LOCAL GOVERNMENT AREA: The Hills Shire Council

NAME OF PLANNING PROPOSAL: Draft The Hills Local Environmental Plan 2019 (Amendment No (#) – Proposed amendments to increase the maximum floor space ratio from 1:1 to 1.98:1 and increase the maximum building height from 20 metres to 26 metres at 27 Victoria Avenue, Castle Hill).

STATUS: Public Exhibition

ADDRESS OF LAND: 27 Victoria Avenue, Castle Hill (Lot 5, DP 261795)

SUMMARY OF HOUSING AND EMPLOYMENT YIELD:

	EXISTING	PROPOSED	ADDITIONAL
DWELLINGS	n/a	n/a	n/a
JOBS	210	421	+211

SUPPORTING MATERIAL:

Attachment A	Assessment against State Environment Planning Policies
Attachment B	Assessment against Section 9.1 Local Planning Directions
Attachment C	Council Report and Minute (28 May 2024)
Attachment D	Local Planning Panel Report and Minute (27 March 2024)
Attachment E	Gateway Determination and Determination Report (3 September 2024)
Attachment F	Draft the Hills DCP Part D Section X – 27 Victoria Avenue, Castle Hill
Attachment G	Proponent's Planning Proposal Report, 26 October 2023
Attachment H	Traffic and Parking Report, October 2023
Attachment I	Urban Concept Design, August 2023
Attachment J	Engineering Drainage Plans, August 2022
Attachment K	Economic Impact Assessment, October 2023
Attachment L	Engineering Design Certificate, 9 October 2023
Attachment M	Draft Voluntary Planning Agreement and Explanatory Note

BACKGROUND:

At its Ordinary Meeting of 28 May 2024, Council considered a planning proposal applicable to land at 27 Victoria Avenue, Castle Hill and resolved that:

- 1. The planning proposal for land at 27 Victoria Avenue, Castle Hill (Lot 5, DP 261795) be submitted to the Department of Planning, Housing and Infrastructure for Gateway Determination.
- 2. Draft The Hills Development Control Plan 2012 Part D Section X 27 Victoria Avenue, Castle Hill (Attachment 3) be publicly exhibited concurrent with the planning proposal.
- 3. Council accept, in principle, the draft VPA Letter of Offer (Attachment 4). A draft VPA consistent with the terms of the Offer be prepared and subject to legal review (at the cost of Proponent), updated in accordance with the recommendations of the legal review and subsequently placed on public exhibition concurrent with the planning proposal and draft Development Control Plan.

A copy of the Council Report and Minute is provided as Attachment C.

A Gateway Determination was issued by the Department of Planning, Housing and Infrastructure on 3 September 2024 authorising the planning proposal proceed, subject to the proposal being updated prior to public exhibition as follows:

1. The planning proposal is to be updated to address Section 9.1 Direction, 4.1 Flooding to provide an assessment against provisions 1(a)-(d) and update the consistency of the proposal with the Direction to consider the Department's assessment.

The planning proposal is identified as a flood prone lot under the Hills DCP 2012 and as such Ministerial Direction 4.1 Flooding is applicable to the proposal. The Department determined that the planning proposal

did not adequately demonstrate consistency with the NSW Flood Prone Land Policy, Floodplain Development Manual 2005 and Considering Flooding in Land Use Planning Guideline 2021. The Department determined that the planning proposal is inconsistent with Direction 4.1 Flooding, on the basis that the proposal permits an increase in development on land within the flood planning area. The Department's Gateway Determination Report identified that the planning proposal is justifiably inconsistent with this Ministerial Direction.

The inconsistency is considered to be justified for the following reasons:

- The site's flood affectation is approximately 1m in depth or less and is contained along the road frontages;
- No development is proposed to occur within the overland flow path;
- The proposed development has a similar size ground floor footprint to the existing development and is therefore unlikely to result in additional flooding impacts on other properties;
- The topography of the site and proposed amendments to stormwater infrastructure will assist in mitigating any potential flooding impacts;
- Any future development applications would be required to comply with The Hills DCP 2012 Part C, Section 6 – Flood Controlled Land as well as the additional controls included in the Stormwater Management Section of the draft site-specific DCP; and
- The development will be required to meet the required flood planning levels at the development application stage. The required flood planning levels include habitable floor levels to be at 1% Annual Exceedance Probability (AEP) level plus 0.5m freeboard, and non-habitable floor levels to be equal to or higher than the 1% AEP level, or otherwise no lower than 5% AEP level unless justified by a site-specific assessment.

