proposal will amend Local Environmental Plan 2012 as follows:

- Rezone the site from RU6 Transition to R3 Medium Density Residential; and
- Reduce the minimum lot size from two (2) hectares to 700m².

The planning proposal was progressed to Gateway Determination as a result of a State Government rezoning review (previously known as pre-gateway review) and was exhibited from Thursday 17 August 2017 to Friday 15 September 2017. No objections were raised by public authorities, subject to post exhibition amendments including a requirement to construct a pedestrian refuge island along Old Northern Road to allow safe access to existing bus stops.

Council received 16 individual submissions from the public during the exhibition period, some in support and the majority raising concerns. Concerns raised included impacts on traffic, parking, pedestrian safety access and vegetation. Draft Development Control Plan amendments have been prepared to address the issues raised in submissions as well as guide future development and provide certainty of the development outcome.

A draft VPA offer has been submitted by the Proponent, which would secure contributions from future development on the site with a total value of \$1,086,000.

These contributions respond to the additional demand generated by the proposed development and will secure funding towards a pedestrian refuge in the locality as well as upgrades to other local infrastructure including parks, sporting fields and community facilities.

The draft VPA will be subject to legal review and the draft DCP and VPA will be publicly exhibited prior to reporting back to Council.

This planning proposal has no local strategic merit. It is not needed to meet housing targets and multi-unit housing at this location outside of the town centre is contrary to Council's zoning custom and practice. Notwithstanding, the former District Commissioner and the Sydney West Central Planning Panel saw fit to permit the proposal to proceed. It is open to Council to resolve to proceed or not proceed as it sees fit.

Delegation for making of the LEP has not been issued to Council under the Gateway Determination. Accordingly, the planning proposal will need to be forwarded to the Department of Planning and Environment for finalisation. It is recommended that Council request that the plan not be finalised until the VPA is executed to provide certainty regarding local infrastructure provision.

PROPONENT

Rockeman Town Planning

OWNER

Centarans Holdings Pty Ltd

THE HILLS LOCAL ENVIRONMENTAL PLAN 2012

	Existing	Proposed
Zone:	RU6 Transition	R3 Medium Density Residential
Minimum Lot Size:	Two (2) hectares	700m ²
Maximum Height:	10 metres	No change
Maximum Floor Space Ratio:	Not applicable	No change

POLITICAL DONATIONS

Nil disclosures by Proponent.

BACKGROUND

At its Ordinary Meeting of 10 May 2016, Council resolved to defer the planning proposal to undertake a holistic study into the current and future land use of the Round Corner Dural Precinct. Following Council's deferral, the proponent requested the Greater Sydney Commission to undertake a Pre-Gateway Review of Council's decision resulting in a determination that the Planning Proposal had sufficient strategic merit to proceed to Gateway Determination.

At its Ordinary Meeting of 11 April 2017, Council resolved to accept the role as Relevant Planning Authority and to prepare a planning proposal to facilitate a townhouse development comprising 57 dwellings to send to The Department of Planning and Environment.

Council received a conditional Gateway Determination on 25 May 2017. Authorisation for Council to exercise delegation to make the plan was not granted to Council. Prior to undertaking community consultation, Condition 1 of the Gateway required Council to consult with the Commissioner of the NSW Rural Fire Service and the Office of Environment and Heritage. Once submissions were received, Council was able to

undertake further consultation with the community and the remaining listed public authorities (Conditions 2 and 3 of Gateway).

Council consulted with the RFS and OEH prior to publicly exhibiting the planning proposal from Thursday 17 August 2017 to Friday 15 September 2017. During this time, a total of 24 submissions were received, comprising eight (8) from public authorities and 16 public submissions.

All of the conditions of the Gateway have been met.

REPORT

The purpose of this report is to consider the outcomes of the public exhibition of the planning proposal for land at 582 and 582A Old Northern Road, Dural.

1. THE SITE

The site has an area of approximately 1.89 hectares and a primary frontage to Old Northern Road and a secondary frontage to Derriwong Road. It is located adjacent to the major roundabout junction of New Line and Old Northern Roads, Dural.

The site is located approximately 1 kilometre walking distance from the Round Corner Dural Town Centre and is currently occupied by a timber supplies business and a single storey dwelling. Vegetation on the site includes Shale Sandstone Transition Forest which is a Critically Endangered Ecological Community under the Biodiversity Conservation Act 2016.



Figure 1
Locality Map (site outlined in yellow)

2. SUMMARY OF PROPOSAL

The planning proposal seeks to deliver a townhouse development on the subject site, comprising 57 dwellings (Figure 2). To facilitate this development outcome, the planning proposal seeks to amend Local Environmental Plan 2012 as follows:

- Rezone the site from RU6 Transition to R3 Medium Density Residential; and
- Reduce the minimum lot size from two (2) hectares to 700m².



Council received submissions from the following public authorities:

- Office of Environment and Heritage – Heritage Division;
- Endeavour Energy;
- Sydney Water;
- NSW Rural Fire Service;
- Office of Environment and Heritage;
- Environment Protection Authority;
- Transport for NSW; and
- Roads and Maritime Services.

A discussion on the remaining public authority submissions received is provided below:

The NSW RFS have reviewed the proposal with regard to Section 4.4 of the Ministerial Directions and raise no objections subject to future development complying with the requirements of Planning for Bush Fire Protection 2006. The NSW RFS have stated that some amendments to the design may be required to meet these specifications.

Comment:

The northern corner of the site is affected by a bushfire buffer zone, as seen in Figure 3 (below).

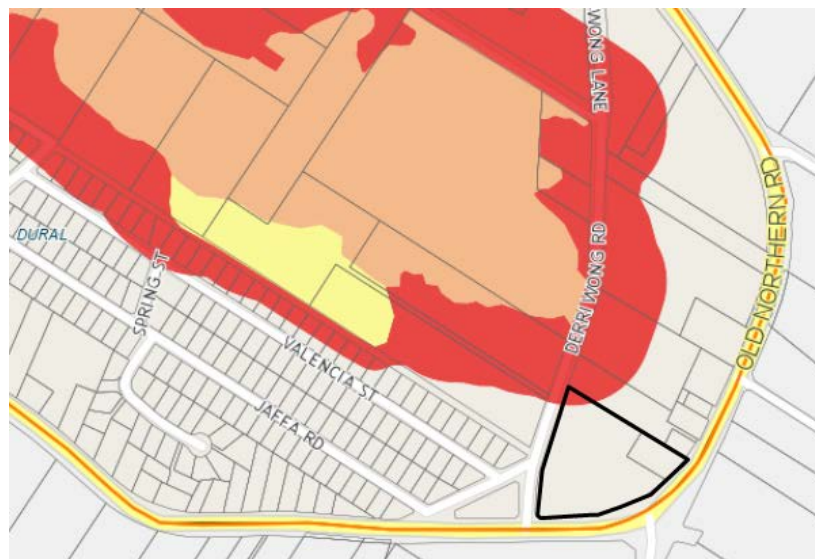


Figure 3
Bushfire Prone Land Map (site outlined in black)

The proponent has been provided with a copy of the NSW RFS submission to ensure their comments are included in any future development application lodged on the site. No additional development controls are considered necessary to ensure future development is compliant with the guidelines.

b) Office of Environment and Heritage – Regional Operations

Regional Operations has considered the planning proposal and a decision was made to not provide comments or advice on environmental, natural hazards and Aboriginal cultural heritage at this time. OEH have stated that this should not be taken as indicating their support for the proposal and that these matters may still need to be considered.

Comment:

As discussed in the Background section of this report, the Sydney West Central Planning Panel reviewed the planning proposal and determined that there was sufficient merit to proceed to Gateway Determination. However, the Planning Panel required that consultation with the Office of Environment and Heritage be undertaken regarding the proposal's provisions for conserving the Shale Sandstone Transition Forest (SSTF) and that the proposal be amended as necessary to address any of OEH's concerns.

In the absence of OEH comments regarding the threatened species on the site, the proponent's flora and fauna assessment report by Eco Logical Australia dated May 2015 is supported. A significant impact on threatened entities is unlikely and the provision of appropriate biodiversity offsetting and the retention of an Environmental Protection Zone are supported.

Since the flora and fauna assessment report was prepared by the proponent there has been changes to the RFS Clearing Code of Practice and also the introduction of the Biodiversity Conservation Act (2016). Changes to the Clearing Code of Practice allows for Council to condition the retention of particular trees despite them being within a designated 10/50 clearing entitlement area. This provides the opportunity for a better ecological outcome as it provides greater protection for retained trees that may fall within 10 metres of a building.

The Biodiversity Conservation Act contains requirements for the method of assessment based on areas (threshold) of native vegetation to be impacted. It is estimated that a total of 1.11 hectares of Shale Sandstone Transition Forest remnant will be affected by the proposal and this would require the application of the Biodiversity Assessment Method and the preparation of a Biodiversity Assessment Report. This report would set out the offset requirements of the proposed development. As part of this process the proponent's ecologist would need to make an assessment of whether the impact of the proposal would be considered "serious and irreversible" under the Biodiversity Conservation Act. Council cannot approve a development application for development consent under Part 4 of the Environmental Planning & Assessment Act 1979 where it has been determined to have a serious and irreversible impact.

Although the new legislation provides a clear pathway for providing biodiversity offsets, there is a strong emphasis on avoidance of impacts to significant biodiversity. For this reason the retention and ongoing management of SSTF as outlined within the flora and fauna assessment report submitted remains an important part of the proposal.

To preserve the existing significant vegetation on the site, any future development on the site should include an Environmental Protection Zone (EPZ) of approximately 1,500m² for the significant vegetation, shown outlined in yellow in Figure 4 below.

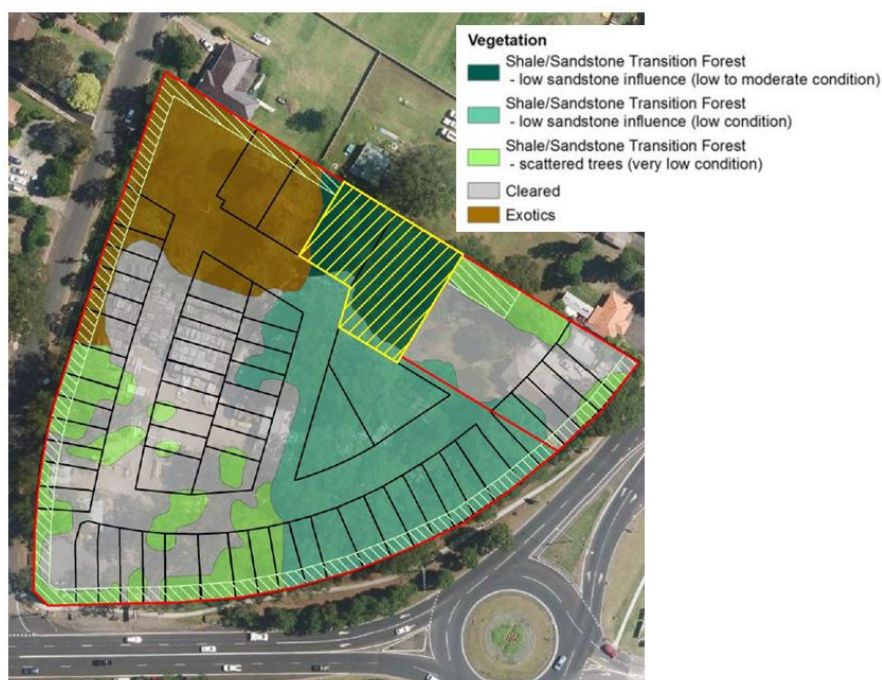


Figure 4
Site Plan of Proposed Development Concept (EPZ outlined in yellow)

The Environmental Protection Zone should be identified as a Restricted Development Area on the title. Additionally, future development on the site should include the provision of a Vegetation Management Plan (VMP) in accordance with Council's Vegetation Management Plan Guidelines.

It is noted that the planning proposal states a willingness to rehabilitate the vegetation within the Environmental Protection Zone and will include planting of vegetation consistent with the Shale Sandstone Transition Forest, site preparation works, mulching, and labour hire including bush regeneration works. The VMP should ensure the management of vegetation on the site in perpetuity. It is recommended that this be

included in the proposed Development Control Plan (DCP) amendments to ensure protection.

c) Environment Protection Authority

The Authority has reviewed the planning proposal and provided comments relating to:

- Prevention of Land Use Conflicts;
- Contaminated Land Management;
- Water Quality; and
- Waste Management.

Prevention of Land Use Conflicts

The Authority stated that planning controls should be in place to manage any potential noise and air related environmental issues to prevent land use conflicts from nearby commercial activities, including spatial separation, best practice building design, siting and construction and the use of appropriate air and noise mitigation techniques. The Authority made reference to the *NSW Road Noise Policy, Development Near Rail Corridors and Busy Roads – Interim Guide*, the requirements within the *Infrastructure SEPP* and the Authorities own *Noise Guide for Local Government*.

Comment:

As the subject site is located on Old Northern Road, an arterial main road, future development will be required to be designed in accordance with the NSW Road Noise Policy. In addition, where a proposed development is in close proximity to busy roads (annual traffic volume >40,000 vehicles per day) the internal noise goals in the *Infrastructure SEPP 2007* need to be satisfied. The final building designs, submitted as part of any development application, will need to demonstrate compliance with these requirements. These guidelines are considered to adequately mitigate any land use conflicts, accordingly no further DCP controls are necessary.

Contaminated Land Management

The EPA requires that Council consider State Environmental Planning Policy No.55 – Remediation of Land prior to progressing the planning proposal.

Comment:

SEPP 55 – Remediation of Land states that a planning authority is not to permit a change of use of the land, unless:

- a) the planning authority has considered whether the land is contaminated, and
- b) if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and
- c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.

The Detailed Site Investigation Report submitted by the proponent states that the risks to human health and the environment associated with soil and groundwater contamination at the site are low to moderate within the context of the proposed use of the site for a residential development.

The Investigation Report recommends that a Remedial Action Plan be developed, in accordance with the Environmental Planning Authority *Contaminated Land Planning Guidelines*. It is recommended that this be included as a submission requirement in the proposed Development Control Plan amendments.

Water Quality

The Authority does not consider that the proposal adequately addresses any impacts of the proposal on water quality and the community's agreed environmental values for the Hawkesbury River. They requested that stormwater management measures for the proposal be addressed in the planning proposal, including the use of sustainability measures such as Water Sensitive Urban Design (WSUD).

The Authority have stated that written advice should be sought from Sydney Water confirming whether there is adequate capacity in the existing sewerage system to cater for additional loads and that the systems environmental performance will not be compromised.

Comment:

Given the site's context and scale of proposed development, it is considered overly onerous to require the proponent to undertake assessment on water quality at this stage as the outcomes can be worked into any future development concept and do not warrant the proposal's refusal.

The Hills Development Control Plan 2012 requires that Water Sensitive Urban Design (WSUD) measures be employed in the management of the site's/development's stormwater in terms of water retention, reuse and cleansing.

However, as there is an unnamed tributary of O'Hara's Creek present on the site, it is recommended that a development control be included that requires any future development applications on the site to address the relevant NSW Water Quality Objectives and the development's impact on hydrology and hydrogeology.

In relation to sewer, Sydney Water has advised that there is sufficient capacity to service the development within the Castle Hill Sewerage Network. The nearest wastewater main is located on Pellitt Lane and connection may require upsizing the system. In terms of the systems environmental performance, it is noted that the NSW Environment Protection Authority (EPA) will have a role in specifying the performance standards that Sydney Water need to meet as part of licencing requirements.

Waste Management

The Authority has developed information to improve waste management associated with new developments which provides planning approaches and conditions for planning authorities to consider at the development application stage in relation to waste minimisation and resource recovery.

Comment:

Future development on the subject site will need to be designed in accordance with The Hills Development Control Plan 2012 (Appendix A – Waste Management Plan). These controls require the submission of a Waste Management Plan with any future development application, which will need to address how waste will be managed during construction and occupation.

d) Transport for NSW

Transport for NSW have provided the following comments for Council's consideration:

- The subject proposal should provide details in regard to the connectivity, safety and accessibility for pedestrians and cyclists to existing pedestrian and cycling network, public transport and nearby services; and
- Pedestrian access in the vicinity of Old Northern Road/New Line Road roundabout should be reviewed, particularly for safe pedestrian access to the bus stops across Old Northern Road and New Line Road.

Comment:

The proponent has submitted a letter from Varga Traffic Planning Pty Ltd dated 22 November 2017 in response to Transport for NSW's submission. In the letter, it is stated that bus stops in the locality are easily accessible using existing footpaths and that the bus stop on Old Northern Road near the Dural Service Centre (marked B on Figure 5) can be accessed by crossing at the Quarry Road traffic signals.

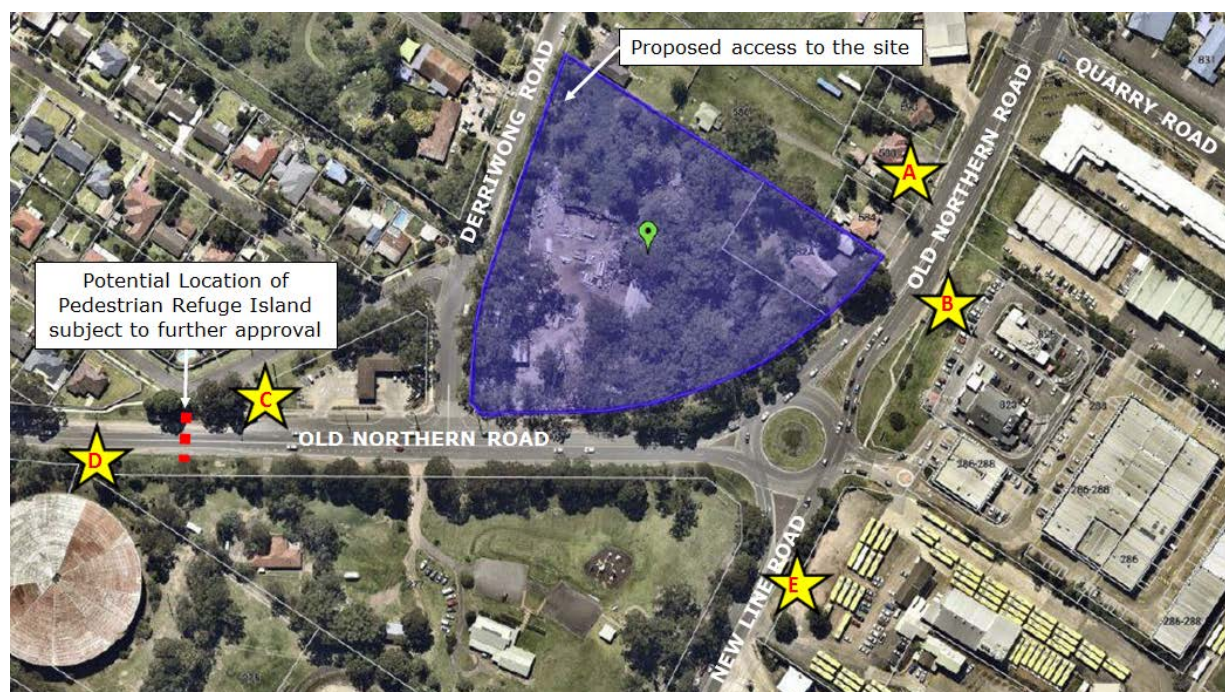


Figure 5
Locality Map (bus stops marked with stars)

However, as the only access to the site (pedestrian and vehicular) is via Derriwong Road, this would require residents to walk approximately 600 metres to get to this bus stop. It is more likely that pedestrians will need to cross Old Northern Road to access bus stop marked D on Figure 5. The proponent's traffic engineer has recommended that consideration could be given to constructing a pedestrian refuge island along Old Northern Road and that preliminary investigations would suggest that a suitable location for any refuge island would be approximately midway between the eastbound and westbound bus stops where pedestrians would only be required to cross one lane of traffic at a time. Old Northern Road in this vicinity is relatively straight and flat, thereby providing good visibility for both drivers and pedestrians.

Transport for NSW have provided further comment on the abovementioned letter and provided the following advice:

- The provision of this pedestrian refuge island is supported in principle on the basis of improving pedestrian safety and access across Old Northern Road to the bus stops; and
- The design of the pedestrian refuge island should comply with relevant Austroads guidelines and subject to the approval of the Local Traffic Committee and Roads and Maritime Services.

While the funding of the pedestrian refuge may be secured through a VPA, it is recommended that amendments to The Hills Development Control Plan be included to require:

- The construction of a pedestrian refuge island by the applicant in accordance with Austroads and Roads and Maritime requirements, prior to the issuing of an occupation certificate for any development on the site; and
- Consent shall not be granted for future development unless the design of the pedestrian refuge island has the approval of the Local Traffic Committee and Roads and Maritime Services.

e) Roads and Maritime Services

The Roads and Maritime Services (RMS) reviewed the information provided and raised no objections to the planning proposal, stating it will not have a significant traffic impact on the State Road Network.

Notwithstanding the above, the RMS request that Council consider the preparation of a site specific DCP to identify vehicular access to and from the site via the local road network, stating that any future vehicular access from Old Northern Road would not be supported.

Comment:

The proposed development concept indicates that access to the subject site will be obtained via Derriwong Road (local road network). Noting the site's location on an arterial road, the RMS would be further consulted during development application stage. Reinforcing the requirement for access via the local road network within the DCP will provide certainty for the community and the RMS as to the access arrangements.

A copy of Transport for NSW's submission and additional information submitted by the proponent has been provided to the Roads and Maritime Services for their consideration. Additionally, a copy of the draft DCP clause has been submitted to the RMS for review. RMS have advised that they raise no objection to the refuge island subject to the enforcement of the draft DCP clause (Section 5 of this report).

4. PUBLIC SUBMISSION SUMMARY

Council received 16 individual submissions from the public during the exhibition period. Of these, three (3) submissions were in support of the planning proposal, 12 raised objection and one (1) mentioned positive aspects of the proposal as well as concerns regarding traffic, access arrangements and pedestrian safety.

One additional submission was received on behalf of the owner of the subject site acknowledging the public authority submissions and expressing their understanding that any future development application will be required to address matters such as bushfire management, vegetation management, traffic generation and consistency with Council's Development Control Plan.

The submissions in support of the proposal were received from the Dural and Round Corner Chamber of Commerce and Industry and local residents. The planning proposal is seen by these submission authors as an opportunity to encourage smaller dwelling sizes and increase housing diversity in the locality. The changing character of the area was recognised and the planning proposal was seen as potentially increasing investment in the area including upgrades in kerb and guttering on the site.

Submission authors in support have also suggested that development on the site can assist in stimulating the economic viability of the Round Corner Town Centre.

Additionally, development on the site is seen to be an opportunity to promote passive surveillance as it will increase the number of pedestrians in the area. Further, the proposed development concept will retain the existing vegetated streetscape to Old Northern Road.

The submissions objecting to the proposal raised the following key concerns:

- a) Strategic Justification;
- b) Impact on Local Infrastructure;
- c) Traffic and Parking;
- d) Safety;
- e) Access; and
- f) Impacts on Flora and Fauna.

A discussion on the submissions received and concerns raised is provided below.

a) Strategic Justification

Concerns were raised that the planning proposal is inconsistent with the then Draft District Plan, Council's Local Strategy and the relevant Ministerial Directions (1.2 Rural Zones and 3.4 Integrated Land Use) for the following reasons:

- Inconsistency with Strategic Plans resulting in incremental creep of urban development and subsequent loss of rural land;
- Closure of the timber mill resulting in a loss of local jobs; and
- Changes to the 'rural feel' of the area and impact on property values.

As the site is surrounded by low density residential lots and larger rural-residential lots, it was suggested that a similar development may be more appropriate on the site.

Comment:

The Sydney West Central Planning Panel (now Sydney Central City Planning Panel) determined the proposal has strategic merit as it increases the availability and choice of housing in the locality and facilitates the conservation of the critically endangered Shale Sandstone Transition Forest.

Despite the decision of the Planning Panel, it is agreed with submission authors that the proposal lacks strategic merit. There is currently a sufficient supply of zoned and serviced land in the Shire to accommodate growth and meet the State Government's dwelling targets. This includes provision for a diversity of housing types including high, medium and low density development. The Greater Sydney Region Plan released in March 2018 is clear that the region has sufficient land to deliver its housing needs within the current boundary of the urban area, eliminating the need for expansion into the rural area. Central City District Plan released March 2018 which seeks to limit urban development to within the urban area.

Notwithstanding, it is unlikely that the current proposal will result in an incremental creep of urban development and subsequent loss of rural land as Council is currently investigating urban capacity of the Dural locality. This approach has been reflected in the decision of the Planning Panel in relation to a nearby planning proposal whereby the Panel determined the planning proposal should not proceed due to lack of strategic merit, however indicated that the proposal may have merit following the completion of Council's strategic study.

While the Ministerial Direction 1.2 Rural Zones aims to protect the agricultural production of rural lands, a planning proposal may be inconsistent with this Direction if it is of minor

significance. The subject site does not currently contain agricultural practices and is in a largely urban setting. The inconsistency is considered to be of minor significance as the site is considered to be unsuitable for agricultural land uses, given its proximity to urban lands and the potential for land use conflict.

In regards to a loss of jobs, the proponent has indicated that the operation of the timber mill requires three (3) full time positions which is considered a minimal impact on local job opportunities.

The proposed development concept includes a landscape buffer along the streetscape, which will assist in reducing any visual impacts that the development will have and ensure a landscaped character is maintained. Additionally, clustering the development, rather than spreading residential lots across the site, will allow for a greater amount of significant vegetation to be retained on the site.

b) Impact on Local Infrastructure

Concerns have been raised that there is insufficient local infrastructure and facilities to cater for the increased population including water, power, schools and parks and that there is insufficient planning for local infrastructure and facilities to cater for the increased population.

Comment:

Sydney Water and Endeavour Energy have stated that there is sufficient capacity for the proposed development. While the Gateway Determination did not require consultation with the Department of Education, it is noted that their advice on the South Dural planning proposal (2,900 additional dwellings) indicated that the development could be serviced by optimising the existing school assets in the vicinity, being Dural Public School and Galston High School. Given the size of the subject proposal it is unlikely that it will result in significant demand for school places, however Department of Education will be advised should Council resolve to proceed to finalisation so that the Department can consider the additional growth in their planning for schools.

Typically, development in this locality would be subject to Section 7.12 Contributions (formerly section 94A), which would fund local infrastructure in already developed areas within The Hills Shire. It is noted that the Contribution Plan is only equipped to cater for incremental infill growth under existing LEP standards and does not account for residential uplift as a result of rezoning. Accordingly, Council staff and the proponent have negotiated the terms of a Voluntary Planning Agreement that will secure funding towards a pedestrian refuge in the locality as well as upgrades to other local infrastructure including parks, sporting fields and community facilities.

To address infrastructure demand generated from the residential uplift on the site, the Voluntary Planning Agreement will secure monetary contributions further discussed in Section 6.

c) Traffic and Parking

Concerns have been raised that the traffic study submitted with the planning proposal underestimates the impact that the development will have on the surrounding road network including vehicles entering and exiting the site via Derriwong Road. A submission noted that the South Dural development has not proceeded due to the existing problems with the road network and that this development too should not proceed.

Surrounding residents have also raised concerns that development on the subject site will result in the illegal use of Jaffa Road and Valencia Street where access is currently restricted to the use of buses only. Multiple submissions note existing on-street parking

problems on Derriwong Road due to commuters and that this will result in trouble exiting the subject site or will be exacerbated by development on the site.

Comment:

The proposed development would generate 37 peak hour vehicle trips which in isolation would be expected to have minimal impacts on the operation of the local and regional road networks.

It is noted that the RMS have not raised objection to this planning proposal and have stated that the proposed development is unlikely to impact on the State road network. Notwithstanding, Council staff will be looking further into the traffic issues in this locality as part of the investigation into opportunities for development in the Dural locality, noting that the South Dural Planning Proposal has not proceeded due to a lack of funding for the required regional road upgrades.

In regard to concerns that visitor and resident parking will spill onto the street, a multi-dwelling housing development comprising 57 dwellings (2, 3 and 4 bedrooms) would be required to provide 114 resident parking spaces (2 spaces per dwelling) and 23 visitor parking spaces (at a rate of 2 spaces per 5 dwellings). Notwithstanding that adequate parking will be required on site in accordance with DCP 2012 controls, Council is aware of the parking issues on local streets and is currently looking for commuter parking locations in the Dural locality to resolve this issue.

The intersection of Jaffa Road and Derriwong Road has had a temporary access restriction (allowing bus access only) for over 20 years to stop Jaffa Road and Valencia Street being used to bypass the Old Northern Road and Kenthurst Road intersection (Figure 6). This access arrangement has been reviewed on several occasions by Council's Local Traffic Committee and is said to be operating effectively.



Figure 6

Aerial Photo Showing Existing Access Arrangement to Derriwong Road

It cannot be assumed that future residents of the proposed 57 townhouses on the site will attempt to access Jaffa Road or Valencia Street illegally. Immediate change to access arrangements at this time is therefore not considered warranted.

d) Safety

Many submission authors raised concerns that there is insufficient pedestrian infrastructure to allow future residents to safely move around the site in an attempt to catch public transport on Old Northern Road. Even without the proposed development, there are times when commuters are crossing four lanes of traffic on Old Northern Road at the petrol station that adjoins the subject site. This area is especially dark during the winter months. It was requested that Council considers pedestrian access across Old Northern Road.

