

**THE HILLS SHIRE COUNCIL**

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ABN No. 25 034 494 656

26 October 2018

Ms Ann-Maree Carruthers  
Director, Sydney Region West  
Planning Services  
Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

Our Ref: 6/2018/PLP

Dear Ms Carruthers,

**REVISED PLANNING PROPOSAL SECTION 3.34 NOTIFICATION**

**The Hills land Local Environmental Plan 2012 (Amendment No. ##) – Prohibit places of public worship in the RU6 Transition land use zone.**

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Pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), it is advised that an amended planning proposal has been prepared for the above amendment.

Following the advice from the Department, the planning proposal now only proposes the prohibition of places of public worship in the RU6 Transition Zone.

Please find enclosed the information required in accordance with the guidelines 'A guide to preparing planning proposals' issued under Section 3.33 of the EP&A Act. The planning proposal and supporting materials is enclosed with this letter for your consideration. It would be appreciated if all queries by the panel could be directed to Council's Principal Coordinator Forward Planning, Megan Munari on 9843 0407.

Following receipt by Council of the Department's written advice, Council would proceed with the planning proposal. Any future correspondence in relation to this matter should quote reference number 6/2018/PLP. Should you require further information please contact Megan Munari, Principal Coordinator Forward Planning on 9843 0407.

Yours faithfully



**Stewart Seale**  
**MANAGER – FORWARD PLANNING**

Attachment 1: Planning Proposal (including attachments)

## PLANNING PROPOSAL

**LOCAL GOVERNMENT AREA:** The Hills Shire Council

**NAME OF PLANNING PROPOSAL:** Prohibit places of public worship in the RU6 Transition land use zone.

**ADDRESS OF LAND:** The Hills Shire Local Government Area

### **SUPPORTING MATERIAL:**

<b>Attachment A</b>	Assessment against State Environment Planning Policies
<b>Attachment B</b>	Assessment against Section 117 Local Planning Directions
<b>Attachment C</b>	Notice of Motion and Council Resolution 24 October 2017
<b>Attachment D</b>	Council Report and Resolution 13 February 2018
<b>Attachment E</b>	Request for information from Department of Planning and Environment
<b>Attachment F</b>	Further information provided by Council on 29 May 2018
<b>Attachment G</b>	Request for information from Department of Planning and Environment
<b>Attachment H</b>	Council Report and Resolution 23 October 2018

