



**THE HILLS**  
Sydney's Garden Shire

**THE HILLS SHIRE COUNCIL**  
3 Columbia Court, Norwest NSW 2153  
PO Box 7064, Norwest 2153  
ABN 25 034 494 656 | DX 9966 Norwest

17 June 2021

Ms Jane Grose  
Director, Central (Western)  
Place, Design and Public Spaces  
Department of Planning, Industry and Environment  
Level 4, 10 Valentine Avenue  
PARRAMATTA NSW 2150

Our Ref: 3/2021/PLP

Dear Ms Grose,

**PLANNING PROPOSAL SECTION 3.34 NOTIFICATION**

**Proposed State Environmental Policy (Sydney Growth Region Centres) 2006 (Amendment No (#)) – Proposed amendments to Land Use Zoning and Minimum Lot Size and application of a dwelling cap at 9 Palaran Avenue, North Kellyville.**

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Pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), it is advised that Council has resolved to prepare a planning proposal for the above amendment.

The proposal seeks to rezone the portion of land zoned E4 Environmental Living to R2 Low Density Residential, reduce the minimum lot size from 4,000m<sup>2</sup> to 600m<sup>2</sup> and insert a local provision that specifies a cap of 7 dwellings to the portion of the site currently zoned E4 Environmental Living. The proposal will facilitate the subdivision of the site into 21 residential lots ranging in size from 465m<sup>2</sup> to 600m<sup>2</sup>, one residue lot and associated road network.

Please find enclosed the information required in accordance with 'A guide to preparing planning proposals' issued under Section 3.33(3) of the EP&A Act. The planning proposal and supporting material is enclosed with this letter for your consideration.

Following receipt by Council of the Department's written advice, Council will proceed with the planning proposal. Any future correspondence in relation to this matter should quote reference number (3/2021/PLP).

Should you require any further information please contact Gideon Tam, Town Planner on 9843 0188.

Yours faithfully,

**Megan Munari**  
**PRINCIPAL COORDINATOR FORWARD PLANNING**

Attachment 1: Planning Proposal (including attachments)

## PLANNING PROPOSAL

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

**NAME OF PLANNING PROPOSAL:** Proposed State Environmental Planning Policy (Sydney Growth Region Centres) 2006 (Amendment No (#)) – Proposed amendments to rezone the portion of land zoned E4 Environmental Living to R2 Low Density Residential, reduce the minimum lot size from 4,000m<sup>2</sup> to 600m<sup>2</sup> and insert a local provision that specifies a cap of 7 dwellings to the portion of the site currently zoned E4 Environmental Living at 9 Palaran Avenue, North Kellyville.

**STATUS:** Pre-Gateway Determination

**ADDRESS OF LAND:** 9 Palaran Avenue, North Kellyville (Lot 3 DP 249675)

**SUPPORTING MATERIAL:**

<b>Attachment A</b>	Assessment against State Environment Planning Policies
<b>Attachment B</b>	Assessment against Section 9.1 Local Planning Directions
<b>Attachment C</b>	Council Report and Minute (8 June 2021)
<b>Attachment D</b>	Local Planning Panel Report and Minute (21 April 2021)
<b>Attachment E</b>	Proponent's Planning Proposal and Supporting Material

**THE SITE:**

The subject site is located at 9 Palaran Avenue, North Kellyville, Lot 3 DP 249675. It has a total site area of approximately two hectares and currently contains a single storey residential dwelling and associated structures. The property is generally cleared, with vegetation sparsely distributed toward the site's north. The site has frontages to Palaran Avenue, Eden Road and Roland Garros Crescent (south). Sections of Barabati Road and Roland Garros Crescent (north) presently terminate at the site's northern boundary, as shown in Figure 1.



**Figure 1**

Aerial view of subject site (outlined in red) and surrounding locality

The site adjoins a recently constructed low density residential development to the north and east. A 21 lot community title residential subdivision is currently under construction to the south of the site. No application has yet been lodged with respect to the large lot adjoining the west of the site. At

present the site is zoned part R2 Low Density Residential (15,270m<sup>2</sup>) and part E4 Environmental Living (4,960m<sup>2</sup>).

Surrounding development activity has resulted in the isolation of the E4 Environmental Living portion of the site from Caddies Creek Riparian Corridor and effectively disassociated from the values and objectives of the E4 Environmental Living zone. The current SEPP provisions applicable to the E4 Environmental Living portion of the site would only facilitate the subdivision of the site into one Torrens Title lot or three Community Title lots.

## PART 1 OBJECTIVES OR INTENDED OUTCOME

The planning proposal seeks to facilitate the subdivision of the subject site into 21 residential lots ranging in size from 465m<sup>2</sup> to 600m<sup>2</sup>, one residue lot with an area of 3.1ha and associated road network (as shown in Figure 2). The residential lots would consist of 14 lots on the existing R2 Low Density Residential zoned land (which could already be achieved under the current controls) and seven (7) lots on the portion of the site currently zoned E4 Environmental Living.



**Figure 2**  
Indicative subdivision plan and road layout

## PART 2 EXPLANATION OF THE PROVISIONS

The proposed outcomes will be achieved by amending Appendix 2 North Kellyville Precinct Plan of State Environmental Policy (Sydney Growth Region Centres) 2006 as follows:

1. Rezone the portion of land currently zoned E4 Environmental Living to R2 Low Density Residential;
2. Amend the minimum lot size from part 4,000m<sup>2</sup> to part 600m<sup>2</sup>; and
3. Insert a local provision that specifies a cap of 7 dwellings over the portion of land currently zoned E4 Environmental Living as follows:

### **6.7 Development at 9 Palaran Avenue, North Kellyville**

- (1) *This clause applies to land subject to a minimum lot size of 600m<sup>2</sup> at 9 Palaran Avenue, North Kellyville, being Lot 3, DP 249675.*
- (2) *Development consent must not be granted to development that results in more than 7 dwellings on the subject land.*

## PART 3 JUSTIFICATION

### **SECTION A - NEED FOR THE PLANNING PROPOSAL**

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

No, the planning proposal has been initiated by the Proponent, acting on behalf of the landowners of the subject site.

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

Yes, the planning proposal is considered to be the best way to achieve the intended outcomes for the site. Rezoning the E4 Environmental Living zoned portion of the site to R2 Low Density Residential will allow the orderly development of the site in a manner that is consistent with the applicable zone objectives. Reducing the minimum lot size from 4,000m<sup>2</sup> to 600m<sup>2</sup> will ensure that development is consistent with the prevailing lot sizes of the adjoining R2 Low Density Residential zoned properties and E4 Environmental Living community titled properties. It is considered that the application of a dwelling cap of 7 dwellings over the portion of land currently zoned E4 Environmental Living will achieve the most effective balance between the related planning factors (that is, appropriate zoning, minimum lot size controls, density and character and streetscape outcomes).

### **SECTION B - RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK**

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

Yes, a discussion of consistency is provided below.

#### **▪ Greater Sydney Region Plan and Central City District Plan**

The Greater Sydney Region Plan and Central City District Plan seek to provide liveable communities and protect biodiversity through various objectives and priorities. Those relevant to this planning proposal are as follows:

- Objective 10 – Greater Housing Supply;
- Objective 27 – Biodiversity is protected, urban bushland and remnant vegetation is enhanced;
- Objective 28 – Scenic and cultural landscapes are protected;
- Priority C5 – Providing housing supply, choice and affordability with access to jobs, services and public transport; and
- Priority C15 – Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes.

These Plans articulate the importance of providing housing in the right locations. The North West Growth Area, including the North Kellyville release area is an identified location that will contribute to meeting housing targets. The subject site is located 320 to 500 metres walking distance from bus stops, which provide future residents access to services and jobs. It is therefore considered that the proposal is consistent with Objective 10 and Priority C5 of the Region and District plans.

Despite a portion of the site currently zoned E4 Environmental Living, the site is sparsely vegetated, is isolated from the creek corridor and no longer serves a function in contributing to the planned scenic and cultural landscape of the nearby vegetation corridor. The rezoning of this land therefore does not contravene Objective 28 and Priority C15 of the Region and District plans.

Surrounding development has isolated the site from Caddies Creek and the associated environmental corridor. Further, the subject property does not contain any threatened native species and has been biodiversity certified for development to occur. As such, the loss of vegetation on this land has already been considered and addressed through the biodiversity certification process undertaken for the broader North Kellyville Precinct. It is therefore considered that the proposal is consistent with Objective 27 and Priority C15 of the Region and District plans.

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

Yes, a discussion of consistency is provided below.

▪ **The Hills Local Strategic Planning Statement**

Council's Local Strategic Planning Statement (LSPS) outlines the Shire's 20 year vision regarding land use, planning, population, housing, economic growth and environmental management. The planning proposal will give effect to the following relevant planning priorities of the LSPS:

- Priority 7 – Plan for new housing in the right locations; and
- Priority 17 – Protect areas of high environmental values and significance.

The site is located within the North Kellyville Release Area, which the LSPS and supporting Housing Strategy anticipate an additional 6,500 dwellings be delivered by 2036. It further articulates the continued delivery of low and medium density housing be supported by existing and planned infrastructure. The proposed development would allow for the delivery of 21 residential lots which are consistent with the established low density character and are supported by proximate public transport options and a local park.

Although a portion of the site is currently zoned E4 Environmental Living, the subject site does not contain threatened vegetation and is biodiversity certified. It is therefore not considered to have high environmental values or significance and the surrounding development patterns have disassociated the site from its original environmental intent. Given the isolated nature of the E4 zoned portion of land, the rezoning of the land to permit further low density residential subdivision (6 additional lots) is considered reasonable and acceptable in this instance.

▪ **The Hills Future Community Strategic Plan**

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

The planning proposal will facilitate the delivery of 21 residential lots (subject to a cap of 7 dwellings on the portion of land subject to rezoning), consistent with the existing local character and adjoining subdivision layouts. It will be supported by existing public transport infrastructure and serviced by nearby open space.

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

Yes. An assessment of the planning proposal against applicable State Environmental Planning Policies is provided in Attachment A. A discussion on the consistency of the proposal with the relevant Policies is provided below.

▪ **SEPP (Sydney Region Growth Centres) 2006**

The Growth Centres SEPP aims to coordinate the release of residential land, provide for comprehensive planning of the growth centres, provide for the orderly and economic provision of infrastructure and provide land use and development controls that will contribute to the conservation of biodiversity. Specifically, the aims of Appendix 2 North Kellyville Precinct are to ensure development controls create good design outcomes and protect and enhance the environmentally sensitive areas.

It is considered that the proposal is consistent with the aforementioned objectives as the proposed subdivision layout (subject to a dwelling cap of 7) is consistent with surrounding subdivision character and will facilitate orderly development. It will also assist in delivery of the local road network identified within the North Kellyville DCP. The subject site is also not considered environmentally sensitive given it is not identified as containing native vegetation in the Native Vegetation Protection Map, is not located within the Riparian Protection Area Map under the Growth Centre's SEPP and has been Biodiversity Certified.

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

Yes. The consistency of the planning proposal with the Section 9.1 Ministerial Directions is detailed within Attachment B. A discussion on the consistency of the proposal with each relevant Direction is provided below.

▪ **Direction 2.1 Environment Protection Zones**

Under this Direction, a planning proposal must not reduce the environmental protection standards that apply to the land. While it may be perceived that the subject planning proposal would reduce the relevant environmental protections applying to the land by way of the proposed rezoning, detailed consideration of the site's context demonstrates that the planning proposal will not result in any environmental impacts. The land was Biodiversity Certified at the time of rezoning the North Kellyville Precinct and the subject site itself comprises only sparse non-significant vegetation.

Given the manner in which surrounding land has been developed, the subject site is no longer associated with the nearby creek corridor and is consequently unable to carry out its function of managing and preserving the riparian corridor through a Community Title arrangement. As such, it is considered that the current environmental zoning is no longer representative of the original intent for the land and the proposed rezoning is of minor significance in this particular instance. The inconsistency with this Direction is considered justified on this basis.

▪ **Direction 2.6 Remediation of Contaminated Land**

The Proponent's planning proposal report articulates that the site is not within an investigation area within the meaning of the Contaminated Land Management Act, nor is it on land which

development is being, or is known to have been carried out. Further, the planning proposal relates to land zoned E4 Environmental Living which already permits residential living, albeit in a lower density form. The subject site already contains an occupied residential dwelling. It is therefore considered that the planning proposal is consistent with this Direction.

▪ **Direction 3.1 Residential Zones**

The objectives of this direction are to encourage a variety and choice of housing types, make efficient use of infrastructure and minimise the impact of residential development on the environment and resource lands.

The proposed rezoning to R2 Low Density Residential would facilitate a more orderly development outcome which better aligns with the zone objectives and the prevailing character of surrounding development. The proposal would also make more efficient use of public transport infrastructure and facilitate a dwelling typology that is appropriate to the local demographic. The planning proposal is consistent with this Direction.

▪ **Direction 3.4 Integrated Land Use and Transport**

The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- a) Improving access to housing, jobs and services by walking, cycling and public transport;
- b) Increasing the choice of available transport and reducing dependence on cars;
- c) Reducing travel demand including the number of trips generated by development and the distances travelled, especially by car;
- d) Supporting the efficient and viable operation of public transport services; and
- e) Providing for the efficient movement of freight.

The planning proposal is consistent with the objectives of this Direction as the site is in walking distance to public transport, which provides access to services and jobs, and thus reduces car dependency. Further, it will ensure the delivery of the local road network within this locality, including missing road links between Barabati Road and Roland Garros Crescent, which will service local traffic and extend existing walking path connections, in accordance with The North Kellyville DCP.

▪ **Direction 4.4 Planning for Bushfire Protection**

The objectives of this Direction are to protect life, property and the environment from bushfire hazards, by discouraging the establishment of incompatible land uses in bushfire prone areas and to encourage sound management of bush fire prone areas. The Direction also states that a planning proposal must have regard to *Planning for Bushfire Protection 2019*.

The site is located on the mapped Vegetation Buffer Zone and in accordance with Council's resolution, the Proponent has submitted a Bushfire Assessment Report. The report articulates that the proposal satisfies the relevant guidelines contained within *Planning for Bushfire Protection 2019*. It is considered that the proposed subdivision layout (subject to the implementation of the dwelling cap over a portion of the site) will not result in areas that are difficult to evacuate, create difficulties during a bushfire or adversely affect other bush fire protection strategies or place existing development at risk.

Should a Gateway Determination be issued, it is anticipated that consultation will be undertaken with NSW Rural Fire Service.

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

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

No. Whilst the site contains sparsely distributed vegetation, it does not contain any threatened species or native vegetation. Further, it has been biodiversity certified such that there is an expectation that vegetation would be removed from the land to accommodate urban development. The adjoining residential subdivision and developments on E4 zoned land to the site's east and south have isolated the site and effectively disassociated it from the values and objectives of the E4 Environmental Living zone, as they relate to the environmental and scenic qualities of the Caddies Creek Riparian Corridor.

Should a Gateway Determination be issued, it is anticipated that consultation will be undertaken with the Environment, Energy and Science Group.

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

No. In the ultimate developed scenario, it is anticipated that the site will generate a reasonable volume of runoff and is considered appropriate that this be addressed at the Development Application stage. Specifically, a site-specific flood study will need to be prepared as part of any future Development Application, which would need to detail the requirements of on-site stormwater detention and the incorporation of a stormwater quality treatment or water sensitive urban design strategy for the site.

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

The planning proposal will facilitate the delivery of 21 residential lots and will contribute to the Shire's housing supply. Development on the site will be supported by existing public transport infrastructure and serviced by nearby open space. Further, it will ensure the delivery of the local road network within this locality, including missing road links between Barabati Road and Roland Garros Crescent, which will service local traffic and extend existing walking path connections. The site is located 320 to 500 metres walking distance from bus stops, which provide future residents access to services and jobs.

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

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

It is considered unlikely that the planning proposal will substantially increase traffic volume on local and regional road infrastructure from what has been anticipated within the North Kellyville Traffic and Transport Assessment 2008 (prepared by Maunsell Australia). The proposal will facilitate in the delivery of the missing links between Barabati Road and Roland Garros Crescent, which will service local traffic and extend existing walking path connections, in accordance with The North Kellyville DCP.

*11. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?*

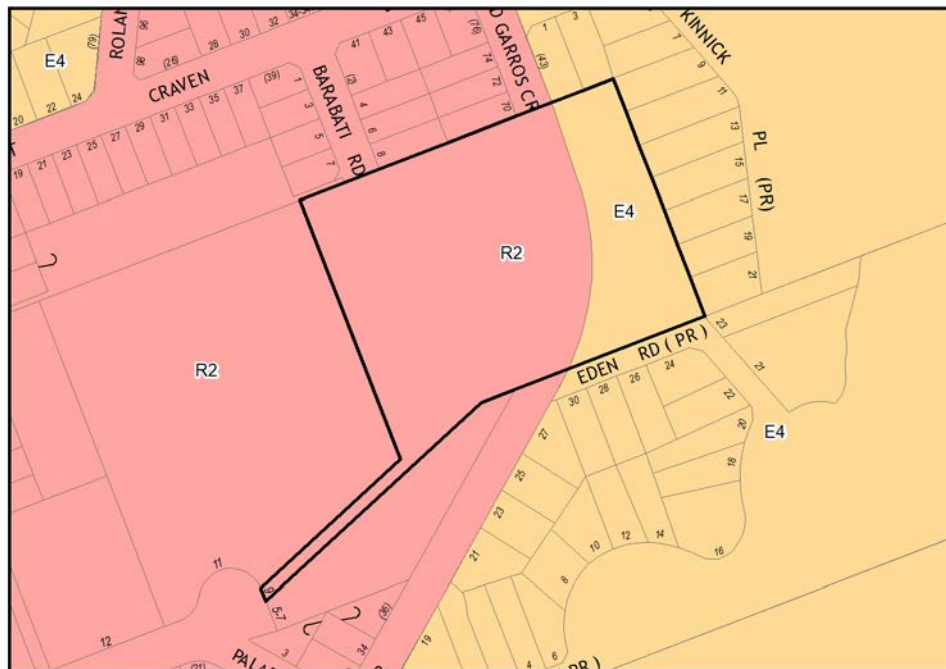
Should a Gateway Determination be issued, the public exhibition process will facilitate the opportunity to consult with relevant State agencies. It is anticipated that consultation with the following public authorities will be required:

- NSW Rural Fire Service;
- Environment Energy and Science Group; and
- Endeavour Energy.

## PART 4 MAPPING

The planning proposal seeks to amend the Land Zone Map and Minimum Lot Size Map of *State Environmental Planning Policy (Sydney Growth Region Centres) 2006*.

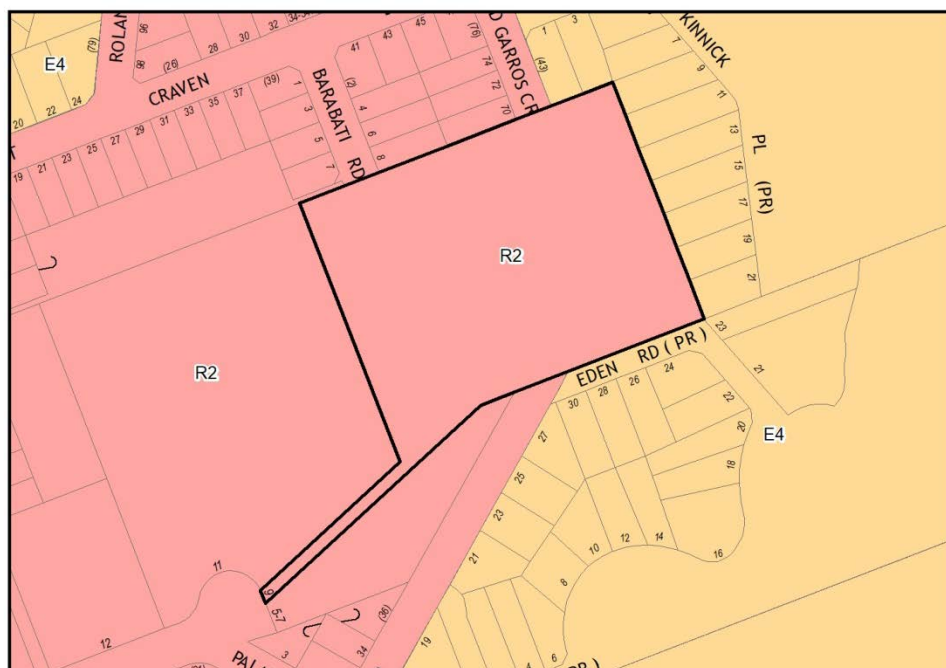
**Existing Land Zone Map**



**Land Zoning (LZN)**

**E4** Environmental Living      **R2** Low Density Residential

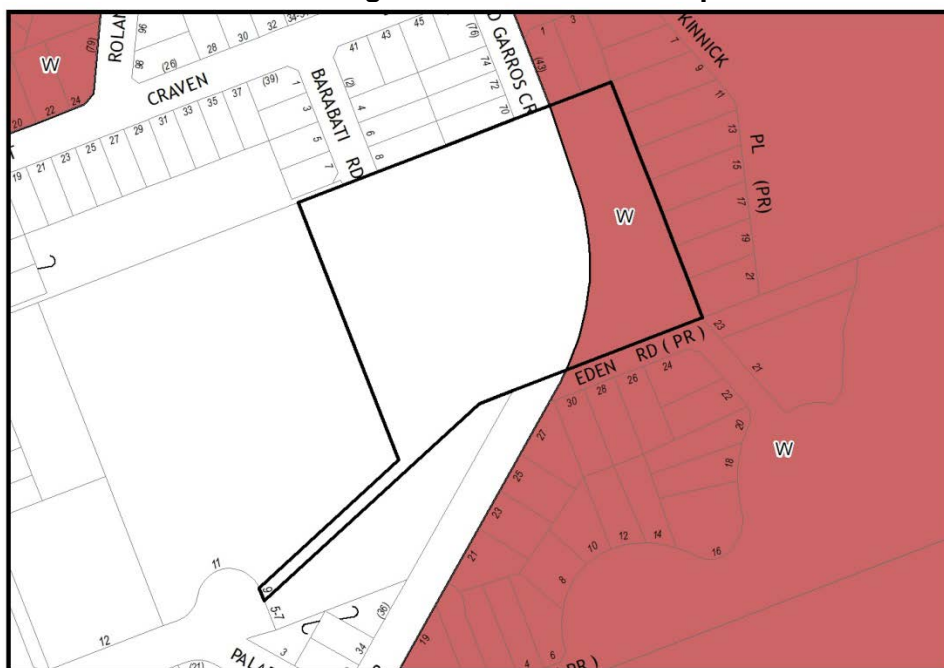
**Proposed Land Zone Map**



**Land Zoning (LZN)**

**E4** Environmental Living      **R2** Low Density Residential

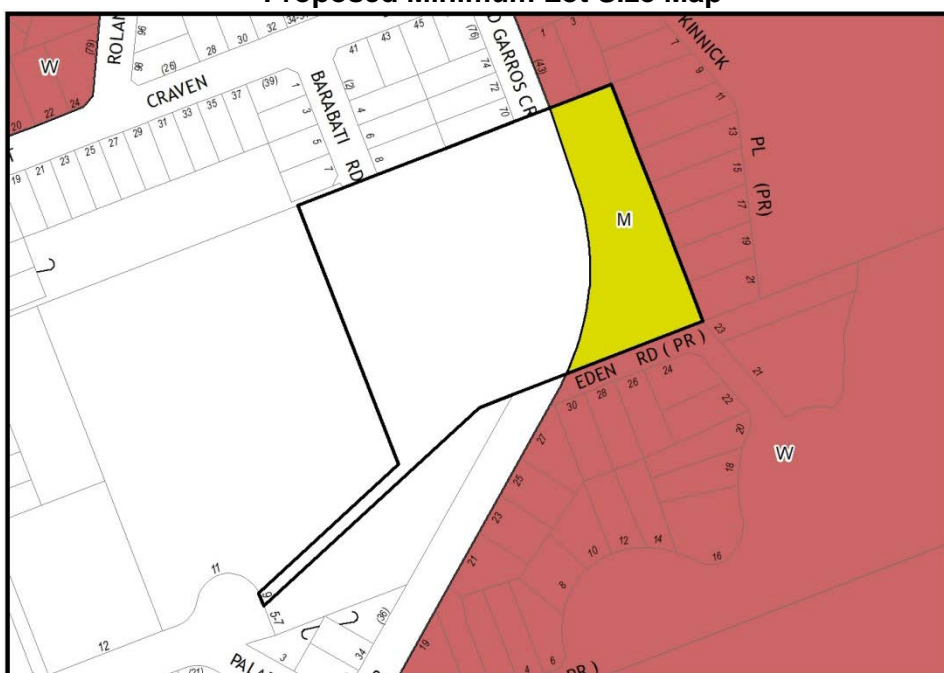
Existing Minimum Lot Zone Map



Minimum Lot Size (sq m) (LSZ)

**W** 4000 sq m

Proposed Minimum Lot Size Map



Minimum Lot Size (sq m) (LSZ)

**M** 600 sq m **W** 4000 sq m

## PART 5 COMMUNITY CONSULTATION

The planning proposal will be advertised on Council's website and social media platforms. Adjoining landowners will be directly notified of the public exhibition period and will be invited to comment on the proposal.

## PART 6 PROJECT TIMELINE

STAGE	DATE
Commencement Date (Gateway Determination)	July 2021
Government agency consultation	August 2021
Commencement of public exhibition period	August 2021
Completion of public exhibition period	September 2021
Timeframe for consideration of submissions	October 2021
Timeframe for consideration of proposal post exhibition	November 2021
Report to Council on submissions	December 2021
Planning Proposal to PCO for opinion	January 2022
Date Council will make the plan (if delegated)	February 2022
Date Council will forward to DPIE for notification (if not delegated)	February 2022

# ATTACHMENT A: LIST OF STATE ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)		APPLICABLE TO THSC	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/CONSISTENT
No. 19	Bushland in Urban Areas	YES	NO	-
No. 21	Caravan Parks	YES	NO	-
No. 33	Hazardous and Offensive Development	YES	NO	-
No. 36	Manufactured Home Estates	NO	-	-
No. 47	Moore Park Showground	NO	-	-
No. 50	Canal Estate Development	YES	NO	-
No. 55	Remediation of Land	YES	NO	-
No. 64	Advertising and Signage	YES	NO	-
No. 65	Design Quality of Residential Apartment Development	YES	NO	-
No. 70	Affordable Housing (Revised Schemes)	YES	NO	-
Aboriginal Land (2019)		NO	-	-
Activation Precincts (2020)		NO	-	-
Affordable Rental Housing (2009)		YES	NO	-
Building Sustainability Index: BASIX (2004)		YES	NO	-
Coastal Management (2018)		NO	-	-
Concurrences and Consents (2018)		YES	NO	-
Educational Establishments and Child Care Facilities (2017)		YES	NO	-
Exempt and Complying Development Codes (2008)		YES	NO	-
Gosford City Centre (2018)		NO	-	-
Housing for Seniors or People with a Disability (2004)		YES	NO	-
Infrastructure (2007)		YES	NO	-
Koala Habitat Protection (2020)		NO	-	-
Koala Habitat Protection (2021)		NO	-	-
Kosciuszko National Park – Alpine Resorts (2007)		NO	-	-
Kurnell Peninsula (1989)		NO	-	-
Major Infrastructure Corridors (2020)		NO	-	-
Mining, Petroleum Production and Extractive Industries (2007)		YES	NO	-
Penrith Lakes Scheme (1989)		NO	-	-
Primary Production and Rural Development (2019)		YES	NO	-
State and Regional Development (2011)		YES	NO	-
State Significant Precincts (2005)		YES	NO	-
Sydney Drinking Water Catchment (2011)		NO	-	-
Sydney Region Growth Centres (2006)		YES	YES	CONSISTENT
Three Ports (2013)		NO	-	-
Urban Renewal (2010)		NO	-	-
Vegetation in Non-Rural Areas (2017)		YES	NO	-
Western Sydney Aerotropolis (2020)		NO	-	-
Western Sydney Employment Area (2009)		NO	-	-
Western Sydney Parklands (2009)		NO	-	-
<b>Deemed SEPPs</b>				
SREP No. 8 (Central Coast Plateau Areas)		NO	-	-
SREP No. 9 – Extractive Industry (No. 2 – 1995)		YES	NO	-
SREP No. 16 – Walsh Bay		NO	-	-
SREP No. 20 – Hawkesbury – Nepean River		YES	NO	-

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)	APPLICABLE TO THSC	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
(No 2 – 1997)			
SREP No. 24 – Homebush Bay Area	NO	-	-
SREP No. 26 – City West	NO	-	-
SREP No. 30 – St Marys	NO	-	-
SREP No. 33 – Cooks Cove	NO	-	-
SREP (Sydney Harbour Catchment) 2005	NO	-	-

## ATTACHMENT B: ASSESSMENT AGAINST SECTION 9.1 MINISTERIAL DIRECTIONS

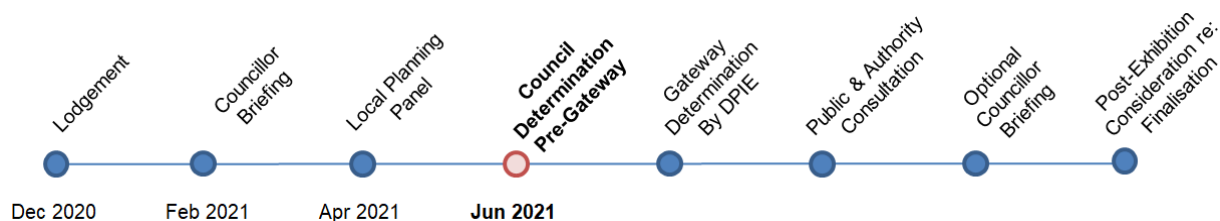
DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
<b>1. Employment and Resources</b>				
1.1	Business and Industrial Zones	YES	NO	-
1.2	Rural Zones	YES	NO	-
1.3	Mining, Petroleum Production and Extractive Industries	YES	NO	-
1.4	Oyster Aquaculture	YES	NO	-
1.5	Rural Lands	YES	NO	-
<b>2. Environment and Heritage</b>				
2.1	Environment Protection Zone	YES	YES	CONSISTENT
2.2	Coastal Protection	NO	-	-
2.3	Heritage Conservation	YES	NO	-
2.4	Recreation Vehicle Area	YES	NO	-
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	NO	-	-
2.6	Remediation of Contaminated Land	YES	YES	CONSISTENT
<b>3. Housing, Infrastructure and Urban Development</b>				
3.1	Residential Zones	YES	YES	CONSISTENT
3.2	Caravan Parks and Manufactured Home Estates	YES	NO	-
3.3	Home Occupations	YES	NO	-
3.4	Integrating Land Use and Transport	YES	YES	CONSISTENT
3.5	Development Near Regulated Airports and Defence Airfields	YES	NO	-
3.6	Shooting Ranges	NO	-	-
3.7	Reduction in non-hosted short term rental accommodation period	NO	-	-
<b>4. Hazard and Risk</b>				
4.1	Acid Sulfate Soils	YES	NO	-
4.2	Mine Subsidence and Unstable Land	YES	NO	-
4.3	Flood Prone Land	YES	NO	-
4.4	Planning for Bushfire Protection	YES	NO	-
<b>5. Regional Planning</b>				
5.2	Sydney Drinking Water Catchment	NO	-	-
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	NO	-	-
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	NO	-	-
5.9	North West Rail Link Corridor Strategy	YES	NO	-
5.10	Implementation of Regional Plans	YES	NO	-
5.11	Development of Aboriginal Land Council Land	NO	-	-

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
<b>6. Local Plan Making</b>				
6.1	Approval and Referral Requirements	YES	NO	-
6.2	Reserving Land for Public Purposes	YES	NO	-
6.3	Site Specific Provisions	YES	NO	-
<b>7. Metropolitan Planning</b>				
7.1	Implementation of A Plan for Growing Sydney	YES	NO	-
7.2	Implementation of Greater Macarthur Land Release Investigation	NO	-	-
7.3	Parramatta Road Corridor Urban Transformation Strategy	NO	-	-
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	YES	NO	-
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	-	-
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	-	-
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	NO	-	-
7.8	Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	NO	-	-
7.9	Implementation of Bayside West Precincts 2036 Plan	NO	-	-
7.10	Implementation of Planning Principles for the Cooks Cove Precinct	NO	-	-
7.11	Implementation of St Leonards and Crows Nest 2036 Plan	NO	-	-
7.12	Implementation of Greater Macarthur 2040	NO	-	-
7.13	Implementation of the Pyrmont Peninsula Place Strategy	NO	-	-

<b>ITEM-2</b>	<b>PLANNING PROPOSAL - 9 PALARAN AVENUE, NORTH KELLYVILLE (3/2021/PLP)</b>
<b>THEME:</b>	Shaping Growth
<b>OUTCOME:</b>	5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity.
<b>STRATEGY:</b>	5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.
<b>MEETING DATE:</b>	<b>8 JUNE 2021</b> COUNCIL MEETING
<b>GROUP:</b>	<b>SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS</b>
<b>AUTHOR:</b>	<b>TOWN PLANNER</b> GIDEON TAM
<b>RESPONSIBLE OFFICER:</b>	<b>MANAGER – FORWARD PLANNING</b> NICHOLAS CARLTON

## REPORT

This report relates to a planning proposal applicable to land at 9 Palaran Avenue, North Kellyville. The application is being reported to Council for a decision on whether or not the planning proposal should be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination.



**Figure 1**  
Planning Proposal Status and Timeline

## RECOMMENDATION

The planning proposal for land at 9 Palaran Avenue, North Kellyville be forwarded to the Department of Planning, Industry and Environment for Gateway Determination, subject to the following:

1. Inclusion of a local provision that applies a maximum cap of 7 dwellings to the portion of land currently zoned E4 Environmental Living (to be rezoned to R2 Low Density Residential);
2. Submission of a Bushfire Assessment Report to satisfy Section 9.1 Ministerial Direction 4.4.

3. Amendments to Section 3.6.2 of the North Kellyville DCP (2018) (Attachment 3) be publicly exhibited concurrent with the planning proposal, to include the following site specific development control, applicable to 9 Palaran Avenue, North Kellyville:

*Any future subdivision of land at 9 Palaran Avenue, North Kellyville (Lot 3 DP 249675), which is subject to a minimum lot size of 600m<sup>2</sup>, must not result in the creation of battle-axe lots*

4. A copy of the draft amendment to the North Kellyville DCP (2018) (Attachment 3) be forwarded to the Secretary of the Department of Planning, Industry and Environment as per the requirements of Council's delegation to amend the Plans.

**PROPONENT** Robert Moore and Associates

**OWNERS** Mrs Dianne Morgans and Dr Geoffrey Morgans

**POLITICAL DONATIONS** Nil disclosures by the Proponent

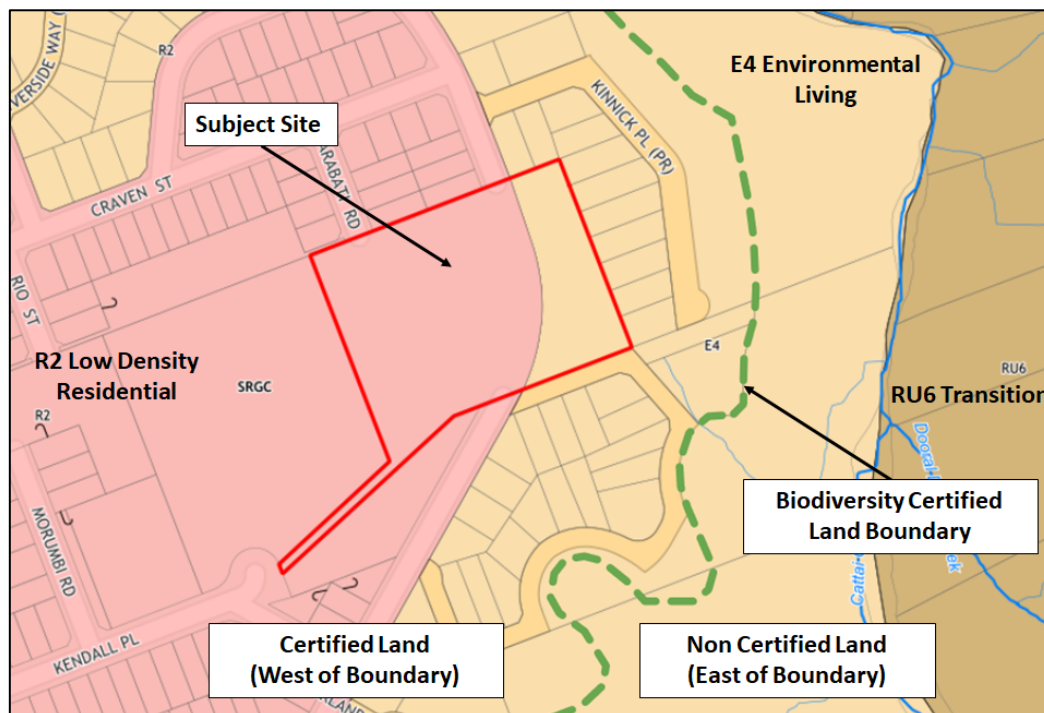
#### THE SITE

The site is known as 9 Palaran Avenue, North Kellyville (Lot 3 DP 249675). It has an area of approximately two hectares and currently contains a single storey residential dwelling and associated structures (as shown in Figure 2). The land is generally cleared with vegetation sparsely distributed at the site's north. The site has frontages to Palaran Avenue, Eden Road and Roland Garros Crescent (south). Sections of Barabati Road and Roland Garros Crescent (north) presently terminate at the site's northern boundary.



**Figure 2**  
Aerial view of subject site (outlined in red) and surrounding locality

The site adjoins a recently constructed low density residential development to the north and east. A 21 lot community title residential subdivision is currently under construction to the south of the site. No application has yet been lodged with respect to the large lot adjoining the west of the site. The site is presently zoned part R2 Low Density Residential (15,270m<sup>2</sup>) and part E4 Environmental Living (4,960m<sup>2</sup>), as shown in Figure 3 below.



**Figure 3**

Zoning of the subject site (outlined in red) and surrounding locality

Given the alignment of the lot boundary in comparison to the boundary between the R2 and E4 zones, the orderly development of the E4 zoned portion of land was originally contingent on amalgamation with one of the larger adjoining E4 zoned parcels. Discussions occurred between the landowners in association with development applications for both of the adjoining subdivisions, however agreement could not be reached for amalgamation of the land.

On both occasions, the adjoining developer was able to demonstrate that reasonable attempts had been made to acquire the adjoining property in order to form an amalgamated development site, however these attempts were unsuccessful. Both of the adjoining sites have now been subdivided utilising a community title scheme, whereby part of the site is subdivided into residential lots and the remainder of the site is a community association lot.

Surrounding development activity has resulted in the isolation of the E4 Environmental Living portion of the site. The current SEPP provisions applicable to the E4 Environmental Living portion of the site would only facilitate the subdivision of the site into one Torrens Title lot or three Community Title lots.

### DESCRIPTION OF PLANNING PROPOSAL APPLICATION

The proposal seeks to facilitate the subdivision of the subject site into 22 residential lots ranging in size from 465m<sup>2</sup> to 600m<sup>2</sup>, one residue lot with an area of 3.1ha and associated

road network (as shown in Figure 4). The residential lots would consist of 14 lots on the existing R2 Low Density Residential zoned land (which could already be achieved under the current controls) and eight lots on the portion of the site currently zoned E4 Environmental Living with a minimum lot size of 600m<sup>2</sup>.



**Figure 4**

Indicative subdivision plan and road layout

To enable this development outcome, the application seeks to amend the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP) as shown in Table 1 below:

	<b>Current (LEP 2019)</b>	<b>Planning Proposal (as submitted by Proponent)</b>	<b>Council Officer Recommendation</b>
<b>Zone</b>	Part R2 Low Density Residential Part E4 Environmental Living	R2 Low Density Residential	R2 Low Density Residential
<b>Minimum Lot Size</b>	Part 4,000m <sup>2</sup>	Part 600m <sup>2</sup>	Part 600m <sup>2</sup>
<b>Local Provision</b>	N/A	None Proposed	Maximum cap of 7 dwellings over the land currently zoned E4 Environmental Living

**Table 1**

Proposed SEPP Amendments

The planning proposal does not seek to amend the existing controls applying to the portion of the site currently zoned R2 Low Density Residential.

It is noted that the proposal, as submitted by the Proponent, intends to facilitate a subdivision that is consistent with the local character and adjoining subdivision layouts. However, having regard to the desired development outcome and objective of the planning proposal, this Report recommends that a local provision be applied which specifies a

maximum yield of 7 dwellings over the portion of the site currently zoned E4 Environmental Living (which is proposed to be rezoned), in order to secure desirable and a more orderly development outcome on the site. This is discussed further within this Report.

### MATTERS FOR CONSIDERATION

A detailed description and technical assessment of the planning proposal is contained within the Council Officer's report to the Local Planning Panel, dated 21 April 2021 and provided as Attachment 1 to this report.

A summary of the key considerations is provided in the following table:

Key Consideration	Comment
Strategic Context	<p>The planning proposal is generally consistent with the applicable strategic planning framework. It will facilitate the delivery of 21 residential lots (subject to the recommended cap of 7 dwellings) in the North Kellyville release area to meet the strategic framework's dwelling target of 6,500 additional dwellings for North Kellyville by 2036.</p> <p>Whilst the portion of the site subject to rezoning is currently zoned E4 Environmental Living, given the site does not contain threatened vegetation, is isolated from Caddies Creek and the associated environmental corridor and is biodiversity certified, the proposed development outcome will disturb bushland or have impact on biodiversity values.</p>
Orderly Development	<p>Given the alignment of the lot boundary in comparison to the boundary between the R2 and E4 zones, the orderly development of this E4 zoned portion of land was originally contingent on amalgamation with one of the larger adjoining E4 zoned parcels.</p> <p>Discussions occurred between the landowners in association with development applications for both of the adjoining subdivision; however, agreement could not be reached for amalgamation of the land on both occasions. Both adjoining sites have now been subdivided utilising a community title scheme, whereby part of the site is subdivided into residential lots and the remainder of the site is a community association lot.</p> <p>Under the current controls set out in Clause 6.5 of Appendix 2 of the Growth Centres SEPP, subdivision of the isolated E4 zoned area within 9 Palaran Avenue could achieve one Torrens Title lot or three Community Title lots with a community association lot.</p> <p>The Proponent's planning proposal report articulates both of these outcomes would be inconsistent with the emerging pattern of adjoining subdivisions and the proposed development outcome would better facilitate orderly development.</p> <p>It is considered that a reduction in the minimum lot size applying to the E4 portion of the site is warranted and would ensure a more logical subdivision pattern in terms of orderly development and alignment with the prevailing character of the locality.</p>

	<p>Notwithstanding this, having regard to the Proponent's indicative subdivision plan, it is considered that a preferable subdivision pattern on this particular part of the site and within a new greenfield subdivision would avoid the inclusion of battle-axe allotments (Lot 8 in Figure 4 above) and instead, ensure that each new lot and dwelling will have a public street frontage. As a result, a maximum yield of 7 dwellings on the area of the site currently zoned E4 Environmental Living, each with its own public street frontage, would be preferable to the configuration of 8 dwellings submitted by the Proponent.</p>
Suitability of Planning Mechanism	<p>The Council officer's technical report prepared for the consideration of the Local Planning Panel details the range of planning mechanisms available to achieve the intent of the planning proposal and the associated implications for the proposed development outcome (refer to Section 3 c) of Attachment 1 to this Report).</p> <p>Having regard to this analysis, it is considered that amending the Proponent's submitted proposal to apply a yield cap of 7 dwellings to the portion of land proposed to be rezoned would achieve the most effective balance between the related planning factors (that is, appropriate zoning, minimum lot size controls, density and character and streetscape outcomes).</p> <p>This approach would remove the need for a battle-axe allotment, as contained within the Proponent's submitted concepts.</p> <p>Section 3.6.2 of the North Kellyville Development Control Plan 2018 (DCP) includes objectives and controls to "limit battle-axe lots to certain circumstances" and "minimise the use of battle-axe lots without public frontage".</p> <p>To reinforce the objectives of the DCP, maintain a desirable streetscape and secure appropriate outcomes through this planning proposal, it is considered appropriate that amendments be made to the North Kellyville DCP 2018 in association with the planning proposal. Specifically, it is recommended that the following new clause be inserted in Section 3.6.2 of the DCP with respect to the portion of the subject site currently zoned E4 Environmental Living (to be rezoned to R2 Low Density Residential):</p> <p style="padding-left: 40px;"><i>6. Any future subdivision of land at 9 Palaran Avenue, North Kellyville (Lot 3 DP 249675), which is subject to a minimum lot size of 600m<sup>2</sup>, must not result in the creation of battle-axe lots</i></p> <p>It is noted that Council has delegation to amend the North Kellyville DCP subject to the requirement to provide copies of any draft amendments to the Secretary at the same time as publicly exhibiting the changes and at least 15 working days before making the amendments (following public exhibition), should Council resolve to proceed.</p>

	<p>The recommended planning mechanism and DCP amendments would ensure an outcome more consistent with the local character, streetscape and objectives of the R2 Low Density Residential zone and applicable DCP.</p>
Infrastructure and Access	<p>The subject site is located in close proximity to public transport and public open space. The proposed development outcome will result in the delivery of a new road link, which will extend the existing Barabati Road and Roland Garros Crescent (north) to Roland Garros Crescent (south), which is reflective of the North Kellyville DCP's Indicative Layout Plan.</p> <p>Although a traffic study has not been prepared as part of this application, the additional yield of approximately 7 dwellings and the overall proposed yield of 22 residential lots (or 21 residential lots as per the Council officer's recommendation) is unlikely to substantially increase traffic volume on local and regional road infrastructure in comparison to what has been anticipated within the <i>North Kellyville Traffic and Transport Assessment 2008</i> (prepared by Maunsell Australia).</p> <p>The need to ensure that the planned local road network is delivered at this location (through redevelopment of this site) is considered to outweigh any negligible impacts associated with 7 additional dwellings. Further, it is reasonable for the additional yield of up to 7 residential lots sought through this planning proposal to be levied contributions under the existing Contributions Plan No. 13 – North Kellyville Precinct, which identifies and funds the new and upgraded local infrastructure required to support all development within the entire North Kellyville Precinct.</p>
Environmental Constraints	<ul style="list-style-type: none"> <li>▪ Biodiversity Whilst the site contains sparsely distributed vegetation, it does not contain any threatened species or native vegetation. Further, it has been biodiversity certified such that there is an expectation that vegetation would be removed from the land to accommodate urban development.</li> <li>The adjoining residential subdivision and developments on E4 zoned land to the site's east and south have isolated the site and effectively disassociated it from the values and objectives of the E4 zone, as they relate to the environmental and scenic qualities of the Caddies Creek Riparian Corridor.</li> <li>▪ Bushfire The site is located within a Vegetation Buffer Zone (bushfire prone land). However, it is highly unlikely that future development on the site would be subject to bushfire risk given the site is surrounded by existing and approved low density residential subdivision. Nonetheless, a bushfire study will be required to verify this as a technical requirement of the Section 9.1 Ministerial Direction 4.4.</li> </ul>

	<p>Accordingly, should Council resolve to forward the planning proposal to Gateway Determination, it is recommended that the Proponent be required to submit a Bushfire Assessment Report, which addresses the requirements of Planning for Bushfire Protection 2019, prior to submission to Gateway. Formal consultation with the Rural Fire Service would also be required should the proposal receive a Gateway Determination.</p> <ul style="list-style-type: none"> <li>▪ <b>Stormwater and Flooding</b> Council does not currently have a flood study or flood mapping available for the site. In the ultimate developed scenario, this two hectare catchment will generate a reasonable volume of runoff. Therefore, a site-specific flood study will need to be prepared at the Development Application stage. The Flood Study would need to detail the requirements of an on-site stormwater detention and the incorporation of a stormwater quality treatment or water sensitive urban design strategy for the site.</li> </ul>
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**Table 2**

Key Matters for Consideration

**LOCAL PLANNING PANEL**

On 21 February 2021 the planning proposal was presented to the Local Planning Panel (LPP) for advice. A copy of the Council Officer's report is provided as Attachment 1.

The Panel noted that agreement could not be reached for the site's amalgamation with adjoining E4 Environmental Living zoned land on two occasions. In this respect, concern was raised regarding the proposed battle-axe allotment's inconsistency with the local character and streetscape, which would have been likely circumvented under a site amalgamation scenario. As such, the Panel agrees with the Council Officer's recommendation that the planning proposal should proceed to Gateway Determination, subject to the recommended maximum cap of 7 dwellings to the portion of land currently zoned E4 Environmental Living. The Panel's advice is provided as Attachment 2 to this Report.

It is noted that Panel's advice reinforced the Council Officer's recommendation that the Proponent submit a Bushfire Assessment Report to satisfy the technical requirement under Section 9.1 Ministerial Direction 4.4. Accordingly, this Report recommends that the Proponent submit a Bushfire Assessment Report, prior to the planning proposal being submitted for a Gateway Determination.

**IMPACTS****Financial**

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

**Strategic Plan - Hills Future**

The planning proposal will facilitate the delivery of 21 residential lots (subject to the recommended cap of 7 dwellings on the portion of land subject to rezoning), consistent with the existing local character and adjoining subdivision layouts. It will be supported by existing public transport infrastructure and serviced by nearby open space.

**RECOMMENDATION**

The planning proposal for land at 9 Palaran Avenue, North Kellyville be forwarded to the Department of Planning, Industry and Environment for Gateway Determination, subject to the following:

1. Inclusion of a local provision that applies a maximum cap of 7 dwellings to the portion of land currently zoned E4 Environmental Living (to be rezoned to R2 Low Density Residential);
2. Submission of a Bushfire Assessment Report to satisfy Section 9.1 Ministerial Direction 4.4.
3. Amendments to Section 3.6.2 of the North Kellyville DCP (2018) (Attachment 3) be publicly exhibited concurrent with the planning proposal, to include the following site specific development control, applicable to 9 Palaran Avenue, North Kellyville:

*Any future subdivision of land at 9 Palaran Avenue, North Kellyville (Lot 3 DP 249675), which is subject to a minimum lot size of 600m<sup>2</sup>, must not result in the creation of battle-axe lots.*

4. A copy of the draft amendment to the North Kellyville DCP (2018) (Attachment 3) be forwarded to the Secretary of the Department of Planning, Industry and Environment as per the requirements of Council's delegation to amend the Plans.