Concerns have been raised that the dwellings backing onto Old Northern Road will be at risk of accidents if drivers lose control and leave the road.

Comment:

As detailed within section 3(d) above, the proponent has submitted additional information regarding pedestrian connectivity around the site. While there are adequate footpaths in the vicinity, access to some bus stops require crossing Old Northern Road (four (4) lanes of traffic). To improve pedestrian connectivity and the safety of existing and future residents accessing these bus stops, it is considered appropriate that a pedestrian refuge be constructed on Old Northern Road halfway between the eastbound and westbound bus stops (marked C and D on Figure 5).

As Old Northern Road is a classified road, final approval of the design and construction will need to be obtained from the RMS prior to commencement of any construction works. Controls proposed to be included in the DCP will require the construction of a pedestrian refuge to be completed prior to the issuing of a construction certificate.

Regarding safety concerns of future residents on the site, the RMS will be consulted during the development application process to determine what (if any) precautions should be applied.

e) Access

Access issues including safety concerns regarding the single access point featured in submissions. Concern was raised regarding the internal road layout which appears to lead to the adjoining property to the north, potentially suggesting an option to develop further into the adjoining sites. It was questioned as to whether these sites would be developing as well. Concern was raised that a single access point is dangerous as the site is identified as bushfire prone land.

Concern was also raised regarding the distance between Derriwong Road and the intersection of Old Northern Road presenting a safety concern. Submissions pointed to existing traffic concerns in this location and the impacts of additional traffic. It was suggested that a roundabout may assist in traffic management of the intersection.

Comment:

Future development on the site will obtain access from Derriwong Road as shown in Figure 2. The road layout has potential to provide links through to the adjoining site, however similar development on that site is not proposed or permissible at this time. The suitability of proposed internal access roads will be a matter for consideration at development application stage and measures may be needed to ensure sufficient turning area is available. While the site is identified as bushfire prone land, it is only the northern tip of the site that is within the buffer zone (as shown in Figure 3). The proposed single access point is considered acceptable in this instance and the RFS have not raised any objections.

The Derriwong Road intersection with Old Northern Road is approximately 130 metres from the roundabout intersection of Old Northern Road and New Line Road. The

construction of a median strip with left-in left-out restrictions is not supported as it would impact public transport accessibility, noting that buses require right-turn access onto Derriwong and Old Northern Roads. The proposed development alone does not justify construction of a roundabout in this location, noting that residents leaving Derriwong Road in the morning peak will have the option of turning left and utilising the roundabout at Old Northern and New Line Road to travel towards Castle Hill if required.

The Roads and Maritime Services did not raise any concerns in relation to the proposed access arrangements and did not require any movement treatments such as left-in left-out restrictions or the construction of a concrete median or roundabout at this time.

f) Impacts on Flora and Fauna

Concern was raised that the Office of Environment and Heritage have not supported the proposal and that investigations into the proposal's impact on the significant flora and fauna on site still need to be addressed, including the potential impact on ring tailed possums, powerful owls, echidnas and the endangered Dural Land Snail. Further, concerns were that significant vegetation on the site may be removed as there is no commitment from the developer to conserve them or that the trees may be damaged during construction.

Comment:

In the absence of comments from the Office of Environment and Heritage, an internal review of the proposal and its environmental impact has been undertaken. A discussion on this is provided in Section 3(b) above. Amendments to the Development Control Plan are proposed to ensure the protection of critically endangered species on the site and the developer has expressed their intent to preserve the vegetation within an environmental protection zone, as indicated in the Flora and Fauna Report submitted. Measures to protect these trees during construction will be required in the conditions of consent of any development application issued on the site.

The Flora and Fauna Report prepared by EcoLogical Australia Pty Ltd stated that no threatened fauna species were observed within the study area during field studies. Additionally, whilst there are some mature trees on the site they are presumably regrowth as there are no mature trees with hollows. Vegetation on the site does not contain roosting habitat for threatened species.

While there will be some short to medium term disturbances on the site during the construction stage, the ongoing residential use of the site will result in less impact than the existing timber mill. Additionally, there will be opportunities for habitat within the environmental protection area, the vegetation buffer around the perimeter of the site, as well as communal and private open spaces.

5. DRAFT DEVELOPMENT CONTROL PLAN AMENDMENTS

During the exhibition period, concerns were raised that the proposed amendments do not provide sufficient certainty of development outcomes including access arrangements and the protection of significant vegetation on the site. Additionally, concerns were raised that the proposed development outcome will not be in keeping with the rural landscape setting.

Following consideration of the submissions received, it is recommended that the following draft amendments be made to Part B Section 2 – Residential of Development Control Plan 2012, included in Attachment 1 (site specific section highlighted yellow).

These amendments include clauses that require:

- The protection of significant vegetation within an Environmental Protection Zone;
- A continuous landscape buffer along Derriwong Road and Old Northern Road with a minimum depth of five (5) metres;
- Access to the site to be obtained solely from Derriwong Road;
- The construction of a pedestrian refuge island on Old Northern Road;
- The preparation of a Remedial Action Plan in accordance with the Environmental Planning Authority Guidelines;
- Any future development applications on the site address the relevant NSW Water Quality Objectives; and
- A yield of no more than 57 dwellings on the site.

It is important to note that the preparation of the draft DCP is a result of the submissions received during the exhibition period and will require separate public exhibition to be undertaken for a period of 28 days.

6. VOLUNTARY PLANNING AGREEMENT

Noting that the planning proposal was progressed to exhibition by the State Government's Planning Panel, the question of how local infrastructure demand will be addressed has not, until now, been explored.

Whilst any development on the site would be subject to to Section 7.12 Contributions (formerly section 94A), these contributions are only intended to apply to minor incremental uplift and the Section 94A (7.12) Contributions Plan does not plan or cater for residential uplift of this nature, as a result of rezoning. The proposal precedes the completion of detailed precinct planning for the Dural area, which would include consideration of local infrastructure requirements and preparation of a contributions plan. As such, the additional yield is essentially 'unplanned growth' which is not catered for by any existing or planned local infrastructure (such as community and recreational facilities and traffic upgrades).

Based on participation rates within The Hills Shire (from the 1995, 2005 and 2012 Recreation Plan household survey results), 2,000 additional dwellings within an area would typically generate the need for approximately:

- 1 (one) new sports field;
- 1 (one) local park;
- 1 (one) netball court;
- 1 (one) tennis court; and
- 40% of a local community centre.

Using these calculations, the proposed development (57 dwellings) will generate demand for approximately:

- 2.85% of a new sports field;
- 2.85% of a local park;
- 2.85% of a netball court;
- 2.85% of a tennis court; and
- 1.14% of a local community centre.

A draft Voluntary Planning Agreement has been negotiated with the proponent that will secure funding towards a pedestrian refuge in the locality as well as contributions towards other local infrastructure including parks, sporting fields and community facilities.

The draft Voluntary Planning Agreement (Attachment 2) offers the following public benefits in association with any future development of land at 582 and 582A Old Northern Road, Dural:

- a) A monetary contribution of \$18,000 per dwelling approved under a future development consent granted for the site, payable prior to the issuing of a construction certificate; and
- b) A contribution of \$60,000 towards pedestrian access improvements including the pedestrian refuge payable prior to the issuing of the first construction certificate on the site.

In recognition of the contribution under the draft Voluntary Planning Agreement, the Agreement would exempt future development on the site from making any contributions under Section 7.11 (formerly section 94) or 7.12 (formerly section 94A).

The draft Voluntary Planning Agreement would secure a total contribution value of \$1,086,000 for 57 townhouses, equating to \$19,052 per dwelling. Unlike planning proposals within the urban parts of the Shire, it is difficult to evaluate the offer against contribution plan rates in nearby areas, noting that the same level of investigation has not been completed for the rural locality. Notwithstanding, the VPA offer is considered reasonable having regard to the incremental demand for local infrastructure generated by this particular proposal and the likely cost to Council in providing local infrastructure.

It is also recognised that in the absence of this Voluntary Planning Agreement, the proposal could potentially be progressed to finalisation by the Greater Sydney Commission and in this instance, contributions could be payable under section 7.12 (formerly 94A) only. This would result in a total contribution for this development of approximately \$160,000 (based upon an estimated development cost of \$16 million), compared to approximately \$1,086,000 offered under the draft Agreement.

Given the foregoing and the stage that the planning proposal has reached, should Council support the planning proposal it is recommended that the draft VPA offer be accepted, subject to detailed legal review and public exhibition.

7. OPTIONS

As set out in the Background of the report the decisions of Council in relation to this site have not sought to progress a residential outcome. Rather in May 2016 it was resolved that the planning proposal be deferred to undertake a holistic study into the current and future land use of the Round Corner Dural Precinct.

The decision of the then Sydney West Central Planning Panel in February 2017 to progress the proposal to Gateway determination relied upon the following reasons:

- The proposal has strategic merit as it would increase the availability and choice of housing in the locality, will support and benefit from the services available in the Dural and Round Corner retail centres, will be compatible with other existing and planned future land uses in the locality, and potentially facilitate conservation of the critically endangered Shale Sandstone Transition Forest.
- The proposal would improve land use compatibility in the area by removing a long-standing industrial use (timber yard) and replacing it with an appropriately scaled new residential area.

It is noted that this site is not required for residential development given the availability of zoned and serviced land elsewhere in the Shire. This approach is consistent with the Greater Sydney Region Plan and the Central City District Plan released March 2018 which seeks to limit urban development to within the urban area, noting it is not consistent with the values of the metropolitan rural area. The site being located on the periphery of the Round Corner Dural Town Centre and at the edge of the metropolitan rural area, is intended to provide a transition between rural and other land uses of varying intensities. There is enough land zoned for medium density residential development in more appropriate locations for additional housing that will meet the relevant State Government dwelling targets.

Given the history of this site, Council may wish to consider alternative options. Under the provisions of the Environmental Planning and Assessment Act 1979, Council may at any time, vary a proposal as a consequence of consideration of any submission or report during community consultation or for any other reason. It may also, at any time, request the Greater Sydney Commission to determine that the matter not proceed.

The following options for this planning proposal are presented for Council's consideration:

Option 1 Progress the exhibited proposal to finalisation

The planning proposal to facilitate a medium density residential development outcome, as recommended in this report, be forwarded to the Department of Planning and Environment for finalisation.

As a result of the exhibition process there was some support for the proposal which noted the diversity of housing that would be provided in the locality. Also concerns raised are able to be suitably addressed as set out in this report and measures include new development controls relating to vegetation retention, landscaping along Old Northern Road and restriction of access to Derriwong Road.

The draft VPA will secure funding and delivery of public benefits including a pedestrian refuge in the locality as well as upgrades to other local infrastructure including parks, sporting fields and community facilities.

Option 1 is recommended given the foregoing factors and the stage that the proposal has now reached.

Option 2 Business and light industrial outcome

Council previously considered a report (May 2016) to amend LEP 2012 to permit business and light industrial uses, with a small amount of retail. The site is located adjacent to Dural Service Centre in the Hornsby Shire area, and presents an opportunity for the site to redevelop in a manner similar to this. The Dural Service Centre and surrounding business development is a successful area providing business floor space and services to the wider rural community.

Rezoning this site to B6 Enterprise Corridor would provide an opportunity to strengthen the local economy and provide opportunities for local jobs. Applying a floor space ratio of 1:1 and a maximum height of building of 12 metres to the site would facilitate up to 18,900m² of employment floor space.

Prior to a report to Council that recommended this approach, the proponent submitted artist impressions of what a B6 Business Enterprise development outcome would look like on the site (Figures 7 and 8).

**Figure 7**

Artists Impression of Potential Development Outcome (Derriwong Road)

**Figure 8**

Artists Impression of Potential Development Outcome (Old Northern Road)

Should Council wish to pursue this option, a revised planning proposal would need to be prepared. Whilst further community consultation is not necessarily required given the ability under the EP&A Act to vary an exhibited proposal, further exhibition is considered appropriate given the extent of changes and potential for impacts on the community.

Under this option an amended Gateway Determination could be sought from the Department of Planning and Environment to facilitate a business and light industrial development on the site:

- i. Rezone the site from RU6 Transition to B6 Business Enterprise;
- ii. Reduce minimum lot size from two (2) hectares to 4000m²;
- iii. Increase maximum height of building from 10 metres to 12 metres;
- iv. Include a new clause in Schedule 1 - Additional Permitted Uses in LEP 2012 to permit a small scale convenience supermarket with a gross floor area of no more than 500m²; and
- v. Apply a floor space ratio of 1:1 to the site.

These suggested controls are consistent with the approach previously considered by Council in May 2016.

Option 3 Planning Proposal Not Proceed

As noted throughout this report in response to issues raised, the planning proposal when considered in isolation, is likely to have minimal impacts in terms of traffic, access, parking and local infrastructure provision. It is the cumulative impacts that are

unknown, particularly as Council's Urban Capability and Capacity Assessment of the Dural locality is not yet complete. In this regard it is noted that consultants have been appointed, and investigations have commenced with outcomes expected to be reported to Council mid-year.

It is further noted that South Dural Planning Proposal which received Gateway Determination in March 2014 has not been supported by the Department of Planning and Environment. This is due to the absence of guaranteed cost recovery from the development for substantial upgrades needed to Old Northern Road and New Line Road prior to any significant development occurring.

In light of the foregoing, Council may wish to request the Greater Sydney Commission to determine that the matter not proceed. A risk with this approach is that the proposal for a medium density outcome could be progressed by the Commission to finalisation without securing appropriate infrastructure contributions. However should the Commission support a recommendation to not proceed, there is no review process for the proponent and a new planning proposal would need to be submitted for the site.

IMPACTS

Financial

The Voluntary Planning Agreement would secure a monetary contribution of \$1,086,000 which Council will be able to pool with current and future contributions to provide additional local infrastructure within the Dural locality.

Strategic Plan - Hills Future

The planning proposal is consistent with the outcomes and strategies of The Hills Future as it would contribute to housing diversity in an area predominately characterised by single detached dwellings.

RECOMMENDATION

1. The draft Voluntary Planning Agreement be subject to a legal review.
2. Following the completion of the legal review, the draft Voluntary Planning Agreement and draft amendments to The Hills Development Control Plan 2012 Part B Section 2 – Residential (Attachment 1 – ECM No.16466540) be publicly exhibited for a period of 28 days.
3. The planning proposal, to rezone the subject site from RU6 Transition to R3 Medium Density Residential and to reduce the minimum lot size from two (2) hectares to 700m², be progressed to the Department of Planning and Environment for finalisation, requesting that the plan not be made until the VPA has been executed.
4. The Department of Planning and Environment be advised that this rezoning is not required to meet Council's housing targets and that Office of Environment and Heritage has not resolved ecological issues.

ATTACHMENTS

1. Draft The Hills Development Control Plan 2012 Part B Section 2–Residential (63 pages)
2. Draft Voluntary Planning Agreement (21 pages)

ATTACHMENT 1

The Hills Development Control Plan (DCP) 2012

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DRAFT



Part B Section 2
Residential

B2

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1. INTRODUCTION

This Section of the DCP must be read in conjunction with Part A - Introduction.

1.1. LAND TO WHICH THIS SECTION OF THE PLAN APPLIES

This Section of the DCP applies to all Residential zoned land and also applies to all land where residential accommodation land uses is permissible. Further specific controls for multi dwelling housing and residential flat buildings as defined in The Hills Local Environmental Plan 2012 are included in separate Sections of this DCP.

1.2. AIMS AND OBJECTIVES OF THIS SECTION

The aim of this Section of the DCP is to identify Council's objectives for residential development in the Shire and identify controls to ensure the objectives are achieved.

Council's overarching objectives for residential development are:

OBJECTIVES

- (i) *Encourage a high standard of aesthetically pleasing and functional residential developments that sympathetically relate to adjoining and nearby developments to create consistent streetscape and character.*
- (ii) *Ensure that development will not detrimentally affect the environment of any adjoining lands and ensure that satisfactory measures are incorporated to ameliorate any impacts arising from the proposed development.*
- (iii) *Encourage innovative and imaginative design with particular emphasis on the integration of buildings and landscaped areas that add to the character of the neighbourhood.*
- (iv) *Provide high levels of amenity for future residents of any residential development.*
- (v) *Implement the principles of Ecologically Sustainable Development.*
- (vi) *To facilitate the implementation of the aims and objectives of residential development as set out in the Hills Shire LEP.*

Additional objectives covering a range of specific issues, related to residential development in the Shire, are identified in section 2 below. These specific objectives are all related to the six objectives identified above.

2. OBJECTIVES AND DEVELOPMENT CONTROLS

Objectives, performance criteria and development controls for residential development are set out in the following sections.

A checklist including many of the development controls is provided as a summary in Appendix A of this Section of the DCP.

In addition to those policies, guidelines and documents specified in Section 1.4 of Part A – Introduction, this Residential Section is to be read in conjunction with other relevant Sections including:

- Part C Section 1 – Parking
- Part C Section 3 – Landscaping
- Part C Section 4 – Heritage
- Part C Section 6 – Flood Controlled Land

2.1. DEVELOPMENT CONTROL MAP SHEETS

The form of residential development is controlled by this Section of the DCP and specific locality maps. These DCP map sheets (Part B Section 2 - Residential, Sheets 1 to 46) provide additional detail as to local subdivision patterns, road layouts and development controls.

A Map showing which Residential DCP Sheets apply is provided in Appendix B – Residential DCP Map Sheet Guide of this Section of the DCP.

This DCP Section contains site specific objectives and controls for land adjoining Heritage Park, Gilroy College Target Site, Hunterford Estate in Oatlands, a residential precinct located at the corner of Old Windsor Road and Seven Hills Road, Baulkham Hills and land at 64 Mackillop Drive, Baulkham Hills (Refer to Appendix C – Precinct Plan Maps and Site Specific Controls in this Section of the DCP). Appendix C – Precinct Plan Maps and Site Specific Controls indicates the boundaries of precincts to which these site specific controls apply. These site-specific controls prevail over Shire Wide Controls.

2.2. SITE SPECIFIC DEVELOPMENT CONTROLS

In addition to this Section of the DCP, Council has adopted a number of site specific development controls to address issues specific to certain areas.

Note. In the event of any inconsistency between this Section of the DCP and site specific DCP Sections, the site specific DCP Section shall prevail only to the extent of the inconsistency.

Part D Section 5 - Kellyville/Rouse Hill is a site specific Section of this DCP. The purpose of this Section of the Plan is to provide for the control of residential development within the Rouse Hill Development Area.

Part D Section 7 – Balmoral Road Release Area is a site specific Section of this DCP. The purpose of this Section of the Plan is to provide for additional controls of residential development within the Balmoral Road Release Area.

2.3. RESTRICTED DEVELOPMENT AREAS

OBJECTIVES

- (i) *To protect sensitive land from development in order to retain natural drainage channels, vegetation and topographic features in accordance with Council's ESD Objective 6.*
- (ii) *To reduce the risk to development arising from geotechnical constraints.*

DEVELOPMENT CONTROLS

- (a) Development is to be limited at specified environmentally sensitive locations as identified on the locality maps for this Section of the DCP (Part B Section 2).
- (b) Additional site specific controls apply to land adjoining Heritage Park (See Appendix C – Precinct Plan Maps and Site Specific Controls).

SUBMISSION REQUIREMENTS

- Restricted Development Areas must be accurately plotted on the Site Plan; and
- Any development proposed within the Restricted Development Area must be clearly identified.

2.4. SITE ANALYSIS

OBJECTIVES

- (i) *To encourage a comprehensive approach to site planning, design and assessment of residential development.*
- (ii) *To facilitate assessment of how future dwellings relate to their immediate surroundings and each other.*
- (iii) *To facilitate development of a design that minimises the negative impacts on the amenity of adjoining residential development in accordance with Council's ESD objective 7.*
- (iv) *To ensure development is compatible with land capability.*
- (v) *To minimise adverse impacts on the environment in accordance with Council's ESD objectives 3 and 4.*

DEVELOPMENT CONTROLS

- (a) Development should be designed to respect site constraints such as topography, drainage, soil, landscapes, flora, fauna and bushfire hazard.
- (b) Disturbance to existing natural vegetation and landforms, watercourses, wetlands and overland flow paths should be minimised.
- (c) Development on land adjoining bushland reserves should incorporate measures (such as setbacks and buffers) to prevent any impact on the reserves.
- (d) Development should be sited on the area of land presenting the least topographic constraints.
- (e) Development should be sited away from steep slopes (particularly those containing natural vegetation) so that, where possible, these features can be kept in a natural state.
- (f) Development should be designed to be consistent with the character of the streetscape.

SUBMISSION REQUIREMENT

- Site Analysis.

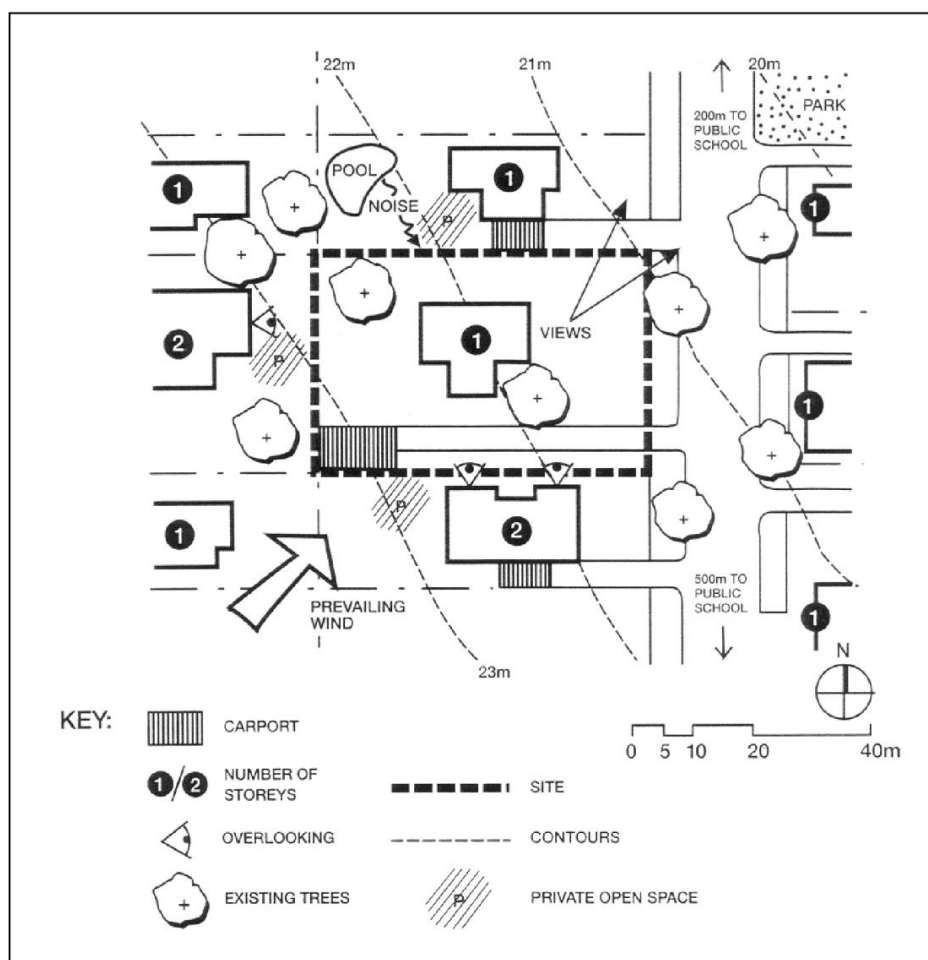


Figure 1: Site Analysis Plan

2.5. STREETSCAPE AND CHARACTER

Note. Streetscape is created by many visible features in a street including lot size, kerbs, fencing, setbacks, spatial separation, bulk and scale, access arrangements, street tree planting, native vegetation and private gardens, colours and materials, as well as the architecture of individual residences and buildings.

The relationship of these elements creates character which contributes to the 'look and feel' of a street, a sense of place and identity. Understanding the character of an area is critical in ensuring development contributes, enhances, and integrates with the existing character that makes an area desirable.

OBJECTIVES

- (i) To ensure that the appearance of new development is of a high visual quality, enhances the streetscape and complements surrounding development.
- (ii) To ensure that new development is sensitive to the landscape setting and environmental conditions of the locality.
- (iii) To ensure that the appearance of housing is of a high visual quality, enhances the streetscape and complements good quality surrounding development.
- (iv) To encourage streetscape variation whilst maintaining a high level of amenity for the development.

- (v) *To ensure new development respects and enhances the green and garden character of The Hills Shire.*
- (vi) *To achieve development that respects and makes a positive contribution to the character and “sense of place” of Castle Hill.*
- (vii) *To enhance the visual attractiveness, safety and security and personal comfort of streets and public and semi public spaces.*

DEVELOPMENT CONTROLS

- (a) The proposed development must:
 - contribute to an attractive residential environment with clear character and identity;
 - address the street and boundaries to the site with a building form compatible with adjoining development in terms of street elevation and presentation; and
 - retain, complement and sensitively harmonise with any heritage item or conservation area in the vicinity that are identified in Council’s Local Environmental Plan.
- (b) The proposed development should maintain neighbourhood amenity and appropriate residential character by:
 - providing building setbacks that progressively increase as wall heights increase to reduce bulk and overshadowing;
 - using building form and siting that relates to the land form;
 - adopting building heights at the street frontage that do not dominate the streetscape;
 - retaining where possible and providing landscaping in the front and rear yards in particular tall planting in scale with the building proposed; and
 - considering where buildings are located on neighbouring properties.
- (c) Additional site specific controls apply to Hunterford Estate, Oatlands and Gilroy College (Appendix C).

SUBMISSION REQUIREMENTS

- Documentation to demonstrate how the objectives and development controls are met.
- Architectural Plans.
- Elevation Plans.
- Streetscape perspective of proposed development.
- Schedule of External Materials.

2.6. BUSH FIRE HAZARD MANAGEMENT

OBJECTIVES

- (i) *To reduce the risk to life and property in areas of bushfire risk.*
- (ii) *In determining Development Applications, Council will have regard to any likely bushfire hazard.*

DEVELOPMENT CONTROL

- (a) Council has adopted the NSW Rural Fire Service Guidelines entitled “Planning for Bushfire Protection 2006”. Development subject to bushfire risk will be required to address the requirements in these guidelines.

2.7. GEOTECHNICAL SITE STABILITY

Note. This section applies to development on land identified with Landslide Risk under The Hills Local Environmental Plan 2012.

OBJECTIVES

- (i) *To ensure proposed development does not result in movement or slip.*
- (ii) *To ensure soil movement or land slip does not adversely affect proposed development.*

DEVELOPMENT CONTROLS

- (a) Areas possibly subject to movement or slip are identified by The Hills LEP 2012 Landslide Risk Maps or identified by Council to be considered subject to movement or slip.
- (b) Prior to the determination of any subdivision or Development Application, a geotechnical appraisal prepared by an Engineer qualified as a corporate Member of the Institution of Engineers of Australia or similar recognised industry body (and who is experienced in the fields of landslides, soil and rock mechanics, slope stabilisation and residential developments) must be submitted by the applicant and may, as determined by Council, be subject to assessment by an independent expert review panel at the expense of the applicant.
- (c) The geotechnical appraisal must certify that the design of all the structures the subject of the application is suitable to withstand the effects of high plasticity clays subject to shrink/swell

movements and possible creep movement of near surface soils.

- (d) The geotechnical appraisal must satisfy Council that an acceptable level of risk is achieved with respect to the possibility of movement or slip adversely affecting the proposed subdivision or development or being caused by the proposed subdivision or development.
- (e) An 'acceptable risk level' is defined in accordance with the AGS Guidelines for Landslide Susceptibility, Hazard and Risk Zoning for Land Use Planning (AGS 2007a) as the loss of life for the person most at risk (from the landslide) as 1 in a million per annum and for property loss the risk is to be 'low' as identified in Appendix C of the Practice Note Guidelines for Landslide Risk Management 2007 (AGS 2007c). The application must demonstrate that any proposed remedial works will satisfy these requirements.
- (f) For land zoned E3 Environmental Management, refer to Development Controls in section 2.14.2 in this Section of the DCP.

SUBMISSION REQUIREMENTS

- Any part of the site shown as being subject to Geotechnical constraints on the site specific maps for this Section of the DCP or identified by Council to be considered subject to movement or slip must be identified on the site plan.
- A Geotechnical Assessment will be required for works proposed within these areas.

2.8. BUSHLAND AND BIODIVERSITY

OBJECTIVE

- (i) *To conserve and protect the biodiversity of the Shire including habitats of threatened flora and fauna species and communities in accordance with Council's ESD objective 1 and 4.*

DEVELOPMENT CONTROLS

- (a) Significant flora and fauna species, communities and ecological communities should be preserved.
- (b) Development should be designed to retain existing bushland and fauna habitats, including identifiable corridors and linkages.