### **BACKGROUND:**

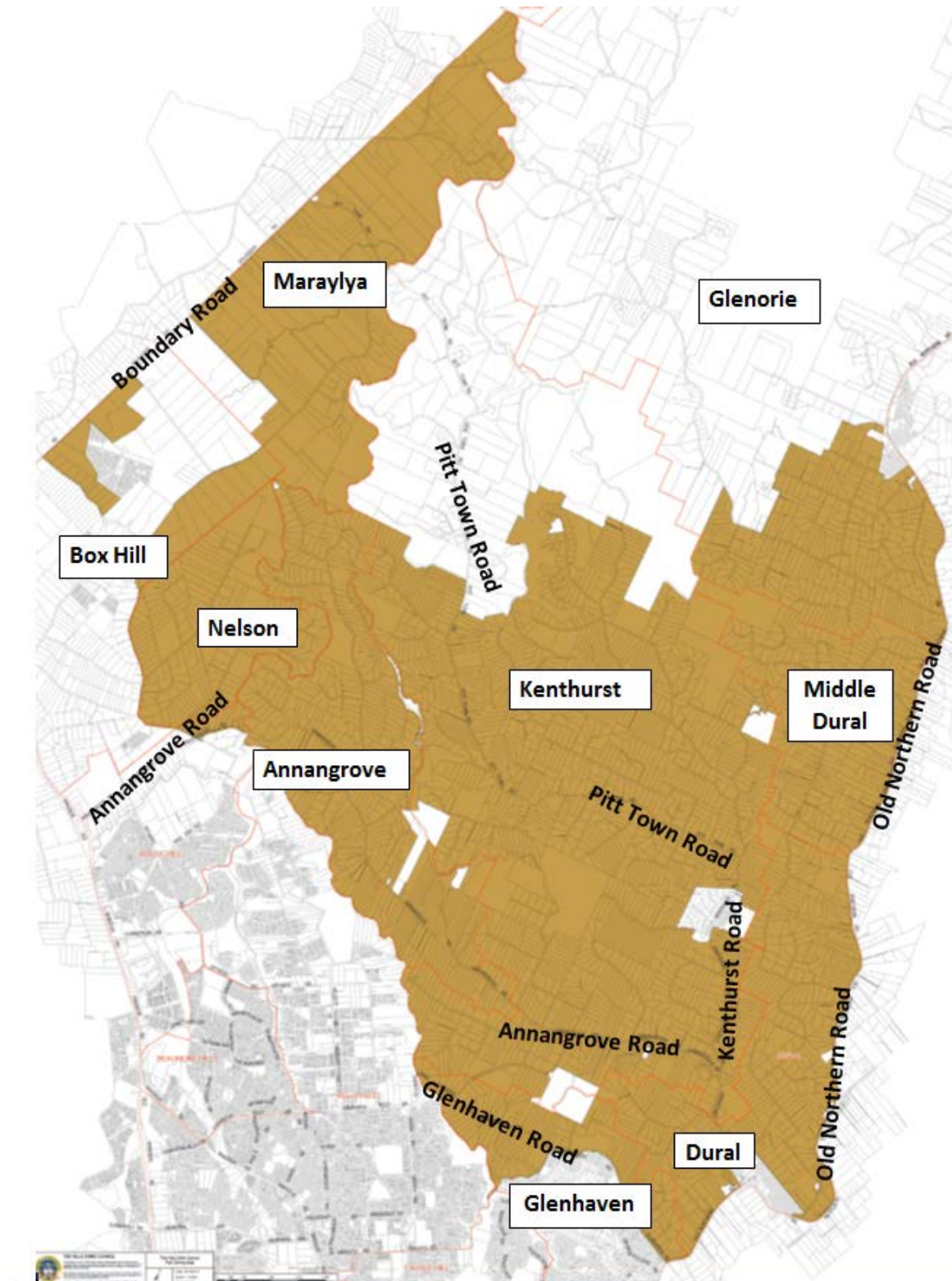
Council's Rural Strategy used the term 'rural living mixed uses' to identify the southern rural areas which include Glenorie, Middle Dural, Dural, Glenhaven, Kenthurst, Annangrove, Nelson and Box Hill. With the aim of providing a level of certainty to the people who live in the rural area, the identified strategies included preserving the open rural landscape and protecting the amenity of residents. These areas have largely been zoned RU6 Transition under The Hills Local Environmental Plan 2012, as this zone provides a transition between urban areas and the environmental characteristics of the RU2 – Rural Landscape zone. The zone has also been used to avoid potential land use conflict between rural residential development and more intense land uses.

The background for this planning proposal is provided in Attachments C to H, which detail the correspondence between Council and the Department of Planning and Environment and includes further information requested by the Department of Planning and Environment.

## PART 1 OBJECTIVES OR INTENDED OUTCOME

The objective of the planning proposal is to prevent land use conflict by prohibiting places of public worship in the RU6 Transition Zone.

The location of RU6 Transition land across the Shire is shown in Figure 1 below.



**Figure 1**  
Land zoned RU6 Transition in LEP 2012

## PART 2 EXPLANATION OF THE PROVISIONS

The proposed outcomes would be achieved by amending the RU6 Transition zone Land Use Table by deleting the words 'place of public worship' under the heading '3 Permitted with Consent'. By virtue of this this use would be included within the meaning of the existing wording 'Any development not specified in item 2 or 3' under the heading '4 Prohibited'.

