

ORDINARY MEETING OF COUNCIL

11 APRIL, 2017

ITEM-2	FURTHER REPORT - 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:	11 APRIL 2017 COUNCIL MEETING
GROUP:	STRATEGIC PLANNING
AUTHOR:	TOWN PLANNER ASHLEY COOK
RESPONSIBLE OFFICER:	MANAGER FORWARD PLANNING STEWART SEALE

EXECUTIVE SUMMARY

This report recommends that Council accepts the role as Relevant Planning Authority to progress a planning proposal applicable to land at 582 and 582a Old Northern Road, Dural and to forward the proposal to the Department of Planning and Environment for Gateway Determination. The planning proposal is seeking to rezone the site from RU6 Transition to R3 Medium Density Residential to facilitate 57 townhouses on the site.

Council previously resolved to hold the planning proposal in abeyance to undertake a holistic study of the broader Dural area. The proponent subsequently lodged a Rezoning Review with the Department of Planning and Environment which was forwarded to the Sydney West Central Planning Panel for further assessment. At its meeting on 1 February 2017, the Panel recommended that the planning proposal be progressed to Gateway Determination, subject to consultation with the Office and Environment and Heritage.

On 22 March 2017, the Department of Planning and Environment formally advised Council of the outcome of the West Central Planning Panel meeting and invited Council to undertake the role as Relevant Planning Authority (RPA). If Council accepts this role, a planning proposal will need to be submitted for a Gateway Determination by 24 April 2017.

It is recommended that Council accepts the role as Relevant Planning as it will allow Council to manage the planning proposal and to make any necessary amendments in accordance with community and public authority consultation and any further studies that may be required. It is important to recognise that the Gateway Determination process does not predetermine an outcome. Rather, it allows the proposal to proceed to exhibition and consultation with the community and public authorities under the relevant

legislation. At the end of this process, like any other planning proposal, options will be available to proceed without an amendment to the proposal, proceed with an amendment to the proposal, or to stop the proposal. It is considered that Council is the appropriate authority to manage this process.

PROPONENT

Rockeman Town Planning

OWNER

Centarans Holdings Pty Ltd

THE HILLS LOCAL ENVIRONMENTAL PLAN 2012

	Existing	Proposed by Proponent
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.

HISTORY

27/10/2014	Planning proposal lodged for 582 Old Northern Road, Dural to rezone the site to R3 Medium Density Residential and reduce the minimum lot size to 1,800m ² to facilitate the development of approximately 80 townhouses.
18/11/2014	Planning proposal presented to Councillor Workshop.
18/12/2014	Letter to proponent raising concerns with proposed R3 Medium Density Residential zone.
22/05/2015	Revised planning proposal lodged adding 582A Old Northern Road, Dural to the site, persisting with the R3 Medium Density Residential zone and reducing the minimum lot size to 700m ² . The revised subdivision concept reduced the yield to 57 townhouses and included visitor parking, three (3) areas of common open space, an environmental protection area and a 5-10 metre vegetation buffer.
14/07/2015	Revised planning proposal presented to Councillor Workshop.
25/08/2015	Matter scheduled to be reported to Council, but was held back at the request of the proponent.
21/01/2016	Meeting was held with the proponent and consultants, Mayor and Council's Group Manager Strategic Planning.
10/05/2016	Council considered a report on the planning proposal and resolved that the matter be deferred and considered at the next Councillor's Workshop.

07/06/2016	Planning proposal considered at Councillor Workshop.
28/06/2016	Council considered a report on the planning proposal and resolved to defer the planning proposal to undertake a holistic study into the current and future land use of the Dural Round Corner Precinct, with Hornsby Shire.
25/08/2016	A Pre-Gateway Review request was submitted by the proponent to the Minister for Planning for consideration.
05/10/2016	Council response to Pre-Gateway Submission was sent to the Department of Planning and Environment.
29/11/2016	Department of Planning and Environment referred the planning proposal to the West Central Planning Panel for detailed review.
01/02/2017	West Central Planning Panel recommended that the planning proposal should proceed to Gateway Determination.
15/03/2017	Council invited to be the Relevant Planning Authority and given 40 days to submit a planning proposal.