**ATTACHMENTS**

1. Council Officer Assessment Report – Local Planning Panel, 21 April 2021 (50 pages)
2. Local Planning Panel Minutes, 22 April 2021 (2 pages)
3. Draft North Kellyville Precinct Development Control Plan, Part 3 (37 pages)

## LOCAL PLANNING PANEL MEETING 21 APRIL, 2021

## THE HILLS SHIRE

<b>ITEM-1</b>	<b>LOCAL PLANNING PANEL – PLANNING PROPOSAL – 9 PALARAN AVENUE, NORTH KELLYVILLE (3/2021/PLP)</b>
<b>THEME:</b>	Shaping Growth
<b>OUTCOME:</b>	5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity.
<b>STRATEGY:</b>	5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.
<b>MEETING DATE:</b>	<b>21 APRIL 2021</b> LOCAL PLANNING PANEL
<b>AUTHOR:</b>	<b>TOWN PLANNER</b> GIDEON TAM
<b>RESPONSIBLE OFFICER:</b>	<b>MANAGER – FORWARD PLANNING</b> NICHOLAS CARLTON

<b>Proponent</b>	<b>ROBERT MOORE &amp; ASSOCIATES</b>
<b>Owner</b>	<b>DR GEOFFREY MORGANS MRS DIANNE MORGANS</b>
<b>Consultants</b>	<b>SUTHERLAND &amp; ASSOCIATES PLANNING</b>
<b>Site Area</b>	<b>2.02 HECTARES</b>
<b>List of Relevant Strategic Planning Documents</b>	<b>GREATER SYDNEY REGION PLAN CENTRAL CITY DISTRICT PLAN SECTION 9.1 MINISTERIAL DIRECTIONS LOCAL STRATEGIC PLANNING STATEMENT AND SUPPORTING STRATEGIES</b>
<b>Political Donation</b>	<b>NONE DISCLOSED</b>
<b>Recommendation</b>	<b>THAT THE PLANNING PROPOSAL PROCEED TO GATEWAY DETERMINATION</b>



## LOCAL PLANNING PANEL MEETING 21 APRIL, 2021

## THE HILLS SHIRE

**EXECUTIVE SUMMARY**

This report provides a summary and assessment of the planning proposal applicable to land at 9 Palaran Avenue, North Kellyville. The planning proposal, as submitted by the Proponent, seeks to rezone a portion of the site from E4 Environmental Living to R2 Low Density Residential and reduce the minimum lot size from 4,000m<sup>2</sup> to 600m<sup>2</sup>, to facilitate the subdivision of the land into 22 residential lots, one residue lot and an internal road system. It is considered that the proposal should proceed to Gateway Determination, on the basis that:

- a) The planning proposal will make efficient use of land on the E4 Environmental Living portion of the site. Adjoining residential developments on E4 zoned land to the site's east and south have isolated the site and effectively disassociated it from the values and objectives of the E4 zone, as they relate to the environmental and scenic qualities of the Caddies Creek Riparian Corridor.
- b) The proposed controls and indicative subdivision layout will facilitate development outcomes that are consistent with the existing low density residential development and deliver road links that have been indicated in the North Kellyville DCP.
- c) The proposed development outcomes will not have any significant ecological impacts and are considered unlikely to represent a bushfire risk, subject to the submission of a Bushfire Assessment Report.

This Report recommends that in addition to the amendments sought by the Proponent, a local provision which specifies a maximum yield of 7 dwellings be applied to the portion of the site currently zoned E4 Environmental Living (which is proposed to be rezoned), in order to secure desirable and orderly development outcomes on the site.

**SEPP (SYDNEY REGION GROWTH CENTRES) 2006**

The planning proposal seeks to amend *State Environmental Planning Policy (Growth Centres) 2006* as follows:

	<b>Current (SEPP Growth Centres 2006)</b>	<b>Planning Proposal</b>
<b>Zone</b>	Part R2 Low Density Residential Part E4 Environmental Living	R2 Low Density Residential
<b>Maximum Height of Building</b>	9m	No Change
<b>Maximum Floor Space Ratio</b>	N/A	N/A
<b>Minimum Lot Size</b>	Part 4,000m <sup>2</sup>	Part 600m <sup>2</sup>

**Table 1**  
Proposed SEPP Amendments

**REPORT**

This report presents the subject planning proposal to the Local Planning Panel for advice, in accordance with Section 2.19 of the *Environmental Planning and Assessment Act 1979*.

**1. THE SITE**

The site is known as 9 Palaran Avenue, North Kellyville (Lot 3 DP 249675). It has an area of approximately two hectares and currently contains a single storey residential dwelling and associated structures (as shown in Figure 1). This is generally cleared with vegetation sparsely distributed at the site's north. The site has frontages to Palaran Avenue, Eden Road

## LOCAL PLANNING PANEL MEETING 21 APRIL, 2021

## THE HILLS SHIRE

and Roland Garros Crescent (south). Sections of Barabati Road and Roland Garros Crescent (north) presently terminate at the site's northern boundary.



Figure 1

Aerial view of subject site (outlined in red) and surrounding locality

A recently constructed low density residential development adjoins the site to the north and east. A 21 lot community title residential subdivision is currently under construction to the south of the site. No application has yet been lodged with respect to the large lot adjoining the west of the site. The site is presently zoned part R2 Low Density Residential (15,270m<sup>2</sup>) and part E4 Environmental Living (4,960m<sup>2</sup>), as shown in Figure 2 below.

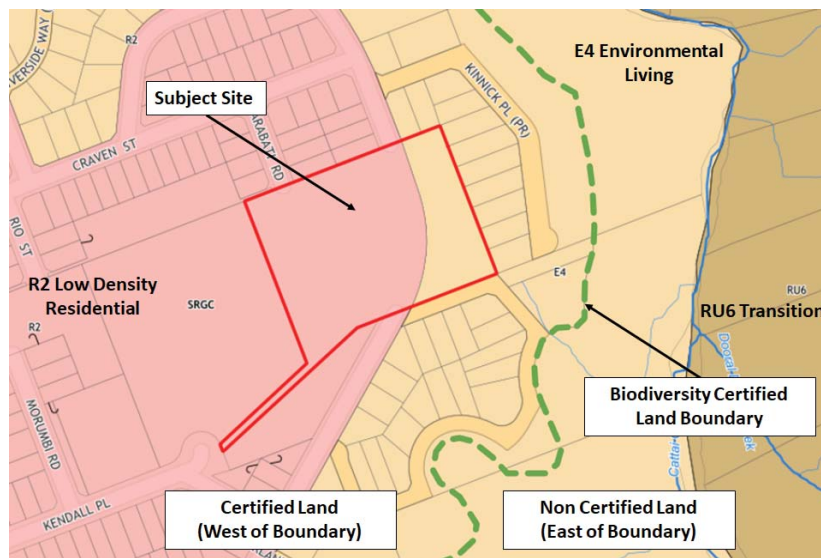


Figure 2

Zoning of the subject site (outlined in red) and surrounding locality

## LOCAL PLANNING PANEL MEETING 21 APRIL, 2021

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The current SEPP provisions applicable to the E4 Environmental Living portion of the site would facilitate the subdivision of this area into one Torrens Title lot or three Community Title lots. Surrounding development activity has resulted in the isolation of the E4 Environmental Living portion of the site. This has prompted the submission of the planning proposal and is discussed in further detail in Section 3 (b) of this report.

## 2. DESCRIPTION OF THE PLANNING PROPOSAL

The proposal seeks to facilitate the subdivision of the subject site into 22 residential lots ranging in size from 465m<sup>2</sup> to 600m<sup>2</sup>, one residue lot with an area of 3.1ha and associated road network (as shown in Figure 3). The residential lots would consist of 14 lots on the existing R2 Low Density Residential zoned land (which could already be achieved under the current controls) and eight lots on the portion of the site currently zoned E4 Environmental Living with a minimum lot size of 600m<sup>2</sup>.



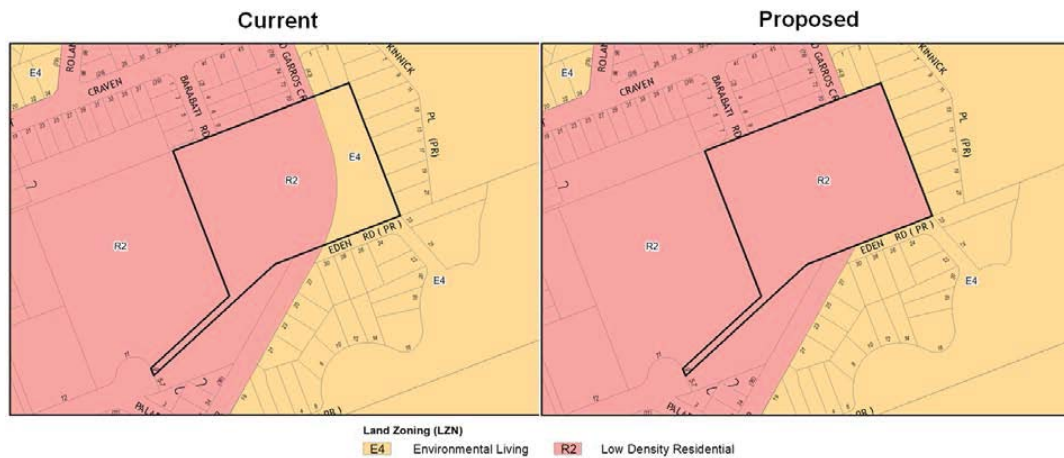
**Figure 3**  
Indicative subdivision plan and road layout

To facilitate the proposed development outcome, the planning proposal, as submitted by the Proponent, seeks to amend the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP) as follows:

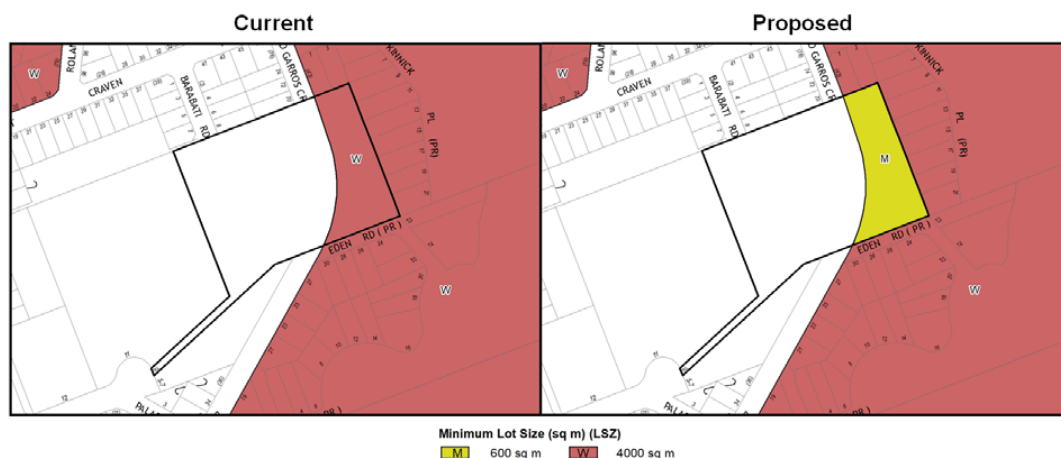
- Rezone a portion of the site from part E4 Environmental Living to R2 Low Density Residential; and
- Reduce the minimum lot size applicable to the existing E4 Environmental Living portion of the site from 4,000m<sup>2</sup> to 600m<sup>2</sup>.

The planning proposal does not seek to amend the existing controls applying to the portion of the site currently zoned R2 Low Density Residential. Specifically, the current SEPP would permit low density residential subdivision with a minimum lot size of 360m<sup>2</sup> on the existing R2 Low Density Residential portion of the land and the planning proposal does not seek to amend this outcome.

Proposed zoning map amendments are illustrated in Figures 4 and 5.



**Figure 4**  
Existing (left) and proposed (right) zone maps



**Figure 5**  
Existing (left) and proposed (right) minimum lot size maps

### 3. MATTERS FOR CONSIDERATION

The planning proposal requires consideration of the following matters:

- Strategic Context;
- Orderly Development;
- Suitability of Planning Mechanism;
- Infrastructure and Access; and
- Environmental Constraints.

#### a) Strategic Context

##### Greater Sydney Region Plan and Central City District Plan

The Greater Sydney Region Plan and Central City District Plan seek to provide liveable communities through various directions and objectives. Those relevant to this planning proposal are as follows:

- Objective 10 – Greater Housing Supply

**LOCAL PLANNING PANEL MEETING 21 APRIL, 2021****THE HILLS SHIRE**

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- Objective 27 – Biodiversity is protected, urban bushland and remnant vegetation is enhanced
- Objective 28 – Scenic and cultural landscapes are protected
- Priority C5 – Providing housing supply, choice and affordability with access to jobs, services and public transport; and
- Priority C15 – Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes.

The planning proposal seeks to facilitate the delivery of 22 residential lots, with eight lots situated within the portion of the site currently zoned E4 Environmental Living. Objectives of the zone are to protect environmental values and facilitate low impact residential development, which reflects the objectives and priorities of the Region and District plans.

The current SEPP provisions applicable to the E4 Environmental Living portion of the site would facilitate the subdivision of the site into one Torrens Title lot or three Community Title lots. In comparison, the proposed development outcome would facilitate considerably more development on the subject site, which is potentially inconsistent with Objective 27 and Priority C15. However, given the site does not contain threatened vegetation and is isolated from Caddies Creek and the associated environmental corridor, these inconsistencies are considered minor. Further, the land has been biodiversity certified for development to occur and as such, the loss of vegetation on this land has already been contemplated through the biodiversity certification process undertaken for the broader North Kellyville Precinct.

The site is sparsely vegetated and due to its isolation from the creek corridor, is no longer able to contribute to the planned scenic and cultural landscape of the corridor (Objective 28 and Priority C15). The proposed development outcome sought through the planning proposal would better align with the emerging subdivision pattern surrounding the site, as opposed to the outcome which could be achieved under the current planning controls which would represent a disorderly development outcome.

The District Plan articulates that housing is to be delivered in the right locations and anticipates that future housing supply will be provided within the North Kellyville release area. It refers specifically to Councils' Housing Strategies to guide residential growth. The Strategy anticipates 6,500 additional dwellings be delivered in North Kellyville by 2036, which is further discussed in this report. Bus stops are located within 320 to 500 metres walking distance from the site, which provide future residents access to services and jobs. Therefore, the planning proposal is considered consistent with Objective 10 and Priority C5 of the Region and District plans.

#### Section 9.1 Ministerial Directions

- Direction 2.1 Environmental Protection Zone

The objective of this direction is to protect and conserve environmentally sensitive areas. It also states that land identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).

Although a portion of the site is zoned E4 Environmental Living, it is not identified as containing native vegetation in the Native Vegetation Protection Map nor is it located within the Riparian Protection Area Map of the Growth Centre's SEPP and is Biodiversity Certified. As such, any inconsistency with this Direction is considered minor and justifiable given the isolation of the site as a result of surrounding development activity.

**LOCAL PLANNING PANEL MEETING 21 APRIL, 2021****THE HILLS SHIRE**

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- **Direction 2.6 Remediation of Contaminated Land**

The Proponent's planning proposal report articulates that the land is not within an investigation area within the meaning of the Contaminated Land Management Act nor is it on land which development is being, or is known to have been, carried out.

Further, the planning proposal relates to land zoned E4 Environmental Living which already permits residential living, albeit in a lower density form. The subject site already contains an occupied residential dwelling. It is therefore considered that the planning proposal is consistent with this Direction.

- **Direction 3.1 Residential Zones**

The objectives of this direction are to encourage a variety and choice of housing types, make efficient use of infrastructure and minimise the impact of residential development on the environment and resource lands. Under the current provisions, the E4 zoned portion of the site limits the subdivision of the site to one Torrens Title lot or three Community Title lots with the intent to protect any environmental values on site. As the proposal would marginally reduce the area of E4 Environmental Living within the North Kellyville Precinct, it could technically be considered to be inconsistent with this direction.

However, given the site only contains sparsely distributed vegetation to the north, does not contain threatened vegetation and is already biodiversity certified, any technical inconsistencies are considered minor and justifiable. Having regard to the isolated nature of the E4 Environmental Living portion of the site, the proposal would not adversely impact on any environmental or scenic values in the locality. Further, the proposal would facilitate a more orderly development outcome which better aligns with the surrounding character, whilst also making more efficient use of public transport infrastructure and facilitating a dwelling typology that is appropriate to the local demographic.

- **Direction 3.4 Integrated Land Use and Transport**

The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- a) Improving access to housing, jobs and services by walking, cycling and public transport;
- b) Increasing the choice of available transport and reducing dependence on cars;
- c) Reducing travel demand including the number of trips generated by development and the distances travelled, especially by car;
- d) Supporting the efficient and viable operation of public transport services; and
- e) Providing for the efficient movement of freight.

The planning proposal is consistent with the objectives of this Direction as the site is in walking distance to public transport, which provides access to services and jobs, and thus reduces car dependency. Further, it will ensure the delivery of the local road network within this locality, including missing road links between Barabati Road and Roland Garros Crescent, which will service local traffic and extend existing walking path connections, in accordance with The North Kellyville DCP.

## LOCAL PLANNING PANEL MEETING 21 APRIL, 2021

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- Direction 4.4 Planning for Bushfire Protection

The objectives of this direction are to protect life, property and the environment from bushfire hazards, by discouraging the establishment of incompatible land uses in bushfire prone areas and to encourage sound management of bush fire prone areas. The Direction also states that a planning proposal must have regard to *Planning for Bushfire Protection 2019*.

The site is located within a Vegetation Buffer Zone (bushfire prone land) and as such, the direction requires that a Bushfire Assessment Report be submitted as part of the planning proposal which addresses the requirements of *Planning for Bushfire Protection 2019*. As discussed in Section 3 (d), it is unlikely that future development on the site would be subject to bushfire risk given the site is surrounded by existing and approved low density residential subdivision. However, a bushfire study would nonetheless be required to verify this as a technical requirement of the Direction. Formal consultation with the Rural Fire Service would also be required should the proposal receive a Gateway Determination.

- State Environmental Planning Policy (Sydney Regions Growth Centres) 2006

The Growth Centres SEPP aims to coordinate the release of residential land, provide for comprehensive planning of the growth centres, provide for the orderly and economic provision of infrastructure and provide land use and development controls that will contribute to the conservation of biodiversity.

The aims of *Appendix 2 North Kellyville Precinct* are to ensure development controls create good design outcomes and protect and enhance the environmentally sensitive areas. It is considered that the proposal is consistent with the aforementioned objectives as the proposed subdivision layout is consistent with surrounding subdivision character and will facilitate orderly development. It will also assist in delivery of the local road network identified within the North Kellyville DCP. The subject site is also not considered environmentally sensitive given it is not identified as containing native vegetation in the Native Vegetation Protection Map, is not located within the Riparian Protection Area Map under the Growth Centre's SEPP and has been Biodiversity Certified.

The Hills Local Strategic Planning Statement

Council's Local Strategic Planning Statement: Hills Future 2036 (LSPS) outlines the Shire's 20-year vision for land use planning, population, housing, economic growth and environmental management. Accompanying the LSPS are key strategies that outline guiding principles, of which the draft Housing Strategy is of relevance to the proposal. In particular, the site is located within the North Kellyville Release Area, which the LSPS and draft Housing Strategy anticipate an additional 6,500 dwellings be delivered by 2036. It articulates the continued delivery of low and medium density housing be supported by existing and planned infrastructure.

The proposed development would allow for the delivery of 22 residential lots which are consistent with the established low density character, and are supported by proximate public transport options and a local park. Although a portion of the site is presently zoned E4 Environmental Living, the subject site does not contain threatened vegetation and is biodiversity certified, and is therefore not considered to have high environmental values or significance. Given the isolated nature of the E4 zoned portion of land, the rezoning of the land to permit further low density residential subdivision (7 additional lots) is acceptable.

## LOCAL PLANNING PANEL MEETING 21 APRIL, 2021

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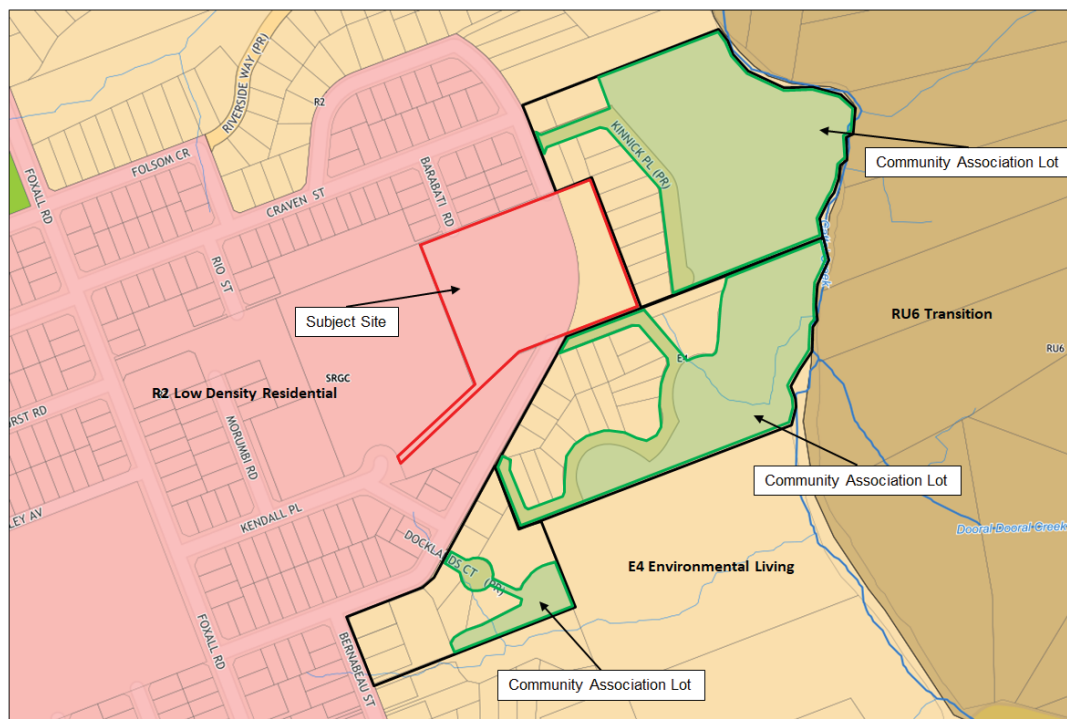
For the reasons detailed above, the planning proposal is considered to be consistent with Priority 7 – Plan for new housing in the right locations and Priority 17 – Protect areas of high environmental values and significance of the LSPS.

### b) Orderly Development

Given the alignment of the lot boundary in comparison to the boundary between the R2 and E4 zones, the orderly development of this E4 zoned portion of land was originally contingent on amalgamation with one of the larger adjoining E4 zoned parcels.

It is noted that discussions occurred between the landowners in association with development applications for both of the adjoining subdivisions (zoned E4 Environmental Living) at Lot 4 DP 249675 and Lot 11 DP 582310 (DA 635/2019/ZD) and Lot B DP 156194 (DA 294/2016/ZD), with respect to orderly development. However, agreement could not be reached for amalgamation of the land on both occasions. Development on both of these adjoining parcels is now complete (to the east) or underway (to the south) and as such, amalgamation is no longer possible, as shown in Figure 6.

Both adjoining sites have now been subdivided utilising a community title scheme, whereby part of the site is subdivided into residential lots and the remainder of the site is a community association lot. Resulting community association lots are typically located adjacent to the creek, which allows for the achievement of the objectives of the E4 Environmental Living zone by providing larger consolidated areas of environmental and scenic quality along the creek corridor. These community association lots generally comprise a common internal road and land utilised for bushfire and environmental management purposes (as intended for under Section 3.7 of the North Kellyville DCP) (see Figure 6).



**Figure 6**  
Adjoining Community Title subdivisions and isolation of subject site

Under the current controls set out in Clause 6.5 of Appendix 2 of the Growth Centres SEPP, subdivision of the isolated E4 zoned area within 9 Palaran Place could achieve one Torrens Title lot or three Community Title lots with a community association lot. Figure 7 below provides an example of how development could occur under this current provision.



**Figure 7**  
Permitted Potential Community Title Subdivision

The Proponent's planning proposal report articulates both of these outcomes would be inconsistent with the emerging pattern of adjoining subdivisions and the proposed development outcome would better facilitate orderly development. This is primarily due to the isolation of the E4 zoned portion of the site by adjoining smaller residential lots, with no further ability for any community association lot to connect into the Creek Corridor. Further, it would be inappropriate for Barabati Road and Roland Garros Crescent to be under a neighbourhood scheme, given existing sections of both roads are public.

In comparison to these potential outcomes under the current planning controls, it is considered that a reduction in the minimum lot size applying to the E4 portion of the site is warranted and would ensure a more logical subdivision pattern in terms of orderly development and alignment with the prevailing character of the locality (refer to Figure 8 below).



**Figure 8**  
Proponent's Indicative subdivision plan and road layout

Notwithstanding this, having regard to the Proponent's indicative subdivision plan (Figure 8 above), it is considered that a preferable subdivision pattern on this particular part of the site and within a new greenfield subdivision would avoid the inclusion of battle-axe allotments and instead, ensure that each new lot and dwelling will have street frontage. As a result, a maximum yield of 7 dwellings on the area of the site current zoned E4 Environmental Living would be preferable to the configuration of 8 dwellings submitted by the Proponent. This would also promote more flexible and desirable building footprints on the site. A discussion on the suitability of the proposed planning mechanism and consideration of alternative mechanisms is provided in the next section of the Report.

### c) Suitability of Planning Mechanism

There would be a range of planning mechanisms available to achieve the intent of the planning proposal. The following table provides a discussion on these potential mechanisms and associated implications for the development of the subject site.

	Planning Mechanism	Comment
Option 1	<ul style="list-style-type: none"> <li>Retain the existing E4 Environmental Living Zone and apply a 600m<sup>2</sup> minimum lot size</li> </ul>	<ul style="list-style-type: none"> <li>A 600m<sup>2</sup> minimum lot size is consistent with surrounding subdivision pattern.</li> <li>However, reducing the minimum lot size within the E4 zone would likely set an undesirable precedent for other land within the North Kellyville Growth Centre zoned E4 that has not yet been developed.</li> <li>It would also permit a development outcome which is inconsistent with the applicable zone objectives, given that the basis on which the land was originally zoned E4 (being the management of the nearby vegetation corridor as part of a Community Title arrangement) is no longer applicable or achievable.</li> <li>The DCP also contains more stringent controls for building platform and minimum lot width requirements in the E4 zone and the proposed minimum lot size and layout would be unable to achieve compliance with these DCP controls.</li> <li>This approach would not preclude the battle-axe arrangement as shown in the Proponent's indicative subdivision layout.</li> <li>This Option would not impact on the permissibility of the key land uses that could be developed on the resulting lots, with</li> </ul>

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		both single dwellings and dual occupancies permitted in the E4 zone.
<b>Option 2</b>	<ul style="list-style-type: none"> <li>Retain E4 Environmental Living Zone and apply a minimum lot size ranging from 700-800m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>The larger lot size would improve the ability for the subdivision to achieve required building platform controls within the DCP.</li> <li>However, reducing the minimum lot size within the E4 zone would likely set an undesirable precedent for other land within the North Kellyville Growth Centre zoned E4 that has not yet been developed.</li> <li>It would also permit a development outcome which is inconsistent with the applicable zone objectives, given that the basis on which the land was originally zoned E4 (being the management of the nearby vegetation corridor as part of a Community Title arrangement) is no longer applicable or achievable.</li> <li>While this approach would not strictly preclude the battle-axe arrangement as shown in the Proponent's indicative subdivision layout, the larger lot sizes would limit the yield on this portion of the site to no more than 7 lots. However, given the configuration of the land and significant variation in lot depth that could be achieved, a blanket application of a minimum lot size of 700m<sup>2</sup> is unlikely to achieve the most orderly development outcome.</li> <li>This Option would not impact on the permissibility of the key land uses that could be developed on the resulting lots, with both single dwellings and dual occupancies permitted in the E4 zone.</li> </ul>
<b>Option 3 (Proposed Proponent)</b>	<ul style="list-style-type: none"> <li>Rezone land to R2 Low Density Residential and apply a 600m<sup>2</sup> minimum lot size</li> </ul>	<ul style="list-style-type: none"> <li>Rezoning the land to R2 would ensure that the proposed development outcome can align with the applicable zone objectives and prevailing local character.</li> <li>The proposed minimum lot size would be consistent with surrounding subdivision pattern and would facilitate an outcome capable of complying with the DCP controls.</li> <li>As demonstrated in the Proponent's indicative subdivision concept, this Option would facilitate a total of 8 lots on this portion of the site. A preferable subdivision pattern would be limited to 7 lots to avoid the need for a battle-axe allotment and instead, ensure that each new lot and dwelling will have street frontage.</li> </ul>
<b>Option 4 (Council Officer Recommended)</b>	<ul style="list-style-type: none"> <li>Rezone land to R2 Low Density Residential and apply a 600m<sup>2</sup> minimum lot size as well as a maximum dwelling cap of 7</li> </ul>	<ul style="list-style-type: none"> <li>As per Option 3, however, the application of a local provision which limits the maximum yield on this portion of the site to 7 dwellings would more effectively discourage the sub-optimal battle-axe allotment outcome.</li> <li>The application of a 600m<sup>2</sup> minimum lot size would still provide the developer with flexibility to determine the most orderly subdivision layout in response to the configuration of the land and significant variation in lot depth.</li> </ul>
<b>Option 5</b>	<ul style="list-style-type: none"> <li>Rezone land to R2 Low Density Residential and apply a minimum lot size ranging from 700-800m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>Rezoning the land to R2 would ensure that the proposed development outcome can align with the applicable zone objectives and prevailing local character.</li> <li>While this approach would not strictly preclude the battle-axe arrangement as shown in the Proponent's indicative subdivision layout, the larger lot sizes would limit the yield on this portion of the site to no more than 7 lots. However, given the configuration of the land and significant variation in lot depth that could be achieved, a blanket application of a minimum lot size of 700m<sup>2</sup> is unlikely to achieve the most orderly development outcome.</li> </ul>

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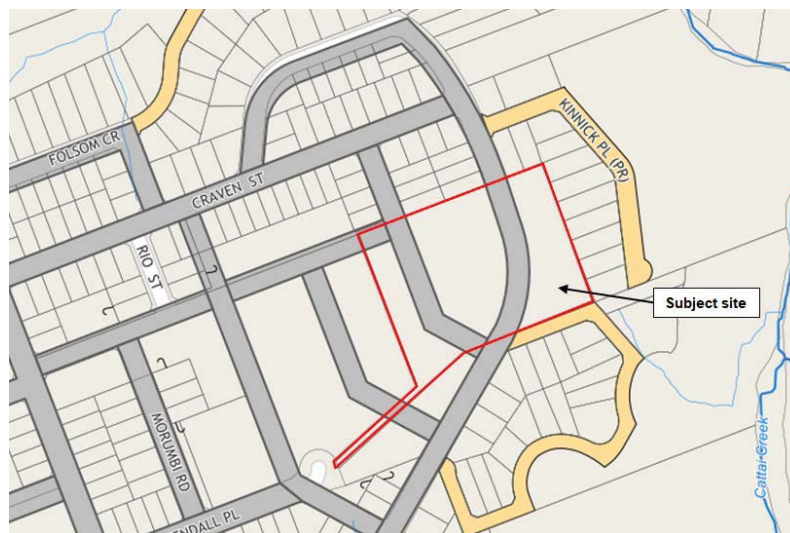
Having regard to the above, it is considered that Option 4 achieves the most effective balance between the related planning controls (appropriate zoning and minimum lot size controls). It would remove the need for a battle-axe allotment and ensure an outcome more consistent with the local character, streetscape and objectives of the R2 Low Density Residential zone.

Option 4 would require a local provision to be applied to the site, to specify a maximum yield of 7 dwellings. The drafting of such a provision would be subject to consultation with the Department of Planning, Industry and Environment as part of the Gateway Determination process.

**d) Infrastructure and Access**

The proposed development will be well serviced by public transport infrastructure and public open space. The site is located approximately 560 metres to 650 metres walking distance from a local park. It is also located in close proximity to bus stops that are within 320 metres to 500 metres walking distance from the site.

The proposed development outcome will result in the delivery of a new road link, which will extend the existing Barabati Road and Roland Garros Crescent (north) to Roland Garros Crescent (south). Although a traffic study has not been prepared as part of this application, notwithstanding the additional yield of approximately 7 dwellings, the proposed 22 residential lots is unlikely to substantially increase traffic volume on local and regional road infrastructure from what has been anticipated within the *North Kellyville Traffic and Transport Assessment 2008* (prepared by Maunsell Australia). The existing Indicative Layout Plan of the North Kellyville DCP has been developed upon the findings of the Traffic and Transport Assessment and this has been reflected in the proposed indicative road layout for the Precinct. The need to ensure that the planned local road network is achieved at this location is considered to outweigh any negligible impacts associated with 7 additional dwellings.



**Figure 11**  
North Kellyville DCP – Indicative Layout Plan

The indicative road layout for the proposed development reflects the Indicative Layout Plan in the North Kellyville DCP (as shown in Figure 11) and will facilitate orderly development. The completion of this extension will require subdivision of the adjoining property at Lot 1 DP

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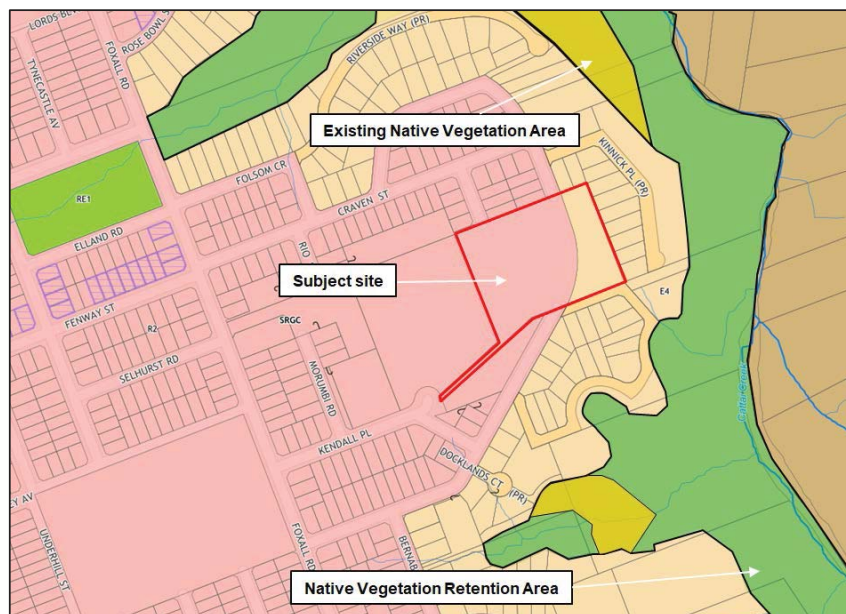
1262623. It is noted that the site is currently subject to a staged Development Application (554/2021/ZB) that is under assessment. The completion of the intersection will be subject to a subsequent associated Development Application. Should the subdivision be delayed or associated works to Barabati Court not be delivered, temporary arrangements will need to be made to facilitate appropriate access from Roland Garros Crescent to Barabati Road at the Development Application stage.

In this instance, it is considered reasonable for the additional yield of up to 7 residential lots sought through this planning proposal to be levied contributions under the existing Contributions Plan No. 13 – North Kellyville Precinct, which identifies and funds the new and upgraded local infrastructure required to support all development within the entire North Kellyville Precinct.

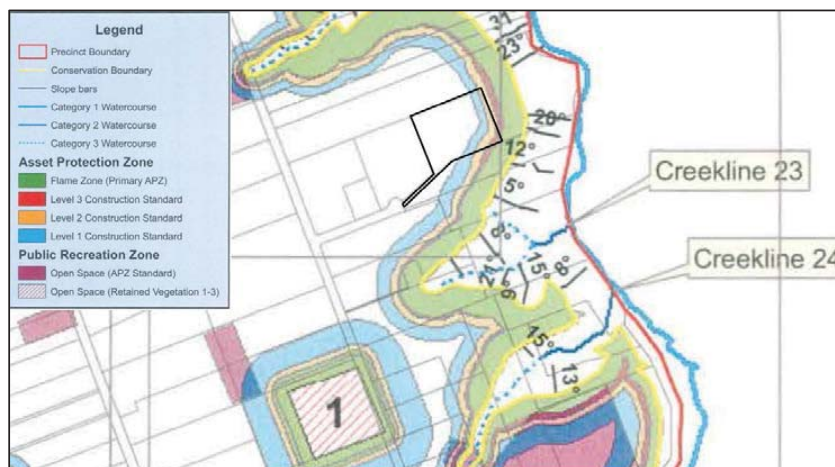
### e) Environmental Constraints

#### Biodiversity and Bushfire

The planning proposal applies specifically to the E4 Environmental Living zoned portion of the site, which only permits low impact residential development to minimise impacts on environmental values. It is noted that the E4 zoned areas of the North Kellyville Precinct (as identified by the Growth Centres Commission) correspond with the broader North Kellyville bushfire Asset Protection Zones and Native Vegetation Map, which generally share the boundary of the Caddies Creek Riparian Corridor (as shown in Figures 12 and 13).



**Figure 12**  
Relationship with E4 Environmental Living Zoning with Native Vegetation Map



**Figure 13**  
North Kellyville Asset Protection Zones

Whilst the site contains sparsely distributed vegetation, it does not contain any threatened species or native vegetation. Further, the adjoining residential developments on E4 zoned land to the site's east and south have isolated the site and effectively disassociated it from the values and objectives of the E4 zone, as they relate to the environmental and scenic qualities of the Caddies Creek Riparian Corridor. In short, the objectives and intended designation of the E4 Environmental Living zone throughout the Kellyville Precinct (as explained in Section 3.7 of the DCP) no longer reflect the characteristics and context of this particular subject site.

The E4 zoned portion of the site is located within the Vegetation Buffer Zone, however as the site is sparsely vegetated and surrounded by existing and approved low density residential subdivision (some of which has been approved in closer proximity to vegetation/fuel load), there is unlikely to be substantial bushfire risk on this site. Notwithstanding this, progression of the planning proposal would still require a bushfire study that addresses Planning for Bushfire Protection 2019 to satisfy the technical requirements of Section 9.1 Ministerial Direction 4.4.

#### Stormwater and Flooding

An on-site stormwater detention (OSD) will be required to compensate any increase in stormwater runoff due to the increase in impervious surfaces resulting from the proposed development. This will need to be located at the site's south eastern corner. An easement may need to be created within the downstream properties through which the pipe will run. The site's OSD system's high-flow bypass weir can discharge into Eden Road, utilising the road system as overland flow path. Given Eden Road is privately owned and maintained, permission to discharge and use the road as an overland flow path will require negotiations with the relevant land owners.

It is noted that Council does not have a flood study or flood mapping available for the site. In the ultimate developed scenario, this two hectare catchment will generate a reasonable volume of runoff. Therefore, a site-specific flood study will need to be prepared at the Development Application stage. A stormwater quality treatment or water sensitive urban design (WSUD) strategy needs to be incorporated in an associated stormwater management plan. It will also need to demonstrate how the increased erosive potential for minor flows and their potential impact to the tributary of Cattai Creek is going to be addressed. It is expected

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that inter-allotment drainage shall be provided to lots that could not drain directly to the proposed roadways or to a lawful point of discharge.

The preparation of the Flood Study and associated stormwater management plan at the Development Application stage will need to be in accordance with Council's Stormwater and Waterways Design Requirements and other relevant guidelines.

**CONCLUSION**

The planning proposal generally aligns with the relevant strategic planning framework and, subject to the recommended maximum dwelling cap, will enable the subdivision of the land into 21 residential lots and the delivery of the anticipated local road network. The proposed development outcome will facilitate orderly development and the future development will reflect the objectives of an R2 Low Density Residential Zone and align with the prevailing character of the surrounding locality.

It is considered appropriate for the proposal to be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination in accordance with the recommended Option 4. Prior to Council's consideration of the planning proposal, the Proponent should submit a Bushfire Assessment Report that demonstrates compliance with Planning for Bush Fire Protection 2019, in satisfaction of the technical requirement under Section 9.1 Ministerial Direction 4.4.

**RECOMMENDATION**

The planning proposal for land at 9 Palaran Avenue, North Kellyville is suitable to be forwarded to the Department of Planning, Industry and Environment for Gateway Determination, subject to the following:

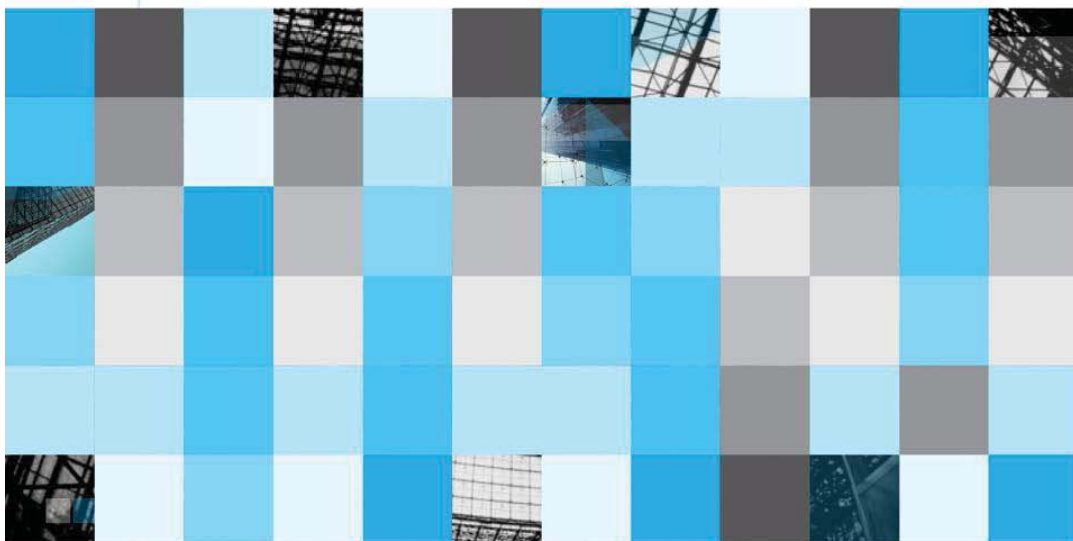
- a) The planning proposal be amended to include a local provision that would apply a maximum cap of 7 dwellings to the portion of land currently zoned E4 Environmental Living; and
- b) Prior to Council's consideration of the planning proposal, the Proponent should submit a Bushfire Assessment Report that demonstrates compliance with Planning for Bush Fire Protection 2019, in satisfaction of the technical requirement under Section 9.1 Ministerial Direction 4.4.

**ATTACHMENTS**

- 1. Planning Proposal Report (34 Pages)

ATTACHMENT 1

SUTHERLAND  
& ASSOCIATES  
PLANNING



9 Palaran Avenue, North Kellyville

Planning Proposal

**SUTHERLAND & ASSOCIATES PLANNING**

ABN 14 118 321 793 ACN 144 979 564

Planning Proposal

9 PALARAN AVENUE, NORTH KELLYVILLE

**December 2020**

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## 1.0 INTRODUCTION

This Planning Proposal has been prepared by Sutherland & Associates Planning Pty Ltd in relation to land at 9 Palaran Avenue, North Kellyville (formerly known as 4 Kendall Place, Kellyville).

9 Palaran Avenue, North Kellyville is part zoned R2 Low Density Residential and part zoned E4 Environmental Living pursuant to Appendix 2 North Kellyville Precinct Plan of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

The objectives of the E4 zone are to provide for low-impact residential development in areas with special ecological, scientific or aesthetic values and to ensure that residential development does not have an adverse effect on those values.

The site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the North West Growth Centre Native Vegetation Protection Map. The entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation. In addition, the site is now permanently disconnected from land which does contain vegetation that needs to be managed and conserved.

Accordingly, the part of the site zoned E4 Environmental Living does not have special ecological, scientific or aesthetic values and therefore there is no longer any basis for the eastern part of the subject site to remain zoned E4 Environmental Living. This part of the site should be zoned the same as the balance of the site which is already zoned R2 Low Density Residential given the objectives of the R2 zone are more appropriate and relevant to the land.

In accordance with Clause 4.1C(3)(b) of Appendix 2 of the Growth Centres SEPP any allotment created from a subdivision of land within the E4 Environmental Living zone must not be less than the minimum size shown on the Lot Size Map. A 4,000 square metre minimum lot size applies to the E4 Environmental Living zoned part of the subject site. Notwithstanding this, Clause 6.5 allows subdivision of land in the Zone E4 Environmental Living with a minimum lot size of 600 square metres, however, this is only on a Community title basis in accordance with the *Community Land Development Act 1989* for a neighbourhood scheme. The objectives for Clause 6.5 are to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living and to ensure the land is managed and conserved in a holistic and sensitive manner. Clause 6.5 only allows subdivision on a Community title basis because it anticipates that sensitive land and bushfire asset protection zones in a development will be protected as a neighbourhood allotment, as explained in Section 3.7 of the North Kellyville Precinct Development Control Plan 2018 (DCP 2018).

As detailed above the part of the site zoned E4 Environmental Living does not contain any land that has special environmental values and has become isolated and disconnected from any other lots with special ecological, scientific or aesthetic values as a result of recent development approvals to the north, south and east of the site. Accordingly, the objectives of clause 6.5 have little relevance. Also, the small size of the E4 zoned parcel of land (4,960.7 square metres) and street frontage that will be provided to this land is such that there is no need for any new internal roads. Accordingly, the requirement for a neighbourhood allotment in a subdivision of the site is redundant and there is no need for a requirement for subdivision on a Community title basis.

Whilst Torrens title subdivision of the E4 Environmental Living zoned part of the site is possible, this is only on the basis of a minimum lot size of 4,000 square metres which is inconsistent with the emerging pattern of subdivision surrounding the site.

Given the emerging pattern of subdivision surrounding the site and the size of the E4 zoned parcel of land, the objectives and subdivision controls applicable to E4 zoned land are no longer relevant or appropriate and require amendment to deliver an orderly pattern of development on this part of the site.

On this basis, the subject Planning Proposal seeks the following amendments to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006, which are the basis for the assessment in this Planning Proposal:

- Amend the North West Growth Centre Lot Size Map to change the minimum lot size that applies to part of the site from 4,000 square metres to 600 square metres; and
- Rezone the subject site from E4 Environmental Living to R2 Low Density Residential.

The purpose of the Planning Proposal is to allow the orderly and economic development of the subject site by facilitating subdivision of the part of the site currently zoned E4 Environmental Living in a manner which more appropriately reflects the site characteristics and surrounding context.

This outcome is in the public interest because it allows for an orderly pattern of development to be achieved that is consistent with the pattern and density of the surrounding development.

The Planning Proposal demonstrates the strategic merit of the proposed amendments to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and seeks to commence the statutory process to amend the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 as requested.

The Planning Proposal has been prepared in accordance with Section 3.33 of the Environmental Planning & Assessment Act 1979 (EP&A Act). As required by Section 3.33 of the EP&A Act this Planning Proposal includes the following:

- a statement of the objectives or intended outcomes of the proposed instrument,
- an explanation of the provisions that are to be included in the proposed instrument,
- the justification for those objectives, outcomes and provision and the process for their implementation,
- if maps are to be adopted by the proposed instrument – a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument, and
- details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

The Planning Proposal has also been prepared having regard to the 'Guide to Preparing Planning Proposals' developed by the NSW Department of Planning and Environment. The report addresses the Proposal's consistency with Greater Sydney Region Plan - A Metropolis of Three Cities, the Central City District Plan, strategic plans and assesses the consistency of the Planning Proposal against relevant State Environmental Planning Policies and Ministerial Directions.

The Planning Proposal is also supported by a conceptual plan of subdivision prepared by Robert Moore & Associates Surveyors.

## 2.0 SITE DESCRIPTION AND LOCATION

### 2.1 Locality Description

The land to which the Planning Proposal relates is situated within The Hills Shire Local Government Area in the suburb of North Kellyville.

North Kellyville currently comprises rural residential development interspersed with large areas of land undergoing redevelopment consistent with the North Kellyville growth centre release area plan. The area was identified as a growth centre release area and was rezoned in 2008 by the Minister for Planning and Infrastructure for urban development and is referred to as 'North Kellyville Precinct'. This area is undergoing a rapid transformation and is earmarked to deliver approximately 4,500 new dwellings.

The vision for North Kellyville is the creation of vibrant neighbourhoods that provide a range of dwelling types and opportunities for social interaction for a diverse population in centres, parks and community facilities. The North Kellyville Precinct will contain three centres that will become the focal points for social interaction, community uses and retailing. An integrated public transport, cycle and pedestrian network will facilitate improved access within the Precinct and to the surrounding areas, particularly to Rouse Hill Regional Centre. The interface of the built form and the design of the public domain will create an attractive place to live.

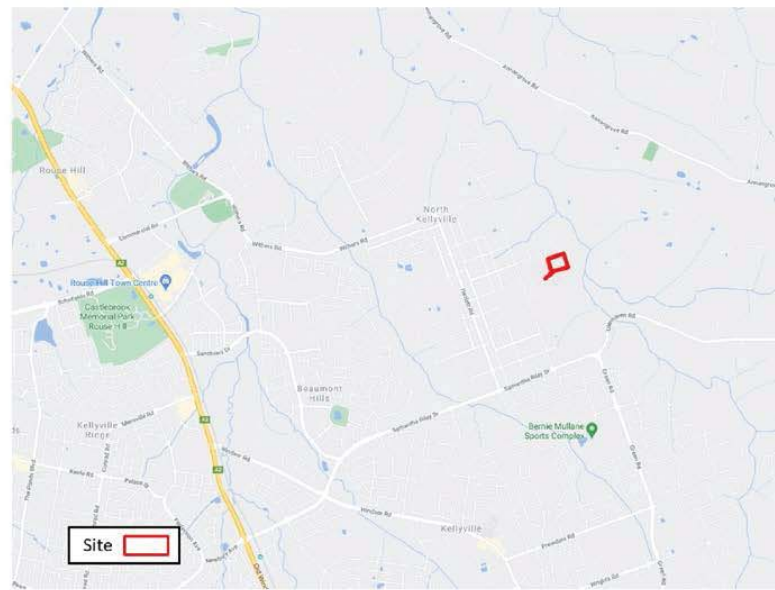


Figure 1:

Location plan: (Source: Google Maps 2020)

## 2.2 Site Description and Surrounding Context

This Planning Proposal relates to land legally described as Lot 3 DP 249675 and known as 9 Palaran Avenue, North Kellyville. The site was originally a battleaxe allotment with an access handle providing frontage to the cul-de-sac of Kendall Place, such that the site was previously known as 4 Kendell Place. However, with the delivery of the street network as anticipated by the North Kellyville Precinct Development Control Plan 2018, the site is now also accessed via Palaran Avenue which meets the southern boundary of the subject site and Roland Garros Crescent and Barabati Road which meet the northern boundary of the site. Roland Garros Crescent and Barabati Road will ultimately extend through the subject site.

The context surrounding the site is rapidly changing.

Immediately to the north of the subject site are new detached houses on allotments of approximately 380 to 440 square metres in area. These allotments have their street address to Craven Street, Roland Garros Crescent and Barabati Road and are on land zoned R2 Low Density Residential.

Immediately to the east of the subject site are new detached houses on allotments of approximately 600 square metres in size which have their street address to Kinnick Place further to the east. Kinnick Place is a neighbourhood allotment which also includes bushland to the east. This land is zoned E4 Environmental Living.

The land immediately to the south of the subject site is currently under construction for a subdivision creating 21 community title residential lots, one association lot and one residue lot including a new road as approved under Development Consent 635/2019/ZD. The road within the neighbourhood lot is immediately adjacent to the southern boundary of the subject site. The residential allotments are all approximately 600 square metres in size. This land is zoned E4 Environmental Living.

The land immediately to the west of the subject site is known as 11 Palaran Avenue and is an original allotment of approximately 2 hectares in size. The site currently contains a detached dwelling, large open areas and some vegetation. 11 Palaran is zoned R2 Low Density Residential and it is likely that it will be redeveloped in the near future for detached residential housing on allotments ranging from approximately 450 to 550 square metres in area.

The subject site contains an original single storey dwelling on the western portion of the site which is accessed via a driveway from the cul-de-sac of Palaran Avenue. To the east of the dwelling is a swimming pool and outbuilding. To the west of the dwelling is another outbuilding. The majority of the site consists of cleared grass areas, some garden areas, and some limited larger vegetation along the boundaries of the site and in the north-eastern corner.

The subject site does not contain vegetation mapped as either Existing Native Vegetation Area or Native Vegetation Retention Area on the Native Vegetation Protection Map. Furthermore, the entire site is also located on 'biodiversity certified land' according to the Order to confer biodiversity certification on the State Environmental Planning Policy Sydney Region Growth Centres 2006. Under s126(l) of the Threatened Species Conservation Act 1995 development on biodiversity certified land is taken to be development that is not likely to significantly affect any threatened species, population or ecological community or its habitat. A consent authority is not required to take into consideration the likely impact of the development on biodiversity values (despite any provision of the EP&A Act or any regulation or instrument made under that Act).