## PART 3 JUSTIFICATION

### SECTION A - NEED FOR THE PLANNING PROPOSAL

*1. Is the planning proposal a result of any strategic study or report?*

No, the planning proposal is not a result of any strategic study or report. However, the planning proposal is supported by Councils Rural Strategy and seeks to prevent land use conflict as identified in the strategy.

Places of public worship are not a mandated use in the RU6 Transition zone. They are mandated as permissible with consent in the following zones under the Standard Instrument Local Environmental Plan Template:

- R1 General Residential
- R3 Medium Density Residential
- R4 High Density Residential
- IN1 Light Industrial
- IN2 General Industrial

The mandating of the land use in these zones recognises that they are most appropriately located in the urban areas. It is discretionary whether Council includes places of public worship in other zones, such as RU6 Transition. Council chose to do so with making LEP 2012, but has now recognised that this use is not compatible with the character and scale of development in this locality. Prohibiting places of public worship in the RU6 zone is consistent with the strategic framework as demonstrated below.

*2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

Yes, the planning proposal is considered to be the best way to achieve the intended outcomes. Preventing incompatible uses, namely places of public worship, will prevent incompatible development occurring in the future. The existing development controls in Council's Development Control Plan are not sufficient to mitigate the impacts of places of public worship in the RU6 zone and prohibiting the land use is the only means of achieving the intended outcome.

### SECTION B - RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

*3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?*

Yes, a discussion of consistency is provided below.

#### **Greater Sydney Region Plan**

The planning proposal is consistent with the Greater Sydney Region Plan as it will prevent further land use conflict in the RU6 Transition Zone. The objectives relevant to in the draft plan are discussed below:

Objective 28 - Scenic and cultural landscapes are protected

The Region Plan recognises that the Metropolitan Rural Area and the Protected Natural Area create a range of attractive visual settings. The planning proposal applies to land zoned rural within the Hills Shire which is located within the Metropolitan Rural Area.

The planning proposal provides an opportunity to protect and enhance the natural landscape by prohibiting land uses that are likely to detract from rural landscape qualities for the RU6 zone. The planning proposal supports 'Strategy 28.1 Identify and protect scenic and cultural landscapes' as it provides protection for this landscape prohibiting land uses that are not compatible with retaining this landscape as intended by the Greater Sydney Region Plan.

**Objective 29 - Environmental, social and economic values in rural areas are maintained and protected**

This objective acknowledges that urban development is not consistent with the values of the Metropolitan Rural Area and that restricting urban development in this area will help manage its environmental, social and economic values, help reduce land speculation and increase biodiversity offsets. It further identifies the need to protect the values of rural areas in 'Strategy 29.1 - Maintain or enhance the values of the Metropolitan Rural Areas using place-based planning to deliver targeted environmental, social and economic outcomes, including rural residential development.'

Prohibiting land uses, such as places of public worship, that are not compatible with retaining this landscape will maintain and protect the values of the rural-residential character.

The Greater Sydney Region Plan does not make specific mention of places of public worship as a form of social infrastructure to specifically be encouraged in particular locations, but does note that other forms of social infrastructure such as education facilities and health care are best located where they can be readily accessed by the population, notable in urban areas with access to transport. The broad theme of the plan to ensure that social infrastructure is provided to meet the needs of the community will be supported by retaining places of public worship as permitted in the following zones of LEP 2012:

- RU1 Primary Production
- RU2 Rural Landscape
- R1 General Residential
- R2 Low Density Residential
- R3 Medium Density Residential
- R4 High Density Residential
- B1 Neighbourhood Centre
- B2 Local centre
- B4 Mixed Use
- B5 Business Development
- B6 Enterprise Corridor
- B7 Business Park
- IN1 General Industrial
- IN2 Light Industrial
- SP3 Tourist

**Central City District Plan**

The Central City District Plan is a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision of Greater Sydney. It is a guide for implementing the Greater Sydney Region Plan at a district level and is a bridge between regional and local planning. The District Plan also assists councils to plan for and deliver growth and change, and align their local planning strategies to place-based outcomes. It informs infrastructure agencies, the private sector and the wider community of expectations for growth and change.