SUBMISSION REQUIREMENTS

- Applications should include a Fauna and Flora Assessment in accordance with Section 5A of the Environmental Planning & Assessment Act 1979 if there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats.
- Applicants may be required to submit a Species Impact Statement (SIS) for development likely to significantly affect threatened species, populations and ecological communities. Reference should be made to the requirements of the Environmental Planning & Assessment Act 1979, and the Threatened Species Conservation Act 1995.

2.9. EROSION AND SEDIMENT CONTROL

OBJECTIVES

- (i) *Minimise land degradation, water pollution and damage to infrastructure from accumulated sediment in accordance with Council's ESD objective 3.*
- (ii) *To ensure development controls are identified for all stages of development and to ensure a consistent approach to erosion and sediment control.*

DEVELOPMENT CONTROLS

- (a) Use best management practices available to avoid or mitigate land degradation associated with development.
- (b) Applications for residential development including subdivision are to be accompanied by an Erosion and Sediment Control Plan (ESCP) which will describe the measures to be taken at development sites to minimise land disturbance and erosion and control sediment pollution of waterways. ESCPs are to clearly identify the erosion and sediment control measures to be used.
- (c) Erosion and Sediment Control Plans shall be prepared in accordance with "Managing Urban Stormwater – Soils and Construction", produced by the NSW Department of Housing.
- (d) The erosion and sediment control measure proposed may need to change during the development process. The erosion sediment control plan should address all phases of the development process.

- (e) Erosion and sediment controls must be in place before work commences and be retained and revised to reflect changes in site conditions, until the development is finalised and the site stabilised.

SUBMISSION REQUIREMENTS

- Erosion and Sediment Control Plans.

2.10. HERITAGE

OBJECTIVES

- (i) *To ensure that development is undertaken in a manner that is sympathetic to, and does not detract from, the heritage significance of heritage items and conservation areas, and their settings.*

DEVELOPMENT CONTROLS

- (a) Views to and from significant items of natural or cultural heritage should not be impeded by development.
- (b) If the development is within the Rouse Hill Development Area, SREP No. 19 will also apply.
- (c) All developments must address and comply with the provisions of Part C Section 4 – Heritage.

2.11. SIGNAGE

OBJECTIVES

- (i) *To permit an approved use to adequately identify their premises while maintaining the residential character of the area.*
- (ii) *To ensure that advertising signs are appropriate to the size and scale of the activity conducted on the property.*

DEVELOPMENT CONTROLS

- (a) All signage proposed must be designed in accordance with Part C Section 2 – Signage.
- (b) Advertising signs must not detract from any residential area. The size, shape, materials and location of signage must complement the visual character of the surrounding area.

SUBMISSION REQUIREMENTS

- Signage Plan.

2.12. STORMWATER MANAGEMENT

OBJECTIVES

- (i) *To provide for the disposal of stormwater from the site in efficient and environmentally sensible ways in accordance with Council's ESD objective 3.*
- (ii) *To control stormwater and to ensure that developments do not increase downstream drainage flows or adversely impact adjoining or downstream properties.*
- (iii) *To ensure the integrity of watercourses is protected and enhanced in accordance with Council's ESD objective 4.*
- (iv) *To provide for on-site detention of stormwater.*
- (v) *To encourage the reuse of stormwater.*

DEVELOPMENT CONTROLS

- (a) Water Sensitive Urban Design (WSUD) measures should be employed in the management of the site's/development's stormwater in terms of water retention, reuse and cleansing.
- (b) In all development, consideration should be given to utilising one of the following water sensitive urban design measures:-

M1 Low Impact Building Design

M2 Low Impact Landscape Design

A detailed description of the actions required to implement each of these measures is included in Appendix B – Water Sensitive Urban Design of The Hills Shire Development Control Plan.

Where only BASIX exemption is relied on, rain water tanks to reuse rainwater must be installed for each new dwelling outside the Kellyville Rouse Hill Release Area. The requirements for their installation and use are included in Appendix B – Water Sensitive Urban Design under the heading:

M3 Rainwater Utilisation – toilet, irrigation

- (c) Rainwater tanks are not required in the Kellyville - Rouse Hill Release Area because a recycled water system has been installed in this area. However owners may choose to install a rainwater tank if they consider it appropriate for their property.
- (d) Drainage systems are to be designed and constructed in accordance with the design guidelines set out in "Australian Rainfall and

Runoff 1987" published by the Institution of Engineers, Australia.

- (e) On-site detention systems (OSD) when required, are to be designed in accordance with (a) above and the specific requirements of (as relevant) the Upper Parramatta River Catchment Trust On-site Detention Handbook.
- (f) Concentrated stormwater flows must be connected to Council's drainage system. In some cases this may require the creation of drainage easements over downstream properties. In this circumstance, a letter of consent from the owner(s) of the downstream properties is to be submitted with the Development Application. On rural properties overflow from rainwater tanks must be dispersed on site to ensure concentrated flows do not impact on adjoining properties or cause erosion.
- (g) Reference should be made to the Restrictions As To User on the title of the land to which the development is proposed in relation to requirements for on-site detention.
- (h) Discharge points are to be controlled and treated to prevent soil erosion, and may require energy dissipating devices on steeper topography, to Council's requirements.
- (i) All development in rural areas must be in accordance with Appendix C – On Site Sewage Systems in Part B Section 1 – Rural.

SUBMISSION REQUIREMENTS

- Preliminary Engineering Drainage Plans indicating the proposed drainage infrastructure.
- If required, easements are to be created over downstream properties prior to the release of the linen plan for the subdivision, or prior to the release of a Building or Occupation Certificate whichever is earliest.
- On-site Detention (OSD) Plans if required.

2.13. SUBDIVISION

The objectives and development controls are primarily related to applications involving subdivision. The controls relating to the erection of a dwelling must still be considered at subdivision stage to ensure all lots created can accommodate a suitable dwelling in accordance with this Section of the DCP.

2.13.1 RESIDENTIAL LOT WIDTH AND DEPTH

OBJECTIVES

- (i) To provide allotments of a size conducive to residential living, having regard to any development constraints or environmental qualities of that land; and
- (ii) To ensure allotments have sufficient area to provide adequate access, open space, a sufficient building platform and attractive presentation to the street.

DEVELOPMENT CONTROLS

- (a) The minimum frontage for a lot on a classified road where a dwelling is permissible shall be 27m.
- (b) The minimum frontage for other road frontages for a lot where a dwelling is permissible is 18m. Except for land zoned E4 Environmental Living where the minimum frontage is 23m.
- (c) The minimum depth of lots where a dwelling is permissible is 27m. Except for land zoned E4 Environmental Living where the minimum depth is 50m.
- (d) For an irregular shaped allotment the average width shall not be less than the minimum frontage controls (a) to (c).
- (e) Map Sheet 40 of this Section of the DCP identifies land where development shall provide for the connection of surface stormwater on the land the subject of the development to a piped stormwater drainage system.
- (f) For battle-axe shaped allotments and allotments served by a right-of-way where allotments have no road frontage, the minimum area excluding the access corridor shall not be less than the minimum lot size identified in The Hills Local Environmental Plan 2012.
- (g) The minimum width for the battleaxe handle on battleaxe shaped allotments is:

Number of lots to be accessed	Minimum Width
One allotment	4 metres
Two or more allotments	6 metres

- (h) The minimum area of a residential lot should be free of any restricted development area. Refer to Map Sheets 1-42.

SUBMISSION REQUIREMENTS

- Site Plan and/or Subdivision Plans.
- Site Analysis.

2.13.2 BUILDING PLATFORM AND VIEWS

OBJECTIVES

- (i) *To ensure allotments have a suitable area for the erection of a dwelling and associated structures free of constraints or restrictions.*
- (ii) *To ensure that the appearance of housing is of a high visual quality and enhances the streetscape and the urban environment.*
- (iii) *To allow flexibility in the siting of new buildings and ensure the bulk and scale of new development protects reasonable neighbour amenity and maintain appropriate residential character.*
- (iv) *To maximise views available from the site in the design of new residential development in the Hunterford Estate, Oatlands.*

DEVELOPMENT CONTROLS

- (a) The site must be capable of providing a building platform of at least 20 metres by 15 metres. The platform shall be sited in an accessible and practical location and on relatively flat terrain with stable soil and geology.
- (b) Practical and suitable access shall be provided from a public road to the building platform.
- (c) The building platform is to be applied independently of the minimum building setbacks.
- (d) Pitched roofs are the preferred choice of roof form for the development, particularly for dwellings adjoining the existing residential area.
- (e) Dwellings should be orientated to maximise solar access and enjoy views.
- (f) Additional site specific objectives and controls to development on land adjoining Heritage Park, Hunterford Estate in Oatlands and Residential Development, Corner Old Windsor Road and Seven Hills Road, Baulkham Hills (Refer to Appendix C – Precinct Plan Maps and Site Specific Controls).

SUBMISSION REQUIREMENTS

- The subdivision plans must clearly indicate where the building platforms can be located on each lot and the proposed access paths to the platforms free of any restrictions.

2.13.3 PEDESTRIAN ACCESS, SAFETY AND SECURITY

OBJECTIVE

- (i) *To ensure the needs of residents and visitors are considered with particular regard to access requirements, safety and security in accordance with Council's ESD Objective 7.*

DEVELOPMENT CONTROLS

- (a) Residential developments are to provide safe and convenient access for prams, wheelchairs and people with disabilities from the public road to all areas of the development.
- (b) Movement areas should be designed to provide convenient, obvious and safe pedestrian and bicycle links from the site to public transport services and local facilities.
- (c) Footpaths, landscaped areas and driveway designs are to provide opportunities for surveillance and allow safe movement of residents and visitors.
- (d) The design of residential developments is to demonstrate consideration of resident safety and security.
- (e) Signage is to be clear and easy to understand.
- (f) Consideration should be given to Council's Safer by Design Guidelines, particularly in regards to natural surveillance, sightlines and lighting.
- (g) Future residential subdivision on 39-55 Oratava Avenue (Lot 8 DP 1191647), 570 Pennant Hills Road (Lot 3 DP1096405), and 3 Castle Hill Road (Lot 21 DP 852577), West Pennant Hills shall provide a public pedestrian connection, by way of legal access, from Oratava Avenue to Mt Wilberforce Reserve. Refer to Part B Section 2 - Sheet 20 - West Pennant Hills.
- (h) Future residential subdivision on 39-55 Oratava Avenue (Lot 8 DP 1191647), 570 Pennant Hills Road (Lot 3 DP1096405), shall provide parking for at least 8 vehicles either on-street through the provision of internal roads with a minimum

carriageway width of 8.5 metres or through the provision of a dedicated area for visitor parking'.

2.13.4 DEVELOPER CONTRIBUTIONS

Applicants should consult with Council's Section 94 Contributions Plan and Council's Officers to determine the required amount of Section 94 Contributions payable.

2.13.5 WASTE COLLECTION

OBJECTIVE

- (i) *To ensure safe and efficient collection of waste and recyclables by Council or its contractor.*

DEVELOPMENT CONTROLS

- (a) Roads must be designed to provide adequate manoeuvring space to allow Council's (or its contractor's) waste collection vehicles to enter and exit in a forward direction to collect waste and recyclables with no need for reversing.

2.14. DWELLINGS

The controls below apply to developments for dwellings.

2.14.1. BUILDING SETBACKS

OBJECTIVES

- (i) *To provide setbacks that complements the streetscape and protects the privacy and sunlight to adjacent dwellings in accordance with ESD Objective 7.*
- (ii) *To ensure that new development is sensitive to the landscape setting, site constraints and established character of the street and locality.*
- (iii) *To ensure that the appearance of new development is of a high visual quality and enhances the streetscape.*

DEVELOPMENT CONTROLS

- (a) The minimum road frontage setback for any classified road is 10 metres.
- (b) The minimum road frontage setback requirement for any non classified roads is as follows:

Primary Road Frontage Setback 10m

The areas where the primary road setback is not 10 metres are shown on Maps 1-4. The setbacks for these areas are outlined in the table below.

Areas where Primary Road Frontage Setback is less than 10m	Map No	Primary Setback
West Pennant Hills Valley	1	7.5
Bingara Crescent/ Crestwood	2	7.5
Kings Road	3	7.5
Bella Vista Residential	4	6m
Kellyville/Rouse Hill Development Area	n/a	*

*Refer to Part D Section 5 – Kellyville / Rouse Hill Release Area, Part D Section 6 Rouse Hill Regional Centre and Part D Section 7 – Balmoral Road Release Area.

- (c) Where the predominant setback pattern of the existing streetscape reflects setbacks which exceed the required minimum, the greater setback suggested by the character created by the three (3) adjoining dwellings either side of the proposed dwelling will apply .
- (d) Development on corner allotments, with no frontages to classified roads shall have regard to the streetscape of both street frontages and may provide a setback of not less than 6 metres for the primary frontage and 4 metres to a secondary road frontage.
- (e) All garages must be setback in accordance with the setbacks described in a), b) and c) above, or 5.5 metres, whichever is the greater. This is required to ensure vehicles parked on the driveway in front of the garage do not encroach into the road reservation.
- (f) The maximum width of a dwelling must be:

Width of allotment at the building line	Percentage of width at the building line
Less than or equal to 18m	80%
Greater than 18m	75%

- (g) The minimum side boundary setback requirement is:

Height of building	Distance of wall to boundary line	Distance of eave to boundary line

1 or 2 storeys	900mm	675mm
3 storey	1500mm	1175mm

- (h) The minimum rear boundary setback requirement is:

Height of building	Setback
1 storey element of dwelling'	4 metres
2-3 storey elements of dwelling'	6 metres

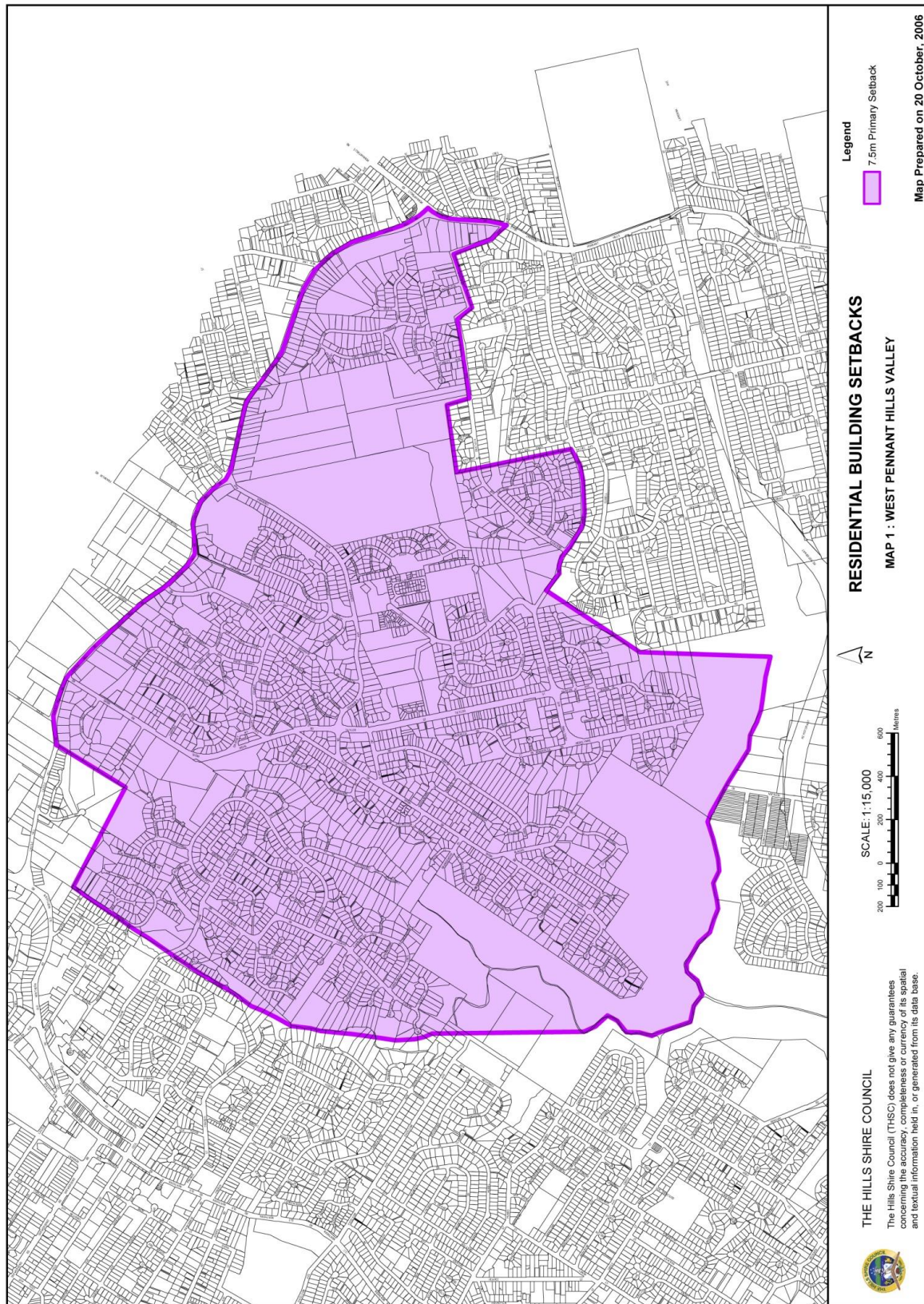
- (i) For battleaxe allotments dwellings shall be setback a minimum distance to three sides only of the lot of 4m for the single storey element and 6m for the 2 and 3 storey elements.
- (j) Except where the lot has two road frontages and the dwelling is to back onto an arterial or sub-arterial road. In this case the required rear wall setback to the road frontage is:

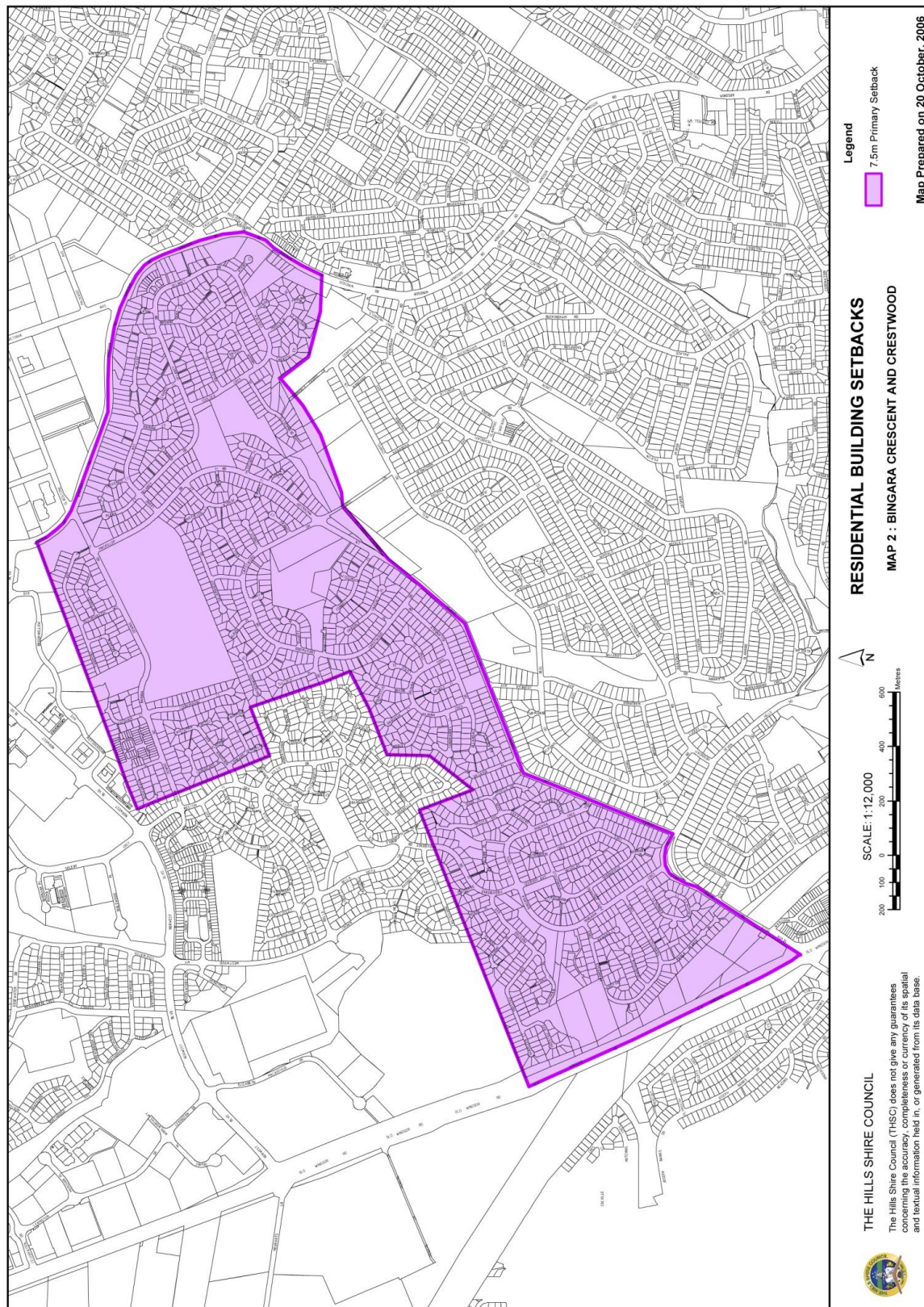
Height of building	Rear wall setback to a classified road
1 storey	6 metres
2-3 storey	8 metres

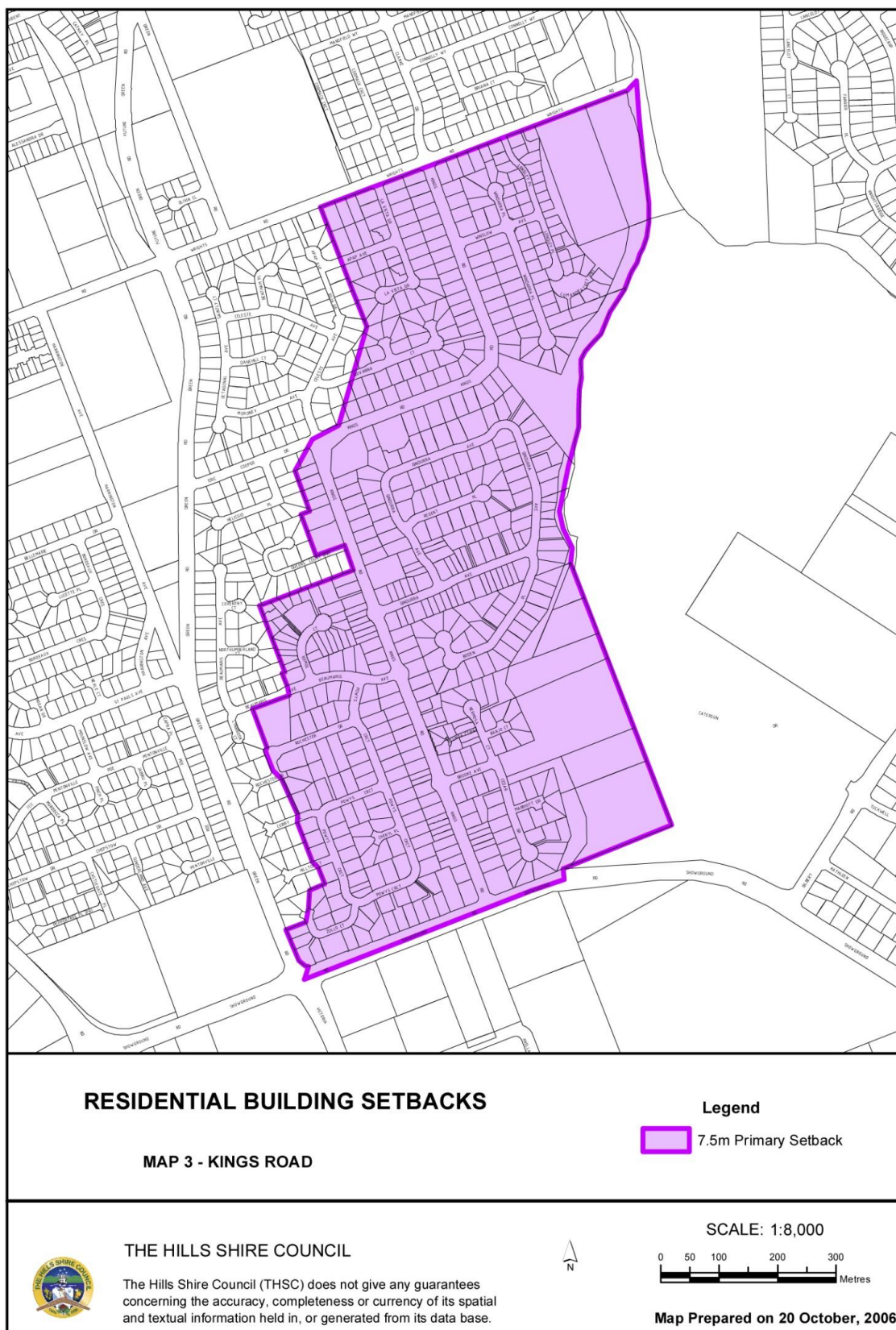
- (k) Consideration should be given to Council's Safer by Design Guidelines, particularly in regards to natural surveillance, sightlines and lighting.
- (l) Site specific controls apply to Hunterford Estate in Oatlands, Land Adjoining Heritage Park, Gilroy College Site and Residential Development Old Windsor Road and Seven Hills Road, Baulkham Hills (Refer to Appendix C – Precinct Plan Maps and Site Specific Controls).

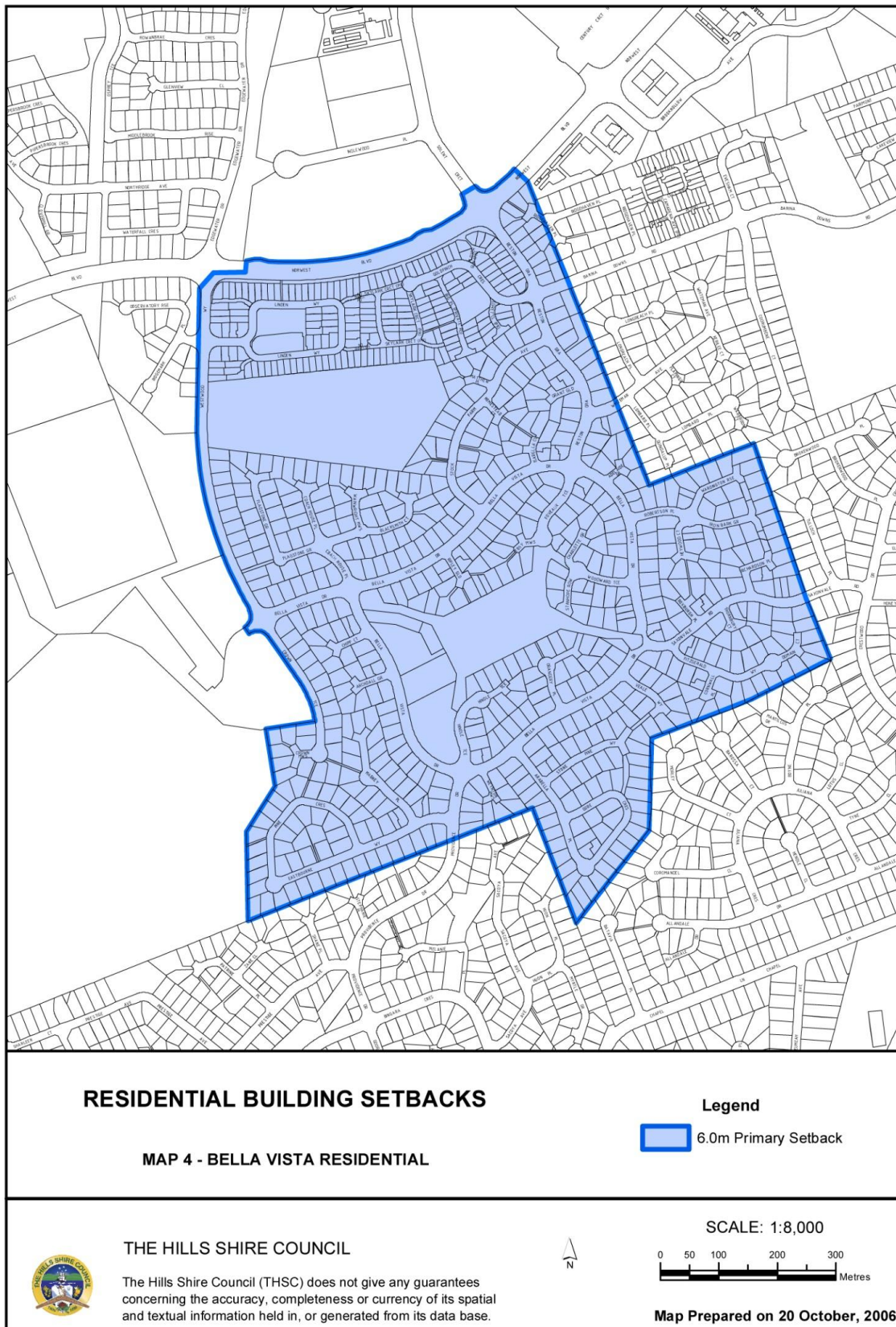
SUBMISSION REQUIREMENT

- Building setback dimensions are to be shown on development application plans.









