

# PLANNING PROPOSAL

PP/1/2013

South Dural

December 2013

# CONTENTS

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## **BACKGROUND**

### **PART 1 - OBJECTIVES OR INTENDED OUTCOMES**

### **PART 2 - EXPLANATION OF THE PROVISIONS**

### **PART 3 - JUSTIFICATION**

Section A - Need for the planning proposal

Section B - Relationship to strategic planning framework

Section C - Environmental, social and economic impact

Section D - State and Commonwealth interests

### **PART 4 - COMMUNITY CONSULTATION**

## **APPENDICES**

Appendix A - Location Map

Appendix B - State Environmental Planning Policy Checklist

Appendix C - Local Direction Checklist

Appendix D - Council Report and Resolution

Appendix E - Flora and Fauna Investigation

Appendix F - Bushfire Investigation

Appendix G - Infrastructure Report

Appendix H - Traffic, Transport and Accessibility

Appendix I - Retail and Commercial Potential

Appendix J - Indicative Concept plan



## **BACKGROUND**

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The land known as South Dural is bounded by Old Northern Road, New Line Road and Hastings Road and spans part of the suburbs of Dural, Glenhaven and Castle Hill.

At a meeting with Council and the South Dural Residents and Ratepayers Group in June 2013, representatives from the DP&I confirmed that the State Government is not in a position to initiate the release of South Dural for urban development as a State lead process due to multiple landowners, high fragmentation, long lead times and potential cost to government.

The Department representatives indicated that a planning proposal to rezone South Dural could be considered subject to it being demonstrated that there would be no net cost to government. It was advised that the Gateway process should be used to determine the scope of supporting studies required.

In accordance with this advice, a Planning Proposal was submitted to Council by a consultant requesting the rezoning of South Dural for residential/urban development.

The Planning Proposal has been redrafted to fit Council's standard template.

## **PART 1 - OBJECTIVES OR INTENDED OUTCOMES**

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To facilitate the comprehensive urban development of the land for residential and mixed use development and employment purposes in an integrated manner in accordance with its environmental capacity and including the delivery of new infrastructure to support growth.

## **PART 2 - EXPLANATION OF THE PROVISIONS**

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Amendment of the *Hornsby Local Environmental Plan 2013* as follows:

1. Changes to the Land Zoning Map to reflect a residential (and potentially business) zone to permit urban development;
2. Changes to the Lot Size Map to reflect a residential density; and
3. Changes to the Height of Buildings Map to reflect the density and housing types proposed.

## **PART 3 - JUSTIFICATION**

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### **Section A - Need for the planning proposal**

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

No. However, the site was nominated and assessed in the NSW Government review of housing opportunities on landowner nominated sites (Potential Home Sites Program).

The NSW Government's PHS program evaluation summary states that South Dural is currently not deliverable due to multiple landowners, high fragmentation, long lead times and potential cost to government.

At a meeting with Council and the South Dural Residents and Ratepayers Group in June 2013, representatives from the DP&I confirmed that the State Government is not in a position to initiate the release of South Dural as a State lead process for the reasons listed above. The Department representatives indicated that a planning proposal to rezone South Dural could be considered subject to it being demonstrated that there would be no net cost to government. It was

advised that the Gateway process should be used to determine the scope of supporting studies required.

A number of technical studies accompany the *Planning Proposal*. These studies are dated 2008/9 and include:

- Flora and Fauna Investigation (January 2009) – Hayes Environmental;
- Bushfire Planning Investigation (January 2009) – BES;
- Infrastructure Report (January 2009) – Maunsell Australia;
- Traffic, Transport and Accessibility Assessment (January 2009) – Maunsell Australia; and
- Retail and Commercial Potential (December 2008) – Don Fox Planning.

The studies would be required to be updated if the *Planning Proposal* is progressed.

**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 the best means of achieving the intended outcome of investigating the rezoning of the land for urban purposes. The *HLEP* specifies zoning and minimum lot size requirements which can only be amended by means of progression of a planning proposal.

**3. *Is there a net community benefit?***

Yes. The *Planning Proposal* will deliver a net community benefit by:

- providing additional housing supply;
- providing housing choice in the form of free-standing dwellings as an alternative to multi-unit housing;
- providing infrastructure at no net cost to government

## **Section B - Relationship to strategic planning framework**

**4. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?***

The *Metropolitan Plan for Sydney 2036* provides a framework for the sustainable growth of Sydney over the next 25 years. The *Strategy* promotes housing in and around urban centres, and the protection of rural and resource lands. The impacts of urban expansion would need

to be addressed in the progression of the South Dural Planning Proposal.

The *draft North Subregional Strategy* sets out a target of 11,000 new dwellings and 9,000 new jobs within Hornsby Shire by 2031. Council is well placed to meet its share of dwelling obligations. Potential for approximately 4,500 new dwellings can be achieved through infill development/subdivision. Opportunities for a further 3,000 new homes was provided through the finalisation of the Housing Strategy in 2011. The Epping Urban Activation Precinct being led by the DP&I promotes opportunities for 2,500 new dwellings within Hornsby Shire at Epping. Council is also reviewing the opportunities for additional development within the Hornsby West Side, which could provide approximately 1,000 new dwellings. Council's dwelling target is expected to increase when the *draft Subregional Strategy* is finalised, and in light of the *draft Metropolitan Strategy for Sydney 2031* (discussed below). The provision of housing at South Dural would further contribute to the achievement of Council's dwelling target.

The *draft Metropolitan Strategy for Sydney 2031* was released for public exhibition in March 2013. The *draft Strategy* alters subregional boundaries and groups Hornsby, Ku-ring-gai, Manly, Pittwater and Warringah Councils to form the North subregion. The new housing and employment targets set out in the draft Strategy for the North subregion are 37,000 new dwellings and 39,000 new jobs to be created between 2011 and 2031. As discussed above, Council is well placed to meet its share of dwelling obligations and the provision of housing at South Dural would further contribute to the achievement of Council's dwelling target.

The *draft Strategy* categorises the land within the Sydney Region into a Metropolitan Urban Area and a Metropolitan Rural Area. The northern two thirds of South Dural is identified as being within the Metropolitan Rural Area, while the remaining southern third is identified as within the Metropolitan Urban Area.

The Metropolitan Rural Area comprises one of nine "city shapers" identified in the *draft Strategy*, along with the North West Rail Link, that will directly influence Sydney's growth to 2031. The Metropolitan Rural Area provides opportunities for agricultural activities that contribute to Sydney's future ability to maintain a reliable and local source of fresh food and produce.

The *South Dural Planning Proposal* seeks rezoning of rural land for urban purposes. Consideration of this through the DP&I's Gateway process would be consistent with the identified priority to manage and monitor land for possible extension of the Metropolitan Urban Area.

The North West Rail Link corridor runs 23 kilometres between Epping and Rouse Hill in Sydney's North West Growth Centre. Planning

around the Cherrybrook station precinct has not commenced. The final Corridor Strategy (October 2013) prepared by the DP&I estimates that a total of 3,200 additional dwellings and 50 additional jobs could be accommodated within the Cherrybrook Study Area.

The Department has advised that the Corridor Strategy will form the basis for future detailed planning within each precinct and will be supported by a Section 117 Direction to ensure that the Corridor Strategy is taken into consideration when preparing future detailed plans.

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

Yes. The *Planning Proposal* is consistent with Council's Community Strategic Plan. *Your Community Plan 2013 – 2033* aims to achieve a harmonious natural and built environment by monitoring and reviewing existing planning controls to ensure quality outcomes for the long term benefit of the Shire.

**6. *Is the planning proposal consistent with applicable state environmental planning policies?***

Yes. The *Planning Proposal* is consistent with relevant State Environmental Planning Policies (SEPPs) and deemed SEPPs. See Appendix B for details.

**7. *Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?***

The *Planning Proposal* will need to justify the rezoning of rural land to residential land to be consistent with Direction 1.2 Rural zones. The objective of this direction is to protect the agricultural production value of rural land. The direction states that a planning proposal must not rezone land from a rural zone to a residential or business zone unless the Director-General is satisfied that it is justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction.

The Planning Proposal is consistent with the following directions which are also applicable:

- Direction 1.1 Employment and resources
- Direction 2.1 Environmental protection zones
- Direction 2.3 Heritage conservation
- Direction 3.1 Residential zones
- Direction 3.4 Integrating land use and transport
- Direction 4.3 Flood Prone Land
- Direction 4.4 Planning for Bushfire Protection
- Direction 7.1 Metropolitan Planning



See Appendix C for details.

## **Section C - Environmental, social and economic impact**

- 8. *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?***

Yes. The Flora and Fauna Investigation report submitted with the planning proposal identifies ecological features and habitats of conservation significance within the subject site, including threatened flora and fauna species and endangered ecological communities. In general, most of the ecological features and habitats converge within the Georges Creek Vegetation Corridor, but some endangered ecological communities occur outside the main corridor. The *Hornsby Shire Biodiversity Conservation Strategy 2006* has a policy of net improvement for native vegetation. Further detailed studies and planning would be required to investigate how the additional remnant native vegetation can be retained.

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

The Georges Creek native vegetation corridor is of significant ecological value which functions as a wildlife corridor and provides habitat for several threatened species. The Planning Proposal recognises this significance and proposes to retain areas of the STIF, BGHF and Georges Creek corridor and acknowledges that there will be a need for further more detailed studies at a later stage of planning.

The other vegetation community mapped in the South Dural area is Blackbutt Gully Forest which is considered as of local significance in the *Hornsby Shire Biodiversity Conservation Strategy*. A significant corridor of this community provides essential connectivity with the BGHF and STIF communities and provides additional refuge and habitat for various threatened and local flora and fauna.

The *Hornsby Development Control Plan* provides prescriptive measures for the preservation of trees, vegetation and biodiversity values. In particular setbacks and buffer distances from remnant vegetation are required to be provided in any development. Any proposed development as a result of the *South Dural Planning Proposal* will be required to implement these setbacks and buffer zones.

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

The provision of detailed information confirming the ability and commitment to finance and deliver the full estimated infrastructure required is a key element of the proposal. At this stage, no firm financial or business plan has been provided to estimate the infrastructure costs and how they would be funded to confirm the viability of the project. Council is seeking a conditional Gateway determination which sets out that a Business Plan is to be funded by the proponent and commissioned by Council to confirm the feasibility of the project being delivered with all necessary infrastructure at no cost to government.

## **Section D - State and Commonwealth interests**

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

No. Infrastructure would need to be augmented or provided, including the upgrading of roads, the extension of trunk water and sewer mains, drainage, electricity and communications. The proponent has acknowledged that the progression of the Planning Proposal is subject to there being no net cost to government. However, as discussed above, Council is seeking a conditional Gateway determination which sets out that a Business Plan is to be funded by the proponent and commissioned by Council to confirm the feasibility of the project being delivered with all necessary infrastructure at no cost to government.