Figure 2:

Aerial View of the Site and Surrounds (Source: Six Maps, Department of Lands 2020)



Photograph 1:

The existing entrance driveway to the site from Palaran Avenue

Planning Proposal - 9 Palaran Avenue, North Kellyville



Photograph 2:

View from the eastern end of the site facing west with the southern boundary on the left

Photograph 3:

View from the site facing east with the southern boundary on the right



Photograph 4:

View from the southern end of the site facing north-east towards the eastern boundary



Planning Proposal - 9 Palaran Avenue, North Kellyville



Photograph 5:

View of the existing dwelling  
and pool facing north-west



Photograph 6:

View of the northern boundary  
of the site from the north-  
eastern corner



Photograph 7:

View towards the western  
boundary of the site taken from  
the northern part of the site

Planning Proposal - 9 Palaran Avenue, North Kellyville



Photograph 8:

View of western adjacent site at 11 Palaran Avenue which is yet to be developed



Photograph 9:

View of southern adjacent site which is currently under construction



Photograph 10:

Emerging context in Palaran Avenue

Planning Proposal - 9 Palaran Avenue, North Kellyville

## 3.0 LOCAL PLANNING PROVISIONS

## 3.1 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

State Environmental Planning Policy (Sydney Region Growth Centres) 2006 applies to the site. Key provisions applying to the site are identified below:

## 3.1.1 Zoning and Permissibility

The majority of the site is zoned R2 Low Density Residential and a small area of the site is zoned E4 Environmental Living pursuant to Appendix 2 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006. An extract of the Land Zoning Map is included as Figure 3.

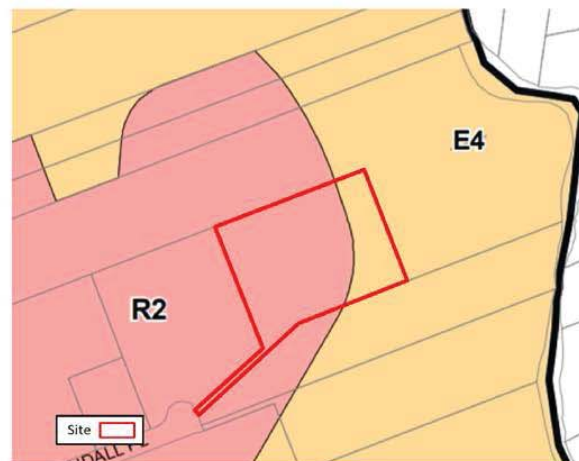


Figure 3:

Extract from SEPP  
(SRGC) 2006 Land  
Zoning Map

The objectives of the R2 Low Density Residential zone are:

- To provide for the housing needs of the community within a low-density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for a variety of housing types but primarily low density detached housing.
- To support the wellbeing of the community, including educational, recreational, community, religious and other activities if there will be no adverse effect on the amenity of the proposed or existing nearby residential development.

The following uses are permitted with consent in the R2 Low Density Residential zone:

Centre-based child care facilities; Community facilities; Drainage; Dual occupancies; Dwelling houses; Earthworks; Educational establishments; Environmental protection works; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home businesses; Information and education facilities; Recreation areas;

Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Studio dwellings; Water recycling facilities; Waterbodies (artificial)

The objectives of the E4 Environmental Living zone are:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.

The following uses are permitted with consent in the E4 Environmental Living zone:

Bed and breakfast accommodation; Drainage; Dual occupancies; Dwelling houses; Earthworks; Electricity generating works; Environmental facilities; Environmental protection works; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Horticulture; Recreation areas; Recreation facilities (outdoor); Roads; Swimming pools; Water recreation structures; Water recycling facilities; Waterbodies (artificial.)

### 3.1.2 Lot Size

Clause 4.1C(3)(b) establishes a minimum lot size of 4,000 square metres for the part of the site which is zoned E4 Environmental Living. An extract of the Lot Size map is included as Figure 4.

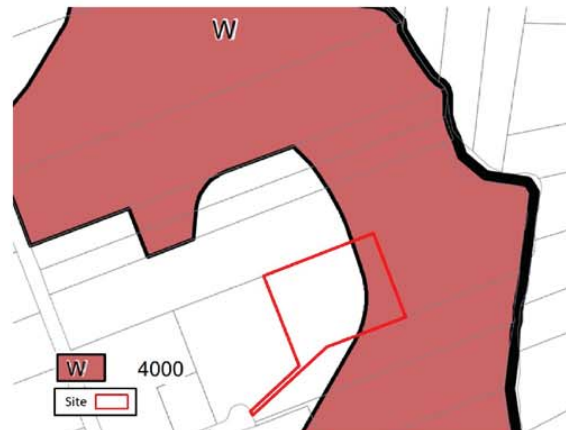


Figure 4:

Extract from the SEPP  
(SRGC) 2006 Lot Size  
Map

The objectives of the clause are:

- (a) to provide for the subdivision of lots that are within Zone R2 Low Density Residential and Zone E4 Environmental Living but cannot be subdivided under clause 4.1,

(b) to ensure that the subdivision occurs in a manner that promotes suitable land use and development,

(c) to ensure that the subdivision will not compromise the environmental values of land in Zone E4 Environmental Living.

### 3.1.3 Preservation of trees or vegetation

Clause 5.9 relates to the preservation of the amenity of the area through the preservation of trees and other vegetation.

Clauses 6.2 and 6.3 of the Growth Centres SEPP contains controls for the clearing of Existing Native Vegetation and Native Vegetation Retention Areas as shown on the Native Vegetation Protection Map. However, the subject site does not contain vegetation mapped in either of these categories and therefore has no further restriction of clearing of vegetation as illustrated in Figure 5 below.

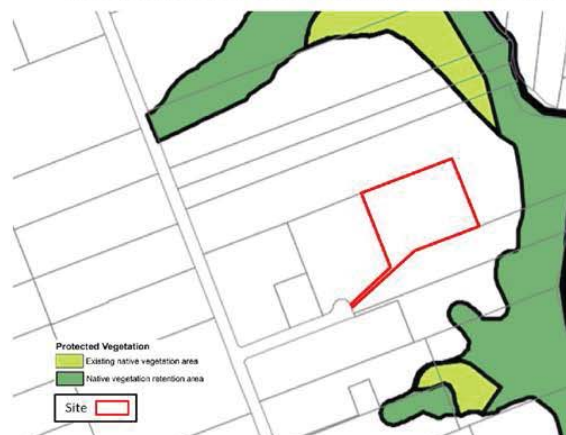


Figure 5:

Extract from SEPP  
Native Vegetation  
Protection Map

The entire site is also located on 'biodiversity certified land' according to the Order to confer biodiversity certification on the State Environmental Planning Policy Sydney Region Growth Centres 2006 as depicted in Figure 6 below.

Under s126(i) of the Threatened Species Conservation Act 1995 development on biodiversity certified land is taken to be development that is not likely to significantly affect any threatened species, population or ecological community or its habitat. A consent authority is not required to take into consideration the likely impact of the development on biodiversity values (despite any provision of the EP&A Act or any regulation or instrument made under that Act). Therefore, it is understood that no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation.

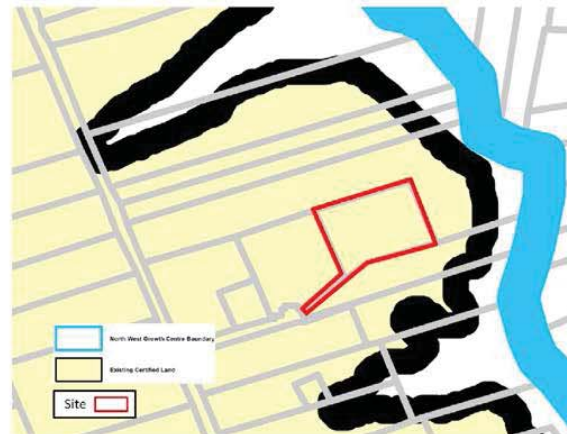


Figure 6:

Biodiversity certified  
land

#### 3.1.4 Subdivision of land in Zone E4 Environmental Living

Clause 6.5 provides the following in relation to the subdivision of land in zone E4 Environmental Living:

- (1) The objectives of this clause are as follows—
  - (a) to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living,
  - (b) to encourage development that will ensure the land is managed and conserved in a holistic and sensitive manner,
  - (c) to promote high quality residential amenity in the urban environment,
  - (d) to encourage an innovative and contemporary approach to building design and location that is appropriate to the special values of the land.
- (2) This clause applies to land in Zone E4 Environmental Living.
- (3) The consent authority may grant development consent for the subdivision of land to which this clause applies, only if—
  - (a) the land is subdivided in accordance with the Community Land Development Act 1989 for a neighbourhood scheme, and
  - (b) each lot, other than a lot comprising neighbourhood property, to be created by the subdivision will have an area of not less than 600 square metres, and
  - (c) the subdivision will not result in more than 7.5 development lots per hectare.

## 4.0 PLANNING PROPOSAL

### 4.1 Overview

In accordance with Section 3.33(2) of the Environmental Planning and Assessment Act 1979 (the EP&A Act) a Planning Proposal is to be comprised of five (5) parts:

- Part 1 – A statement of the objectives and intended outcomes of the proposed instrument.
- Part 2 – An explanation of the provisions that are to be included in the proposed instrument.
- Part 3 – The justification for those objectives, outcomes and the process for their implementation.
- Part 4 – Maps, where relevant, to identify the intent of the Planning Proposal and the area to which it applies.
- Part 5 – Details of the community consultation that is to be undertaken on the Planning Proposal.

Section 3.33(3) of the Act allows the Secretary to issue requirements with respect to the preparation of a Planning Proposal. The Secretary's requirements include:

- Specific matters that must be addressed in the justification (Part 3) of the Planning Proposal
- A project timeline to detail the anticipated timeframe for the plan making process for each Planning Proposal.

The project timeline forms Part 5 of a Planning Proposal.

Section 4 of this report addresses and responds to the matters for consideration detailed within 'Planning Proposals - A Guide to Preparing Planning Proposals' (NSW Department of Planning and Environment, August 2016).

### 4.2 Part 1: Objectives or Intended Outcomes

The objective of the Planning Proposal is to amend the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 as follows:

- Amend the North West Growth Centre Lot Size Map to change the minimum lot size that applies to part of the site from 4,000 square metres to 600 square metres; and
- Rezone part of the subject site from E4 Environmental Living to R2 Low Density Residential.

The purpose, or intended outcome, of the Planning Proposal is to allow the orderly and economic development of the subject site by facilitating subdivision of the part of the site currently zoned E4 Environmental Living in a manner which more appropriately reflects the site characteristics and surrounding context.

### 4.3 Part 2: Explanation of Provisions

#### 4.3.1 Proposed Changes to State Environmental Planning Policy (Sydney Region Growth Centres) 2006

The amendments proposed to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 are as follows:

- Amend the North West Growth Centre Lot Size Map (Sheet LSZ\_012) to change the minimum lot size that applies to part of the site at 9 Palaran Avenue, North Kellyville from 4,000 square metres to 600 square metres; and

- Rezone part of the subject site at 9 Palaran Avenue, North Kellyville from E4 Environmental Living to R2 Low Density Residential. This requires an amendment to the North West Growth Centre Land Zoning Map (Sheet LZN\_012A)

#### 4.3.2 Concept Plan of Subdivision

The Planning Proposal is accompanied by a conceptual plan of subdivision prepared by Robert Moore & Associates Surveyors which illustrates the intended future subdivision of the overall site which would be facilitated by the proposed amendments to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006. This is shown in Figure 7 below and included as Appendix A.



Figure 7:

Conceptual plan of subdivision prepared by Robert Moore & Associates Surveyors

#### 4.4 Part 3: Justification

This Part of the Planning Proposal sets out the case for the proposed amendments to the minimum lot size and E4 Environmental Living zones which currently apply to the eastern part of the subject site pursuant to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

##### 4.4.1 Need for the Planning Proposal

Is the Planning Proposal the result of any strategic study or report?

The Planning Proposal is not the result of any strategic study or report.

However, the proposed amendment is not inconsistent with the intended outcomes of the various planning controls which influenced the application of the E4 Environmental Living zone that applied to

the site with the introduction of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

In particular, the current planning regime being the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and also the North Kellyville Precinct Development Control Plan, anticipated that the E4 Environmental Living part of the site would be amalgamated with the E4 Environmental Living land adjacent to the east of the site.

Such an amalgamated outcome would logically lend itself to a Community title subdivision as anticipated by the planning controls, with the protected vegetation further to the east being retained and managed as a neighbourhood lot. However, this outcome has already been achieved as a result of the approved redevelopment and subdivision of the site immediately to the east, on a standalone basis.

As a result, the subject site has become isolated from any land containing vegetation that needs to be managed and conserved, such that there is no longer a need for a neighbourhood allotment and for subdivision of the site to be on a Community title basis.

*Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The objectives of the E4 zone are to provide for low-impact residential development in areas with special ecological, scientific or aesthetic values and to ensure that residential development does not have an adverse effect on those values.

The site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the North West Growth Centre Native Vegetation Protection Map. The entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation.

In addition, the site is now permanently disconnected from land which does contain vegetation that needs to be managed and conserved.

Accordingly, the part of the site zoned E4 Environmental Living does not have special ecological, scientific or aesthetic values and therefore there is no longer any basis for the eastern part of the subject site to remain zoned E4 Environmental Living. This part of the site should be zoned the same as the balance of the site which is already zoned R2 Low Density Residential given the objectives of the R2 zone are more appropriate and relevant to the land.

In accordance with Clause 4.1C(3)(b) of Appendix 2 of the Growth Centres SEPP any allotment created from a subdivision of land within the E4 Environmental Living zone must not be less than the minimum size shown on the Lot Size Map. A 4,000 square metre minimum lot size applies to the E4 Environmental Living zoned part of the subject site. Notwithstanding this, Clause 6.5 allows subdivision of land in the Zone E4 Environmental Living with a minimum lot size of 600 square metres, however, this is only on a Community title basis in accordance with the *Community Land Development Act 1989* for a neighbourhood scheme. The objectives for Clause 6.5 are to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living and to ensure the land is managed and conserved in a holistic and sensitive manner. Clause 6.5 only allows subdivision on a Community title basis because it anticipates that sensitive land and bushfire asset protection zones in a development will be protected as a neighbourhood allotment, as explained in Section 3.7 of the North Kellyville Precinct Development Control Plan 2018 (DCP 2018).

As detailed above the part of the site zoned E4 Environmental Living does not contain any land that has special environmental values and has become isolated and disconnected from any other lots with special ecological, scientific or aesthetic values as a result of recent development approvals to the north, south and east of the site. Accordingly, the objectives of clause 6.5 have little relevance. Also, the small size of the E4 zoned parcel of land (4,960.7 square metres) and street frontage that will be provided to this land is such that there is no need for any new internal roads. Accordingly, the requirement for a neighbourhood allotment in a subdivision of the site is redundant and there is no need for a requirement for subdivision on a Community title basis.

Whilst Torrens title subdivision of the E4 Environmental Living zoned part of the site is possible, this is only on the basis of a minimum lot size of 4,000 square metres which is inconsistent with the emerging pattern of subdivision surrounding the site.

Given the emerging pattern of subdivision surrounding the site and the size of the E4 zoned parcel of land, the objectives and subdivision controls applicable to E4 zoned land are no longer relevant or appropriate and require amendment to deliver an orderly pattern of development on this part of the site.

In order to facilitate this outcome, there are two potential avenues for amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006, as follows:

Option 1	Option 2
<ul style="list-style-type: none"> <li>Amend the North West Growth Centre Lot Size Map to change the minimum lot size that applies to part of the site from 4,000 square metres to 600 square metres. The 600 square metre lot size is consistent with the size of lots on the immediately adjoining land to the north, east and south.</li> <li>Rezone the subject site from E4 Environmental Living to R2 Low Density Residential. The R2 zone already applies to the majority of the site. The objectives of the R2 zone are more relevant to the land than those that apply to the E4 zone.</li> </ul>	<ul style="list-style-type: none"> <li>Amend the North West Growth Centre Lot Size Map to remove the 4,000 square metre affectation which applies to part of the site; and</li> <li>Amend Clause 6.5 to exempt this site from the application of the clause.</li> </ul>

In considering the two options, it is considered that Option 1 is superior because it avoids the need for a bespoke provision in Clause 6.5 of Appendix 2 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 to specifically exempt its application from the subject site. Option 1 is also superior as the objectives of the R2 zone are more closely aligned with the characteristics of the land. The provision of a 600 square metre lot size for the eastern part of the site will also ensure that the pattern of subdivision relates to the lot sizes on the immediately adjoining land.

The rezoning of the eastern part of the site to R2 Low Density Residential would also remove the application of Clause 6.5 to the future subdivision of the site. This is appropriate given that the objective of Clause 6.5, being to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living and to ensure the land is managed and conserved in a holistic and sensitive manner, is no longer relevant to the subject site.

The alternative approach of simply leaving the eastern part of the site zoned E4 Environmental Living and allowing Torrens title subdivision to lots of less than 4,000 square metres is considered inferior as the E4

Environmental Living zone no longer reflects the site characteristics and context. Furthermore, this approach would require a bespoke amendment to Clause 6.5 of Appendix 2 to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 which is undesirable given it creates further complexity that can be avoided by adopting a more appropriate zone for the land.

For these reasons the Planning Proposal is the best means of achieving the objectives and intended outcomes for the site.

#### 4.4.2 Relationship to Strategic Planning Framework

Is the Planning Proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

##### Greater Sydney Region Plan – A Metropolis of Three Cities

In March 2018 the Greater Sydney Region Plan - A Metropolis of Three Cities was released. The Plan sets a 40-year vision to 2056 and establishes a 20-year plan to manage growth and change for Greater Sydney. The vision for Greater Sydney is a metropolis of three cities — the Western Parkland City, the Central River City and the Eastern Harbour City where most residents live within 30 minutes of their jobs, education and health facilities, services and great places.

The Plan sets out 10 Directions which set out the aspirations for the region and objectives to support the Directions. The 10 Directions are:

- A city supported by infrastructure
- A collaborative city
- A city for people
- Housing the city
- A city of great places
- A well-connected city
- Jobs and skills for the city
- A city in its landscape
- An efficient city
- A resilient city

The Plan provides 40 objectives related to these directions and the themes of infrastructure and collaboration, liveability, productivity, sustainability and implementation. The following table summarises the proposals consistency with relevant objectives of the Plan:

Objective	Comment	Consistent
<b>Housing the city</b>		
Objective 10 Greater Housing Supply	NSW Government has identified that 725,000 additional homes will be needed by 2036 to meet demand based on current population projections. The proposed amendments will facilitate a residential density for the eastern part of the site is consistent with the density of the adjoining development to the east. This will result in	Yes

Objective	Comment	Consistent
	an improvement, albeit relatively minor, to the housing supply which is capable of being delivered by the subject site. This supply is appropriate having regard to the site characteristics and circumstance, and consistent with the housing supply which will occur on the balance of the subject site and within the visual catchment of the site.	
<b>A city in its landscape</b>		
Objective 27 Biodiversity is protected, urban bushland and remnant vegetation is enhanced	Objectives 27 and 28 are concerned with the protection of biodiversity and scenic landscapes. However, the subject site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the North West Growth Centre Native Vegetation Protection Map, and furthermore, the entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation. Accordingly, the proposed amendments do not result in any change in relation to the protection of biodiversity and scenic landscapes beyond the existing circumstance.	Yes
Objective 28 Scenic and cultural landscapes are protected		

**Central City District Plan**

The Central City District Plan was also released in March 2018 and sets out a 20-year vision for the Central City District, which includes Blacktown, The Hills, Parramatta and Cumberland local government areas.

The Central City District Plan sets out priorities and actions for the growth and development of the Central District. The Plan provides the district level framework to implement the directions, objectives, strategies and actions outlined in the Greater Sydney Region Plan.

The Central City District is identified as one of the most dynamic and rapidly growing regions in Australia and one which plays a pivotal role in Greater Sydney's future as an economic and employment powerhouse, a core hub for transport and services, and the home of vibrant and diverse centres and communities.

The following table summarises the Planning Proposal's consistency with relevant components of the Central City District Plan:

Chapter	Comment	Consistent
Infrastructure and Collaboration	The site is within close proximity to the recently completed Kellyville metro station and the proposed amendments to the SEPP will allow for the appropriate development of the site for a commensurate density to that which is consistent with the immediately adjoining land to the east. This will maximise the benefit provided by the recently completed infrastructure.	Yes

Chapter	Comment	Consistent
Liveability	The proposed amendments will facilitate a residential density for the eastern part of the site which is consistent with the density of development on the surrounding land, without the restrictions which apply to sensitive land which contains vegetation which needs to be conserved and managed. This will result in an improvement, albeit relatively minor, to the housing supply which is capable of being delivered by the subject site. This supply is appropriate having regard to the site characteristics and circumstance, and the supply of housing which will occur on the balance of the subject site and within the visual catchment of the site.	Yes
Sustainability	Planning Priority C15 is concerned with protecting and enhancing bushland, biodiversity and scenic and cultural landscapes. However, the subject site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the Native Vegetation Protection Map, and furthermore, the entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation. Accordingly, the proposed amendments do not result in any change in relation to protecting and enhancing bushland, biodiversity and scenic and cultural landscapes.	Yes

**Is the Planning Proposal consistent with a Council's local strategy or other local strategic plan?**

The Hills Shire Council Local Strategic Planning Statement (LSPS) identifies priorities for new housing in the right locations and a diversity of housing. In particular, the LSPS identifies:

The greenfield areas of North Kellyville, Box Hill, Box Hill North and Balmoral Road will continue to provide low and medium density housing, supported by existing and planned infrastructure, to meet demand for detached dwellings, which have been the core of The Hills housing market to date.

It is noted that the site is in a 'Greenfield Area' and not a 'Metropolitan Rural Area' under the LSPS. The focus for Greenfield Areas is for low and medium density housing, whilst protection of rural lands and bushland, biodiversity and scenic landscapes is relevant to the Metropolitan Rural Areas which does not include the subject site.

The Hills Shire Council Housing Strategy specifically identifies a planned 80 per cent increase in population by 2036, with the population of 290,900 people needing a mix of housing. The Strategy specifically identifies that Greenfield areas such as North Kellyville will accommodate most of the Shire's supply of detached homes.

The Planning Proposal is consistent with the identified role of North Kellyville as a Greenfield area which is intended to accommodate a large proportion of the Shire's supply of detached housing, which is a form of housing that the Shire is well known for and which attracts families to the area. This Planning Proposal demonstrates that the current zone and minimum lot size requirement for the eastern portion

of the subject site have become redundant as a result of the pattern of development that has occurred surrounding the site, such that it has become permanently isolated from any land required environmental management. Accordingly, the subject Planning Proposal allows the site to appropriately fulfil its role in the Greenfield area to deliver detached low-density housing.

**Is the Planning Proposal consistent with applicable State Environmental Planning Policies?**

The Planning Proposal is of no consequence in relation to any other State Environmental Planning Policies beyond the proposed amendments to State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

**Is the Planning Proposal consistent with applicable Ministerial Directions (s9.1 directions)?**

The following table summarises the Planning Proposal's consistency with applicable Ministerial Directions:

S.9.1 Direction No. and Title	Comment	Consistent
<b>Employment and Resources</b>		
1.1 Business and Industrial zones	Not applicable.	N/a
1.2 Rural Zones	Not applicable.	N/A
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable.	N/A
1.4 Oyster Aquaculture	Not applicable.	N/A
1.5 Rural Lands	Not applicable.	N/A
<b>Environmental and Heritage</b>		
2.1 Environment Protection Zones	The Planning Proposal does not impact on any environmentally sensitive areas.	Yes
2.2 Coastal Protection	Not applicable.	N/A
2.3 Heritage Conservation	Not applicable.	N/A
2.4 Recreation Vehicle Areas	Not applicable.	N/A
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPS	Not applicable.	N/A
2.6 Remediation of contaminated land	The land is not within an investigation area within the meaning of the Contaminated Land Management Act nor is it on land which	Yes

S.9.1 Direction No. and Title	Comment	Consistent
	<p>development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out.</p> <p>The Planning Proposal relates to land zoned E4 Environmental Living. This zone permits residential development. The proposed R2 zoning of this land will also permit residential development and so no change of use of land is proposed.</p>	
Housing, Infrastructure and Urban Development		
3.1 Residential Zones	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>(a) To encourage a variety and choice of housing types to provide for existing and future housing needs,</li> <li>(b) To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</li> <li>(c) To minimise the impact of residential development on the environment and resource lands.</li> </ul> <p>This Planning Proposal demonstrates that the current zone and minimum lot size requirements for the eastern portion of the subject site have become redundant as a result of the pattern of development that has occurred surrounding the site, such that it has become permanently isolated from any land requiring protection or environmental management. Accordingly, the subject Planning Proposal allows the site to appropriately fulfil its role in the Greenfield area to deliver detached low density housing which is a housing type which is well suited to the future housing needs in the area.</p> <p>The Proposal makes efficient use of existing infrastructure and services, including the recently completed Kellyville metro station.</p> <p>As the Proposal is for a site with no biodiversity protection requirements, there is no adverse impact on the environment and resource lands.</p>	N/A
3.2 Caravan Parks and Manufactured Home Estates	Not applicable.	N/A
3.3 Home Occupations	Not applicable.	N/A
3.4 Integrating land use and transport	This Direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.	Yes

S.9.1 Direction No. and Title	Comment	Consistent
	<p>In accordance with the direction a planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>(a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</p> <p>(b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</p> <p>The <i>Improving Transport Choice – Guidelines</i> provide advice on how the development industry, state agencies, other transport providers, and the community can:</p> <ul style="list-style-type: none"> <li>better integrate land use and transport planning and development</li> <li>provide transport choice and manage travel demand to improve the environment, accessibility and liveability.</li> </ul> <p>The <i>Right Place for Business and Services – Planning Policy</i> plans for a better arrangement of land uses in support of centres and the transport systems which serve them.</p> <p>The planning proposal seeks to facilitate the redevelopment of land for low density housing. The density proposed is appropriate having regard to the density of the surrounding allotments and proximity to public transport.</p>	
3.5 Development Near License Aerodromes	This Direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome. This Direction is not applicable to the Planning Proposal.	N/A
3.6 Shooting Ranges	Not applicable.	N/A
3.7 Reduction in non-hosted short term rental accommodation period	Not applicable.	N/A
<b>Hazard and Risk</b>		
4.1 Acid Sulfate Soils	Not applicable.	N/A
4.2 Mine Subsidence and Unstable Land	Not applicable.	N/A
4.3 Flood Prone Land	The site is not identified as Flood Prone Land.	N/A
4.4 Planning for Bushfire Protection	The site is identified as Bushfire Prone land and is specifically a 'vegetation buffer'. However, the land immediately to the east contains recently constructed low density housing, such that the development of the site for low density residential housing is unlikely to be incompatible with planning for Bushfire Prone Land.	Yes

S.9.1 Direction No. and Title	Comment	Consistent
	The detailed assessment of bushfire impact is a matter to be addressed in a subsequent Development Application.	
Regional Planning		
5.1 Implementation of Regional Strategies (Revoked)	Not applicable.	N/A
5.2 Sydney Drinking Water Catchments	Not applicable.	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.	N/A
5.5 Development in the vicinity of Ellalong, Paxton and Millfield	Revoked.	N/A
5.6 Sydney to Canberra Corridor	Revoked.	N/A
5.7 Central Coast	Revoked	N/A
5.8 Second Sydney Airport: Badgerys Creek	Not applicable.	N/A
5.9 North West Rail Link Corridor Strategy	Not applicable.	N/A
5.10 Implementation of Regional Plans	This direction applies to land to which a Regional Plan has been released by the Minister for Planning. No specific regional plan applies to the site.	N/A
5.11 Development of Aboriginal Land Council Land	Not applicable.	N/A
Local Plan Making		
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.  In accordance with the direction the Proposal does not include provisions that require the concurrence, consultation or referral of	Yes

## LOCAL PLANNING PANEL MEETING 21 APRIL, 2021

## THE HILLS SHIRE

Planning Proposal - 9 Paloran Avenue, North Kellyville

S.9.1 Direction No. and Title	Comment	Consistent
	development applications to a Minister or public authority. Further the Proposal does not identify future development on the site as designated development.	
6.2 Reserving Land for Public Purposes	The Planning Proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.	Yes
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls. The direction applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out.  The proposed amendments to State Environmental Planning Policy (Sydney Region Growth Centres) 2006, referred to as Option 1 in the introduction, are preferred in comparison to Option 2 as they avoid the need for site specific provisions in the SEPP.	Yes
Metropolitan Planning		
7.1 Implementation of A Plan for Growing Sydney	In accordance with this direction Planning Proposals shall be consistent with the NSW Government's A Plan for Growing Sydney published in December 2014. As already discussed, the Planning Proposal is consistent with the relevant provisions of A Plan for Growing Sydney (now known as the Greater Sydney Region Plan - A Metropolis of Three Cities) as it will facilitate additional housing supply in an appropriate location.	Yes
7.2 Implementation of Greater Macarthur Land Release Investigation	Not applicable.	N/A
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not applicable.	N/A
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	The Proposal is not within the North West Priority Growth Area and therefore this direction does not apply	N/A
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.	N/A
7.6 Implementation of Wilton Priority Growth	Not applicable.	N/A

S.9.1 Direction No. and Title	Comment	Consistent
Area Interim Land Use and Infrastructure Implementation Plan		
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable.	N/A
7.8 Implementation of the Western Sydney Aerotropolis Plan	Not applicable.	N/A
7.9 Implementation of Bayside West Precincts 2036 Plan	Not applicable.	N/A
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable.	N/A
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable.	N/A
7.12 Implementation of Greater Macarthur 2040	Not applicable.	N/A

#### 4.4.3 Environmental, Social and Economic Impact

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?

The Planning Proposal will not adversely impact any critical habitat, threatened species, populations or ecological communities, or their habitats. The site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the North West Growth Centre Native Vegetation Protection Map. The entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

There are no negative environmental effects which would arise as a result of the Planning Proposal. There are no hazards that impact the site or environmental effects resulting from the future redevelopment of the site that would preclude consideration of the Planning Proposal. The proposed amendments to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 will support the redevelopment of the eastern portion of the subject site in an appropriate manner which is commensurate with that which

is possible on the balance of the site and also within the visual catchment of the site. Therefore, the proposed amendment will not give rise to any adverse environmental effects.

*Has the Planning Proposal adequately addressed any social and economic effects?*

The Planning Proposal has no expected negative social effects. The Planning Proposal demonstrates a commitment to improving housing diversity and supply in the locality and providing housing that responds to the lifestyle and values of the local community.

**4.4.4 State and Commonwealth Interests**

*Is there adequate public infrastructure for the Planning Proposal?*

Required electricity, telecommunication, gas, water, sewer and drainage services are available to the site.

The site is well served by public transport infrastructure in that the site is within close proximity to the recently completed Kellyville metro station as well as other services and facilities such as the Rouse Hill shopping centre.

The future subdivision of the site will include a \$7.11 contribution to be paid to assist Council to provide the appropriate public facilities which are required to maintain and enhance amenity and service delivery in the area. Furthermore, the future subdivision of the site will also include the requirement for the payment of a special infrastructure contribution in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011.

*What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?*

Relevant public authorities will be consulted following the Gateway determination.

**4.5 Part 4: Mapping**

The Planning Proposal will require the amendment of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006:

- North West Growth Centre Lot Size Map - Sheet LSZ\_012 to change the minimum lot size that applies to part of the site from 4,000 square metres to 600 square metres affectation which applies to part of the site, as illustrated in Figure 8;
- North West Growth Centre Land Zoning Map - sheet LZN\_012A to Rezone the subject site from E4 Environmental Living to R2 Low Density Residential, as illustrated in Figure 9 below.

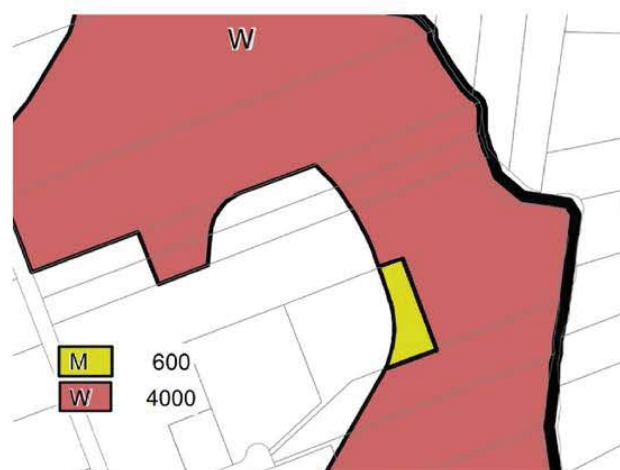
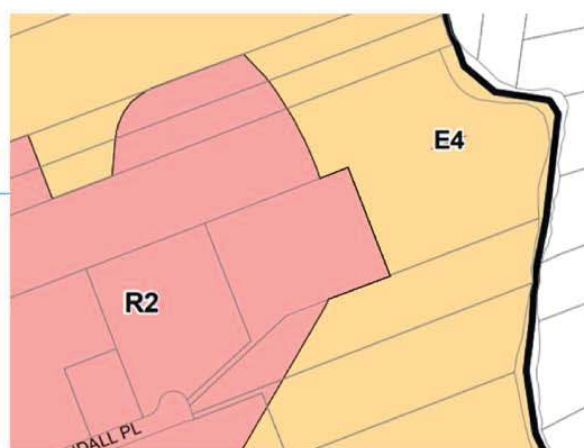


Figure 9:

Proposed amended Land Zoning Map



Planning Proposal - 9 Palaran Avenue, North Kellyville

## 4.6 Part 5: Community Consultation

'A guide to preparing local environmental plans' produced by the NSW Department of Planning and Environment sets out the community consultation requirements for Planning Proposals.

The guide indicates that consultation will be tailored to specific Proposals. The exhibition for low impact Planning Proposals will generally be 14 days and all other Planning Proposals will be 28 days.

A low impact Planning Proposal is described as a Planning Proposal that, in the opinion of the person making the gateway determination is consistent with the pattern of surrounding land use zones and/or land uses; is consistent with the strategic planning framework; presents no issues with regard to infrastructure servicing; is not a principal LEP; and does not reclassify public land.

It would be appropriate to exhibit the Planning Proposal for 14 days as it is considered to be a low impact Planning Proposal because it is consistent with the pattern of surrounding land use zones, consistent with the strategic planning framework, and presents no issues with regard to infrastructure servicing.

Community consultation to be commenced by giving notice of the public exhibition of the Planning Proposal in a local newspaper, on the Council website and in writing to adjoining landowners.

The written notice of the Planning Proposal will:

- give a brief description of the objectives or intended outcomes of the Planning Proposal
- indicate the land affected by the Planning Proposal
- state where and when the Planning Proposal can be inspected
- give the name and address of the relevant planning authority (Canterbury Bankstown Council) for the receipt of submissions
- indicate the last date for submissions
- confirm whether delegation for making the LEP has been issued to the relevant planning authority.

#### 4.7 Part 6: Project Timeline

The project timeline will be determined by The Hills Shire Council.

## 5.0 CONCLUSION

9 Palaran Avenue, North Kellyville is part zoned R2 Low Density Residential and part zoned E4 Environmental Living pursuant to Appendix 2 North Kellyville Precinct Plan of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

In accordance with Clause 4.1C(3)(b) of Appendix 2 of the Growth Centres SEPP any allotment created from a subdivision of land within the E4 Environmental Living zone must not be less than the minimum size shown on the Lot Size Map. A 4,000 square metre minimum lot size applies to the E4 Environmental Living zoned part of the subject site. Notwithstanding this, Clause 6.5 allows subdivision of land in the Zone E4 Environmental Living with a minimum lot size of 600 square metres, however, this is only on a Community title basis in accordance with the *Community Land Development Act 1989* for a neighbourhood scheme. The objectives for Clause 6.5 are to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living and to ensure the land is managed and conserved in a holistic and sensitive manner. Clause 6.5 only allows subdivision on a Community title basis because it anticipates that sensitive land and bushfire asset protection zones in a development will be protected as a neighbourhood allotment, as explained in Section 3.7 of the North Kellyville Precinct Development Control Plan 2018 (DCP 2018).

The part of the site zoned E4 Environmental Living does not contain any land that has special environmental values and has become isolated and disconnected from any other lots with special ecological, scientific or aesthetic values as a result of recent development approvals to the north, south and east of the site. Accordingly, the objectives of the E4 zone and clause 6.5 have little relevance. Also, the small size of the E4 zoned parcel of land (4,960.7 square metres) and street frontage that will be provided to this land is such that there is no need for any new internal roads. Accordingly, the requirement for a neighbourhood allotment in a subdivision of the site is redundant and there is no need for a requirement for subdivision on a Community title basis.

Whilst Torrens title subdivision of the E4 Environmental Living zoned part of the site is possible, this is only on the basis of a minimum lot size of 4,000 square metres which is inconsistent with the emerging pattern of subdivision surrounding the site.

Given the emerging pattern of subdivision surrounding the site and the size of the E4 zoned parcel of land, the objectives and subdivision controls applicable to E4 zoned land are no longer relevant or appropriate and require amendment to deliver an orderly pattern of development on this part of the site.

The purpose of the Planning Proposal is to allow the orderly and economic development of the subject site by facilitating subdivision of the part of the site currently zoned E4 Environmental Living in a manner which more appropriately reflects the site characteristics and surrounding context.

On this basis, the subject Planning Proposal seeks the following amendments to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006:

- Amend the North West Growth Centre Lot Size Map to change the minimum lot size that applies to part of the site at 9 Palaran Avenue from 4,000 square metres to 600 square metres; and
- Rezone the part of the subject site at 9 Palaran Avenue, North Kellyville which is currently zoned E4 Environmental Living to R2 Low Density Residential.

For the reasons outlined in this report it is appropriate for The Hills Shire Council, as the relevant planning authority, to support the Planning Proposal.

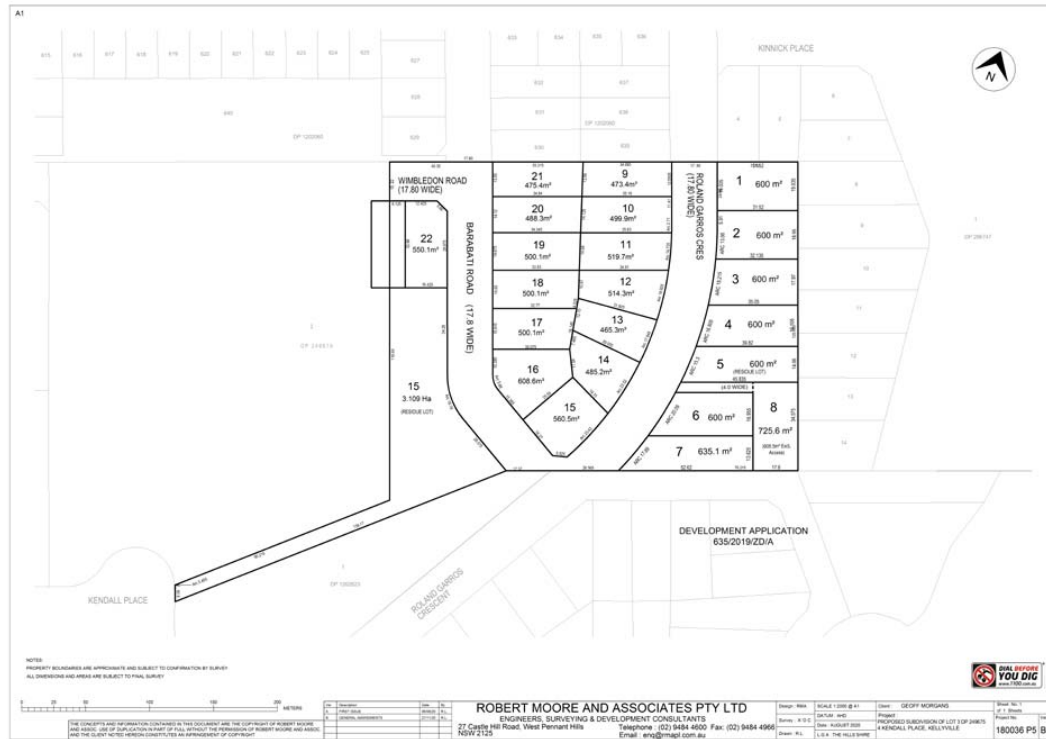
SUTHERLAND & ASSOCIATES PLANNING

APPENDIX A

Robert Moore & Associates

CONCEPT PLAN OF SUBDIVISION

A



**LOCAL PLANNING PANEL – THE HILLS SHIRE COUNCIL**

**DETERMINATION OF THE LOCAL PLANNING PANEL ON 22 APRIL 2021  
– DETERMINATION MADE ELECTRONICALLY**

**PRESENT:**

Julie Walsh	Chair
Penny Holloway	Expert
Heather Warton	Expert
Damian Kelly	Community Representative

**DECLARATIONS OF INTEREST:**

Nil Disclosed

**COUNCIL STAFF:**

The Panel were briefed by the following Council Staff on 21 April 2021:

David Reynolds	-	Group Manager – Shire Strategy, Transformations & Solutions
Nicholas Carlton	-	Manager – Forward Planning
Megan Munari	-	Principal Coordinator, Forward Planning
Kayla Atkins	-	Strategic Planning Coordinator
Gideon Tam	-	Town Planner

**ITEM 1: LOCAL PLANNING PANEL – PLANNING PROPOSAL – 9  
PALARAN AVENUE, NORTH KELLYVILLE (3/2021/PLP)****COUNCIL OFFICER’S RECOMMENDATION:**

The planning proposal for land at 9 Palaran Avenue, North Kellyville is suitable to be forwarded to the Department of Planning, Industry and Environment for Gateway Determination, subject to the following:

- a) The planning proposal be amended to include a local provision that would apply a maximum cap of 7 dwellings to the portion of land currently zoned E4 Environmental Living; and
- b) Prior to Council’s consideration of the planning proposal, the Proponent should submit a Bushfire Assessment Report that demonstrates compliance with Planning for Bush Fire Protection 2019, in satisfaction of the technical requirement under Section 9.1 Ministerial Direction 4.4.

**PANEL’S ADVICE:**

The planning proposal for land at 9 Palaran Avenue, North Kellyville is suitable to be forwarded to the Department of Planning, Industry and Environment for Gateway Determination, subject to the following:

- a) The planning proposal be amended to include a local provision that would apply a maximum cap of 7 dwellings to the portion of land currently zoned E4 Environmental Living; and
- b) Prior to Council’s consideration of the planning proposal, the Proponent should submit a Bushfire Assessment Report that demonstrates compliance with Planning for Bush Fire Protection 2019, in satisfaction of the technical requirement under Section 9.1 Ministerial Direction 4.4.

**VOTING:**

Unanimous

ATTACHMENT 3



# *North Kellyville Precinct*

*Development Control Plan  
March 2018*

March 2018

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# 3.0

## *Land Development*

### 3.1.3 Shared Driveways

**Shared driveways** are privately owned and maintained driveways that serve two or more dwellings through a titling arrangement such as a reciprocal right of way or community title. Shared driveways are usually of minimal dimensions for vehicle access to lots with only a single access to the street network. Garbage collection is usually not a function. Shared driveways are a useful subdivision device for a small number of dwellings with otherwise difficult access or unavoidable block configurations, but are not a substitute in blocks designed with significant numbers of dwellings requiring rear access by laneways.

#### OBJECTIVES

- a. To minimise the impact of vehicle access points on the quality of the public domain and pedestrian safety.
- b. To provide safe and convenient access to garages, carports and parking areas.
- c. To clearly define public and private spaces, such that driveways are for the sole use of residents.
- d. To permit casual surveillance of private driveways from dwellings and from the street.

#### CONTROLS

1. Shared driveways are to be constructed as one of three general types, depending on block geometry and garages to be accessed. Refer to examples in **Figure 19**.
2. Shared driveways are to have the smallest configuration possible to serve the required parking facilities and vehicle turning movements.
3. The driveway crossing the verge between the property boundary and the kerb is to have a maximum width of 5.4 metres.
4. The location of driveways is to be determined with regard to dwelling design and orientation, street gully pits and tree bays and is to maximise the available on-street parking.
5. The maximum travelling distance from a public road to a garbage collection area within a shared driveway is 70m. Where garbage collection is required to occur within the shared driveway (i.e. when an alternative collection point is not available), the layout is to be designed such that no reversing movements are required to be undertaken to enable a garage truck to enter and leave in a forward direction. A minimum pavement width of 5m and a turning circle with sweep turning paths overlaid into the design plan shall be submitted to demonstrate compliance with this requirement.
6. Access to allotments in the vicinity of roundabouts and associated splinter islands shall not be provided within 10m of the roundabout.
7. Driveways are not to be within 0.5m of any drainage facilities on the kerb and gutter.
8. Shared driveways are to have soft landscaped areas on either side, suitable for infiltration.
9. Shared driveways must be in accordance with the shareway principles and vehicle manoeuvring requirements of the **Department of Planning and Environment Delivery Note: Laneways**.

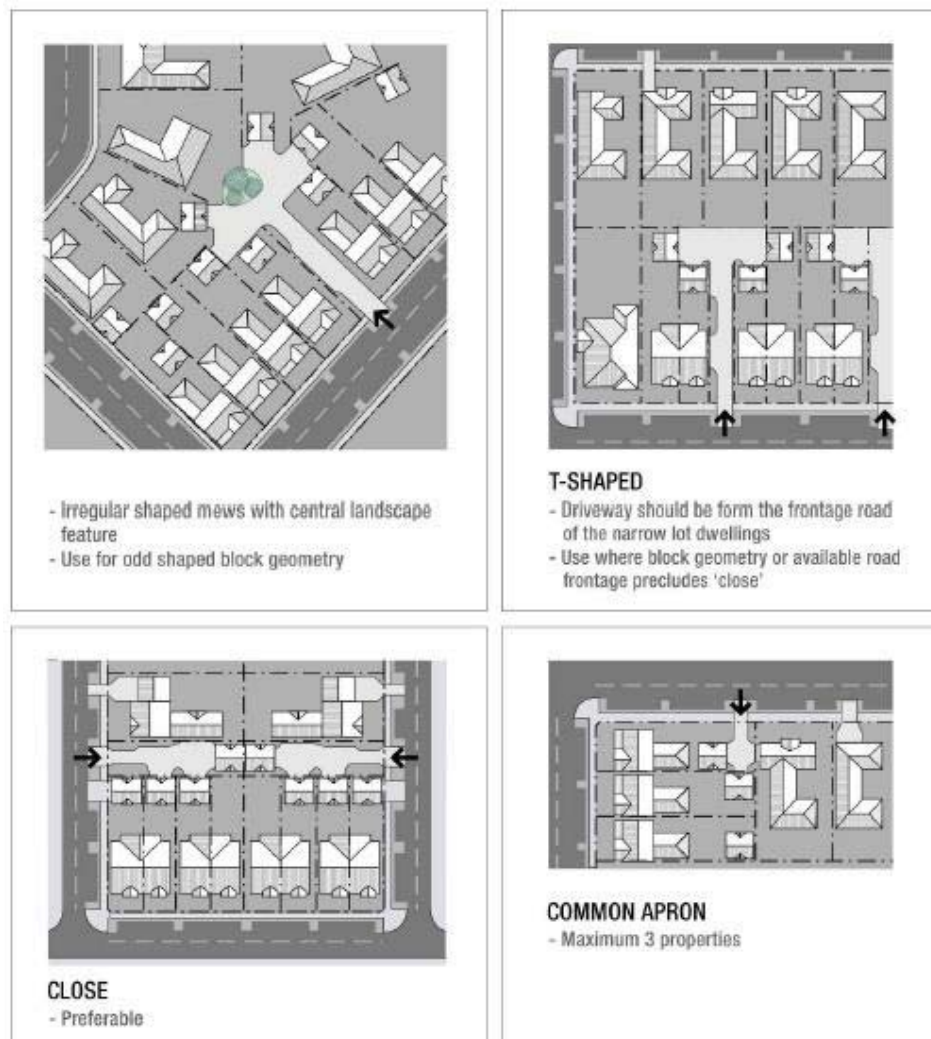


Figure 19. Indicative examples of shared driveways

### 3.2 Sub-precincts

Development sub-precincts are areas generally bound by fixed roads and indicated in **Figure 20**.

#### OBJECTIVES

1. To allow departure from the Indicative Layout Plan; and
2. To ensure that access, drainage and servicing is appropriately provided to all sub-precincts.

#### CONTROLS

An applicant may depart from the subdivision layout within a sub-precinct provided that:

1. The block layout and subdivision objectives and controls outlined in **Section 3.6.1** are met;
2. The level of access to fixed roads is retained;
3. The provision of drainage and service infrastructure is retained; and
4. Any variation from the Indicative Layout Plan does not limit the development potential for adjoining precincts to meet the objectives of the Indicative Layout Plan.
5. Where any variation to the residential street network indicated at **Figure 6** is proposed, the alternative street network is to be designed to achieve the following principles:
  - a. a permeable street network that is based on a modified grid system;
  - b. maximise connectivity across sub-precincts;
  - c. maximise connectivity between residential areas and community facilities, open space and centres;
  - d. encourage walking and cycling and reduce travel distances;
  - e. take account of topography and accommodate significant vegetation;
  - f. optimise solar access opportunities for dwellings;
  - g. provide frontage to and maximise surveillance of open space and riparian corridors;
  - h. provide views and vistas to landscape features and visual connections to nodal points and centres;
  - i. maximise the use of water sensitive urban design measures; and
  - j. minimise the use of culs-de-sac. If required, the maximum number of dwellings to be served by culs-de-sac is 10.

#### Neighbourhood Block Design

1. The size of the block must facilitate circulation on public streets through each sub precinct.
2. The subdivision layout is to create a legible and permeable street hierarchy that responds to the natural site topography, the location of existing significant trees and solar design principles.
3. Orientate blocks, wherever possible, to maximise the number of east, west and south facing lots and to minimise the number of narrow north facing blocks.
4. Variation in the size of the blocks is permitted provided that a regular layout of streets allows for ease of circulation, and that the number of streets as indicated in the Indicative Layout Plan (refer to **Figure 2**) is not reduced.
5. Maximum block dimensions are not to exceed 85 metres x 220 metres.

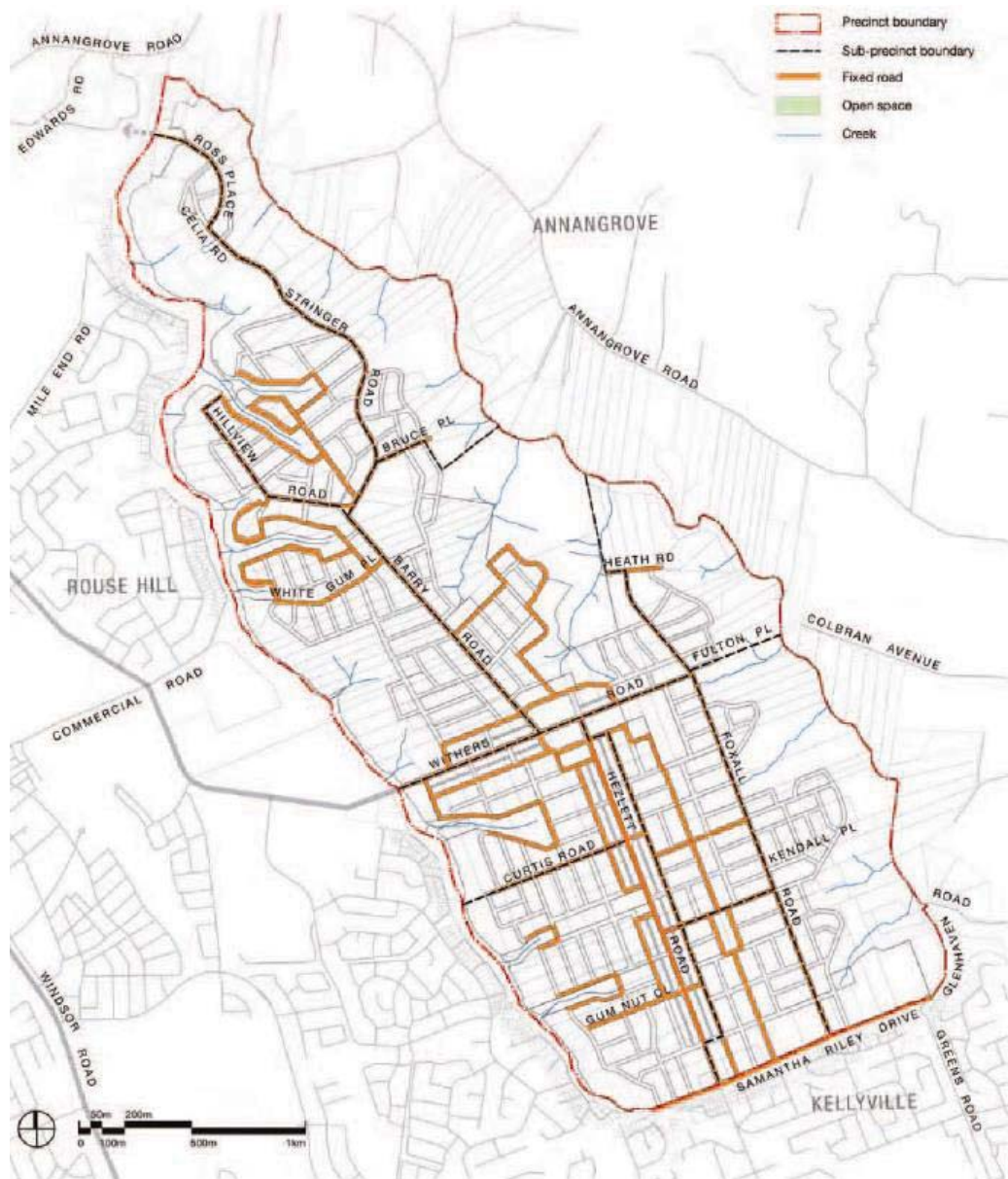


Figure 20 Sub Precincts

### 3.3 Public Transport

#### OBJECTIVES

1. Encourage the use of public transport through the provision of integrated bus, pedestrian and cycle routes.
2. To encourage the provision and use of public transport within North Kellyville.
3. To ensure clear, safe pedestrian links to public transport stops.
4. To ensure that the majority of residential lots are within 400 metres distance from an existing or proposed bus stop.