REPORT

The purpose of this report is to consider whether Council should be the Relevant Planning Authority for a planning proposal to amend *The Hills Local Environmental Plan 2012* (LEP 2012) to rezone land at 582 and 582A Old Northern Road, Dural and reduce minimum lot size to 700m², to facilitate medium density residential development in place of the existing timber mill.

It is quite important to acknowledge that Gateway is the start of an LEP amendment process and issuing a Gateway Determination does not predetermine its finalisation. Gateway Determination permits advertisement and consultation that might result in a number of different outcomes like any other LEP process. What Council needs to consider is whether it wishes to retain management of that process or alternatively allow the Sydney West Planning Panel and the Department of Planning and Environment to undertake that role.

BACKGROUND

On 28 June 2016 Council considered a planning proposal to rezone the site and resolved that the planning proposal be held in abeyance pending a holistic study into the current and future land use of the Dural Round Corner Precinct. The proponent lodged a Rezoning Review with the Department of Planning and Environment which was subsequently forwarded to the West Central Planning Panel for further assessment. On 1 February 2017 the Panel considered the proposal and recommended that it proceed to Gateway subject to further consultation with the Office of Environment and Heritage (OEH) regarding the proposal's provisions for conserving the Shale Sandstone Transition Forest and that the proposal be amended as necessary to address any of OEH's concerns.

By Mayoral Minute 1/2017 the Mayor advised Councillors and the community of concerns regarding the operation of the Panel and Council resolved in part to write to the Minister for Planning and Environment. In accordance with the resolution, a letter was sent to the Minister on 24 February 2017:

- a) *expressing concern and dissatisfaction with the operation of the Sydney West Central Planning Panel;*
- b) *expressing concern that The Hills Shire is the subject of further housing growth outside of its considerable land already zoned as part of meeting its metropolitan housing targets;*
- c) *indicating that the composition of the Sydney West Planning Panel should be at the very least, equal numbers of Council and Government-appointed members;*
- d) *requesting that the Minister urgently review the capital investment value threshold that determines when a matter can be brought before a planning panel; and*
- e) *requesting the Minister undertake a review of the Sydney West Central Planning Panel's decision of 1 February 2017 with regard to the concerns raised by Council.*

On 15 March 2017 the Department of Planning and Environment formally notified Council of the West Central Planning Panel's recommendation and invited Council to undertake the role as Relevant Planning Authority. Should Council accept the role as Relevant Planning Authority, a formal planning proposal must be submitted for Gateway by 24 April 2017. The Department advised that if Council does not wish to progress the planning proposal an alternate Relevant Planning Authority will be appointed. This will mean that Council's role will be diminished to permit a submission rather than a determinative role.

It is noted that the Rezoning Review process was put in place by the State Government to facilitate faster assessment of proposals in the event that a relevant Council has notified the proponent that the request to prepare a planning proposal has not been supported, or the relevant Council has not indicated its support within 90 days of lodgment. As would be the case if Council resolved that a planning proposal progress to Gateway, there is still a significant amount of assessment that is required prior to the proposal being finalised.

OPTIONS

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

Option 1:

Council accepts the role as Relevant Planning Authority and submits a planning proposal to the Department of Planning and Environment for Gateway.

Should the planning proposal receive a Gateway Determination, this option will allow Council to undertake public exhibition and to make any necessary variations to the planning proposal in response to community and public authority submissions and any further studies that may be required.

It is noted that following the issue of a Gateway Determination, a Council or proponent may request the Minister, Greater Sydney Commission, or delegate to alter a Gateway Determination when a Gateway Determination is made that:

- The planning proposal should not proceed;
- The planning proposal should be re-submitted to the Gateway, or
- Imposes requirements (other than consultation requirements) or makes variations to the proposal that the proponent or Council thinks should be reconsidered.