### **12. *What are the views of State and Commonwealth public authorities consulted in accordance within this gateway determination?***

The Roads and Maritime Services have requested that the traffic report submitted with the Planning Proposal be updated and re-submitted for review.

Consultation will occur with relevant public authorities identified as part of the gateway determination.

## **PART 4 - COMMUNITY CONSULTATION**

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Council is committed to undertaking comprehensive community consultation as part of the progression of the Planning Proposal. It is usual Council practice to exhibit major Planning Proposals for a period of 2 months. At a minimum, consultation will include:

### ***Public Authorities***

Notification letters and a copy of the Planning Proposal will be sent to relevant public authorities.

### ***Advertisement in local newspapers***

An advertisement will be placed in local newspapers identify the purpose of the Planning Proposal and where the Planning Proposal can be viewed.

### ***Advertisement on the Council website***

The Planning Proposal will be exhibited on the Council website ([www.hornsby.nsw.gov.au/onexhibition](http://www.hornsby.nsw.gov.au/onexhibition)) under On Exhibition. Council's libraries have access to the website.

### ***Your Say Hornsby website***

An internet based discussion forum will be placed on the Your Say Hornsby website to allow independently moderated discussion.

### ***Letters to affected and adjoining property owners***

A letter will be sent to affected and adjoining property owners advising of the exhibition of the Proposal and inviting submissions.

### ***Letters to persons who made a submission during preliminary notification***

A letter will be sent to persons who made a submission during preliminary notification advising of the exhibition of the Proposal and inviting submissions.

### ***Letters to persons who made a submission on the Housing Strategy***

A letter will be sent to persons who made a submission on the *Housing Strategy* advising of the exhibition of the Proposal and inviting submissions.

### ***Letters to community and industry groups***

A letter will be sent to the following community and industry groups advising of the exhibition of the Proposal and inviting submissions:

- Dural and Round Corner Chamber of Commerce
- Dural and District Historical Society
- Community Voice;
- Hornsby Conservation Society;
- Friends of Berowra Valley;
- Galston Area Residents Association;
- Association for Berowra Creek;
- Dural District Progress Association;
- Friends of South Dural;
- Hornsby Kuring-gai Greens;
- Sydney Agricultural Rural and Public Lands Trust Incorporated;
- Pennant Hills District Civic Trust;
- Housing Industry Association;
- Royal Australian Institute of Architects;
- Urban Development Institute of Australia; and
- Real Estate Institute of Australia.

### ***Displays at the Council Administration Building and local libraries***

The Planning Proposal will be displayed at the Council Administration Centre, 296 Pacific Highway, Hornsby and the following libraries:

Hornsby Library  
 Berowra Library  
 Galston Library  
 Pennant Hills Library  
 Epping Library

### ***Referrals to other Divisions/Branches***

A copy of the Planning Proposal will be forwarded to relevant Divisions/Branches of Council for comment.

### ***Review of Consultation Strategy***

Where submissions warrant, the consultation strategy may be reviewed to extend the exhibition period and/or the methods of consultation. This may occur where a submission provides reasonable justification for a request for an extension to the exhibition period or where Council is of the opinion an amendment to the consultation strategy would facilitate greater feedback on the draft Plan.

Following the exhibition period, a report on submissions will be presented to Council for its consideration.

## PROPOSED TIMELINE

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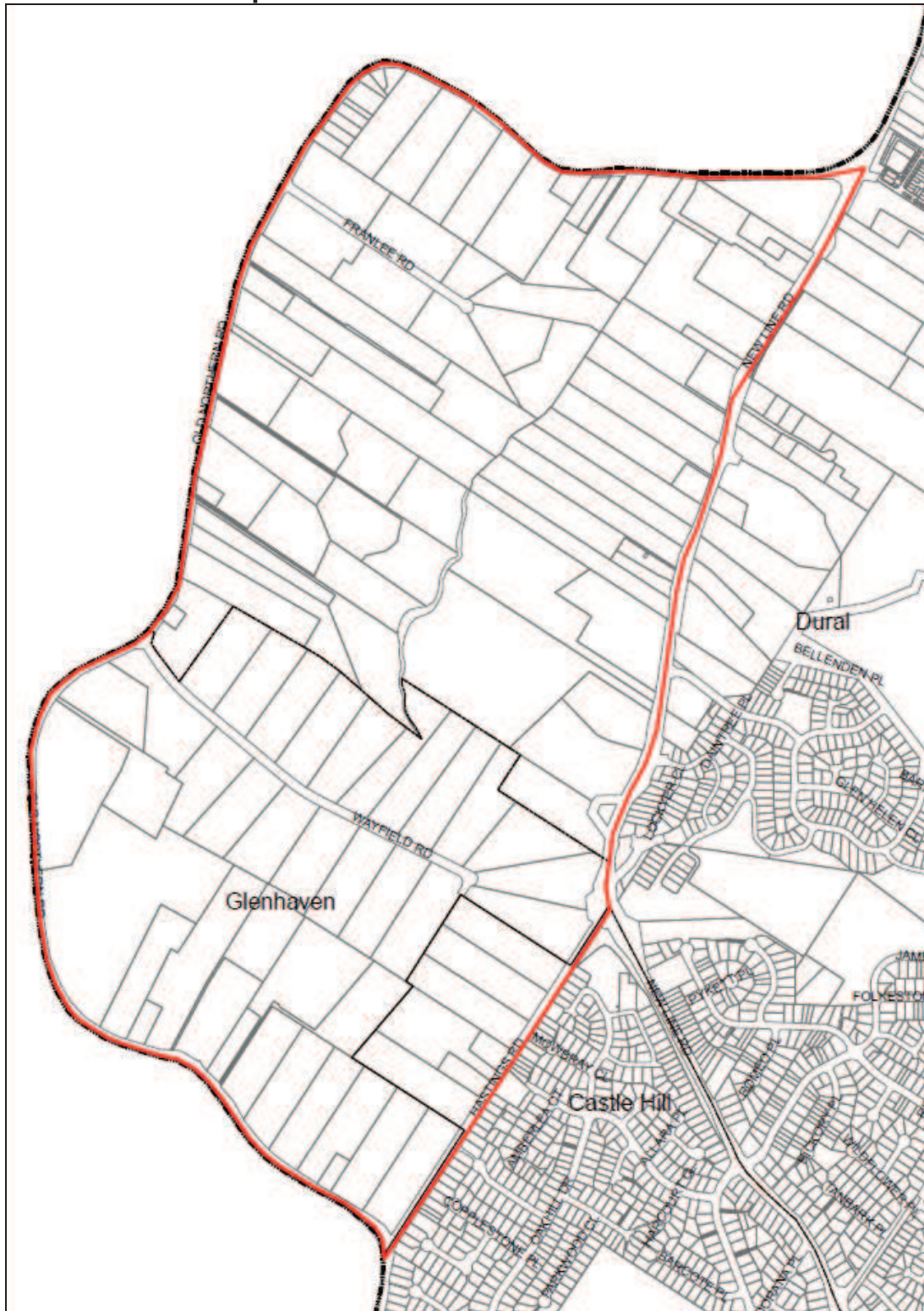
<b>Weeks/Months after Gateway</b>	<b>Item</b>
0	Gateway determination
8 weeks	Business Plan submitted to DP&I for review
10 weeks	DP&I advises Business Plan adequate
3 months	Proponent enters legal agreement to fund studies and resources
3 months	Briefs, tenders, engagement of consultants for studies (9 months)
9 months	Studies commenced
18 months	Studies/draft precinct planning completed
21 months	Revised Planning Proposal submitted to DP&I
22 months	DP&I authorisation for exhibition
23 months	Public Exhibition (2 months)
26 months	Consideration of submissions
28 months	Report to Council on submissions
28 months	Request planning instrument be made

**OR**

28 months	Report to Council on submissions
29 months	Re-exhibition with changes after submissions
32 months	Consideration of submissions
33 months	Report to Council on submissions
33 months	Request planning instrument be made

# Appendix A

## Location Map



# Appendix B

## State Environmental Planning Policy Checklist

### SOUTH DURAL PLANNING PROPOSAL

State Environmental Planning Policies		
SEPP Title	Compliance	Comment
1. Development Standards	N/A	
2. Minimum Standards for Residential Flat Development	Repealed	
3. Castlereagh Liquid Waste Disposal Depot	Repealed	
4. Development Without Consent and Miscellaneous Complying Development	N/A	
6. Number of Storeys in a Building	N/A	
7. Port Kembla Coal Loader	Repealed	
8. Surplus Public Land	Repealed	
9. Group Homes	Repealed	
10. Retention of Low-Cost Rental Accommodation	Repealed	
11. Traffic Generating Developments	Repealed	
12. Public Housing (Dwelling Houses)	Repealed	
13. Sydney Heliport	Repealed	
14. Coastal Wetlands	N/A	
16. Tertiary Institutions	Repealed	
17. Design of Building in Certain Business Centres	Not Made	
18. Public Housing	Not Made	
19. Bushland in Urban Areas	Yes	Biodiversity studies will consider the impact of the proposed urban development on bushland.
20. Minimum Standards for Residential Flat Development	Repealed	
21. Moveable Dwellings	N/A	
22. Shops and Commercial Premises	N/A	
24. State Roads	Not Made	
25. Residential Allotment Sizes	Repealed	
26. Littoral Rainforests	N/A	
27. Prison Sites	Repealed	
28. Town Houses and Villa Houses	Repealed	
29. Western Sydney Recreational Area	N/A	
30. Intensive Agriculture	N/A	
31. Sydney (Kingsford Smith) Airport	Repealed	
32. Urban Consolidation (Redevelopment of Urban Land)	N/A	
33. Hazardous and Offensive Development	N/A	
34. Major Employment Generating Industrial Development	Repealed	
35. Maintenance Dredging of Tidal Waterways	Repealed	
36. Manufactured Home Estates	N/A	
37. Continued Mines and Extractive Industries	Repealed	
38. Olympic Games and Related	Repealed	