#### CONTROLS

1. Bus stops should be provided generally in accordance with **Figure 21** and be indicated on the subdivision DA drawings where the bus route is known. The final location of bus stops will be determined by Council's Local Traffic Committee.
2. Bus stops should be provided on-street and not within indented bays. Bus shelters are to be provided at key stops and installed at the subdivision construction stage by the developer.

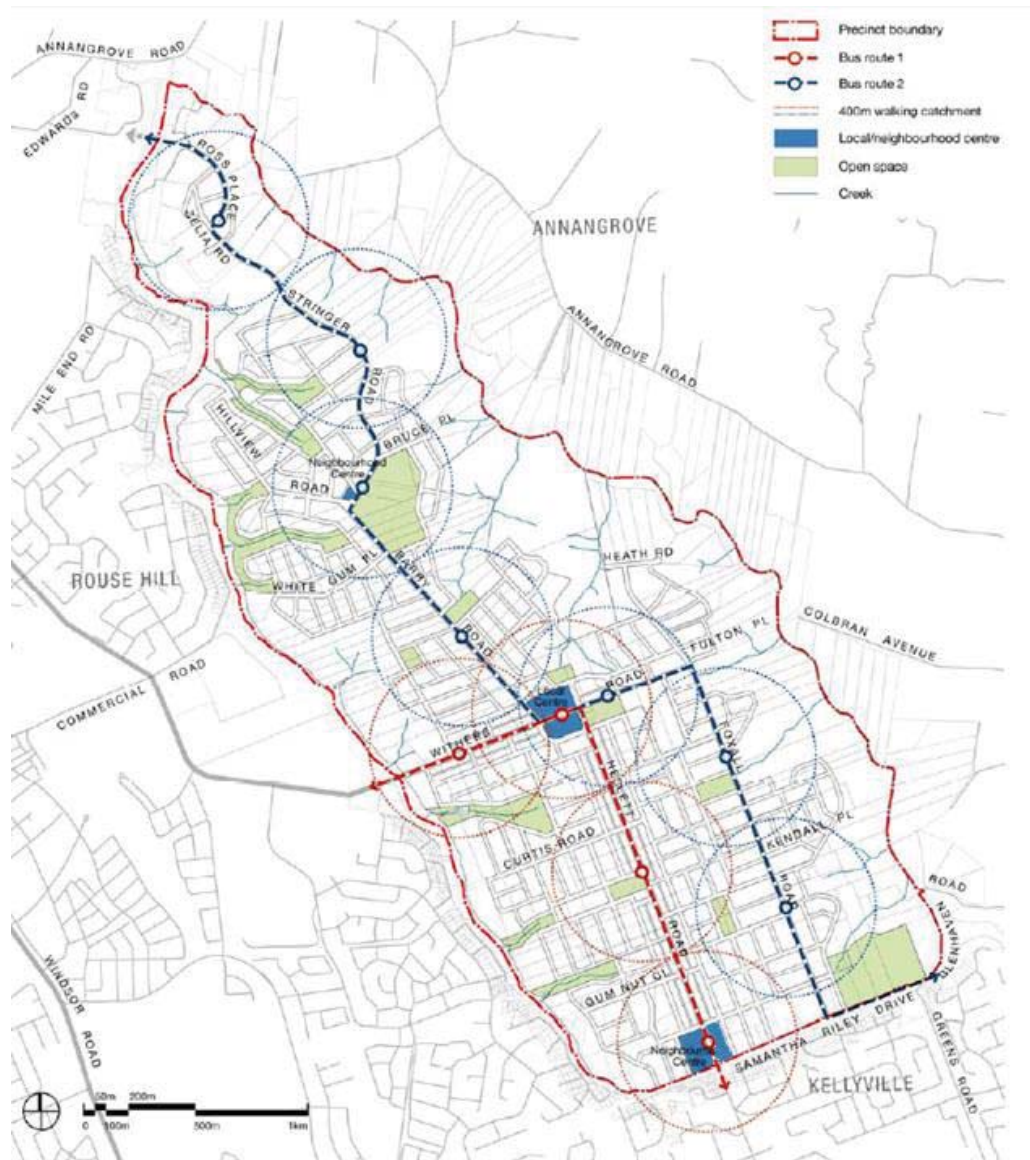


Figure 21. Public Transport

### **3.4 Pedestrian and Cycle Network**

#### **OBJECTIVES**

1. To provide a convenient, efficient and safe network of pedestrian and cycleway paths for the use of the community, within and beyond the site.
2. To encourage residents to walk or cycle, in preference to using motor vehicles, as a way of gaining access to the schools, shops, and local community and recreation facilities.
3. To avoid duplication by allowing pedestrian pathways and cycleways to be located within parks and corridors wherever practical.

#### **CONTROLS**

1. Footpaths and cycle paths are to be provided in accordance with street sections provided in **Section 3.1** Street Network and Design
2. All pedestrian and cycle routes are to be consistent with the Planning Guidelines for Walking and Cycling (DIPNR & RTA 2004) and Council's Pedestrian Access and Mobility Plan 2003.
3. Pedestrian paths, cycle routes and facilities in public spaces are to be safe, well lit, clearly defined, functional and accessible to all.
4. Pedestrian paths, cycle paths and pedestrian refuge islands are to be designed to be fully accessible by all in terms of access points and gradients, generally in accordance with Australian Standard 1428:1-4.
5. Pedestrian and cycle pathways are to be constructed as part of the infrastructure works for each residential stage with detailed designs to be submitted with the construction certificate application. Concept approval will be required at DA stage.
6. Pedestrian and cycle routes shall be in accordance with **Figure 22**.

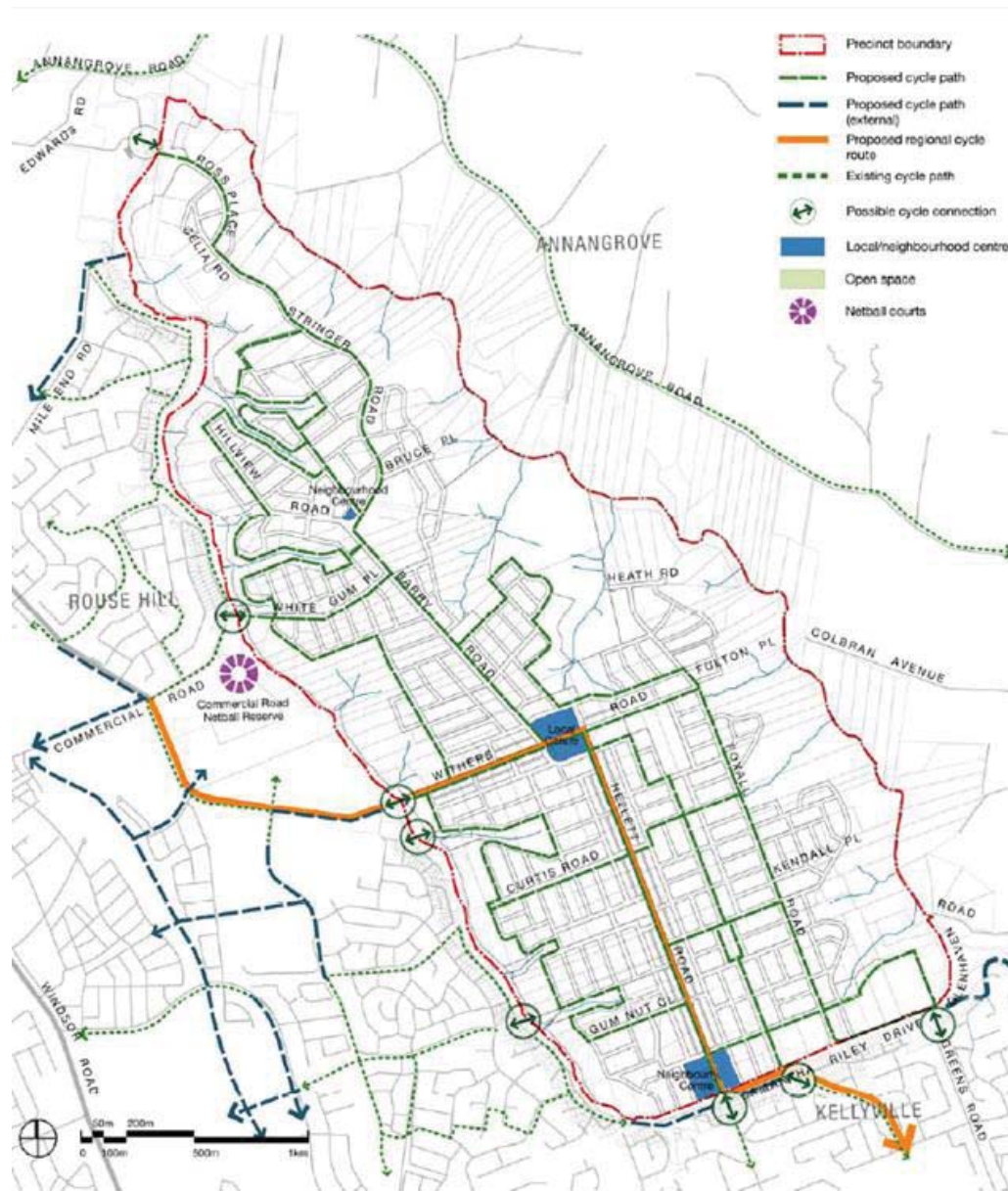


Figure 22. Pedestrian and Bicycle Network

### **3.5 Public Domain Works**

#### **OBJECTIVES**

1. To meet the public open space and recreational needs of residents.
2. To provide an equitable distribution of public open space and recreation opportunities.
3. To ensure a high quality of design and embellishment of all public open space.
4. To ensure environmentally and visually sensitive land contributes to the landscape character of the Precinct.
5. To ensure that all the public domain elements like street trees, paving, street furniture, lighting, and signage contribute to a consistent street character.
6. To ensure that adequate provision is made for utilities.
7. To ensure that all utilities are integrated into the development and are unobtrusive.
8. To ensure that all parks are managed to the extent required to provide acceptable asset protection to adjoining dwellings.

#### **CONTROLS**

##### **Public parks and landscape**

1. Public parks should be provided in accordance with **Figure 23**.
2. Parks should be located and designed to accommodate remnant vegetation and where appropriate, should be linked to and integrated with riparian corridors. They should also be located to take advantage of views and vistas.
3. Parks should be generally bordered by streets on all sides with houses oriented towards them for surveillance. Smaller lot housing is encouraged around parks.
4. Riparian corridors and conservation areas are to provide opportunities for pedestrian and cycle ways, fitness trails and additional open space in a manner that maintains the environmental significance of these areas. A range of themed elements such as boardwalks, eco-pathways, and educational tracks should be utilised in appropriate locations (i.e. within the riparian corridor buffer).
5. A Landscape Plan is required to accompany a subdivision DA creating any park and is to provide details on elements such as:
  1. asset protection zones
  2. earthworks
  3. furniture
  4. plant species and sizes (with consideration for bush fire risks)

5. play equipment
6. utilities and services
7. public art
8. hard and soft landscaping treatments
9. signage
10. any entry statements
11. waste facilities
12. any other embellishment.

**Street Planting**

1. Street trees are required for all streets. Street planting is to:
  - Be consistently used to distinguish between public and private spaces and between different classes of street within the street hierarchy;
  - Minimise risk to utilities and services;
  - Be durable and suited to the street environment and, wherever appropriate, include endemic species;
  - Maintain adequate lines of sight for vehicles and pedestrians, especially around driveways and street corners;
  - Provide appropriate shade; and
  - Provide an attractive and interesting landscape character and clearly define public and private areas, without blocking the potential for street surveillance.
2. Street trees will be required to be planted at the time of subdivision construction. Street trees will be protected with tree guards and a 12-month bond will be imposed to ensure the preservation of each tree.
3. Street tree planting is to be provided to all streets with a spacing of between 7 and 10 metres, with a minimum of one tree per lot frontage. Corner lots will have a minimum of two street trees and normally three trees. The location of street trees must complement proposed driveway locations.
4. Street tree species must be in accordance with Council's list of preferred planting species in **Appendix B**.
5. Street tree species must be consistent with Council's Non- Indigenous Planting Zone Map in **Appendix B**.
6. All enhanced collector roads are to be planted with a consistent species of tree in order to provide a boulevard treatment of the streetscape.
7. Landscape works in roundabout islands may include low-maintenance groundcover planting and native grasses with a mature height of up to 0.5 metres as well as clear-stemmed tree planting. A metered water supply point and subsurface drainage is required in all small island planter beds.
8. Access streets located adjacent to arterial roads are to include landscape treatment of the verge adjoining the arterial road. Road verges provide opportunities for unifying the appearance and landscape character of the area and should be provided as a continuous design feature along the length of the arterial road.

**Signage, Street Furniture, Lighting and Public Art**

1. Signage, street furniture and lighting is to be:
  - Consistent with BHSC DCP 2007 Part D Section 3 Landscaping;
  - Designed to reinforce the distinct identity of the development;
  - Coordinated in design and style;
  - Located so as to minimise visual clutter and obstruction of the public domain; and
  - Of a colour and construction agreed by Council.
2. The integration of artworks into the design of public spaces is encouraged.
3. Artworks should, where possible, serve a dual role, e.g. as play equipment for children, informal seating or a marker for a meeting place.
4. Locating entry signage and the like within a public road reserve is subject to Council agreement.
5. The location and design of signage and street furniture is to be indicated on engineering construction drawings.
6. All lighting proposed is to be identified with the engineering plans accompanying an application for a Construction Certificate. The level of street lighting is to be designed to meet the current Australian Standards AS/NZS 1158 series.

**Utilities**

1. Gas and water services may be located in a shared trench on one side of the street and electricity power and telephone located in a shared trench on the other side of the street. The North Kellyville Precinct is also to be serviced with a recycled water supply, which will require an increase in Sydney Water's service allocation.
2. All development shall incorporate underground electricity reticulation and telecommunications.
3. Any existing aboveground electricity reticulation services shall be relocated underground with the exception of main transmission lines.
4. Where agreement to develop shared trench practices cannot be met, or location of services are unable to be limited to one side of the road, the alignment of services shall be to a standard acceptable to Council.
5. Utilities and services are to be supplied and constructed in accordance with the requirements of the relevant authority.
6. Details of the location of all sewer reticulation mains are to be supplied to Council for assessment of environmental and property considerations.
7. Pipes and conduits through bushland areas and areas with significant vegetation cover are to be avoided. Where it cannot be avoided, pipes are to be or under-bored with the aid of small machinery, causing minimal disturbance to vegetation and exposed rock outcrops.
8. Development is to have a water supply for fire-fighting purposes in accordance with the NSW Rural Fire Service's *Planning for Bushfire Protection 2006* (as amended).

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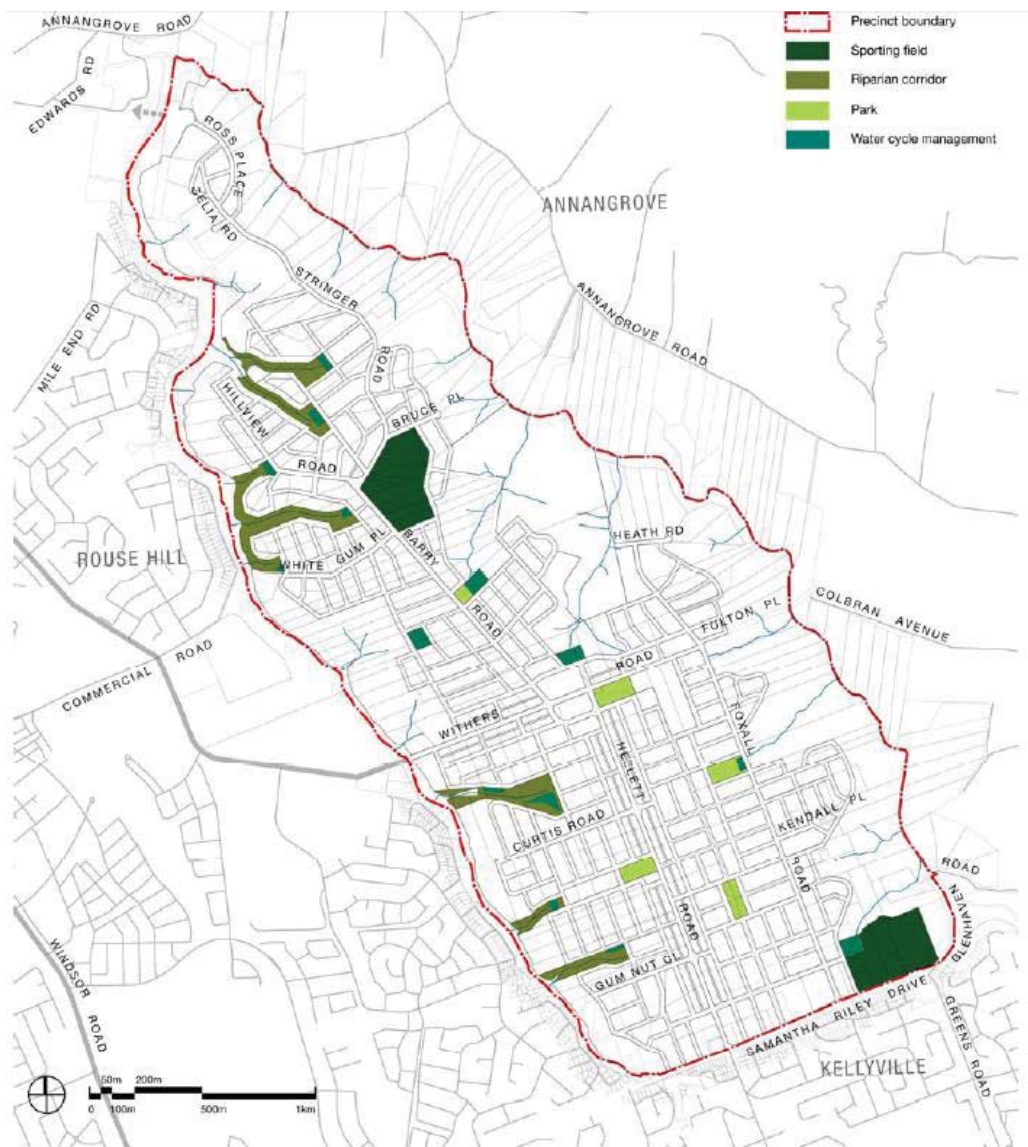


Figure 23. Open Space

### 3.6 Residential Subdivision

#### 3.6.1 Block and Lot Layout

##### OBJECTIVES

- a. To establish a clear urban structure that promotes a 'sense of neighbourhood' and encourages walking and cycling.
- b. To efficiently utilise land and achieve the target dwelling yield for the relevant Precinct.
- c. To emphasise the natural attributes of the site and reinforce neighbourhood identity through the placement of visible key landmark features, such as parks, squares and landmark buildings.
- d. To optimise outlook and proximity to public and community facilities, parks and public transport with increased residential density.
- e. To encourage variety in dwelling size, type and design to promote housing choice and create attractive streetscapes with distinctive characters.
- f. To accommodate a mix of lot sizes and dwelling types across a precinct.
- g. To establish minimum lot dimensions for different residential dwelling types.

##### CONTROLS

##### BLOCKS

11. Residential neighbourhoods are to be focused on elements of the public domain such as a school, park, retail, or community facility that are typically within walking distance.
12. Subdivision layout is to create a legible and permeable street hierarchy that responds to the natural site topography, the location of existing significant trees and site features, place making opportunities and solar design principles.
13. Pedestrian connectivity is to be maximised within and between each residential neighbourhood with a particular focus on pedestrian routes connecting to public open space, bus stops and railway stations, educational establishments and community/recreation facilities.
14. Street blocks are to be generally a maximum of 250m long and 70m deep. Block lengths in excess of 250m may be considered by Council where pedestrian connectivity, stormwater management and traffic safety objectives are achieved. In areas around neighbourhood and town centres, the block perimeters should generally be a maximum of 520m (typically 190m x 70m) to increase permeability and promote walking.

##### LOTS

15. Minimum lot sizes for each dwelling type will comply with the minimum lot size provisions permitted by the Sydney Region Growth Centres SEPP, summarised here as **Table 7**. In certain density bands, variations to some lot sizes may be possible subject to clauses in the Sydney Region Growth Centres SEPP.
16. Minimum lot frontages applying to each density band will comply with **Table 8**. Lot frontage is measured at the street facing building line as indicated in **Figure 24**.

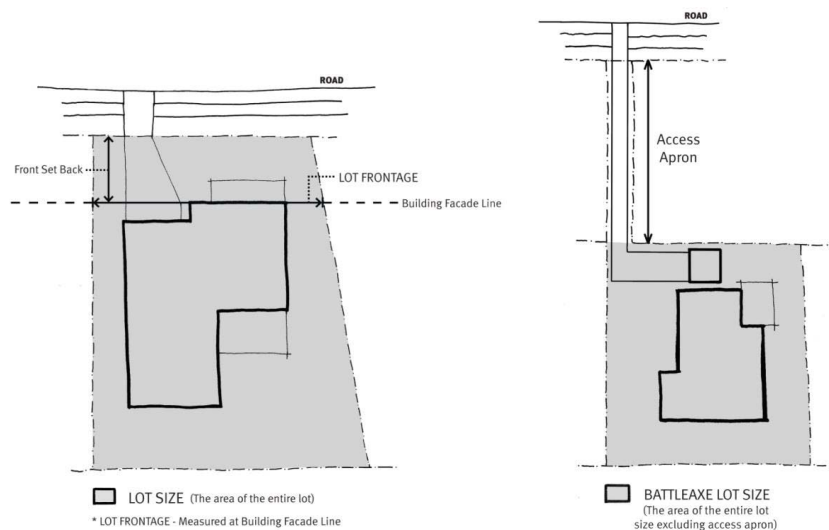
**Table 7** Minimum lot size by density bands

	R1 General Residential	R2 Low Density Residential	R3 Medium Density Residential
Minimum Net Residential Target (dwellings/Ha)	12.5	10	20
Dwelling House (base control)	300	360	300
With BEP	240	360	225
As Integrated DA	240	360	200
Studio Dwelling	No minimum lot size as strata development not subject to minimum lot size controls		
Secondary Dwelling	450	450	In principle lot
Dual Occupancy	600	600	500
Semi Detached Dwelling	300	300	150
Attached Dwelling	1500	Not permissible	375
Multi Dwelling Housing	1500	Not permissible	1500
Manor Homes	Not permissible	Not permissible	600
Residential Flat Buildings	4000	Not permissible	2000

**Table 8** Minimum lot frontages by density bands

Minimum Lot Frontages	Net Residential Density Target (dw/Ha)			
		10 to 12.5dw/Ha	15dw/Ha	20 to 45dw/Ha
	Front Loaded	12.5m	9m	7m
	Rear Loaded	4.5m	4.5m	4.5m

**Note:** The combination of the lot frontage width and the size of the lot determine the type of dwelling that can be erected on the lot, and the development controls that apply to that dwelling.

**Figure 24.** Measurement of minimum lot widths and lot area

17. A range of residential lot types (area, frontage, depth, zero lot and access) must be provided to ensure a mix of housing types and dwelling sizes and to create coherent streetscapes with distinctive garden suburban, suburban and urban characters across a neighbourhood.
18. In density bands  $\leq 20dw/ha$  no more than 40% of the total residential lots proposed in a street block may have frontage of less than 10m wide.
19. In density bands  $\leq 25dw/ha$ , total lot frontage for front accessed lots greater than or equal to 7m and less than 9m should not exceed 20% of any block length due to garage dominance and on-street parking impacts.
20. Lots should be rectangular. Where lots are an irregular shape, they are to be large enough and oriented appropriately to enable dwellings to meet the controls in this DCP.

21. Where residential development adjoins land zoned RE1 Public Recreation or SP2 Drainage, subdivision is to create lots for the dwelling and main residential entry to front the open space or drainage land.
22. The orientation and configuration of lots is to be generally consistent with the following subdivision principles:
- Smallest lots achievable for the given orientations fronting parks and open space with the larger lots in the back streets;
  - Larger lots on corners;
  - North to the front lots are either the widest or deepest lots, or lots suitable for residential development forms with private open space at the front. Narrowest lots with north to the rear.
23. Preferred block orientation is established by the road layout on the Indicative Layout Plan in the relevant Precinct Schedule. Optimal lot orientation is east-west, or north-south where the road pattern requires. Exceptions to the preferred lot orientation may be considered where factors such as the layout of existing roads and cadastral boundaries, or topography and drainage lines, prevent achievement of the preferred orientation.
24. An alternative lot orientation may be considered where other amenities such as views and outlook over open space are available, and providing appropriate solar access and overshadowing outcomes can be achieved.

**Note:** *The combination of the lot frontage width and the size of the lot determine the type of dwelling that can be erected on the lot, and the development controls that apply to that dwelling.*

#### **ZERO LOT LINES**

25. The location of a zero lot line is to be determined primarily by topography and should be on the low side of the lot to minimise water penetration and termite issues. Other factors to consider include dwelling design, adjoining dwellings, landscape features, street trees, vehicle crossovers and the lot orientation as illustrated at **Figure 40**.
26. On all lots where a zero lot line is permitted, the side of the allotment that may have a zero lot alignment must be shown on the approved subdivision plan.
27. Where a zero lot line is nominated on an allotment on the subdivision plan, the adjoining (burdened) allotment is to include a 900mm easement for single storey zero lot walls and 1200mm for two storey zero lot walls to enable servicing, construction and maintenance of the adjoining dwelling. No overhanging eaves, gutters or services (including rainwater tanks, hot water units, air-conditioning units or the like) of the dwelling on the benefited lot will be permitted within the easement. Any services and projections permitted under Clause 4.4 (6) within the easement to the burdened lot dwelling should not impede the ability for maintenance to be undertaken to the benefitted lot.
28. The S88B instrument for the subject (benefited) lot and the adjoining (burdened) lot shall include a note identifying the potential for a building to have a zero lot line. The S88B instrument supporting the easement is to be worded so that Council is removed from any dispute resolution process between adjoining allotments.

For more information, refer to the **Department of Planning and Environment Delivery Notes: Zero Lot Boundaries and Building Envelope Plans**.

#### **SUBDIVISION OF SHALLOW LOTS**

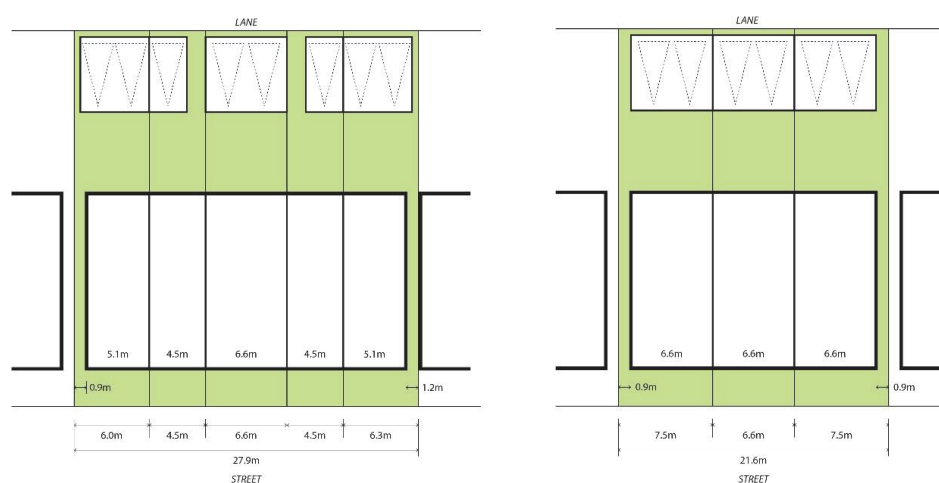
29. Shallow lots (typical depth 14-18m, typical area <200sqm) intended for double storey dwellings should be located only in locations where it can be demonstrated that impacts on adjoining lots, such as overshadowing and overlooking of private open space, satisfy the requirements of the DCP. For lots over 225sqm where development is not

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Integrated Assessment, the Building Envelope Plan should demonstrate in principle how DCP requirements such as solar access and privacy to neighbouring private open spaces will be satisfied.

#### SUBDIVISION FOR ATTACHED OR ABUTTING DWELLINGS

30. Subdivision of lots for Torrens title attached or abutting dwellings must take into account that construction will be in 'sets'. A 'set' is a group of attached or abutting dwellings built together at the same time that are designed and constructed independently from other dwellings.
31. The maximum number of attached or abutted dwellings permissible in a set is six.
32. The composition of sets needs to be determined in the subdivision design to take into account the lot width required for a side setback to the end dwellings in each set. Examples of lot subdivisions for sets are illustrated in **Figure 25**



**Figure 25.** Two examples of lot subdivision for 'sets' of attached or abutting terraces.

#### RESIDENTIAL FLAT BUILDINGS

33. A person may not amalgamate two or more adjoining allotments after principle subdivision to create a larger lot that achieves the minimum lot size required for residential flat buildings.

#### 3.6.2 Battle-axe Lots

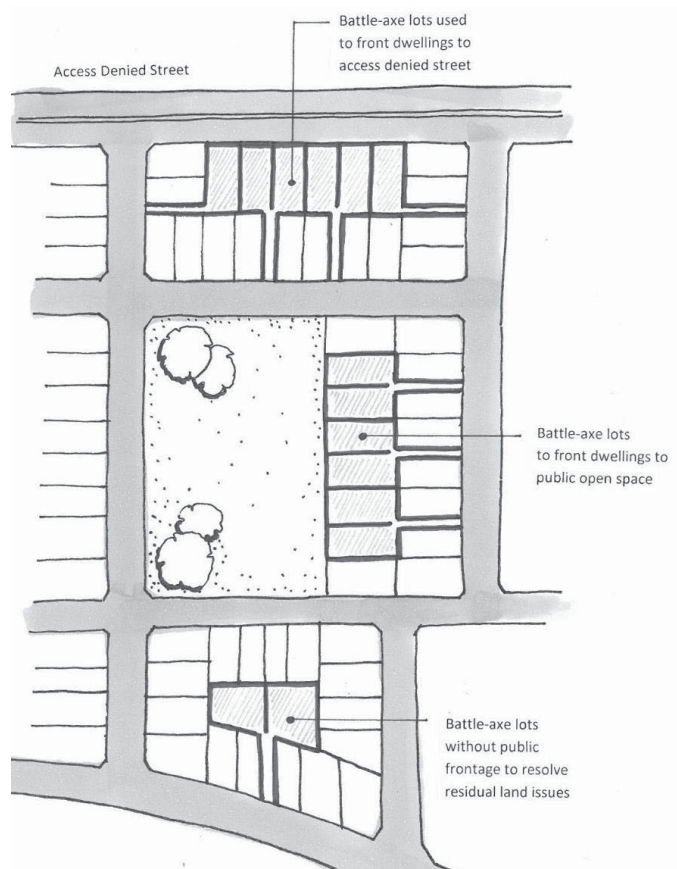
##### OBJECTIVES

- a. To limit battle-axe lots to certain circumstances.

- b. To ensure that where a battle-axe lot without public road or open space frontage is provided, their amenity and the amenity of neighbouring lots is not compromised by their location.
- c. To enable battle-axe shaped lots or shared driveway access to lots fronting access denied roads.

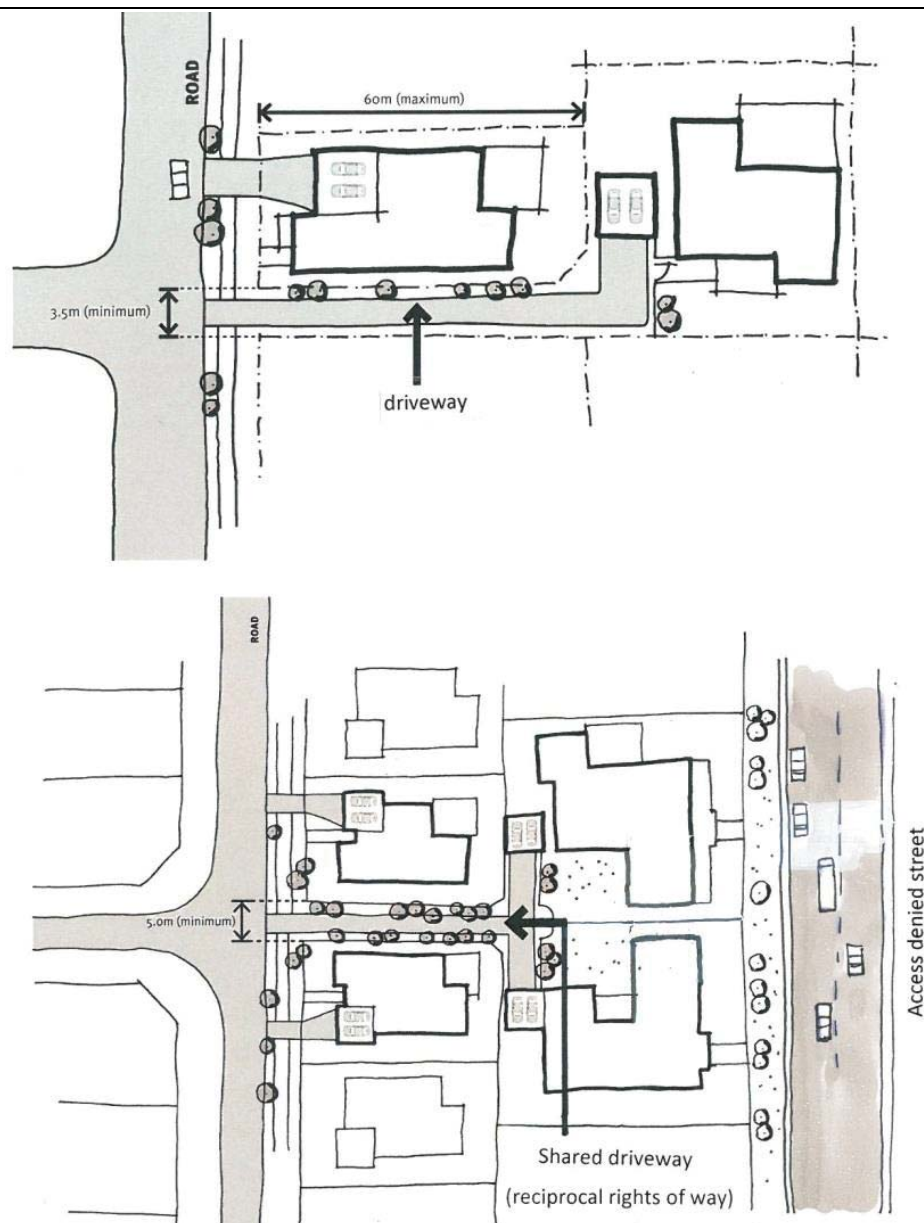
#### CONTROLS

1. Principles for the location of battle-axe lots are illustrated at **Figure 26**.
2. Subdivision layout should minimise the use of battle-axe lots without public frontage to resolve residual land issues.



**Figure 26.** Examples of locations of battle-axe lots

3. In density bands 10, 15 and 20dw/Ha, the minimum site area for battle-axe lots without any street or park frontage is 500m<sup>2</sup> (excluding the shared driveway) and only detached dwelling houses will be permitted.
4. The driveway or shared driveway will include adjacent planting and trees, as indicated in **Figure 27**.
5. Driveway design, including dimensions and corner splays, is to be in accordance with Council's Engineering Specifications.
6. Any future subdivision applicable to land at 9 Palaran Avenue, North Kellyville (Lot 3 DP 249675), which is subject to a minimum lot size of 600m<sup>2</sup>, must not result in the creation of battle-axe lots.



**Figure 27.** Examples of driveways and shared driveways for battle-axe lots

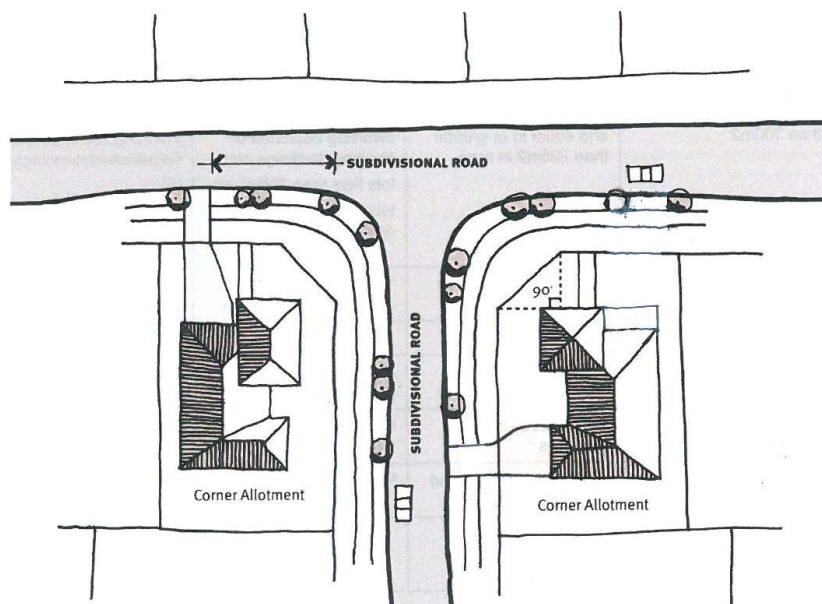
### 3.6.3 Corner Lots

#### OBJECTIVES

- a. To ensure corner lots are of sufficient dimensions and size to enable residential controls to be met.

#### CONTROLS

1. Corner lots, including splays and driveway location, are to be designed in accordance with AS 2890 and Council's Engineering Specifications.
2. Corner lots are to be designed to allow dwellings to positively address both street frontages as indicated in **Figure 28**.
3. Garages on corner lots are encouraged to be accessed from the secondary street or a rear lane.
4. Plans of subdivision are to show the location of proposed or existing substations, kiosks, sewer man holes and/or vents affecting corner lots.



**Figure 28.** Corner lots

### 3.7 Subdivision Approval Process

#### Objectives

- To facilitate a diversity of housing sizes and products.
- To ensure that subdivision and development on smaller lots is undertaken in a coordinated manner.
- To ensure that all residential lots achieve an appropriate level of amenity.

#### Controls

- The land subdivision approval process is to be consistent with the requirements of **Table 9**.
- Subdivision of land creating residential lots less than 225m<sup>2</sup> or lots less than 9m wide shall include a dwelling design as part of the subdivision development application. The dwelling design is to be included on the S88B instrument attached to the lot.

**Table 9.** Subdivision Approval Process

Approval pathway	DA for Subdivision <i>Pathway A1</i>	DA for Subdivision with Building Envelope Plan <i>Pathway A2</i>	DA for Integrated Housing (Integrated Assessment with subdivision prior to construction of dwellings) <i>Pathway B1</i>	DA for Integrated Housing <i>Pathway B2</i>
Application	Lots equal to greater than 300m <sup>2</sup>	Lots less than 300m <sup>2</sup> and equal to or greater than 225m <sup>2</sup> in area, and with a width equal to or greater than 9m*.	Dwelling construction involving <b>detached</b> or <b>abutting</b> dwellings on: lots less than 225m <sup>2</sup> , or lots with a width less than 9m*.	Dwelling construction involving common walls (ie <b>attached</b> dwellings) on: lots less than 225m <sup>2</sup> , or lots with a width less than 9m*.
Dwelling plans required	As part of future DA or CDC	As part of future DA or CDC	Yes as part of subdivision application	Yes as part of subdivision application
Dwelling Design 88B restriction required	No	Yes	Yes, only approved dwelling can be built	Yes, only approved dwelling can be built
Timing of subdivision (release of linen plan)	Pre-construction of dwellings	Pre-construction of dwellings	Prior to the issue of the CC	Post-construction of dwellings
Housing Code applicable	Yes	Yes (for 200m <sup>2</sup> lots and above)	No	No

\*Minimum lot width refer to **Table 8**.

- Subdivision applications that create lots smaller than 300m<sup>2</sup> and larger than or equal to 225m<sup>2</sup> must be accompanied by a Building Envelope Plan (BEP). An example of a BEP is included at **Figure 29**.

The BEP should be at a legible scale (suggested 1:500) and include the following elements:

- Lot numbers, north point, scale, drawing title and site labels such as street names
- Maximum permissible building envelope (setbacks, storeys, articulation zones)
- Preferred principal private open space
- Garage size (single or double) and location
- Zero lot line boundaries

A BEP should be fit for purpose and include only those elements that are necessary for that particular lot. Other elements that may be relevant to show include:

- Special fencing requirements
- Easements and sewer lines
- Retaining walls
- Preferred entry/frontage (e.g. corner lots)
- Access denied frontages
- Electricity kiosks or substations
- Indicative yield on residue or super lots

For further information, refer to the **Department of Planning and Environment Delivery Note: Building Envelope Plans**

4. Applications for subdivision using approval pathways A2, B1 and B2 require a Public Domain Plan (PDP) to be submitted as part of the application. The purpose of the PDP is to demonstrate how the public domain will be developed as a result of future development on the proposed lots. An example of a PDP is included at **Figure 30**.

The PDP should be at a legible scale (suggested 1:500) and include the following elements:

- Lot numbers, north point, scale, drawing title and site labels such as street names.
- Indicative building footprints on the residential lots.
- Location of driveways and driveway crossovers.
- Verge design (footpath, landscape).
- Surrounding streets and lanes (kerb line, material surface where special treatments proposed).
- In laneways, indicative provision for bin collection.
- Street tree locations. (Sizes and species list can be provided on a separate plan).
- Demonstrated provision and arrangements for on-street car parking particularly in relation to street tree planting, driveways and intersections.\*
- Extent of kerb line where parking is not permitted.\*

\* In principle, not as public domain works

Other elements that may be relevant to show include:

- Location and type of any proposed street furniture
- Location of retaining walls in the public domain
- Electricity substations
- Indicative hydrant locations at lane thresholds

Information on landscape treatment within the private lot is not required.

For further information, refer to the **Department of Planning and Environmental Delivery Note: Public Domain Plans**

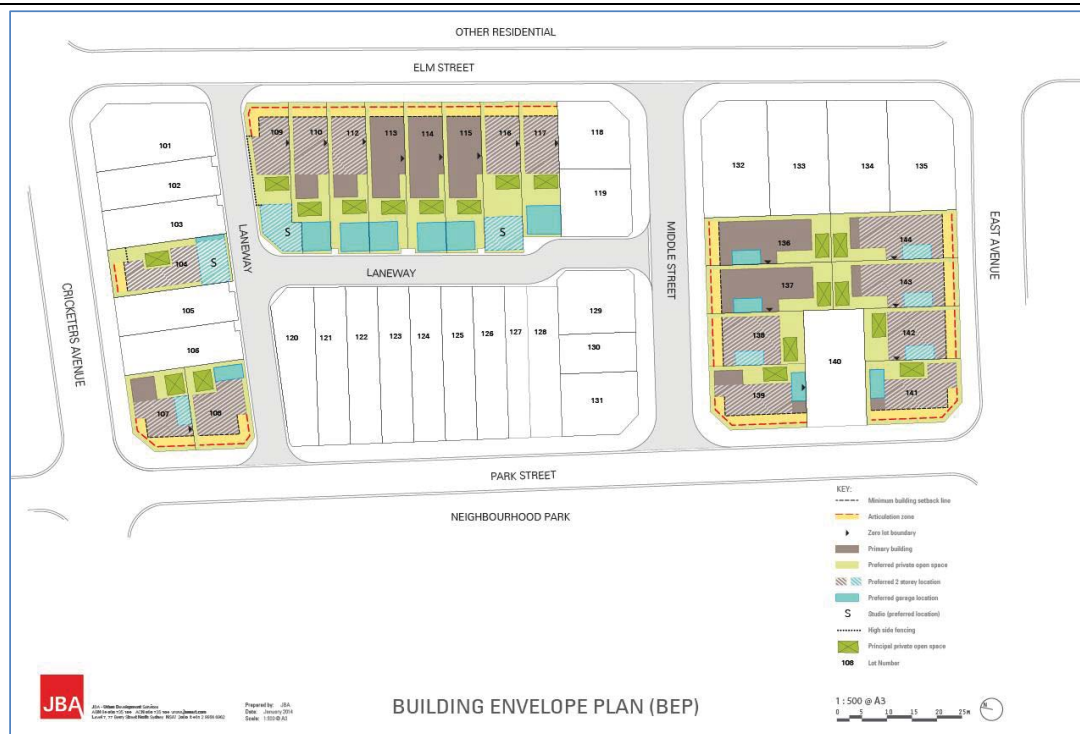


Figure 29. Sample of a Building Envelope Plan (BEP)

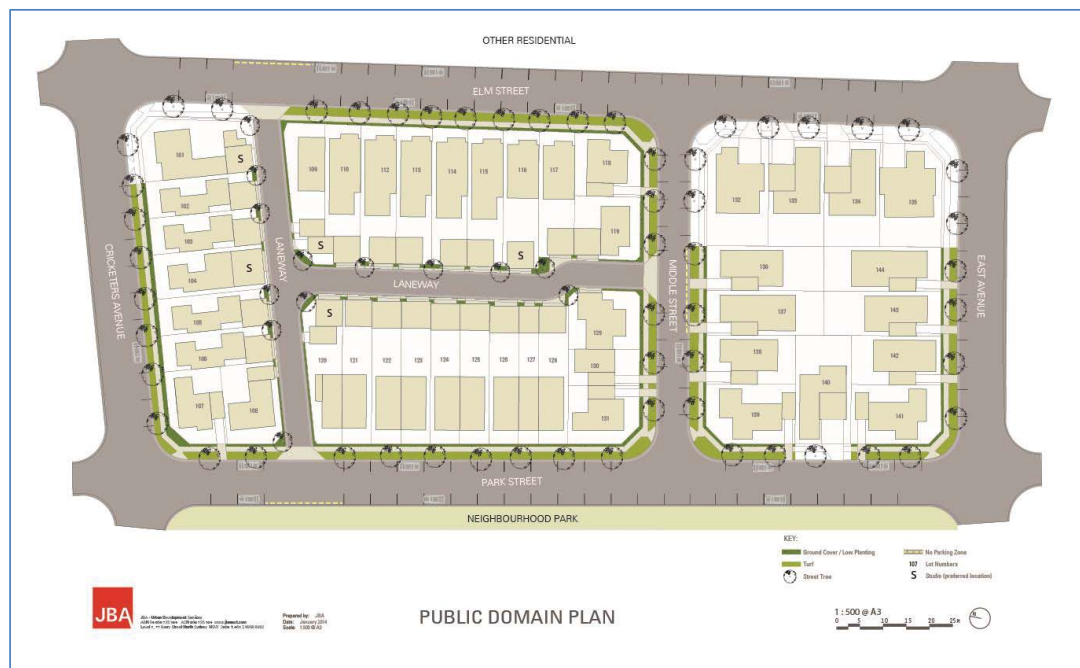


Figure 30. Sample of a Public Domain Plan (PDP)

**Subdivision in the E3 Zone**

1. Any lot created must be capable of providing a building platform for the dwelling of at least 15m x 20m clear of any restrictions (including any Asset Protection Zones) or building line setbacks. The building platform shall be sited in an accessible and practical location suitable for residential building construction.
2. Suitable graded vehicle access shall be provided from a public road to the identified building platform in accordance with Councils minimum driveway requirements.
3. The subdivision plans must clearly indicate where the building platforms can be located on each lot and indicate the proposed access paths to the platforms, free of any restrictions or building line setbacks.
4. A covenant must be written to apply to all newly created lots within the E3 Environmental Management Zone, indicating that maintenance and management of Native Vegetation as shown in State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Amendment No. 3), Native Vegetation Protection Map must be undertaken by the owner of the subdivided lot in accordance with:
  - a landscape plan;
  - the Environmental Management Plan attached in **Appendix C**;
  - payment of 5 year bond to the council.

**Subdivision in the E4 Zone**

1. The minimum lot width is 30m unless the subdivision is undertaken as a community title scheme as outlined in point 6 below.
2. Any lot created must be capable of providing a building platform for the dwelling of at least 15m x 20m clear of any restrictions (including any Asset Protection Zones) or building line setbacks. The building platform shall be sited in an accessible and practical location suitable for residential building construction.
3. Suitable graded vehicle access shall be provided from a public road to the identified building platform in accordance with Councils minimum driveway requirements.
4. The subdivision plans must clearly indicate where the building platforms can be located on each lot and indicate the proposed access paths to the platforms, free of any restrictions or building line setbacks.
5. A covenant must be written to apply to all newly created lots within the E4 Environmental Living Zone, indicating that maintenance and management of Native Vegetation as shown in State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Amendment No. 3), Native Vegetation Protection Map must be undertaken by the owner of the subdivided lot in accordance with:
  - a landscape plan;
  - the Environmental Management Plan attached in **Appendix C**;
  - payment of 5 year bond to the council.

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**Community Title subdivision**

In some circumstances existing slope and vegetation require Asset Protection Zones (APZs) for Bushfire Hazard Management that limit the development opportunities available on land in the E4 Environmental Living zone. In these circumstances the aim is to achieve a consistency in streetscape character regardless of the underlying zoning applying to the land. Community title subdivision under the provisions of the *Community Land Development Act 1989* (NSW) is encouraged to achieve this objective.

1. Community Title subdivision of land to create lots with narrower frontages and reduced side and front boundary setbacks in the E4 Environmental Living zone in accordance with *State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Amendment No. 3)* will be permitted where:
  - (a) The development is concentrated on the land within the development site excluding native vegetation shown in the Native Vegetation Protection Map and/or Riparian Protection Area;
  - (b) The land is subdivided into ten (10) or more lots (excluding the Community Lot);
  - (c) The land identified as contained vegetation shown in the Native Vegetation Protection Map and/or Riparian Protection Area is wholly contained within the Community Lot;
  - (d) The Community Lot is managed in accordance with a Plan of Management which creates and maintains fire protection zones and provides for the management, protection and enhancement of the environmental values of any land identified as contained native vegetation as shown in the Native Vegetation Protection Map and/or Riparian Protection Area. The Plan of Management shall contain, but is not limited to, an Environmental Management Plan, Bushfire Hazard Management Plan and details of the obligations of landowners in the ongoing management of Community Land;
  - (e) The Plan of Management will form part of the public authority by-laws in the Community Management Statement. The public authority by-laws relating to the Plan of Management shall provide that amendments to the Plan of Management may not be made without the consent of the public authority (Hills Shire Council) in accordance with the *Community Land Management Act 1989 (NSW)*;
  - (f) The design of roads and lots within the development provide for NSW Rural Fire Service vehicle access and comply with the provisions of *Planning for Bushfire Protection 2006* (as amended) where required. Roads which are adjacent to land identified as Riparian Protection Area, that avoid significant land reformation and provide for street-orientated development are encouraged;
  - (g) Stormwater drainage be provided in accordance with the urban flow attenuation rates identified in Section 6.1 of this Development Control Plan.
2. Development applications for community title subdivision are to be consistent with the design principles illustrated in **Figure 31** to **Figure 33** which focus on providing street oriented and accessible subdivision designs.