2.14.2. SITE COVERAGE**OBJECTIVES**

- (i) *To maximise the provision of open space.*
- (ii) *To avoid the creation of drainage and runoff problems, through minimising the amount of impervious area in accordance with Council's ESD Objective 3.*
- (iii) *To minimise bulk and scale of development.*
- (iv) *To facilitate spatial separation between buildings.*
- (v) *To provide for adequate landscaped area.*
- (vi) *Maintain the character of existing areas by retaining vegetation.*

DEVELOPMENT CONTROLS

- (a) The maximum site coverage permitted in residential zones is 60% with the exception of land zoned E4 Environmental Living and land identified in the Map Sheets by pink shading, where the maximum site coverage is 30%.

Note. For the purpose of this plan the calculation of the site coverage will be subject to the following criteria:

- any impervious area including, but not limited to, buildings, driveways, patios, pools, tennis courts, decks, recreation facilities and the like will be included within the calculation of site coverage; and
 - The total land area of the lot will be used in the calculation of site coverage. The total land area excludes restricted development areas or land required for public purposes.
- (b) Of the maximum permitted site coverage, the dwelling building footprint is to be no more than 45%, with the exception of land shaded pink on Map Sheets 1-42.
 - (c) Additional site specific controls apply to land adjoining Heritage Park (Refer to Appendix C – Precinct Plan Maps and Site Specific Controls).

Zone E3 Environmental Management

- (d) Erection of a dwelling on land zoned E3 Environmental Management (shown in Map Sheet 40) shall be:
 - a replacement for an existing dwelling, and
 - it will have a floor area not exceeding 125% of the floor area of the existing dwelling, and
 - it will be a light and flexible structure capable of tolerating soil movement, and
 - it shall not involve the excavation or filling of land to a depth or height of more than 300mm from the existing surface level.
- (e) For additions or alterations to an existing dwelling on land zoned E3 Environmental Management (shown in Map Sheet 40):
 - the area of the existing dwelling will not be increased by more than 25%, and
 - the additions or alterations will be light and flexible and capable of tolerating soil movement.

SUBMISSION REQUIREMENTS

- A schedule showing the site coverage and landscape area should be submitted with the application or included on the Site Plan.

2.14.3. BUILDING HEIGHT

Refer to Clause 4.3 *Height of buildings* of The Hills Local Environmental Plan 2012.

2.14.4. PRIVATE OPEN SPACE**OBJECTIVES**

- (i) *To provide for a private outdoor living space, as an extension of the dwelling, for the enjoyment of residents.*
- (ii) *To provide outdoor living spaces which receive a reasonable quantity of sunshine during all months of the year.*

DEVELOPMENT CONTROLS

- (a) Private open space (behind the front building line) is to be 20% of the lot area or 80m² whichever is the greater and can be contained within the landscaped area of the site.

- (b) The private open space area must be able to contain a rectangle measuring 6 metres by 4 metres.
- (c) The private open space area is to be:
 - continuous to, and accessible from, the primary living areas of the dwelling;
 - located and oriented to ensure it is not directly overlooked from adjoining lots or buildings; and
 - located on relatively flat land to ensure it is useable as open space.
- (d) At least 50% of the required minimum open space area is to receive direct sunlight between 10.00am and 3.00pm during mid-winter. Appropriate shadow diagrams are to be provided at development application stage to demonstrate compliance with this standard.

SUBMISSION REQUIREMENTS

- The location and dimensions of the private open space must be shown on the Site Plan.

2.14.5. LANDSCAPING AND OPEN SPACE

OBJECTIVES

- (i) *To enhance the quality of the built environment by providing a high standard of landscaping.*
- (ii) *To ensure that landscaping may be efficiently maintained.*
- (iii) *To promote a pleasant and safe living environment.*
- (iv) *To limit tree removal to maintain the character of the area.*
- (v) *To design a high quality landscape setting for urban housing development.*
- (vi) *To fully integrate the landscape design in communal, private and public areas as a necessary element in any well designed residential project.*
- (vii) *To preserve and enhance existing landscape features.*
- (viii) *To encourage existing vegetation to be included wherever possible into site landscaping.*
- (ix) *To provide adequate open space areas for the enjoyment and use by residents.*
- (x) *To enhance the quality of the built environment by providing opportunities for landscaping.*

- (xi) *To provide an open space area within the development for the recreation of residents and children's play.*

DEVELOPMENT CONTROLS

- (a) All setback and car parking areas are to be landscaped and maintained in accordance with the provisions of Part C Section 3 – Landscaping.
- (b) The minimum required landscaped or naturally vegetated area for residential development as a percentage of the total site area is 40%. Except for land zoned E4 Environmental Living where the minimum is 70%.
- (c) Consideration should be given to Council's Safer by Design Guidelines, particularly in regards to natural surveillance, sightlines and lighting.

Note. Landscaped area does not include any paved or built upon area such as driveways, tennis courts, patios/decks, outbuildings or pools.

- (d) Site specific controls apply to Hunterford Estate, Oatlands, Gilroy College and residential development at the Corner of Old Windsor Road and Seven Hills Road, Baulkham Hills (Refer to Appendix C – Precinct Plan Maps and Site Specific Controls).

SUBMISSION REQUIREMENTS

- A Landscape Plan including details of site coverage and Landscape area.
- Tree management Details.
- Site Plan.

2.14.6. DWELLING DESIGN AND CONSTRUCTION

OBJECTIVES

- (i) *To ensure that dwellings are designed with regard to site conditions and constraints such as drainage easements.*
- (ii) *To ensure that dwelling design and siting have regard to the existing streetscape and character of the area, and the amenity of adjoining development.*
- (iii) *To protect existing trees on the site.*
- (iv) *To ensure that the appearance of housing is of a high visual quality and enhances the streetscape and the urban environment.*

- (v) *To allow flexibility in the siting of new buildings and ensure the bulk and scale of new development protects reasonable neighbour amenity and maintain appropriate residential character.*

DEVELOPMENT CONTROLS

- (a) Removal of existing trees should be minimised in any building proposal. Refer to Clause 5.9 *Preservation of trees or vegetation* of The Hills Local Environmental Plan 2012 and Part C Section 3 – Landscaping for requirements.
- (b) Any part of the structure must comply with the building line setbacks applying to the land.
- (c) Stairs, single storey verandahs, single storey entry features, and single storey porticos may encroach up to 1.2 metres of the building setback for 30% of width of the dwelling provided the design, materials, colours and construction be consistent with the dwelling.
- (d) Dwellings must be designed so that walls facing public spaces contain window or door openings to a habitable room.
- (e) Council discourages design that results in carports and garages facing a public place as prominent elements of the streetscape. Garages should be no more than 6.5m in width and should not extend across more than 50% of the width of the property (measured at the required building line setback). Garages must be designed to be:-
- visually subservient;
 - integrated into the overall dwelling design; and
 - constructed of similar materials and finishes to the dwelling.
- (f) Two of the criteria listed below should be utilised to minimise the impact of garages:
- Garage doors are divided by a vertical masonry pillar or similar;
 - Upper floor element projected forward of the garage to cast a shadow and take prominence;
 - Colours and textures to ensure the garage doors do not dominate the street elevation;
 - Verandah or pergola provided across the face of the garage;
 - Utilisation of vertical elements to mitigate the horizontal elements of the garage;
 - Garage entrance to be oriented away from the primary street frontage; and
 - Staggered garages whereby one garage is setback from the adjoining garage (triple

garages will not be supported unless one garage is setback from the adjoining two garages).

- (g) In cases where triple garages are proposed the suitability of the proposal will be considered on the basis of the impact on the streetscape utilising the criteria listed above as guidelines.
- (h) Site specific controls apply to land adjoining Heritage Park facing Old Castle Hill Road. Hunterford Estate in Oatlands and Gilroy College Target Site (Refer to Appendix C – Precinct Plan Maps and Site Specific Controls).

SUBMISSION REQUIREMENTS

- Documentation to demonstrate how the objectives and development controls are met.
- Development Applications submitted for new dwellings shall indicate the site levels and finished floor levels related to a datum (AHD preferred) at the invert of the gutter.

2.14.7. CUT AND FILL

OBJECTIVE

- (i) *To ensure that dwellings are designed with regard to site conditions and minimise the impact on landform.*

DEVELOPMENT CONTROLS

- (a) Building siting and design should consider the topography of the site and if cut and fill is necessary it must be balanced to ensure no fill leaves the site.
- (b) Where plans show an excess of 600mm of filling and, provided that the filling does not exceed 1.5 metres, a condition of approval will be imposed requiring a concealed dropped edge beam to contain the fill in excess of 600mm. Should the plans show an excess of filling above 1.5 metres, the applicant will be requested to amend the design to reduce the filling required.
- (c) Excavation in excess of 1 metre may be permitted, subject to there being no adverse effect on the adjoining owners and the submission of structural engineers details of retaining walls with the Development Application, or alternatively, a separate Development Application is to be submitted.

SUBMISSION REQUIREMENTS

- Details of the exact amount and extent of excavation and filling on the site.

2.14.8. BUILDING MATERIALS**OBJECTIVES**

- (i) *To promote integrated, visually harmonious and attractive buildings in residential and rural areas.*
- (ii) *To encourage the use of renewable, energy efficient materials that are durable and cost effective in accordance with Council's ESD objective 5.*
- (iii) *To reduce waste generation and wastage of resources in accordance with Council's ESD objective 6.*
- (iv) *To encourage consideration of the long-term impact of the production and use of materials used in construction of the development.*

DEVELOPMENT CONTROLS

- (a) All building construction must comply with the Environmental Planning and Assessment Act 1979, Local Government Act 1993, and Building Code of Australia.
- (b) The choice of materials and external finishes are to be compatible with surrounding developments and landscape features in terms of colours, textures and quality.
- (c) The following factors must be considered when selecting materials:
 - suitability for the purpose;
 - durability;
 - long term appearance;
 - local environmental impacts;
 - broader and longer term environmental impacts; and
 - the quantity of material required.
- (d) Avoid oversupply and waste of materials by careful assessment of quantities needed.
- (e) Avoid materials that are likely to contribute to poor internal air quality such as those generating formaldehyde or those that may create a breathing hazard in the case of fire (eg polyurethane).

- (f) Select materials that will minimise the long-term environmental impact over the whole life of the development.
- (g) Preference should be given to materials derived from renewable sources or those that are sustainable and generate a lower environmental cost, recycled material or materials with low embodied energy, better lifecycle costs and durability.
- (h) Choice of materials should be based on consideration of both their environmental and economic costs.
- (i) Consideration should be given to Council's Safer by Design Guidelines, particularly in regards to the use of anti – graffiti surfaces.

SUBMISSION REQUIREMENTS

- Schedule of External Materials including schedule of colours.

2.14.9. PRIVACY – VISUAL AND ACOUSTIC**OBJECTIVES**

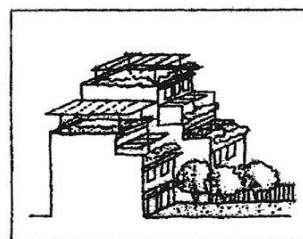
- (i) *To site and design buildings to ensure visual privacy between dwellings and principal areas of private open space in accordance with Council's ESD objective 7.*
- (ii) *To avoid overlooking of living spaces in dwellings and private open spaces.*
- (iii) *To contain noise within dwellings and communal areas without unreasonable transmission to adjoining dwellings.*
- (iv) *To promote changes in levels through terracing and height variations to reduce overlooking.*
- (v) *To ensure window locations and design reduce overlooking.*

DEVELOPMENT CONTROLS

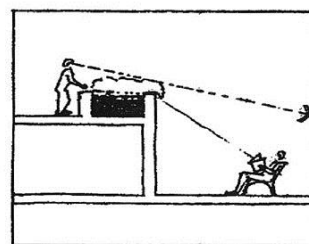
- (a) Buildings are to be designed to ensure maximum protection of privacy; in particular the privacy of primary living areas must be protected. Where appropriate consideration should be given to:
 - using windows that are narrow, translucent or obscured or, in the case of bathrooms, have window sills a minimum of 1.5 metres above the upper storey floor level;

- ensuring that windows that face directly to the windows, balconies or yards of adjoining dwellings are appropriately screened; and
- screening of opposing windows, balconies and yards with appropriate landscaping.

- (b) First floor balconies will not be permitted where they overlook living areas of adjacent dwellings.
- (c) Windows should be placed to minimise direct viewing between dwellings.
- (d) Dwellings are to be designed to limit the potential for noise transmission to the living and sleeping areas of adjacent existing and future developments.
- (e) Careful consideration should be given to the location of air-conditioning systems, swimming pools and the like to minimise the impact on the amenity of adjoining properties.
- (f) Private open space areas and driveways are to be designed to minimise noise impacts.
- (g) Dwellings that adjoin classified roads are to be designed to ensure acceptable internal noise levels, based on Environmental Protection Authority – Environmental Criteria for Road Traffic Noise and Australian Standard 3671 – Road Traffic Noise Intrusion – Building Siting and Construction.
- (h) Site specific controls apply to Hunterford Estate in Oatlands and Gilroy College Target Site (Refer to Appendix C– Precinct Plan Maps and Site Specific Controls).



Solid side walls and screens improve privacy of adjoining balconies



Deep planter boxes prevent overlooking of lower outdoor areas.

- Statement from a qualified acoustic consultant certifying that the design and construction of the building meets the Environmental Protection Authority – Environmental Criteria for Road Traffic Noise and Australian Standard 3671 – Road Traffic Noise Intrusion – Building Siting and Construction.

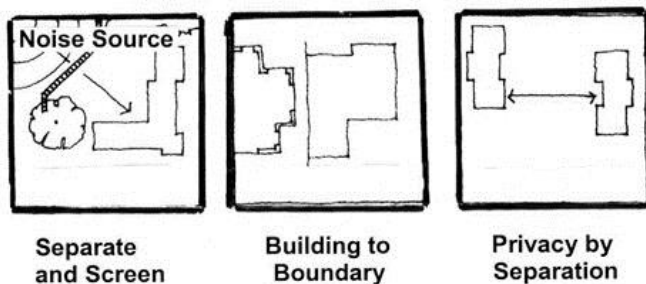
SUBMISSION REQUIREMENTS

- Statement of Environmental Effects must address design measures considered and ultimately selected to ensure the visual and acoustic privacy of future residents and residents of adjoining sites.

Privacy for Single Dwelling Residents and Neighbours

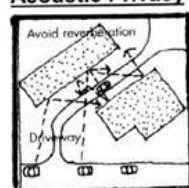
Site Planning and Layout

Privacy for Neighbours

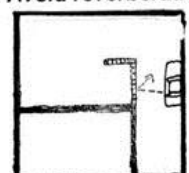


Design Techniques

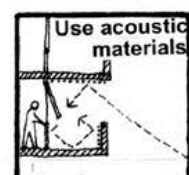
Acoustic Privacy



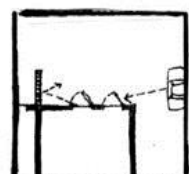
Avoid reverberation



Screen wall to shield noise



Bottom opening windows



Direction of window opening away from noise

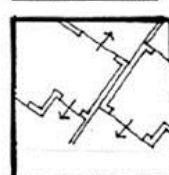
Relationship Between Dwellings

Screening

Window Style And Materials

Location and Direction of Windows

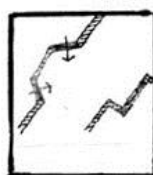
Visual Privacy



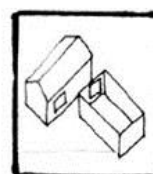
Build to boundary



Screening



Bay windows



Offset windows

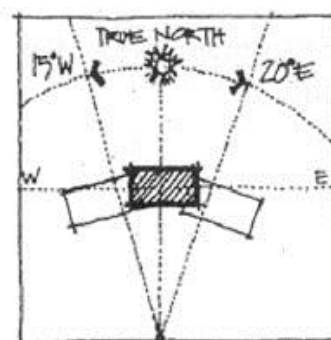
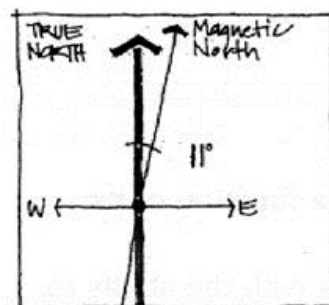
Source: Australia's Guide to Good Design – Residential

2.14.10. SOLAR ACCESS**OBJECTIVES**

- (i) To maximise solar access to internal living spaces within buildings and open space areas in winter.
- (ii) To ensure no adverse overshadowing of adjoining allotments/developments including the principal area of open space.
- (iii) To orient the development in a way that best allows for appropriate solar access and shading, to ensure energy efficient outcomes in accordance with Council's ESD objective 5.
- (iv) To minimise the need for artificial lighting in dwellings during the day, to ensure energy efficient outcomes in accordance with Council's ESD objective 5.
- (v) To orientate dwellings so that the living areas face north.

DEVELOPMENT CONTROLS

- (a) Dwellings should be sited to allow adequate provision for access of direct sunlight to private open space within the subject land and on adjacent properties. At least 50% of the required private open space within the subject property and that on adjoining properties is to receive direct sunlight for a minimum of 4 hours between 9am and 3pm on 21 June.
- (b) Living areas of dwellings shall be orientated to the north wherever possible.
- (c) Maximise the amount of direct sunlight available to clothes drying areas.
- (d) Orient buildings so that each dwelling obtains direct sunlight where possible. Ideally, orientate the long axis of the development up to 30 degrees east and 20 degrees west of true north. This is illustrated in the following diagrams:



Source: BDP Environment Design Guide

- (e) Where winter solar access is not optimum consider the use of double-glazing or high performance glass.
- (f) Windows should have suitable shading or other solar control to avoid summer overheating.
- (g) Consider the use of horizontal shading devices (for north facing windows) including eaves, verandahs, pergolas, awnings and external horizontal blinds to allow low winter sun whilst providing shade from high summer sun.
- (h) West facing windows can cause excess heat in summer. If suitable, minimise the size of east and west facing windows, or consider external vertical shading devices such as vertical blinds, blade walls and thick vegetation.
- (i) Shading elements are to be integrated into the overall elevation design.
- (j) Site specific controls apply to Hunterford Estate in Oatlands and Gilroy College Target Site (Refer to Appendix C— Precinct Plan Maps and Site Specific Controls).

SUBMISSION REQUIREMENT

- Shadow Diagram.

2.14.11. VENTILATION**OBJECTIVES**

- (i) *To maximise ventilation flows in dwellings.*
- (ii) *To minimise the filtering of cold or warm air through gaps in the construction of dwellings in accordance with Council's ESD objective 5.*

DEVELOPMENT CONTROLS

- (a) Consider ventilation in early design stages.
- (b) Consider prevailing breezes in relation to building orientation, window design and internal circulation.
- (c) Place windows to allow for cross ventilation.
- (d) Consider the installation of fans, roof vents, louvered windows and high-level windows for rooms or spaces where cooling rather than heating is the priority.
- (e) Windows should be lockable in a partly open position.
- (f) Provide security screen doors at dwelling entries.
- (g) Minimise air gaps by incorporating door and window seals.

2.14.12. LIGHTING**OBJECTIVE**

- (i) *To maximise the use of natural lighting and to minimise the energy consumption of developments in accordance with Council's ESD objective 5.*

DEVELOPMENT CONTROLS

- (a) The design should maximise the use of natural lighting through window placement and skylights.
- (b) Incorporate dimmers, motion detectors, automatic turn-off switches where appropriate.
- (c) Provide separate switches for special purpose lights.

2.14.13. ON-SITE SEWAGE MANAGEMENT

Residences in unsewered residential zones such as Wisemans Ferry, Glenorie, Kenthurst and Lower Portland will need to address on-site sewage management requirements in Appendix C of Part B Section 1 - Rural.

2.14.14. CAR PARKING AND VEHICULAR ACCESS**OBJECTIVES**

- (i) *To ensure dwellings have adequate areas of ingress and egress from the local road system and satisfactory on-site access in accordance with Council's ESD Objective 7.*
- (ii) *To provide sufficient and convenient parking for residents and visitors to the site.*
- (iii) *To ensure that adequate carparking is provided on-site so as to prevent inconvenience to residents and congestion in nearby streets in accordance with Council's ESD Objective 7.*

DEVELOPMENT CONTROLS

- (a) Car parking is to be provided in accordance with Part C Section 1 - Parking.
- (b) The location and design of driveways and parking areas should enable the opportunity for landscape screening.
- (c) Provision is to be made for convenient and safe access to car parking facilities.
- (d) At least one car parking spaces must be provided behind the front building line. Single garages must have minimum internal dimensions of 5.5m by 3.0m. Double garages must have minimum internal dimensions of 5.5m by 5.0m.
- (e) Site specific controls apply to land adjoining Heritage Park, at the corner of Old Windsor Road and Seven Hills Road, Baulkham Hills (Refer to Appendix C— Precinct Plan Maps and Site Specific Controls).

SUBMISSION REQUIREMENTS

- Plans showing proposed vehicular access and circulation and calculations, specifically relating to vehicular movement, turning circles, parking spaces, and driveway widths. The Australian Standard 2890.1 – Off Street Car Parking templates must be overlaid on the appropriate plans.

2.14.15. ACCESS AND SURVEILLANCE**OBJECTIVE**

- (i) *To ensure the needs of residents and visitors are considered with particular regard to access*

requirements, safety and security in accordance with Council's ESD Objective 7.

DEVELOPMENT CONTROLS

- (a) Site planning and dwelling design is to allow general observation of the street, the site and the approaches to the dwelling entry from the inside of each dwelling.
- (b) Access to dwellings is to be direct and without unnecessary barriers. For example, use ramps instead of stairs/steps, consider the height and length of handrails and eliminate changes in level between ground surfaces.
- (c) Stairs and ramps are to have reasonable gradients and non slip even surfaces. Refer to Australian Standard 1428.1 - 2001 Design for Access and Mobility and supplementary AS 1428.2 - 1992.

2.15. FENCING

Fencing may be exempt development under the State Environmental Planning Policy (Exempt and Complying Development Codes 2008). Where land is excluded from this State Environmental Planning Policy, the following applies.

Note: Additional controls relating to fencing on flood controlled land is detailed in Part C Section 6 – Flood Controlled Land of this DCP.

OBJECTIVES

- (i) *To ensure that fencing is of a high visual quality, compliments the character of the area and is compatible with the proposed development.*

DEVELOPMENT CONTROLS

- (a) Any boundary fencing shall be subject to the requirements of the Dividing Fences Act 1991.
- (b) Front fencing is to be consistent with the height, scale, and style of existing fencing in the street. Where there are no existing front fences, front fences are not supported.
- (c) Consideration should be given to Council's Safer by Design Guidelines, particularly in regards to natural surveillance, sightlines and anti-graffiti surfaces.
- (d) Where front fencing over 1.2 metres in height is proposed, this shall be of open style.

- (e) Any fencing in the front setback over 1.2m in height shall be setback from the front boundary a minimum of 500mm to allow opportunities for landscaping to soften the impact of the fence.
- (f) Consideration will be given to fencing on secondary road frontage setbacks, subject to there being no adverse affect on the immediate area and on traffic visibility and be of a design to incorporate features such as landscaping bays or a variation/combination of materials.
- (g) Side and rear boundary fencing should be a maximum of 1.8 metres in height.
- (h) Site specific fencing controls apply to land adjoining Heritage Park and at the corner of Old Windsor Road and Seven Hills Road, Baulkham Hills (Refer to Appendix C– Precinct Plan Maps and Site Specific Controls).

SUBMISSION REQUIREMENT

- Details of all fencing proposed for the site.

2.16. WASTE MANAGEMENT

2.16.1. STORAGE AND FACILITIES

OBJECTIVES

- (i) *To minimise the overall environmental impacts of waste.*
- (ii) *To maximise, through appropriate design, the opportunities to deal with domestic waste according to the Waste Hierarchy as given in Council's ESD objective 6.*
- (iii) *To provide, in accordance with Council's ESD Objective 6, domestic waste management systems that allow for ease of use by occupants and ease of service by collection contractors.*
- (iv) *To provide waste storage areas that are integrated with the design of the development.*
- (v) *To ensure minimum visual impact of the waste storage facilities.*
- (vi) *To assist in achieving Federal and State Government waste minimisation targets.*

DEVELOPMENT CONTROLS

- (a) Waste collection and separation facilities must be provided for each dwelling. Each dwelling should have a waste storage cupboard in the kitchen

capable of holding at least a single days waste, and be sufficient to enable separation of recyclable material.

- (b) Adequate storage for waste materials must be provided on site.
- (c) All waste storage areas must be screened from view from any adjoining property or public place.
- (d) Waste storage areas must be kept clean, tidy and free from offensive odours at all times.
- (e) Bin storage space is to be:
 - incorporated into the landscape design of each dwelling; and
 - adequate for one 240 litre garbage bin and one 240 litre recycling bin per dwelling.
- (f) Location of the bin storage space:
 - is to be convenient to the occupant(s) of the dwelling; and
 - must allow the bins to be wheeled to the street kerb over flat or ramped surfaces with a maximum grade of 7% and not over steps, landscape edging or gutters or through the dwelling.

2.16.2. WASTE MANAGEMENT PLANNING

OBJECTIVES

- (i) *To promote improved project management and to reduce the demand for waste disposal during demolition and construction in accordance with Council's ESD Objective 6.*
- (ii) *To maximise, re-use and recycle building/construction materials in accordance with Council's ESD Objective 6.*
- (iii) *To encourage building designs and construction techniques that will minimise waste generation in accordance with Council's ESD Objective 6.*
- (iv) *Minimise waste generation to landfill via the waste hierarchy in accordance with Councils ESD objective 6.*
- (v) *To assist in achieving Federal and State Government waste minimisation targets.*

A. DEMOLITION

DEVELOPMENT CONTROLS

- (a) Site operations should provide for planned work staging, at source separation, re-use and recycling

of materials and ensure appropriate storage and collection of waste.

- (b) Traditional comprehensive demolition should be replaced by a process of selective deconstruction and re-use of materials. Careful planning is also required for the correct removal and disposal of hazardous materials such as Asbestos.
- (c) Project management must seek firstly to re-use and then secondly to recycle solid waste materials either on or off site. Waste disposal to landfill must be minimised to those materials that are not re-useable or recyclable.
- (d) When separated, materials are to be kept uncontaminated to guarantee the highest possible re-use value.
- (e) Details of waste sorting areas and vehicular access are to be provided on plan drawings.

B. CONSTRUCTION

DEVELOPMENT CONTROLS

- (a) Avoid over-supply and waste of materials by careful assessment of quantities needed.
- (b) The use of prefabricated components may reduce waste.
- (c) Re-use of materials and use of recycled material is desirable where possible.
- (d) Site operations should provide for planned work staging, at source separation, re-use and recycling of materials and ensure appropriate storage and collection of waste.
- (e) All asbestos, hazardous and/or intractable wastes are to be disposed of in accordance with Workcover Authority and EPA requirements.

SUBMISSION REQUIREMENTS

- Waste Management Plan (WMP). Appendix A of The Hills DCP 2011 contains a template that can assist in the preparation of a WMP.

2.17. SERVICES

OBJECTIVE

- (i) *To ensure adequate provision is made for services for each dwelling including garbage, sewer, water, drainage, electricity and telecommunications.*

DEVELOPMENT CONTROLS

- (a) Unless it is satisfied that adequate provision has been made for the supply of water and disposal of sewage, Council may not grant consent to the development.
- (b) All water, gas, power and communication services are to be located underground.

2.18. SWIMMING POOLS**OBJECTIVES**

- (i) *To ensure swimming pools are located so that they are not visually prominent from the street.*
- (ii) *To ensure that the amenity of adjoining owners is considered when siting and designing swimming pools.*

DEVELOPMENT CONTROLS

- (a) Swimming pools are not to be located within the front or secondary boundary setback.
- (b) Swimming pools are required to have a minimum setback of 1m from the waterline to side and rear boundaries.
- (c) Swimming pool filters are to be placed at a location away from dwellings on adjoining properties and enclosed in soundproof structures.

3. INFORMATION REQUIRED FOR A DEVELOPMENT APPLICATION**3.1 DWELLINGS AND ADDITIONS / ALTERATIONS TO AN EXISTING DWELLING**

The following plans and details are required for new dwellings or alterations/additions to existing dwellings:-

COMPLETED APPLICATION FORM

You must have the written consent of all current owners.

SITE ANALYSIS**SITE PLANS****ARCHITECTURAL PLANS**

- Floor Plan (Existing and Proposed)
- Elevations

- Schedule of External Materials

LANDSCAPE PLAN**STATEMENT OF ENVIRONMENTAL EFFECTS (SEE)****BASIX CERTIFICATE****WASTE MANAGEMENT PLAN**

Refer to section 2.16 and Appendix A of The Hills DCP 2011.

SEDIMENT EROSION CONTROL PLAN

Refer section 2.9 of this Section of the DCP.

Note. Refer to Part A – Introduction section 4.0 for general lodgement requirements and detailed requirements to be included in each of the above documentation.

3.2 SUBDIVISION APPLICATIONS / SMALL LOT HOUSING UNDER CLAUSE 4.1B**COMPLETED APPLICATION FORM**

You must have the written consent of all current owners.