Development Proposals		
39. Spit Island Bird Habitat	N/A	
40. Sewerage Works	Not Made	
41. Casino/Entertainment Complex	N/A	
42. Multiple Occupancy and Rural Land (Repeal)	Repealed	
43. New Southern Railway	Repealed	
44. Koala Habitat Protection	Yes	Encourages the conservation and management of natural vegetation areas that provide habitat for koalas. Council cannot approve development in an area affected by the policy without an investigation of core koala habitat. The biodiversity study would investigate this.
45. Permissibility of Mining	Repealed	
46. Protection and Management of Native Vegetation	Repealed	
47. Moore Park Showground	N/A	
48. Major Putrescible Landfill sites	Repealed	
49. Tourism Accommodation in Private Homes	Draft	
50. Canal Estates	N/A	
51. Eastern Distributor	Repealed	
52. Farm Dams and Other Works in Land and Water Management Plan Areas	N/A	
53. Metropolitan Residential Development	Repealed	
54. Northside Storage Tunnel	Repealed	
55. Remediation of Land	Yes	Requires consideration of contamination issues when rezoning land. Council must be satisfied that the land is suitable for the proposed use or can be remediated to make it suitable. A preliminary investigation report would be prepared in the progression of the Planning Proposal.
56. Sydney Harbour Foreshores and Tributaries	Repealed	
58. Protecting Sydney's Water Supply	Repealed	
59. Central Western Sydney Economic and Employment Area	N/A	
60. Exempt and Complying Development	N/A	
61. Exempt and Complying Development for White Bay and Glebe Island Ports	Repealed	
62. Sustainable Aquaculture	N/A	
63. Major Transport Projects	Repealed	
64. Advertising and Signage	N/A	
65. Design Quality of Residential Flat Development	N/A	
67. Macquarie Generation Industrial Development	Repealed	
68. Not Allocated		
69. Major Electricity Supply Projects	Repealed	
70. Affordable Housing (Revised Schemes)	N/A	
71. Coastal Protection	N/A	
72. Linear Telecommunications Development – Broadband	Repealed	
73. Kosciusko Ski Resorts	Repealed	
74. Newcastle Port and Employment Lands	Repealed	



SEPP 1989. Penrith Lakes Scheme	N/A	
SEPP 2004. Housing for Seniors or People with a Disability	N/A	
SEPP 2004. Building Sustainability Index: BASIX	N/A	
SEPP 2004. ARTC Rail Infrastructure	Repealed	
SEPP 2004. Sydney Metropolitan Water Supply	Repealed	
SEPP 2005. Development on Kurnell Peninsula	N/A	
SEPP 2005. Major Development	N/A	
SEPP 2006. Sydney Region Growth Centres	N/A	
SEPP 2007. Mining, Petroleum Production and Extractive Industries	N/A	
SEPP 2007. Temporary Structures	N/A	
SEPP 2007. Infrastructure	N/A	
SEPP 2007. Kosciuszko National Park – Alpine Resorts	N/A	
SEPP 2008. Rural Lands	N/A	
SEPP 2008. Exempt and Complying Development Codes	N/A	
SEPP 2009. Western Sydney Parklands	N/A	
SEPP 2009. Affordable Rental Housing	N/A	
SEPP 2009. Western Sydney Employment Area	N/A	
SEPP 2010. Urban Renewal		
SEPP 2011. Sydney Drinking Water Catchment		
SEPP 2011. State and Regional Development		
<b>Sydney Regional Plans (deemed SEPPs)</b>		
SREP 1. Dual Occupancy	Repealed	
SREP 2. Dual Occupancy	Repealed	
SREP 3. Kurnell Peninsula	Repealed	
SREP 4. Homebush Bay	Repealed	
SREP 5. Chatswood Town Centre	N/A	
SREP 6. Gosford Coastal Areas	Repealed	
SREP 7. Multi-Unit Housing – Surplus Government Sites	Repealed	
SREP 8. Central Coast Plateau Areas	N/A	
SREP 9. Extractive Industry (No. 2)	N/A	
SREP 10. Blue Mountains Regional Open Space	Repealed	
SREP 11. Penrith Lakes Scheme	N/A	
SREP 12. Dual Occupancy	Repealed	
SREP 13. Mulgoa Valley	N/A	
SREP 14. Eastern Beaches	Repealed	
SREP 15. Terrey Hills	Repealed	
SREP 16. Walsh Bay	N/A	
SREP 17. Kurnell Peninsula	N/A	
SREP 18. Public Transport Corridor	N/A	
SREP 19. Rouse Hill Development Area	N/A	
SREP 20. Hawkesbury Nepean River (No. 2 – 1997)	Yes	As part of the progression of a Planning Proposal, Water Cycle Management and Water Sensitive Urban Design studies would be carried out.

SREP 21. Warringah Urban Release Area	Repealed	
SREP 22. Parramatta River	Repealed	
SREP 23. Sydney and Middle Harbours	Repealed	
SREP 24. Homebush Bay Area	N/A	
SREP 25. Orchard Hills	N/A	
SREP 26. City West	N/A	
SREP 27. Wollondilly Regional Open Space	Repealed	
SREP 28. Parramatta	N/A	
SREP 29. Rhodes Peninsula	N/A	
SREP 30. St Marys	N/A	
SREP 31. Regional Parklands	Repealed	
SREP 33. Cooks Cove	N/A	
SREP 2005. Sydney Harbour Catchment	N/A	

# Appendix C

## Local Planning Directions (s117) Checklist

### SCHEDULE OF SECTION 117 DIRECTIONS SOUTH DURAL PLANNING PROPOSAL

Ministerial Directions (s117)		
S117 Direction Title & Summary	Compliance	Comment
<b>1. Employment and Resources</b>		
<p>1.1 Business and Industrial Zones</p> <p>A planning proposal shall encourage employment growth in suitable locations, protect employment lands and support the viability of “identified strategic centres”.</p> <p>A planning proposal shall retain the areas and locations of existing business and industrial zones.</p> <p>A planning proposal shall not reduce the total potential floor space area for employment uses and related public services in business zones.</p> <p>A planning proposal shall not reduce the total potential floor space area for industrial uses in industrial zones.</p> <p>A planning proposal shall ensure that proposed new employment areas are in accordance with an approved strategy.</p>	Yes	The proposal includes rezoning for employment land. The location and amount of business land will be considered in the context of a retail and employment study to be prepared in the progression of the Planning Proposal.
<p>1.2 Rural Zones</p> <p>A planning proposal shall not rezone rural land for urban purposes, including residential, business or industrial purposes.</p> <p>A planning proposal shall not contain provisions which will increase the permissible density of rural zoned land.</p> <p>A planning proposal shall not include provisions that control access from traffic generating developments to classified roads in rural zones.</p>	Justification required	The studies carried out to support the progression of the planning proposal must consider this Direction and satisfy the Director-General that non-compliance with this Direction is justified.
<p>1.3 Mining, Petroleum Production and Extractive Industries</p> <p>Council shall consult the Director-General of the Department of Primary</p>	N/A	

<p>Industries (DPI) to identify any resources of coal, petroleum and extractive materials of State or regional significance and existing mines or extractive industries occurring in the area subject to the draft LEP.</p> <p>Council shall seek advice from the Director-General of the DPI on the development potential of the identified resources.</p> <p>Council shall consider any likely conflict between the development of existing mines or extractive industries, or identified resources and other land uses.</p> <p>Where a planning proposal prohibits or restricts development of identified resources or is likely to conflict with other land uses, Council shall consult with the Director-General of the DPI concerning the draft LEP and provide a copy of any comments received to the Director-General of the Department of Planning.</p>		
<p>1.4 Oyster Aquaculture</p> <p>Council shall ensure the planning proposal is consistent with the <i>NSW Oyster Industry Sustainable Aquaculture Strategy (2006)</i>.</p> <p>Council shall identify any Priority Oyster Aquaculture Areas (POAA) and oyster aquaculture leases outside such an area to which the planning proposal would apply.</p> <p>Council shall identify any proposed land uses which could adversely impact on a POAA and oyster aquaculture leases outside such an area.</p> <p>Council shall consider any likely incompatibilities between oyster aquaculture and other land uses and evaluate ameliorative measures.</p> <p>Where a planning proposal could result in an impact on a POAA and oyster aquaculture leases outside such an area, Council shall consult the Director-General of the Department of Primary Industries (DPI) concerning the draft LEP and provide a copy of any comments received to the Director-General of the Department of Planning.</p>	N/A	
1.5 Rural Lands	N/A	

A Planning Proposal that affects land within an existing or proposed rural or environmental protection zone must be consistent with State Environmental Planning Policy (Rural Lands) 2008.		
<b>2. Environment and Heritage</b>		
<p>2.1 Environmental Protection Zones</p> <p>A planning proposal shall include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>A planning proposal that applies to environmental protection zoned land or land identified for environmental protection purposes shall not reduce the protection standards that apply to the land.</p>	Yes	Biodiversity studies will be carried out to ensure that the Proposal contains provisions that facilitate the protection and conservation of environmentally sensitive areas.
<p>2.2 Coastal Protection</p> <p>A planning proposal shall be consistent with the <i>NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997</i>, the <i>Coastal Design Guidelines 2003</i> and the <i>NSW Coastline Management Manual 1990</i>.</p>	N/A	
<p>2.3 Heritage Conservation</p> <p>A planning proposal shall contain provisions to facilitate the conservation of items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance.</p> <p>A planning proposal shall contain provisions that facilitate the conservation of areas, places, landscapes and objects identified of being of Aboriginal heritage significance.</p>	Yes	<p>Parts of the road reserve in New Line Road and Old Northern Road are heritage listed, along with property No. 671-673 Old Northern Road within the study area.</p> <p>A heritage study will be undertaken in the progression of the Planning Proposal to ensure that there are provisions which facilitate the conservation of European and Aboriginal heritage.</p>
<p>2.4 Recreation Vehicle Areas</p> <p>Planning proposals shall not zone or enable land to be developed for a recreational vehicle area where the land is in an Environmental Protection Zone, is a beach or dune, or in other areas unless the council has taken into consideration relevant guidelines listed in the Direction.</p>	N/A	
<b>3. Housing Infrastructure and Urban Development</b>		
<p>3.1 Residential Zones</p> <p>A planning proposal shall include</p>	Yes	The planning proposal has been submitted to broaden the choice of housing types available in Hornsby Shire. housing type and location in Hornsby Shire.