The planning proposal has been updated to reflect the conditions of the Gateway Determination. Delegation for making the LEP has been issued to Council under the Gateway Determination.

THE SITE:

The site is known as 27 Victoria Avenue, Castle Hill (Lot 5, DP 261795) and is outlined in red in the figure below. It is located within the Showground Station Precinct, approximately 1.1km walking distance from the Showground Metro Station. The site comprises one parcel of land approximately 8,094m² in size. It is a corner lot, with frontages to both Victoria Avenue to the west and Anella Avenue to the north.



Figure 1 Aerial view of subject site (red) and surrounds

The site is currently zoned E3 Productivity Support, with a maximum building height of 20m (approximately 3 storeys) and maximum floor space ratio of 1:1, which would allow a maximum Gross Floor Area (GFA) of 8,094m². The site is currently occupied by a single storey building with a floor area of approximately 2,500m² comprising predominantly specialised retail premises and urban services uses, with at grade car parking. The subject site is depicted in the depicted in the figure below.



Figure 2 Aerial View of Existing Development

The site benefits from a right of carriageway for access and car parking via the adjoining property 3 Anella Avenue, Castle Hill. Additionally, the site is encumbered by a 2-7m wide easement for drainage along the northern end, which Council is the benefited authority.

PART 1 OBJECTIVES OR INTENDED OUTCOME

The planning proposal seeks to facilitate redevelopment of the site, comprising a range of uses, including specialised retail premises (bulky goods), vehicle sales, vehicle repair station, centre based childcare facility, indoor recreation facility (gym) and a medical centre. The proposal seeks to permit increased gross floor area of up to 16,026m² in a built form ranging from 4-5 storeys.



Figure 3 Proposed development facade, viewed from Victoria Avenue

PART 2 EXPLANATION OF THE PROVISIONS

The planning proposal seeks to amend The Hills Local Environmental Plan 2019 (LEP 2019) as follows:

- 1. Increase the maximum Height of Building to from 20 metres to 26 metres (approx. 5 storeys); and
- 2. Increase the maximum Floor Space Ratio from 1:1 to 1.98:1.

The planning proposal is also accompanied by a draft site specific Development Control Plan (DCP) to guide built form outcomes on the site. Draft controls relate to built form, public domain, landscaping, carparking, access, stormwater and flood management.

PART 3 JUSTIFICATION

SECTION A - NEED FOR THE PLANNING PROPOSAL

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

No, the planning proposal is not a result of any strategic study or report. The application has been initiated by the Proponent, acting on the behalf the landowner.

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

Yes, the planning proposal is the best way to achieve the intended outcomes for the site. The proposed floor space ratio and building height will regulate an appropriate built form outcome and facilitate an increase in specialised retail and industrial floor space and increase employment opportunities. The site's proximity to Showground Metro Station will encourage transit oriented development.

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 relevant objectives and priorities from the Greater Sydney Region Plan and Central City District Plan are as follows:

- Objective 14 Integrated land use and transport creates walkable and 30-munite cities;
- Objective 22 Investment and business activity in centres;
- Objective 23 Industrial and urban service land is planned, retained and managed;
- Priority C9 Delivering integrated land use and transport planning and a 30-minute city;
- Priority C10 Growing investment, business, and job opportunities in strategic centres; and
- Priority C11 Maximising opportunities to attract advances manufacturing and innovation in industrial and urban services land.

The planning proposal is consistent with the objectives and priorities of the Greater Sydney Region Plan and Central City District Plan as they relate to the provision of employment floorspace and supporting the realisation of a 30-minute city. The planning proposal would protect the retention of light industrial uses and bulky goods premises, providing employment opportunities for the current and future population and support the urban services needs of surrounding residents. The proposal would facilitate additional development potential in close proximity to the growth being experienced as a result of the Sydney Metro Northwest and will provide necessary industrial and urban services facilities. The proposal will attract investment to the Norwest Strategic Centre, as well as support other businesses and future residents in the Strategic Centre.