Of particular relevance for this planning proposal is planning priority C18 – Better Management of Rural Areas. The District Plan highlights that the District's rural areas provide opportunities for people to live in a pastoral or bushland setting. The Plan reinforces the values of the Metropolitan Rural Area and the need for careful place based planning of rural-residential land to help manage the environmental, social and economic values. The planning proposal is consistent with this priority as it is seeking to ensure that the rural lands are appropriately planned to reduce potential future incompatible development.

*4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?*

Yes, a discussion of consistency is provided below.

**The Hills Future Community Strategic Plan**

The Hills Future Community Strategic Direction articulates The Hills Shire community's and Council's shared vision, values, aspirations and priorities with reference to other local government plans, information and resourcing capabilities. It is a direction that creates a picture of where the Hills would like to be in the future. The direction is based on community aspirations gathered throughout months of community engagement and consultation with members of the community.

The planning proposal is consistent with The Hills Future as it provides for the effective and sustainable management of rural lands and the preservation of the rural and scenic character of the area. The proposal is also considered to reflect community needs and aspirations given that the proposal would limit land use conflicts within the RU6 Transition zone.

**Local Strategy**

Council's Local Strategy provides the basis for the future direction of land use planning in the Shire and within this context implements the key themes and outcomes of the 'Hills 2026 Looking Toward the Future'. The Rural Lands Strategy is the relevant component of the Local Strategy to be considered in relation to this planning proposal. The Rural Lands Strategy identifies strategies to plan for the future of the Shire's rural areas, including rural residential development.

Council's Rural Strategy used the term 'rural living mixed uses' to identify the southern rural areas which include Glenorie, Middle Dural, Dural, Glenhaven, Kenthurst, Annangrove, Nelson and Box Hill. It identified that this area was made up of mostly 2 hectare lots and had a predominance of rural residential land uses (72%) being dwelling houses and home businesses. Other significant land uses included rural villages (11.7%) native vegetation (5.8%) and intensive plant uses (5.5%).

With the aim of providing a level of certainty to the people who live in the rural area, the identified strategies included preserving the open rural landscape and protecting the amenity of residents. The land use zone RU6 Transition was applied to this area, as the rural residential development provided a buffer between the more intensive agricultural uses in the north and the urban area to the south.

The planning proposal is consistent with the Rural Lands Strategy as it will preserve the rural-residential character and amenity of the RU6 Transition zone, by prohibiting an incompatible land use.

*5. Is the planning proposal consistent with applicable State Environmental Planning Policies?*

Yes. The consistency of the planning proposal with State Environmental Planning Policies is detailed within Attachment A.

*6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?*

Yes. The consistency of the planning proposal with the s.117 Ministerial Directions is detailed within Attachment B. A discussion on the consistency of the proposal with each relevant Direction is provided below.

- **Direction 1.2 Rural Zones**

The planning proposal is consistent with this Direction as it does not propose to rezone rural land and would not increase the permissible density within any rural zones. The proposal would uphold the RU6 Transition zone objectives under The Hills Local Environmental Plan 2012 by reducing the potential for land use conflicts.

## **SECTION C - ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT**

*7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No, the proposal would not create any adverse impacts on critical habitat or threatened species, populations or economical communities and their habitats.

*8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

The proposal is not considered likely to have any other environmental impacts.

*9. How has the planning proposal adequately addressed any social and economic effects?*

The planning proposal seeks to prevent land use conflict in the RU6 Transition Zone.

The proposal will not result in any adverse social or economic effects, as it will prevent future development in inappropriate locations, while retaining opportunities for places of public worship in better serviced locations.