<p>housing provisions that broaden the choice of building types and housing locations, make more efficient use of existing infrastructure and services, reduce urban sprawl and be of good design.</p> <p>A planning proposal shall contain a requirement that residential development is not permitted until land is adequately serviced with water and sewerage. Planning proposals shall not contain provisions which reduce the permissible density on residential zoned lands.</p>		<p>The proponent is aware that infrastructure required to service the development is to be provided at no cost to government. Council is seeking a conditional Gateway determination which requires the proponent to fund a Business Plan commissioned by Council to ensure the feasibility of the project being delivered with all necessary infrastructure.</p>
<p>3.2 Caravan Parks and Manufactured Home Estates</p> <p>Planning proposals shall retain existing zones of land or utilise an appropriate zone under the standard Instrument to permit caravan parks in LEPs</p> <p>When preparing planning proposals, Council shall consider the categories of land and principles in SEPP No. 36 to determine suitable zones, locations and provisions for Manufactured Home Estates.</p>	N/A	
<p>3.3 Home Occupations</p> <p>Planning proposals shall permit home occupations to be carried out in dwelling houses without the need for development consent.</p>	N/A	<p>Direction applies to all councils that do not have a principal Local Environmental Plan or a draft LEP, prepared pursuant to the standard instrument under section 33A of the EP&amp;A Act 1979.</p>
<p>3.4 Integrating Land Use and Transport</p> <p>A planning proposal shall locate zones for urban purposes in areas in accordance with the identified guidelines and policies to reduce travel demand, including the number of trips generated by development and the distances travelled.</p>	Yes	<p>The planning proposal is seeks to provide additional housing and employment in an area serviced by public bus transport. The North West Rail Link may also improve access to public transport for the South Dural area.</p>
<p>3.5 Development Near Licensed Aerodromes</p> <p>For a planning proposal affecting land in the vicinity of a licensed aerodrome, the Council shall consult with the Department of Commonwealth responsible for aerodromes and the lessee of the aerodrome.</p> <p>A draft LEP shall take into consideration the Obstacle Limitation Surface (OLS) and for land affected by the OLS permit development compatible with the operation of an aerodrome and prepare appropriate development standards.</p>	N/A	

<p>A planning proposal shall not rezone land for certain purposes listed in the direction where the Australian Noise Exposure Forecast (ANEF) exceeds the levels specified in the direction. Draft LEPs which rezone lands for such purposes shall include a provision regarding interior noise levels.</p>		
<p>3.6 Shooting Ranges</p> <p>A Planning Proposal which affects, creates, alters or removes a zone or provision relating to land adjacent to or adjoining a shooting range must not seek to rezone land to permit more intensive land uses than those which are permitted under the existing zone, or that are incompatible with the noise emitted by the existing shooting range.</p>	N/A	
<p><b>4. Hazard and Risk</b></p>		
<p>4.1 Acid Sulfate Soils</p> <p>Council shall consider the <i>Acid Sulfate Soils Planning Guidelines</i> adopted by the Director-General of the Department of Planning when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Risk Maps prepared by the Department of Natural Resources.</p> <p>Planning proposals that regulate works in acid sulfate soils shall be consistent with the Acid Sulfate Soils Model LEP or such other provisions provided by the Director-General of the Department of Planning.</p> <p>Council shall not prepare a planning proposal that intensifies land uses on land having a probability of containing acid sulfate soils unless an acid sulfate soils study has been considered</p>	N/A	
<p>4.2 Mine Subsidence and Unstable Land</p> <p>Where the land is subject to mine subsidence, council shall consult the Mine Subsidence Board to ascertain if the Board has any objection to the Plan and the appropriateness of the development for the potential level of subsidence.</p> <p>A planning proposal shall not permit development on unstable land.</p>	N/A	<p>Direction applies to all councils that contain a mine subsidence district proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961 or that contain unstable land.</p> <p>Clarification was sought from the Department of Planning in late 2005 as to the meaning of 'unstable land'. A formal response has not been received. However, a Department representative advised by email 29 November 2005 that unstable land is land that is subject to land slip because of slope and soil/ geological conditions.</p>
<p>4.3 Flood Prone Land</p> <p>A planning proposal shall include</p>	Yes	<p>Although the subject site is not mapped in the <i>HLEP 2013 Flood Planning Map</i>, a number of properties are affected by an overland flow path as identified in the</p>

<p>provisions that give effect to the <i>NSW Flood Prone Land Policy</i> and are consistent with the <i>Floodplain Development Manual 2005</i>. A draft LEP shall not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p> <p>A planning proposal shall not permit development in floodway areas, permit development that will significantly impact on other properties, permit a significant increase in development, result in a substantial increase in the need for government spending on flood mitigation, permit specified development without the need for consent.</p> <p>A planning proposal shall not impose flood related development controls above the flood planning level for residential development.</p> <p>In preparing a planning proposal, Council shall not determine a flood level inconsistent with the Floodplain Development Manual 2005.</p>		<p>Hornsby Overland Flow Study 2010.</p> <p>Flooding investigations will be carried out in the progression of the Planning Proposal and if the land is identified as within a flood planning area, the planning proposal will be progressed in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005.</p>
<p>4.4 Planning for Bushfire Protection</p> <p>Council shall consult with the Commissioner of the NSW Rural Fire Service in the preparation of any planning proposal following receipt of a gateway determination and prior to undertaking community consultation and take into account any comments made.</p> <p>A planning proposal shall have regard to Planning for Bushfire Protection 2006, avoid permitting inappropriate development in hazardous areas and ensure that hazard reduction is not prohibited in the asset protection zone (APZ).</p> <p>A planning proposal, where development is proposed, shall comply with specified provisions to minimise bushfire hazard risk, as appropriate.</p>	<p>Yes</p>	<p>Approximately two thirds of the study area is identified as bushfire prone land.</p> <p>In accordance with this Direction, the Commissioner of the Rural Fire Service will be consulted following receipt of gateway determination and prior to community consultation.</p>
<p><b>5. Regional Planning</b></p>		
<p>5.1 Implementation of Regional Strategies</p> <p>A planning proposal shall be consistent with a regional strategy</p>	<p>N/A</p>	



released by the Minister for Planning.		
<p>5.2 Sydney Drinking Water Catchments</p> <p>A planning proposal shall be prepared in accordance with the general principle that water quality within the hydrological catchment must be protected and in accordance with specified principles.</p> <p>When preparing a planning proposal that applies to land within a hydrological catchment, Council, shall consider any strategic land and water capability assessment, or a settlement or rural residential strategy, consult the Sydney Catchment Authority (SCA) under Section 62 of the EP&amp;A Act and zone SCA land in accordance with the specified zones from the Standard Instrument.</p>	N/A	
<p>5.3 Farmland of State and Regional Significance on the NSW Far North Coast</p> <p>A planning proposal shall not rezone land identified as "State Significant Farmland", "Regionally Significant Farmland" or "Significant non-contiguous farmland" for urban or rural residential purposes.</p>	N/A	
<p>5.4 Commercial and Retail Development along the Pacific Highway, North Coast</p> <p>A planning proposal that applies to land "within town" shall provide that new commercial or retail development shall be concentrated within distinct centres rather than spread along the Pacific Highway. A draft LEP that applies to land "out of town" shall provide that new commercial or retail development shall not be established near the Pacific Highway. Development with frontage to the Pacific Highway shall consider the impact the development has on the safety and efficiency of the Highway.</p> <p>A planning proposal shall permit a highway service centre beside the Pacific Highway where they are located close to the town bypassed, the local economy is considered and there is adequate separation from other service centres.</p>	N/A	

A planning proposal shall limit the uses permitted in highway service centres to those specified in the Direction.		
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA))	Revoked	
5.6 Sydney to Canberra Corridor	Revoked	
5.7 Central Coast	Revoked	
5.8 Sydney Second Airport: Badgerys Creek  Planning proposals shall not contain provisions that enable development which could hinder the potential for development of a Second Sydney Airport.	N/A	
<b>6. Local Plan Making</b>		
6.1 Approval and Referral Requirements  A planning proposal shall minimise provisions requiring concurrence, consultation or referral of development applications to a Minister or public authority.  A planning proposal shall not identify development as designated development unless Council can satisfy the Director-General that such is warranted.	N/A	
6.2 Reserving Land for Public Purposes  A planning proposal shall not create, alter or reduce existing reservations or zonings of land for public open space without the approval of the relevant public authority and the Director General.  When a Minister or public authority requests a Council to reserve land for a public purpose, include provisions relating to the use of land reserved for a public purpose, rezone and/or remove a reservation, the council shall accede to the request.	Yes	
6.3 Site Specific Provisions  A planning proposal that amends another LEP to allow a particular development to be carried out shall either: * allow that land use to be carried out in the zone; or * rezone the site to an existing zone	N/A	

<p>without imposing any additional development standards or requirements applying to that zone; or</p> <p>* allow that land use on the land without imposing any development standards in addition to those already contained in the principal LEP being amended.</p>		
<p><b>7. Metropolitan Planning</b></p>		
<p>7.1 Implementation of the Metropolitan Plan for Sydney 2036</p> <p>A planning proposal shall be consistent with the NSW Government's Metropolitan Plan for Sydney 2036, published in December 2010 ("the Metropolitan Plan")</p>	<p>Yes</p>	<p>The Metropolitan Plan promotes housing in and around urban centres, and the protection of rural and resource lands.</p> <p>The impacts of urban expansion would need to be addressed in the progression of the Planning Proposal.</p> <p>The <i>draft Metropolitan Strategy for Sydney 2031</i> was released for public exhibition in March 2013. Once finalised, the <i>draft Strategy</i> will replace the <i>Metropolitan Plan for Sydney 2036</i>. Consideration of rezoning South Dural for urban purposes through the Gateway process would be consistent with the identified priority in the <i>draft Strategy</i> to manage and monitor land for possible extension of the Metropolitan Urban Area.</p>

# **Appendix D**

Council report (PL 117/13) and Resolution

## 16 SOUTH DURAL PLANNING PROPOSAL

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### EXECUTIVE SUMMARY

- A *Planning Proposal* has been submitted on behalf of the South Dural Resident and Ratepayers Association to rezone South Dural for urban purposes. A mix of residential, educational, business and open space uses is proposed, with an indicative yield of 2,500 – 3,000 dwellings. Consideration of the rezoning would be consistent with Council's previous resolution to support investigations into the precinct, subject to the delivery of infrastructure and detailed studies to address constraints.
- Council received 123 submissions in response to preliminary notification, of the *Planning Proposal*, including 79 letters in support, or conditional support, and 44 in objection. Key concerns include traffic, biodiversity, agricultural potential and location of future development.
- It is recommended that Council seek a conditional Gateway determination which requires a Business Plan to confirm the feasibility of the project being delivered with all necessary infrastructure at no net cost to government, followed by the necessary technical studies.
- Should a Gateway determination be received, Council should be responsible for the preparation of study briefs, tenders and project management. The proponent should enter into a binding agreement to fund such studies and Council resources for project management.

### RECOMMENDATION

THAT:

1. Council forward the *South Dural Planning Proposal* attached to Group Manager's Report No. PL117/13 to the Minister for Planning and Infrastructure seeking a conditional Gateway determination which:
  - a) requires the proponent to fund a Business Plan, to be commissioned by Council, to confirm the feasibility of the project being delivered with all necessary infrastructure at no net cost to government; and
  - b) subject to the Regional Director, Sydney West Region, being satisfied with the Business Plan, outlines the necessary studies to be prepared to justify the proposal.
2. Should a Gateway determination be issued, Council not proceed further with the *Planning Proposal* until such time as the proponent has entered into a binding agreement to fund the studies and Council resources for project management and a bank guarantee has been received by Council for same.
3. Submitters be advised of Council's resolution.

## PURPOSE

The purpose of this Report is to consider a *Planning Proposal*, submitted by Michael Brown Planning Strategies on behalf of the South Dural Residents and Ratepayers Group, to rezone land known as South Dural for urban purposes.

