

THE HILLS SHIRE COUNCIL

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31 May 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,

PLANNING PROPOSAL SECTION 56 NOTIFICATION

The Hills land Local Environmental Plan 2012 (Amendment No. ##) – Proposed amendments relating to zone objectives and permissible uses for the RU6 Transition land use zone and site coverage requirements for rural zones.

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 includes site coverage controls for the RU1, RU2 and RU6 zones, consistent with the application of such controls currently in The Hills Development Control Plan 2012.

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



Michael Edgar
GENERAL MANAGER

Attachment 1: Planning Proposal (including attachments)

PLANNING PROPOSAL

LOCAL GOVERNMENT AREA: The Hills Shire Council

NAME OF PLANNING PROPOSAL: Proposed The Hills Local Environmental Plan 2012 (Amendment No (#)) – Proposed amendments relating to zone objectives, permissible land uses and site coverage requirements for the RU6 Transition land use zone (6/2018/PLP)

ADDRESS OF LAND: The Hills Shire Local Government Area

SUPPORTING MATERIAL:

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

Council has identified that additional objectives are needed that recognise the rural and scenic character and the need for land uses and intensity of development to be compatible with this character. The features of this area are significant enough to warrant specific objectives that promote land uses compatible with the scenic landscape and dominant rural residential character.

Council resolved at its Ordinary Meeting of 24 October 2017 that:

"The General Manager prepare and forward a planning proposal to the Department of Planning and Environment to amend our LEP in the following way:

- 1. Include two additional local objectives within the RU6 Transition zone of The Hills Local Environmental Plan 2012:*
 - To maintain the rural and scenic character of the land*
 - To provide for a range of land uses compatible with the rural residential character*
- 2. Remove the following land uses as permitted within the RU6 Transition zone of The Hills Local Environmental Plan 2012:*
 - Cemeteries*
 - Places of public worship*
- 3. Introduce a local clause to reflect the DCP site coverage controls into our Local Environmental Plan."*

The land uses currently permitted that have a high potential to result in land use conflict and impact on the lifestyle of residents in the rural area are places of public worship. Places of public worship are permitted in other zones and have ample opportunity to develop in areas

that are better suited to manage the intensity of the uses and in areas less likely to cause land use conflict.

Following advice from the Department of Planning dated 20/12/2017 regarding the review into cemeteries being undertaken, Council considered a report at its Ordinary Meeting of 13 February 2018 which sought to remove the prohibition of cemeteries from the planning proposal.

Council resolved to forward a revised planning proposal to the Department of Planning and Environment that removes the prohibition of cemeteries in the RU6 zone.

Following the advice from the Department, the planning proposal now includes site coverage controls for RU1, RU2 and RU6 rural zones, consistent with the application of such controls currently in The Hills Development Control Plan 2012.

PART 1 OBJECTIVES OR INTENDED OUTCOME

The objective of the planning proposal is recognise the existing character of land within the RU6 Transition Zone and ensure that permissible land uses and objectives of the zone reflect the rural-residential character. It is further intended to better regulate the intensity of development in the rural zones by including site coverage controls in the Local Environmental Plan.