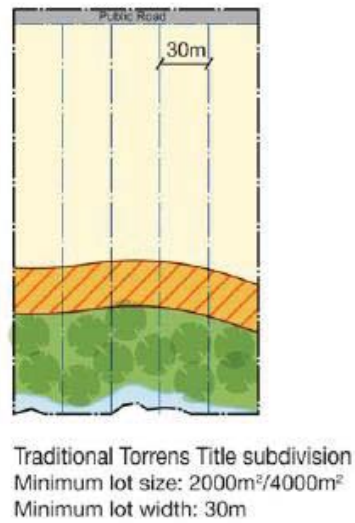


Figure 31. Traditional Torrens Subdivision



Figure 32. (A) Community Title Subdivision



- Precinct boundary
- E4 Environmental Living Lot
- Asset Protection Zone
- Riparian Corridor/Retained native vegetation
- Creek

**Figure 33.** (B) Community Title Subdivision

### **3.8 Residue Lots**

#### **OBJECTIVES**

1. To ensure that any residue lot created as part of the subdivision can meet the requirements of the DCP.

#### **CONTROLS**

Any development proposal including creation of residue lots for future subdivision must:

- Include documentation demonstrating how the minimum density can be achieved across each residue lot through future subdivision. The minimum density for each site should in accordance with **Section 2.4**.
- Demonstrate how the future development of each residue lot can be consistent with the character statement for the local area in terms of the built form, dwelling types, bulk and scale, height and other public domain considerations.
- Demonstrate that the residue lot can be serviced and accessed in accordance with **Figure 2**. Indicative Layout Plan.
- Demonstrate that development of the residue lot can be undertaken without compromising the other objectives and controls of this DCP.



**Table D.6 SPECIES RECOMMENDED FOR RE-PLANTING WITHIN UPPER GEORGES RIVER SANDSTONE WOODLAND**

Family	Scientific Name	Common Name
Myrtaceae	<i>Eucalyptus punctata</i>	Grey Gum
Mimosaceae	<i>Acacia linifolia</i>	Flax Wattle
Mimosaceae	<i>Acacia terminalis</i>	Sunshine Wattle
Mimosaceae	<i>Acacia ulicifolia</i>	Prickly Moses
Myrtaceae	<i>Leptospermum trinervium</i>	Flaky-barked Tea-tree
Proteaceae	<i>Persoonia linearis</i>	Narrow-leaved Geebung
<i>Groundcovers</i>		
Lomandraceae	<i>Lomandra cylindrica</i>	
Lomandraceae	<i>Lomandra multiflora</i>	Many-flowered Mat-rush
Phormiaceae	<i>Dianella revoluta</i> var. <i>revoluta</i>	Spreading Flax Lily
Poaceae	<i>Aristida vagans</i>	Three-awn Speargrass
Poaceae	<i>Austrodanthonia linkii</i> var. <i>fulva</i>	Wallaby Grass
Poaceae	<i>Microlaena stipoides</i> var. <i>stipoides</i>	Weeping Rice Grass
Poaceae	<i>Stipa pubescens</i>	Tall Speargrass
Poaceae	<i>Themeda australis</i>	Kangaroo Grass
Rubiaceae	<i>Pomax umbellata</i>	Pomax

***The Mayor advised in accordance with the Code of Meeting Practice that this meeting is being recorded.***

**ITEM-1 CONFIRMATION OF MINUTES**

A MOTION WAS MOVED BY COUNCILLOR COLLINS OAM AND SECONDED BY COUNCILLOR DE MASI THAT the Minutes of the Ordinary Meeting of Council held on 25 May 2021 be confirmed.

THE MOTION WAS PUT AND CARRIED.

**279 RESOLUTION**

The Minutes of the Ordinary Meeting of Council held on 25 May 2021 be confirmed.

**APOLOGIES**

A MOTION WAS MOVED BY COUNCILLOR HAY OAM AND SECONDED BY COUNCILLOR RUSSO THAT the apologies from Councillors Haselden and Jackson be accepted and leave of absence granted.

THE MOTION WAS PUT AND CARRIED.

**280 RESOLUTION**

The apologies from Councillors Haselden and Jackson be accepted and leave of absence granted.

**COMMUNITY FORUM**

*There were no addresses to Council during Community Forum.*

**ITEM-2 PLANNING PROPOSAL - 9 PALARAN AVENUE, NORTH KELLYVILLE (3/2021/PLP)**

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

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

**281 RESOLUTION**

The planning proposal for land at 9 Palaran Avenue, North Kellyville be forwarded to the Department of Planning, Industry and Environment for Gateway Determination, subject to the following:

1. Inclusion of a local provision that applies a maximum cap of 7 dwellings to the portion of land currently zoned E4 Environmental Living (to be rezoned to R2 Low Density Residential);
2. Submission of a Bushfire Assessment Report to satisfy Section 9.1 Ministerial Direction 4.4.

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**MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 08 June 2021**

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3. Amendments to Section 3.6.2 of the North Kellyville DCP (2018) (Attachment 3) be publicly exhibited concurrent with the planning proposal, to include the following site specific development control, applicable to 9 Palaran Avenue, North Kellyville:

*Any future subdivision of land at 9 Palaran Avenue, North Kellyville (Lot 3 DP 249675), which is subject to a minimum lot size of 600m<sup>2</sup>, must not result in the creation of battle-axe lots*

4. A copy of the draft amendment to the North Kellyville DCP (2018) (Attachment 3) be forwarded to the Secretary of the Department of Planning, Industry and Environment as per the requirements of Council's delegation to amend the Plans.

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

**VOTING FOR THE MOTION**

Mayor Dr M R Byrne  
Clr R Jethi  
Clr Dr P J Gangemi  
Clr B L Collins OAM  
Clr E M Russo  
Clr A J Hay OAM  
Clr S P Uno  
Clr F P De Masi  
Clr R M Tracey

**VOTING AGAINST THE MOTION**

None

**ABSENT FROM THE ROOM**

Clr M G Thomas

**MEETING ABSENT**

Clr J Jackson  
Clr A N Haselden

7.11pm      *Councillor Thomas arrived at the meeting during Item 3.*

**ITEM-3**

**POST EXHIBITION - DRAFT DEVELOPMENT CONTROL  
PLAN AMENDMENTS - CONSTRUCTION AND  
DEDICATION OF LOCAL ROADS (FP171)**

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

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

**282 RESOLUTION**

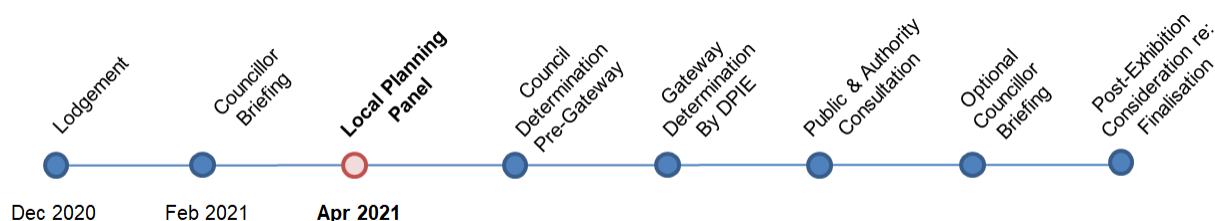
1. Draft amendments to The Hills Development Control Plan 2012, the North Kellyville Precinct Development Control Plan and the Box Hill Development Control Plan (provided as Attachments 2, 3 and 4 respectively) be adopted.

## LOCAL PLANNING PANEL MEETING 21 APRIL, 2021

## THE HILLS SHIRE

<b>ITEM-1</b>	<b>LOCAL PLANNING PANEL – PLANNING PROPOSAL – 9 PALARAN AVENUE, NORTH KELLYVILLE (3/2021/PLP)</b>
<b>THEME:</b>	Shaping Growth
<b>OUTCOME:</b>	5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity.
<b>STRATEGY:</b>	5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.
<b>MEETING DATE:</b>	<b>21 APRIL 2021</b> LOCAL PLANNING PANEL
<b>AUTHOR:</b>	<b>TOWN PLANNER</b> GIDEON TAM
<b>RESPONSIBLE OFFICER:</b>	<b>MANAGER – FORWARD PLANNING</b> NICHOLAS CARLTON

<b>Proponent</b>	<b>ROBERT MOORE &amp; ASSOCIATES</b>
<b>Owner</b>	<b>DR GEOFFREY MORGANS MRS DIANNE MORGANS</b>
<b>Consultants</b>	<b>SUTHERLAND &amp; ASSOCIATES PLANNING</b>
<b>Site Area</b>	<b>2.02 HECTARES</b>
<b>List of Relevant Strategic Planning Documents</b>	<b>GREATER SYDNEY REGION PLAN CENTRAL CITY DISTRICT PLAN SECTION 9.1 MINISTERIAL DIRECTIONS LOCAL STRATEGIC PLANNING STATEMENT AND SUPPORTING STRATEGIES</b>
<b>Political Donation</b>	<b>NONE DISCLOSED</b>
<b>Recommendation</b>	<b>THAT THE PLANNING PROPOSAL PROCEED TO GATEWAY DETERMINATION</b>



## EXECUTIVE SUMMARY

This report provides a summary and assessment of the planning proposal applicable to land at 9 Palaran Avenue, North Kellyville. The planning proposal, as submitted by the Proponent, seeks to rezone a portion of the site from E4 Environmental Living to R2 Low Density Residential and reduce the minimum lot size from 4,000m<sup>2</sup> to 600m<sup>2</sup>, to facilitate the subdivision of the land into 22 residential lots, one residue lot and an internal road system. It is considered that the proposal should proceed to Gateway Determination, on the basis that:

- a) The planning proposal will make efficient use of land on the E4 Environmental Living portion of the site. Adjoining residential developments on E4 zoned land to the site's east and south have isolated the site and effectively disassociated it from the values and objectives of the E4 zone, as they relate to the environmental and scenic qualities of the Caddies Creek Riparian Corridor.
- b) The proposed controls and indicative subdivision layout will facilitate development outcomes that are consistent with the existing low density residential development and deliver road links that have been indicated in the North Kellyville DCP.
- c) The proposed development outcomes will not have any significant ecological impacts and are considered unlikely to represent a bushfire risk, subject to the submission of a Bushfire Assessment Report.

This Report recommends that in addition to the amendments sought by the Proponent, a local provision which specifies a maximum yield of 7 dwellings be applied to the portion of the site currently zoned E4 Environmental Living (which is proposed to be rezoned), in order to secure desirable and orderly development outcomes on the site.

## SEPP (SYDNEY REGION GROWTH CENTRES) 2006

The planning proposal seeks to amend *State Environmental Planning Policy (Growth Centres) 2006* as follows:

	<b>Current (SEPP Growth Centres 2006)</b>	<b>Planning Proposal</b>
<b>Zone</b>	Part R2 Low Density Residential Part E4 Environmental Living	R2 Low Density Residential
<b>Maximum Height of Building</b>	9m	No Change
<b>Maximum Floor Space Ratio</b>	N/A	N/A
<b>Minimum Lot Size</b>	Part 4,000m <sup>2</sup>	Part 600m <sup>2</sup>

**Table 1**  
Proposed SEPP Amendments

## REPORT

This report presents the subject planning proposal to the Local Planning Panel for advice, in accordance with Section 2.19 of the *Environmental Planning and Assessment Act 1979*.

### 1. THE SITE

The site is known as 9 Palaran Avenue, North Kellyville (Lot 3 DP 249675). It has an area of approximately two hectares and currently contains a single storey residential dwelling and associated structures (as shown in Figure 1). This is generally cleared with vegetation sparsely distributed at the site's north. The site has frontages to Palaran Avenue, Eden Road

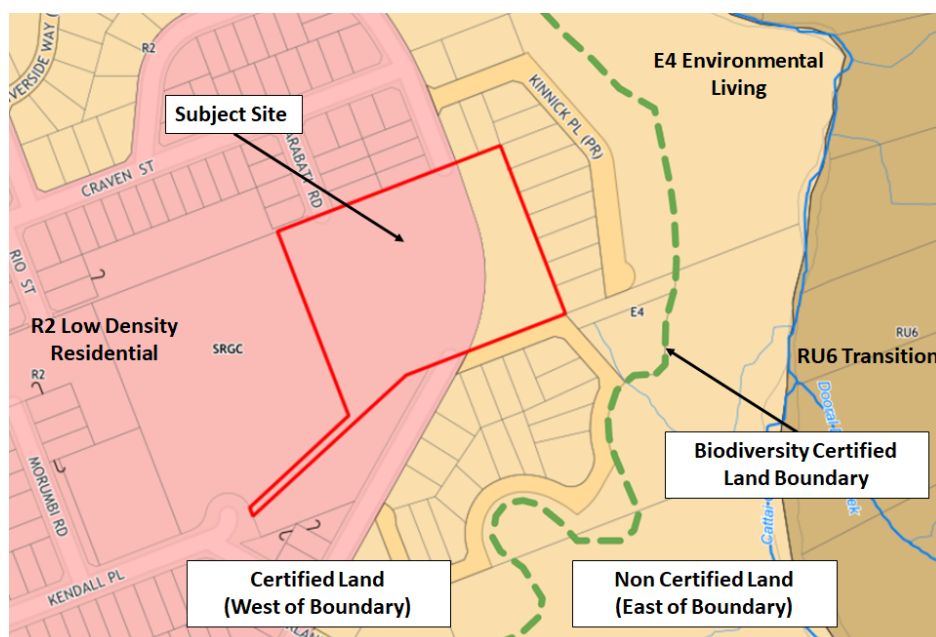
and Roland Garros Crescent (south). Sections of Barabati Road and Roland Garros Crescent (north) presently terminate at the site's northern boundary.



**Figure 1**

Aerial view of subject site (outlined in red) and surrounding locality

A recently constructed low density residential development adjoins the site to the north and east. A 21 lot community title residential subdivision is currently under construction to the south of the site. No application has yet been lodged with respect to the large lot adjoining the west of the site. The site is presently zoned part R2 Low Density Residential (15,270m<sup>2</sup>) and part E4 Environmental Living (4,960m<sup>2</sup>), as shown in Figure 2 below.



**Figure 2**

Zoning of the subject site (outlined in red) and surrounding locality

The current SEPP provisions applicable to the E4 Environmental Living portion of the site would facilitate the subdivision of this area into one Torrens Title lot or three Community Title lots. Surrounding development activity has resulted in the isolation of the E4 Environmental Living portion of the site. This has prompted the submission of the planning proposal and is discussed in further detail in Section 3 (b) of this report.

## 2. DESCRIPTION OF THE PLANNING PROPOSAL

The proposal seeks to facilitate the subdivision of the subject site into 22 residential lots ranging in size from 465m<sup>2</sup> to 600m<sup>2</sup>, one residue lot with an area of 3.1ha and associated road network (as shown in Figure 3). The residential lots would consist of 14 lots on the existing R2 Low Density Residential zoned land (which could already be achieved under the current controls) and eight lots on the portion of the site currently zoned E4 Environmental Living with a minimum lot size of 600m<sup>2</sup>.



**Figure 3**

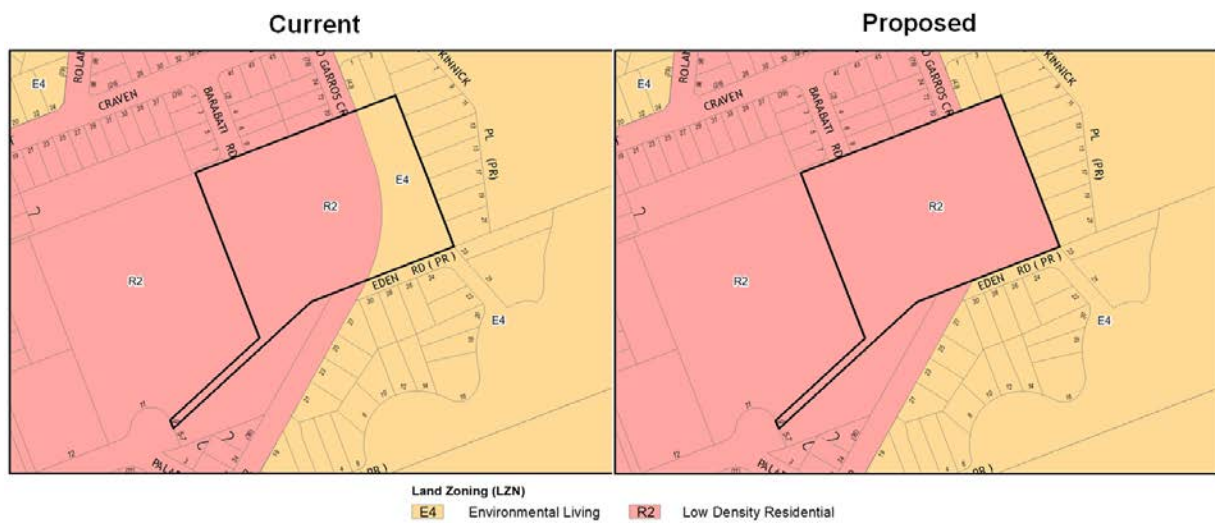
Indicative subdivision plan and road layout

To facilitate the proposed development outcome, the planning proposal, as submitted by the Proponent, seeks to amend the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP) as follows:

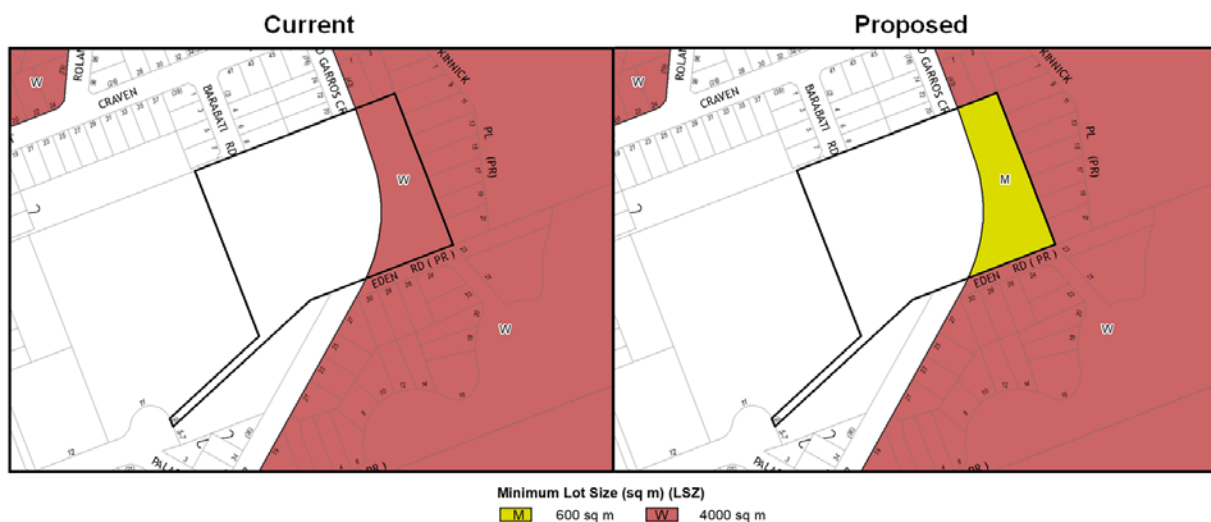
- Rezone a portion of the site from part E4 Environmental Living to R2 Low Density Residential; and
- Reduce the minimum lot size applicable to the existing E4 Environmental Living portion of the site from 4,000m<sup>2</sup> to 600m<sup>2</sup>.

The planning proposal does not seek to amend the existing controls applying to the portion of the site currently zoned R2 Low Density Residential. Specifically, the current SEPP would permit low density residential subdivision with a minimum lot size of 360m<sup>2</sup> on the existing R2 Low Density Residential portion of the land and the planning proposal does not seek to amend this outcome.

Proposed zoning map amendments are illustrated in Figures 4 and 5.



**Figure 4**  
Existing (left) and proposed (right) zone maps



**Figure 5**  
Existing (left) and proposed (right) minimum lot size maps

### 3. MATTERS FOR CONSIDERATION

The planning proposal requires consideration of the following matters:

- Strategic Context;
- Orderly Development;
- Suitability of Planning Mechanism;
- Infrastructure and Access; and
- Environmental Constraints.

#### a) Strategic Context

##### Greater Sydney Region Plan and Central City District Plan

The Greater Sydney Region Plan and Central City District Plan seek to provide liveable communities through various directions and objectives. Those relevant to this planning proposal are as follows:

- Objective 10 – Greater Housing Supply

- Objective 27 – Biodiversity is protected, urban bushland and remnant vegetation is enhanced
- Objective 28 – Scenic and cultural landscapes are protected
- Priority C5 – Providing housing supply, choice and affordability with access to jobs, services and public transport; and
- Priority C15 – Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes.

The planning proposal seeks to facilitate the delivery of 22 residential lots, with eight lots situated within the portion of the site currently zoned E4 Environmental Living. Objectives of the zone are to protect environmental values and facilitate low impact residential development, which reflects the objectives and priorities of the Region and District plans.

The current SEPP provisions applicable to the E4 Environmental Living portion of the site would facilitate the subdivision of the site into one Torrens Title lot or three Community Title lots. In comparison, the proposed development outcome would facilitate considerably more development on the subject site, which is potentially inconsistent with Objective 27 and Priority C15. However, given the site does not contain threatened vegetation and is isolated from Caddies Creek and the associated environmental corridor, these inconsistencies are considered minor. Further, the land has been biodiversity certified for development to occur and as such, the loss of vegetation on this land has already been contemplated through the biodiversity certification process undertaken for the broader North Kellyville Precinct.

The site is sparsely vegetated and due to its isolation from the creek corridor, is no longer able to contribute to the planned scenic and cultural landscape of the corridor (Objective 28 and Priority C15). The proposed development outcome sought through the planning proposal would better align with the emerging subdivision pattern surrounding the site, as opposed to the outcome which could be achieved under the current planning controls which would represent a disorderly development outcome.

The District Plan articulates that housing is to be delivered in the right locations and anticipates that future housing supply will be provided within the North Kellyville release area. It refers specifically to Councils' Housing Strategies to guide residential growth. The Strategy anticipates 6,500 additional dwellings be delivered in North Kellyville by 2036, which is further discussed in this report. Bus stops are located within 320 to 500 metres walking distance from the site, which provide future residents access to services and jobs. Therefore, the planning proposal is considered consistent with Objective 10 and Priority C5 of the Region and District plans.

#### Section 9.1 Ministerial Directions

- Direction 2.1 Environmental Protection Zone

The objective of this direction is to protect and conserve environmentally sensitive areas. It also states that land identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).

Although a portion of the site is zoned E4 Environmental Living, it is not identified as containing native vegetation in the Native Vegetation Protection Map nor is it located within the Riparian Protection Area Map of the Growth Centre's SEPP and is Biodiversity Certified. As such, any inconsistency with this Direction is considered minor and justifiable given the isolation of the site as a result of surrounding development activity.

- **Direction 2.6 Remediation of Contaminated Land**

The Proponent's planning proposal report articulates that the land is not within an investigation area within the meaning of the Contaminated Land Management Act nor is it on land which development is being, or is known to have been, carried out.

Further, the planning proposal relates to land zoned E4 Environmental Living which already permits residential living, albeit in a lower density form. The subject site already contains an occupied residential dwelling. It is therefore considered that the planning proposal is consistent with this Direction.

- **Direction 3.1 Residential Zones**

The objectives of this direction are to encourage a variety and choice of housing types, make efficient use of infrastructure and minimise the impact of residential development on the environment and resource lands. Under the current provisions, the E4 zoned portion of the site limits the subdivision of the site to one Torrens Title lot or three Community Title lots with the intent to protect any environmental values on site. As the proposal would marginally reduce the area of E4 Environmental Living within the North Kellyville Precinct, it could technically be considered to be inconsistent with this direction.

However, given the site only contains sparsely distributed vegetation to the north, does not contain threatened vegetation and is already biodiversity certified, any technical inconsistencies are considered minor and justifiable. Having regard to the isolated nature of the E4 Environmental Living portion of the site, the proposal would not adversely impact on any environmental or scenic values in the locality. Further, the proposal would facilitate a more orderly development outcome which better aligns with the surrounding character, whilst also making more efficient use of public transport infrastructure and facilitating a dwelling typology that is appropriate to the local demographic.

- **Direction 3.4 Integrated Land Use and Transport**

The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- a) Improving access to housing, jobs and services by walking, cycling and public transport;
- b) Increasing the choice of available transport and reducing dependence on cars;
- c) Reducing travel demand including the number of trips generated by development and the distances travelled, especially by car;
- d) Supporting the efficient and viable operation of public transport services; and
- e) Providing for the efficient movement of freight.

The planning proposal is consistent with the objectives of this Direction as the site is in walking distance to public transport, which provides access to services and jobs, and thus reduces car dependency. Further, it will ensure the delivery of the local road network within this locality, including missing road links between Barabati Road and Roland Garros Crescent, which will service local traffic and extend existing walking path connections, in accordance with The North Kellyville DCP.

- Direction 4.4 Planning for Bushfire Protection

The objectives of this direction are to protect life, property and the environment from bushfire hazards, by discouraging the establishment of incompatible land uses in bushfire prone areas and to encourage sound management of bush fire prone areas. The Direction also states that a planning proposal must have regard to *Planning for Bushfire Protection 2019*.

The site is located within a Vegetation Buffer Zone (bushfire prone land) and as such, the direction requires that a Bushfire Assessment Report be submitted as part of the planning proposal which addresses the requirements of *Planning for Bushfire Protection 2019*. As discussed in Section 3 (d), it is unlikely that future development on the site would be subject to bushfire risk given the site is surrounded by existing and approved low density residential subdivision. However, a bushfire study would nonetheless be required to verify this as a technical requirement of the Direction. Formal consultation with the Rural Fire Service would also be required should the proposal receive a Gateway Determination.

- State Environmental Planning Policy (Sydney Regions Growth Centres) 2006

The Growth Centres SEPP aims to coordinate the release of residential land, provide for comprehensive planning of the growth centres, provide for the orderly and economic provision of infrastructure and provide land use and development controls that will contribute to the conservation of biodiversity.

The aims of *Appendix 2 North Kellyville Precinct* are to ensure development controls create good design outcomes and protect and enhance the environmentally sensitive areas. It is considered that the proposal is consistent with the aforementioned objectives as the proposed subdivision layout is consistent with surrounding subdivision character and will facilitate orderly development. It will also assist in delivery of the local road network identified within the North Kellyville DCP. The subject site is also not considered environmentally sensitive given it is not identified as containing native vegetation in the Native Vegetation Protection Map, is not located within the Riparian Protection Area Map under the Growth Centre's SEPP and has been Biodiversity Certified.

#### The Hills Local Strategic Planning Statement

Council's Local Strategic Planning Statement: Hills Future 2036 (LSPS) outlines the Shire's 20-year vision for land use planning, population, housing, economic growth and environmental management. Accompanying the LSPS are key strategies that outline guiding principles, of which the draft Housing Strategy is of relevance to the proposal. In particular, the site is located within the North Kellyville Release Area, which the LSPS and draft Housing Strategy anticipate an additional 6,500 dwellings be delivered by 2036. It articulates the continued delivery of low and medium density housing be supported by existing and planned infrastructure.

The proposed development would allow for the delivery of 22 residential lots which are consistent with the established low density character, and are supported by proximate public transport options and a local park. Although a portion of the site is presently zoned E4 Environmental Living, the subject site does not contain threatened vegetation and is biodiversity certified, and is therefore not considered to have high environmental values or significance. Given the isolated nature of the E4 zoned portion of land, the rezoning of the land to permit further low density residential subdivision (7 additional lots) is acceptable.

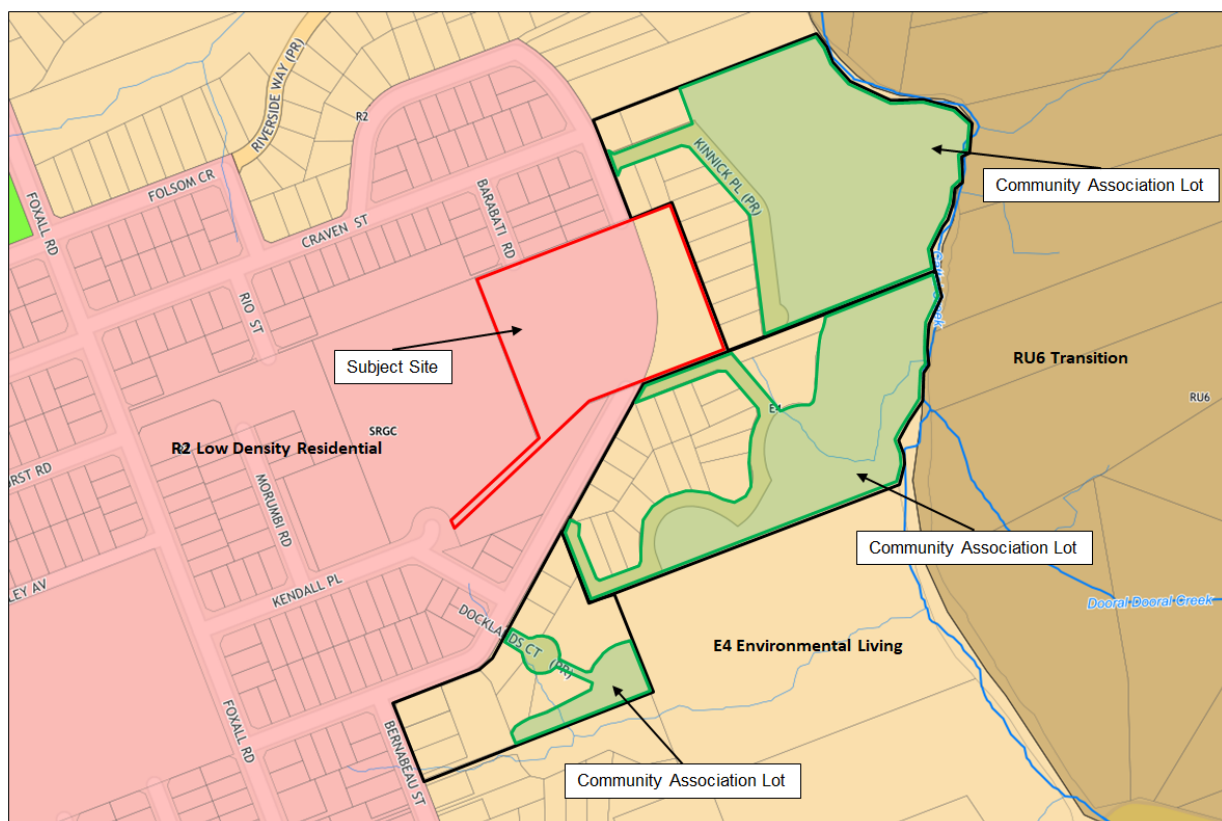
For the reasons detailed above, the planning proposal is considered to be consistent with Priority 7 – Plan for new housing in the right locations and Priority 17 – Protect areas of high environmental values and significance of the LSPS.

### b) Orderly Development

Given the alignment of the lot boundary in comparison to the boundary between the R2 and E4 zones, the orderly development of this E4 zoned portion of land was originally contingent on amalgamation with one of the larger adjoining E4 zoned parcels.

It is noted that discussions occurred between the landowners in association with development applications for both of the adjoining subdivisions (zoned E4 Environmental Living) at Lot 4 DP 249675 and Lot 11 DP 582310 (DA 635/2019/ZD) and Lot B DP 156194 (DA 294/2016/ZD), with respect to orderly development. However, agreement could not be reached for amalgamation of the land on both occasions. Development on both of these adjoining parcels is now complete (to the east) or underway (to the south) and as such, amalgamation is no longer possible, as shown in Figure 6.

Both adjoining sites have now been subdivided utilising a community title scheme, whereby part of the site is subdivided into residential lots and the remainder of the site is a community association lot. Resulting community association lots are typically located adjacent to the creek, which allows for the achievement of the objectives of the E4 Environmental Living zone by providing larger consolidated areas of environmental and scenic quality along the creek corridor. These community association lots generally comprise a common internal road and land utilised for bushfire and environmental management purposes (as intended for under Section 3.7 of the North Kellyville DCP) (see Figure 6).



**Figure 6**  
Adjoining Community Title subdivisions and isolation of subject site

Under the current controls set out in Clause 6.5 of Appendix 2 of the Growth Centres SEPP, subdivision of the isolated E4 zoned area within 9 Palaran Place could achieve one Torrens Title lot or three Community Title lots with a community association lot. Figure 7 below provides an example of how development could occur under this current provision.



**Figure 7**  
Permitted Potential Community Title Subdivision

The Proponent's planning proposal report articulates both of these outcomes would be inconsistent with the emerging pattern of adjoining subdivisions and the proposed development outcome would better facilitate orderly development. This is primarily due to the isolation of the E4 zoned portion of the site by adjoining smaller residential lots, with no further ability for any community association lot to connect into the Creek Corridor. Further, it would be inappropriate for Barabati Road and Roland Garros Crescent to be under a neighbourhood scheme, given existing sections of both roads are public.

In comparison to these potential outcomes under the current planning controls, it is considered that a reduction in the minimum lot size applying to the E4 portion of the site is warranted and would ensure a more logical subdivision pattern in terms of orderly development and alignment with the prevailing character of the locality (refer to Figure 8 below).

**Figure 8**

Proponent's Indicative subdivision plan and road layout

Notwithstanding this, having regard to the Proponent's indicative subdivision plan (Figure 8 above), it is considered that a preferable subdivision pattern on this particular part of the site and within a new greenfield subdivision would avoid the inclusion of battle-axe allotments and instead, ensure that each new lot and dwelling will have street frontage. As a result, a maximum yield of 7 dwellings on the area of the site current zoned E4 Environmental Living would be preferable to the configuration of 8 dwellings submitted by the Proponent. This would also promote more flexible and desirable building footprints on the site. A discussion on the suitability of the proposed planning mechanism and consideration of alternative mechanisms is provided in the next section of the Report.

### c) Suitability of Planning Mechanism

There would be a range of planning mechanisms available to achieve the intent of the planning proposal. The following table provides a discussion on these potential mechanisms and associated implications for the development of the subject site.

	Planning Mechanism	Comment
Option 1	<ul style="list-style-type: none"> <li>Retain the existing E4 Environmental Living Zone and apply a 600m<sup>2</sup> minimum lot size</li> </ul>	<ul style="list-style-type: none"> <li>A 600m<sup>2</sup> minimum lot size is consistent with surrounding subdivision pattern.</li> <li>However, reducing the minimum lot size within the E4 zone would likely set an undesirable precedent for other land within the North Kellyville Growth Centre zoned E4 that has not yet been developed.</li> <li>It would also permit a development outcome which is inconsistent with the applicable zone objectives, given that the basis on which the land was originally zoned E4 (being the management of the nearby vegetation corridor as part of a Community Title arrangement) is no longer applicable or achievable.</li> <li>The DCP also contains more stringent controls for building platform and minimum lot width requirements in the E4 zone and the proposed minimum lot size and layout would be unable to achieve compliance with these DCP controls.</li> <li>This approach would not preclude the battle-axe arrangement as shown in the Proponent's indicative subdivision layout.</li> <li>This Option would not impact on the permissibility of the key land uses that could be developed on the resulting lots, with</li> </ul>

		both single dwellings and dual occupancies permitted in the E4 zone.
<b>Option 2</b>	<ul style="list-style-type: none"> <li>Retain E4 Environmental Living Zone and apply a minimum lot size ranging from 700-800m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>The larger lot size would improve the ability for the subdivision to achieve required building platform controls within the DCP.</li> <li>However, reducing the minimum lot size within the E4 zone would likely set an undesirable precedent for other land within the North Kellyville Growth Centre zoned E4 that has not yet been developed.</li> <li>It would also permit a development outcome which is inconsistent with the applicable zone objectives, given that the basis on which the land was originally zoned E4 (being the management of the nearby vegetation corridor as part of a Community Title arrangement) is no longer applicable or achievable.</li> <li>While this approach would not strictly preclude the battle-axe arrangement as shown in the Proponent's indicative subdivision layout, the larger lot sizes would limit the yield on this portion of the site to no more than 7 lots. However, given the configuration of the land and significant variation in lot depth that could be achieved, a blanket application of a minimum lot size of 700m<sup>2</sup> is unlikely to achieve the most orderly development outcome.</li> <li>This Option would not impact on the permissibility of the key land uses that could be developed on the resulting lots, with both single dwellings and dual occupancies permitted in the E4 zone.</li> </ul>
<b>Option 3</b> <b>(Proposed by Proponent)</b>	<ul style="list-style-type: none"> <li>Rezone land to R2 Low Density Residential and apply a 600m<sup>2</sup> minimum lot size</li> </ul>	<ul style="list-style-type: none"> <li>Rezoning the land to R2 would ensure that the proposed development outcome can align with the applicable zone objectives and prevailing local character.</li> <li>The proposed minimum lot size would be consistent with surrounding subdivision pattern and would facilitate an outcome capable of complying with the DCP controls.</li> <li>As demonstrated in the Proponent's indicative subdivision concept, this Option would facilitate a total of 8 lots on this portion of the site. A preferable subdivision pattern would be limited to 7 lots to avoid the need for a battle-axe allotment and instead, ensure that each new lot and dwelling will have street frontage.</li> </ul>
<b>Option 4 (Council Officer Recommended)</b>	<ul style="list-style-type: none"> <li>Rezone land to R2 Low Density Residential and apply a 600m<sup>2</sup> minimum lot size as well as a maximum dwelling cap of 7</li> </ul>	<ul style="list-style-type: none"> <li>As per Option 3, however, the application of a local provision which limits the maximum yield on this portion of the site to 7 dwellings would more effectively discourage the sub-optimal battle-axe allotment outcome.</li> <li>The application of a 600m<sup>2</sup> minimum lot size would still provide the developer with flexibility to determine the most orderly subdivision layout in response to the configuration of the land and significant variation in lot depth.</li> </ul>
<b>Option 5</b>	<ul style="list-style-type: none"> <li>Rezone land to R2 Low Density Residential and apply a minimum lot size ranging from 700-800m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>Rezoning the land to R2 would ensure that the proposed development outcome can align with the applicable zone objectives and prevailing local character.</li> <li>While this approach would not strictly preclude the battle-axe arrangement as shown in the Proponent's indicative subdivision layout, the larger lot sizes would limit the yield on this portion of the site to no more than 7 lots. However, given the configuration of the land and significant variation in lot depth that could be achieved, a blanket application of a minimum lot size of 700m<sup>2</sup> is unlikely to achieve the most orderly development outcome.</li> </ul>

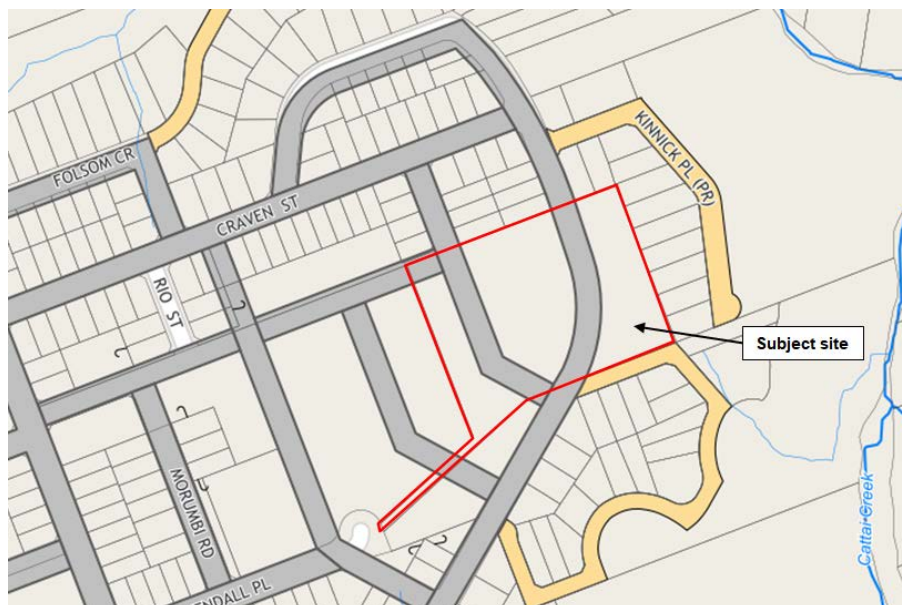
Having regard to the above, it is considered that Option 4 achieves the most effective balance between the related planning controls (appropriate zoning and minimum lot size controls). It would remove the need for a battle-axe allotment and ensure an outcome more consistent with the local character, streetscape and objectives of the R2 Low Density Residential zone.

Option 4 would require a local provision to be applied to the site, to specify a maximum yield of 7 dwellings. The drafting of such a provision would be subject to consultation with the Department of Planning, Industry and Environment as part of the Gateway Determination process.

#### d) Infrastructure and Access

The proposed development will be well serviced by public transport infrastructure and public open space. The site is located approximately 560 metres to 650 metres walking distance from a local park. It is also located in close proximity to bus stops that are within 320 metres to 500 metres walking distance from the site.

The proposed development outcome will result in the delivery of a new road link, which will extend the existing Barabati Road and Roland Garros Crescent (north) to Roland Garros Crescent (south). Although a traffic study has not been prepared as part of this application, notwithstanding the additional yield of approximately 7 dwellings, the proposed 22 residential lots is unlikely to substantially increase traffic volume on local and regional road infrastructure from what has been anticipated within the *North Kellyville Traffic and Transport Assessment 2008* (prepared by Maunsell Australia). The existing Indicative Layout Plan of the North Kellyville DCP has been developed upon the findings of the Traffic and Transport Assessment and this has been reflected in the proposed indicative road layout for the Precinct. The need to ensure that the planned local road network is achieved at this location is considered to outweigh any negligible impacts associated with 7 additional dwellings.



**Figure 11**  
North Kellyville DCP – Indicative Layout Plan

The indicative road layout for the proposed development reflects the Indicative Layout Plan in the North Kellyville DCP (as shown in Figure 11) and will facilitate orderly development. The completion of this extension will require subdivision of the adjoining property at Lot 1 DP

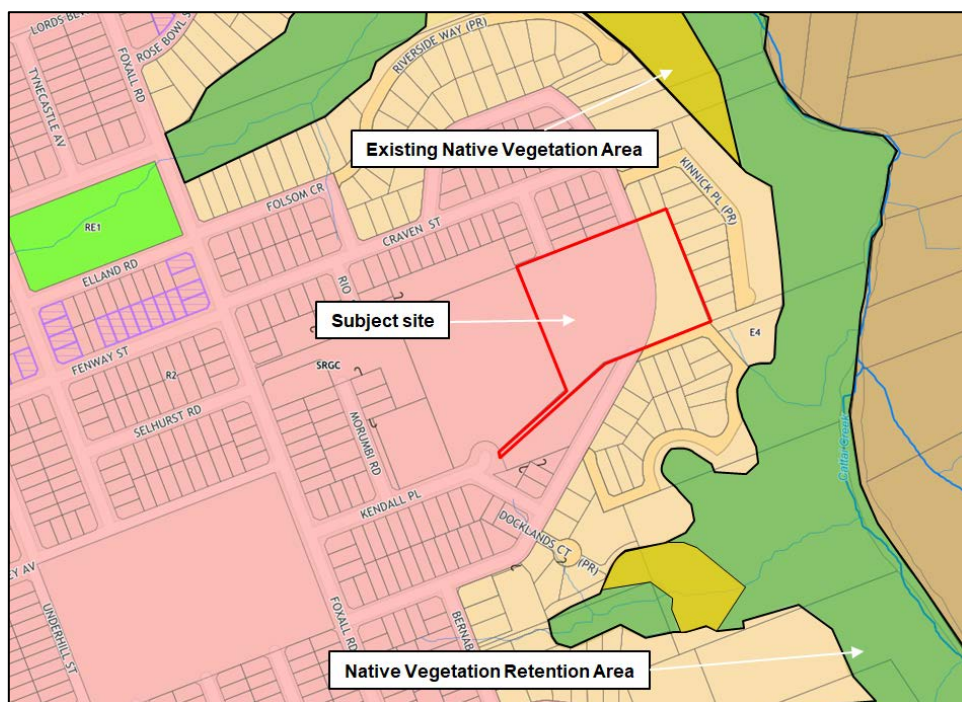
1262623. It is noted that the site is currently subject to a staged Development Application (554/2021/ZB) that is under assessment. The completion of the intersection will be subject to a subsequent associated Development Application. Should the subdivision be delayed or associated works to Barabati Court not be delivered, temporary arrangements will need to be made to facilitate appropriate access from Roland Garros Crescent to Barabati Road at the Development Application stage.

In this instance, it is considered reasonable for the additional yield of up to 7 residential lots sought through this planning proposal to be levied contributions under the existing Contributions Plan No. 13 – North Kellyville Precinct, which identifies and funds the new and upgraded local infrastructure required to support all development within the entire North Kellyville Precinct.

### e) Environmental Constraints

#### Biodiversity and Bushfire

The planning proposal applies specifically to the E4 Environmental Living zoned portion of the site, which only permits low impact residential development to minimise impacts on environmental values. It is noted that the E4 zoned areas of the North Kellyville Precinct (as identified by the Growth Centres Commission) correspond with the broader North Kellyville bushfire Asset Protection Zones and Native Vegetation Map, which generally share the boundary of the Caddies Creek Riparian Corridor (as shown in Figures 12 and 13).



**Figure 12**  
Relationship with E4 Environmental Living Zoning with Native Vegetation Map



**Figure 13**  
North Kellyville Asset Protection Zones

Whilst the site contains sparsely distributed vegetation, it does not contain any threatened species or native vegetation. Further, the adjoining residential developments on E4 zoned land to the site's east and south have isolated the site and effectively disassociated it from the values and objectives of the E4 zone, as they relate to the environmental and scenic qualities of the Caddies Creek Riparian Corridor. In short, the objectives and intended designation of the E4 Environmental Living zone throughout the Kellyville Precinct (as explained in Section 3.7 of the DCP) no longer reflect the characteristics and context of this particular subject site.

The E4 zoned portion of the site is located within the Vegetation Buffer Zone, however as the site is sparsely vegetated and surrounded by existing and approved low density residential subdivision (some of which has been approved in closer proximity to vegetation/fuel load), there is unlikely to be substantial bushfire risk on this site. Notwithstanding this, progression of the planning proposal would still require a bushfire study that addresses Planning for Bushfire Protection 2019 to satisfy the technical requirements of Section 9.1 Ministerial Direction 4.4.

#### Stormwater and Flooding

An on-site stormwater detention (OSD) will be required to compensate any increase in stormwater runoff due to the increase in impervious surfaces resulting from the proposed development. This will need to be located at the site's south eastern corner. An easement may need to be created within the downstream properties through which the pipe will run. The site's OSD system's high-flow bypass weir can discharge into Eden Road, utilising the road system as overland flow path. Given Eden Road is privately owned and maintained, permission to discharge and use the road as an overland flow path will require negotiations with the relevant land owners.

It is noted that Council does not have a flood study or flood mapping available for the site. In the ultimate developed scenario, this two hectare catchment will generate a reasonable volume of runoff. Therefore, a site-specific flood study will need to be prepared at the Development Application stage. A stormwater quality treatment or water sensitive urban design (WSUD) strategy needs to be incorporated in an associated stormwater management plan. It will also need to demonstrate how the increased erosive potential for minor flows and their potential impact to the tributary of Cattai Creek is going to be addressed. It is expected

that inter-allotment drainage shall be provided to lots that could not drain directly to the proposed roadways or to a lawful point of discharge.

The preparation of the Flood Study and associated stormwater management plan at the Development Application stage will need to be in accordance with Council's Stormwater and Waterways Design Requirements and other relevant guidelines.

### **CONCLUSION**

The planning proposal generally aligns with the relevant strategic planning framework and, subject to the recommended maximum dwelling cap, will enable the subdivision of the land into 21 residential lots and the delivery of the anticipated local road network. The proposed development outcome will facilitate orderly development and the future development will reflect the objectives of an R2 Low Density Residential Zone and align with the prevailing character of the surrounding locality.

It is considered appropriate for the proposal to be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination in accordance with the recommended Option 4. Prior to Council's consideration of the planning proposal, the Proponent should submit a Bushfire Assessment Report that demonstrates compliance with Planning for Bush Fire Protection 2019, in satisfaction of the technical requirement under Section 9.1 Ministerial Direction 4.4.

### **RECOMMENDATION**

The planning proposal for land at 9 Palaran Avenue, North Kellyville is suitable to be forwarded to the Department of Planning, Industry and Environment for Gateway Determination, subject to the following:

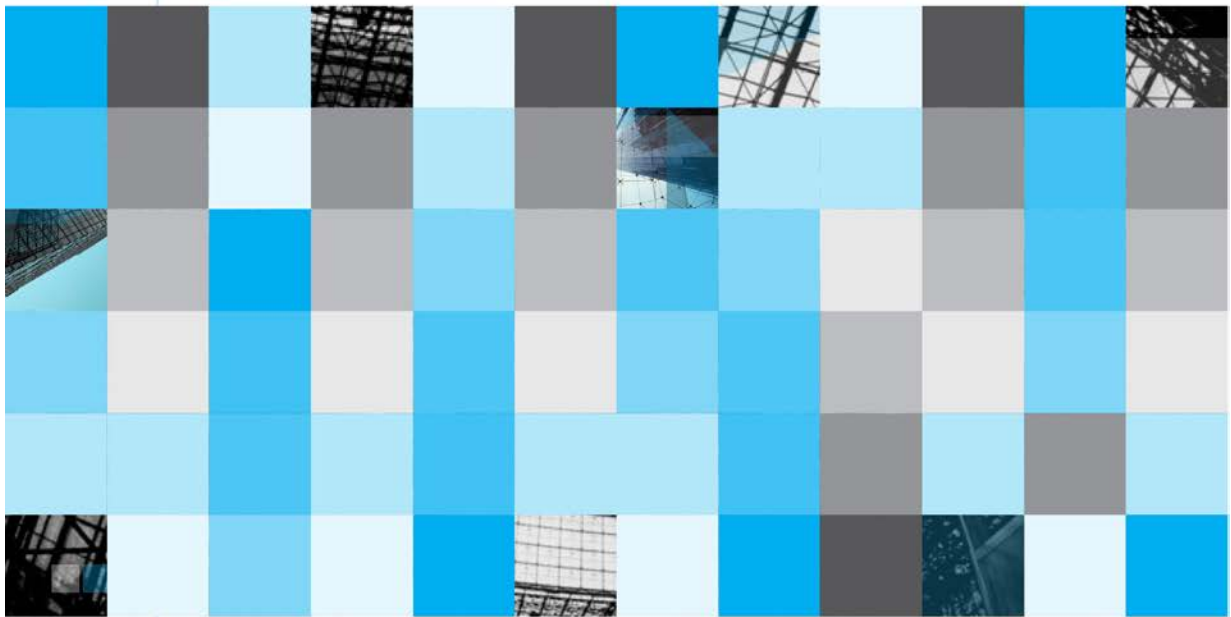
- a) The planning proposal be amended to include a local provision that would apply a maximum cap of 7 dwellings to the portion of land currently zoned E4 Environmental Living; and
- b) Prior to Council's consideration of the planning proposal, the Proponent should submit a Bushfire Assessment Report that demonstrates compliance with Planning for Bush Fire Protection 2019, in satisfaction of the technical requirement under Section 9.1 Ministerial Direction 4.4.