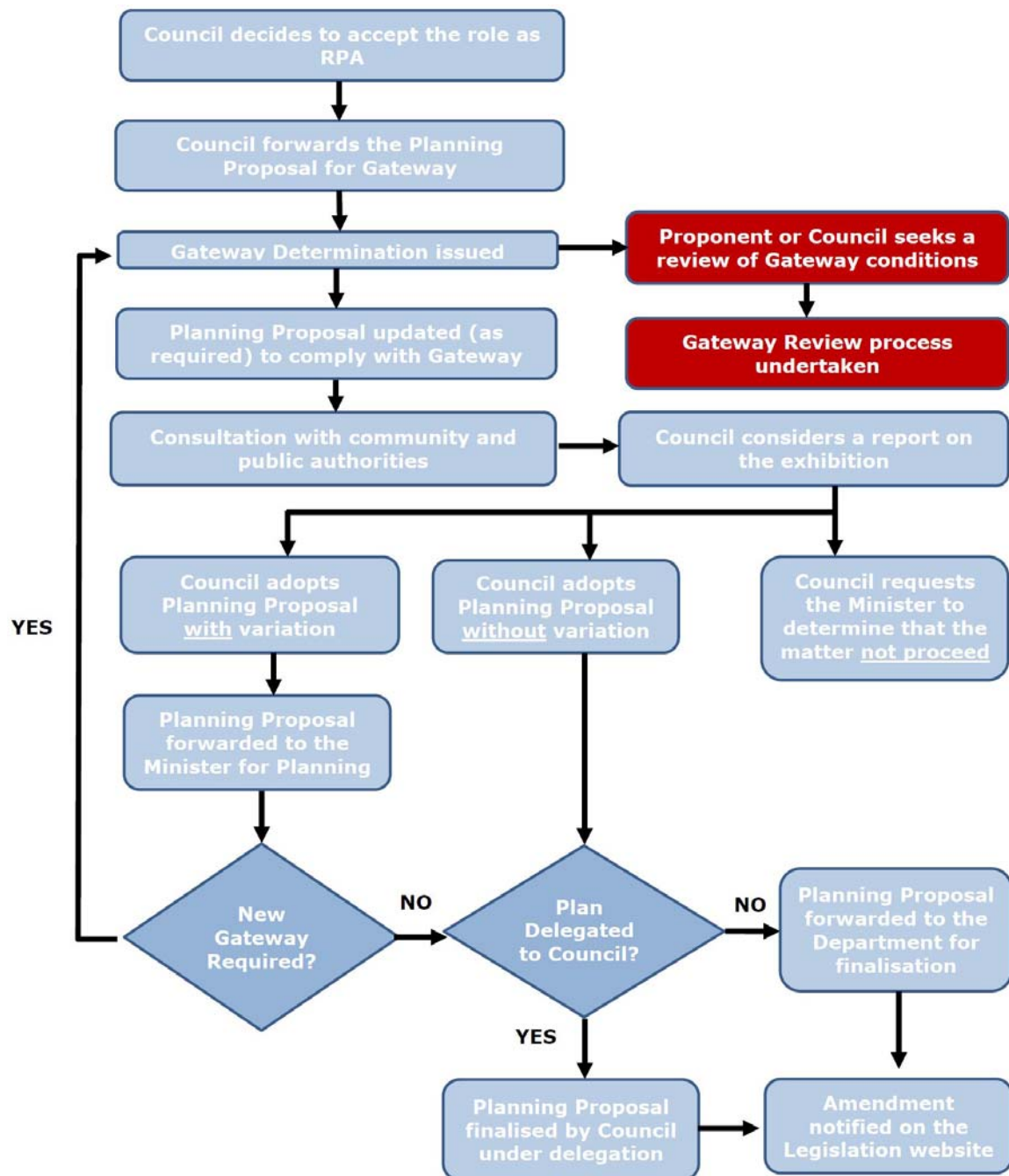
A Council or proponent requesting a 'Gateway Review' must lodge a request with the Department within 42 days from being notified of the Gateway Determination by the Department. After this period avenues for a review by the Proponent will be exhausted.

The Department of Planning's Guide to Preparing Local Environmental Plans states that 'proposals can be built upon, or evolve, as a consequence of more detailed studies and investigations in the period following the initial Gateway Determination and leading up to community consultation'. Furthermore the *Environmental Planning and Assessment Act 1979* provides the following:

'58 Relevant planning authority may vary proposals or not proceed

- (1) The relevant planning authority may, at any time, vary its proposals as a consequence of its consideration of any submission or report during community consultation or for any other reason.*
- (2) If it does so, the relevant planning authority is to forward a revised planning proposal to the Minister.*
- (3) Further community consultation under section 57 is not required unless the Minister so directs in a revised determination under section 56.*
- (4) The relevant planning authority may also, at any time, request the Minister to determine that the matter not proceed'.*

Where Council is the Relevant Planning Authority for a planning proposal it will be responsible for exhibiting and finalising the assessment of the planning proposal. Following the public exhibition Council will consider a report on the outcome of the exhibition and make a decision on how to proceed in accordance with the relevant legislative requirements. An overview of the process, in the event that Council decides to accept the role as Relevant Planning Authority, is included in the following figure.