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

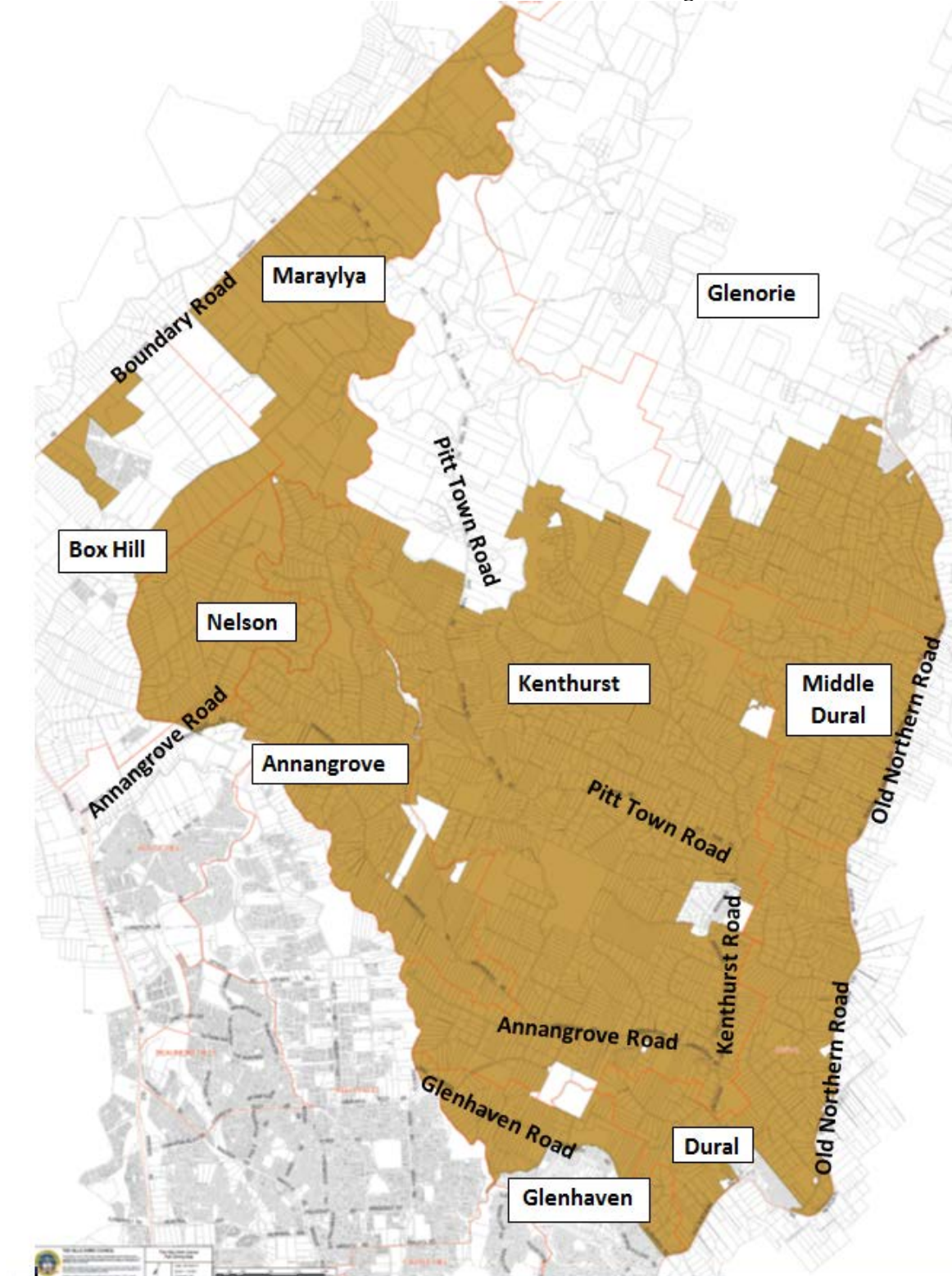


Figure 1
RU6 Transition land

PART 2 EXPLANATION OF THE PROVISIONS

The proposed outcomes would be achieved as detailed below.

1. Inserting the following additional objectives in the RU6 Transition zone:
 - *To maintain the rural and scenic character of the land; and*
 - *To provide for a range of land uses compatible with the rural residential character.*
2. 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'.
3. Insert a new Local Provision within Part 7 of LEP 2012.

7.XX Development on land zoned RU1, RU2 and RU6

- (1) *The objectives of this clause are as follows:*
 - (a) *To maintain the character of the rural zones by retaining existing vegetation.*
 - (b) *To maximise the provision of space to maintain the rural character of the area.*
 - (c) *To ensure that the scale, siting and visual appearance of new development maintains the open rural feel of the landscape and preserves scenic and environmental qualities of the area.*
- (2) *This clause applies to development on land zoned RU1, RU2 and RU6 on the Land Zoning Map.*
- (3) *Development consent must not be granted to development on land to which this clause applies unless the development complies with the following site coverage requirement:*
 - (a) *For lots with an existing site area of less than 2 hectares, the development shall not result in a site coverage of more than 50% or 2,500m², whichever is the lesser.*
 - (b) *For lots with an existing site area of between 2 hectares and 10 hectares, the development shall not result in a site coverage of more than 15% or 2,500m², whichever is the lesser, and*
 - (c) *For lots with an existing site area of greater than 10 hectares, the development shall not result in a site coverage of more than 25% or 5,000m², whichever is the lesser.*
- (4) *In this clause:*
site coverage includes areas containing dwellings, outbuildings, ancillary items (such as pools, manoeuvring areas, garages and the like).