SITE ANALYSIS**PROPOSED LAYOUT PLANS (10 Copies)**

These plans should:

- Be produced in ink and be not less than A4 and no greater than A1 in size;
- Be of suitable scale (1:500 or 1:000 wherever possible). In cases where there is more than 1 sheet an overall plan at 1:4000 should be submitted to illustrate the overall layout;
- Include existing boundaries and lot or portion numbers in broken lines/lettering;
- Show proposed boundary lines;
- Show proposed dimensions and areas;
- Show proposed lots consecutively numbered and include any easements and restricted development areas;
- Show widths of all existing roads;
- Show footpath and pavement widths of all proposed roads, proposed road widening and corner splays;
- Show all proposed roads consecutively numbered;
- Show the position of all intersecting adjoining property boundaries, existing roads or property boundaries of land on the opposite side of all existing roads adjoining the site;

- All vegetation and trees on the subject property (separate plan);
- Contours in one metre intervals at Australian Height Datum;
- Show all existing buildings, watercourses, drains, dams, swamps, easements, right-of-ways, structures or permanent improvements; and
- Show all services.

Community Title Subdivision

In addition to the plans required above, a Draft Management Statement and Development Contract must be provided.

Strata Title Subdivision

For Strata Title Subdivision the plans required must:

- Be produced in ink and be not less than A4 and no greater than A1 in size;
- Be of suitable scale (1:500 or 1:000 wherever possible). In cases where there is more than 1 sheet an overall plan at 1:4000 should be submitted to illustrate the overall layout;
- Show proposed boundary lines;
- Show proposed dimensions and areas; and
- Show proposed lots consecutively numbered and include any easements and restricted development areas.

Additional Reports/Plans

The following reports may be required depending on the nature of the site and application. Advice will be provided at pre-lodgement stage as to which of the following are required with the application:

- Flora and Fauna Report
- Soil Analysis Report
- Heritage Report
- Bushfire Report
- Tree Management Details
- Flood Study
- Landscape Plan
- Streetscape Plan
- Solar and Siting Plan

Note. Refer to Part A – Introduction section 4.0 for general lodgement requirements and detailed requirements to be included in each of the above documentation.

4. REFERENCES

Australian Council of Business Design Professionals, (2000) BDP Environment Design Guide

Baulkham Hills Shire Council, 2002 Making Access For All.

Donovan I, Cameron C, and Coombes P (1999). Water Sensitive Urban Development: Model Planning Provisions. Lake Macquarie City Council, Speers Point, on behalf of the Lower Hunter and Central Coast Environmental Management Strategy.

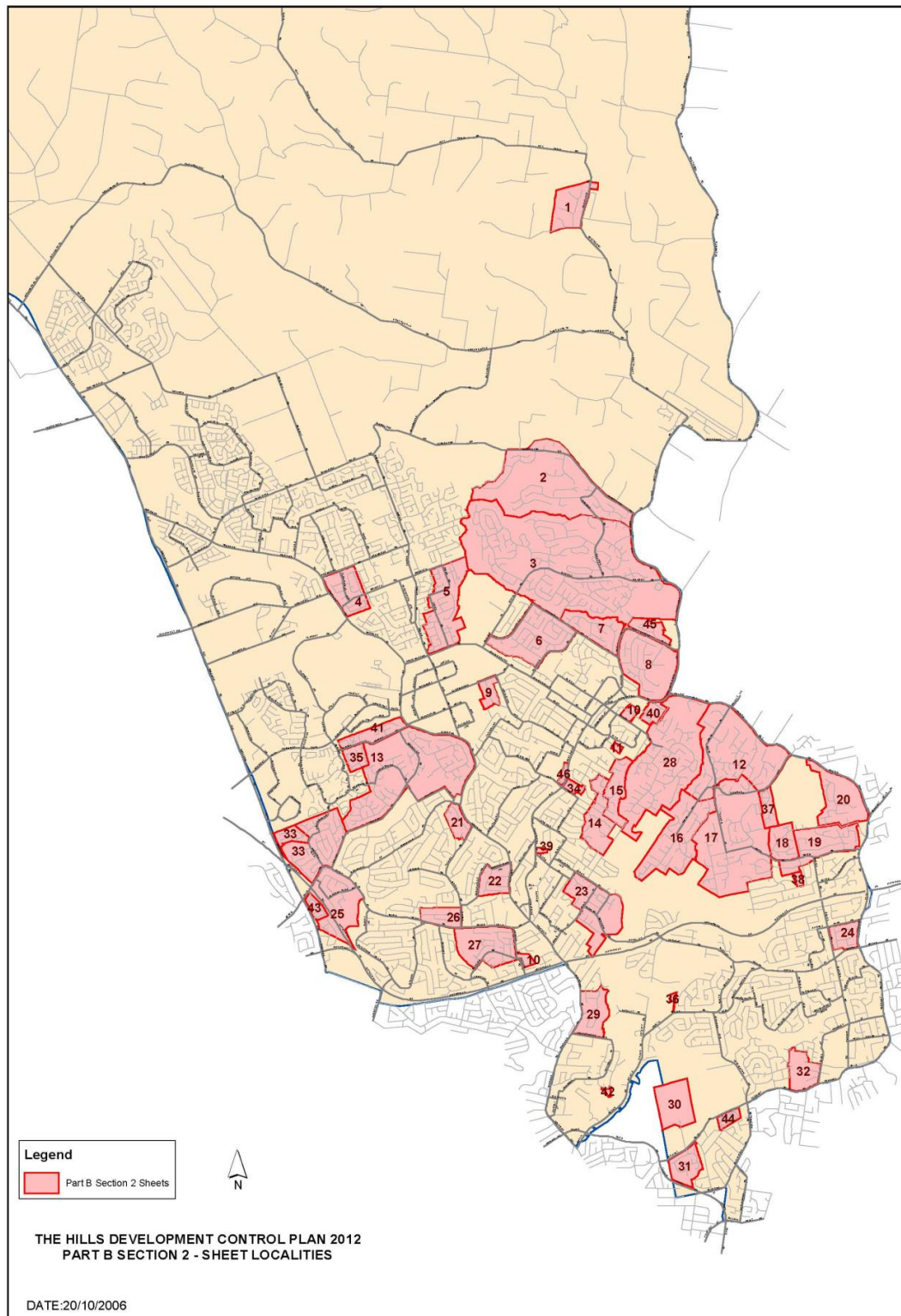
Faculty of the Constructed Environment, RMIT University et al, Australia's Guide to Good Design – Residential, Prepared on behalf of the National Office for Local Government.

APPENDIX A - DEVELOPMENT CONTROLS CALCULATION SHEET

Issue		Development control	Proposed development	Complies
1.	Development Control Map Sheets	Refer to Site Specific DCP Map sheets		
2.	Site Specific Development Control Plans			
3.	Restricted Development Areas	Refer to Site Specific DCP Map Sheets and section 2.3.		
4.	Site Analysis	Refer to section 2.4		
5.	Streetscape and Character	Refer to section 2.5		
6.	Bush Fire Hazard Management	Refer to section 2.6		
7.	Geotechnical Site Stability	Refer to section 2.7		
8.	Bushland and Biodiversity	Refer to section 2.8		
9.	Erosion and Sediment Control	Refer to section 2.9		
10.	Heritage	Refer to Part C Section 4 – Heritage		
11.	Signage	Refer to Part C Section 2 - Signage		
12.	Stormwater Management	Refer to section 2.12 and Appendix B of The Hills DCP 2012		
13.	Minimum Lot Size	Refer to section 2.13.2		
14.	Building Platform	20 metres x 15 metres		
15.	Access and Safety	Refer to section 2.13.4		
16.	Developer Contributions	Refer to Council's Developer Contributions Plans regarding applicable plan and amount payable.		
17.	Setbacks: ➤ primary setback ➤ width of dwelling ➤ In front of garages ➤ Corner allotments (secondary setback) for second road frontages ➤ Battle axe allotments	Refer to section 2.14.1		
18.	Site Coverage:	Refer to section 2.14.2		
19.	Building Height	Refer to section 2.14.3		
20.	Open Space: ➤ Landscaped area for Residential ➤ Private Open Space	Refer to section 2.14.5		

Issue		Development control	Proposed development	Complies
21.	Landscaping	Refer to Part C Section 3 - Landscaping		
22.	Dwelling Design and Construction	Refer to section 2.14.6		
23.	Cut and Fill	Refer to section 2.14.7		
24.	Building Materials	Refer to section 2.14.8		
25.	Privacy	Refer to section 2.14.9		
26.	Solar Access	Refer to section 2.14.10		
27.	Ventilation	Refer to section 2.14.11		
28.	Insulation and Thermal Mass	Refer to section 2.14		
29.	Energy Efficiency Hot water system	Refer to section 2.14		
30.	On-site Sewage Management:	Refer to Appendix C of Part B Section 1 – Rural.		
31.	Car parking ➤ Single Garage ➤ Double Garage	At least one car parking space provided behind the building line. ➤ Min internal dimension 5.5 metres x 3 metres ➤ Min internal dimension 5.5 metres x 5 metres		
32.	Surveillance			
33.	Fencing	Maximum height of 1.8 metres		
33.	Waste Management	Refer to section 2.16		
34.	Services	Refer to section 2.17		
35.	Swimming Pools	➤ Not in front of secondary boundary setback ➤ Minimum one metre setback from side and rear boundaries Refer to section 2.18.		

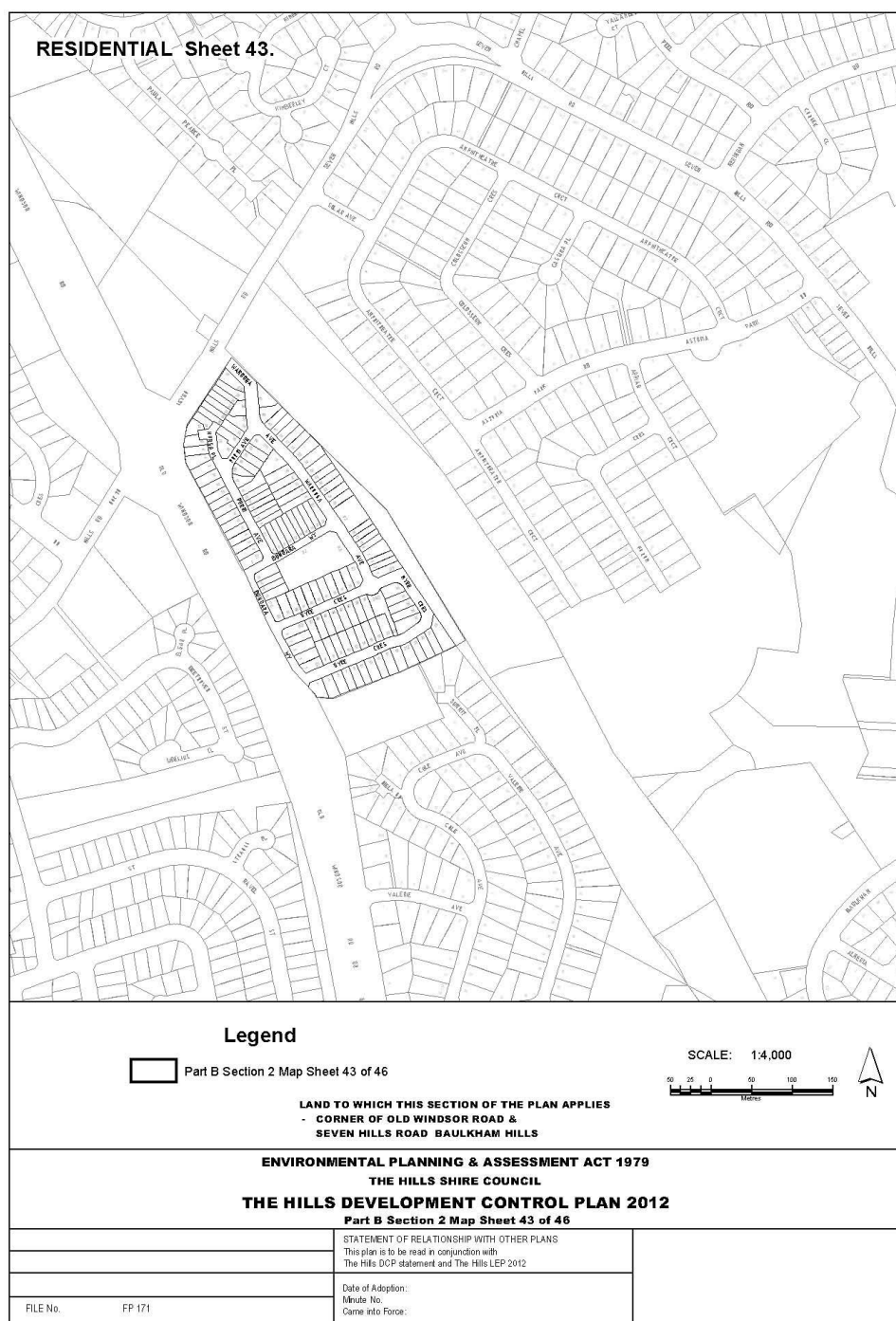
APPENDIX B - RESIDENTIAL DCP MAP SHEET GUIDE



APPENDIX C - PRECINCT PLAN MAPS AND SITE SPECIFIC CONTROLS

C.1. CORNER OLD WINDSOR ROAD AND SEVEN HILLS ROAD, BAULKHAM HILLS

C.1.1 LAND TO WHICH THIS SECTION OF THE PLAN APPLIES



C.1.2. BUILDING PLATFORM AND VIEWS**OBJECTIVES**

- (i) *Dwellings should be designed and/or positioned on site to maximise views.*
- (ii) *Views of the estate from public places such as the proposed freeway, open space and surrounding roads should be taken into consideration during design stage.*

DEVELOPMENT CONTROL

- (a) Dwellings shall be designed to maximise existing views to the east and south.

C.1.3 BUILDING SETBACKS**OBJECTIVES**

- (i) *To create an attractive, interesting and pleasant streetscape through the siting of buildings and landscaping.*
- (ii) *To provide privacy for residents and neighbours, to minimise overshadowing and to protect the visual quality of existing open space areas.*

DEVELOPMENT CONTROLS

- (a) **Front Setbacks:** In cases where stacked car parking is required in front of garages, the minimum setback shall be 5.5 metres to the garage.
- (b) **Floor Level:** Where a building setback to a public road or public place is less than 4 metres, the floor level in any habitable room of the building shall be at least 600mm higher than the finished level of the public road or public place.
- (c) **Side Setbacks:** Side setbacks for dwellings should be 1.0 metre.
- (d) **Single storey side or rear walls** without windows or any other opening may be built on the boundary providing that there is no unreasonable adverse impact on the privacy or solar access of adjoining properties.
- (e) **Rear Setbacks** for dwellings adjacent to major roadways should be at least 5 metres.

C.1.4 CAR PARKING AND VEHICULAR ACCESS**OBJECTIVES**

- (i) *To provide convenient and safe parking for residents, visitors and service vehicles.*
- (ii) *To encourage access design to form part of the overall landscape design.*
- (iii) *To ensure vehicular and pedestrian safety.*
- (iv) *To allow the free flow of traffic in streets of the estate.*

DEVELOPMENT CONTROLS

- (a) Two on-site car parking spaces per dwelling should be provided.
- (b) One space shall be a garage, located within stipulated building setbacks.
- (c) The second car parking space may be provided as stack parking between the garage and the property boundary, provided the garage is setback at least 5.5 metres from the property boundary.

C.1.5 FENCING**DEVELOPMENT CONTROLS**

- (a) Fencing materials must be chosen to soften and enhance the built form of the estate and have regard to the need for noise attenuation measures. Excessive straight runs of fencing should be avoided where possible.
- (b) Any courtyard or private open space area may be required to be enclosed by at least a 1.8 metre high fence to maximise privacy.
- (c) Fencing should meet the requirements of residents for security, aural and visual privacy and landscaping.
- (d) Fencing shall be located along all perimeter boundaries of the site with screen landscaping to enhance the appearance of the estate.

C.2. HUNTERFORD ESTATE, OATLANDS**C.2.1 LAND TO WHICH THIS SECTION OF THE PLAN APPLIES**

C.2.2. STREETScape AND CHARACTER**DEVELOPMENT CONTROLS**

- (a) The design of buildings should reflect and complement the streetscape and avoid monotonous or symmetrical design.
- (b) Development should contribute to an attractive residential environment with clear character and identity.
- (c) Variation in the location and height of buildings along streets through varied building setbacks and heights.
- (d) Other quantitative controls relating to streetscape are those established by this plan relating to landscaping, height and building setbacks.

C.2.3 BUILDING PLATFORM AND VIEWS**DEVELOPMENT CONTROLS**

- (a) The site layout should take into account the views available from the southeast corner of the site.
- (b) Dwelling orientation should take advantage of views.
- (c) Building form and design should where possible allow for view sharing.

C.2.4 BUILDING SETBACKS**DEVELOPMENT CONTROLS****Front**

- (a) The minimum front setback shall be 7.5 metres from the adjusted boundary following excision of the land required by the RMS, for all buildings fronting Pennant Hills Road, providing noise attenuation measures are put in place to reduce traffic noise in accordance with EPA Standards for the future inhabitants of the development. A 3 metre setback shall be provided for all other roads in the development. If a stacked car parking space is required to meet the car parking requirements the setback to the garage is to a minimum of 5.5 metres.

Side and Rear Setbacks

- (a) The minimum setback shall be 4.5 metres to the boundary of an existing adjoining property for one storey developments, and 6 metres to the boundary of an adjoining property for two storey developments, except for that part of the site that adjoins properties Lot 9-13 in DP 229301 Regency Court where the minimum setback shall be 8.5 metres. Zero setbacks are permissible as part of the small lot housing development (Refer to Clause 4.1B of The Hills LEP 2012).
- (b) Residential flat buildings should have a minimum side setback of 3 metres and should have due regard for overlooking and overshadowing of adjacent dwellings within the integrated scheme. The side setback will be increased to reduce any impact of overlooking and overshadowing on adjacent dwellings within the small lot housing scheme (Refer to Clause 4.1B of The Hills LEP 2012).
- (c) Where front verandahs/patios are provided, they may project forward of the building line to within 2 metres of the front property boundary.
- (d) With respect to roads and adjoining properties, up to 25% variation in setback may be considered where there will be no detrimental impact on the streetscape and there is no significant overlooking or overshadowing of adjoining properties.

C.2.5 LANDSCAPING AND OPEN SPACE**DEVELOPMENT CONTROLS**

- (a) Trees and other plantings should be used to achieve an improved level of privacy between units while allowing casual surveillance for safety.
- (b) High quality landscape design which includes significant tree planting, well defined entrances, play areas and kerbside planting are considered important elements for the creation of a good urban setting for urban housing, and should be encouraged.
- (c) Landscaping design should incorporate species indigenous to the area and those which will not cause damage to adjacent buildings or driveways.
- (d) Fencing in or adjacent to communal open space areas is to be minimised. Where provided, such fencing is to be of a height, design and

construction which reflects the landscape character of the site.

Reference should be made to the relevant category of development listed below.

1. For all dwellings (except residential flat buildings) with a site density of 40 dwellings per ha or less.

- (a) The minimum private open space area required is 20% of the site area, with a minimum dimension of 3 metres.
- (b) The private open space should have a maximum gradient of 1 in 10 metres.
- (c) Screening (minimum 1.8 metres) should be provided where necessary to ensure privacy to users of the open space.

2. For all dwellings (except residential flat buildings) with a site density more than 40 dwellings per ha

- (a) Dwellings should be provided with a total minimum area of 35m² (minimum 20% of the site area for site densities greater than 60 dwellings per ha), with a minimum dimension of 2.5 metres.
- (b) The private open space should have a maximum gradient of 1 in 10 metres.
- (c) One part of the private open space should comprise an area of 16m², with a minimum dimension of 4 metres and which is directly accessible from a living area of the dwelling.
- (d) Screening (minimum 1.8 metres) should be provided where necessary to ensure privacy to users of the open space.

C.2.6 DWELLING DESIGN AND CONSTRUCTION

DEVELOPMENT CONTROLS

- (a) Pitched roofs are the preferred choice of roof form for the development, particularly for dwellings adjoining the existing residential area.
- (b) Dwellings should be orientated to maximise solar access and enjoy views.

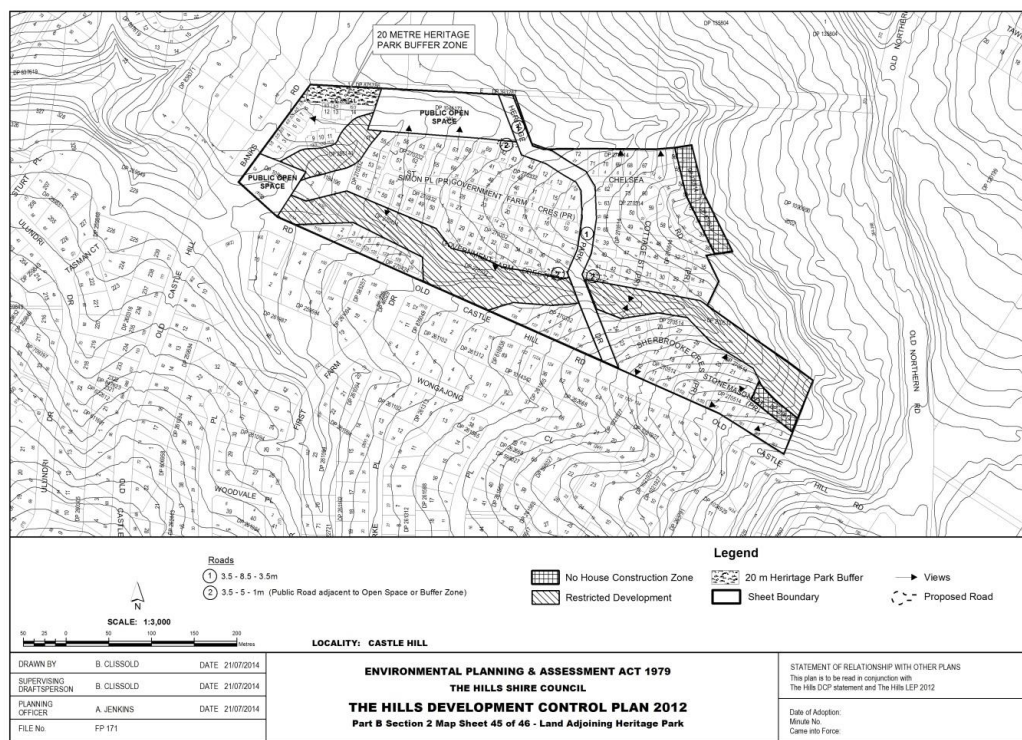
C.2.7 PRIVACY

DEVELOPMENT CONTROLS

- (a) Outlooks from windows of habitable rooms, balconies, terraces and the like should be obscured or screened where a direct view is available into the principal area of private open space of an existing dwelling.
- (b) If screening is used, the view of the area overlooked must be restricted within 9 metres and beyond a 45° angle from the plane of the wall containing the opening, measured from a height of 1.7 metres above floor level.
- (c) No screening is required where windows are in non-habitable rooms. Windows in bathrooms, toilets, laundries and storage rooms which have a direct view into adjoining properties should have either translucent glazing or sill heights of at least 1.7 metres.
- (d) Building designs which mirror the reverse on adjoining lots, so that windows are directly opposite each other, should be avoided.
- (e) Any dwellings located close to Pennant Hills Road or affected by traffic noise from Pennant Hills Road are to comply with the criteria for road and traffic noise contained in the publication "Environmental Criteria for Road Traffic Noise", prepared by the Environmental Protection Agency dated May 1999.
- (f) Achievement of LA10 (20 minute) noise level or less than 50d BA in habitable rooms with windows and doors "normally" open (i.e. at least 50 % of the flow area of the room), and less than 50d BA with the windows closed.
- (g) An acceptable acoustic environment can be achieved within noise sensitive rooms and also at outdoor recreation space by means of correct building orientation and height, appropriate internal layout and increase in the mass of the external facade.
- (h) Wherever possible, bedrooms of one dwelling should not share walls with living rooms or garages of adjacent dwellings.

C.3. LAND ADJOINING HERITAGE PARK

C.3.1 LAND TO WHICH THIS SECTION OF THE PLAN APPLIES



C.3.2. RESTRICTED DEVELOPMENT AREAS

OBJECTIVES

- To ensure the road design and the siting and orientation of buildings allows for adequate surveillance of the Restricted Development Areas and public or common open space land.
- To encourage, via building design, direct views to the Restricted Development Areas, and open space areas from primary living areas and private open space area.

DEVELOPMENT CONTROLS

- Driveways or private access roads shall be located adjacent to the boundaries of the open space or restricted development areas to ensure natural surveillance and ease of access.
- To promote the surveillance of RDA and open space areas the only fencing permitted along the

RDA or open space boundaries will be transparent chain mesh or pool type fencing, or the like, to a maximum height of 1.5 metres.

- Individual dwellings should be sited and designed to ensure direct views are available from private living areas to the restricted development areas, open space areas and road ways.

C.3.3 BUILDING PLATFORM AND VIEWS

OBJECTIVES

- To maintain the views of residents into open space and restricted development areas.
- To ensure development of the subject land has minimal impact on the views of residents and visitors within the locality.

DEVELOPMENT CONTROLS

- Landscaping and building design and siting should have regard for the topography to ensure the impact on the views from:

- existing residences;
 - viewing platforms along Old Northern Road identified in the Heritage and Visual analysis prepared by Mayne – Wilson & Associates, March 1999; and
 - the Heritage Park site towards the subject land is minimised by ensuring the built form does not dominate the views.
- (b) Building siting and design, including the size, shape and position of windows should, where possible, provide for living areas to face the open space or restricted development areas and significant views.
- (c) For development on land adjoining Heritage Park, siting and design of buildings, in particular any development adjacent to the southern boundary of the Heritage Park site, should consider the objectives of the Bushfire Hazard Management Practices outlined in the Castle Hill Heritage Park – Plan of Management.

C.3.4 SITE COVERAGE

OBJECTIVES

- (i) *To protect the visual amenity of existing and future residents of the locality.*
- (ii) *To provide open space this enhances the buildings.*
- (iii) *To provide adequate areas within which landscaping can be provided to ensure views of the subject area, particularly from vantage points within Heritage Park, are not dominated by built structures.*
- (iv) *To minimise the extent of impervious area to assist in the management of stormwater.*

DEVELOPMENT CONTROL

- (a) A maximum 30% site coverage will be permitted for dwellings. Except where small lot housing pursuant to Clause 4.1B of The Hills Local Environmental Plan 2012 is proposed, the maximum site coverage is 60%.

C.3.5 BUILDING SETBACKS

The following building setback controls apply to small lot housing (Refer to Clause 4.1B of The Hills LEP) in the precinct known as Land adjoining Heritage Park.

OBJECTIVES

- (i) *To create an attractive, interesting and pleasant streetscape through the siting of buildings and provision of landscaping.*
- (ii) *To provide privacy for existing and future residents to minimise overshadowing and to protect the visual quality of open space areas.*
- (iii) *To maintain an adequate buffer between dwellings and nearby environmentally sensitive areas.*

DEVELOPMENT CONTROLS

- (a) The minimum building setback from Old Castle Hill Road is 6 metres.
- (b) The minimum building setback from any open space boundary or restricted development area boundary is 6 metres.
- (c) With respect to building setbacks from internal driveways and/ or private access roads the development on the subject land will be required to demonstrate:
 - building setbacks that progressively increase as wall heights increase to reduce bulk and overshadowing;
 - that an adequate area is provided between the garage of any dwelling and the driveway or private access road adjacent to it to enable a motor vehicle to be parked without impeding the use of the driveway or private access road. In this regard a setback of 5.5 metres is suggested.
- (d) To ensure privacy and solar access, buildings facing each other across internal driveways or private access roads shall not be erected less than:
 - 6 metres apart in the case of single storey buildings; and 9 metres apart in the case where 1 or more of the buildings is 2 storeys.

C.3.6 DWELLING DESIGN AND CONSTRUCTION

OBJECTIVE

- (i) *To ensure that the appearance of new development is of high visual quality, enhances the streetscape and complements surrounding development.*

DEVELOPMENT CONTROLS

- (a) Dwellings must be designed so that walls facing Old Castle Hill Road contain windows from habitable rooms to over look the street.
- (b) Where a carport or garage is to face the street, it is to be no more than 6 metres in width nor extend across more than 50% of the property frontage, whichever is lesser. The design, materials and colours must be consistent with the dwelling.

C.3.7 CAR PARKING AND VEHICULAR ACCESS**OBJECTIVES**

- (i) *To provide sufficient and convenient parking for residents and visitors so as to maintain the amenity of adjoining properties and the efficiency of the road network.*
- (ii) *To ensure residential developments have adequate areas of ingress and egress from the local road system and satisfactory on-site access.*
- (iii) *To ensure that non-vehicular access has been integrated into the road and open space areas.*

DEVELOPMENT CONTROLS

- (a) Site access is to be located and designed in accordance with the criteria contained within the Roads and Maritime Services Guide to Traffic Generating Developments and Part C Section 1 - Parking.
- (b) A primary access road to the Heritage Park and suggested locations for access roads are shown on the map
- (c) A minimum of two undercover car parking spaces are required for each dwelling.
- (d) Adequate footpath space must be provided throughout the site, free of any obstructions and vehicular movements.
Road surfaces must not be constructed of a material that prohibits the use of bicycles.
- (e) A total of 2 visitor spaces must be provided for each 5 dwellings within an integrated housing development.
- (f) Visitor car parking spaces shall be dispersed throughout the site and not be concentrated in one part of the site.