**Figure 1**

Process if Council is the Relevant Planning Authority

Option 2:

Council refuses the role as Relevant Planning Authority for the planning proposal. Should this option be selected an alternative Relevant Planning Authority will be appointed for the planning proposal. This option will give control of the planning proposal to the alternative Relevant Planning Authority.

If this option is pursued Council will have no direct control over the outcome for the site. Council's role will principally be limited to lodging a submission on the proposal when it is exhibited, which would occur following the issue of a Gateway Determination and

following compliance with the conditions of the Gateway Determination. It is noted that there will be no certainty as to the weight that Council's submission will have in influencing the final outcome for the site. An overview of the process, in the event that Council decides to not accept the role as Relevant Planning Authority, is included in the following figure.

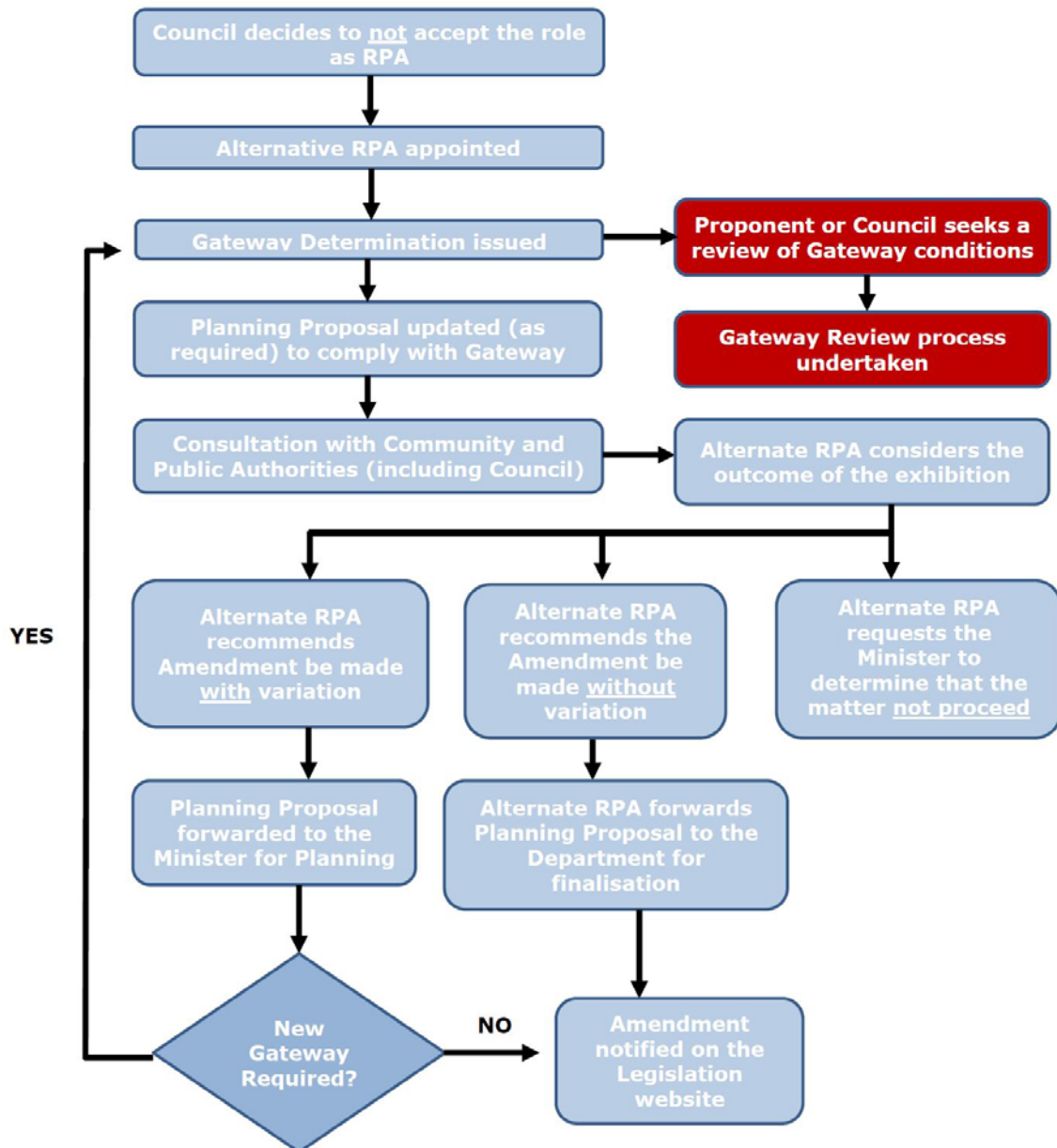


Figure 2
Process if Council is not the Relevant Planning Authority

CONCLUSION

Despite Council's resolution that the the planning proposal be held in abeyance, and Council undertake a holistic study into the current and future land use of the Dural Round Corner Precinct, the West Central Planning Panel recommended that the proposal progress to Gateway.

It is recommended that Council proceed with option 1 and accepts the role as Relevant Planning Authority, and submit a planning proposal to the Department of Planning and Environment for Gateway Determination. This will allow Council to retain planning responsibility for the planning proposal.

IMPACTS**Financial**

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

It is noted that the proponent has paid the planning proposal application fee in accordance with Council's fees and charges. This fee is intended to cover the costs associated with managing the assessment of the Planning Proposal, including staff costs and any costs associated with the public exhibition.

The Hills Future - Community Strategic Plan

Accepting the role as Relevant Planning Authority will allow Council to guide, and if necessary, amend the planning proposal to align with Council's planning framework that reflects responsible planning and good management of the Shire's natural and built environment.

RECOMMENDATION