## BACKGROUND

The area known as South Dural has been the subject of numerous submissions and applications seeking rezoning since 1990. Most recently, Council considered Report No. PLN17/12 in February 2012 concerning the NSW Government review of housing opportunities on landowner nominated sites (Potential Home Sites Program). The report advised that South Dural was nominated by the South Dural Residents and Ratepayers Group for the Potential Homes Sites (PHS) Program. Council resolved (in part) that:

1. *A submission based on the discussion contained in Executive Manager's Report No. PLN17/12 concerning the NSW Government review of housing opportunities be forwarded to the Department of Planning and Infrastructure concerning landowner nominated sites and stating that:*
  - (a) *Council confirms its support for the progression of investigations for the release of South Dural for urban purposes, subject to those investigations containing all the necessary studies to demonstrate that all required public infrastructure and community services would be in place to accommodate the additional population and surrounding neighbours.*
  - (b) *Any release of lands at South Dural and/or North Glenhaven should be accompanied by a funding and delivery plan for the associated infrastructure works.*
  - (c) *Any plan to release lands at South Dural and/or North Glenhaven should have comprehensive and exhaustive consultation with the ratepayers and residents to discuss all infrastructural, educational, medical and other civic services in view of the future increase in residents.*
  - (d) *Any community consultation process should include consultation with all persons who made a submission on the Hornsby Shire Housing Strategy to gauge a view of the residents of Hornsby Shire concerning the potential release of South Dural for urban purposes and the contribution of the precinct towards meeting Council's dwelling target under the State Government's Metropolitan Plan.*
  - (e) *Any release of lands at South Dural and/or North Glenhaven assess the impacts on the Endangered and Critically Endangered Ecological Communities of Turpentine Ironbark Forest and Blue Gum High Forest on the site under the Australian Environmental Protection and Biodiversity Conservation Act and the NSW Threatened Species Conservation Act 1995.*
  - (f) *Any release of lands at South Dural and/or North Glenhaven conserve and protect the Endangered and Critically Endangered Ecological Communities, the significant vegetation of the Georges Creek wildlife corridor, and allow for the enhancement and revegetation to enable a viable connection from the Georges Creek corridor to the Dooral Dooral Creek corridor through the creation of a viable bushland reserve network.*

- (g) *Any release of lands at South Dural and/or North Glenhaven requiring the removal of native vegetation provide an offset for the loss of the native vegetation in accordance with Council's Green Offsets Code.*
- (h) *Any release of lands at South Dural and/or North Glenhaven provide for all stormwater management devices, detention basins and bushfire asset protection zones to be located outside the bushland reserve network.*

In accordance with Council's resolution, a letter was sent to the DP&I advising the above. In March 2013, the Minister for Planning and Infrastructure announced that immediate action will be taken to support development of new homes for 7 sites nominated through the PHS Program. South Dural was not included on the list of sites. The NSW Government's PHS program evaluation summary notes that South Dural is currently not deliverable due to multiple landowners, high fragmentation, long lead times and potential cost to government.

At a meeting with Council and the South Dural Residents and Ratepayers Group in June 2013, representatives from the DP&I confirmed that the State Government is not in a position to initiate the release of South Dural as a State lead process for the reasons outlined above. The Department representatives indicated that a planning proposal to rezone South Dural could be considered subject to it being demonstrated that there would be no net cost to government. It was advised that the Gateway process should be used to determine the scope of supporting studies required. It is understood that similar advice was also provided by the DP&I to The Hills Council and proponents of the North Box Hill Precinct, which was similarly classified under the PHS program.

Council, by letter to the applicant dated 25 July 2013, requested that a Business Plan outlining how the development of South Dural could be achieved at no cost to government be submitted with any planning proposal. It was requested that the Business Plan include cost estimates for infrastructure and confirm the viability of the project being delivered with all necessary infrastructure.

A Planning Proposal has been submitted by a consultant to rezone South Dural for residential/urban development. A Planning Proposal for Box Hill North has also been submitted to The Hills Shire Council and was considered at its Ordinary meeting of Council on 8 October 2013, where the plan was endorsed for progression to the DP&I for Gateway determination. A Gateway determination was issued by the DP&I on 23 November 2013.

## **SITE**

The land known as South Dural is bounded by Old Northern Road, New Line Road and Hastings Road and spans part of the suburbs of Dural, Glenhaven and Castle Hill. The site has an area of approximately 240 hectares and consists of 135 allotments. Existing land uses include large lot rural/residential development, a water reservoir, caravan park, seniors living development, landscape supplies, child care centre and a hotel/motel.

The topography varies and slopes from the ridgeline of Old Northern Road down to a densely vegetated valley along Georges Creek. The land is zoned part RU2 (Rural Landscape), part E3 (Environmental Management) and part SP2 (Infrastructure - Road) under the *Hornsby Local Environmental Plan (HLEP) 2013*. Approximately one third of the land is mapped as Bushfire Prone on the Bushfire Prone Land Map certified by the NSW Rural Fire Service. A map showing the location of the site is attached to this report.

The subject land is surrounded by a mix of uses, including Round Corner (commercial uses) and residential development immediately to the north, the Dural Service Centre (commercial/industrial uses) immediately to the east, residential to the south and rural to the west. Further north and north

east of the site, the land uses are rural. Old Northern Road forms the western boundary of the South Dural area and is also the Shire boundary. Land on the western side of Old Northern Road, opposite South Dural, is located within The Hills Council area.

## PROPOSAL

The *South Dural Planning Proposal* has been submitted by a consultant on behalf of the South Dural Residents and Ratepayers Group. The applicant states that the intended objectives and outcomes of the planning proposal are to:

- *facilitate the comprehensive urban development of the land in accordance with its environmental capacity and capitalising on existing infrastructure;*
- *conserve and enhance elements of the natural environment;*
- *establish a framework for more detailed planning;*
- *utilise and embellish existing physical and human infrastructure; and*
- *meet housing targets provided in the Sydney Metropolitan Strategy and promoting housing choice and diversity which respond to the needs of Hornsby's community.*

A preliminary concept plan indicates a mix of residential and potential educational uses. The applicant identifies an indicative yield of 2,500 – 3,000 dwellings in the following mix:

- low rise (3-5 storey) residential flat buildings at 40-50 dwellings per hectare;
- townhouses and terrace housing on small lots at 25 dwellings per hectare;
- detached dwellings on average 450 – 600sqm lots at 10 – 15 dwellings per hectare; and
- large lot housing along creeks and where there are remnant areas of vegetation at 2 dwellings per hectare.

Should Council support progression of the *Planning Proposal*, further investigation would be required into the location and mix of residential, educational, open space and potential retail uses.

The *Planning Proposal* is accompanied by a number of technical studies which were prepared in 2008/9 as follows:

- Flora and Fauna Investigation (January 2009) – Hayes Environmental;
- Bushfire Planning Investigation (January 2009) – BES;
- Infrastructure Report (January 2009) – Maunsell Australia;
- Traffic, Transport and Accessibility Assessment (January 2009) – Maunsell Australia; and
- Retail and Commercial Potential (December 2008) – Don Fox Planning.

The *Planning Proposal* and accompanying studies submitted by the consultant are available for viewing on Council's website at [hornsby.nsw.gov.au/property/planning-legislation/planning-studies/south-dural-planning-proposal](http://hornsby.nsw.gov.au/property/planning-legislation/planning-studies/south-dural-planning-proposal).

## DISCUSSION

This report discusses the strategic context of the *South Dural Planning Proposal* and outlines issues which should be considered in any investigation into the rezoning of the land. It also discusses



preliminary comments received from property owners within and adjoining the precinct and other residents.

## 1. Strategic Context

There are a number of State and local planning strategies which set the context for growth and development into the future, as discussed below.

### 1.1 Metropolitan Plan for Sydney 2036

The State Government's *Metropolitan Plan for Sydney 2036* provides a framework for the sustainable growth of Sydney over the next 25 years. The *Plan* encourages the provision of housing near jobs, transport and services to ensure there is an adequate supply of housing to accommodate the forecast population growth. Hornsby and Ku-ring-gai Councils are grouped together to form the North subregion, with housing and employment targets of 29,000 new dwellings and 15,000 new jobs to be created between 2004 and 2036. The *Plan* promotes housing in and around urban centres, and the protection of rural and resource lands. The impacts of urban expansion would need to be addressed in the progression of the *South Dural Planning Proposal*.

### 1.2 Draft North Subregional Strategy

The *draft North Subregional Strategy* was prepared to provide more detailed guidance for the growth of the North subregion and breaks down the dwelling and employment targets separately for Hornsby and Ku-ring-gai Councils. However, the breakdown is based on previous targets issued by the DP&I. The *draft North Subregional Strategy* sets out a target of 11,000 new dwellings and 9,000 new jobs within Hornsby Shire by 2031.

Council is well placed to meet its share of dwelling obligations. Potential for approximately 4,500 new dwellings can be achieved through infill development/subdivision. Opportunities for a further 3,000 new homes was provided through the finalisation of the *Housing Strategy* in 2011. The Epping Urban Activation Precinct being led by the DP&I promotes opportunities for 2,500 new dwellings within Hornsby Shire at Epping. Council is also reviewing the opportunities for additional development within the Hornsby West Side, which could provide approximately 1,000 new dwellings. The table below illustrates how Council could meet its current dwelling target.

Source/Strategy	Approx number of dwellings
Infill	4,500
Housing Strategy	3,000
Epping UAP	2,500
Draft Hornsby West Side Planning Proposal	1,000
<b>TOTAL</b>	<b>11,000</b>

Council's dwelling target is expected to increase when the *draft Subregional Strategy* is finalised, and in light of the *draft Metropolitan Strategy for Sydney 2031* (discussed below). The provision of housing at South Dural would further contribute to the achievement of Council's dwelling target.

### 1.3 Draft Metropolitan Strategy for Sydney 2031

The State Government released the draft *Metropolitan Strategy for Sydney 2031* for public exhibition in March 2013. Once finalised, the *draft Strategy* will replace the *Metropolitan Plan for Sydney 2036*. The *draft Strategy* alters subregional boundaries and groups Hornsby, Ku-ring-gai, Manly, Pittwater and Warringah Councils to form the North subregion.

The new housing and employment targets set out in the *draft Strategy* for the North subregion are 37,000 new dwellings and 39,000 new jobs to be created between 2011 and 2031. As discussed above, Council is well placed to meet its share of dwelling obligations and the provision of housing at South Dural would further contribute to the achievement of Council's dwelling target.

The *draft Strategy* categorises the land within the Sydney Region into a Metropolitan Urban Area and a Metropolitan Rural Area. The northern two thirds of South Dural is identified as being within the Metropolitan Rural Area, while the remaining southern third is identified as within the Metropolitan Urban Area.

The Metropolitan Rural Area is one of nine "city shapers" identified in the *draft Strategy*, along with the North West Rail Link (NWRL), that will directly influence Sydney's growth to 2031. The relevance of these city shapers to the Planning Proposal is summarised below.