Further information regarding the social and economic impacts is provided in Attachment F.

## **SECTION D - STATE AND COMMONWEALTH INTERESTS**

*10. Is there adequate public infrastructure for the planning proposal?*

The planning proposal does not create any additional demand for public infrastructure.

*11. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal? (Note: The views of State and Commonwealth Public Authorities will not be known until after the initial gateway determination. This section of the planning proposal is completed following consultation with those public authorities identified in the gateway determination.)*

It is envisaged the comments of the following public authorities will be required as part of the planning proposal:

- NSW Department of Primary Industries

A list of all relevant agencies would be determined as part of the Gateway Determination. Following the Gateway determination, all relevant agencies would be consulted.

## **PART 4 MAPPING**

The amendment relates only to the Land Use Table. No amendments to any maps of *The Hills Local Environmental Plan 2012* would be required.

## PART 5 COMMUNITY CONSULTATION

The planning proposal would be advertised in local newspapers and on display at Council's administration building and Castle Hill, Dural and Vinegar Hill Libraries. The planning proposal would also be made available on Council's website.

## PART 6 PROJECT TIMELINE

STAGE	DATE
Commencement Date (Gateway Determination)	November 2018
Government agency consultation	November 2018
Commencement of public exhibition period (14 days)	November 2018
Completion of public exhibition period	November 2018
Timeframe for consideration of submissions	November 2018
Timeframe for consideration of proposal post exhibition	December 2018
Report to Council on submissions	February 2019
Planning Proposal to PCO for opinion	February 2019
Date Council will make the plan (if delegated)	February 2019
Date Council will forward to department for notification (if delegated)	February 2019



**ATTACHMENT A: LIST OF STATE ENVIRONMENTAL PLANNING POLICIES**

<b>STATE ENVIRONMENTAL PLANNING POLICY (SEPP)</b>		<b>APPLICABLE</b>	<b>RELEVANT ? (YES/NO)</b>	<b>(IF RELEVANT) INCONSISTENT/ CONSISTENT</b>
No. 1	Development Standards	NO	-	-
No. 14	Coastal Wetlands	NO	-	-
No. 15	Rural Landsharing Communities	NO	-	-
No. 19	Bushland in Urban Areas	YES	NO	-
No. 21	Caravan Parks	YES	NO	-
No. 26	Littoral Rainforests	NO	-	-
No. 29	Western Sydney Recreation Area	NO	-	-
No. 30	Intensive Agriculture	YES	NO	-
No. 33	Hazardous and Offensive Development	YES	NO	-
No. 36	Manufactured Home Estates	NO	-	-
No. 39	Spit Island Bird Habitat	NO	-	-
No. 44	Koala Habitat Protection	NO	-	-
No. 47	Moore Park Showground	NO	-	-
No. 50	Canal Estate Development	YES	NO	-
No. 52	Farm Dams and Other Works in Land and Water Management Plan Areas	NO	-	-
No. 55	Remediation of Land	YES	NO	-
No. 59	Central Western Sydney Regional Open Space and Residential	NO	-	-
No. 62	Sustainable Aquaculture	YES	NO	-
No. 64	Advertising and Signage	YES	NO	-
No. 65	Design Quality of Residential Flat Development	YES	NO	-
No. 70	Affordable Housing (Revised Schemes)	YES	NO	-
No. 71	Coastal Protection	NO	-	-
Affordable Rental Housing (2009)		YES	NO	-
Building Sustainability Index: BASIX 2004		YES	NO	-
Exempt and Complying Development Codes (2008)		YES	NO	-
Housing for Seniors or People with a Disability (2004)		YES	NO	-
Infrastructure (2007)		YES	NO	-
Kosciuszko National Park – Alpine Resorts (2007)		NO	-	-
Kurnell Peninsula (1989)		NO	-	-
Major Development (2005)		YES	NO	-
Mining, Petroleum Production and Extractive Industries (2007)		YES	NO	-
Miscellaneous Consent Provisions (2007)		YES	NO	-
Penrith Lakes Scheme (1989)		NO	-	-
Port Botany and Port Kembla (2013)		NO	-	-
Rural Lands (2008)		NO	-	-
SEPP 53 Transitional Provisions (2011)		NO	-	-
State and Regional Development (2011)		YES	NO	-
Sydney Drinking Water Catchment (2011)		NO	-	-