Draft The Hills Shire Council Norwest Precinct Plan

The draft Norwest Precinct Plan identifies the site as part of the bulky goods spine along Victoria Avenue and the existing light industrial areas. The proposal seeks to retain the existing E3 Productivity Support zoning and redevelop the site for uses which align with the land use outcomes articulated for this area within the draft Precinct Plan. The draft Norwest Precinct Plan envisages an FSR of up to 2:1 and height of 2-3 storeys. The proposed building height of 5 storeys is slightly higher than anticipated under the draft Plan, however it is considered that there is merit in increasing the building height in order to secure appropriate urban services.

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

The relevant planning priorities from Council's Local Strategic Planning Statement (LSPS) are as follows:

- Planning Priority 1 Plan for sufficient jobs, targeted to suit the skills of the workforce;
- Planning Priority 2 Build strategic centres to realise their potential;
- Planning Priority 3 Retain and manage valuable industrial and urban service land;
- Planning Priority 10 Provide social infrastructure and retail services to meet residents needs; and
- Planning Priority 12 Influence travel behaviour to promote sustainable choices.

The planning proposal is consistent with the Planning Priorities contained within the LSPS. The LSPS identifies that demand for urban services land will grow in conjunction with surrounding population and employment growth. The planning proposal would protect the retention of light industrial uses and bulky good premises in the Showground Precinct, providing employment opportunities for the current and future population and support the urban services needs of residents in The Hills Shire.

<u>The Hills Future Community Strategic Plan</u>

The Hills Future Community Strategic Plan aims to manage new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations. The planning proposal seeks to better utilise the existing site to provide for additional employment opportunities, consistent with the Strategic Plan. The proposed floor space ratio and building height provisions will contribute

to the realisation of Norwest as a strategic centre whilst achieving an appropriate built form outcome on the site.

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.

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

Yes, an assessment of the planning proposal against the Section 9.1 Ministerial Directions is detailed in Attachment B. A discussion of consistency with each relevant Direction is provided below.

<u>1.16 North West Rail Link Corridor Strategy</u>

This direction seeks to promote transit-oriented development and manage growth around the stations along the North West Rail Link (NWRL), and to ensure the NWRL corridor is consistent with the NWRL Corridor Strategy and precinct structure plans. The planning proposal is broadly consistent with this direction as it delivers specialised retail (bulky goods) and associated uses in an area identified for that outcome. The proposed floor space ratio is marginally higher than anticipated within the strategy however the development is consistent with the character description of bulky goods retail and service centres within a landscaped setting, with generous setbacks from the street. Furthermore, the character and built form requirements for feasible industrial and urban service development outcomes has shifted significantly since the preparation of the Government's Corridor Strategy in 2013.

4.1 Flooding

This direction seeks to ensure that the provisions of an LEP that applies to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land. The direction includes the following:

- 1. A planning proposal must include provisions that give effect to and are consistent with:
 - a. the NSW Flood Prone Land Policy,
 - b. the principles of the Floodplain Development Manual 2005,
 - c. the Considering Flooding in land Use Planning Guideline 2021, and
 - d. any adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the Floodplain Development Manual 2005 and adopted by the relevant council.

The planning proposal is identified as a flood prone lot under the Hills DCP 2012. The Department's Gateway Determination required that the planning proposal be updated to address provisions 1(a)-(d) of the Ministerial Direction. As the proposal permits an increase in development on land within the flood planning area, the proposal is technically inconsistent with this Direction.

The identified flood affectation is contained along the site's road frontages to Victoria Avenue and Anella Avenue. The development concept does not propose any development within the overland flow path and has a similar size ground floor footprint to the existing development. Therefore, the proposed development is unlikely to result in any additional flooding impacts compared to the existing development.

The site contains a stormwater easement which ranges from 2m to 7m. The easement secures Council's right of access to ensure that stormwater infrastructure can be adequately repaired, replaced and maintained as required. The proposed concept design will require re-routing of the stormwater pipe along the perimeter of the site. At this stage, the re-routing of the pipe is a viable possibility and has satisfied Council's Stormwater Engineers to the extent that the planning proposal could progress. The proposed amendments to the stormwater infrastructure will assist in mitigating any additional flooding impacts resulting from the proposed development.