#### 1.3.1 Metropolitan Rural Area

The Metropolitan Rural Area provides opportunities for agricultural activities that contribute to Sydney's future ability to maintain a reliable and local source of fresh food and produce. The *draft Strategy* identifies priorities for Sydney's Metropolitan Rural Area including:

- Manage and monitor land for possible future extension of the Metropolitan Urban Area;
- Support the function of the Metropolitan Urban Area to accommodate most of Sydney's urban growth;
- Encourage renewable energy investment resources;
- Increase the productivity of agricultural and resource lands and grow associated employment opportunities; and
- Identify and protect priority green corridors.

The *South Dural Planning Proposal* seeks rezoning of rural land for urban purposes. Consideration of this through the DP&I's Gateway process would be consistent with the identified priority to manage and monitor land for possible extension of the Metropolitan Urban Area. The appropriateness of extending the Metropolitan Urban Area into the northern two thirds of Dural would need to be addressed in the progression of the *Planning Proposal*.

#### 1.3.2 North West Rail Link

The North West Rail Link corridor runs 23 kilometres between Epping and Rouse Hill in Sydney's North West Growth Centre. The main priorities of the *draft Strategy* relevant to Hornsby Shire are to:

- Prepare structure plans to guide the growth around NWRL stations; and
- Facilitate the delivery of the Epping Urban Activation Precinct (UAP).

Whilst the finalisation of the Epping UAP is imminent, planning around the Cherrybrook station precinct has not commenced. The final Corridor Strategy (October 2013) prepared by the DP&I estimates that a total of 3,200 additional dwellings and 50 additional jobs could be accommodated within the Cherrybrook Study Area.

The Department has advised that the Corridor Strategy will form the basis for future detailed planning within each precinct and will be supported by a Section 117 Direction to ensure that the Corridor Strategy is taken into consideration when preparing future detailed plans.

The preparation of a Precinct Plan for the Cherrybrook Station Precinct is not listed on the Strategic Planning Branch's Programme for the current financial year. However, the Department has informally indicated it would support Council commencing the process.

#### **1.4 Hornsby Local Environmental Plan 2013**

The *HLEP 2013* applies to the subject land and zones the majority of the land RU2 (Rural Landscape). Part of the land is zoned E3 (Environmental Management). A small portion of the frontage of approximately 38 properties is zoned SP2 (Infrastructure).

The objectives of the RU2 (Rural Landscape) zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base;*
- *To maintain the rural landscape character of the land;*
- *To provide for a range of compatible land uses, including extensive agriculture;*
- *To encourage land uses that support primary industry, including low-scale and low-intensity tourist and visitor accommodation and the provision of farm produce direct to the public; and*
- *To ensure that development does not unreasonably increase the demand for public infrastructure, services or facilities.*

Land uses permissible in the zone include (but are not limited to) aquaculture, animal boarding or training establishments, child care centres, community facilities, dwelling houses, eco-tourist facilities, environmental facilities, extractive industries, farm buildings, garden centres, intensive livestock agriculture, intensive plant agriculture, roadside stalls bed and breakfast accommodation and farm stay accommodation.

The objectives of the E3 (Environmental Management) zone are:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values;*
- *To provide for a limited range of development that does not have an adverse effect on those values; and*
- *To protect the natural environment of steep lands and floodplains within the catchment of the Hawkesbury River.*

Land uses permissible in the zone include (but are not limited to) aquaculture, dwelling houses, environmental facilities, farm buildings, bed and breakfast accommodation and farm stay accommodation.

The objectives of the SP2 (Infrastructure - Road) zone are:

- *To provide for infrastructure and related uses; and*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

The only land use permitted in the zone is roads, including any development that is ordinarily incidental or ancillary to development for the purpose of a road.

The *HLEP* specifies a maximum height limit of 10.5m for the subject land. A minimum lot size of 2 hectares applies to that part of the land zoned RU2 Rural Landscapes, with a minimum lot size of 40 hectares applying to the E3 Environmental Management zoned portion.

A number of maps accompany the *HLEP* and apply to the subject site. Parts of South Dural are identified on the Terrestrial Biodiversity Map to which Clause 6.4 of the *HLEP* applies. The Clause aims to protect native flora and fauna and their habitats.

The Heritage Map identifies parts of the road reserve in New Line Road (street trees and bushland) and Old Northern Road (roadside trees) as heritage listed, along with property Nos. 671 – 673 Old Northern Road (house).

The properties which have a part zoning of SP2 Infrastructure (Roads) are identified on the Land Reservation Acquisition Map. The frontages of approximately 38 properties are identified as SP2 Roads and the relevant acquisition authority is the Roads and Maritime Services.

Although not identified on the Flood Planning Map, a number of properties are affected by an overland flow path as identified in the *Hornsby Overland Flow Study 2010*. Any studies investigating the rezoning of South Dural would need to address the constraints mapped in the *HLEP*.

### **1.5 Hornsby Development Control Plan 2013**

The *Hornsby Development Control Plan (HDCP) 2013* contains development guidelines which apply to the land at South Dural. “Part 1 – General” identifies controls concerning the Built Environment (such as car parking and effluent disposal), Natural Environment (such as biodiversity and stormwater management) and hazards (such as bushfire and flooding).

“Part 2 – Rural” also applies to the subject land and identifies controls concerning the scale and design of rural dwellings/buildings and controls for rural land uses such as agriculture and tourism.

## **2. Evaluation**

The *Planning Proposal* is accompanied by a number of technical studies prepared in 2008/2009 as follows:

### **2.1 Flora and Fauna Investigation (January 2009) – Hayes Environmental**

The report identifies ecological features and habitats of conservation significance within the subject land including a riparian corridor, threatened flora and fauna species, and endangered ecological communities. In general, most of the ecological features and habitats converge within the Georges Creek Vegetation Corridor, but some endangered ecological communities occur outside the main corridor. The report acknowledges that further detailed studies and design would be required to retain and revegetate a wildlife corridor along Georges Creek, and to improve the quality and security of retained vegetation within the study area.

#### **2.1.1 Comment**

Council has completed vegetation studies across the Shire. There is variation between Council’s vegetation mapping studies for the South Dural area and the Hayes Environmental mapping and assessment submitted with the *Planning Proposal*, as outlined below.

	<b>Smith and Smith 2008 (Council mapping)</b>	<b>Hayes Environmental 2009 (Planning Proposal)</b>
<b>Blue Gum High Forest (BGHF)</b>	9.01 ha plant community 11.3 ha remnant trees	4 ha in good condition 12 ha in poor condition
<b>BGHF total remaining remnants</b>	20.31 ha	16 ha
<b>Sydney Turpentine Ironbark Forest (STIF)</b>	2.1 ha plant community 13.5 ha remnant trees	3.5 ha in good condition 3.0 ha in poor condition
<b>STIF total remaining remnants</b>	15.6 ha	6.5ha

The vegetation mapping is consistent with the definition of both BGHF and STIF under the *Threatened Species Act 1993*. The condition of the vegetation does not exclude it from protection under the *Act*. As acknowledged in the Hayes Environmental report, there are areas of native vegetation and remnant Endangered Ecological Communities which are not being considered for conservation within the proposed parkland corridors identified in the *Planning Proposal*. The *Hornsby Shire Biodiversity Conservation Strategy 2006* has a policy of net improvement for native vegetation. Further detailed studies and planning would be required to investigate how the additional remnant native vegetation can be retained.

The proposal to include all stormwater management, detention ponds and swales within the open space area implies that these would be constructed within the identified corridor area. This would impact on native vegetation and may compromise the long term health and biodiversity value of the corridor. Detailed site specific water management measures and locations of any constructed wetlands or detention ponds should be investigated to ensure these initiatives would not remove or impact existing native vegetation.

## **2.2 Bushfire Planning Investigation (January 2009) – BES**

This report concludes that South Dural is suitable and capable of being development for urban use whilst accommodating the minimum bushfire protection measures required. However, the report states that the retention of the Georges Creek bushland and riparian corridor, including its associated tributaries, creates a bushfire hazard that would require detailed assessment to design the appropriate bushfire measures.

### **2.2.1 Comment**

The proposed Asset Protection Zones (APZs) and the requirements of *Planning for Bushfire Protection* as detailed in the *Planning Proposal* would need to be reviewed in consultation with the Rural Fire Service and within the context of native vegetation retention and offsetting. Council has adopted a *Green Offset Code* to address the unavoidable loss of valuable native vegetation across Hornsby Shire through the impacts of development. Any offsetting plan would need to comply with Council's policy and clearly demonstrate that a net improvement for native vegetation could be achieved through the development.

The provision of services, stormwater management, detention ponds and swales should be integrated within designated APZ's to further reduce impacts to bushland and biodiversity. Further detailed

planning and assessment would be required to ensure that any future APZ's do not impact upon vegetation mapped as Biodiversity in the *HLEP* including Endangered Ecological Communities and regionally significant vegetation communities.

### **2.3     *Infrastructure Report (January 2009) – Maunsell Australia***

Preliminary investigations conclude that there is insufficient capacity in the existing water supply system to service the proposed development. The West Hornsby Sewerage Treatment Plant has sufficient capacity to service the proposed development, with an extension of the carrier main required to service the northern parts of South Dural.

Possible servicing options for power include new underground feeder mains from either the substation at Glenhaven or the substation at Galston. South Dural is serviced with limited telecommunications infrastructure and would require augmentation to service further development.

#### **2.3.1   *Comment***

Further work and consultation with infrastructure agencies is required to ensure that infrastructure can be provided or upgraded to service any future development within South Dural, and that this can be achieved at no cost to government.

The *Planning Proposal* seeks rezoning for urban development which would change the natural landscape and transform vegetative ground cover to buildings and infrastructure with impervious services, roadways, roofing, driveways and paving. A Water Sensitive Urban Design (WSUD) integrated approach would be essential to mitigate impacts of the urban environment by developing a treatment train approach such as rain gardens, street tree bio-retention systems, vegetated swales, infiltration buffers strips, control detention ponds and wetlands for reducing pollutant export, retarding storm flows through on-site reuse and temporary storage of stormwater. Infrastructure necessary for urban development should be provided in such a way that natural stream flows in watercourses are maintained, riparian corridors are protected, groundwater resources are protected, pollution is minimised and water consumption and conservation plans should include water recycling and re-use programs.

### **2.4     *Traffic, Transport and Accessibility Assessment (January 2009) – Maunsell Australia***

This report identifies that road network upgrades would be required prior to the development of South Dural including:

- Duplication of Old Northern Road between Hastings Road and New Line Road;
- Duplication of New Line Road between Old Northern Road and Hastings Road;
- Signalisation of Old Northern Road and Glenhaven Road; and
- Addition of turn lanes on Old Northern Road.

The report also indicates that some intersection enhancements would be required.