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)	APPLICABLE	RELEVANT ? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
Sydney Region Growth Centres (2006)	YES	NO	-
Three Ports (2013)	NO	-	-
Urban Renewal (2010)	NO	-	-
Western Sydney Employment Area (2009)	NO	-	-
<b>Deemed SEPPs</b>			
SREP No. 8 (Central Coast Plateau Areas)	NO	-	-
SREP No. 9 – Extractive Industry (No. 2 – 1995)	YES	NO	-
SREP No. 16 – Walsh Bay	NO	-	-
SREP No. 20 – Hawkesbury – Nepean River (No 2 – 1997)	YES	NO	-
SREP No. 24 – Homebush Bay Area	NO	-	-
SREP No. 25 – Orchard Hills	NO	-	-
SREP No. 26 – City West	NO	-	-
SREP No. 30 – St Marys	NO	-	-
SREP No. 33 – Cooks Cove	NO	-	-
SREP (Sydney Harbour Catchment) 2005	NO	-	-

## ATTACHMENT B: ASSESSMENT AGAINST SECTION 117 MINISTERIAL DIRECTIONS

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
<b>1. Employment and Resources</b>				
1.1	Business and Industrial Zones	YES	NO	-
1.2	Rural Zones	YES	YES	CONSISTENT
1.3	Mining, Petroleum Production and Extractive Industries	YES	NO	-
1.4	Oyster Aquaculture	YES	NO	-
1.5	Rural Lands	NO	-	-
<b>2. Environment and Heritage</b>				
2.1	Environment Protection Zone	YES	NO	-
2.2	Coastal Protection	NO	-	-
2.3	Heritage Conservation	YES	NO	-
2.4	Recreation Vehicle Area	YES	NO	-
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	NO	-	-
<b>3. Housing, Infrastructure and Urban Development</b>				
3.1	Residential Zones	NO	-	-
3.2	Caravan Parks and Manufactured Home Estates	YES	NO	-
3.3	Home Occupations	YES	NO	-
3.4	Integrating Land Use and Transport	NO	-	-
3.5	Development Near Licensed Aerodomes	YES	NO	-
3.6	Shooting Ranges	YES	NO	-
<b>4. Hazard and Risk</b>				
4.1	Acid Sulfate Soils	YES	NO	-
4.2	Mine Subsidence and Unstable Land	NO	-	-
4.3	Flood Prone Land	YES	NO	-
4.4	Planning for Bushfire Protection	YES	NO	-
<b>5. Regional Planning</b>				
5.1	Implementation of Regional Strategies	NO	-	-
5.2	Sydney Drinking Water Catchment	NO	-	-
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	NO	-	-
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	NO	-	-
5.8	Second Sydney Airport: Badgerys	NO	-	-

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
	Creek			
5.9	North West Rail Link Corridor Strategy	NO	-	-
5.10	Implementation of Regional Plans	NO	-	-
<b>6. Local Plan Making</b>				
6.1	Approval and Referral Requirements	YES	NO	-
6.2	Reserving Land for Public Purposes	YES	NO	-
6.3	Site Specific Provisions	YES	NO	-
<b>7. Metropolitan Planning</b>				
7.1	Implementation of the Metropolitan Plan for Sydney 2036	YES	NO	
7.2	Implementation of Greater Macarthur Land Release Investigation	NO	-	-
7.3	Parramatta Road Corridor Urban Transformation Strategy	NO	-	-