### **ATTACHMENTS**

- 1. Planning Proposal Report (34 Pages)

ATTACHMENT 1

SUTHERLAND  
& ASSOCIATES  
PLANNING



9 Palaran Avenue, North Kellyville

Planning Proposal

**SUTHERLAND & ASSOCIATES PLANNING**

ABN 14 118 321 793 ACN 144 979 564

Planning Proposal

9 PALARAN AVENUE, NORTH KELLYVILLE

**December 2020**

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## 1.0 INTRODUCTION

This Planning Proposal has been prepared by Sutherland & Associates Planning Pty Ltd in relation to land at 9 Palaran Avenue, North Kellyville (formerly known as 4 Kendall Place, Kellyville).

9 Palaran Avenue, North Kellyville is part zoned R2 Low Density Residential and part zoned E4 Environmental Living pursuant to Appendix 2 North Kellyville Precinct Plan of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

The objectives of the E4 zone are to provide for low-impact residential development in areas with special ecological, scientific or aesthetic values and to ensure that residential development does not have an adverse effect on those values.

The site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the North West Growth Centre Native Vegetation Protection Map. The entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation. In addition, the site is now permanently disconnected from land which does contain vegetation that needs to be managed and conserved.

Accordingly, the part of the site zoned E4 Environmental Living does not have special ecological, scientific or aesthetic values and therefore there is no longer any basis for the eastern part of the subject site to remain zoned E4 Environmental Living. This part of the site should be zoned the same as the balance of the site which is already zoned R2 Low Density Residential given the objectives of the R2 zone are more appropriate and relevant to the land.

In accordance with Clause 4.1C(3)(b) of Appendix 2 of the Growth Centres SEPP any allotment created from a subdivision of land within the E4 Environmental Living zone must not be less than the minimum size shown on the Lot Size Map. A 4,000 square metre minimum lot size applies to the E4 Environmental Living zoned part of the subject site. Notwithstanding this, Clause 6.5 allows subdivision of land in the Zone E4 Environmental Living with a minimum lot size of 600 square metres, however, this is only on a Community title basis in accordance with the *Community Land Development Act 1989* for a neighbourhood scheme. The objectives for Clause 6.5 are to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living and to ensure the land is managed and conserved in a holistic and sensitive manner. Clause 6.5 only allows subdivision on a Community title basis because it anticipates that sensitive land and bushfire asset protection zones in a development will be protected as a neighbourhood allotment, as explained in Section 3.7 of the North Kellyville Precinct Development Control Plan 2018 (DCP 2018).

As detailed above the part of the site zoned E4 Environmental Living does not contain any land that has special environmental values and has become isolated and disconnected from any other lots with special ecological, scientific or aesthetic values as a result of recent development approvals to the north, south and east of the site. Accordingly, the objectives of clause 6.5 have little relevance. Also, the small size of the E4 zoned parcel of land (4,960.7 square metres) and street frontage that will be provided to this land is such that there is no need for any new internal roads. Accordingly, the requirement for a neighbourhood allotment in a subdivision of the site is redundant and there is no need for a requirement for subdivision on a Community title basis.

Whilst Torrens title subdivision of the E4 Environmental Living zoned part of the site is possible, this is only on the basis of a minimum lot size of 4,000 square metres which is inconsistent with the emerging pattern of subdivision surrounding the site.

Given the emerging pattern of subdivision surrounding the site and the size of the E4 zoned parcel of land, the objectives and subdivision controls applicable to E4 zoned land are no longer relevant or appropriate and require amendment to deliver an orderly pattern of development on this part of the site.

On this basis, the subject Planning Proposal seeks the following amendments to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006, which are the basis for the assessment in this Planning Proposal:

- Amend the North West Growth Centre Lot Size Map to change the minimum lot size that applies to part of the site from 4,000 square metres to 600 square metres; and
- Rezone the subject site from E4 Environmental Living to R2 Low Density Residential.

The purpose of the Planning Proposal is to allow the orderly and economic development of the subject site by facilitating subdivision of the part of the site currently zoned E4 Environmental Living in a manner which more appropriately reflects the site characteristics and surrounding context.

This outcome is in the public interest because it allows for an orderly pattern of development to be achieved that is consistent with the pattern and density of the surrounding development.

The Planning Proposal demonstrates the strategic merit of the proposed amendments to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and seeks to commence the statutory process to amend the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 as requested.

The Planning Proposal has been prepared in accordance with Section 3.33 of the Environmental Planning & Assessment Act 1979 (EP&A Act). As required by Section 3.33 of the EP&A Act this Planning Proposal includes the following:

- a statement of the objectives or intended outcomes of the proposed instrument,
- an explanation of the provisions that are to be included in the proposed instrument,
- the justification for those objectives, outcomes and provision and the process for their implementation,
- if maps are to be adopted by the proposed instrument – a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument, and
- details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

The Planning Proposal has also been prepared having regard to the 'Guide to Preparing Planning Proposals' developed by the NSW Department of Planning and Environment. The report addresses the Proposal's consistency with Greater Sydney Region Plan - A Metropolis of Three Cities, the Central City District Plan, strategic plans and assesses the consistency of the Planning Proposal against relevant State Environmental Planning Policies and Ministerial Directions.

The Planning Proposal is also supported by a conceptual plan of subdivision prepared by Robert Moore & Associates Surveyors.

## 2.0 SITE DESCRIPTION AND LOCATION

### 2.1 Locality Description

The land to which the Planning Proposal relates is situated within The Hills Shire Local Government Area in the suburb of North Kellyville.

North Kellyville currently comprises rural residential development interspersed with large areas of land undergoing redevelopment consistent with the North Kellyville growth centre release area plan. The area was identified as a growth centre release area and was rezoned in 2008 by the Minister for Planning and Infrastructure for urban development and is referred to as 'North Kellyville Precinct'. This area is undergoing a rapid transformation and is earmarked to deliver approximately 4,500 new dwellings.

The vision for North Kellyville is the creation of vibrant neighbourhoods that provide a range of dwelling types and opportunities for social interaction for a diverse population in centres, parks and community facilities. The North Kellyville Precinct will contain three centres that will become the focal points for social interaction, community uses and retailing. An integrated public transport, cycle and pedestrian network will facilitate improved access within the Precinct and to the surrounding areas, particularly to Rouse Hill Regional Centre. The interface of the built form and the design of the public domain will create an attractive place to live.

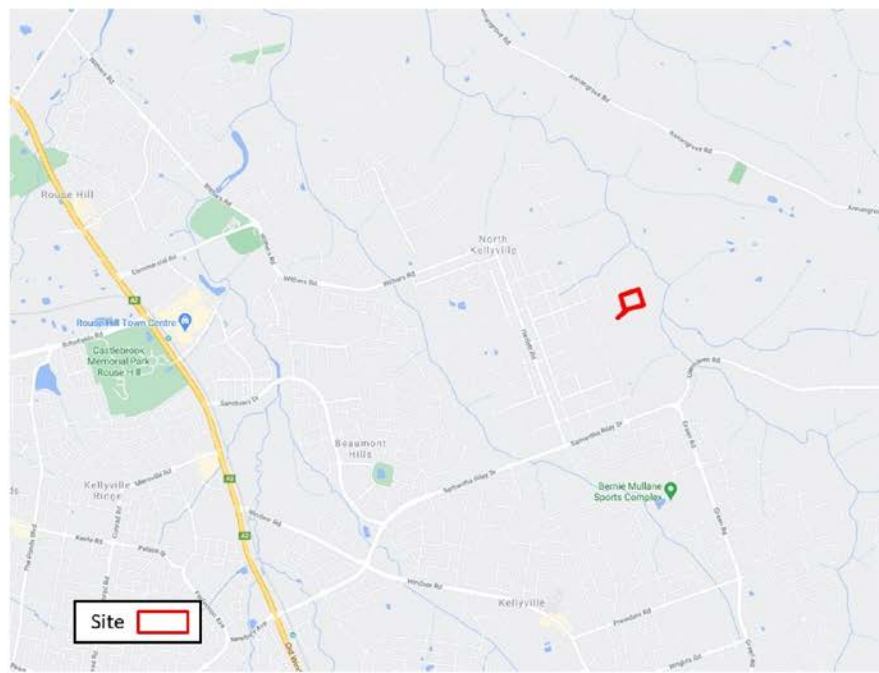


Figure 1:

Location plan: (Source: Google Maps 2020)

## 2.2 Site Description and Surrounding Context

This Planning Proposal relates to land legally described as Lot 3 DP 249675 and known as 9 Palaran Avenue, North Kellyville. The site was originally a battleaxe allotment with an access handle providing frontage to the cul-de-sac of Kendall Place, such that the site was previously known as 4 Kendell Place. However, with the delivery of the street network as anticipated by the North Kellyville Precinct Development Control Plan 2018, the site is now also accessed via Palaran Avenue which meets the southern boundary of the subject site and Roland Garros Crescent and Barabati Road which meet the northern boundary of the site. Roland Garros Crescent and Barabati Road will ultimately extend through the subject site.

The context surrounding the site is rapidly changing.

Immediately to the north of the subject site are new detached houses on allotments of approximately 380 to 440 square metres in area. These allotments have their street address to Craven Street, Roland Garros Crescent and Barabati Road and are on land zoned R2 Low Density Residential.

Immediately to the east of the subject site are new detached houses on allotments of approximately 600 square metres in size which have their street address to Kinnick Place further to the east. Kinnick Place is a neighbourhood allotment which also includes bushland to the east. This land is zoned E4 Environmental Living.

The land immediately to the south of the subject site is currently under construction for a subdivision creating 21 community title residential lots, one association lot and one residue lot including a new road as approved under Development Consent 635/2019/ZD. The road within the neighbourhood lot is immediately adjacent to the southern boundary of the subject site. The residential allotments are all approximately 600 square metres in size. This land is zoned E4 Environmental Living.

The land immediately to the west of the subject site is known as 11 Palaran Avenue and is an original allotment of approximately 2 hectares in size. The site currently contains a detached dwelling, large open areas and some vegetation. 11 Palaran is zoned R2 Low Density Residential and it is likely that it will be redeveloped in the near future for detached residential housing on allotments ranging from approximately 450 to 550 square metres in area.

The subject site contains an original single storey dwelling on the western portion of the site which is accessed via a driveway from the cul-de-sac of Palaran Avenue. To the east of the dwelling is a swimming pool and outbuilding. To the west of the dwelling is another outbuilding. The majority of the site consists of cleared grass areas, some garden areas, and some limited larger vegetation along the boundaries of the site and in the north-eastern corner.

The subject site does not contain vegetation mapped as either Existing Native Vegetation Area or Native Vegetation Retention Area on the Native Vegetation Protection Map. Furthermore, the entire site is also located on 'biodiversity certified land' according to the Order to confer biodiversity certification on the State Environmental Planning Policy Sydney Region Growth Centres 2006. Under s126(l) of the Threatened Species Conservation Act 1995 development on biodiversity certified land is taken to be development that is not likely to significantly affect any threatened species, population or ecological community or its habitat. A consent authority is not required to take into consideration the likely impact of the development on biodiversity values (despite any provision of the EP&A Act or any regulation or instrument made under that Act).



Figure 2:

Aerial View of the Site and Surrounds (Source: Six Maps, Department of Lands 2020)



Photograph 1:

The existing entrance driveway to the site from Palaran Avenue

Planning Proposal - 9 Palaran Avenue, North Kellyville



Photograph 2:

View from the eastern end of the site facing west with the southern boundary on the left



Photograph 3:

View from the site facing east with the southern boundary on the right



Photograph 4:

View from the southern end of the site facing north-east towards the eastern boundary

Planning Proposal - 9 Paloran Avenue, North Kellyville



Photograph 5:

View of the existing dwelling  
and pool facing north-west

Photograph 6:

View of the northern boundary  
of the site from the north-  
eastern corner



Photograph 7:

View towards the western  
boundary of the site taken from  
the northern part of the site



Planning Proposal - 9 Palbram Avenue, North Kellyville



Photograph 8:

View of western adjacent site at 11 Palaran Avenue which is yet to be developed



Photograph 9:

View of southern adjacent site which is currently under construction



Photograph 10:

Emerging context in Palaran Avenue

Planning Proposal - 9 Palaran Avenue, North Kellyville

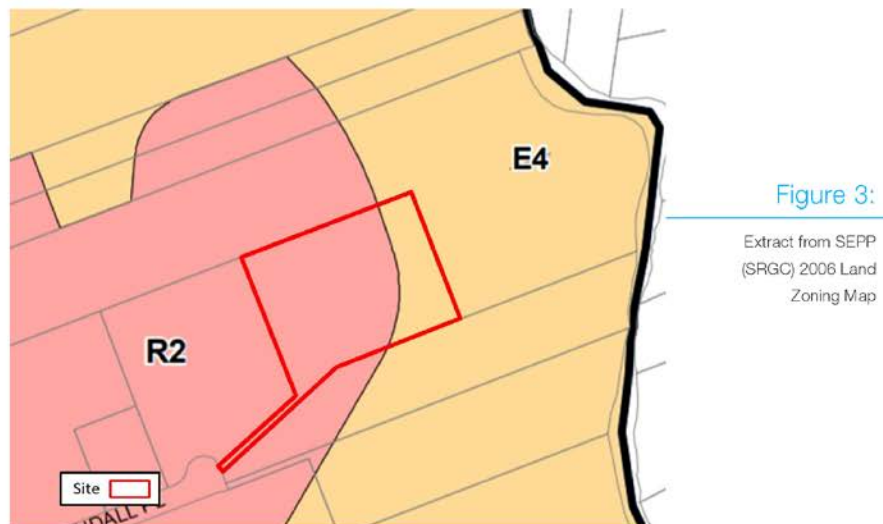
### 3.0 LOCAL PLANNING PROVISIONS

#### 3.1 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

State Environmental Planning Policy (Sydney Region Growth Centres) 2006 applies to the site. Key provisions applying to the site are identified below:

##### 3.1.1 Zoning and Permissibility

The majority of the site is zoned R2 Low Density Residential and a small area of the site is zoned E4 Environmental Living pursuant to Appendix 2 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006. An extract of the Land Zoning Map is included as Figure 3.



The objectives of the R2 Low Density Residential zone are:

- To provide for the housing needs of the community within a low-density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for a variety of housing types but primarily low density detached housing.
- To support the wellbeing of the community, including educational, recreational, community, religious and other activities if there will be no adverse effect on the amenity of the proposed or existing nearby residential development.

The following uses are permitted with consent in the R2 Low Density Residential zone:

Centre-based child care facilities; Community facilities; Drainage; Dual occupancies; Dwelling houses; Earthworks; Educational establishments; Environmental protection works; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home businesses; Information and education facilities; Recreation areas;

Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Studio dwellings; Water recycling facilities; Waterbodies (artificial)

The objectives of the E4 Environmental Living zone are:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.

The following uses are permitted with consent in the E4 Environmental Living zone:

Bed and breakfast accommodation; Drainage; Dual occupancies; Dwelling houses; Earthworks; Electricity generating works; Environmental facilities; Environmental protection works; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Horticulture; Recreation areas; Recreation facilities (outdoor); Roads; Swimming pools; Water recreation structures; Water recycling facilities; Waterbodies (artificial.)

### 3.1.2 Lot Size

Clause 4.1C(3)(b) establishes a minimum lot size of 4,000 square metres for the part of the site which is zoned E4 Environmental Living. An extract of the Lot Size map is included as Figure 4.

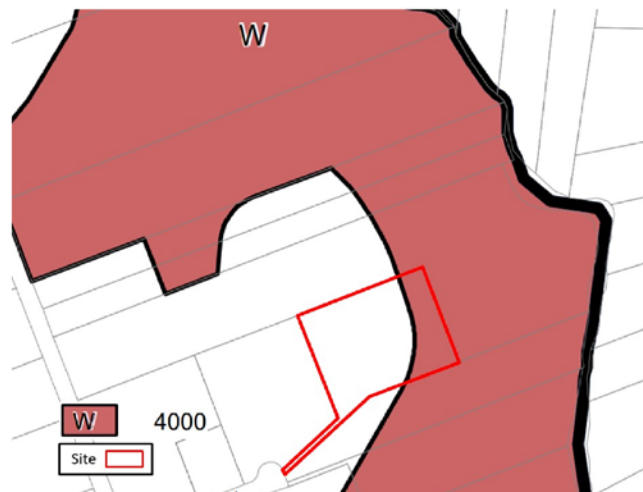


Figure 4:

Extract from the SEPP  
(SRGC) 2006 Lot Size  
Map

The objectives of the clause are:

- (a) to provide for the subdivision of lots that are within Zone R2 Low Density Residential and Zone E4 Environmental Living but cannot be subdivided under clause 4.1,

(b) to ensure that the subdivision occurs in a manner that promotes suitable land use and development,

(c) to ensure that the subdivision will not compromise the environmental values of land in Zone E4 Environmental Living.

### 3.1.3 Preservation of trees or vegetation

Clause 5.9 relates to the preservation of the amenity of the area through the preservation of trees and other vegetation.

Clauses 6.2 and 6.3 of the Growth Centres SEPP contains controls for the clearing of Existing Native Vegetation and Native Vegetation Retention Areas as shown on the Native Vegetation Protection Map. However, the subject site does not contain vegetation mapped in either of these categories and therefore has no further restriction of clearing of vegetation as illustrated in Figure 5 below.



Figure 5:

Extract from SEPP  
Native Vegetation  
Protection Map

The entire site is also located on 'biodiversity certified land' according to the Order to confer biodiversity certification on the State Environmental Planning Policy Sydney Region Growth Centres 2006 as depicted in Figure 6 below.

Under s126(i) of the Threatened Species Conservation Act 1995 development on biodiversity certified land is taken to be development that is not likely to significantly affect any threatened species, population or ecological community or its habitat. A consent authority is not required to take into consideration the likely impact of the development on biodiversity values (despite any provision of the EP&A Act or any regulation or instrument made under that Act). Therefore, it is understood that no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation.

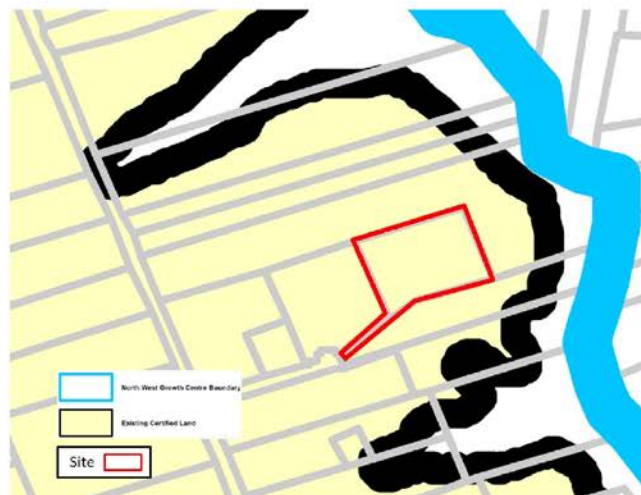


Figure 6:

Biodiversity certified  
land

### 3.1.4 Subdivision of land in Zone E4 Environmental Living

Clause 6.5 provides the following in relation to the subdivision of land in zone E4 Environmental Living:

- (1) The objectives of this clause are as follows—
  - (a) to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living,
  - (b) to encourage development that will ensure the land is managed and conserved in a holistic and sensitive manner,
  - (c) to promote high quality residential amenity in the urban environment,
  - (d) to encourage an innovative and contemporary approach to building design and location that is appropriate to the special values of the land.
- (2) This clause applies to land in Zone E4 Environmental Living.
- (3) The consent authority may grant development consent for the subdivision of land to which this clause applies, only if—
  - (a) the land is subdivided in accordance with the Community Land Development Act 1989 for a neighbourhood scheme, and
  - (b) each lot, other than a lot comprising neighbourhood property, to be created by the subdivision will have an area of not less than 600 square metres, and
  - (c) the subdivision will not result in more than 7.5 development lots per hectare.

## 4.0 PLANNING PROPOSAL

### 4.1 Overview

In accordance with Section 3.33(2) of the Environmental Planning and Assessment Act 1979 (the EP&A Act) a Planning Proposal is to be comprised of five (5) parts:

- Part 1 – A statement of the objectives and intended outcomes of the proposed instrument.
- Part 2 – An explanation of the provisions that are to be included in the proposed instrument.
- Part 3 – The justification for those objectives, outcomes and the process for their implementation.
- Part 4 – Maps, where relevant, to identify the intent of the Planning Proposal and the area to which it applies.
- Part 5 – Details of the community consultation that is to be undertaken on the Planning Proposal.

Section 3.33(3) of the Act allows the Secretary to issue requirements with respect to the preparation of a Planning Proposal. The Secretary's requirements include:

- Specific matters that must be addressed in the justification (Part 3) of the Planning Proposal
- A project timeline to detail the anticipated timeframe for the plan making process for each Planning Proposal.

The project timeline forms Part 5 of a Planning Proposal.

Section 4 of this report addresses and responds to the matters for consideration detailed within 'Planning Proposals - A Guide to Preparing Planning Proposals' (NSW Department of Planning and Environment, August 2016).

### 4.2 Part 1: Objectives or Intended Outcomes

The objective of the Planning Proposal is to amend the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 as follows:

- Amend the North West Growth Centre Lot Size Map to change the minimum lot size that applies to part of the site from 4,000 square metres to 600 square metres; and
- Rezone part of the subject site from E4 Environmental Living to R2 Low Density Residential.

The purpose, or intended outcome, of the Planning Proposal is to allow the orderly and economic development of the subject site by facilitating subdivision of the part of the site currently zoned E4 Environmental Living in a manner which more appropriately reflects the site characteristics and surrounding context.

### 4.3 Part 2: Explanation of Provisions

#### 4.3.1 Proposed Changes to State Environmental Planning Policy (Sydney Region Growth Centres) 2006

The amendments proposed to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 are as follows:

- Amend the North West Growth Centre Lot Size Map (Sheet LSZ\_012) to change the minimum lot size that applies to part of the site at 9 Palaran Avenue, North Kellyville from 4,000 square metres to 600 square metres; and

- Rezone part of the subject site at 9 Palaran Avenue, North Kellyville from E4 Environmental Living to R2 Low Density Residential. This requires an amendment to the North West Growth Centre Land Zoning Map (Sheet LZN\_012A)

#### 4.3.2 Concept Plan of Subdivision

The Planning Proposal is accompanied by a conceptual plan of subdivision prepared by Robert Moore & Associates Surveyors which illustrates the intended future subdivision of the overall site which would be facilitated by the proposed amendments to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006. This is shown in Figure 7 below and included as Appendix A.



Figure 7:

Conceptual plan of subdivision prepared by Robert Moore & Associates Surveyors

#### 4.4 Part 3: Justification

This Part of the Planning Proposal sets out the case for the proposed amendments to the minimum lot size and E4 Environmental Living zones which currently apply to the eastern part of the subject site pursuant to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

##### 4.4.1 Need for the Planning Proposal

Is the Planning Proposal the result of any strategic study or report?

The Planning Proposal is not the result of any strategic study or report.

However, the proposed amendment is not inconsistent with the intended outcomes of the various planning controls which influenced the application of the E4 Environmental Living zone that applied to

the site with the introduction of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

In particular, the current planning regime being the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and also the North Kellyville Precinct Development Control Plan, anticipated that the E4 Environmental Living part of the site would be amalgamated with the E4 Environmental Living land adjacent to the east of the site.

Such an amalgamated outcome would logically lend itself to a Community title subdivision as anticipated by the planning controls, with the protected vegetation further to the east being retained and managed as a neighbourhood lot. However, this outcome has already been achieved as a result of the approved redevelopment and subdivision of the site immediately to the east, on a standalone basis.

As a result, the subject site has become isolated from any land containing vegetation that needs to be managed and conserved, such that there is no longer a need for a neighbourhood allotment and for subdivision of the site to be on a Community title basis.

**Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The objectives of the E4 zone are to provide for low-impact residential development in areas with special ecological, scientific or aesthetic values and to ensure that residential development does not have an adverse effect on those values.

The site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the North West Growth Centre Native Vegetation Protection Map. The entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation.

In addition, the site is now permanently disconnected from land which does contain vegetation that needs to be managed and conserved.

Accordingly, the part of the site zoned E4 Environmental Living does not have special ecological, scientific or aesthetic values and therefore there is no longer any basis for the eastern part of the subject site to remain zoned E4 Environmental Living. This part of the site should be zoned the same as the balance of the site which is already zoned R2 Low Density Residential given the objectives of the R2 zone are more appropriate and relevant to the land.

In accordance with Clause 4.1C(3)(b) of Appendix 2 of the Growth Centres SEPP any allotment created from a subdivision of land within the E4 Environmental Living zone must not be less than the minimum size shown on the Lot Size Map. A 4,000 square metre minimum lot size applies to the E4 Environmental Living zoned part of the subject site. Notwithstanding this, Clause 6.5 allows subdivision of land in the Zone E4 Environmental Living with a minimum lot size of 600 square metres, however, this is only on a Community title basis in accordance with the *Community Land Development Act 1989* for a neighbourhood scheme. The objectives for Clause 6.5 are to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living and to ensure the land is managed and conserved in a holistic and sensitive manner. Clause 6.5 only allows subdivision on a Community title basis because it anticipates that sensitive land and bushfire asset protection zones in a development will be protected as a neighbourhood allotment, as explained in Section 3.7 of the North Kellyville Precinct Development Control Plan 2018 (DCP 2018).

As detailed above the part of the site zoned E4 Environmental Living does not contain any land that has special environmental values and has become isolated and disconnected from any other lots with special ecological, scientific or aesthetic values as a result of recent development approvals to the north, south and east of the site. Accordingly, the objectives of clause 6.5 have little relevance. Also, the small size of the E4 zoned parcel of land (4,960.7 square metres) and street frontage that will be provided to this land is such that there is no need for any new internal roads. Accordingly, the requirement for a neighbourhood allotment in a subdivision of the site is redundant and there is no need for a requirement for subdivision on a Community title basis.

Whilst Torrens title subdivision of the E4 Environmental Living zoned part of the site is possible, this is only on the basis of a minimum lot size of 4,000 square metres which is inconsistent with the emerging pattern of subdivision surrounding the site.

Given the emerging pattern of subdivision surrounding the site and the size of the E4 zoned parcel of land, the objectives and subdivision controls applicable to E4 zoned land are no longer relevant or appropriate and require amendment to deliver an orderly pattern of development on this part of the site.

In order to facilitate this outcome, there are two potential avenues for amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006, as follows:

Option 1	Option 2
<ul style="list-style-type: none"> <li>Amend the North West Growth Centre Lot Size Map to change the minimum lot size that applies to part of the site from 4,000 square metres to 600 square metres. The 600 square metre lot size is consistent with the size of lots on the immediately adjoining land to the north, east and south.</li> <li>Rezone the subject site from E4 Environmental Living to R2 Low Density Residential. The R2 zone already applies to the majority of the site. The objectives of the R2 zone are more relevant to the land than those that apply to the E4 zone.</li> </ul>	<ul style="list-style-type: none"> <li>Amend the North West Growth Centre Lot Size Map to remove the 4,000 square metre affectation which applies to part of the site; and</li> <li>Amend Clause 6.5 to exempt this site from the application of the clause.</li> </ul>

In considering the two options, it is considered that Option 1 is superior because it avoids the need for a bespoke provision in Clause 6.5 of Appendix 2 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 to specifically exempt its application from the subject site. Option 1 is also superior as the objectives of the R2 zone are more closely aligned with the characteristics of the land. The provision of a 600 square metre lot size for the eastern part of the site will also ensure that the pattern of subdivision relates to the lot sizes on the immediately adjoining land.

The rezoning of the eastern part of the site to R2 Low Density Residential would also remove the application of Clause 6.5 to the future subdivision of the site. This is appropriate given that the objective of Clause 6.5, being to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living and to ensure the land is managed and conserved in a holistic and sensitive manner, is no longer relevant to the subject site.

The alternative approach of simply leaving the eastern part of the site zoned E4 Environmental Living and allowing Torrens title subdivision to lots of less than 4,000 square metres is considered inferior as the E4

Environmental Living zone no longer reflects the site characteristics and context. Furthermore, this approach would require a bespoke amendment to Clause 6.5 of Appendix 2 to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 which is undesirable given it creates further complexity that can be avoided by adopting a more appropriate zone for the land.

For these reasons the Planning Proposal is the best means of achieving the objectives and intended outcomes for the site.

#### 4.4.2 Relationship to Strategic Planning Framework

Is the Planning Proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

##### Greater Sydney Region Plan – A Metropolis of Three Cities

In March 2018 the Greater Sydney Region Plan - A Metropolis of Three Cities was released. The Plan sets a 40-year vision to 2056 and establishes a 20-year plan to manage growth and change for Greater Sydney. The vision for Greater Sydney is a metropolis of three cities — the Western Parkland City, the Central River City and the Eastern Harbour City where most residents live within 30 minutes of their jobs, education and health facilities, services and great places.

The Plan sets out 10 Directions which set out the aspirations for the region and objectives to support the Directions. The 10 Directions are:

- A city supported by infrastructure
- A collaborative city
- A city for people
- Housing the city
- A city of great places
- A well-connected city
- Jobs and skills for the city
- A city in its landscape
- An efficient city
- A resilient city

The Plan provides 40 objectives related to these directions and the themes of infrastructure and collaboration, liveability, productivity, sustainability and implementation. The following table summarises the proposals consistency with relevant objectives of the Plan:

Objective	Comment	Consistent
<b>Housing the city</b>		
Objective 10 Greater Housing Supply	NSW Government has identified that 725,000 additional homes will be needed by 2036 to meet demand based on current population projections. The proposed amendments will facilitate a residential density for the eastern part of the site is consistent with the density of the adjoining development to the east. This will result in	Yes

Objective	Comment	Consistent
	an improvement, albeit relatively minor, to the housing supply which is capable of being delivered by the subject site. This supply is appropriate having regard to the site characteristics and circumstance, and consistent with the housing supply which will occur on the balance of the subject site and within the visual catchment of the site.	
<b>A city in its landscape</b>		
Objective 27 Biodiversity is protected, urban bushland and remnant vegetation is enhanced  Objective 28 Scenic and cultural landscapes are protected	Objectives 27 and 28 are concerned with the protection of biodiversity and scenic landscapes. However, the subject site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the North West Growth Centre Native Vegetation Protection Map, and furthermore, the entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation. Accordingly, the proposed amendments do not result in any change in relation to the protection of biodiversity and scenic landscapes beyond the existing circumstance.	Yes

#### Central City District Plan

The Central City District Plan was also released in March 2018 and sets out a 20-year vision for the Central City District, which includes Blacktown, The Hills, Parramatta and Cumberland local government areas.

The Central City District Plan sets out priorities and actions for the growth and development of the Central District. The Plan provides the district level framework to implement the directions, objectives, strategies and actions outlined in the Greater Sydney Region Plan.

The Central City District is identified as one of the most dynamic and rapidly growing regions in Australia and one which plays a pivotal role in Greater Sydney's future as an economic and employment powerhouse, a core hub for transport and services, and the home of vibrant and diverse centres and communities.

The following table summarises the Planning Proposal's consistency with relevant components of the Central City District Plan:

Chapter	Comment	Consistent
Infrastructure and Collaboration	The site is within close proximity to the recently completed Kellyville metro station and the proposed amendments to the SEPP will allow for the appropriate development of the site for a commensurate density to that which is consistent with the immediately adjoining land to the east. This will maximise the benefit provided by the recently completed infrastructure.	Yes

Chapter	Comment	Consistent
Liveability	The proposed amendments will facilitate a residential density for the eastern part of the site which is consistent with the density of development on the surrounding land, without the restrictions which apply to sensitive land which contains vegetation which needs to be conserved and managed. This will result in an improvement, albeit relatively minor, to the housing supply which is capable of being delivered by the subject site. This supply is appropriate having regard to the site characteristics and circumstance, and the supply of housing which will occur on the balance of the subject site and within the visual catchment of the site.	Yes
Sustainability	Planning Priority C15 is concerned with protecting and enhancing bushland, biodiversity and scenic and cultural landscapes.  However, the subject site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the Native Vegetation Protection Map, and furthermore, the entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation. Accordingly, the proposed amendments do not result in any change in relation to protecting and enhancing bushland, biodiversity and scenic and cultural landscapes.	Yes

**Is the Planning Proposal consistent with a Council's local strategy or other local strategic plan?**

The Hills Shire Council Local Strategic Planning Statement (LSPS) identifies priorities for new housing in the right locations and a diversity of housing. In particular, the LSPS identifies:

The greenfield areas of North Kellyville, Box Hill, Box Hill North and Balmoral Road will continue to provide low and medium density housing, supported by existing and planned infrastructure, to meet demand for detached dwellings, which have been the core of The Hills housing market to date.

It is noted that the site is in a 'Greenfield Area' and not a 'Metropolitan Rural Area' under the LSPS. The focus for Greenfield Areas is for low and medium density housing, whilst protection of rural lands and bushland, biodiversity and scenic landscapes is relevant to the Metropolitan Rural Areas which does not include the subject site.

The Hills Shire Council Housing Strategy specifically identifies a planned 80 per cent increase in population by 2036, with the population of 290,900 people needing a mix of housing. The Strategy specifically identifies that Greenfield areas such as North Kellyville will accommodate most of the Shire's supply of detached homes.

The Planning Proposal is consistent with the identified role of North Kellyville as a Greenfield area which is intended to accommodate a large proportion of the Shire's supply of detached housing, which is a form of housing that the Shire is well known for and which attracts families to the area. This Planning Proposal demonstrates that the current zone and minimum lot size requirement for the eastern portion

of the subject site have become redundant as a result of the pattern of development that has occurred surrounding the site, such that it has become permanently isolated from any land required environmental management. Accordingly, the subject Planning Proposal allows the site to appropriately fulfil its role in the Greenfield area to deliver detached low-density housing.

**Is the Planning Proposal consistent with applicable State Environmental Planning Policies?**

The Planning Proposal is of no consequence in relation to any other State Environmental Planning Policies beyond the proposed amendments to State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

**Is the Planning Proposal consistent with applicable Ministerial Directions (s9.1 directions)?**

The following table summarises the Planning Proposal's consistency with applicable Ministerial Directions:

S.9.1 Direction No. and Title	Comment	Consistent
<b>Employment and Resources</b>		
1.1 Business and Industrial zones	Not applicable.	N/a
1.2 Rural Zones	Not applicable.	N/A
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable.	N/A
1.4 Oyster Aquaculture	Not applicable.	N/A
1.5 Rural Lands	Not applicable.	N/A
<b>Environmental and Heritage</b>		
2.1 Environment Protection Zones	The Planning Proposal does not impact on any environmentally sensitive areas.	Yes
2.2 Coastal Protection	Not applicable.	N/A
2.3 Heritage Conservation	Not applicable.	N/A
2.4 Recreation Vehicle Areas	Not applicable.	N/A
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPS	Not applicable.	N/A
2.6 Remediation of contaminated land	The land is not within an investigation area within the meaning of the Contaminated Land Management Act nor is it on land which	Yes

S.9.1 Direction No. and Title	Comment	Consistent
	<p>development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out.</p> <p>The Planning Proposal relates to land zoned E4 Environmental Living. This zone permits residential development. The proposed R2 zoning of this land will also permit residential development and so no change of use of land is proposed.</p>	
Housing, Infrastructure and Urban Development		
3.1 Residential Zones	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>(a) To encourage a variety and choice of housing types to provide for existing and future housing needs,</li> <li>(b) To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</li> <li>(c) To minimise the impact of residential development on the environment and resource lands.</li> </ul> <p>This Planning Proposal demonstrates that the current zone and minimum lot size requirements for the eastern portion of the subject site have become redundant as a result of the pattern of development that has occurred surrounding the site, such that it has become permanently isolated from any land requiring protection or environmental management. Accordingly, the subject Planning Proposal allows the site to appropriately fulfil its role in the Greenfield area to deliver detached low density housing which is a housing type which is well suited to the future housing needs in the area.</p> <p>The Proposal makes efficient use of existing infrastructure and services, including the recently completed Kellyville metro station.</p> <p>As the Proposal is for a site with no biodiversity protection requirements, there is no adverse impact on the environment and resource lands.</p>	N/A
3.2 Caravan Parks and Manufactured Home Estates	Not applicable.	N/A
3.3 Home Occupations	Not applicable.	N/A
3.4 Integrating land use and transport	This Direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.	Yes

S.9.1 Direction No. and Title	Comment	Consistent
	<p>In accordance with the direction a planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>(a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</p> <p>(b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</p> <p>The <i>Improving Transport Choice – Guidelines</i> provide advice on how the development industry, state agencies, other transport providers, and the community can:</p> <ul style="list-style-type: none"> <li>better integrate land use and transport planning and development</li> <li>provide transport choice and manage travel demand to improve the environment, accessibility and liveability.</li> </ul> <p>The <i>Right Place for Business and Services – Planning Policy</i> plans for a better arrangement of land uses in support of centres and the transport systems which serve them.</p> <p>The planning proposal seeks to facilitate the redevelopment of land for low density housing. The density proposed is appropriate having regard to the density of the surrounding allotments and proximity to public transport.</p>	
3.5 Development Near License Aerodromes	This Direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome. This Direction is not applicable to the Planning Proposal.	N/A
3.6 Shooting Ranges	Not applicable.	N/A
3.7 Reduction in non-hosted short term rental accommodation period	Not applicable.	N/A
<b>Hazard and Risk</b>		
4.1 Acid Sulfate Soils	Not applicable.	N/A
4.2 Mine Subsidence and Unstable Land	Not applicable.	N/A
4.3 Flood Prone Land	The site is not identified as Flood Prone Land.	N/A
4.4 Planning for Bushfire Protection	The site is identified as Bushfire Prone land and is specifically a 'vegetation buffer'. However, the land immediately to the east contains recently constructed low density housing, such that the development of the site for low density residential housing is unlikely to be incompatible with planning for Bushfire Prone Land.	Yes

S.9.1 Direction No. and Title	Comment	Consistent
	The detailed assessment of bushfire impact is a matter to be addressed in a subsequent Development Application.	
Regional Planning		
5.1 Implementation of Regional Strategies (Revoked)	Not applicable.	N/A
5.2 Sydney Drinking Water Catchments	Not applicable.	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.	N/A
5.5 Development in the vicinity of Ellalong, Paxton and Millfield	Revoked.	N/A
5.6 Sydney to Canberra Corridor	Revoked.	N/A
5.7 Central Coast	Revoked	N/A
5.8 Second Sydney Airport: Badgerys Creek	Not applicable.	N/A
5.9 North West Rail Link Corridor Strategy	Not applicable.	N/A
5.10 Implementation of Regional Plans	This direction applies to land to which a Regional Plan has been released by the Minister for Planning. No specific regional plan applies to the site.	N/A
5.11 Development of Aboriginal Land Council Land	Not applicable.	N/A
Local Plan Making		
6.1 Approval and Referral Requirements	<p>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p>In accordance with the direction the Proposal does not include provisions that require the concurrence, consultation or referral of</p>	Yes

S.9.1 Direction No. and Title	Comment	Consistent
	development applications to a Minister or public authority. Further the Proposal does not identify future development on the site as designated development.	
6.2 Reserving Land for Public Purposes	The Planning Proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.	Yes
6.3 Site Specific Provisions	<p>The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls. The direction applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out.</p> <p>The proposed amendments to State Environmental Planning Policy (Sydney Region Growth Centres) 2006, referred to as Option 1 in the introduction, are preferred in comparison to Option 2 as they avoid the need for site specific provisions in the SEPP.</p>	Yes
Metropolitan Planning		
7.1 Implementation of A Plan for Growing Sydney	In accordance with this direction Planning Proposals shall be consistent with the NSW Government's A Plan for Growing Sydney published in December 2014. As already discussed, the Planning Proposal is consistent with the relevant provisions of A Plan for Growing Sydney (now known as the Greater Sydney Region Plan - A Metropolis of Three Cities) as it will facilitate additional housing supply in an appropriate location.	Yes
7.2 Implementation of Greater Macarthur Land Release Investigation	Not applicable.	N/A
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not applicable.	N/A
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	The Proposal is not within the North West Priority Growth Area and therefore this direction does not apply	N/A
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.	N/A
7.6 Implementation of Wilton Priority Growth	Not applicable.	N/A

S.9.1 Direction No. and Title	Comment	Consistent
Area Interim Land Use and Infrastructure Implementation Plan		
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable.	N/A
7.8 Implementation of the Western Sydney Aerotropolis Plan	Not applicable.	N/A
7.9 Implementation of Bayside West Precincts 2036 Plan	Not applicable.	N/A
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable.	N/A
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable.	N/A
7.12 Implementation of Greater Macarthur 2040	Not applicable.	N/A

#### 4.4.3 Environmental, Social and Economic Impact

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?

The Planning Proposal will not adversely impact any critical habitat, threatened species, populations or ecological communities, or their habitats. The site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the North West Growth Centre Native Vegetation Protection Map. The entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

There are no negative environmental effects which would arise as a result of the Planning Proposal. There are no hazards that impact the site or environmental effects resulting from the future redevelopment of the site that would preclude consideration of the Planning Proposal. The proposed amendments to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 will support the redevelopment of the eastern portion of the subject site in an appropriate manner which is commensurate with that which

is possible on the balance of the site and also within the visual catchment of the site. Therefore, the proposed amendment will not give rise to any adverse environmental effects.

[Has the Planning Proposal adequately addressed any social and economic effects?](#)

The Planning Proposal has no expected negative social effects. The Planning Proposal demonstrates a commitment to improving housing diversity and supply in the locality and providing housing that responds to the lifestyle and values of the local community.

#### 4.4.4 State and Commonwealth Interests

[Is there adequate public infrastructure for the Planning Proposal?](#)

Required electricity, telecommunication, gas, water, sewer and drainage services are available to the site.

The site is well served by public transport infrastructure in that the site is within close proximity to the recently completed Kellyville metro station as well as other services and facilities such as the Rouse Hill shopping centre.

The future subdivision of the site will include a \$7.11 contribution to be paid to assist Council to provide the appropriate public facilities which are required to maintain and enhance amenity and service delivery in the area. Furthermore, the future subdivision of the site will also include the requirement for the payment of a special infrastructure contribution in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011.

[What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?](#)

Relevant public authorities will be consulted following the Gateway determination.

#### 4.5 Part 4: Mapping

The Planning Proposal will require the amendment of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006:

- North West Growth Centre Lot Size Map - Sheet LSZ\_012 to change the minimum lot size that applies to part of the site from 4,000 square metres to 600 square metres affectation which applies to part of the site, as illustrated in Figure 8;
- North West Growth Centre Land Zoning Map - sheet LZN\_012A to Rezone the subject site from E4 Environmental Living to R2 Low Density Residential, as illustrated in Figure 9 below.

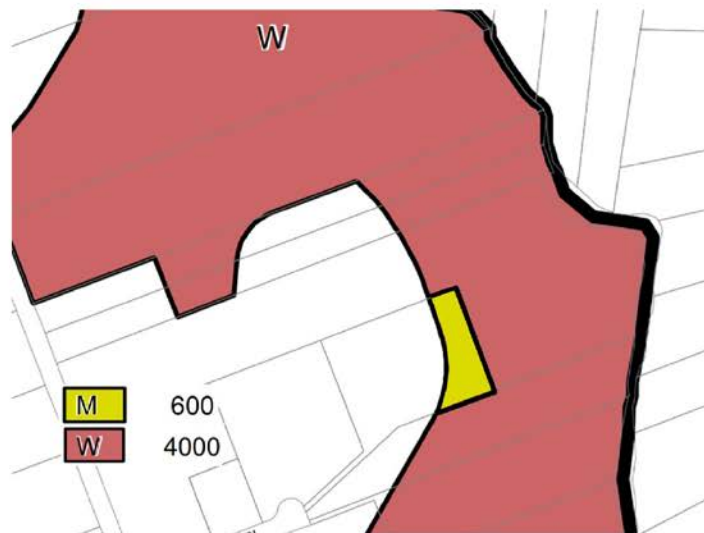
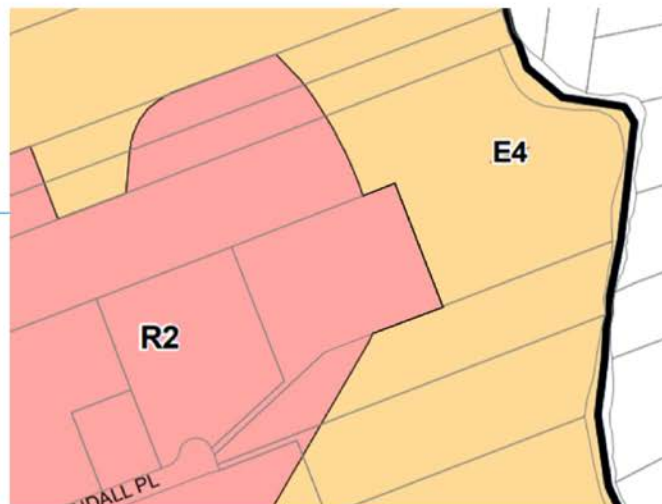


Figure 8:

Proposed  
amended Lot  
Size Map

Figure 9:

Proposed amended  
Land Zoning Map

#### 4.6 Part 5: Community Consultation

'A guide to preparing local environmental plans' produced by the NSW Department of Planning and Environment sets out the community consultation requirements for Planning Proposals.

The guide indicates that consultation will be tailored to specific Proposals. The exhibition for low impact Planning Proposals will generally be 14 days and all other Planning Proposals will be 28 days.

A low impact Planning Proposal is described as a Planning Proposal that, in the opinion of the person making the gateway determination is consistent with the pattern of surrounding land use zones and/or land uses; is consistent with the strategic planning framework; presents no issues with regard to infrastructure servicing; is not a principal LEP; and does not reclassify public land.

It would be appropriate to exhibit the Planning Proposal for 14 days as it is considered to be a low impact Planning Proposal because it is consistent with the pattern of surrounding land use zones, consistent with the strategic planning framework, and presents no issues with regard to infrastructure servicing.

Community consultation to be commenced by giving notice of the public exhibition of the Planning Proposal in a local newspaper, on the Council website and in writing to adjoining landowners.

The written notice of the Planning Proposal will:

- give a brief description of the objectives or intended outcomes of the Planning Proposal
- indicate the land affected by the Planning Proposal
- state where and when the Planning Proposal can be inspected
- give the name and address of the relevant planning authority (Canterbury Bankstown Council) for the receipt of submissions
- indicate the last date for submissions
- confirm whether delegation for making the LEP has been issued to the relevant planning authority.

#### 4.7 [Part 6: Project Timeline](#)

The project timeline will be determined by The Hills Shire Council.

## 5.0 CONCLUSION

9 Palaran Avenue, North Kellyville is part zoned R2 Low Density Residential and part zoned E4 Environmental Living pursuant to Appendix 2 North Kellyville Precinct Plan of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

In accordance with Clause 4.1C(3)(b) of Appendix 2 of the Growth Centres SEPP any allotment created from a subdivision of land within the E4 Environmental Living zone must not be less than the minimum size shown on the Lot Size Map. A 4,000 square metre minimum lot size applies to the E4 Environmental Living zoned part of the subject site. Notwithstanding this, Clause 6.5 allows subdivision of land in the Zone E4 Environmental Living with a minimum lot size of 600 square metres, however, this is only on a Community title basis in accordance with the *Community Land Development Act 1989* for a neighbourhood scheme. The objectives for Clause 6.5 are to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living and to ensure the land is managed and conserved in a holistic and sensitive manner. Clause 6.5 only allows subdivision on a Community title basis because it anticipates that sensitive land and bushfire asset protection zones in a development will be protected as a neighbourhood allotment, as explained in Section 3.7 of the North Kellyville Precinct Development Control Plan 2018 (DCP 2018).

The part of the site zoned E4 Environmental Living does not contain any land that has special environmental values and has become isolated and disconnected from any other lots with special ecological, scientific or aesthetic values as a result of recent development approvals to the north, south and east of the site. Accordingly, the objectives of the E4 zone and clause 6.5 have little relevance. Also, the small size of the E4 zoned parcel of land (4,960.7 square metres) and street frontage that will be provided to this land is such that there is no need for any new internal roads. Accordingly, the requirement for a neighbourhood allotment in a subdivision of the site is redundant and there is no need for a requirement for subdivision on a Community title basis.

Whilst Torrens title subdivision of the E4 Environmental Living zoned part of the site is possible, this is only on the basis of a minimum lot size of 4,000 square metres which is inconsistent with the emerging pattern of subdivision surrounding the site.

Given the emerging pattern of subdivision surrounding the site and the size of the E4 zoned parcel of land, the objectives and subdivision controls applicable to E4 zoned land are no longer relevant or appropriate and require amendment to deliver an orderly pattern of development on this part of the site.

The purpose of the Planning Proposal is to allow the orderly and economic development of the subject site by facilitating subdivision of the part of the site currently zoned E4 Environmental Living in a manner which more appropriately reflects the site characteristics and surrounding context.

On this basis, the subject Planning Proposal seeks the following amendments to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006:

- Amend the North West Growth Centre Lot Size Map to change the minimum lot size that applies to part of the site at 9 Palaran Avenue from 4,000 square metres to 600 square metres; and
- Rezone the part of the subject site at 9 Palaran Avenue, North Kellyville which is currently zoned E4 Environmental Living to R2 Low Density Residential.

For the reasons outlined in this report it is appropriate for The Hills Shire Council, as the relevant planning authority, to support the Planning Proposal.

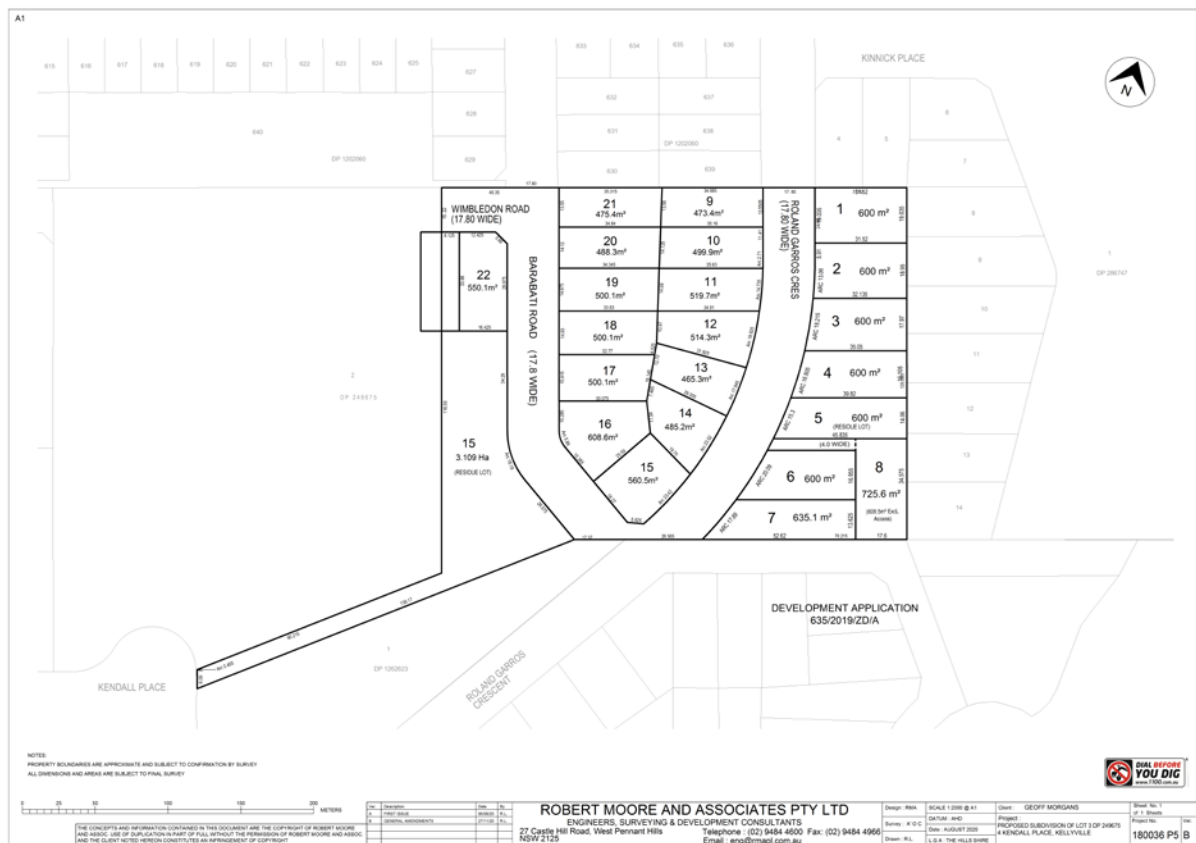
SUTHERLAND & ASSOCIATES PLANNING

# APPENDIX A

Robert Moore & Associates

CONCEPT PLAN OF SUBDIVISION

A



## **LOCAL PLANNING PANEL – THE HILLS SHIRE COUNCIL**

### **DETERMINATION OF THE LOCAL PLANNING PANEL ON 22 APRIL 2021 – DETERMINATION MADE ELECTRONICALLY**

#### **PRESENT:**

Julie Walsh	Chair
Penny Holloway	Expert
Heather Warton	Expert
Damian Kelly	Community Representative

#### **DECLARATIONS OF INTEREST:**

Nil Disclosed

#### **COUNCIL STAFF:**

The Panel were briefed by the following Council Staff on 21 April 2021:

David Reynolds	-	Group Manager – Shire Strategy, Transformations & Solutions
Nicholas Carlton	-	Manager – Forward Planning
Megan Munari	-	Principal Coordinator, Forward Planning
Kayla Atkins	-	Strategic Planning Coordinator
Gideon Tam	-	Town Planner

**ITEM 1:                               LOCAL PLANNING PANEL – PLANNING PROPOSAL – 9  
PALARAN AVENUE, NORTH KELLYVILLE (3/2021/PLP)**

**COUNCIL OFFICER’S RECOMMENDATION:**

The planning proposal for land at 9 Palaran Avenue, North Kellyville is suitable to be forwarded to the Department of Planning, Industry and Environment for Gateway Determination, subject to the following:

- a) The planning proposal be amended to include a local provision that would apply a maximum cap of 7 dwellings to the portion of land currently zoned E4 Environmental Living; and
- b) Prior to Council's consideration of the planning proposal, the Proponent should submit a Bushfire Assessment Report that demonstrates compliance with Planning for Bush Fire Protection 2019, in satisfaction of the technical requirement under Section 9.1 Ministerial Direction 4.4.