#### **2.4.1   *Comment***

The Traffic report is based on 2006 Journey to Work (JTW) data, 2005 Average Annual Daily Traffic (AADT) volumes, and 2008 traffic counts. New traffic modelling with a base model using current counts, JTW data and AADT volumes would be required to assess existing traffic volumes and potential traffic impacts associated with the proposal. Further detailed modelling would need to identify road network upgrades and intersection enhancements to support future development.

## 2.5 Retail and Commercial Potential (December 2008) – Don Fox Planning

The report states that, notwithstanding the availability of retail services in other nearby centres, there could be demand for local retail floorspace within South Dural. The report recommends that this be provided in one location as part of a community hub and adjacent to other uses such as open space or education. The addition of dwellings in South Dural would also support existing retail facilities in other centres. The additional dwellings could also generate demands for health, education and child care facilities.

### 2.5.1 Comment

The report on Retail and Commercial Potential was prepared in 2008. Further studies would be required to assess the availability of, and demand for, retail, health, education and childcare services and employment for future residents.

In summary, the studies submitted with the *Planning Proposal* are outdated and would be required to be reviewed and updated if the *South Dural Planning Proposal* was progressed. The studies identify constraints to urban development such as bushfire hazard, biodiversity, traffic and servicing which require further investigation and analysis. The preparation of a planning proposal is the first step in the process of requesting changes to a planning instrument. The initial Gateway determination would confirm the technical studies and community consultation required to justify the proposal. As the studies and consultation are undertaken, relevant parts of the planning proposal would be updated, amended and embellished.

## 3. Previous Council Adopted Position

A *Planning Proposal* to rezone land at South Dural for urban purposes would be consistent with Council's previous resolutions in 2011 and 2012 that, subject to being satisfied that all necessary public infrastructure and community services would be in place to accommodate the additional population, it would support investigations by the NSW Government to release the land for urban purposes. A rezoning for urban purposes would result in a change from the current rural zone to a residential zone, with different objectives to that of a rural zone. This would represent a change in the character of the area. The provision of housing at South Dural would assist Council meet revised dwelling targets in the *draft Metropolitan Strategy for Sydney to 2031* and the *draft North Subregional Strategy* when finalised.

At its meeting on 1 February 2012 Council indicated its support for the progression of investigations into the rezoning of South Dural for urban purposes, subject to a number of conditions. The table below sets out the conditions outlined in Council's previous resolution and how they could be addressed if the *South Dural Planning Proposal* is progressed.

Condition of Council Resolution 1/2/12	South Dural Planning Proposal
A funding and delivery plan should be prepared for infrastructure works required.	It is recommended that a Business Plan be provided to confirm the viability of the project being delivered with all necessary infrastructure at no net cost to government.
Comprehensive consultation should be carried out with ratepayers and residents.	Council practice includes extensive community consultation on major planning proposals.
The community consultation process should include consultation with all persons	The re-drafted planning proposal attached to this report outlines a consultation strategy which includes

Condition of Council Resolution 1/2/12	South Dural Planning Proposal
who made a submission on the Housing Strategy.	consultation with persons who made a submission on the Housing Strategy.
Assess the impacts on the Endangered and Critically Endangered Ecological Communities of Turpentine Ironbark Forest and Blue Gum High Forest.	Biodiversity studies would need to assess this.
Conserve and protect the significant. vegetation of the Georges Creek wildlife corridor, allow for the enhancement and revegetation to enable a viable connection from the Georges Creek corridor to the Dooral Dooral Creek corridor through the creation of a viable bushland reserve network.	The brief for the preparation of any precinct plan would include this requirement.
Offsets should be provided in accordance with Council's Green Offsets Code where the removal of native vegetation is required.	The brief for the preparation of any precinct plan would include this requirement.
All stormwater management devices, detention basins and bushfire asset protection zones be located outside the bushland reserve network.	The brief for the water cycle management and bushfire studies would include this requirement.

Due to the age of the studies submitted with the *Planning Proposal*, the constraints identified, and as indicated in the table above, a number of studies would need to be carried out to address/investigate, at minimum, the following issues:

- Bushfire;
- Biodiversity;
- Land Capability (including soils, contamination, agricultural potential etc);
- Water Cycle Management and Water Sensitive Urban Design;
- Flooding;
- Traffic;
- Infrastructure;
- Heritage (Aboriginal and European);
- Open space and recreation;
- Community facilities; and
- Retail and employment.



The *Environmental Planning and Assessment (EP&A) Act 1979* sets out that, if a planning proposal is requested by a proponent, council may require the owner to carry out studies or provide other information concerning the proposal, or to pay the costs of the council in carrying out the studies.

Due to the fragmented ownership of the existing 135 allotments within the South Dural precinct, it is recommended that Council undertake the planning process if a Gateway determination is sought and issued. This would require the applicant to fund the preparation of studies and an additional staff resource within the Strategic Planning Branch for a period up to two years.

It is recommended that Council be responsible for the preparation of study briefs, tenders and project management to ensure transparency and accountability through the following:

- Compliance with legal and policy requirements;
- Use of a competitive tender process for the engagement of consultants; and
- Identification and declaration of conflicts of interest.

The process of establishing the above framework would be outlined within a project plan and probity plan to be developed in consultation with Council and the proponent. The project plan would outline objectives, deliverables and governance arrangements for the project. The probity plan would outline how principals of fairness and impartiality, consistency and transparency, security and confidentiality and identification and resolution of conflicts of interest would be addressed.

## CONSULTATION

Letters were sent to property owners within and adjoining the precinct seeking preliminary comments on the *Proposal*. The public notification was not intended to fulfil the requirements of the relevant sections of the *EP&A Act*. Rather, its purpose was to include preliminary community opinion to assist Council in deciding whether to support progression of investigations into rezoning South Dural for urban purposes.

The DP&I's *Guide to preparing Planning Proposals* states that it may be premature to undertake consultation with the broader community on a particular planning proposal before the Gateway determination. This is on the basis that there is no certainty that investigation of the planning proposal will be supported by either the Council or the DP&I. Furthermore, the Gateway will confirm the scope of additional information that may be required and the range of agencies to be consulted. As a result, the planning proposal may vary from the time it is initially conceived to the point where a definite proposal evolves for the site.

Notwithstanding, Hornsby Council has adopted a process of notifying owners directly affected by a planning proposal before the matter is reported to Council. Along with the letters to property owners within and adjoining the precinct, the *South Dural Planning Proposal* was exhibited on Council's website from 28 October 2013 to 25 November 2013.

In response to preliminary notification, 123 submissions were received, including submissions from the Roads and Maritime Services and The Hills Shire Council. Approximately 53% of submissions (65) indicated support for the progression of the *South Dural Planning Proposal* to the next stage of consideration. Of the 65 submissions in support, 52 were form letters outlining support for the proposal and acknowledging that the concept plan would be amended following the technical studies that would need to be undertaken. Approximately 11% of submissions (14) were supportive in principle but raised issues of concern and 36% (44) raised objections to the proposal, including submissions from the following community groups:

- Community Voice;
- Hornsby Conservation Society;
- Friends of Berowra Valley;
- Galston Area Residents Association;
- Association for Berowra Creek;
- Dural District Progress Association;
- Friends of South Dural;
- Hornsby Kuring-gai Greens;
- Sydney Agricultural Rural and Public Lands Trust Incorporated; and
- Pennant Hills District Civic Trust.

Key issues raised in submissions which object to the proposal, or are supportive with concerns, are discussed below.

### **Traffic**

The submissions from the Roads and Maritime Services (RMS) and the Hills Shire Council note that the Traffic, Transport and Accessibility Assessment submitted with the proposal was undertaken in January 2009 and contains incorrect and out of date information and should be updated. The RMS requests that the report be submitted to the RMS for review, and that the updated report consider signalling all proposed intersections from New Line Road, including the roundabout located at the intersection of Old Northern Road and New Line Road to ensure efficient traffic flow within South Dural.

Other submissions state that the roads in the area are already congested and further development would exacerbate the problem and would increase traffic in neighbouring suburbs. Concerns are raised that significant investment in road infrastructure would be required to fix existing problems and support new development.

### **Protection of Biodiversity**

A number of submissions raise concern regarding areas of endangered Blue Gum High Forest (BGHF) and Sydney Turpentine Ironbark Forest (STIF) which are located outside the open space corridor identified for protection in the *Planning Proposal*. Submissions also comment that the identified corridor is not likely to be sufficient to protect habitat for the threatened species recorded in the area. Submitters are concerned that all BGHF and STIF should be protected regardless of its condition and that the proposal for offsets is not adequate.

### **Agricultural Potential**

Submissions comment that the *Hornsby Shire Housing Strategy* advocates the preservation of agricultural land and that rezoning South Dural would result in a loss of existing and potential agricultural activity. Concerns are raised that if agricultural land is not preserved it may impact on Sydney's long term food security and that many properties within the area are used for viable agriculture such as plant nurseries, vegetable production, sheep and cattle farming and alpaca grazing. Submissions also comment that the proposal would be inconsistent with the State Government's *Metropolitan Strategy* in regards to rural and agricultural land.

### **Infrastructure**

A number of submissions raise concern with the lack of infrastructure to support new development. Concerns are raised regarding the need for fire fighting water, not just potable water. Submissions question the ability of the applicants to cover the costs of infrastructure and the timeliness of provision. One submission states that the cost to the developer of providing infrastructure would be prohibitive and would drive the cost of the land beyond the means of the market.

### **Rural Character**

Concerns are raised that the area within and around South Dural is a desirable place to live because of the rural character and country charm, and that rezoning for urban purposes would destroy this character. One submission comments that Council's current rural zoning seeks to restrain population growth, promote the rural character and to ensure environmental sustainability, which is the opposite objective of the *Planning Proposal*.

### **Location of Development**

A number of submissions raise concern with the planning process and how decisions have or will be made to locate the mix of residential, educational, open space and business uses. The land use concept plan (September 2013) submitted with the *Planning Proposal* identifies an indicative primary school and oval location. Submissions comment that this location does not give consideration to the level of capitalisation and landscape setting of that area compared to other parts of South Dural which may be more suitable for educational and open space areas due to their proximity to existing commercial development and infrastructure.

### **Notification Process**

Some submissions raise concern with the consultation period and some raise concern that the broader community has not been informed.

### **Comment**

The issues raised in submissions are addressed in this report. Further studies would be required to progress a planning proposal for the site. These studies would include traffic, biodiversity, land capability and infrastructure. The studies would be placed on public exhibition after authorisation from the DP&I and those who made submissions during the preliminary notification would have the chance to comment on the completed studies and any Precinct Plan resulting from the studies.

### **NEXT STEPS**

The applicant acknowledges that infrastructure would be required to be augmented to support the development of South Dural. Principal infrastructure costs would include the upgrade of existing roads, the extension of trunk water and sewer mains, drainage, electricity and communications.