1. Council accepts the role as Relevant Planning Authority for the planning proposal applying to land at 582 and 582A Old Northern Road, Dural (7/2015/PLP).
2. The planning proposal, which seeks to amend LEP 2012 in accordance the determination provided by the Department of Planning and Environment within its letter of 15 March 2017, be submitted to the Department of Planning and Environment for a Gateway Determination.

ATTACHMENTS

1. Council Report and Minute, 28 June 2016 (19 Pages)
2. Department Pre-Gateway Assessment Report, 4 November 2016 (13 Pages)
3. Sydney West Central Planning Panel Advice, 1 February 2017 (3 Pages)
4. Letter from the Department inviting Council to be the Relevant Planning Authority, 15 March 2017 (1 Page)

Attachment 3



**PRE-GATEWAY REVIEW
ADVICE REPORT**
SYDNEY WEST CENTRAL PLANNING PANEL

DATE OF ADVICE	Wednesday, 1 February 2017
PANEL MEMBERS	Ed Blakely (Chair), Mary-Lynne Taylor and Paul Mitchell
APOLOGIES	Dave Walker
DECLARATIONS OF INTEREST	None

PRE-GATEWAY REVIEW

2016SWC006 – The Hills– PGR_2016_THILL_004_00 AT 582-582A Old Northern Road, Dural (AS DESCRIBED IN SCHEDULE 1)

Reason for Review:

- ☐ The council has notified the proponent that the request to prepare a planning proposal has not been supported
- ☒ The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal

PANEL CONSIDERATION AND RECOMMENDATION

The Panel considered: the material listed at item 4 and the matters raised and/or observed at meetings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel recommends that:

- ☒ The planning proposal **should** be submitted for a Gateway determination, subject to the matters raised in the recommendation of the Panel
- ☐ The planning proposal **should not** be submitted for a Gateway determination

The decision was unanimous.

ADVICE AND REASONS FOR THE RECOMMENDATION

The Panel determines that the proposal should proceed to Gateway subject to the proponent consulting with the Office of Environment and Heritage (OEH) regarding the proposal's provisions for conserving the Shale Sandstone Transition Forest and that the proposal be amended as necessary to address any of the OEH's concerns.

The Panel's reasons are as follows:

1. The planning 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.
2. 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.

The Panel notes that the Council intends to undertake a study of urban interfaces with rural and agricultural lands. The Panel supports this work as a useful adjunct to meet the goals of the District Plan.