Any future development applications for the site will be required to comply with The Hills DCP 2012 Part C, Section 6 – Flood Controlled Land as well as the additional controls included in the Stormwater Management Section of the draft site-specific DCP. These controls include requiring the development to meet the required

flood planning levels. Habitable floor levels are to be at 1% AEP level plus 0.5m freeboard, and non-habitable floor levels are to be equal to or higher than the 1% AEP level, or otherwise no lower than 5% AEP level unless justified by a site-specific assessment. The proposal therefore gives effect to the relevant flooding guidelines referred to within the Ministerial Direction.

As such, it is considered that the planning proposal's inconsistency with Ministerial Direction 4.1 Flooding is justified.

• <u>5.1 Transport and Infrastructure</u>

Ministerial Direction 5.1 seeks to integrate land use and infrastructure to improve access to housing, jobs and services, reduce dependency on cars, reduce travel time, support the efficient operation of public transport and provide for the efficient movement of freight. The proposal is generally consistent with this direction, as the site is located in a strategic centre, however it is acknowledged that many of the uses indicated on the concept plans will continue to be accessed primarily via car. Land in closer proximity to the station is better utilised for higher density uses in accordance with the principles of transit oriented development and in turn, land such as the subject site at more peripheral locations can be ideal remaining locations for urban services uses, noting they are still in the broader catchment of these transport services as well as the increased residential and worker populations that will re-locate into these areas as transit oriented development occurs.

7.1 Business and Industrial Zones

This Direction aims to encourage employment growth in suitable locations, protect employment land and support the viability of identified centres. It requires that planning proposals must not reduce the total potential floor space area for employment uses and related public services in business zones. The planning proposal is consistent with this direction as it will facilitate an industrial or urban services outcome. The proposal will increase the availability of urban services floor space in an area which is intended to support the viability of specialised retail, industrial and urban services uses.

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?

There is little to no likelihood of the planning proposal impacting on threatened species, populations or ecological communities and their habitats. The site is located in a highly urbanised location and is largely cleared of vegetation.

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

The planning proposal has appropriately responded to the environmental constraints present on the site. The proposed concept design will require re-routing of a stormwater pipe. The site contains a stormwater easement which secures Council's right of access to ensure that stormwater infrastructure can be adequately repaired, replaced and maintained as required.

The easement also aligns with an overland flow path, which has the potential for flooding during heavy rainfall. The proposal indicates that no development will occur in the overland flow path area.

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

The planning proposal will have positive economic benefits by contributing towards increased employment opportunities and local businesses in an area strategically identified for employment growth to support the local population. The planning proposal will also support the retail and service needs of surrounding residents.

SECTION D - STATE AND COMMONWEALTH INTERESTS

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

The planning proposal is accompanied by a draft Voluntary Planning Agreement (VPA). The VPA will secure monetary contributions equivalent to those payable under Council's Contributions Plan No. 19 – Showground Station Precinct (CP19). At the time of preparing and adopting CP19, the strategically identified employment

outcomes within this area of the Norwest Strategic Centre were known and as such, CP19 generally accounts for the uplift and extent of growth anticipated in the area. However, CP19 does not include the subject site. The VPA is therefore appropriate in this instance to address the local infrastructure demands associated with development of the land.

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?

Consultation with public authorities will be undertaken in accordance with the Gateway Determination received. Council will consult with the following public authorities as part of the exhibition period:

- Transport for NSW;
- NSW Department of Climate Change, Energy, the Environment and Water
- Endeavour Energy; and
- Sydney Water

PART 4 MAPPING

The planning proposal seeks to amend the Floor Space Ratio Map and the Height of Buildings Map of *The Hills Local Environmental Plan 2019*.



Maximum Floor Space Ratio (FSR) (n:1)

Existing Maximum Floor Space Ratio Map





Proposed Maximum Floor Space Ratio Map



Heights Shown on Map in RL (m)



Existing Maximum Height of Buildings Map

Heights Shown on Map in RL (m)

Proposed Maximum Height of Buildings Map

Note: No instrument changes are proposed as part of the planning proposal. The amendments to the LEP relate to mapping changes only.