- (g) Visitor spaces are to be made accessible at all times and are not to be located behind security gates.
- (h) Parking space and vehicle manoeuvring areas shall be designed in accordance with Part C Section 1 – Parking.
- (i) Any car parking area shall be landscaped in accordance with Part C Section 3 – Landscaping.

C.3.8 FENCING**DEVELOPMENT CONTROLS**

- (a) Fences along Old Castle Hill Road greater than 1 metre in height shall be of similar design and colour to that used in the dwelling and be set back by 750mm to allow for landscaping opportunities between the fence and the footpath.
- (b) Fencing, landscaping and building structures shall not impact on the visibility and movement of pedestrian and vehicular traffic.

C.4. GILROY COLLEGE TARGET SITE

C.4.1 LAND TO WHICH THIS SECTION OF THE PLAN APPLIES



C.4.2. STREETScape AND CHARACTER

DEVELOPMENT CONTROLS

- (a) Building materials, colours, textures and styles should adopt design clues, and exhibit a strong relationship, with the predominant style, character, materials, colours and textures of residential buildings within the immediate vicinity of the proposed development.
- (b) Compatibility of style and character of the proposed development with that of the predominant style and character of surrounding residential buildings should be demonstrated within the Development Application.

Roof Form

- (c) Roofs are to be pitched at a slope which allow their habitable use and which is compatible with the pitch of roofs present on surrounding structures.
- (d) Habitable use of roof space is encouraged in all residential development. Roof space is not counted as an additional storey for the purpose of this Section of the DCP.
- (e) Eaves overhang should be considered in order to provide weather protection to walls.
- (f) Roof form features such as hips, gables, chimneys etc are encouraged in order to give greater visual interest and break up the bulk and mass of the roofscape.
- (g) There should be a defined palette of roof colours and material to be utilised throughout the target site area.
- (h) Roofs should be of a colour and material which is compatible with other buildings in the locality, and the surrounding urban context.

Massing and Fenestration

- (i) The massing of buildings on the site should serve to garment larger building forms into more human scaled components, in both vertical and horizontal planes. Development of the site will need to demonstrate the manner in which the following criteria have been addressed:
 - Building facades are to exhibit a clear expression of “base”, “middle” and “top” components.
 - Building facades are to be articulated and fragmented. They are to utilise building form,

the play of light and shade, solid and void, and a variety of materials and elements in order to achieve visual interest and supportive relationship with the scale of pedestrians experiencing the urban environment both inside and outside the site.

- The horizontal bulk of buildings are to be downplayed through the use of strong vertical elements, particularly in cases where long walls will address the street.
- Windows are to be vertical in proportion in order to reduce the apparent bulk of buildings.

Building Appearance

- (j) The appearance of housing across the site should be coordinated such that there is a reasonable level of individual variety, within the context of achieving a compatible relationship between all buildings. There should be a mix of building forms.
- (k) All new buildings must consider and respond supportively to buildings located in adjacent positions, as well as across the street. Consistency between ridge, eave and opening heights are important in this respect.

Colours and Materials

- (l) Building material and colours selected and utilised on the site are to be coordinated throughout the site and are to be compatible with the heritage structures currently, or formerly, located on the site, and adjoining building. Generally, building of masonry and/or render construction with light colours of a neutral tone are preferred.

External Walls

- (m) External brick walls must not exceed more than 12 metres in length or breadth unless a return, recessed balcony or some other method is adopted to articulate the wall.
- (n) Common walls between units should be of cavity or masonry construction of at least 0.23 metre thickness and shall be taken from ground floor to roofline.
- (o) All side balconies should be recessed or otherwise designed to prevent the appearance of “attachment” to the side walls.

General Controls

- (p) All public spaces, building entries, car parks and internal access ways should be well lit at night and easy to navigate.
- (q) Building design should ensure that opportunities for casual surveillance are maximised and no opportunities provided for personal concealment.
- (r) Front fences or walls should be integrated with the streetscape and compliment building design.
- (s) Internal access ways should be designed to minimise the visual impact of parking and driveway areas.
- (t) Walls, blank facades, car ports and garages should not dominate the streetscape.
- (u) A formal entry should be provided to each dwelling or group of dwellings and should directly address and be visible from the street or internal site access way.
- (v) Lighting and directional signage should be provided to all pedestrian paths, car parking areas, building entries and public spaces.
- (w) Front fences or walls that do not enclose the principal private open space area of a dwelling should be no higher than 1.2 metres. This may be increased to 1.8 metres provided the design of the fence or wall incorporates opening or other design elements that maintain at least 40% transparency through the fence or wall.
- (x) All fencing or walls facing Old Northern Road or Excelsior Avenue should be constructed of masonry with similar colours and textures of, and shall be compatible with, the design and colours of the building.
- (y) Garage doors or carports facing the street or internal access way should have a maximum width of 6.0 metres per dwelling or a maximum of 50% of the length of the building wall, whichever is the greater.

Street Tree Planting

Refer to Part C Section 3 – Landscaping.

Lighting

- (z) Lighting should be provided to improve the level of safety within all streets. Light pole and luminaries shall be of a style, colour and form compatible with the context of the site and the style, colour and form of other urban elements.

- (aa) Light poles should be compatible with the pedestrian scale by virtue of their height and relationship to street dimensions.
- (bb) Light poles should be evenly spaced and contribute to establishing a regular pattern and rhythm in the street. Spacing of light poles is to be coordinated with the spacing of street trees.
- (cc) A strategy for lighting public spaces should be developed in conjunction with Council and will address the full range of issues including light type, appearance and spacing, as well as achievement of the relevant standards for acceptable ambient lux levels in public streets and spaces.

Services

- (dd) All services are to be located below ground, both within streets and between streets and individual dwellings.
- (ee) All principal services are to be provided in accordance with the requirement of the responsible authority.

Front Boundary Fencing

- (ff) The choice of fencing is to enhance an image/perception of quality and provide appropriate levels of privacy. Front fences are also to provide a suitable transition between the public domain and semi-public areas located within individual allotments.
- (gg) High front fences which are not transparent are not encouraged. The following standards will apply:
 - The option of no front fence is encouraged;
 - Front fences must not exceed 1.2 metres from ground level (excluding piers);
 - Front fences must be highly transparent; and
 - Side and rear fencing should be no higher than 1.8 metres. They should provide an adequate level of privacy to private open spaces and should be consistent with building design and where visible from the street.

Street Numbers

- (hh) All street numbers must be clearly visible from the principal street frontage.

Telecommunications Facilities

Part B Section 2

Residential

- (ii) Telecommunications facilities are to be located such that they do not detract from the aesthetic appeal of the neighbourhood or adversely impact on the visual amenity of neighbours.

Antennae

- (jj) Antennas are not to be located on the front façade of any building and must not extend above the uppermost ridge line of a building.
- (kk) A maximum of one antenna is permitted per building.

Cabling

- (ll) All cabling, for the purposes of pay TV etc, must be located below ground.

Satellite Dishes

- (mm) A maximum of one satellite dish is permitted per building. Satellite dishes are to be located below the ridgeline (or parapet) of the roof. No satellite dish is to be located on the front façade of a building, or be visible from a public street.

C.4.3 BUILDING SETBACKS**OBJECTIVES**

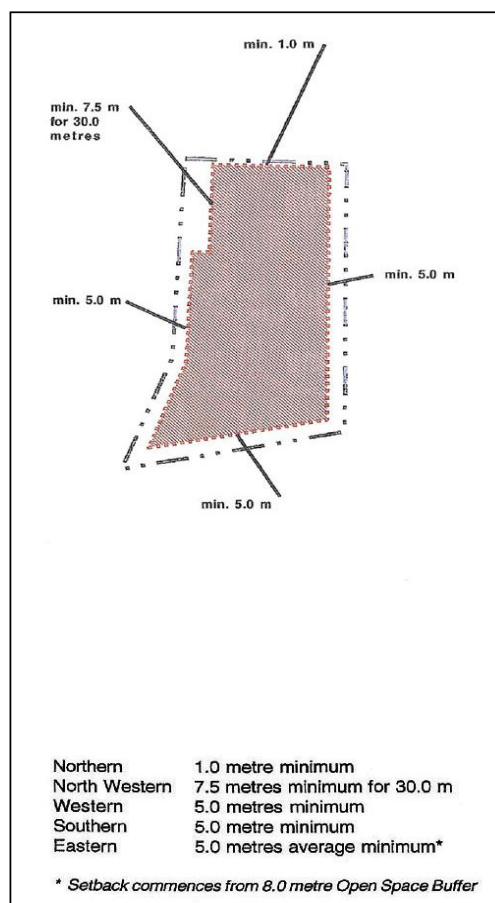
- (i) To maintain and improve the character and streetscape qualities of Excelsior Avenue by reinforcing existing street setbacks within proposed new development.
- (ii) To provide setbacks that compliment the setting which allow flexibility in siting of buildings and allow for landscaping and open space around new building.
- (iii) Provide privacy for future residents and neighbours.
- (iv) Minimise overshadowing, and protect visual quality of proposed open space areas and the public realms of Old Northern Road and Excelsior Avenue.

DEVELOPMENT CONTROLS

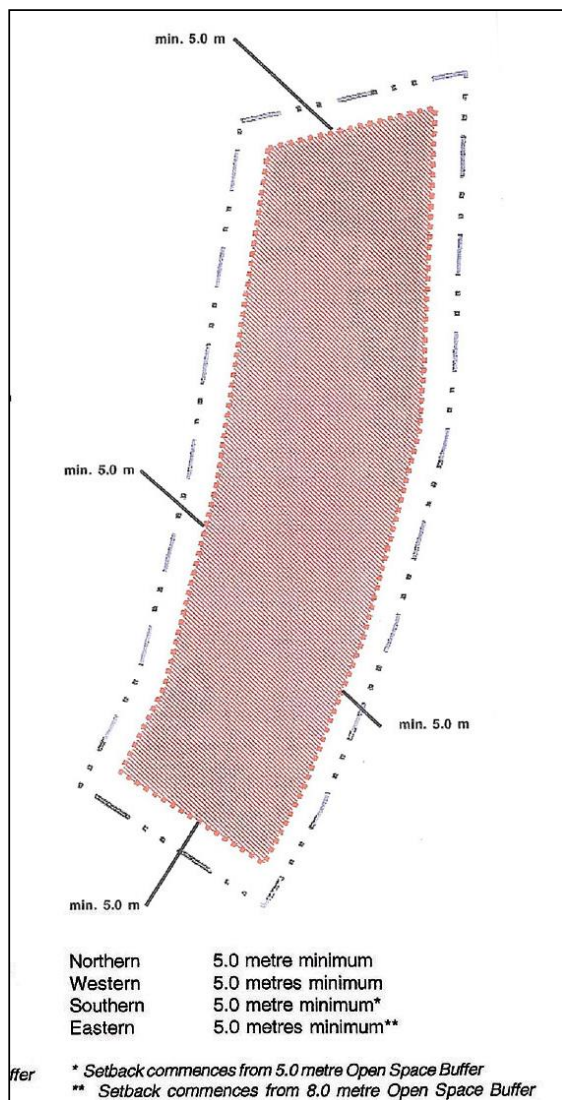
- (a) Setbacks shall provide sufficient area for landscaping to compliment building form.
- (b) Side and rear setbacks are to be proportioned to the slope of the site, having regard to the height

and relationship of the building on adjoining properties.

- (c) The setbacks of proposed buildings are to minimise any adverse impacts such as overshadowing and privacy on to adjacent and adjoining properties.
- (d) Building setbacks shall be articulated in plan and section to introduce visual interest and reduce monotonous building walls.
- (e) Zero side boundary setbacks may be permissible where it can be demonstrated that there is no adverse impact upon the residential amenity of adjoining development.
- (f) Development shall be setback a minimum of 5 metres from the open space/landscape buffer adjoining the Old Northern Road and Excelsior Avenue.
- (g) The minimum building setback shall be in accordance with the Figures below.



North Precinct Buildable Area and Setbacks



South Precinct Buildable Area and Setbacks

C.4.4 LANDSCAPE AND OPEN SPACE

OBJECTIVES

- (i) To provide open space for recreation and for use by the future occupants of the new buildings.
- (ii) To enhance the quality of the built environment by providing opportunities for landscaping.
- (iii) To fully integrate the landscape design as part of the overall development of the site.
- (iv) To integrate the landscape design with the design of the future residential development.
- (v) To protect and enhance the green gardenesque of the Shire.

- (vi) To assist in developing a common landscape theme for the estate.
- (vii) To protect existing landscape features.
- (viii) To provide open space this enhances the buildings and streetscape.
- (ix) To enhance the quality of the built environment by providing for landscaping.
- (x) To provide for privacy and shade.
- (xi) To retain the majority of existing significant mature vegetation in any development.
- (xii) To ensure that each dwelling is provided with useable private open space to meet reasonable requirements for outdoor activities, privacy, access and landscaping.
- (xiii) To enhance the quality of the built environment by providing for landscaping.

DEVELOPMENT CONTROLS

- (a) Private and common open space shall meet user requirements for privacy and access.
- (b) Each dwelling shall provide an area of useable private open space, or private courtyard area, which has direct private access from the dwelling.
- (c) Areas(s) of communal open space shall be provided for the recreational needs of the future residents.
- (d) The location of all open space areas shall have regard to such requirements as solar access, outlook, privacy and the location of adjoining dwellings.
- (e) Each dwelling shall be provided with one contiguous area of private open space equal to 50% of the floor area of the dwelling.
- (f) Private open space areas should be contiguous to the dwelling for which it is provided and have minimum useable area of 5 metres by 5 metres.
- (g) The principal private open space area of a dwelling shall be enclosed with a wall or fence with an effective height of 1.8 metres from finished ground level.
- (h) Notwithstanding Control (c) above any fencing addressing/facing a common area or public space shall maintain 50% transparency and constitute only 75% of the dwelling's private open space frontage to the common area or public space.

- (i) Fencing enclosing private open space facing a common area or public space shall be constructed in masonry similar to the type and colour to be used in the building.
- (j) The private open space area is to be:
- contiguous to, and accessible from, the primary living areas of the dwelling.
 - Located and oriented to ensure it is not directly overlooked from adjoining lots or buildings.
 - Located on relatively flat land to ensure it is useable as open space.
- (k) Common open spaces are to include equipment such as seating, shade structures, barbecues and children's play equipment for passive recreational use. Consideration should also be given to the provision of swimming pool, common room and hard stand outdoor play area as part of the overall stand outdoor play area as part of the overall development of the site.
- (l) Common open spaces are to be centrally located, usable, highly visible, highly accessible and well lit at night.
- (m) *For the North Precinct, communal open space* areas comprising a child play area or recreation activities area shall be provided on the site behind the building line for developments of more than 5 dwellings comprising a minimum 10m² of space per dwelling. The open space area shall have minimum dimensions of 12 metres x 12 metres.
- (n) For the South Precinct, one communal open space shall be provided within the precinct that has a minimum area of 50m² and a minimum dimensions of 15 metres x 20 metres.
- (o) Additional, smaller communal open space areas shall be provided through the precinct in the form of pedestrian pathways, seating, landscaping and other communal facilities.
- (p) Landscaping is to be appropriately scaled and located relative to both the building bulk, incorporating existing vegetation where possible.
- (q) A landscape buffer shall be provided along the Old Northern Road and Excelsior Avenue frontages
- (r) Tall branching street trees shall be provided in all proposed new roads at a separation of one tree every 10 metres.
- (s) Existing vegetation is to be retained where practicable and shall incorporate steps to protect the root zone during construction in accordance with the recommendation of a qualified arborist.
- (t) If a fence or wall is proposed to be constructed between any development and Old Northern Road or Excelsior Avenue it will be necessary to ensure that construction remains outside the canopy line of the largest trees and avoid damage to young saplings.
- (u) Medium strip planting should be provided at any new proposed intersection of the site entry with Excelsior Avenue to avoid light spill into existing dwellings in Excelsior Avenue generated by headlights. The median planting selected shall have regard to safety requirements and maintain sight distance requirements at maturity.
- (v) A small "village green"/pocket park with a minimum width of 30.0 metres shall be provided and located in accordance with Figure 15. The open space shall incorporate a pedestrian pathway linking Old Northern Road with the western edge of the site. Existing mature trees within the space should be retained and supplemented with similar species.
- (w) Landscaping should avoid the use of very large trees (eg Forest Red Gum, Blackbutt) in confined spaces between houses and internal roads. The overuse of *Acacia* (wattles) should also be avoided.
- (x) Areas less than 1.0 metre in width should be paved.
- (y) A minimum of 20% of the landscaped areas should permit deep planting.
- (z) No more than 50% of the landscaped area shall be hard paved (impervious) surface.
- (aa) Landscape species shall comprise native species common to the area.
- (bb) Trees shall be tall branching and ground covers and shrubs shall have maximum height of 0.6 meters to maintain clear pedestrian, resident and vehicle sightlines

C.4.5 DWELLING DESIGN AND CONSTRUCTION

OBJECTIVES

- (i) *To provide accessibility across common property and to provide convenient conditions for the use of strollers and similar.*

- (ii) *To provide a small amount of dwelling unit suitable for use by disabled people.*

DEVELOPMENT CONTROLS

- (a) All buildings should be connected to the footpath network.
- (b) Application for development approval should be accompanied by an "Access Plan" that demonstrates the compliance of the proposed development with Australian Standard 1428 Part 1.
- (c) At least 1, or 5 percent, of the units in a development of 20 or more dwellings must be either;
 - an accessible unit to Australian Standard 1428 Part 2, suitable for occupation by a wheelchair user; or
 - meeting Class B adaptability under Australian Standard 4299.
- (d) Each unit so provided above should have an accessible car parking bay complying with Australian Standard 2890 for people with a disability, and be accessible to a pick-up and drop-off point.

C.4.6 PRIVACY – VISUAL AND ACOUSTIC

OBJECTIVES

- (i) *To limit views into adjoining private open spaces and living rooms.*
- (ii) *To protect residents from external noise.*
- (iii) *To contain noise between dwellings without unreasonable transmission to adjoining dwellings.*

DEVELOPMENT CONTROLS

- (a) Private open space and habitable rooms of proposed and adjacent existing dwellings should be reasonably protected from overlooking by attending to, but not being limited to:
 - Building layout.
 - Location, size and design of windows & balconies.
 - Screening devices.
 - Landscaping.
- (b) Private open space areas and habitable rooms should be reasonably protected from

uncomfortable levels of external noise by attention to, but not being limited to:

- Use of noise resistant wall, ceiling, floor and roofing materials.
 - Site planning.
 - Location of habitable rooms away from the noise source.
 - Use of double glazing.
 - Use of fencing, porches and walls as noise buffers.
- (c) Windows of living rooms with direct outlook to any living room window of any proposed, or and/or existing adjoining dwelling living rooms within 9 metres should:
 - Be offset a minimum of 1 metre from the edge of one window to the edge of the other; or have a minimum height of the sill or fixed obscure glass at 1.6 metres.
 - Be screened by permanently fixed structures made of durable materials.
 - (d) Habitable rooms of dwellings adjoining Old Northern Road should be designed and located to limit internal noise levels to a maximum of 45dB(a) in accordance with Australian Standard 3671 – Road Traffic.
 - (e) Dividing Walls and floors between dwellings shall be constructed to limit noise transmission to 45 STC (Sound Transmission Class) in accordance with Part F (5) of the Building Code of Australia.

C.4.7 SOLAR ACCESS

DEVELOPMENT CONTROLS

- (a) Buildings should be designed to enable primary habitable rooms and private open space areas to enjoy at least three hours of sunlight to 50% of the areas between 9:00 am and 3.00 pm on the 21 June.
- (b) Sunlight to at least 50% of the principal area of ground level private open space of adjoining properties should not be reduced to less than three hours between 9.00am and 3.00pm on 21 June.
- (c) Deciduous species should be planted to improve solar access where appropriate.
- (d) In order to maximise solar access, living areas of buildings should where possible, be located on the north side of the dwelling, with north facing

walls orientated between 20° west and 30° east of true north.

- (e) Sunlight is to be available to the majority of living room spaces and private and communal open space areas of the proposed dwellings, and any existing adjoining dwellings, having regard but not limited to:
- Building siting;
 - Living area orientation;
 - Location of windows;
 - Tree species;
 - Pergolas;
 - Eaves;
 - Fencing;
 - Roof pitch and
 - Building height.
- (f) All dwellings are to be designed and located so that at least 50% of each courtyard and private open space receives a minimum 3 hours of direct sunlight between 9.00 am and 3.00 pm on 21 June (Winter Solstice).
- (g) All dwellings should be designed to maximise natural cross ventilation through, and appropriate solar access to, all living areas through:
- orientation of living areas to the north with access to the winter sun and summer shade.
 - the shading of large windows located on the northern side from the higher summer sun, through the provision of roof eaves, verandahs, balconies, hoods and/or external screen. Conversely these design elements should permit exposure of living areas to the lower winter sun.
- (h) Landscape design should assist in microclimate management through the location and selection of deciduous trees to permit winter sunlight access to living areas and summer shade to north facing exposed dwelling walls and windows.

C.5. 64 MACKILLOP DRIVE, BAULKHAM HILLS

C.5.1 LAND TO WHICH THIS SECTION OF THE PLAN APPLIES

This chapter of the Development Control Plan establishes site specific objectives and controls to guide future development on Lot 2 DP 817696, No.64 Mackillop Drive, Baulkham Hills (see Figure 2).



Figure 2: SUBJECT SITE

This chapter must be read in conjunction with Part A – Introduction of this DCP and other relevant Sections, including:

- Part B Section 2 – Residential
- Part B Section 4 – Multi Dwelling Housing
- Part B Section 5 – Residential Flat Buildings
- Part C Section 1 – Parking
- Part C Section 3 – Landscaping
- Part C Section 4 – Heritage

In the event of any inconsistency between this Section of the DCP and any other Sections of the DCPs, the provisions of this Section shall prevail only to the extent of the inconsistency.

C.5.2 SITE ANALYSIS

The subject site is bounded by Mackillop Drive to the east and Barina Downs Road to the north. The site has an area of 181,500m².

Located to the east of the site is the former farmhouse which is identified as a heritage item of local significance under the Baulkham Hills Local Environmental Plan 2005. Located on the western portion of the site is the Conference/Retreat Centre, associated facilities and the former priest's house. The remainder of the site is vacant.

Residential properties adjoin the southern and western boundaries of the subject site. Surrounding development is mostly detached dwellings to the north with some multi dwelling housing development. Residential flat building development has been approved on vacant land to the north.

The topography of the site is characterised by moderate to steeper slopes with a central ridgeline that is oriented along an east-west direction. Slopes on the northern side of the ridgeline range from 5% to 14% and range from 10% to 25% on the southern side. The sloping land presents challenges for future dwelling design and construction.

The dominant central ridgeline allows panoramic views on both the northern and southern aspect. Views from the northern aspect of the central ridge are local views over the Norwest Business Park and distant views to the mountains to the west. Views from the south side of the ridge are primarily over the established residential areas.

Five distinct drainage catchments are present on the site due to spur lines that extend from the eastern and western edges of the ridge. The largest catchment which drains to the south generates flood risk management issues at the confluence of three overland flow paths.

The majority of native vegetation has been cleared from the site for grazing of livestock, but areas along the access road and around the heritage listed building have been landscaped with exotic plants. Small remnants of vegetation occur on the western edge of the site and are listed on National Parks and Wildlife Service (2002) maps as Sydney Turpentine Ironbark Forest. This is listed as a Critically Endangered Ecological Community under the Environment Protection and Biodiversity Conservation (EPBC) Act 1999 and as an Endangered Ecological Community under the Threatened Species (TSC) Act. Councils mapping

identifies the remnant vegetation as Cumberland Plain Woodland which is also listed as a Critically Endangered Ecological Community under the schedules of both the EPBC and TSC Acts. A flora and fauna survey and assessment undertaken in November 2011 has identified that the site is within a geographical transition zone between these two endangered ecological communities.

The key features of the site are shown in Figure 3.

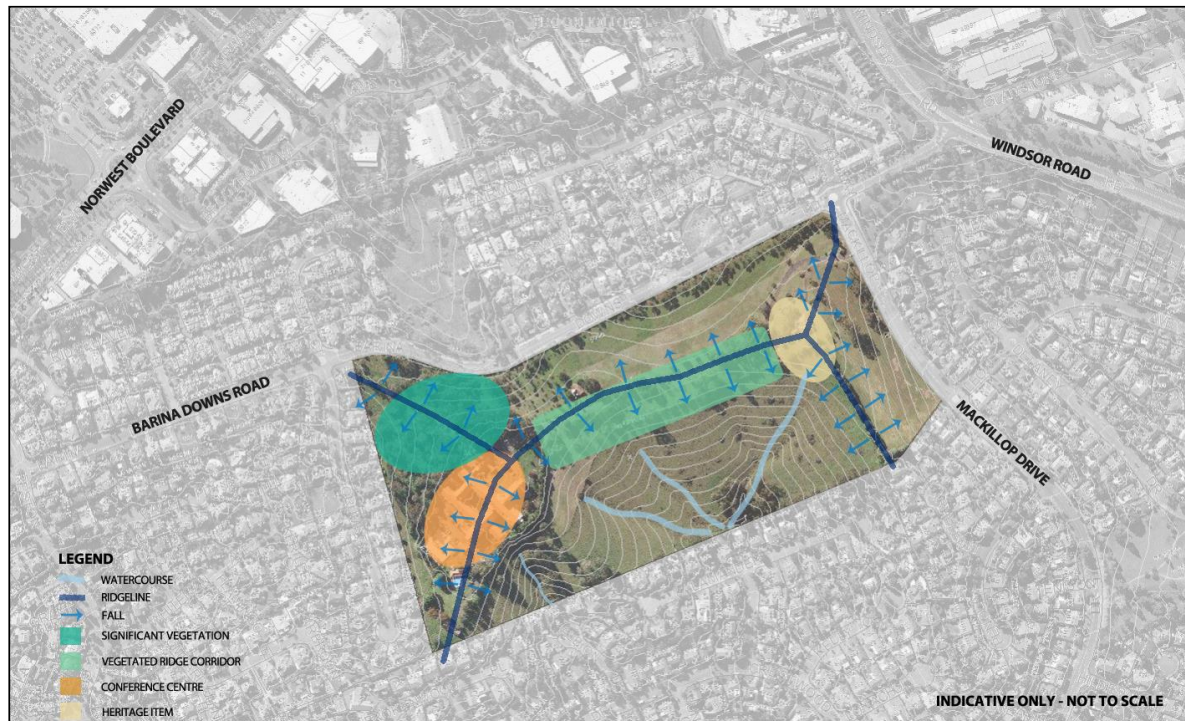


Figure 3 SITE ANALYSIS

C.5.3 SITE SPECIFIC OBJECTIVES AND DEVELOPMENT CONTROLS

The objectives and development controls for this site are set out in the following sections.

C.5.3.1 SITE PLANNING

OBJECTIVES

- (i) *To achieve coherent site planning and development that relates to the natural topography of the site and contributes to the character of the area.*
- (ii) *To protect, contribute and enhance the existing residential character and amenity.*
- (iii) *To ensure acceptable levels of amenity and minimise negative impacts of traffic movements on the surrounding locality.*

DEVELOPMENT CONTROLS

- (a) Residential flat buildings, attached dwellings and dwelling houses are to be provided in the locations identified in Figure 4.

- (b) Access to the site is to be provided in the locations identified in Figure 4.
- (c) Prominent views identified in Figure 4 are to be retained. Streets are to be located to enable additional view corridors into No.64 Mackillop Drive, Baulkham Hills and to the heritage item.
- (d) The central ridgeline between the single dwelling housing and small lot housing areas is to be retained as common-open space.

C.5.3.2 HERITAGE

The existing building is an interwar Californian bungalow built around circa 1928. It is described in The Hills Shire Council Inventory Sheet No.92 as "A fine example of a bungalow in original condition".

An important aspect of maintaining and enabling the interpretation of the heritage significance of a building is the land around it that establishes its context, commonly known as curtilage. Curtilage can include (but is not limited to) significant features of a site such as outbuildings and driveways and also vegetation, for example, the original garden or an avenue of trees.