At this stage, no firm financial or business plan has been provided to estimate the infrastructure costs and how they would be funded to confirm the viability of the project. Council, by letter to the applicant dated 25 July 2013, requested that a Business Plan outlining how the development of South Dural could be achieved at no cost to government be submitted with any planning proposal. A letter was received from the South Dural Residents and Ratepayers Group on 22 October 2013 acknowledging that the progression of any rezoning would be subject to there being no cost to government. However, the Group states that it has concerns with making a commitment before support is received in writing from the DP&I that the matter can proceed (subject to technical studies being prepared), particularly as the matter has been discussed over many years.

The provision of detailed information confirming the ability and commitment to finance and deliver the full estimated infrastructure is a key element of the proposal. Similar requirements are placed on

proposals with the North West and South West Growth Centres Precincts where proponents apply to accelerate the release of a Precinct using the Precinct Acceleration Protocol which is managed by the DP&I. Under this Protocol, proponents are required to undertake a two staged approach for the funding of infrastructure:

- Stage 1 – Outline the extent to which they will pay monetary contributions and / or carry out works-in-kind. No cost to government resulting from acceleration is a precondition of acceptance.
- Stage 2 – Similar to the DP&I's Gateway process, proponents who are approved in Stage 1 must identify the infrastructure required, the contribution required for connecting infrastructure and agree to meet the costs of the Department in preparing the Precinct Plan. This step is formalised by a Voluntary Planning Agreement.

Accordingly, it is recommended that Council commission a detailed Business Plan following any Gateway determination and prior to any studies being carried out. This is consistent with similar accelerated Precincts within the Growth Centres.

Should Council be of a mind to progress the *South Dural Planning Proposal* to the next stage of consideration, it is recommended that Council seek a Gateway determination from the DP&I which sets out the following conditions:

1. A Business Plan be commissioned to confirm the feasibility of the project being delivered with all necessary infrastructure at no net cost to government.
2. Once the Regional Director, Sydney West Region is satisfied that the Business Plan contains robust estimates for the provision of infrastructure and outlines details concerning the funding and delivery of the infrastructure at no cost to government:
  - a) Relevant studies be prepared (DP&I to confirm the studies required);
  - b) A revised Planning Proposal including a Precinct Plan, Development Control Plan, Section 94 Developer Contributions Plan based on the outcomes of the above studies, be submitted to the DP&I for consideration prior to exhibition.

To progress Step 2a above, the proponent would need to offer and enter into a binding legal agreement such as a Voluntary Planning Agreement or similar contract to secure payment for the studies and Council resources in project managing steps 2a and 2b above.

Upon completion of step 2b and authorisation from the DP&I for exhibition, the revised Planning Proposal and associated studies would undergo community consultation as outlined in the consultation strategy contained in Part 5 of the Planning Proposal.

Should Council be of a mind to progress the *Planning Proposal* (in its exhibited or an amended form) after the exhibition, Council would need to request the DP&I to make the *Planning Proposal* through an amending LEP.

## BUDGET

Given the scale of the subject site and the scope of studies required, it is anticipated that costs for the engagement of consultants and staff resources for project management would be up to \$1 Million (subject to the costs being confirmed by tender evaluation). This cost is estimate is based on feedback from the DP&I regarding its experience in releasing Growth Centre Precincts of a similar size.

If the *South Dural Planning Proposal* was progressed to the next stage of consideration, the preparation of supporting studies would require a dedicated staff resource to manage the process for a period up to two years. Council advised the applicant that the preparation of studies and staff resources would cost up to \$1 Million by letters dated 25 July 2013 and 16 October 2013.

A letter was received from the South Dural Residents and Ratepayers Group on 22 October 2013 indicating that options to fund upfront the preparation of studies necessary for the progression of the planning proposal include seeking commitments from individual landowners or funding from a developer who would take over the project. This funding would need to be secured prior to Council progressing to seek tenders for any studies identified as part of the Gateway determination.

Whilst the NSW Government requires that the proposal is conditional on being at no cost to government, the experience in the Growth Centres suggests that this requirement is a 'net' outcome that may result in both the NSW Government and Council incurring costs before they are recovered from contributions or offset by works-in-kind.

Should Council be of a mind to progress the *South Dural Planning Proposal*, it would be added to the Strategic Planning Program (SPP).

### STATUTORY CONSIDERATIONS

In accordance with usual practice, the applicant's *Planning Proposal* has been re-drafted into Council's standard template. This has enabled additional information to be included for submission to the DP&I for Gateway determination, should Council resolve to progress the *Planning Proposal*. A number of issues have been identified in the applicant's *Planning Proposal* and have been addressed in the re-drafted *Planning Proposal* including:

- The objective of the *Planning Proposal* has been updated from capitalising on existing infrastructure to including the delivery of new infrastructure to support growth;
- Reference to the *Hornsby LEP 1994* has been updated to the *Hornsby Local Environmental Plan 2013*;
- Consideration of the *Draft Metropolitan Strategy for Sydney to 2031*; and
- Updating the responses to the Section 117 Directions.

Section 117 of the *EP&A Act* allows the Minister for Planning and Infrastructure to give directions to Council regarding principals, aims, objectives or policies to be achieved or given effect to in the preparation of draft local environmental plans. The *Planning Proposal* includes a table listing the Section 117 Directions and whether the proposal complies with them.

The Director-General would need to be satisfied that any inconsistencies with the Section 117 Directions are justified by a study prepared in support of the planning proposal which gives consideration to the objectives of the direction. Any studies prepared to investigate the rezoning of South Dural would need to consider the 117 Directions where there may be an inconsistency, in particular Direction 1.2 Rural Zones. Confirmation would need to be sought that the Director-General is satisfied that any inconsistency is justified.

### CONCLUSION

The provision of housing at South Dural would assist Council meet revised dwelling targets outlined in the *draft Metropolitan Strategy for Sydney to 2031*. The progression of the *South Dural Planning Proposal* to investigate the rezoning of the area for urban development would be consistent with previous resolutions of Council to indicate its support for the progression of investigations of the

precinct by the DP&I, subject to the delivery of all necessary infrastructure and community facilities and further studies including (but not limited to) traffic, biodiversity, bushfire, and land capability.

Due to the fragmented ownership of the existing 135 allotments within the South Dural precinct, it is recommended that Council undertake the planning process if a Gateway determination is sought and issued. This would require the applicant to fund the preparation of studies and an additional staff resource within the Strategic Planning Branch for a period up to two years.

#### **RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager, Strategic Planning – Fletcher Rayner - who can be contacted on 9847 6744.

FLETCHER RAYNER  
Manager - Strategic Planning  
Planning Division

JAMES FARRINGTON  
Group Manager  
Planning Division

#### **Attachments:**

1. South Dural Location Map
2. South Dural Planning Proposal - Version 1 - December 2013

File Reference: PP/1/2013  
Document Number: D02670027

Manager's Report No. PL113/13 to permit vehicle access to Arcadia Road be adopted.

2. All persons who made a submission be advised of Council's decision.

FOR: COUNCILLORS ANISSE, BERMAN, BROWNE, COX, GALLAGHER, HUTCHENCE,  
RUSSELL, SINGH AND TILBURY

AGAINST: NIL

**15 PL114/13 Planning Proposal - Rezoning of Property No. 99 New Line Road,  
Cherrybrook**

**(F2013/00511)**

RESOLVED ON THE MOTION OF COUNCILLOR HUTCHENCE, seconded by COUNCILLOR  
BROWNE,

THAT:

1. Council forward the Planning Proposal attached to Group Manager's Report No. PL114/13 to the Department of Planning and Infrastructure seeking endorsement for exhibition.
2. In accordance with the plan making powers delegated to Council, Council Exercise Authorisation to prepare and make the Planning Proposal following the receipt of Gateway Authorisation.
3. The General Manager be given delegated authority to endorse the exhibition material.
4. Following the exhibition, a report on submissions be presented to Council.

FOR: COUNCILLORS ANISSE, BERMAN, BROWNE, COX, GALLAGHER, HUTCHENCE,  
RUSSELL, SINGH AND TILBURY

AGAINST: NIL

**16 PL117/13 South Dural Planning Proposal**

**(PP/1/2013)**

Note: Councillor Anisse declared a pecuniary interest in this item under Clause 51A of Council's Code of Meeting Practice (see Declarations of Interest in these Minutes). The nature of interest was stated by Councillor Anisse on the Declaration of Interest form as "Family home inside precinct". Councillor Anisse was not present at, or in sight of, the Meeting when the matter was being debated or voted on.

Mr Liv Cicchini, on behalf of South Dural Residents and Ratepayers Group, addressed Council regarding this item.

Mr Zigmunt Malter, of Dural, addressed Council regarding this item.

Mr Craig Sutton, of Cherrybrook, addressed Council regarding this item.

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This is page 11 of the Minutes of the General Meeting of Hornsby Shire Council held on 18 December 2013.

GENERAL MANAGER

CHAIRMAN

Mr Dennis Merchant, from Sydney Agricultural Rural and Public Lands Trust Incorporated, addressed Council regarding this item.

Mr John Napoli, on behalf of Friends of South Dural, addressed Council regarding this item.

Mr John Inshaw, on behalf of Galston Area Residents Association, addressed Council regarding this item.

RESOLVED ON THE MOTION OF COUNCILLOR TILBURY, seconded by COUNCILLOR SINGH,

THAT:

1. Council forward the South Dural Planning Proposal attached to Group Manager's Report No. PL117/13 to the Minister for Planning and Infrastructure seeking a conditional Gateway determination which:
  - a) requires the proponent to fund a Business Plan, to be commissioned by Council, to confirm the feasibility of the project being delivered with all necessary infrastructure at no net cost to government; and
  - b) subject to the Regional Director, Sydney West Region, being satisfied with the Business Plan, outlines the necessary studies to be prepared to justify the proposal.
2. Should a Gateway determination be issued, Council not proceed further with the Planning Proposal until such time as the proponent has entered into a binding agreement to fund the studies and Council resources for project management and a bank guarantee has been received by Council for same.
3. Submitters be advised of Council's resolution.

FOR: COUNCILLORS BERMAN, BROWNE, COX, GALLAGHER, HUTCHENCE, RUSSELL, SINGH AND TILBURY

AGAINST: NIL

**17 PL116/13 Native Title Determination Application to the Federal Court - Awabakal and Guringai People**

**(F2004/06302)**

RESOLVED ON THE MOTION OF COUNCILLOR GALLAGHER, seconded by COUNCILLOR ANISSE,

THAT Council:

1. Write to the Crown Lands Division of NSW Trade and Investment advising that Council would be willing to assist the Crown in defence of the Claim as the granting of any Claim should not restrict the availability of land under Council's care, control and management for essential public purposes including recreation and bushland management and should not compromise Council's autonomy in decision making for lands under its control.

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This is page 12 of the Minutes of the General Meeting of Hornsby Shire Council held on 18 December 2013.

GENERAL MANAGER

CHAIRMAN