Note: LEP definition of 'Site coverage' is as follows:

site coverage means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage:

- (a) *any basement,*
- (b) *any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,*
- (c) *any eaves,*
- (d) *unenclosed balconies, decks, pergolas and the like.*

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 retain the character of the rural lands as identified in the strategy.

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. Introducing new land use zone objectives are the best way to recognise the rural-residential and scenic character of the RU6 zoned land. Preventing incompatible uses, namely places of public worship, will prevent incompatible development occurring in the future.

Further, providing a local provision to regulate the intensity of development is the best way to prevent out of character development in the rural areas.

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.

- **Draft Greater Sydney Region Plan**

The planning proposal is consistent with the Greater Sydney Region Plan as it protects the rural and scenic character of the rural landscape and prevents development occurring that undermines these characteristics. The relevant objectives 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 introducing new objectives and prohibiting land uses that are likely to detract from rural landscape qualities for the RU6 zone and regulating the intensity of development in rural zones. The planning proposal supports 'Strategy 28.1 Identify and protect scenic and cultural landscapes' as it identifies the landscape qualities of the area and provides protection for this landscape by recognising these qualities in the zone objectives of the RU6 Transition zone. Prohibiting land uses that are not compatible with retaining this landscape and regulating the intensity of development that could undermine the character support the delivery of the outcomes intended by the zone objectives and 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.'

The inclusion of additional zone objectives and prohibiting land uses that are not compatible with retaining this landscape will maintain and protect the values of the rural-residential character. Regulating the intensity of development in the rural areas will protect the character of the area support the delivery of the outcomes articulated in the Greater Sydney Region Plan.

- **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 and to ensure that future development recognises the rural-residential and scenic character of this area.

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.

- Rural Lands Strategy

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 introducing new zone objectives, prohibiting incompatible land uses and limiting the intensity of development in rural areas more broadly.

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 and introduce new objectives to provide further direction regarding land use in the zone.

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 and development of an inappropriate scale and intensity in the rural areas. The planning proposal will protect the rural residential character and lifestyle 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.

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. It will regulate the scale and intensity of development in the rural zones to ensure that development is of an appropriate scale for the existing infrastructure to service, particularly reducing pressure on rural roads.

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 and Local Provisions. 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)	June 2018
Government agency consultation	June 2018
Commencement of public exhibition period (14 days)	June 2018
Completion of public exhibition period	July 2018
Timeframe for consideration of submissions	July 2018
Timeframe for consideration of proposal post exhibition	July 2018
Report to Council on submissions	August 2018
Planning Proposal to PCO for opinion	September 2018
Date Council will make the plan (if delegated)	October 2018
Date Council will forward to department for notification (if delegated)	October 2018

ATTACHMENT A: LIST OF STATE ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/CONSISTENT
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	-	-
Sydney Region Growth Centres (2006)		YES	NO	-
Three Ports (2013)		NO	-	-

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)	APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
Urban Renewal (2010)	NO	-	-
Western Sydney Employment Area (2009)	NO	-	-
Deemed SEPPs			
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
1. Employment and Resources				
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	-	-
2. Environment and Heritage				
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	-	-
3. Housing, Infrastructure and Urban Development				
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	-
4. Hazard and Risk				
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	-
5. Regional Planning				
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 Creek	NO	-	-

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
5.9	North West Rail Link Corridor Strategy	NO	-	-
5.10	Implementation of Regional Plans	NO	-	-
6. Local Plan Making				
6.1	Approval and Referral Requirements	YES	NO	-
6.2	Reserving Land for Public Purposes	YES	NO	-
6.3	Site Specific Provisions	YES	NO	-
7. Metropolitan Planning				
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	-	-