**PANEL’S ADVICE:**

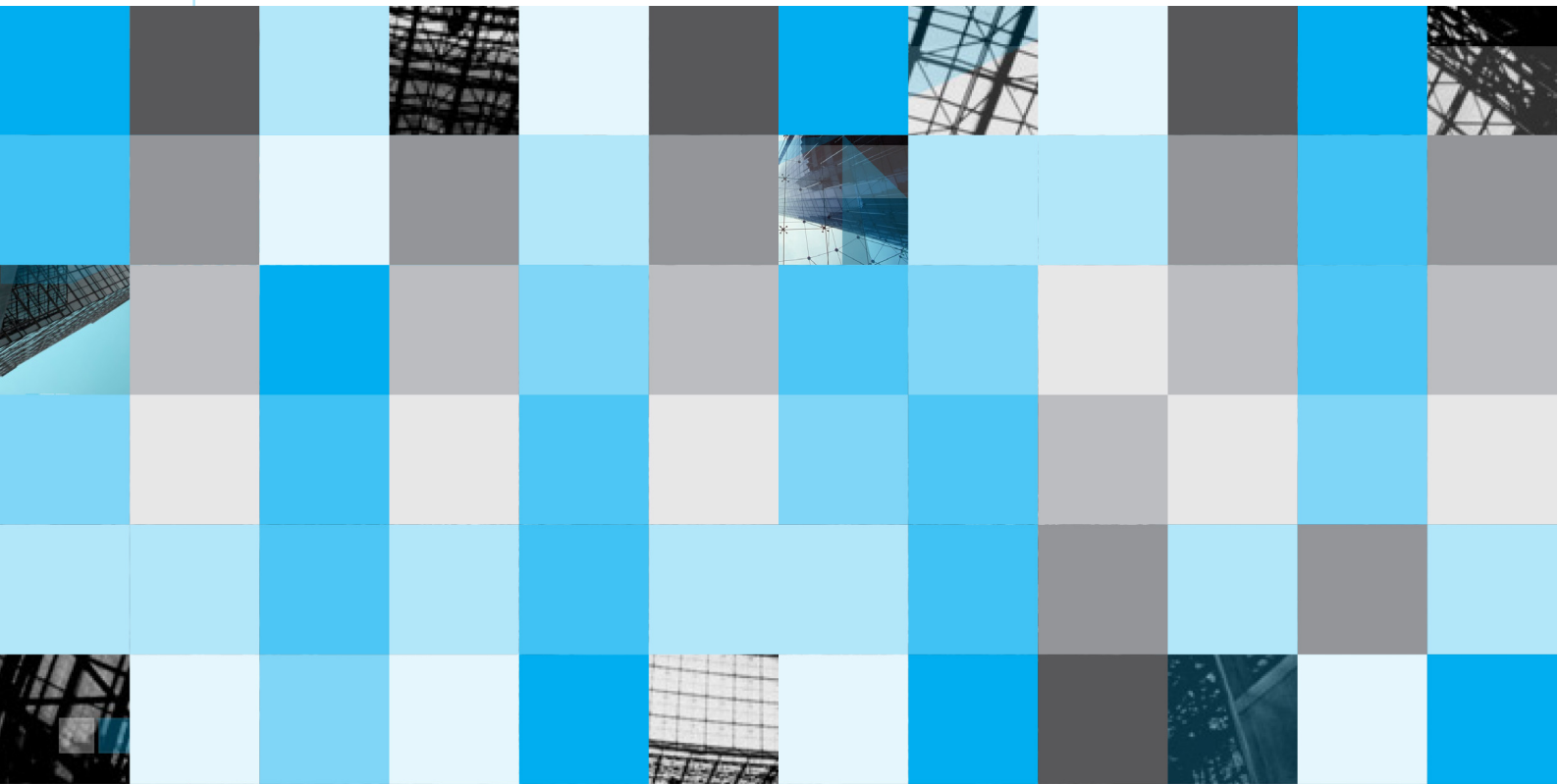
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- a) The planning proposal be amended to include a local provision that would apply a maximum cap of 7 dwellings to the portion of land currently zoned E4 Environmental Living; and
- b) Prior to Council's consideration of the planning proposal, the Proponent should submit a Bushfire Assessment Report that demonstrates compliance with Planning for Bush Fire Protection 2019, in satisfaction of the technical requirement under Section 9.1 Ministerial Direction 4.4.

**VOTING:**

Unanimous

# SUTHERLAND & ASSOCIATES PLANNING



9 Palaran Avenue, North Kellyville

## Planning Proposal

# Planning Proposal

## 9 PALARAN AVENUE, NORTH KELLYVILLE

**December 2020**

Prepared by

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## 1.0 INTRODUCTION

This Planning Proposal has been prepared by Sutherland & Associates Planning Pty Ltd in relation to land at 9 Palaran Avenue, North Kellyville (formerly known as 4 Kendall Place, Kellyville).

9 Palaran Avenue, North Kellyville is part zoned R2 Low Density Residential and part zoned E4 Environmental Living pursuant to Appendix 2 North Kellyville Precinct Plan of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

The objectives of the E4 zone are to provide for low-impact residential development in areas with special ecological, scientific or aesthetic values and to ensure that residential development does not have an adverse effect on those values.

The site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the North West Growth Centre Native Vegetation Protection Map. The entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation. In addition, the site is now permanently disconnected from land which does contain vegetation that needs to be managed and conserved.

Accordingly, the part of the site zoned E4 Environmental Living does not have special ecological, scientific or aesthetic values and therefore there is no longer any basis for the eastern part of the subject site to remain zoned E4 Environmental Living. This part of the site should be zoned the same as the balance of the site which is already zoned R2 Low Density Residential given the objectives of the R2 zone are more appropriate and relevant to the land.

In accordance with Clause 4.1C(3)(b) of Appendix 2 of the Growth Centres SEPP any allotment created from a subdivision of land within the E4 Environmental Living zone must not be less than the minimum size shown on the Lot Size Map. A 4,000 square metre minimum lot size applies to the E4 Environmental Living zoned part of the subject site. Notwithstanding this, Clause 6.5 allows subdivision of land in the Zone E4 Environmental Living with a minimum lot size of 600 square metres, however, this is only on a Community title basis in accordance with the *Community Land Development Act 1989* for a neighbourhood scheme. The objectives for Clause 6.5 are to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living and to ensure the land is managed and conserved in a holistic and sensitive manner. Clause 6.5 only allows subdivision on a Community title basis because it anticipates that sensitive land and bushfire asset protection zones in a development will be protected as a neighbourhood allotment, as explained in Section 3.7 of the North Kellyville Precinct Development Control Plan 2018 (DCP 2018).

As detailed above the part of the site zoned E4 Environmental Living does not contain any land that has special environmental values and has become isolated and disconnected from any other lots with special ecological, scientific or aesthetic values as a result of recent development approvals to the north, south and east of the site. Accordingly, the objectives of clause 6.5 have little relevance. Also, the small size of the E4 zoned parcel of land (4,960.7 square metres) and street frontage that will be provided to this land is such that there is no need for any new internal roads. Accordingly, the requirement for a neighbourhood allotment in a subdivision of the site is redundant and there is no need for a requirement for subdivision on a Community title basis.

Whilst Torrens title subdivision of the E4 Environmental Living zoned part of the site is possible, this is only on the basis of a minimum lot size of 4,000 square metres which is inconsistent with the emerging pattern of subdivision surrounding the site.

Given the emerging pattern of subdivision surrounding the site and the size of the E4 zoned parcel of land, the objectives and subdivision controls applicable to E4 zoned land are no longer relevant or appropriate and require amendment to deliver an orderly pattern of development on this part of the site.

On this basis, the subject Planning Proposal seeks the following amendments to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006, which are the basis for the assessment in this Planning Proposal:

- Amend the North West Growth Centre Lot Size Map to change the minimum lot size that applies to part of the site from 4,000 square metres to 600 square metres; and
- Rezone the subject site from E4 Environmental Living to R2 Low Density Residential.

The purpose of the Planning Proposal is to allow the orderly and economic development of the subject site by facilitating subdivision of the part of the site currently zoned E4 Environmental Living in a manner which more appropriately reflects the site characteristics and surrounding context.

This outcome is in the public interest because it allows for an orderly pattern of development to be achieved that is consistent with the pattern and density of the surrounding development.

The Planning Proposal demonstrates the strategic merit of the proposed amendments to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and seeks to commence the statutory process to amend the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 as requested.

The Planning Proposal has been prepared in accordance with Section 3.33 of the Environmental Planning & Assessment Act 1979 (EP&A Act). As required by Section 3.33 of the EP&A Act this Planning Proposal includes the following:

- a statement of the objectives or intended outcomes of the proposed instrument,
- an explanation of the provisions that are to be included in the proposed instrument,
- the justification for those objectives, outcomes and provision and the process for their implementation,
- if maps are to be adopted by the proposed instrument – a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument, and
- details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

The Planning Proposal has also been prepared having regard to the 'Guide to Preparing Planning Proposals' developed by the NSW Department of Planning and Environment. The report addresses the Proposal's consistency with Greater Sydney Region Plan - A Metropolis of Three Cities, the Central City District Plan, strategic plans and assesses the consistency of the Planning Proposal against relevant State Environmental Planning Policies and Ministerial Directions.

The Planning Proposal is also supported by a conceptual plan of subdivision prepared by Robert Moore & Associates Surveyors.

## 2.0 SITE DESCRIPTION AND LOCATION

### 2.1 Locality Description

The land to which the Planning Proposal relates is situated within The Hills Shire Local Government Area in the suburb of North Kellyville.

North Kellyville currently comprises rural residential development interspersed with large areas of land undergoing redevelopment consistent with the North Kellyville growth centre release area plan. The area was identified as a growth centre release area and was rezoned in 2008 by the Minister for Planning and Infrastructure for urban development and is referred to as 'North Kellyville Precinct'. This area is undergoing a rapid transformation and is earmarked to deliver approximately 4,500 new dwellings.

The vision for North Kellyville is the creation of vibrant neighbourhoods that provide a range of dwelling types and opportunities for social interaction for a diverse population in centres, parks and community facilities. The North Kellyville Precinct will contain three centres that will become the focal points for social interaction, community uses and retailing. An integrated public transport, cycle and pedestrian network will facilitate improved access within the Precinct and to the surrounding areas, particularly to Rouse Hill Regional Centre. The interface of the built form and the design of the public domain will create an attractive place to live.

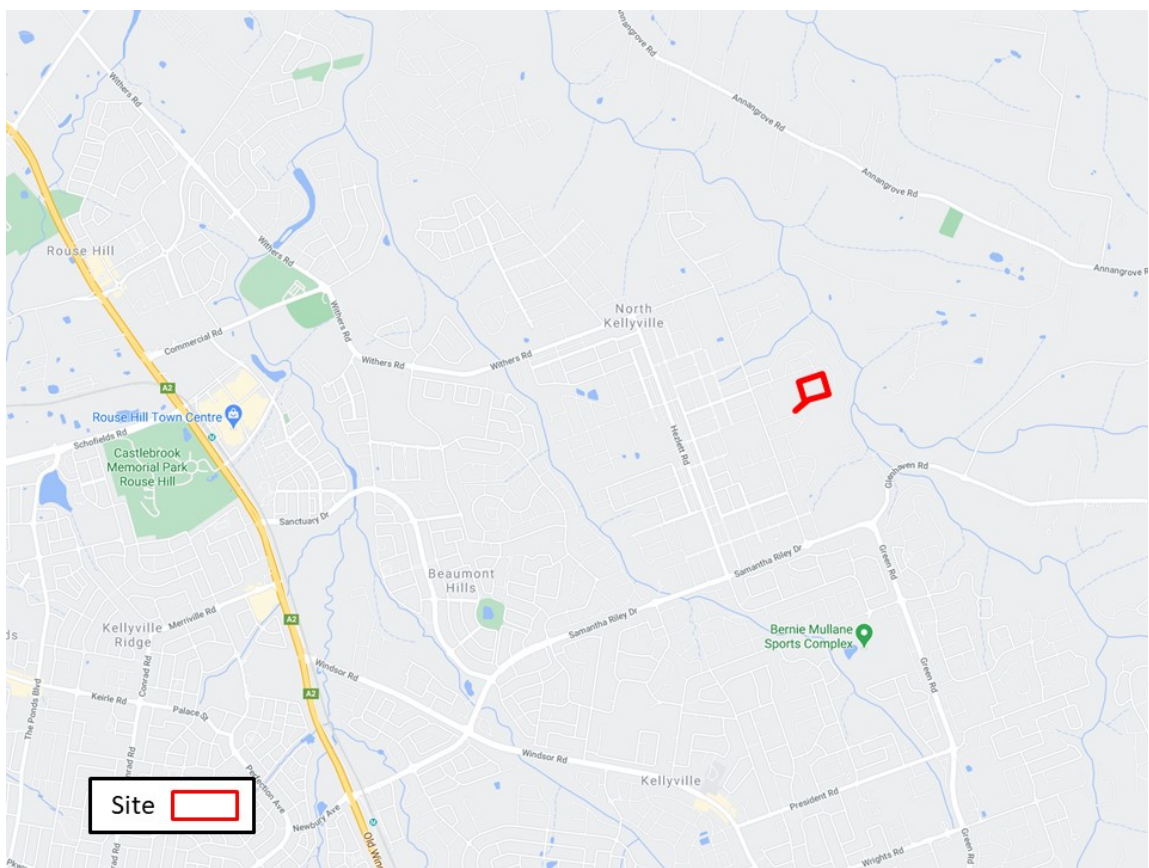


Figure 1:

Location plan: (Source: Google Maps 2020)

## 2.2 Site Description and Surrounding Context

This Planning Proposal relates to land legally described as Lot 3 DP 249675 and known as 9 Palaran Avenue, North Kellyville. The site was originally a battleaxe allotment with an access handle providing frontage to the cul-de-sac of Kendall Place, such that the site was previously known as 4 Kendell Place. However, with the delivery of the street network as anticipated by the North Kellyville Precinct Development Control Plan 2018, the site is now also accessed via Palaran Avenue which meets the southern boundary of the subject site and Roland Garros Crescent and Barabati Road which meet the northern boundary of the site. Roland Garros Crescent and Barabati Road will ultimately extend through the subject site.

The context surrounding the site is rapidly changing.

Immediately to the north of the subject site are new detached houses on allotments of approximately 380 to 440 square metres in area. These allotments have their street address to Craven Street, Roland Garros Crescent and Barabati Road and are on land zoned R2 Low Density Residential.

Immediately to the east of the subject site are new detached houses on allotments of approximately 600 square metres in size which have their street address to Kinnick Place further to the east. Kinnick Place is a neighbourhood allotment which also includes bushland to the east. This land is zoned E4 Environmental Living.

The land immediately to the south of the subject site is currently under construction for a subdivision creating 21 community title residential lots, one association lot and one residue lot including a new road as approved under Development Consent 635/2019/ZD. The road within the neighbourhood lot is immediately adjacent to the southern boundary of the subject site. The residential allotments are all approximately 600 square metres in size. This land is zoned E4 Environmental Living.

The land immediately to the west of the subject site is known as 11 Palaran Avenue and is an original allotment of approximately 2 hectares in size. The site currently contains a detached dwelling, large open areas and some vegetation. 11 Palaran is zoned R2 Low Density Residential and it is likely that it will be redeveloped in the near future for detached residential housing on allotments ranging from approximately 450 to 550 square metres in area.

The subject site contains an original single storey dwelling on the western portion of the site which is accessed via a driveway from the cul-de-sac of Palaran Avenue. To the east of the dwelling is a swimming pool and outbuilding. To the west of the dwelling is another outbuilding. The majority of the site consists of cleared grass areas, some garden areas, and some limited larger vegetation along the boundaries of the site and in the north-eastern corner.

The subject site does not contain vegetation mapped as either Existing Native Vegetation Area or Native Vegetation Retention Area on the Native Vegetation Protection Map. Furthermore, the entire site is also located on 'biodiversity certified land' according to the Order to confer biodiversity certification on the State Environmental Planning Policy Sydney Region Growth Centres 2006. Under s126(l) of the Threatened Species Conservation Act 1995 development on biodiversity certified land is taken to be development that is not likely to significantly affect any threatened species, population or ecological community or its habitat. A consent authority is not required to take into consideration the likely impact of the development on biodiversity values (despite any provision of the EP&A Act or any regulation or instrument made under that Act).



Figure 2:

Aerial View of the Site and Surrounds (Source: Six Maps, Department of Lands 2020)



Photograph 1:

The existing entrance driveway to the site from Palaran Avenue



Photograph 2:

View from the eastern end of the site facing west with the southern boundary on the left

Photograph 3:

View from the site facing east with the southern boundary on the right



Photograph 4:

View from the southern end of the site facing north-east towards the eastern boundary



Photograph 5:

View of the existing dwelling and pool facing north-west

Photograph 6:

View of the northern boundary of the site from the north-eastern corner



Photograph 7:

View towards the western boundary of the site taken from the northern part of the site



Photograph 8:

View of western adjacent site at 11 Palaran Avenue which is yet to be developed



Photograph 9:

View of southern adjacent site which is currently under construction



Photograph 10:

Emerging context in Palaran Avenue

## 3.0 LOCAL PLANNING PROVISIONS

### 3.1 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

State Environmental Planning Policy (Sydney Region Growth Centres) 2006 applies to the site. Key provisions applying to the site are identified below:

#### 3.1.1 Zoning and Permissibility

The majority of the site is zoned R2 Low Density Residential and a small area of the site is zoned E4 Environmental Living pursuant to Appendix 2 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006. An extract of the Land Zoning Map is included as Figure 3.

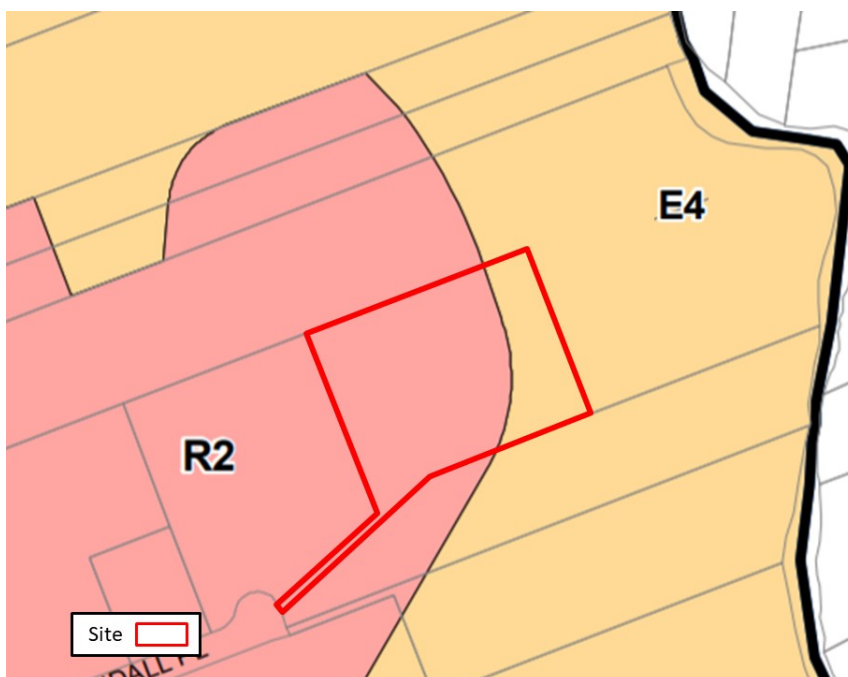


Figure 3:

Extract from SEPP  
(SRGC) 2006 Land  
Zoning Map

The objectives of the R2 Low Density Residential zone are:

- To provide for the housing needs of the community within a low-density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for a variety of housing types but primarily low density detached housing.
- To support the wellbeing of the community, including educational, recreational, community, religious and other activities if there will be no adverse effect on the amenity of the proposed or existing nearby residential development.

The following uses are permitted with consent in the R2 Low Density Residential zone:

Centre-based child care facilities; Community facilities; Drainage; Dual occupancies; Dwelling houses; Earthworks; Educational establishments; Environmental protection works; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home businesses; Information and education facilities; Recreation areas;

Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Studio dwellings; Water recycling facilities; Waterbodies (artificial)

The objectives of the E4 Environmental Living zone are:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.

The following uses are permitted with consent in the E4 Environmental Living zone:

Bed and breakfast accommodation; Drainage; Dual occupancies; Dwelling houses; Earthworks; Electricity generating works; Environmental facilities; Environmental protection works; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Horticulture; Recreation areas; Recreation facilities (outdoor); Roads; Swimming pools; Water recreation structures; Water recycling facilities; Waterbodies (artificial.)

### 3.1.2 Lot Size

Clause 4.1C(3)(b) establishes a minimum lot size of 4,000 square metres for the part of the site which is zoned E4 Environmental Living. An extract of the Lot Size map is included as Figure 4.



Figure 4:

Extract from the SEPP  
(SRGC) 2006 Lot Size  
Map

The objectives of the clause are:

- to provide for the subdivision of lots that are within Zone R2 Low Density Residential and Zone E4 Environmental Living but cannot be subdivided under clause 4.1,

(b) to ensure that the subdivision occurs in a manner that promotes suitable land use and development,

(c) to ensure that the subdivision will not compromise the environmental values of land in Zone E4 Environmental Living.

### 3.1.3 Preservation of trees or vegetation

Clause 5.9 relates to the preservation of the amenity of the area through the preservation of trees and other vegetation.

Clauses 6.2 and 6.3 of the Growth Centres SEPP contains controls for the clearing of Existing Native Vegetation and Native Vegetation Retention Areas as shown on the Native Vegetation Protection Map. However, the subject site does not contain vegetation mapped in either of these categories and therefore has no further restriction of clearing of vegetation as illustrated in Figure 5 below.

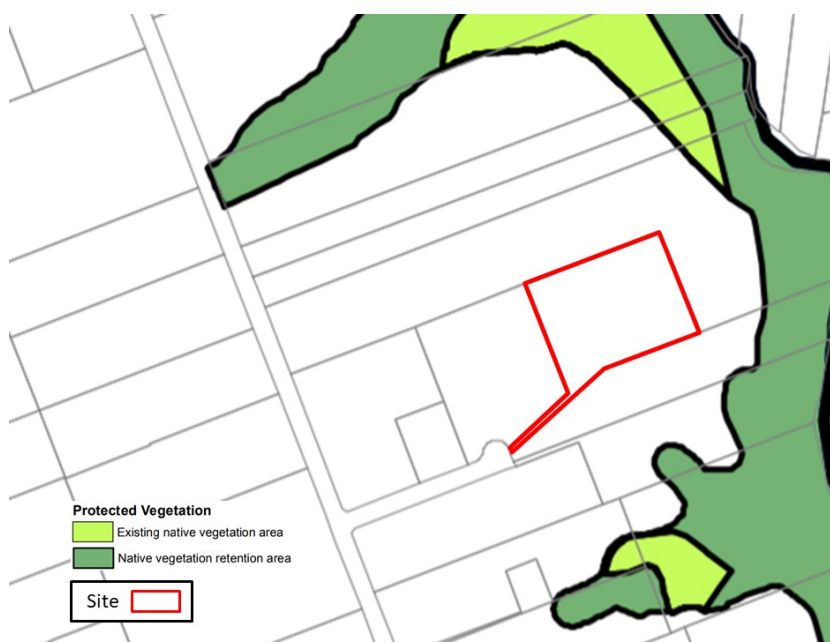


Figure 5:

Extract from SEPP  
Native Vegetation  
Protection Map

The entire site is also located on 'biodiversity certified land' according to the Order to confer biodiversity certification on the State Environmental Planning Policy Sydney Region Growth Centres 2006 as depicted in Figure 6 below.

Under s126(l) of the Threatened Species Conservation Act 1995 development on biodiversity certified land is taken to be development that is not likely to significantly affect any threatened species, population or ecological community or its habitat. A consent authority is not required to take into consideration the likely impact of the development on biodiversity values (despite any provision of the EP&A Act or any regulation or instrument made under that Act). Therefore, it is understood that no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation.



Figure 6:

Biodiversity certified  
land

#### 3.1.4 Subdivision of land in Zone E4 Environmental Living

Clause 6.5 provides the following in relation to the subdivision of land in zone E4 Environmental Living:

- (1) The objectives of this clause are as follows—
  - (a) to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living,
  - (b) to encourage development that will ensure the land is managed and conserved in a holistic and sensitive manner,
  - (c) to promote high quality residential amenity in the urban environment,
  - (d) to encourage an innovative and contemporary approach to building design and location that is appropriate to the special values of the land.
- (2) This clause applies to land in Zone E4 Environmental Living.
- (3) The consent authority may grant development consent for the subdivision of land to which this clause applies, only if—
  - (a) the land is subdivided in accordance with the Community Land Development Act 1989 for a neighbourhood scheme, and
  - (b) each lot, other than a lot comprising neighbourhood property, to be created by the subdivision will have an area of not less than 600 square metres, and
  - (c) the subdivision will not result in more than 7.5 development lots per hectare.

## 4.0 PLANNING PROPOSAL

### 4.1 Overview

In accordance with Section 3.33(2) of the Environmental Planning and Assessment Act 1979 (the EP&A Act) a Planning Proposal is to be comprised of five (5) parts:

- Part 1 – A statement of the objectives and intended outcomes of the proposed instrument.
- Part 2 – An explanation of the provisions that are to be included in the proposed instrument.
- Part 3 – The justification for those objectives, outcomes and the process for their implementation.
- Part 4 – Maps, where relevant, to identify the intent of the Planning Proposal and the area to which it applies.
- Part 5 – Details of the community consultation that is to be undertaken on the Planning Proposal.

Section 3.33(3) of the Act allows the Secretary to issue requirements with respect to the preparation of a Planning Proposal. The Secretary's requirements include:

- Specific matters that must be addressed in the justification (Part 3) of the Planning Proposal
- A project timeline to detail the anticipated timeframe for the plan making process for each Planning Proposal.

The project timeline forms Part 5 of a Planning Proposal.

Section 4 of this report addresses and responds to the matters for consideration detailed within 'Planning Proposals - A Guide to Preparing Planning Proposals' (NSW Department of Planning and Environment, August 2016).

### 4.2 Part 1: Objectives or Intended Outcomes

The objective of the Planning Proposal is to amend the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 as follows:

- Amend the North West Growth Centre Lot Size Map to change the minimum lot size that applies to part of the site from 4,000 square metres to 600 square metres; and
- Rezone part of the subject site from E4 Environmental Living to R2 Low Density Residential.

The purpose, or intended outcome, of the Planning Proposal is to allow the orderly and economic development of the subject site by facilitating subdivision of the part of the site currently zoned E4 Environmental Living in a manner which more appropriately reflects the site characteristics and surrounding context.

### 4.3 Part 2: Explanation of Provisions

#### 4.3.1 Proposed Changes to State Environmental Planning Policy (Sydney Region Growth Centres) 2006

The amendments proposed to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 are as follows:

- Amend the North West Growth Centre Lot Size Map (Sheet LSZ\_012) to change the minimum lot size that applies to part of the site at 9 Palaran Avenue, North Kellyville from 4,000 square metres to 600 square metres; and

- Rezone part of the subject site at 9 Palaran Avenue, North Kellyville from E4 Environmental Living to R2 Low Density Residential. This requires an amendment to the North West Growth Centre Land Zoning Map (Sheet LZN\_012A)

#### 4.3.2 Concept Plan of Subdivision

The Planning Proposal is accompanied by a conceptual plan of subdivision prepared by Robert Moore & Associates Surveyors which illustrates the intended future subdivision of the overall site which would be facilitated by the proposed amendments to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006. This is shown in Figure 7 below and included as Appendix A.



Figure 7:

Conceptual plan of subdivision prepared by Robert Moore & Associates Surveyors

#### 4.4 Part 3: Justification

This Part of the Planning Proposal sets out the case for the proposed amendments to the minimum lot size and E4 Environmental Living zones which currently apply to the eastern part of the subject site pursuant to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

##### 4.4.1 Need for the Planning Proposal

Is the Planning Proposal the result of any strategic study or report?

The Planning Proposal is not the result of any strategic study or report.

However, the proposed amendment is not inconsistent with the intended outcomes of the various planning controls which influenced the application of the E4 Environmental Living zone that applied to

the site with the introduction of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

In particular, the current planning regime being the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and also the North Kellyville Precinct Development Control Plan, anticipated that the E4 Environmental Living part of the site would be amalgamated with the E4 Environmental Living land adjacent to the east of the site.

Such an amalgamated outcome would logically lend itself to a Community title subdivision as anticipated by the planning controls, with the protected vegetation further to the east being retained and managed as a neighbourhood lot. However, this outcome has already been achieved as a result of the approved redevelopment and subdivision of the site immediately to the east, on a standalone basis.

As a result, the subject site has become isolated from any land containing vegetation that needs to be managed and conserved, such that there is no longer a need for a neighbourhood allotment and for subdivision of the site to be on a Community title basis.

**Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The objectives of the E4 zone are to provide for low-impact residential development in areas with special ecological, scientific or aesthetic values and to ensure that residential development does not have an adverse effect on those values.

The site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the North West Growth Centre Native Vegetation Protection Map. The entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation.

In addition, the site is now permanently disconnected from land which does contain vegetation that needs to be managed and conserved.

Accordingly, the part of the site zoned E4 Environmental Living does not have special ecological, scientific or aesthetic values and therefore there is no longer any basis for the eastern part of the subject site to remain zoned E4 Environmental Living. This part of the site should be zoned the same as the balance of the site which is already zoned R2 Low Density Residential given the objectives of the R2 zone are more appropriate and relevant to the land.

In accordance with Clause 4.1C(3)(b) of Appendix 2 of the Growth Centres SEPP any allotment created from a subdivision of land within the E4 Environmental Living zone must not be less than the minimum size shown on the Lot Size Map. A 4,000 square metre minimum lot size applies to the E4 Environmental Living zoned part of the subject site. Notwithstanding this, Clause 6.5 allows subdivision of land in the Zone E4 Environmental Living with a minimum lot size of 600 square metres, however, this is only on a Community title basis in accordance with the *Community Land Development Act 1989* for a neighbourhood scheme. The objectives for Clause 6.5 are to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living and to ensure the land is managed and conserved in a holistic and sensitive manner. Clause 6.5 only allows subdivision on a Community title basis because it anticipates that sensitive land and bushfire asset protection zones in a development will be protected as a neighbourhood allotment, as explained in Section 3.7 of the North Kellyville Precinct Development Control Plan 2018 (DCP 2018).

As detailed above the part of the site zoned E4 Environmental Living does not contain any land that has special environmental values and has become isolated and disconnected from any other lots with special ecological, scientific or aesthetic values as a result of recent development approvals to the north, south and east of the site. Accordingly, the objectives of clause 6.5 have little relevance. Also, the small size of the E4 zoned parcel of land (4,960.7 square metres) and street frontage that will be provided to this land is such that there is no need for any new internal roads. Accordingly, the requirement for a neighbourhood allotment in a subdivision of the site is redundant and there is no need for a requirement for subdivision on a Community title basis.

Whilst Torrens title subdivision of the E4 Environmental Living zoned part of the site is possible, this is only on the basis of a minimum lot size of 4,000 square metres which is inconsistent with the emerging pattern of subdivision surrounding the site.

Given the emerging pattern of subdivision surrounding the site and the size of the E4 zoned parcel of land, the objectives and subdivision controls applicable to E4 zoned land are no longer relevant or appropriate and require amendment to deliver an orderly pattern of development on this part of the site.

In order to facilitate this outcome, there are two potential avenues for amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006, as follows:

Option 1	Option 2
<ul style="list-style-type: none"> <li>Amend the North West Growth Centre Lot Size Map to change the minimum lot size that applies to part of the site from 4,000 square metres to 600 square metres. The 600 square metre lot size is consistent with the size of lots on the immediately adjoining land to the north, east and south.</li> <li>Rezone the subject site from E4 Environmental Living to R2 Low Density Residential. The R2 zone already applies to the majority of the site. The objectives of the R2 zone are more relevant to the land than those that apply to the E4 zone.</li> </ul>	<ul style="list-style-type: none"> <li>Amend the North West Growth Centre Lot Size Map to remove the 4,000 square metre affectation which applies to part of the site; and</li> <li>Amend Clause 6.5 to exempt this site from the application of the clause.</li> </ul>

In considering the two options, it is considered that Option 1 is superior because it avoids the need for a bespoke provision in Clause 6.5 of Appendix 2 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 to specifically exempt its application from the subject site. Option 1 is also superior as the objectives of the R2 zone are more closely aligned with the characteristics of the land. The provision of a 600 square metre lot size for the eastern part of the site will also ensure that the pattern of subdivision relates to the lot sizes on the immediately adjoining land.

The rezoning of the eastern part of the site to R2 Low Density Residential would also remove the application of Clause 6.5 to the future subdivision of the site. This is appropriate given that the objective of Clause 6.5, being to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living and to ensure the land is managed and conserved in a holistic and sensitive manner, is no longer relevant to the subject site.

The alternative approach of simply leaving the eastern part of the site zoned E4 Environmental Living and allowing Torrens title subdivision to lots of less than 4,000 square metres is considered inferior as the E4

Environmental Living zone no longer reflects the site characteristics and context. Furthermore, this approach would require a bespoke amendment to Clause 6.5 of Appendix 2 to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 which is undesirable given it creates further complexity that can be avoided by adopting a more appropriate zone for the land.

For these reasons the Planning Proposal is the best means of achieving the objectives and intended outcomes for the site.

#### 4.4.2 Relationship to Strategic Planning Framework

Is the Planning Proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

##### Greater Sydney Region Plan – A Metropolis of Three Cities

In March 2018 the Greater Sydney Region Plan - A Metropolis of Three Cities was released. The Plan sets a 40-year vision to 2056 and establishes a 20-year plan to manage growth and change for Greater Sydney. The vision for Greater Sydney is a metropolis of three cities — the Western Parkland City, the Central River City and the Eastern Harbour City where most residents live within 30 minutes of their jobs, education and health facilities, services and great places.

The Plan sets out 10 Directions which set out the aspirations for the region and objectives to support the Directions. The 10 Directions are:

- A city supported by infrastructure
- A collaborative city
- A city for people
- Housing the city
- A city of great places
- A well-connected city
- Jobs and skills for the city
- A city in its landscape
- An efficient city
- A resilient city

The Plan provides 40 objectives related to these directions and the themes of infrastructure and collaboration, liveability, productivity, sustainability and implementation. The following table summarises the proposals consistency with relevant objectives of the Plan:

Objective	Comment	Consistent
<b>Housing the city</b>		
Objective 10 Greater Housing Supply	NSW Government has identified that 725,000 additional homes will be needed by 2036 to meet demand based on current population projections. The proposed amendments will facilitate a residential density for the eastern part of the site is consistent with the density of the adjoining development to the east. This will result in	Yes

Objective	Comment	Consistent
	an improvement, albeit relatively minor, to the housing supply which is capable of being delivered by the subject site. This supply is appropriate having regard to the site characteristics and circumstance, and consistent with the housing supply which will occur on the balance of the subject site and within the visual catchment of the site.	
<b>A city in its landscape</b>		
Objective 27 Biodiversity is protected, urban bushland and remnant vegetation is enhanced  Objective 28 Scenic and cultural landscapes are protected	Objectives 27 and 28 are concerned with the protection of biodiversity and scenic landscapes. However, the subject site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the North West Growth Centre Native Vegetation Protection Map, and furthermore, the entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation. Accordingly, the proposed amendments do not result in any change in relation to the protection of biodiversity and scenic landscapes beyond the existing circumstance.	Yes

#### Central City District Plan

The Central City District Plan was also released in March 2018 and sets out a 20-year vision for the Central City District, which includes Blacktown, The Hills, Parramatta and Cumberland local government areas.

The Central City District Plan sets out priorities and actions for the growth and development of the Central District. The Plan provides the district level framework to implement the directions, objectives, strategies and actions outlined in the Greater Sydney Region Plan.

The Central City District is identified as one of the most dynamic and rapidly growing regions in Australia and one which plays a pivotal role in Greater Sydney's future as an economic and employment powerhouse, a core hub for transport and services, and the home of vibrant and diverse centres and communities.

The following table summarises the Planning Proposal's consistency with relevant components of the Central City District Plan:

Chapter	Comment	Consistent
Infrastructure and Collaboration	The site is within close proximity to the recently completed Kellyville metro station and the proposed amendments to the SEPP will allow for the appropriate development of the site for a commensurate density to that which is consistent with the immediately adjoining land to the east. This will maximise the benefit provided by the recently completed infrastructure.	Yes

Chapter	Comment	Consistent
Liveability	The proposed amendments will facilitate a residential density for the eastern part of the site which is consistent with the density of development on the surrounding land, without the restrictions which apply to sensitive land which contains vegetation which needs to be conserved and managed. This will result in an improvement, albeit relatively minor, to the housing supply which is capable of being delivered by the subject site. This supply is appropriate having regard to the site characteristics and circumstance, and the supply of housing which will occur on the balance of the subject site and within the visual catchment of the site.	Yes
Sustainability	Planning Priority C15 is concerned with protecting and enhancing bushland, biodiversity and scenic and cultural landscapes.  However, the subject site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the Native Vegetation Protection Map, and furthermore, the entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation. Accordingly, the proposed amendments do not result in any change in relation to protecting and enhancing bushland, biodiversity and scenic and cultural landscapes.	Yes

#### Is the Planning Proposal consistent with a Council's local strategy or other local strategic plan?

The Hills Shire Council Local Strategic Planning Statement (LSPS) identifies priorities for new housing in the right locations and a diversity of housing. In particular, the LSPS identifies:

The greenfield areas of North Kellyville, Box Hill, Box Hill North and Balmoral Road will continue to provide low and medium density housing, supported by existing and planned infrastructure, to meet demand for detached dwellings, which have been the core of The Hills housing market to date.

It is noted that the site is in a 'Greenfield Area' and not a 'Metropolitan Rural Area' under the LSPS. The focus for Greenfield Areas is for low and medium density housing, whilst protection of rural lands and bushland, biodiversity and scenic landscapes is relevant to the Metropolitan Rural Areas which does not include the subject site.

The Hills Shire Council Housing Strategy specifically identifies a planned 80 per cent increase in population by 2036, with the population of 290,900 people needing a mix of housing. The Strategy specifically identifies that Greenfield areas such as North Kellyville will accommodate most of the Shire's supply of detached homes.

The Planning Proposal is consistent with the identified role of North Kellyville as a Greenfield area which is intended to accommodate a large proportion of the Shire's supply of detached housing, which is a form of housing that the Shire is well known for and which attracts families to the area. This Planning Proposal demonstrates that the current zone and minimum lot size requirement for the eastern portion

of the subject site have become redundant as a result of the pattern of development that has occurred surrounding the site, such that it has become permanently isolated from any land required environmental management. Accordingly, the subject Planning Proposal allows the site to appropriately fulfil its role in the Greenfield area to deliver detached low-density housing.

**Is the Planning Proposal consistent with applicable State Environmental Planning Policies?**

The Planning Proposal is of no consequence in relation to any other State Environmental Planning Policies beyond the proposed amendments to State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

**Is the Planning Proposal consistent with applicable Ministerial Directions (s9.1 directions)?**

The following table summarises the Planning Proposal's consistency with applicable Ministerial Directions:

S.9.1 Direction No. and Title	Comment	Consistent
Employment and Resources		
1.1 Business and Industrial zones	Not applicable.	N/a
1.2 Rural Zones	Not applicable.	N/A
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable.	N/A
1.4 Oyster Aquaculture	Not applicable.	N/A
1.5 Rural Lands	Not applicable.	N/A
Environmental and Heritage		
2.1 Environment Protection Zones	The Planning Proposal does not impact on any environmentally sensitive areas.	Yes
2.2 Coastal Protection	Not applicable.	N/A
2.3 Heritage Conservation	Not applicable.	N/A
2.4 Recreation Vehicle Areas	Not applicable.	N/A
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPS	Not applicable.	N/A
2.6 Remediation of contaminated land	The land is not within an investigation area within the meaning of the Contaminated Land Management Act nor is it on land which	Yes

S.9.1 Direction No. and Title	Comment	Consistent
	<p>development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out.</p> <p>The Planning Proposal relates to land zoned E4 Environmental Living. This zone permits residential development. The proposed R2 zoning of this land will also permit residential development and so no change of use of land is proposed.</p>	
Housing, Infrastructure and Urban Development		
3.1 Residential Zones	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>(a) To encourage a variety and choice of housing types to provide for existing and future housing needs,</li> <li>(b) To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</li> <li>(c) To minimise the impact of residential development on the environment and resource lands.</li> </ul> <p>This Planning Proposal demonstrates that the current zone and minimum lot size requirements for the eastern portion of the subject site have become redundant as a result of the pattern of development that has occurred surrounding the site, such that it has become permanently isolated from any land requiring protection or environmental management. Accordingly, the subject Planning Proposal allows the site to appropriately fulfil its role in the Greenfield area to deliver detached low density housing which is a housing type which is well suited to the future housing needs in the area.</p> <p>The Proposal makes efficient use of existing infrastructure and services, including the recently completed Kellyville metro station.</p> <p>As the Proposal is for a site with no biodiversity protection requirements, there is no adverse impact on the environment and resource lands.</p>	N/A
3.2 Caravan Parks and Manufactured Home Estates	Not applicable.	N/A
3.3 Home Occupations	Not applicable.	N/A
3.4 Integrating land use and transport	This Direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.	Yes

S.9.1 Direction No. and Title	Comment	Consistent
	<p>In accordance with the direction a planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>(a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</p> <p>(b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</p> <p>The <i>Improving Transport Choice – Guidelines</i> provide advice on how the development industry, state agencies, other transport providers, and the community can:</p> <ul style="list-style-type: none"> <li>• better integrate land use and transport planning and development</li> <li>• provide transport choice and manage travel demand to improve the environment, accessibility and liveability.</li> </ul> <p>The <i>Right Place for Business and Services – Planning Policy</i> plans for a better arrangement of land uses in support of centres and the transport systems which serve them.</p> <p>The planning proposal seeks to facilitate the redevelopment of land for low density housing. The density proposed is appropriate having regard to the density of the surrounding allotments and proximity to public transport.</p>	
3.5 Development Near License Aerodromes	This Direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome. This Direction is not applicable to the Planning Proposal.	N/A
3.6 Shooting Ranges	Not applicable.	N/A
3.7 Reduction in non-hosted short term rental accommodation period	Not applicable.	N/A
Hazard and Risk		
4.1 Acid Sulfate Soils	Not applicable.	N/A
4.2 Mine Subsidence and Unstable Land	Not applicable.	N/A
4.3 Flood Prone Land	The site is not identified as Flood Prone Land.	N/A
4.4 Planning for Bushfire Protection	The site is identified as Bushfire Prone land and is specifically a 'vegetation buffer'. However, the land immediately to the east contains recently constructed low density housing, such that the development of the site for low density residential housing is unlikely to be incompatible with planning for Bushfire Prone Land.	Yes

S.9.1 Direction No. and Title	Comment	Consistent
	The detailed assessment of bushfire impact is a matter to be addressed in a subsequent Development Application.	
Regional Planning		
5.1 Implementation of Regional Strategies (Revoked)	Not applicable.	N/A
5.2 Sydney Drinking Water Catchments	Not applicable.	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.	N/A
5.5 Development in the vicinity of Ellalong, Paxton and Millfield	Revoked.	N/A
5.6 Sydney to Canberra Corridor	Revoked.	N/A
5.7 Central Coast	Revoked	N/A
5.8 Second Sydney Airport: Badgerys Creek	Not applicable.	N/A
5.9 North West Rail Link Corridor Strategy	Not applicable.	N/A
5.10 Implementation of Regional Plans	This direction applies to land to which a Regional Plan has been released by the Minister for Planning. No specific regional plan applies to the site.	N/A
5.11 Development of Aboriginal Land Council Land	Not applicable.	N/A
Local Plan Making		
6.1 Approval and Referral Requirements	<p>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p>In accordance with the direction the Proposal does not include provisions that require the concurrence, consultation or referral of</p>	Yes

S.9.1 Direction No. and Title	Comment	Consistent
	development applications to a Minister or public authority. Further the Proposal does not identify future development on the site as designated development.	
6.2 Reserving Land for Public Purposes	The Planning Proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.	Yes
6.3 Site Specific Provisions	<p>The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls. The direction applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out.</p> <p>The proposed amendments to State Environmental Planning Policy (Sydney Region Growth Centres) 2006, referred to as Option 1 in the introduction, are preferred in comparison to Option 2 as they avoid the need for site specific provisions in the SEPP.</p>	Yes
Metropolitan Planning		
7.1 Implementation of A Plan for Growing Sydney	In accordance with this direction Planning Proposals shall be consistent with the NSW Government's A Plan for Growing Sydney published in December 2014. As already discussed, the Planning Proposal is consistent with the relevant provisions of A Plan for Growing Sydney (now known as the Greater Sydney Region Plan - A Metropolis of Three Cities) as it will facilitate additional housing supply in an appropriate location.	Yes
7.2 Implementation of Greater Macarthur Land Release Investigation	Not applicable.	N/A
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not applicable.	N/A
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	The Proposal is not within the North West Priority Growth Area and therefore this direction does not apply	N/A
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.	N/A
7.6 Implementation of Wilton Priority Growth	Not applicable.	N/A

S.9.1 Direction No. and Title	Comment	Consistent
Area Interim Land Use and Infrastructure Implementation Plan		
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable.	N/A
7.8 Implementation of the Western Sydney Aerotropolis Plan	Not applicable.	N/A
7.9 Implementation of Bayside West Precincts 2036 Plan	Not applicable.	N/A
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable.	N/A
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable.	N/A
7.12 Implementation of Greater Macarthur 2040	Not applicable.	N/A

#### 4.4.3 Environmental, Social and Economic Impact

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?

The Planning Proposal will not adversely impact any critical habitat, threatened species, populations or ecological communities, or their habitats. The site itself does not contain any Existing Native Vegetation or Native Vegetation Retention Areas as shown on the North West Growth Centre Native Vegetation Protection Map. The entire site is also located on 'biodiversity certified land' and no further assessment of impacts to threatened species, populations or ecological communities is required under NSW legislation.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

There are no negative environmental effects which would arise as a result of the Planning Proposal. There are no hazards that impact the site or environmental effects resulting from the future redevelopment of the site that would preclude consideration of the Planning Proposal. The proposed amendments to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 will support the redevelopment of the eastern portion of the subject site in an appropriate manner which is commensurate with that which

is possible on the balance of the site and also within the visual catchment of the site. Therefore, the proposed amendment will not give rise to any adverse environmental effects.

#### Has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal has no expected negative social effects. The Planning Proposal demonstrates a commitment to improving housing diversity and supply in the locality and providing housing that responds to the lifestyle and values of the local community.

#### 4.4.4 State and Commonwealth Interests

##### Is there adequate public infrastructure for the Planning Proposal?

Required electricity, telecommunication, gas, water, sewer and drainage services are available to the site.

The site is well served by public transport infrastructure in that the site is within close proximity to the recently completed Kellyville metro station as well as other services and facilities such as the Rouse Hill shopping centre.

The future subdivision of the site will include a S7.11 contribution to be paid to assist Council to provide the appropriate public facilities which are required to maintain and enhance amenity and service delivery in the area. Furthermore, the future subdivision of the site will also include the requirement for the payment of a special infrastructure contribution in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011.

##### What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Relevant public authorities will be consulted following the Gateway determination.

#### 4.5 Part 4: Mapping

The Planning Proposal will require the amendment of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006:

- North West Growth Centre Lot Size Map - Sheet LSZ\_012 to change the minimum lot size that applies to part of the site from 4,000 square metres to 600 square metres affectation which applies to part of the site, as illustrated in Figure 8;
- North West Growth Centre Land Zoning Map - sheet LZN\_012A to Rezone the subject site from E4 Environmental Living to R2 Low Density Residential, as illustrated in Figure 9 below.