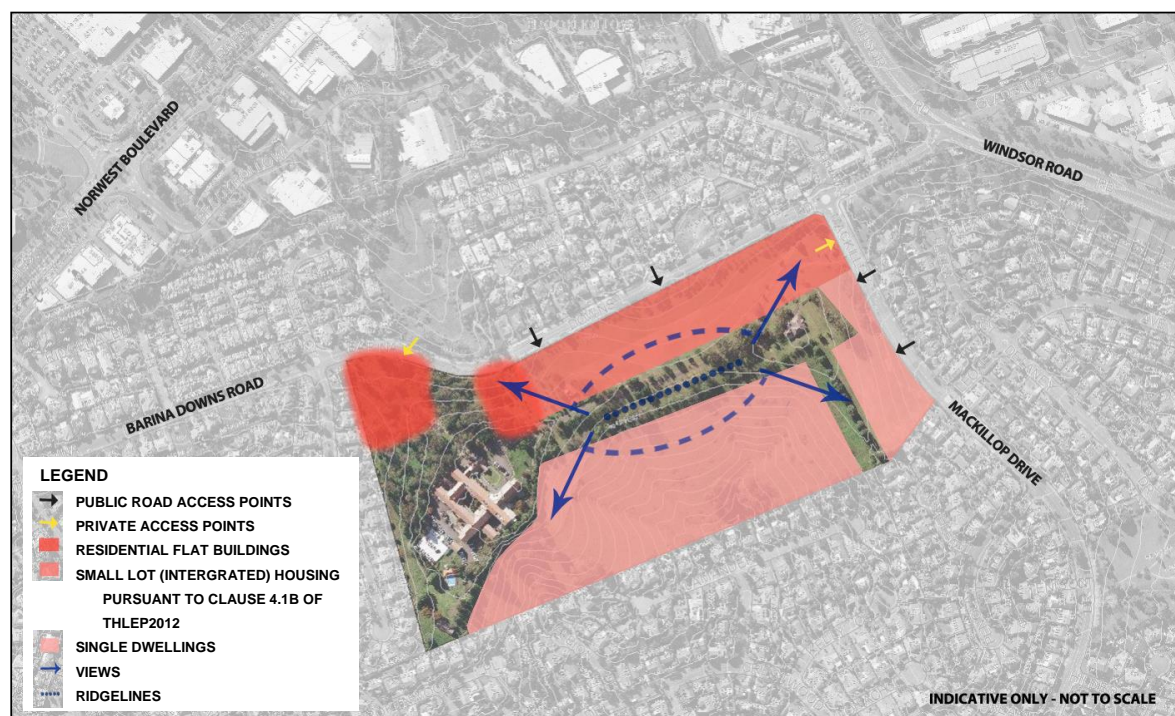


Figure 4: SITE PLANNING

OBJECTIVES

- (i) *To ensure that the subdivision of land on which a heritage building is located does not isolate the heritage building from its setting or context or adversely affect its amenity or privacy.*
- (ii) *To ensure that new dwellings erected on land upon which the heritage building is located are sympathetic to the character of the heritage building and its setting.*
- (iii) *To ensure that the development of land in the vicinity of a heritage site is undertaken in a manner that complements the heritage significance of the site.*
- (iv) *To ensure that development of the site respects the curtilage established by the original garden associated with the heritage item.*

DEVELOPMENT CONTROLS

- (a) The heritage curtilage is to be consistent with the area shown edged yellow in Figure 5.
- (b) Brush box trees located parallel to Mackillop Drive and within the immediate curtilage in Figure 5 shall be retained.

- (c) The rural qualities of the bitumen avenue with swale drainage lines are to be retained. There shall be no concrete edging.
- (d) Civil works for stormwater drainage dish drains to be kept away from root zones of trees in the access avenue.
- (e) A Conservation Management Plan must be produced and submitted to Council to ensure that the existing heritage building is managed appropriately for its heritage values.
- (f) A landscape plan shall be prepared by a landscape architect experienced in dealing with heritage gardens and is to include at a minimum the following:
 - The retention of original and or significant landscaping (including plants with direct links or association with the heritage item); and
 - Details of how new plantings retain significant views to and from the heritage item.

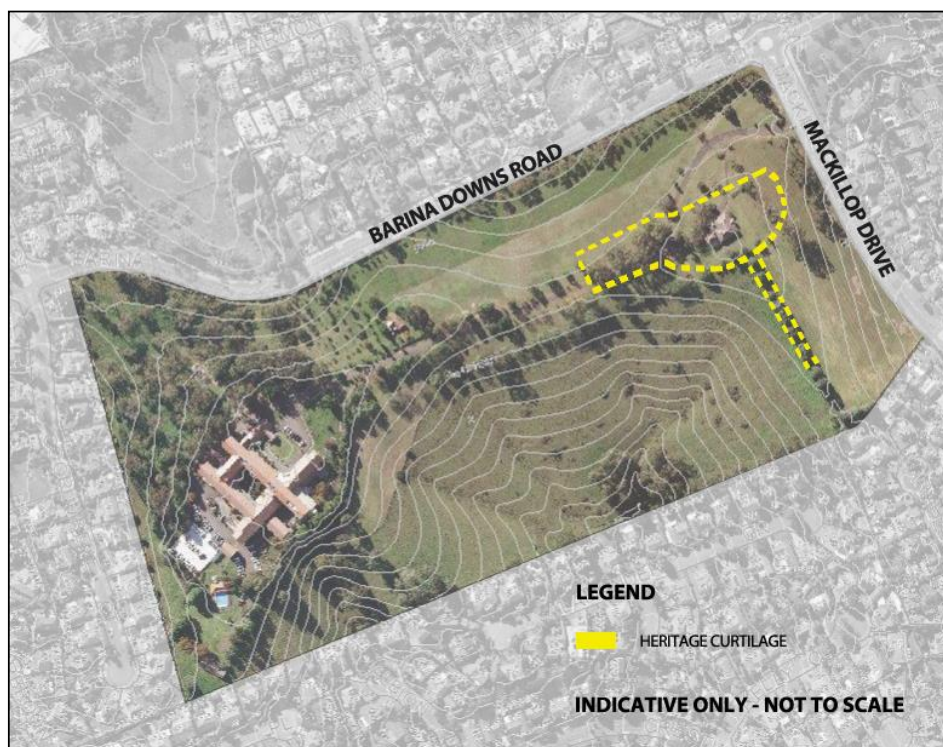


Figure 5: REQUIRED HERITAGE CURTLAGE

C.5.3.3 SURFACE WATER RUNOFF**OBJECTIVES**

- (i) *Assist in the management of stormwater to minimise flooding and reduce the effects of stormwater pollution on receiving waterways.*
- (ii) *Ensure that development is not subjected to undue flood risk, nor exacerbate the potential for flood damage or hazard to existing development and to the public domain.*

DEVELOPMENT CONTROLS

- (a) Water sensitive urban design infrastructure will not be accepted as part of any public road or open space dedication.
- (b) The development proposal must demonstrate how the drainage system for the development site is designed to address any site specific conditions, and how it connects into the downstream drainage system.
- (c) The drainage system is to be designed in a manner that ensures that personal and property safety is not compromised.
- (d) A Local Drainage Management Plan is required for development of the site.
- (e) The Local Drainage Management Plan is to address:
 - the hydrology of the locality and its relationship to the drainage system;
 - any expected rise in ground water level due to development;
 - the role of the principal landscape components on the site for water conservation and on-site detention;
 - the scope for on-site stormwater detention and retention, including the collection of water for re-use;
 - how any detrimental impacts on the existing natural hydrology and water quality is proposed to be minimised; and
 - how pedestrian and property safety is to be ensured.
- (f) Onsite Stormwater Detention (OSD) is required to be provided in accordance with Council's adopted policy except where modified in control (g) below.
- (g) Runoff from the development site is constrained by downstream infrastructure/ easements,

specifically those connecting the subject site to Salamander Grove and Albion Place. The Local Drainage Management Plan must include a hydrological and hydraulic analysis of the existing infrastructure downstream to determine the capacity of the existing piped stormwater system. Where runoff from the site in its post development condition exceeds the capacity of the downstream system, additional stormwater management practices will be required to be implemented on site. Alternatively, amplification of the existing downstream drainage network may be necessary.

Additionally, overland flowpaths must be created to safely contain and convey any gap flows generated by the capacity of the storm drainage system being exceeded, or caused by system blockage. The overland flowpaths must be capable of conveying the maximum discharge between the 100 year ARI catchment runoff and pipe system capacity, safely connecting to the closest existing overland flowpath (road reserve). This may require improvements to the surface of easements where relied upon by the proposed development.

- (h) All hydrological and hydraulic modelling undertaken must be submitted to Council as part of a development application.
- (i) The post development run-off from impermeable surfaces (such as roofs, driveways and paved areas) is to be managed by stormwater source measures that:
 - contain frequent low-magnitude flows;
 - maintain the natural balance between run-off and infiltration;
 - remove some pollutants prior to discharge into receiving waters;
 - prevent nuisance flows from affecting adjacent properties; and
 - enable appropriate use of rainwater and stormwater.
- (j) Where filtration and bio-retention devices are proposed, they are to be designed to capture and provide temporary storage for stormwater.
- (k) Public stormwater easements within residential lots are not permitted. Instead, local drainage links/ pathways must be used to retain public infrastructure within public land. The minimum width of any local drainage link must be 5m.

(Refer to Council's Design Guidelines – Subdivisions & Developments)

- (l) A stormwater quality assessment is to be submitted with the development application to demonstrate that the development will achieve the post-development pollutant load standards in accordance with the Water Sensitive Urban Design Technical Guidelines for Western Sydney (2004) or as amended.
- (m) The stormwater quality assessment is to be prepared by a suitably qualified engineer with experience in water sensitive urban design and include:
 - Modelling of pre-development and post-development pollutant loads with an industry standard water quality model;
 - The design of water sensitive urban design measures used to achieve the required post-development pollutant loads; and
 - Maintenance schedules of any proposed water sensitive urban design measure that requires maintenance and/or likely full replacement.
- (n) Water sensitive urban design elements, consisting of, but not limited to:
 - Bio-retention swales;
 - Rain gardens;
 - Vegetated swales;
 - Vegetated buffers;
 - Rainwater tanks; and
 - Gross pollutant traps,

must be incorporated into the planning for, and appropriately located within any future subdivision of the land.

- (o) An alternative water quality treatment measure, which differs from the prescribed development controls may be considered on merit only where the identified surface water runoff objectives are deemed to be satisfied.

C.5.3.4 ROADS

OBJECTIVES

- (i) *To provide an acceptable level of access, safety and convenience for all road users, whilst ensuring acceptable levels of amenity and protection from the impact of traffic.*

- (ii) *To provide sufficient road reserves, carriageway and verge width to allow roads to perform their function within the road network.*
- (iii) *Roads are to be designed and located in a manner which respects and responds to the environmental features and constraints of the site.*

DEVELOPMENT CONTROLS

- (a) Roads are to be designed to integrate into the local road network and provide for the efficient and safe movement of vehicles, bicycles and pedestrians throughout the development site.
- (b) The location and design of roads should minimise the extent of cut and fill and cause the least disturbance and impact on native vegetation.
- (c) All roads are to be designed in accordance with the standards established in the table below:

Street Types				
Type	Max number of dwellings	Street reserve	Lane width	Footpath width and verge
Access Place	30	14.5m	7.5m	2 X 3.5m verge (1.2m wide path provided in verge on one side)
Access Street	200	15.5m	8.5m	2 X 3.5m verge (1.2m wide path provided in verge on one side)

- (d) A lesser verge width may be considered where the road is adjacent to common open space.

C.5.3.5 SINGLE DETACHED DWELLINGS

The provisions of Part C Section 3 – Residential will apply. However, the additional setback control as stated below will apply to ensure that new development is sensitive to the landscape setting, site constraints, existing amenity and established character of the street and locality.

A. SETBACKS

OBJECTIVES

- (i) *To provide setbacks that complement the streetscape and protect the privacy and sunlight to adjacent dwellings.*

DEVELOPMENT CONTROLS

- (a) Lots fronting Mackillop Drive shall have a primary setback of not less than 7.5 metres with corner allotments having a minimum secondary setback of 4 metres. All other lots shall have a primary setback of 6 metres and secondary setback of 2 metres for corner allotments.
- (b) A minimum rear setback of 10 metres is to be provided on the southern boundary of the development site. This requirement does not apply to any residential lot having direct frontage to Mackillop Drive.

C.5.3.6 MULTI DWELLING HOUSING

The provisions of Part B Section 4 – Multi Dwelling Housing will apply.

C.5.3.7 RESIDENTIAL FLAT BUILDINGS

The provisions of Part B Section 5 – Residential Flat Buildings will apply. However, the additional controls as stated below will apply:

A. SETBACKS

OBJECTIVES

- (i) *To provide setbacks that complement the setting and contribute to the streetscape and character of the street.*
- (ii) *To minimise any adverse impacts such as overshadowing and privacy on adjacent and adjoining properties.*

DEVELOPMENT CONTROLS

- a) The minimum front setback to Barina Downs Road for residential flat buildings is 10 metres.
- b) The minimum setback to the western boundary where the proposal abuts a residential property is 10 metres.
- c) The minimum rear setback is 6 metres where development abuts the conference centre.

B. DENSITY

OBJECTIVES

- (i) *To ensure that the apartment development is compatible with the surrounding development and the bushland landscape setting.*

DEVELOPMENT CONTROLS

- (a) The maximum population density is 140 persons. The density is based upon the following occupancy rates:

Dwelling Type	Occupancy (Persons)	Rate
1 bedroom unit	1.3	
2 bedroom unit	2.1	
3 bedroom unit	2.7	
4 bedroom unit	3.5	

C.5.3.8 HOUSING AS PER CLAUSE 4.1B OF THE HILLS LOCAL ENVIRONMENTAL PLAN 2012 EXEMPTIONS MINIMUM LOT SIZES FOR CERTAIN DEVELOPMENTS

Housing pursuant under the provisions of clause 4.1B of the Hills LEP 2012 presents the opportunity to consider all aspects of building and site design together, to be combined effectively to create a functional and attractive residential environment. Typically this form of development is referred to as 'small lot housing'.

All small lot housing developments must be designed so as to ensure a compatible relationship between dwelling-houses on individual lots and dwellings on adjoining land.

Any person undertaking a small lot housing development is required to submit a combined Development Application to Council for the construction of the dwelling-houses and subdivision of the land.

Factors which should be considered in the layout of an small lot housing development include:

- slope and orientation of the land;
- energy-efficient design of subdivision and dwelling-houses;

Part B Section 2

Residential

- solar access to adjoining dwellings/dwelling-houses;
- adequate visual and acoustic privacy to each dwelling-house;
- relationship to adjoining dwellings/dwelling-houses;
- retention of special qualities or features such as trees and views;
- provision of adequate site drainage;
- provision for landscaping and private open space; and
- existing streetscape character.

A. SITE COVERAGE**OBJECTIVES**

- (i) *To minimise bulk and scale of development and ensure that suitable land is available for landscaping, drainage and retention of vegetation.*

DEVELOPMENT CONTROLS

- (a) The maximum site coverage (including garage/carport, driveways, outbuildings, decks, patios, paved areas and pools) for each dwelling in a small lot housing development is 65%.

B. SETBACKS**OBJECTIVES**

- (i) *To create an attractive, interesting and pleasant streetscape through the siting of buildings.*
- (ii) *To provide visual separation of built forms, privacy and opportunities for landscaping.*
- (iii) *To protect solar access to habitable rooms, protect and optimise useable open space around dwellings, and protect adjoining dwellings from excessive overlooking, overshadowing and general loss of amenity.*
- (iv) *To provide sufficient space for vehicle parking, manoeuvrability and clear sight lines.*
- (v) *Maintain and enhance established streetscape and character of the neighbourhood. This includes building setback, landscaping, fencing, lighting, pathways and street trees.*

DEVELOPMENT CONTROLS

- (a) Zero lot line housing shall occur only on the southern side boundary of east-west allotments and either side boundary but not both sides of north-south allotments.
- (b) The length of the zero lot line wall is to be a maximum of 10 metres.
- (c) No dwelling built on the zero lot line is to abut an adjoining dwelling also built on the zero lot line.
- (d) No openings shall be located along the zero lot boundary wall. The boundary wall shall be constructed of maintenance free materials such as face brick or masonry. Walls located on the boundary must comply with the requirements of the Building Code of Australia in terms of fire separation.
- (e) All boundary walls must extend at least 300mm above the roof line of the dwelling to ensure that roof drainage is contained within the site.
- (f) A restriction as to user is created for a one metre wide maintenance easement over the adjoining property pursuant to Section 88B of the Conveyancing Act 1919.
- (g) Building setbacks are to be in accordance with the table below:

Location/Frontage	Setback
Primary Street	
- MacKillop Drive	7.5m
- Barina Downs Road	6m
Secondary Street	
- MacKillop Drive	4m
- All other corner allotments	2m
All other streets - internal	4.5m
All Garages	5.5m
Side boundary	zero lot line or 900mm
Rear boundary	6m

C. VEHICULAR ACCESS**OBJECTIVES**

- (i) *To provide an acceptable level of vehicular access, safety and convenience for all users of the development.*
- (ii) *To ensure that the internal roadway design can satisfactorily accommodate the expected traffic volumes of the development.*

- (iii) *To provide a safe environment for both pedestrians and vehicles using the site and surrounding road network.*

DEVELOPMENT CONTROLS

- (a) All internal roadways are to be of a sufficient width as determined by a traffic report to adequately accommodate the volume of traffic generated by the development, and the provisions of service vehicles.

D. CAR PARKING

OBJECTIVES

- (i) *To ensure that garages do not dominate the streetscape.*
- (ii) *To provide sufficient and convenient parking for residents.*
- (iii) *To ensure that adequate car parking is provided on-site so as to prevent inconvenience to residents and congestion in nearby streets.*

DEVELOPMENT CONTROLS

- a) A minimum of one car parking space is to be provided per dwelling. This space is to be located within a garage.
- b) Carports and garages facing a public place are to be no more than 6m in width, nor extend across more than 50% of the property frontage, whichever is the lesser.
- c) Carports and garages are to be designed to be:
- visually subservient;
 - integrated into the overall dwelling design; and
 - constructed of similar materials and finishes to the dwelling.
- d) Where a double garage is proposed a minimum of two of the following design measures are to be employed:
- garage doors are divided by a vertical masonry pillar or similar;
 - upper floor element projected forward of the garage to cast shadow and take prominence;
 - colours and textures to ensure garage door subservience;
 - utilisation of vertical elements to mitigate the horizontal emphasis of the garage;

- garage entrance to be orientated away from primary street frontage to face the side boundary; and
- staggered garages whereby one garage is setback from the adjoining garage.

E. FACADES

OBJECTIVES

- (i) *To provide visual interest to the streetscape through the incorporation of design features.*

DEVELOPMENT CONTROLS

- (a) For all dwellings the facade must be suitably articulated and incorporate two of the following design elements:
- Non-enclosed verandah for at least 40% of the dwelling width
 - Entry feature or portico
 - Balcony or window box treatment to first floor element
 - Recesses or projection of prominent architectural elements to visually break up the facade and avoid blank wall appearance;
 - Verandah, pergola or similar provided over garage doors

F. PRIVATE OPEN SPACE

OBJECTIVES

- (i) *To ensure the private open space is usable, functional and easily accessible for residents*
- (ii) *To ensure private open space includes landscape and soft features*
- (iii) *To ensure direct access and a relationship between indoor and outdoor living areas.*

DEVELOPMENT CONTROLS

- (a) Each dwelling must have a minimum private open space area of 24m² capable of containing a dimension of 4m and must have direct and level access to the dwelling's living areas, such as a lounge room, a family room, a dining room, or a kitchen.

In the calculation of private open area:

- a minimum of 50% of the open space area must be grassed or soft landscaped area

located in the rear yard except where such private open space is an elevated deck over rear lot access.

- no area is less than 2.5 metres in width.
 - outdoor clothes drying area are included as private open space.
 - car spaces are not included in private open space calculations.
- (b) Private open space is not permitted in the front setback.
- (c) A garage or gate must provide access between the private open space and the driveway.
- (d) At least half (50%) of the principal private open space area is to receive a minimum of 2 hours direct sunlight between 9am and 3pm during mid winter.

G. COMMON OPEN SPACE

OBJECTIVES

- (i) *To provide outdoor living space which is an extension of the dwelling for the enjoyment of its inhabitants.*
- (ii) *To provide outdoor living space which is of useable dimensions and which is located to receive a reasonable quantity of sunlight.*
- (iii) *To enhance the quality of the built environment by providing high quality landscaping.*
- (iv) *To promote a pleasant and safe living environment.*
- (v) *To provide functional open space within the development for the informal recreation of residents and children's play.*

DEVELOPMENT CONTROLS

- (a) The central ridgeline and curtilage of the heritage item is to be retained as common open space.
- (b) The common open space areas is to be:
 - easily accessible to all residents within the development;
 - of a configuration, slope, and design so as to ensure it is easily maintained;
 - located to ensure the area receives adequate sunlight during mid winter;
 - of a sufficient size to satisfy the immediate open space demands of the proposed population and accommodate informal active recreational activities; and

➤ provided with passive surveillance.

- (c) The common open space area is to include a child play area or recreation activities area.
- (d) The common open space area must have a minimum dimension of 12m x 12m.
- (e) For developments consisting of 15 or more dwellings the common open space area is to comprise an area equivalent to 10m² per dwelling.
- (f) Access for all residents to the common open space area is to be guaranteed via the titling system.
- (g) The majority of the common open space area is to receive direct sunlight between 9am – 3pm during mid-winter.

H. LANDSCAPING

OBJECTIVES

- (i) *To enhance the setting of the heritage building and the environmental quality of the neighbourhood.*
- (ii) *To conserve significant natural features of the site and incorporate them into landscape areas.*

DEVELOPMENT CONTROLS

- (a) The minimum required landscaped or naturally vegetated area for integrated housing as a percentage of the total site area is 35%.
- (b) Existing trees should be preserved.
- (c) Native species are to be used to maintain a strong natural theme for the neighbourhood due to their low maintenance characteristics, relative fast growth, aesthetic appeal and compatibility with the natural habitat.
- (d) All landscaped areas are to have a minimum width of 2m.

I. SOLAR ACCESS

OBJECTIVES

- (i) *To maximise solar access to internal living and open space areas in winter.*
- (ii) *To ensure no adverse overshadowing of adjoining allotments/developments.*

Part B Section 2

Residential

- (iii) *To orient the development in a way that best allows for appropriate solar access and shading,*
- (iv) *To minimise the need for artificial lighting in dwellings during the day.*
- (v) *To orientate dwellings so that the living areas face north.*

DEVELOPMENT CONTROLS

- (a) All dwellings must be designed to ensure that the living areas are orientated towards north where possible and that all north facing living area windows receive at least 3 hours of direct sunlight between 9am and 3pm on 21 June.
- (b) Garages, bathrooms and laundries should be located in areas with a west to southwest orientation, with windows (glazing) minimised in size and number as well as being protected with effective sun shades.
- (c) Shadow diagrams shall be submitted showing the impact of a proposal on the adjacent residential buildings and their private open space. Such diagrams shall be based on a survey of the site and adjoining development. The shadow diagrams shall include all openings and windows of adjoining buildings and shall demonstrate likely shadow impact on the 21 June for 9am, 12pm and 3pm.

J. PRIVACY CONTROLS**OBJECTIVES**

- (i) *To site and design buildings to ensure visual privacy between dwellings.*
- (ii) *To avoid overlooking of living spaces in dwellings and private open spaces.*
- (iii) *To contain noise within dwellings and communal areas without unreasonable transmission to adjoining dwellings.*

DEVELOPMENT CONTROLS

- a) Buildings are to be designed to ensure maximum protection of privacy; in particular the privacy of primary living areas must be protected. Where appropriate consideration should be given to:
 - using windows that are narrow, translucent or obscured or have window sills a minimum of 1.5m above the upper storey floor level.

- ensuring that windows that face directly to the windows, balconies or yards of adjoining dwellings are appropriately screened.
- b) First floor balconies will not be permitted where they overlook living areas of adjacent dwellings.
- c) The placement of windows should be staggered to minimise direct viewing between dwellings.
- d) Dwellings are to be designed to limit the potential for noise transmission to the living and sleeping areas of adjacent existing and future developments.
- e) Careful consideration should be given to the location of air-conditioning systems, swimming pools and the like to minimise the impact on the amenity of adjoining properties.
- f) Private open space areas and driveways are to be designed and located to minimise noise impacts.

K. ACCESS AND SURVEILLANCE**OBJECTIVES**

- (i) *To ensure the needs of residents and visitors are considered with particular regard to access requirements, safety and security.*
- (ii) *To promote incorporation of community safety aspects in the development design.*

DEVELOPMENT CONTROLS

- (a) Integrated housing developments are to provide safe and convenient access for prams, wheelchairs and people with disabilities from the public road to all areas of the development.
- (b) The design of an integrated development is to demonstrate consideration of resident safety and security whereby pedestrian pathways and associated areas are not to be obscured, but rather provided with natural surveillance.
- (c) The siting and design of dwellings shall ensure surveillance of all common areas.
- (d) Access to dwellings is to be direct and without unnecessary barriers.
- (e) Stairs and ramps are to have reasonable gradients and non slip even surfaces.

L. FENCING**OBJECTIVES**

- (i) To ensure that fencing is of a high visual quality, compliments the character of the area and is compatible with the surrounding streetscape.

DEVELOPMENT CONTROLS

- (a) There shall be no colourbond fencing located along the street frontages of Barina Downs Road and Mackillop Drive.
- (b) Any fencing in the rear setback (facing Barina Downs Road) over 1.2 metres in height shall be setback from the rear boundary a minimum of 500mm to allow landscaping to soften the impact of the fence.
- (c) Side and rear boundary fencing shall be a maximum height of 1.8 metres in height.

C.6. 582 AND 582A OLD NORTHERN ROAD, DURAL

C.6.1 LAND TO WHICH THIS SECTION OF THE PLAN APPLIES

This chapter of the Development Control Plan establishes site specific objectives and controls to guide future development on Lot 1 DP 656034 and Lot 2 DP 565718, No.582 and 582A Old Northern Road, Dural (see Figure 6).



Figure 6: SUBJECT SITE

This chapter must be read in conjunction with Part A – Introduction of this DCP and other relevant Sections, including:

- Part B Section 2 – Residential
- Part B Section 4 – Multi Dwelling Housing
- Part C Section 1 – Parking
- Part C Section 3 – Landscaping

- Part C Section 4 – Heritage
- Appendix B – Water Sensitive Urban Design

In the event of any inconsistency between this Section of the DCP and any other Sections of the DCPs, the provisions of this Section shall prevail only to the extent of the inconsistency.

C.6.2 SITE SPECIFIC OBJECTIVES AND DEVELOPMENT CONTROLS

The objectives and development controls for this site are set out in the following sections.

C.6.2.1 SITE PLANNING

OBJECTIVES

- (i) To protect and enhance the rural-residential landscape setting.

DEVELOPMENT CONTROLS

- (a) Future development is to be generally located in accordance with Figure 7.

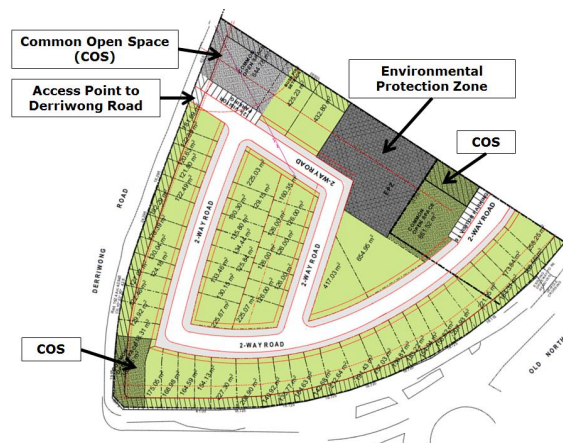


Figure 7: Location of Future Development

C.6.2.2 VEGETATION

OBJECTIVES

- (i) To preserve the existing significant vegetation on the site.
- (ii) To ensure the ongoing maintenance of the significant vegetation on the site, at cost to any future residents on the site.

- (iii) To ensure a high visual and acoustic amenity is provided.

DEVELOPMENT CONTROLS

- (a) Future development on the site should include an Environmental Protection Zone of approximately 1,500m² for the significant vegetation on the site to be located on the northern portion of the site, identified in Figure 7.
- (b) The Environmental Protection Zone should be identified as a Restricted Development Area on the title.
- (c) Future development on the site should include the provision of a Vegetation Management Plan in accordance with Council's Vegetation Management Plan Guidelines.
- (d) A continuous landscape buffer along Derriwong Road and Old Northern Road should be provided with a minimum depth of five (5) metres, shown hatched in Figure 7.

C.6.2.3 VEHICULAR ACCESS

OBJECTIVES

- (i) To prevent access to and from Old Northern Road.
- (ii) To reduce the potential for vehicle conflicts.
- (iii) To avoid the slowing of traffic on Old Northern Road by cars leaving and entering the site.

DEVELOPMENT CONTROLS

- (a) Any future development on the site shall obtain access from Derriwong Road.
- (b) The existing driveways along Old Northern Road are to be replaced with kerb and gutter prior to the issuing of an occupation certificate for any development on the site.

C.6.2.4 SITE CONTAMINATION

OBJECTIVES

- (i) To ensure the land is made suitable for residential purposes.

SUBMISSION REQUIREMENTS

- (a) Future development on the site should be supported by a Remedial Action Plan prepared in accordance with the Environmental Planning Authority Guidelines.

C.6.2.5 WATER QUALITY

OBJECTIVES

- (i) To ensure future development is consistent with the relevant Water Quality Objectives.