PANEL MEMBERS	
 Ed Blakely (Chair)	 Mary-Lynne Taylor
 Paul Mitchell	

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	2016SWC006 – The Hills– PGR_2016_THILL_004_00 AT 582-582A Old Northern Road, Dural
2	LEP TO BE AMENDED	The Hills Local Environmental Plan 2012
3	PROPOSED INSTRUMENT	The proposal seeks to rezone land at 582 and 582A Old Northern Road, Dural from RU6 Transition to R3 Medium Density Residential zone, and reduce the minimum lot size controls applying to the site from 2 ha to 700sqm
4	MATERIAL CONSIDERED BY THE PANEL	• Pre-Gateway review request documentation • Department Justification Assessment Report
5	MEETINGS AND SITE INSPECTIONS BY THE PANEL	• Site inspection: 1 February 2017 ○ In attendance – Panel members: Ed Blakely (Chair) and Paul Mitchell; Department of Planning and Environment (DPE): Catherine Van Laeren, Adrian Hohenzollern and Cho Cho Myint • Site inspection: 1 February 2017 ○ In attendance – Panel member: Mary-Lynne Taylor • Briefing meeting with Department of Planning and Environment (DPE), 1 February 2017, 10:40 am to 11:00 am ○ In attendance - Panel members: Ed Blakely (Chair), Mary-Lynne Taylor and Paul Mitchell - DPE: Catherine Van Laeren, Adrian Hohenzollern, Cho Cho Myint and Lisa Foley • Briefing meeting with Proponent, 1 February 2017, 11:05 am to 11:30 am ○ In attendance - Panel members: as above - DPE: as above - Proponent: Frank Sartor (SPP Services); Scott Barwick (SJB planning); Rhonda Jameleoui (ROCKEMAN town planning); Dimitri Drivas (client); David Bonjer (Eco Logical Aus) and Chris Palmer (Varga transport Planning) • Briefing meeting with Council, 1 February 2017, 11:30am to 12:15pm ○ In attendance - Panel members: as above (or list here if different or no site inspection) - DPE: Name(s) - Council: Janelle Atkins and Stewart Seale

Attachment 4



Mr Dave Walker
General Manager
The Hills Shire Council
PO Box 7064
BAULKHAM HILLS BC NSW 2153

Dear Mr Walker

**Re: Pre-Gateway Review – 582-582A Old Northern Road, Dural
(PGR_2016_THILL_004_00)**

I refer to the pre-Gateway review for a proposal to amend *The Hills Shire Local Environmental Plan 2012* to rezone land at 582-582A Old Northern Road, Dural from RU6 Transition to R3 Medium Density Residential zone, and reduce the minimum lot size controls applying to the site from 2 ha to 700 sqm.

I have considered the planning proposal together with the recommendation of the Sydney West Central Planning Panel (the Panel), advice provided by Council, and other relevant considerations. As delegate of the Greater Sydney Commission, I have determined that the proposal should proceed to the Gateway determination stage.

The site is along major roads, readily accessible by public transport and near two local town centres. The proposal has the potential to support the economic functioning of Round Corner and the Dural Service Centre by providing for an increase in residential population. The proximity of the site to both of these centres, including existing bus services to other larger centres, provides sufficient justification to allow this townhouse-scale medium density housing to be considered on the site. In that context the proposed 2 storey townhouse development can provide an adequate transition between the existing commercial and retail land uses along Old Northern Road and the residential land uses (rural and low density) to the rear of the site.

Council is invited to be the Relevant Planning Authority for this proposal and submit it under section 55 of the *Environmental Planning and Assessment Act 1979* for a Gateway determination within 40 days of the date of this letter. If Council does not wish to progress this matter, an alternate RPA will be appointed.

If you have any queries about this matter, please contact Ms Cho Cho Myint, at the Department of Planning and Environment's Sydney West Region Office on (02) 9860 1507.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Marcus Ray'.

Marcus Ray
Deputy Secretary
Planning Services
Delegate of the Greater Sydney Commission

15/03/2017

Department of Planning & Environment
Level 22, 320 Pitt Street Sydney NSW 2000 | GPO Box 39 Sydney NSW 2001 | T 02 9274 6111