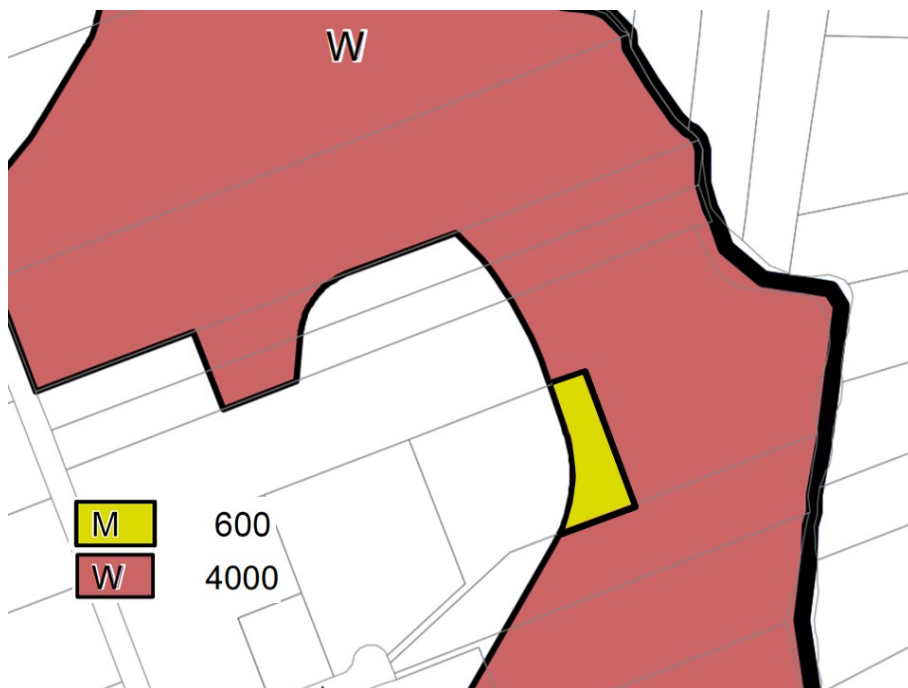
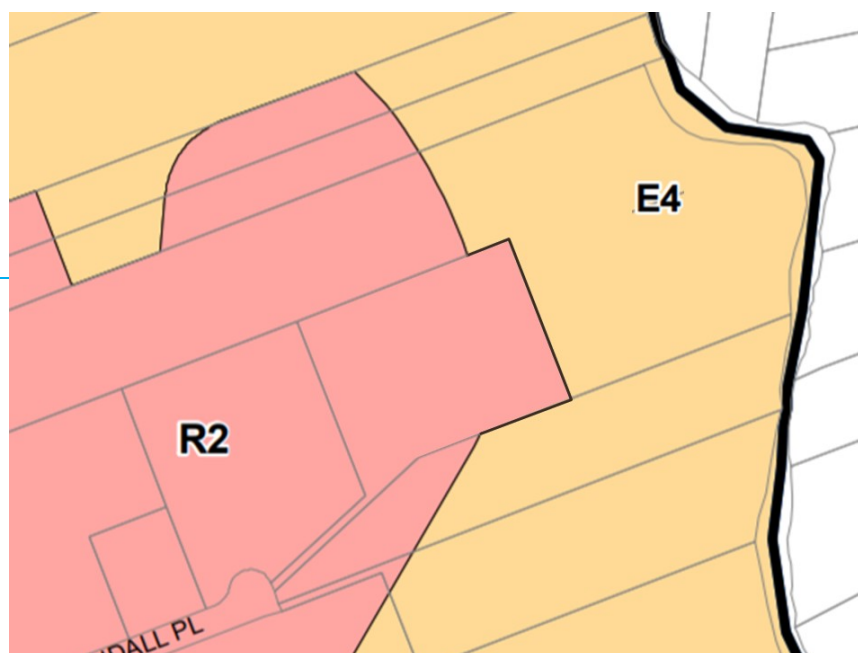


Figure 8:

Proposed  
amended Lot  
Size Map

Figure 9:

Proposed amended  
Land Zoning Map



#### 4.6 Part 5: Community Consultation

'A guide to preparing local environmental plans' produced by the NSW Department of Planning and Environment sets out the community consultation requirements for Planning Proposals.

The guide indicates that consultation will be tailored to specific Proposals. The exhibition for low impact Planning Proposals will generally be 14 days and all other Planning Proposals will be 28 days.

A low impact Planning Proposal is described as a Planning Proposal that, in the opinion of the person making the gateway determination is consistent with the pattern of surrounding land use zones and/or land uses; is consistent with the strategic planning framework; presents no issues with regard to infrastructure servicing; is not a principal LEP; and does not reclassify public land.

It would be appropriate to exhibit the Planning Proposal for 14 days as it is considered to be a low impact Planning Proposal because it is consistent with the pattern of surrounding land use zones, consistent with the strategic planning framework, and presents no issues with regard to infrastructure servicing.

Community consultation to be commenced by giving notice of the public exhibition of the Planning Proposal in a local newspaper, on the Council website and in writing to adjoining landowners.

The written notice of the Planning Proposal will:

- give a brief description of the objectives or intended outcomes of the Planning Proposal
- indicate the land affected by the Planning Proposal
- state where and when the Planning Proposal can be inspected
- give the name and address of the relevant planning authority (Canterbury Bankstown Council) for the receipt of submissions
- indicate the last date for submissions
- confirm whether delegation for making the LEP has been issued to the relevant planning authority.

#### 4.7 Part 6: Project Timeline

The project timeline will be determined by The Hills Shire Council.

## 5.0 CONCLUSION

9 Palaran Avenue, North Kellyville is part zoned R2 Low Density Residential and part zoned E4 Environmental Living pursuant to Appendix 2 North Kellyville Precinct Plan of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

In accordance with Clause 4.1C(3)(b) of Appendix 2 of the Growth Centres SEPP any allotment created from a subdivision of land within the E4 Environmental Living zone must not be less than the minimum size shown on the Lot Size Map. A 4,000 square metre minimum lot size applies to the E4 Environmental Living zoned part of the subject site. Notwithstanding this, Clause 6.5 allows subdivision of land in the Zone E4 Environmental Living with a minimum lot size of 600 square metres, however, this is only on a Community title basis in accordance with the *Community Land Development Act 1989* for a neighbourhood scheme. The objectives for Clause 6.5 are to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living and to ensure the land is managed and conserved in a holistic and sensitive manner. Clause 6.5 only allows subdivision on a Community title basis because it anticipates that sensitive land and bushfire asset protection zones in a development will be protected as a neighbourhood allotment, as explained in Section 3.7 of the North Kellyville Precinct Development Control Plan 2018 (DCP 2018).

The part of the site zoned E4 Environmental Living does not contain any land that has special environmental values and has become isolated and disconnected from any other lots with special ecological, scientific or aesthetic values as a result of recent development approvals to the north, south and east of the site. Accordingly, the objectives of the E4 zone and clause 6.5 have little relevance. Also, the small size of the E4 zoned parcel of land (4,960.7 square metres) and street frontage that will be provided to this land is such that there is no need for any new internal roads. Accordingly, the requirement for a neighbourhood allotment in a subdivision of the site is redundant and there is no need for a requirement for subdivision on a Community title basis.

Whilst Torrens title subdivision of the E4 Environmental Living zoned part of the site is possible, this is only on the basis of a minimum lot size of 4,000 square metres which is inconsistent with the emerging pattern of subdivision surrounding the site.

Given the emerging pattern of subdivision surrounding the site and the size of the E4 zoned parcel of land, the objectives and subdivision controls applicable to E4 zoned land are no longer relevant or appropriate and require amendment to deliver an orderly pattern of development on this part of the site.

The purpose of the Planning Proposal is to allow the orderly and economic development of the subject site by facilitating subdivision of the part of the site currently zoned E4 Environmental Living in a manner which more appropriately reflects the site characteristics and surrounding context.

On this basis, the subject Planning Proposal seeks the following amendments to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006:

- Amend the North West Growth Centre Lot Size Map to change the minimum lot size that applies to part of the site at 9 Palaran Avenue from 4,000 square metres to 600 square metres; and
- Rezone the part of the subject site at 9 Palaran Avenue, North Kellyville which is currently zoned E4 Environmental Living to R2 Low Density Residential.

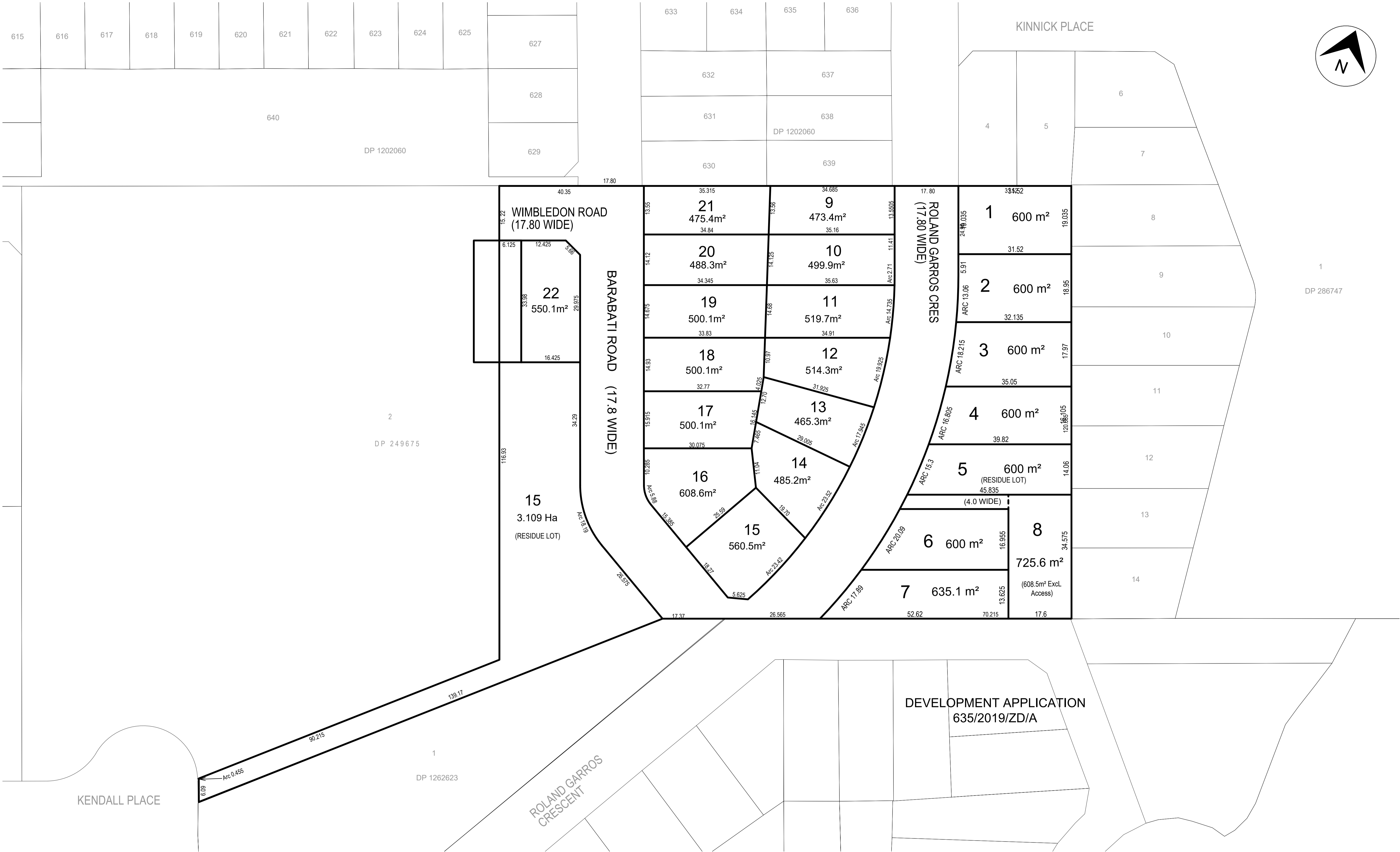
For the reasons outlined in this report it is appropriate for The Hills Shire Council, as the relevant planning authority, to support the Planning Proposal.

APPENDIX A

Robert Moore & Associates

CONCEPT PLAN OF SUBDIVISION

A



NOTES:  
PROPERTY BOUNDARIES ARE APPROXIMATE AND SUBJECT TO CONFIRMATION BY SURVEY  
ALL DIMENSIONS AND AREAS ARE SUBJECT TO FINAL SURVEY



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Ver.	Description	Date	By
A	FIRST ISSUE	06/08/20	R.L.
B	GENERAL AMENDMENTS	27/11/20	R.L.

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Design : RMA	SCALE 1:2000 @ A1	Client : GEOFF MORGANS	Sheet No. 1 of 1 Sheets
Survey : A' O C	DATUM : AHD	Project : PROPOSED SUBDIVISION OF LOT 3 DP 249675 4 KENDALL PLACE, KELLYVILLE	Project No. 180036 P5
Drawn : R.L.	Date : AUGUST 2020	L G A : THE HILLS SHIRE	Ver. B

# Bush Fire Assessment Report

## *Planning Proposal*

**9 Palaran Avenue,  
North Kellyville NSW**

*Reference Number: 211309*

*Prepared For:*

**Dr Geoff Morgans**

**C/- Robert Moore & Associates**

**3<sup>rd</sup> June 2021**



*Prepared By:*

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**SILVER  
MEMBER**  
Fire Protection  
Association Australia



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- Attachments	

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4.14 applications (under the Environmental Planning and Assessment Act 1979) and all infill development applications may be referred by Council to the NSW Rural Fire Service for review and concurrence during the DA process. S100B applications under the Rural Fires Act 1997 (subdivisions and Special Fire Protection Purpose Developments), Flame Zone determinations and Alternate Solutions must be referred by Council to the NSW Rural Fire Service for review and receipt of a Bushfire Safety Authority (BSA) or other such recommended conditions from the NSW Rural Fire Service before the consent can be granted.

The onus is on the applicant to cross reference this document with any conditions of consent issued by Council or any requirements supplied by the NSW Rural Fire Service following development approval. Building Code & Bushfire Hazard Solutions can review and cross reference these documents however the onus is on the applicant to provide them to us and request this review – Building Code and Bushfire Hazard Solutions Pty. Ltd. is not in a position to track every DA through Council and we rely upon the applicant to undertake this role as project co-ordinator.

Where any discrepancy between this document and the development approval or the NSW Rural Fire Service requirements is found, the conditions of consent always take precedence until such time as an application to review, amend or vary these conditions is approved.

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Version Control			
Version	Date	Author	Details
1	03/06/2021	Stuart McMonnies BPAD Accreditation No. 9400	Final Report

## List of Abbreviations:

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APZ	Asset Protection Zone
AS3959	Australian Standard 3959 – 2018 as amended
BAL	Bushfire Attack Level
BPMs	Bushfire Protection Measures
BPLM	Bush Fire Prone Land Map
Council	The Hills Shire Council
DA	Development Application
EP&A Act	Environmental Planning and Assessment Act - 1979
FRNSW	Fire & Rescue NSW
IPA	Inner Protection Area
NCC	National Construction Code
NP	National Park
NSP	Neighbourhood Safer Places
OPA	Outer Protection Area
PBP	Planning for Bush Fire Protection – 2019
ROW	Right of Way
RF Act	Rural Fires Act - 1997
RFS	NSW Rural Fire Service
SBFS	Strategic Bush Fire Study
SEPP	State Environmental Planning Policy
SFPP	Special Fire Protection Purpose
SWS	Static Water Supply

## Executive Summary

---

Building Code and Bushfire Hazard Solution P/L has been commissioned by Dr Geoff Morgans to prepare an independent Bushfire Assessment Report for a Planning Proposal which will facilitate a future residential development at 9 Palaran Avenue, North Kellyville.

The subject site comprises of an existing allotment (Lot 3 DP 249675), zoned R2: Low Density Residential and E4: Environmental Living.

The subject site is located within the North Kellyville precinct of the North West Growth Area.

The Planning Proposal seeks the following amendments to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006, which are the basis for the assessment in this Planning Proposal:

- Amend the North West Growth Centre Lot Size Map to change the minimum lot size that applies to part of the site from 4,000 square metres to 600 square metres; and
- Rezone the subject site from E4 Environmental Living to R2 Low Density Residential.

In this instance the subject site is depicted on The Hills Council's Bushfire Prone Land Map as partially containing the 100 metre buffer zone from designated Category 1 Vegetation. The subject site is therefore considered 'bushfire prone'.

In relation to this Planning Proposal The Hills Council is required to apply section 9.1(2) of the Environmental Planning and Assessment Act 1979. Direction 4.4 Planning for Bushfire Protection identifies matters for consideration for proposals that affect or are in proximity to land mapped as bushfire prone. Under these directions the following objectives apply:

- i. to protect life, property and the environment from bush fire, by discouraging the establishment of incompatible land uses in bush fire prone areas; and*
- ii. to encourage sound management of bush fire prone areas.*

A Strategic Bush Fire Study has been undertaken and concluded the proposal is appropriate in the bushfire hazard context.

In addition to the Strategic Bush Fire Study an assessment of the proposal against Planning for Bush Fire Protection 2019 has concluded the future Development Application has the capacity to satisfy this document.

A key consideration for planning proposals in bushfire prone areas is limiting or excluding incompatible development commensurate with the level of risk. In this regard the subject site is considered to have a low bushfire risk when considering the characteristics of the vegetation and the fact there have been no recorded wildfires within the immediate area (closest recorded wildfire approximately 3.6km to the north).

It is of our opinion that the proposal satisfies all relevant specifications and requirements of Planning for Bush Fire Protection 2019.

## 1.0 Introduction

---

Building Code and Bushfire Hazard Solution P/L has been commissioned by Dr Geoff Morgans to prepare an independent Bushfire Assessment Report for a Planning Proposal which will facilitate a future residential development at 9 Palaran Avenue, North Kellyville.

The subject site comprises of an existing allotment (Lot 3 DP 249675), zoned R2: Low Density Residential and E4: Environmental Living.

The Planning Proposal relates to the eastern portion of subject site and will facilitate development of the land currently zoned E4: Environmental Living in a manner consistent with the R2: Low Density Residential zoned land.

In this instance the subject site is depicted on The Hills Council's Bushfire Prone Land Map as partially containing the 100 metre buffer zone from designated Category 1 Vegetation. The subject site is therefore considered 'bushfire prone'.

In relation to this planning proposal The Hills Council is required to apply section 9.1(2) of the Environmental Planning and Assessment Act 1979. Direction 4.4 Planning for Bushfire Protection identifies matters for consideration for proposals that affect or are in proximity to land mapped as bushfire prone. Under these directions the following objectives apply:

- i. to protect life, property and the environment from bush fire, by discouraging the establishment of incompatible land uses in bush fire prone areas; and*
- ii. to encourage sound management of bush fire prone areas.*

The proposal must demonstrate compliance with the s9.1(2) Directions and the relevant specification and requirements of Planning for Bush Fire Protection 2019 (PBP).

The application of PBP requires satisfactory demonstration of the aim and objectives and the specific objectives and bushfire protection measures relevant to the type of development.

In this instance the proposal relates to a Planning Proposal to facilitate a future residential subdivision and therefore in addition to the aim and objectives detailed in Chapter 1 'Introduction' the proposal must satisfy Chapter 4 'Strategic Planning' of PBP. The bushfire protection measures detailed in Chapter 5 'Residential and Rural Residential Subdivisions' of PBP have also been considered for the future subdivision application.

## 2.0 Purpose of Report

---

The purpose of this Bushfire Assessment Report is to provide an independent bushfire assessment together with appropriate recommendations for bushfire mitigation measures considered necessary having regard to development within a designated 'bushfire prone' area.

## 3.0 Scope of this Report

---

The scope of this report is limited to providing a bushfire assessment and recommendations for the subject site. Where reference has been made to the surrounding lands, this report does not purport to directly assess those lands; rather it may discuss bushfire impact and/or progression through those lands and possible bushfire impact to the subject site.

## 4.0 Aerial Image, BPLM, Zoning Conceptual & Lot Layout



Figure 01: Aerial view of the subejct area (Nearmap April 2021)  
Subject site (thick red outline)



Figure 02: Extract from The Hills Council's Bushfire Prone Land Map  
Subject site (thick red outline)

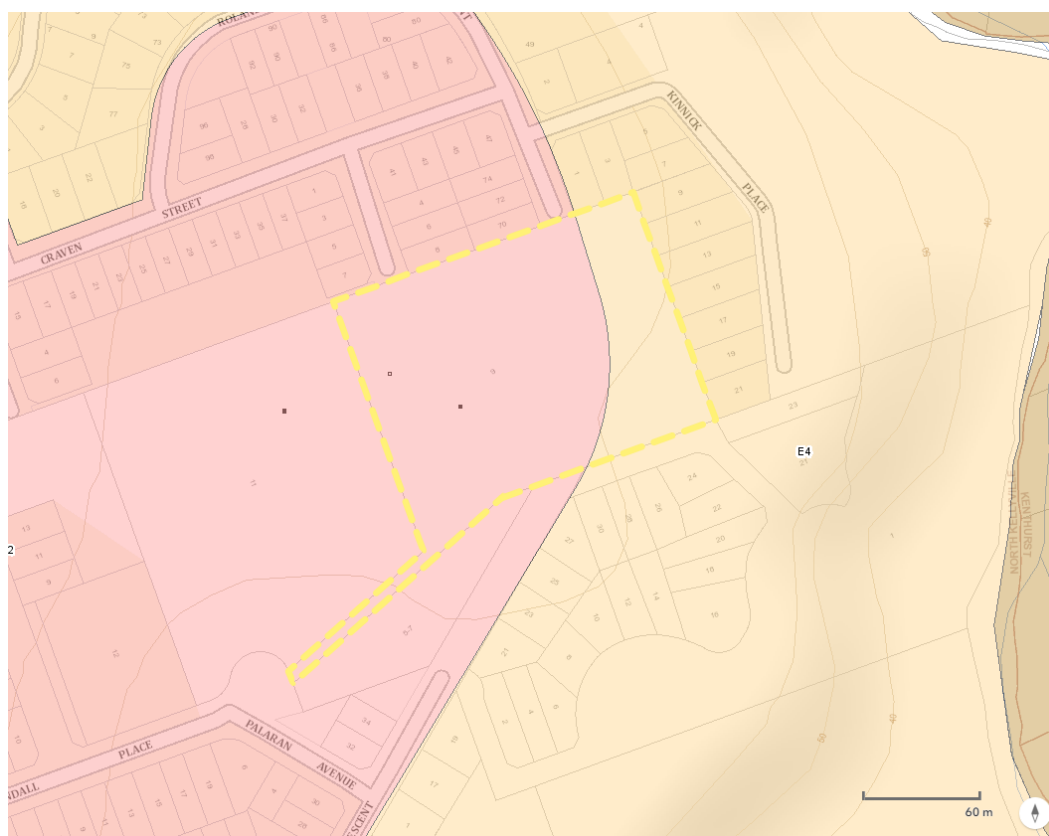


Figure 03: Land zoning of the subject area  
Subject site (outlined in yellow)



Figure 04: Extract of Conceptual Lot Layout prepared by Robert Moore and Associates Pty Ltd

## 5.0 Bushfire Assessment

---

### 5.01 Preface

Properties considered to be affected by possible bushfire impact are determined from the local Bushfire Prone Land Map as prepared by Council and/or the Rural Fire Service. All development within affected areas is subject to the application of the relevant specifications and requirements of 'Planning for Bush Fire Protection - 2019' (PBP).

PBP formally adopted on the 1<sup>st</sup> March 2020 provides for the protection of property and life (including fire-fighters and emergency service personnel) from bushfire impact.

In this instance the subject site is depicted on The Hills Council's Bushfire Prone Land Map as partially containing the 100 metre buffer zone from designated Category 1 Vegetation. The subject site is therefore considered to be 'bushfire prone'.

When preparing a planning proposal s9.1(2) of the EP&A Act is required to be applied. Direction 4.4 'Planning for Bushfire Protection' of the s9.1(2) Direction, applies when a Council prepares a draft LEP that affects, or is in proximity to, land mapped as bushfire prone. Under these directions the following objectives apply:

- i. to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas; and
- ii. to encourage sound management of bush fire prone areas.

Under direction 4.4 the Commissioner of the NSW RFS must be consulted and any comments taken into account. As part of the consultation process with the NSW RFS, a bush fire assessment is required to be submitted to demonstrate compliance with the s9.1(2) Directions and PBP.

Consideration must be given to limiting or excluding incompatible development in bushfire affected areas commensurate with the level of risk. A key principle to ensure this is that future development is designed and sited capable of complying with PBP.

The NSW Rural Fire Service also encourages the application of zones that limit or exclude inappropriate development in bushfire prone areas where:

- *the development area is exposed to a high bush fire risk and should be avoided;*
- *the development is likely to be difficult to evacuate during a bush fire due to its siting in the landscape, access limitations, fire history and/or size and scale;*
- *the development will adversely effect other bush fire protection strategies or place existing development at increased risk;*
- *the development is within an area of high bush fire risk where density of existing development may cause evacuation issues for both existing and new occupants; and*
- *the development has environmental constraints to the area which cannot be overcome.*

We provide the following assessment in consideration of the above and Planning for Bush Fire Protection 2019 to highlight the suitability of the site for higher density residential development and the relevant bushfire protection measures.

## 5.02 Strategic Bush Fire Study

Planning proposals which relate to bushfire prone properties require the preparation of a Strategic Bush Fire Study. The Strategic Bush Fire Study (SBFS) provides opportunity to assess the broader landscape and ultimately assesses whether the new zone and proceeding development is appropriate in the bushfire hazard context.

Once these strategic issues have been addressed in the SBFS, an assessment of whether the proposal can comply with PBP must then be carried out. The assessment against PBP is addressed in section 5.03 of this report.

The following assessment details the components in Table 4.2.1 of PBP which must be addressed in a SBFS.

### Bushfire Landscape Assessment

The Bushfire Landscape Assessment component considers the likelihood of a bushfire and its potential severity and intensity and the potential impact on life and property in the context of the broader surrounding landscape.

#### Location

The subject site comprises of one (1) existing allotment (zoned R2: Low Density Residential and E4: Environmental Living), being:

Street Address	Lot and DP
9 Palaran Avenue, North Kellyville	Lot 3 DP 249675

The subject site is located within The Hills Council's local government area and is captured in the North West Growth Area.

The subject site has street frontage to Palaran Avenue to the southwest, Roland Garros Crescent to the south and north and Barabati Road to the north. The subject site abuts existing developed properties to the north, east and south and a large private residential allotment to the west.

The rezoning application relates to the eastern portion of subject site and will facilitate the creation of twenty-one (21) new residential allotments, one (1) residue allotment and associated infrastructure (roads).



Figure 05: Extract from the North Kellyville Precinct Draft Indicative Layout Plan

## Vegetation

The subject site was found to largely comprise of maintained lawns and gardens.

As part of this bushfire assessment process consideration has been given to all existing vegetation within neighbouring allotments and any retained or proposed vegetated areas within the subject site. We have also considered the extent of the 'Native Vegetation Protection' layer in accordance with *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*.

It is understood that there will be no retained or proposed vegetated areas within the subject site which would warrant consideration as a bushfire hazard.

In accordance with Appendix 1 'Site Assessment Methodology' of PBP we have undertaken an assessment of all vegetation formations within 140 metres of the subject site for each aspect as per Keith (2004).

The vegetation posing a bushfire hazard to the subject site was found to be located to the east and south within large vegetated allotments. The extent of the bushfire hazards is consistent with the 'Native Vegetation Protection' layer of the SEPP.

It is acknowledged that there is a designated Asset Protection Zone (APZ) within the vegetated allotment to east of the subject site. This APZ is a condition of consent relating to the adjacent residential development (DA 294/2016/ZD). As there is an enforcement mechanism for this APZ it has been included within the available APZ for this matter.

The development consent (635/2019/ZD) for the residential subdivision to the south of the subject site also includes a Managed Ecological Zone which is required to be maintained in accordance with an APZ. Similarly, as there is an enforcement mechanism for this APZ it has also been included within the available APZ for this matter

The vegetation posing a hazard to the east and south was found to consist 10-20 metres in height with a 30-70% canopy foliage cover and understorey of low trees, shrubs and grasses. For the purpose of this assessment the vegetation posing a hazard was determined to be Sydney Coastal Dry Sclerophyll Forests.



Figure 06: Aerial view of the subject area with vegetation assessment  
Subject site (thick red outline), external DA enforced APZs (green shade)

## Slope and Topography

The slope of the land under the classified vegetation has a direct influence on the forward rate of spread, fire intensity and radiant heat exposure. The effective slope is considered to be the slope under the classified vegetation which will most significantly influence bushfire behaviour toward the development site.

In accordance with A1.4 'Determine slope' of PBP the slope assessment is to be derived from the most detailed contour data available.

The slope that would **most significantly** influence bushfire behaviour was determined from topographic imagery (1 metre contours sourced from ELVIS - Geoscience Australia) in conjunction with site observations.

As shown in Figure 08 overleaf there were areas to the northeast and east of the subject site within the bushfire hazard where the slope consistently exceeds 20 degrees.

The APZ tables within PBP are provided for acceptable solutions with slopes of up to 20 degrees. Effective slopes in excess of 20 degrees require a detailed performance assessment which include a consideration of the potential flame length and its impact on the proposed development. In this regard bushfire design modelling has been used to determine the minimum required Asset Protection Zones.



Figure 07: LiDar contour mapping of subject area (1m contours)

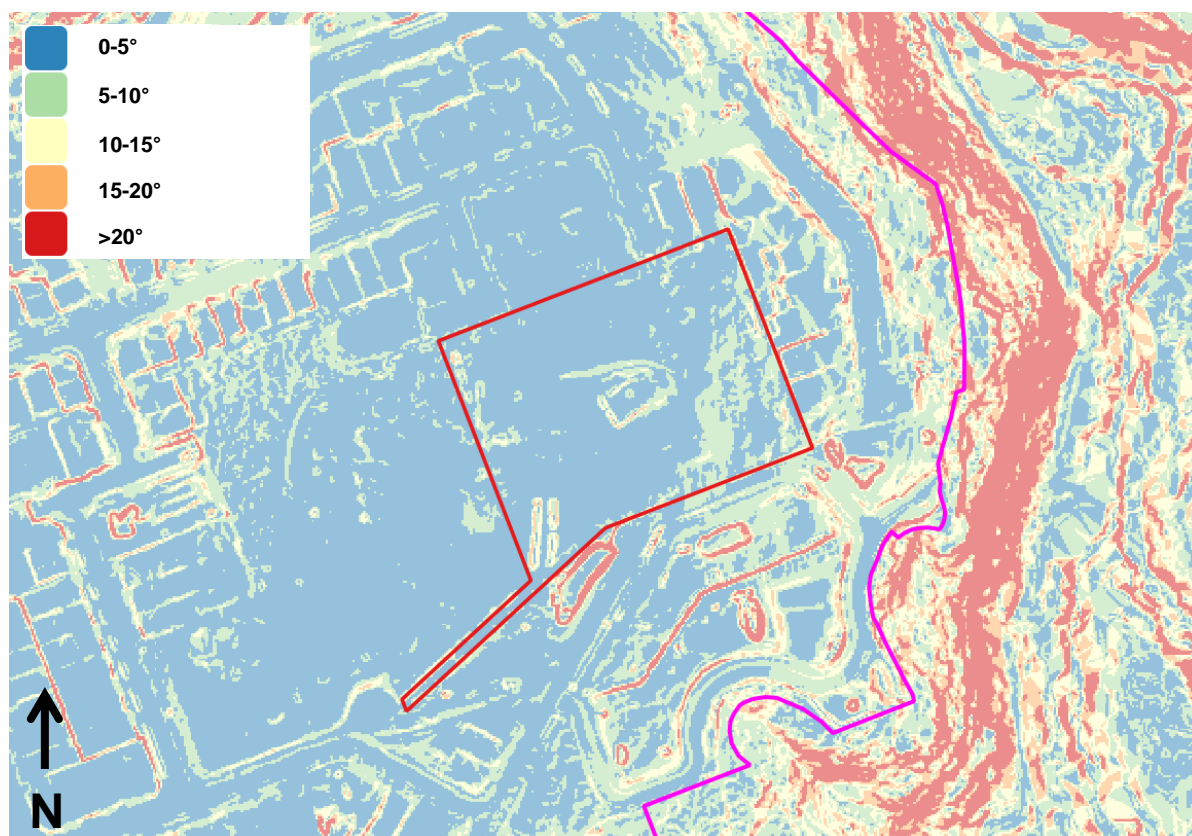


Figure 08: Slope analysis plan  
Subject site (red outline), hazard interface (thick pink line)

### Fire Weather

All development which attracts an Asset Protection Zone under PBP requires the identification of the relevant Fire Danger Index (FDI). The FDI required to be used for development assessment purposes is based on the local government boundaries, being The Hills Council in this instance.

In accordance with the NSW Rural Fire Service publication 'NSW Local Government Areas FDI' (2017) The Hills Council is located within the Greater Sydney Region Fire Weather District which attracts a Fire Danger Index (FDI) of 100 for bushfire planning purposes.

## Previous Bushfire History

There are areas within NSW that have significant fire history and are recognised as known fire paths. In a planning context it is important to identify these locations and ensure incompatible development is not proposed.

In this instance there have been no recorded wildfires within the subject site or immediate surrounding area (source NPWS Fire History dataset).

There were also no visual indicators of previous bushfires at the time of our inspection.

The closest recorded wildfire was found to be located approximately 3.6 kilometres to the north of the subject site which occurred in 2002 (Chilvers (East)).

The subject site is therefore not considered to be within a known fire path. Furthermore in consideration of the previous bushfire history the likelihood of a bushfire occurring within the immediate area is considered unlikely.

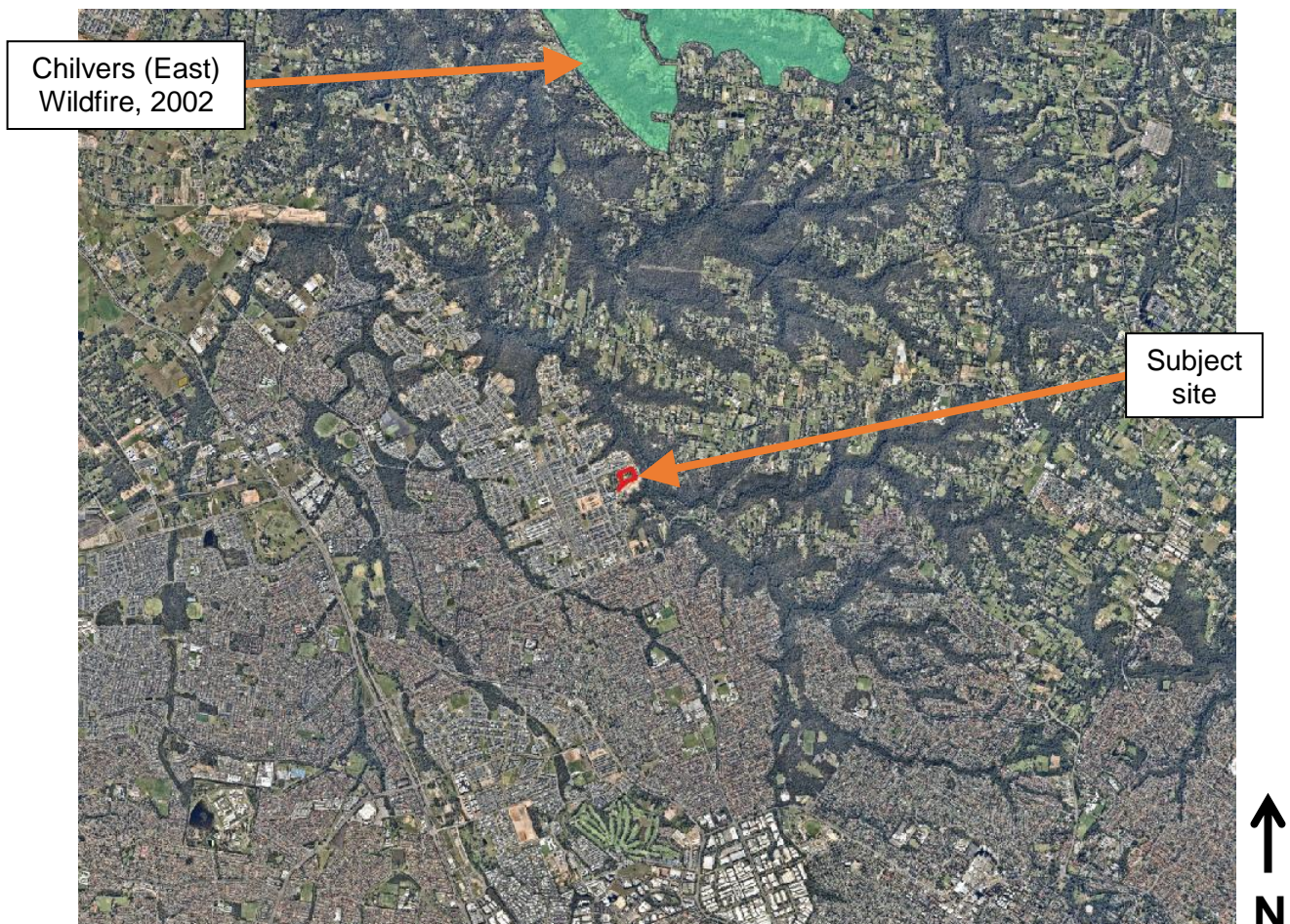


Figure 09: Aerial view of the subject area

## Potential Fire Behaviour

The most significant bushfire threat to the subject site is considered to be from the Native Vegetation Protection area to the east and south of the subject site.

This vegetated corridor is associated with Cattai Creek and associated tributaries and predominately runs in a north /south direction.

Traditionally severe fire weather in this locality is influenced by north-westerly / westerly winds which bring hot dry conditions from inland Australia. A bushfire burning under these conditions within the identified bushfire hazards would be influenced away from the subject site.

In applying the parameters described in this section and accepted assessment methodology described in PBP bushfire design modelling indicates the vegetation posing a hazard to the east, being the highest hazard, has the following potential outputs:

### East:

Bushfire Behaviour	Output
Flame Length	90.31 metres *
Rate of Spread	13.39 km/h
Fire Intensity	188,854 kW/m

\* In consideration of the vegetation height, aspect, traditional prevailing weather conditions associated with severe fire behaviour and volume of exposed rock outcrops a 90.31 metre flame length is not considered realistic.

While there is a general acceptance that the use of tradition bushfire design modelling on slopes >20 degrees exaggerates the calculated flame length it is currently industry practice to ensure available building envelopes/ future dwellings are outside this calculated flame length.

## Access & Suppression

Access for attending fire services to undertake early suppression is a key factor in whether a fire has the opportunity to develop into a quasi-steady state at which point the opportunity to control / extinguish the fire becomes far more challenging.

Where good access is available it provides opportunity to control / extinguish a fire in its growth phase before developing further and consequently becoming more difficult to conduct direct attacks.

In this particular instance direct vehicle access is available to the identified bushfire hazards via either Kinnick Place or Eden Road. These roads were designed and approved under Planning for Bush Fire Protection.

In addition a service trail is also located along the length of Smalls Creek which may be utilised by attending fire services.

In consideration of the comprehensive access available to the identified hazards and their exposure to the public the identification and subsequent early extinguishment of a bushfire in the area is considered probable.

## Land Use Assessment

The Land Use Assessment identifies the most appropriate locations in the masterplan area for the proposed land uses.

In this instance the proposal does not include a broad masterplan but rather a specific 'spot' rezoning. The Planning Proposal relates to the eastern portion of subject site and will facilitate development of the land currently zoned E4: Environmental Living in a manner consistent with the R2: Low Density Residential zoned land.

The proposed Conceptual Lot Layout has located the future road design and residential allotments consistent with the North Kellyville Precinct Draft Indicative Layout Plan. The subject site is also located such that there is existing residential development, including perimeter roads, located between the identified bushfire hazards.

## Access and Egress

It is important to assess the capacity of both the existing and proposed road networks both within and external to the area.

The subject site has street frontage to Palaran Avenue to the southwest, Roland Garros Crescent to the south and north and Barabati Road to the north.

The future residential development will provide the continuation of Roland Garros Crescent and Barabati Road consistent with the North Kellyville Precinct Draft Indicative Layout Plan. Importantly these two future connection points will provide residents in the area alternate egress options in the event of a bushfire.

The key evacuation routes from the subject site is to the north via Roland Garros Crescent and Barabati Road or south via Roland Garros Crescent.

Future residents / occupants will have two evacuation routes available which are generally away from the identified bushfire hazards.

The existing surrounding public roads currently exceed the minimum carriageway requirements for non-perimeter roads as described in section 5.3.2 of PBP.

In consideration of the existing surrounding road network and the modest population increase as a result of the proposal, the available access and egress routes are considered acceptable.

## Emergency Services

In some circumstances the scale of a planning proposal warrants a need to include provisions for a new fire station.

The subject site is located within the NSW Rural Fire Service area with a station (Kellyville RFB) located less than 1 kilometre to the south (measured in direct line of sight).

NSW Fire & Rescue also has a station located within the township Kellyville.

In consideration of the relatively modest size of the future residential development the existing fire service coverage is considered acceptable.

## Infrastructure

An assessment of the issues associated with infrastructure and utilities must be undertaken. This assessment is to include the ability of the reticulated water system to deal with a major bushfire event in terms of pressures, flows and spacing of hydrants.

There are existing hydrants available along Palaran Avenue, Roland Garros Crescent, Barabati Road and surrounding streets for the replenishment of attending fire services.

The capabilities of this broader hydrant network is the responsibility of Sydney Water. The modest size of the future residential development is unlikely to have a significant adverse impact on this system.

The sizing, spacing and pressures of any future internal hydrant system must comply with AS2419.1-2005.

### 5.03 Planning for Bush Fire Protection

As the strategic issues have been satisfactorily addressed in the SBFS, an assessment of whether the proposal can comply with PBP is required. This section addresses the future residential subdivisions capacity to comply with the relevant specifications and requirements of PBP.

#### Asset Protection Zones

Asset Protection Zones (APZs) for residential subdivision are determined from Table A1.12.2 of Planning for Bush Fire Protection 2019 (PBP) or bushfire design modelling achieving a radiant heat impact of no more than 29 kW/m<sup>2</sup> at a building footprint.

The minimum required Asset Protection Zones for the future residential development were determined from Table A1.12.2 of PBP to be 56 metres to the east and southeast and 45 metres to the south.

Bushfire design modelling was used to determine the minimum required Asset Protection Zones for the hazards to the northeast and east which were found to have an effective slope of >20 degrees.

This modelling (attached) while concluding a 69 metre Asset Protection Zone is necessary to achieve the 29kW/m<sup>2</sup> requirement to the northeast calculated a flame length of 84.53 metres.

Similarly while a 74 metre Asset Protection Zone is necessary to achieve the 29kW/m<sup>2</sup> requirement to the east the calculated flame length is 90.31 metres

While there is a general acceptance that the use of tradition bushfire design modelling on slopes >20 degrees exaggerates the calculated flame length it is currently industry practice to ensure available building envelopes/ future dwellings are outside this calculated flame length. We have subsequently adopted the calculated flame length as the minimum required APZs to these aspects.

As shown on Figure 10 overleaf the subject site and future residential allotments have the capacity to comply with the minimum required Asset Protection Zones as detailed in PBP.

The available APZs consist of the land within the subject site and existing developed residential properties, DA enforced APZs and formed roads.

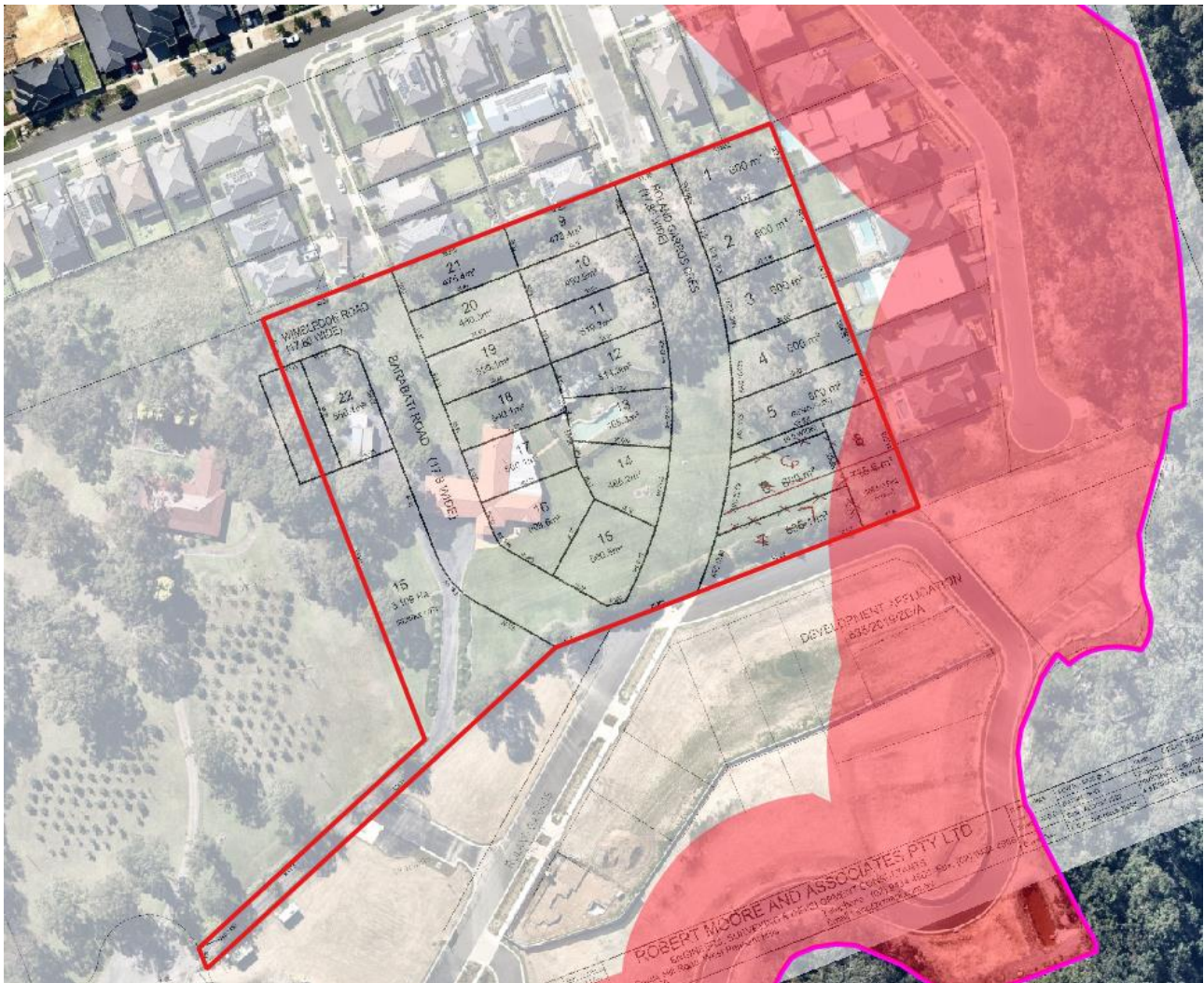


Figure 10: Aerial of the subject are overlaid with Conceptual Lot Layout and minimum required Asset Protection Zones

## Fire Fighting Water Supply

There are existing hydrants available along Palaran Avenue, Roland Garros Crescent, Barabati Road and surrounding streets for the replenishment of attending fire services.

The sizing, spacing and pressures of any future internal hydrant system must comply with AS2419.1-2005.

The subject site has the capacity to comply with the Water Supply requirements as detailed in section 5.3.3 of PBP.

## Property Access

The subject site has street frontage to Palaran Avenue to the southwest, Roland Garros Crescent to the south and north and Barabati Road to the north.

Planning for Bush Fire Protection addresses design considerations for internal roads (public roads) for properties determined to be bushfire prone.

The future residential development will provide the continuation of Roland Garros Crescent and Barabati Road consistent with the North Kellyville Precinct Draft Indicative Layout Plan.

We are satisfied that the proposed internal road system has the capacity to comply with the requirements for Access under section 5.3.2 of PBP 2019.

## 6.0 Conclusion

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Building Code and Bushfire Hazard Solution P/L has been commissioned by Dr Geoff Morgans to prepare an independent Bushfire Assessment Report for a Planning Proposal which will facilitate a future residential development at 9 Palaran Avenue, North Kellyville.

The subject site comprises of an existing allotment (Lot 3 DP 249675), zoned R2: Low Density Residential and E4: Environmental Living.

In this instance the subject site is depicted on The Hills Council's Bushfire Prone Land Map as partially containing the 100 metre buffer zone from designated Category 1 Vegetation and therefore the subject site is considered 'bushfire prone'.

We are satisfied that the subject site and proposed Conceptual Lot Layout has the capacity to comply with the relevant specifications and requirements of *Planning for Bush Fire Protection 2019*.

Furthermore we are satisfied that the proposed Conceptual Lot Layout, in combination with the bushfire protection measures discussed herein will not result in areas that are difficult to evacuate, create control difficulties during a bushfire or adversely affect other bush fire protection strategies or place existing development at increased risk.

We are therefore in support of the Planning Proposal.

Should you have any enquiries regarding this project please contact me at our office.

Prepared by  
Building Code & Bushfire Hazard Solutions P/L



### **Stuart McMonnies**

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G. D. Design in Bushfire Prone Areas.  
Certificate IV Fire Technology  
Fire Protection Association of Australia BPAD – L3 Accredited Practitioner  
Certification number – BPAD9400



## 7.0 Annexure 01

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### List of Referenced Documents

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ELVIS -Elevation -Foundation Spatial Data. Elevation.fsdf.org.au. Available at: <http://elevation.fsdf.org.au/>

*Environmental Planning and Assessment Act 1979*

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NSW Government. North Kellyville Precinct Draft Indicative Layout Plan

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Robert Moore & Associates (2020). Marked up Conceptual Lot Layout (Project no 180036 P5, dated August 2020)

*Rural Fires Act 1997*

*Rural Fires Regulations 2013*

Rural Fire Service NSW (2005). *Standards for Asset Protection Zones*

Rural Fire Service NSW (2017). *NSW Local Government Areas FDI*

State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Standards Australia (2018). *AS3959 Construction of buildings in bushfire-prone areas*.

Standards Australia (2014). *AS/NZS 1596 The storage and handling of LP Gas*

Acknowledgements to:

Geoscience Australia  
Nearmap  
[Street-directory.com.au](http://Street-directory.com.au)

### Attachments

Attachment 01: Bushfire Attack Assessment Report



# NBC Bushfire Attack Assessment Report V4.1

AS3959 (2018) Appendix B - Detailed Method 2

Print Date: 1/06/2021

Assessment Date: 1/06/2021

Site Street Address: 9 Palaran Avenue, North Kellyville

Assessor: Stuart McMonnies; Bushfire Hazard Solutions

Local Government Area: The Hills

Alpine Area: No

## Equations Used

Transmissivity: Fuss and Hammins, 2002

Flame Length: RFS PBP, 2001/Vesta/Catchpole

Rate of Fire Spread: Noble et al., 1980

Radiant Heat: Drysdale, 1985; Sullivan et al., 2003; Tan et al., 2005

Peak Elevation of Receiver: Tan et al., 2005

Peak Flame Angle: Tan et al., 2005

Run Description: East

## Vegetation Information

Vegetation Type: Sydney Coastal DSF

Vegetation Group: Dry Sclerophyll Forests (Shrubby)

Vegetation Slope: 24 Degrees

Vegetation Slope Type: Downslope

Surface Fuel Load(t/ha): 21.3

Overall Fuel Load(t/ha): 27.3

Vegetation Height(m): 1.4

Only Applicable to Shrub/Scrub and Vesta

## Site Information

Site Slope: 6 Degrees

Site Slope Type: Downslope

Elevation of Receiver(m): Default

APZ/Separation(m): 74

## Fire Inputs

Veg./Flame Width(m): 100

Flame Temp(K): 1090

## Calculation Parameters

Flame Emissivity: 95

Relative Humidity(%): 25

Heat of Combustion(kJ/kg) 18600

Ambient Temp(K): 308

Moisture Factor: 5

FDI: 100

## Program Outputs

Level of Construction: BAL FZ

Peak Elevation of Receiver(m): 24.79

Radiant Heat(kW/m2): 29

Flame Angle (degrees): 46

Flame Length(m): 90.31

Maximum View Factor: 0.488

Rate Of Spread (km/h): 13.39

Inner Protection Area(m): 76

Transmissivity: 0.781

Outer Protection Area(m): 0

Fire Intensity(kW/m): 188854

Run Description:	Northeast		
<u>Vegetation Information</u>			
Vegetation Type:	Sydney Coastal DSF		
Vegetation Group:	Dry Sclerophyll Forests (Shrubby)		
Vegetation Slope:	23 Degrees	Vegetation Slope Type:	Downslope
Surface Fuel Load(t/ha):	21.3	Overall Fuel Load(t/ha):	27.3
Vegetation Height(m):	1.4	Only Applicable to Shrub/Scrub and Vesta	
<u>Site Information</u>			
Site Slope:	7 Degrees	Site Slope Type:	Downslope
Elevation of Receiver(m):	Default	APZ/Separation(m):	69
<u>Fire Inputs</u>			
Veg./Flame Width(m):	100	Flame Temp(K):	1090
<u>Calculation Parameters</u>			
Flame Emissivity:	95	Relative Humidity(%):	25
Heat of Combustion(kJ/kg	18600	Ambient Temp(K):	308
Moisture Factor:	5	FDI:	100
<u>Program Outputs</u>			
Level of Construction:	BAL FZ	Peak Elevation of Receiver(m):	22.94
Radiant Heat(kW/m2):	29	Flame Angle (degrees):	48
Flame Length(m):	84.53	Maximum View Factor:	0.487
Rate Of Spread (km/h):	12.5	Inner Protection Area(m):	0
Transmissivity:	0.783	Outer Protection Area(m):	0
Fire Intensity(kW/m):	176262		