DEVELOPMENT CONTROLS

- (a) Future development should address the relevant Water Quality Objectives (found at: <http://www.water.nsw.gov.au/water-management/water-quality>) and the development's impact on hydrology and hydrogeology.

C.6.2.6 DENSITY

OBJECTIVES

- (i) To provide an appropriate density on the site that is consistent with the local character.

DEVELOPMENT CONTROLS

- (a) Development on the site should not exceed 57 dwellings.

ATTACHMENT 2

**DRAFT PLANNING AGREEMENT
582-582A Old Northern Road, Dural
THE HILLS SHIRE COUNCIL
CENTARAN HOLDINGS PTY LTD**

www.thehills.nsw.gov.au

THE HILLS
Sydney's Garden Shire



The Hills Shire Council

10 APRIL 2018

3 Columbia Court, Baulkham Hills NSW 2153
PO Box 7064, Baulkham Hills BC 2153 Phone (02) 9843 0555

Doc ID 541599013/v2

**Planning Agreement
Summary Sheet**

Council	Name	The Hills Shire Council
	Address	3 Columbia Court Baulkham Hills, NSW 2153
	Telephone	(02) 9843 0555
	Facsimile	(02) 9843 0258
	Email	council@thehills.nsw.gov.au
	Representative	Mr Michael Edgar – General Manager
Developer	Name	Centaran Holdings Pty Ltd
	Address	Suite 58, Level 5, 104 Bathurst Street Sydney P.O Box A955, Sydney South NSW 1235
	Telephone	(02) 9262 9161
	Facsimile	(02) 9262 9607
	Email	dimitri@drivasgroup.com.au
	Representative	Dimitri Drivas (Director)
Land		Lot 2 DP 565718 and Lot 1 DP656034
Planning Proposal		Planning Proposal 7/2015/PLP – 582-582A Old Northern Road, Dural.
Dedication Land		Not Applicable
Works		Not Applicable
Monetary Contributions		See Schedule 3
Security Amount		Not Applicable

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Planning Agreement

Dated

Parties

The Hills Shire Council ABN 25 034 494 656 of 3 Columbia Court, Baulkham Hills, NSW 2153
(**Council**)

Centaran Holdings Pty Ltd ACN 080 218 186 of Suite 58, Level 5, 104 Bathurst Street Sydney
New South Wales 2000 (**Developer**)

Background

- A. Council is the consent authority pursuant to the *Environmental Planning and Assessment Act 1979* (NSW) (**Act**) for the Proposed Development.
- B. The Developer is the owner of the Land.
- C. The Developer has made a Planning Proposal request to rezone the Land to R3 Medium Density Residential under The Hills LEP 2012 and the Developer intends to lodge a development application for the Proposed Development.
- D. The Developer has offered to make Development Contributions in the nature of a Monetary Contribution to Council.
- E. The Developer and the Council agree to enter into this Agreement.

Operative provisions

1. **Defined meanings**

Words used in this document and the rules of interpretation that apply are set out and explained in the definitions and interpretation clause at the back of this Agreement.

2. **Planning agreement under the Act**

The Parties agree that this document is a planning agreement within the meaning of **subdivision 2, Division 6, Part 4** of the Act.

3. **Application of this document**

This document is made in respect of the Proposed Developments and applies to the Land.

4. **No restriction on Council's Powers**

This Agreement or anything done under this Agreement:

- (a) is not to be taken as approval or consent by Council as a regulatory authority; and
- (b) does not in any way inhibit, deter or prejudice Council in the proper exercise of its functions, duties or powers,

pursuant to any legislation including the Act, the *Roads Act 1993* (NSW) and the *Local Government Act 1993* (NSW).

5. Operation of this Agreement

- 5.1 Until the Agreement operates, this document constitutes the Developer's offer to enter into the planning agreement if consent under section 4.16 of the Act is granted to a Development Application to develop the Land for multi dwelling housing.
- 5.2 This Agreement provides for Development Contributions to be made with respect to a future development consent for multi dwelling housing on the Land as outlined in Schedule 4.
- 5.3 The Parties agree that the Developer is not bound by this Agreement to provide the Developers Contributions unless the Development Consent is granted to the Development Application.

6. Monetary Contributions

6.1 Payment

The Developer must pay the Monetary Contributions and any applicable Additional Monetary Contribution (Total Monetary Contribution) by cheque or electronic bank transfer to Council's nominated bank account in accordance with clauses 6.2 and 6.3.

6.2 Pro rata payment

- 6.2.1 The parties acknowledge that the Proposed Development may be undertaken in a number of stages, with the construction of individual buildings authorised by separate Construction Certificate.
- 6.2.2 The Dwelling Contribution and any applicable Additional Monetary Contribution (Total Dwelling Contribution) is to be paid on a pro rata basis prior to the issue of each Construction Certificate for construction of each dwelling comprising the Proposed Development.
- 6.2.3 The proportion of the Total Dwelling Contribution payable at each relevant Construction Certificate will be calculated in accordance with the below formula:

$$b = \frac{ya}{x}$$

Where:

a = Dwelling Contribution

b = proportion of Total Dwelling Contribution payable in connection with the Construction Certificate

x = total number of approved dwellings in the Development Consent

y = number of dwellings to be constructed under the Construction Certificate

- 6.3 The Developer will pay the Pedestrian Facility Upgrade Contributions to the Council prior to the issue of the first Construction Certificate issued in relation to the Development Consent.

6.4 Public Purpose

The Dwelling Contribution is required for the funding of the construction of improvements to the public domain in the vicinity of the Land (including those specified in section 7.4(F)(2) of the Act) as determined by the General Manager of Council from time to time and Council agrees it will apply the Total Monetary Contribution for those purposes.

- 6.5 The Council must use the Pedestrian Facility Upgrade Contribution for the public purposes of construction of pedestrian access requirements adjacent to the Land that are generated by a future multi dwelling housing development on the Land and Council agrees that it will apply the Pedestrian Facility Upgrade Contribution for this purpose.

7. **Application of S7.11 and s7.12 of the EPAA**

- 7.1 For the purpose of section 7.4(5) of the Act this document wholly excludes the operation of sections 7.11(previous s 94) and section 7.12 (previous s94A) of the Act in relation to the Development Application and future Development Application(s) for the development of the Land for multi dwelling housing and no developer contributions under the Act will be payable.

8. **Termination**

8.1 Development Consents

If Development Consent is granted by the Council with respect to the Development Application(s), this document terminates with respect to that particular Development Consent:

- (a) on the lapse of the Development Consent; or
- (b) on the formal surrender of the Development Consent; or
- (c) on the final determination by a Court of competent jurisdiction issuing a declaration that the Development Consent is invalid.

8.1 Bankruptcy & Insolvency

This Agreement will immediately terminate if:

- (a) Any company officer of the Developer becomes subject of bankruptcy proceedings or becomes a bankrupt.
- (b) The Developer becomes subject of external administration or insolvency proceedings.

9. Consequences

- 9.1 On the date of termination or rescission of this document, subject to the following subparagraphs each party releases each other from any obligation to perform any term, or any liability arising out of, this document after the date termination.
- 9.2 Any unapplied Monetary Contribution, bond or Bank Guarantee that has been provided to Council will be refunded to the Developer as soon as practicable after the date of termination.
- 9.3 Termination or rescission of this document does not release either party from any obligation or liability arising under this document before termination or rescission.

10. Private Certifiers

Where Council is not the certifying authority for any aspect of the Proposed Development the Developer must on the appointment of a private certifier provide a copy of this Agreement to the private certifier.

11. Notices

- 11.1 Any notice to or by a party under this document must be in writing and signed by the sender or, if a corporate party, an authorised officer of the sender.
- 11.2 Any notice may be served by delivery in person or by post or transmission by facsimile to the address or number of the recipient specified in the Summary Sheet or most recently notified by the recipient to the sender.
- 11.3 Any notice is effective for the purposes of this document upon delivery to the recipient or production to the sender of a facsimile transmittal confirmation report before 4.00pm local time on a day in the place in or to which the written notice is delivered or sent or otherwise at 9.00am on the next day following delivery or receipt.

12. Breach Notice and Rectification

- 12.1 If the Developer is, in the opinion of Council, in breach of a material obligation under this document, Council may provide written notice of the breach to the Developer and require rectification of that breach within a reasonable period of time (**Breach Notice**).
- 12.2 Unless there are compelling reasons to extend or abridge the period of time permitted for rectification, a reasonable period of time is taken to be fourteen days from receipt of written notification of the breach.

- 12.3 If the breach is not rectified within the time specified in the Breach Notice, or otherwise agreed between the Parties, Council may rectify the breach as the agent of the Developer and at the risk of the Developer. The Developer must pay all reasonable costs incurred by the Council in remedying the breach.

13. Dispute resolution

13.1 Disputes

If there is any dispute, difference of opinion or failure to agree relating to or arising from this document that dispute must be referred for determination under this clause.

13.2 No legal proceedings

The Parties must not bring or maintain any action on any Dispute (except for urgent injunctive relief to keep a particular position) until it has been referred and determined as provided in this clause.

13.3 Notice of disputes (Dispute Notice)

A Party referring a Dispute for determination must do so by written notice to the other parties which must specify the nature of the Dispute and a nominated officer of the referring party with sufficient authority to determine the Dispute.

13.4 Negotiated resolution and selection of expert

- (a) On service of the Dispute Notice the receiving Parties must refer the Dispute to an officer with sufficient authority to determine the Dispute. The nominated officers of each Party must meet at least once and use reasonable endeavours to resolve the Dispute by negotiation within seven days of service of the Dispute Notice. Any resolution must be recorded in writing and signed by each nominated officer. By agreement, the nominated officers may employ the services of a mediator to assist them in resolving the Dispute.
- (b) If the nominated officers are unable to resolve the Dispute within seven days of service of the Dispute Notice they must endeavour within the following seven-day period to appoint an expert by agreement. That appointment must be recorded in writing and signed by each nominated officer.
- (c) If the nominated officers do not record the appointment of an expert within that second seven day period, the expert must be appointed, at the request of any party, by the President for the time being (or if none, the senior elected member) of the Law Society of New South Wales.

13.5 Assistance to the Expert (the Expert)

- (a) Once the Expert has been appointed (the Expert), the Parties must:
 - (i) each use their best endeavours to make available to the Expert all information the Expert requires to settle or determine the Dispute; and
 - (ii) ensure that their employees, agents or consultants are available to appear at any hearing or enquiry called by the Expert.
- (b) The Parties may give written submissions to the Expert but must provide copies to the other Parties at the same time.

13.6 Expert's decision

- (a) The decision of the Expert must:
 - (i) be in writing and give reasons; and
 - (ii) be made and delivered to the parties within one month from the date of submission of the dispute to the Expert or the date of completion of the last hearing or enquiry called by the Expert, if later.
- (b) The Expert may conduct the determination of the Dispute in any way it considers appropriate but the Expert may, at its discretion, have regard to the Australian Commercial Disputes Centre's guidelines for expert determination of disputes or such other guidelines as it considers appropriate.
- (c) The Expert's decision is final and binding on the parties.
- (d) The Expert must act as an expert and not as an arbitrator.

13.7 Expert's costs

- (a) The Expert must also determine how the expenses relating to the reference of the Dispute (including the Expert's remuneration) should be apportioned between the parties and in default of a decision by the Expert those expenses must be borne by the parties equally.
- (b) In determining the apportionment of costs the Expert may have regard to what the Expert, in its reasonable opinion, considers to be a lack of good faith or a failure to use reasonable endeavours by any party in assisting the Expert or resolving the dispute between the parties' nominated officers as required by this clause.

13.8 Continual performance

Each Party must continue to perform its obligations under this document while any dispute is being determined under this clause.

14. Registration of document on Title

14.1 Acknowledgement

The Developer agrees to register this document under section 7.6 of the Act on the Land and on registration by the Registrar-General the Agreement will be binding on and enforceable against the owners of the Lands from time to time as if each owner for the time being had entered into this document.

14.2 Consents to Registration

The Developer must register this Agreement on the title of the Land as soon as practicable after it is made. Each Party must promptly execute any document and perform any action necessary to affect the registration of this document on the title of the Land.

14.3 Release from Registration

Council will upon the written request of the Developer:

- (a) consent to the removal of this Agreement from the title of part of the Land where the Dwelling Contributions have been made in relation to that part of the Land; and
- (b) consent to the removal of this Agreement from the title of the whole of the Land when the Development Contributions have been made

and provide to the Developer within 10 days of the request a signed Request in registrable form for the removal of registration of this Agreement from part of or whole of the Land. ..

14.4 Registration Expenses

The Developer must pay Council's reasonable expenses including registration fees, any stamp duty, legal costs and disbursements, for the registration of this document and the subsequent removal of registration, on an indemnity basis.

The Developer will be entitled to the benefit of any special or discounted rates charged to Council by its consultants and legal advisers and will be entitled to seek assessment of any legal costs, as a third party payer under s 350(2) of the *Legal Profession Act 2004* (NSW).

15. Costs

- 15.1 The Developer is to pay to the Council the Council's costs of enforcing this Agreement within 7 days of a written demand by the Council for such payment subject to clause 13.7 of this Agreement.
- 15.2 Each Party must bear its own costs arising from or in connection with the entry into this Agreement.

16. GST

- 16.1 In this clause terms used have the meaning given to them by the GST Law as defined in Section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* (**GST Act**).
- 16.2 If GST is imposed on any supply made under or in accordance with this agreement, the Developer must pay the GST or pay to the Council an amount equal to the GST payable on or for the taxable supply, whichever is appropriate in the circumstances.

17. General

17.1 Assignment

- (a) A party must not transfer any right or liability under this document without the prior consent of each other party, except where this document provides otherwise.
- (b) In the event that the Developer enters into a contract for the sale of the Land the subject of the Development Consent, the Developer (as vendor) shall disclose to the purchaser the existence of this Agreement.

17.2 Governing law and jurisdiction

- (a) This Agreement is governed by and construed under the law in the State of New South Wales.
- (b) Any legal action in relation to this Agreement against any party or its property may be brought in any court of competent jurisdiction in the State of New South Wales.
- (c) Each party by execution of this Agreement irrevocably, generally and unconditionally submits to the non-exclusive jurisdiction of any court specified in this provision in relation to both itself and its property.

17.3 Amendments

Any amendment to this Agreement has no force or effect, unless effected by a document executed by the parties.

17.4 Third parties

This Agreement confers rights only upon a person expressed to be a party, and not upon any other person.

17.5 Pre-contractual negotiation

This Agreement:

- (a) expresses and incorporates the entire agreement between the parties in relation to its subject matter, and all the terms of that agreement; and
- (b) supersedes and excludes any prior or collateral negotiation, understanding, communication or agreement by or between the parties in relation to that subject matter or any term of that agreement.

17.6 Further assurance

Each party must execute any document and perform any action necessary to give full effect to this Agreement, whether before or after performance of this Agreement.

17.7 Continuing performance

- (a) The provisions of this Agreement do not merge with any action performed or document executed by any party for the purposes of performance of this document.
- (b) Any representation in this Agreement survives the execution of any document for the purposes of, and continues after, performance of this Agreement.
- (c) Any indemnity agreed by any party under this Agreement:
 - (i) constitutes a liability of that party separate and independent from any other liability of that party under this Agreement or any other agreement; and
 - (ii) survives and continues after performance of this Agreement.

17.8 Waivers

Any failure by any party to exercise any right under this Agreement does not operate as a waiver and the single or partial exercise of any right by that party does not preclude any other or further exercise of that or any other right by that party.

17.9 Remedies

The rights of a party under this Agreement are cumulative and not exclusive of any rights provided by law.

17.10 Counterparts

This Agreement may be executed in any number of counterparts, all of which taken together are deemed to constitute one and the same Agreement.

17.11 Party acting as trustee

If a party enters into this Agreement as trustee of a trust, that party and its successors as trustee of the trust will be liable under this Agreement in its own right and as trustee of the trust. Nothing releases the party from any liability in its personal capacity. The party warrants that at the date of this Agreement:

- (a) all the powers and discretions conferred by the deed establishing the trust are capable of being validly exercised by the party as trustee and have not been varied or revoked and the trust is a valid and subsisting trust;
- (b) the party is the sole trustee of the trust and has full and unfettered power under the terms of the deed establishing the trust to enter into and be bound by this document on behalf of the trust and that this document is being executed and entered into as part of the due and proper administration of the trust and for the benefit of the beneficiaries of the trust;
- (c) no restriction on the party's right of indemnity out of or lien over the trust's assets exists or will be created or permitted to exist and that right will have priority over the right of the beneficiaries to the trust's assets.

17.12 Representations and warranties

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the document and that entry into this Agreement will not result in the breach of any law.

17.13 Severability

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this document, but the rest of this Agreement is not affected.

18. Definitions and interpretation

In this Agreement unless the context otherwise requires:

Act means the *Environmental Planning and Assessment Act 1979* (NSW);

Additional Monetary Contribution means the amount determined by multiplying the Monetary Contribution Rates by the number of dwellings in addition to the Anticipated Dwellings approved for the Proposed Development;

Agreement means this planning agreement;

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in New South Wales;

Construction Certificate has the same meaning as in the Act;

Consumer Price Index means the All Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics or if this price index is discounted then such price index as Council may select.

Developer means a persons who has sought a change to an environmental planning instrument or who has made, or proposes to make, an application for development consent.

Development Application means the development application for the Development Consent.

Development Consent means the development consent granted by the Council under section 4.16 of the Act specified in the Summary Sheet.

Development Contributions means a monetary contribution, the dedication of land free of cost or the provision of a material public benefit including the Works, or a combination of any of them.

Dispute Notice means written notice provided by a Party referring a dispute for determination, specifying the nature of the dispute and a nominated officer of the referring party with sufficient authority to determine the dispute.

Dwelling Contribution means a monetary contribution of the amount set out in Schedule 1 Clause A.

Encumbrance includes any mortgage or charge, lease, (or other right of occupancy) or profit a prendre.

Environment has the same meaning as set out in the Dictionary to the *Protection of the Environment Operations Act 1997* (NSW).

GST means any tax, levy, charge or impost implemented under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (**GST Act**) or an Act of the Parliament of the Commonwealth of Australia substantially in the form of, or which has a similar effect to, the GST Act;

Land means Lot 2 DP565718 and Lot 1 DP656034 known as 582-582A Old Northern Road Dural.

Monetary Contribution means the monetary development contributions required to be paid to the Council under the conditions of the Development Consent as specified in Schedule 1 and includes Dwelling Contributions and the Pedestrian Facility Upgrade Contribution.

Party means a party to this Agreement, including their successors and assigns.

Pedestrian Facility Upgrade Contribution means a monetary contribution of the amount set out in Schedule 1 Clause B to be used by Council for pedestrian facility upgrades adjacent to the Land.

Planning Proposal means the planning proposal number 7/2015/PLP which seeks to amend the Hills Local Environmental Plan 2012 to rezone the Land from RU6 Transition Zone to R3 Medium Density Residential Zone.

Proposed Development means the development approved by the Development Consent.

Regulation means the *Environmental Planning and Assessment Regulation 2000* (NSW).

Security means a Bank Guarantee or bond in favour of the Council on terms satisfactory to the Council, or such other form of security as the Council may require in its absolute discretion.

The Hills LEP 2012 means The Hills Local Environmental Plan 2012.

18.1 Interpretation

In this document unless the context otherwise requires:

- (a) clause and subclause headings are for reference purposes only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) reference to a person includes any other entity recognised by law and vice versa;
- (e) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (f) any reference to a party to this document includes its successors and permitted assigns;
- (g) any reference to a provision of an Act or Regulation is a reference to that provision as at the date of this document;
- (h) any reference to any agreement or document includes that agreement or document as amended at any time;
- (i) the use of the word **includes** or **including** is not to be taken as limiting the meaning of the words preceding it;
- (j) the expression **at any time** includes reference to past, present and future time and the performance of any action from time to time;
- (k) an agreement, representation or warranty on the part of two or more persons binds them jointly and severally;
- (l) an agreement, representation or warranty on the part of two or more persons is for the benefit of them jointly and severally;

- (m) reference to an exhibit, annexure, attachment or schedule is a reference to the corresponding exhibit, annexure, attachment or schedule in this document;
- (n) reference to a provision described, prefaced or qualified by the name, heading or caption of a clause, subclause, paragraph, schedule, item, annexure, exhibit or attachment in this document means a cross reference to that clause, subclause, paragraph, schedule, item, annexure, exhibit or attachment;
- (o) when a thing is required to be done or money required to be paid under this document on a day which is not a Business Day, the thing must be done and the money paid on the immediately following Business Day; and
- (p) reference to a statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated.

Schedule 1 – Monetary Contributions

- A. Dwelling Contribution: Payment of \$18,000 per dwelling approved under a future Development Consent
- B. Pedestrian Facility Upgrade Contribution: Payment of \$60,000 towards the construction by Council of pedestrian access improvements adjacent to the site that maybe generated by a future multi dwelling housing development on the land.

Schedule 4 – Proposed Development

Development of the Land for the purposes of multi-dwelling housing, subject to the preparation and lodgement of as future Development Application.

Execution Page

The common seal of **The Hills Shire Council**
was affixed under a resolution passed by council
on
in the presence of:

General Manager

Mayor

Print Name

Print Name

Witness

Print Name

Executed by the Developer in accordance with
s127 of the *Corporations Act 2001* (Cth):

Secretary/Director

Director

Print name

Print name

Annexure A – Caveat

**EXPLANATORY NOTE TO
VOLUNTARY PLANNING AGREEMENT**

Planning Proposal for Lot 2 DP 565718 and Lot 1 DP 656034, known as 582-582A Old Northern Road Dural.

Background

The developer is the owner of the land described as Lot 2 DP 565718 and Lot 1 DP 656034, known as 582-582A Old Northern Road Dural. The developer has sought through a Planning Proposal a rezoning of the land to facilitate the lodgement of a future Development Application for multi-dwelling housing] (**Proposed Development**). The developer has a lodged or proposes to lodge a development application(s) for Lot 2 DP 565718 and Lot 1 DP 656034, known as 582-582A Old Northern Road Dural.

The developer has offered to enter into the Planning Agreement in connection with the Proposed Development to specify the development contributions to be made to Council in connection with the carrying out of the Proposed Development subject to and in accordance with the Planning Agreement.

Summary of Objectives, Nature and Effect of the proposed Planning Agreement

The objective of the proposed Planning Agreement is to record the terms of the offer made by the developer and its obligations (if the Planning Agreement is entered into with the Council) to:

- pay the monetary contributions to Council.

(Development Contributions).

The Planning Agreement relates to the delivery of infrastructure to support the increased demands for facilities arising from the future development of the land for multi-dwelling housing. The Planning Proposal seeks to rezone the land to R3 Medium Density Housing under the Hills LEP 2012.

If the proposed Planning Agreement is entered into between the developer and the Council, the developer will be required to make the Development Contributions as set out in Schedule 1 of the Planning Agreement.

Assessment of the Merits of the proposed Planning Agreement and Impact on the Public

The Planning Agreement provides for a monetary contribution by the developers of:

- \$18,000 per dwelling; and
- \$60,000 towards a pedestrian facility upgrade.

It has been entered into to provide certainty for the developer and the Council as to the amount to be paid by way of contribution for infrastructure, given that Contribution Plan for the area has been approved by Council.

Identification of how the proposed Planning Agreement promotes the public interest

The Planning Agreement will support the provision of new development to meet demand for housing consistent with the Metropolitan Strategy, North West Sub Regional Strategy and Council's Residential Direction (2009). The Planning Agreement supports the delivery of infrastructure required to meet expectations regarding safe and efficient functioning of the local road network, provision of open space for recreation and passive use and improvement of the public domain to provide attractive safe streets for future residents.

Identification of how the proposed Planning Agreement promotes elements of the Council's charter under the Local Government Act 1993

The Planning Agreement promotes the Council's charter under section 8 of the *Local Government Act* 1993 by providing adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively. The Planning Agreement further keeps the local community informed of Council's activities.

Identification of the planning purpose served by the proposed Planning Agreement and whether the proposed Planning Agreement provides for a reasonable means of achieving that purpose

The Planning Agreement provides a reasonable means of achieving and securing outcomes envisaged by Planning Proposal 7/2015/PLP – 582-582A Old Northern Road, Dural which proposes to rezone the land from RU6 Transitional zone to R3 Medium Density Residential zone under The Hills LEP by identifying the works, method of payment and timing to ensure the public benefits secured by the Planning Agreement meet the increased demand for public facilities within the vicinity of 582-582A Old Northern Road, resulting from the development.

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 24 April 2018

3. Following the preparation of the draft Voluntary Planning Agreement, and prior to any public exhibition of the planning proposal, a report on the draft Voluntary Planning Agreement be submitted to Council for consideration.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

188 RESOLUTION

1. Council forward the planning proposal to increase the maximum floor space ratio to 2.2:1 and increase the permissible maximum building height to RL126 metres at 8 Solent Circuit, Baulkham Hills (Lot 4026 DP 873565) to the Department of Planning and Environment for a Gateway Determination;
2. Council proceed with discussions with the proponent to prepare a draft Voluntary Planning Agreement which secures a fair and reasonable contribution from future development on the site towards infrastructure improvements within the Norwest Business Park; and
3. Following the preparation of the draft Voluntary Planning Agreement, and prior to any public exhibition of the planning proposal, a report on the draft Voluntary Planning Agreement be submitted to Council for consideration.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Mayor Dr M R Bryne
Clr R A Preston
Clr Dr P J Gangemi
Clr R Jethi
Clr M G Thomas
Clr F P De Masi
Clr A J Hay OAM
Clr A N Haselden
Clr S P Uno

VOTING AGAINST THE MOTION

None

ABSENT

Clr B L Collins OAM
Clr R K Harty OAM
Clr E M Russo
Clr R M Tracey

ITEM-4

**POST EXHIBITION - PLANNING PROPOSAL - 582
AND 582A OLD NORTHERN ROAD, DURAL
(7/2015/PLP)**

Proceedings in Brief

Pat Clay representing the residents in the local area addressed Council regarding this matter.

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 24 April 2018

A MOTION WAS MOVED BY COUNCILLOR HASELDEN AND SECONDED BY COUNCILLOR UNO THAT Council write to the Greater Sydney Commission requesting that the planning proposal, to rezone the subject site from RU6 Transition to R3 Medium Density Residential and to reduce the minimum lot size from two (2) hectares to 700m², not proceed on the following grounds:

1. The planning proposal seeks a spot rezoning in an area currently under investigation by Council which would determine appropriate outcomes for the local and the local infrastructure needed;
2. The regional and local road network is currently operating at capacity and the funding for the required upgrades have not been secured;
3. Medium density residential development would not provide an appropriate transition between Dural's low density residential edge and adjoining rural land;
4. The proposed development is not required to meet dwelling targets which can already be met under existing R3 Medium Density zoned land in more suitable locations; and
5. The proposal is inconsistent with the rural objectives of the Greater Sydney Region Plan and Central City District Plan.
6. The proposal does not make reasonable contribution to the upgrade of parks, local roads, New Line Road and other facilities that the additional population will require.

THE MOTION WAS PUT AND LOST.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Mayor Dr M R Bryne
Clr A N Haselden
Clr S P Uno

VOTING AGAINST THE MOTION

Clr R A Preston
Clr Dr P J Gangemi
Clr R Jethi
Clr M G Thomas
Clr F P De Masi
Clr A J Hay OAM

ABSENT

Clr B L Collins OAM
Clr R K Harty OAM
Clr E M Russo
Clr R M Tracey

A MOTION WAS MOVED BY COUNCILLOR PRESTON AND SECONDED BY COUNCILLOR HAY OAM THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED.

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 24 April 2018

189 RESOLUTION

1. The draft Voluntary Planning Agreement be subject to a legal review.
2. Following the completion of the legal review, the draft Voluntary Planning Agreement and draft amendments to The Hills Development Control Plan 2012 Part B Section 2 – Residential (Attachment 1 – ECM No.16466540) be publicly exhibited for a period of 28 days.
3. The planning proposal, to rezone the subject site from RU6 Transition to R3 Medium Density Residential and to reduce the minimum lot size from two (2) hectares to 700m², be progressed to the Department of Planning and Environment for finalisation, requesting that the plan not be made until the VPA has been executed.
4. The Department of Planning and Environment be advised that this rezoning is not required to meet Council's housing targets and that Office of Environment and Heritage has not resolved ecological issues.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Clr R A Preston
Clr Dr P J Gangemi
Clr R Jethi
Clr M G Thomas
Clr F P De Masi
Clr A J Hay OAM

VOTING AGAINST THE MOTION

Mayor Dr M R Bryne
Clr A N Haselden
Clr S P Uno

ABSENT

Clr B L Collins OAM
 Clr R K Harty OAM
 Clr E M Russo
 Clr R M Tracey

ITEM-5

**REVIEW OF CONTRIBUTIONS PLAN NO. 12 -
BALMORAL ROAD RELEASE AREA (FP131)**

A MOTION WAS MOVED BY COUNCILLOR HASELDEN AND SECONDED BY COUNCILLOR PRESTON THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

190 RESOLUTION

1. Draft amendments to Contributions Plan No.12 – Balmoral Road Release Area, provided as Attachment 1 (ECM Doc.16826266), be publicly exhibited for a minimum of 28 days in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*.