PART 5 COMMUNITY CONSULTATION

The planning proposal will be advertised in accordance with Council's Community Participation Plan. 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)	September 2024
Compliance with Pre-exhibition Gateway Determination Conditions	December 2024
Completion of Legal Review of Voluntary Planning Agreement	February 2025
Government Agency Consultation	March 2025
Commencement of Public Exhibition Period (28 days)	March 2025
Completion of Public Exhibition Period	March 2025
Timeframe for Consideration of Submission	April 2025
Timeframe for Consideration of Proposal Post Exhibition	April 2025
Report to Council Post Exhibition	May 2025
Planning Proposal to DPHI for Review/PCO (Map Only Amendment)	May 2025
Execution and Registration of Associated Voluntary Planning Agreement	May 2025
Date Council will Make the Plan (if Delegated)	June 2025
Date Council will Forward to Department for Notification	June 2025

ATTACHMENT A: LIST OF STATE ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)	APPLICABLE TO THSC	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
Biodiversity and Conservation (2021)	YES	NO	-
Building Sustainability Index: BASIX (2004)	YES	NO	-
Exempt and Complying Development Codes (2008)	YES	NO	-
Housing (2021)	YES	NO	-
Industry and Employment (2021)	YES	NO	-
No. 65 – Design Quality and Residential Apartment Development	YES	NO	-
Planning Systems (2021)	YES	NO	-
Precincts – Central River City (2021)	YES	NO	-
Precincts – Eastern Harbour City (2021)	NO	-	-
Precincts – Regional (2021)	NO	-	-
Precincts – Western Parkland City (2021)	NO	-	-
Primary Production (2021)	YES	NO	-
Resilience and Hazards (2021)	YES	NO	-
Resources and Energy (2021)	YES	NO	-
Transport and Infrastructure (2021)	YES	NO	-

ATTACHMENT B: ASSESSMENT AGAINST SECTION 9.1 MINISTERIAL DIRECTIONS

	DIRECTION	APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
1. P	lanning Systems			
1.1	Implementation of Regional Plans	YES	NO	-
1.2	Development of Aboriginal Land Council land	NO	-	-
1.3	Approval and Referral Requirements	YES	NO	-
1.4	Site Specific Provisions	YES	NO	-
1. P	lanning Systems – Place-based			
1.5	Parramatta Road Corridor Urban Transformation Strategy	NO	-	-
1.6	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	YES	NO	-
1.7	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	-	-
1.8	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	-	-
1.9	Implementation of Glenfield to Macarthur Urban Renewal Corridor	NO	-	-
1.10	Implementation of the Western Sydney Aerotropolis Plan	NO	-	-
1.11	Implementation of Bayside West Precincts 2036 Plan	NO	-	-
1.12	Implementation of Planning Principles for the Cooks Cove Precinct	NO	-	-
1.13	Implementation of St Leonards and Crow Nest 2036 Plan	NO	-	-
1.14	Implementation of Greater Macarthur 2040	NO	-	-
1.15	Implementation of Pyrmont Peninsula Place Strategy	NO	-	
1.16	North West Rail Link Corridor Strategy	YES	YES	CONSISTENT
1.17	Implementation of the Bays West Place Strategy	NO	-	-
1.18	Implementation of the Macquarie Park Innovation Precinct	NO	-	-
	Implementation of the Westmead Place Strategy		-	-
1.20	Implementation of the Camellia- Rosehill Place Strategy	NO	-	-
1.21	Implementation of South West Growth Area Structure Plan		-	-
1.22	Implementation of the Cherrybrook Station Place Strategy	NO	NO	-

2. Design and Place

	DIRECTION	APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
3. E	Biodiversity and Conservation			
3.1	Conservation Zones	YES	NO	-
3.2	Heritage Conservation	YES	NO	-
3.3	Sydney Drinking Water Catchments	NO	-	-
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs 26	NO	-	-
3.5	Recreation Vehicle Areas	YES	NO	-
3.6	Strategic Conservation Planning	NO	-	-
3.7	Public Bushland	YES	NO	-
3.8	Willandra Lakes Region	NO	-	-
3.9	Sydney harbour Foreshores and Waterways Area	NO	-	-
3.1 0	Water Catchment Protection	NO	-	-
4. F	Resilience and Hazards			
4.1	Flooding	YES	YES	JUSTIFIABLY INCONSISTENT
4.2	Coastal Management	NO	-	-
4.3	Planning for Bushfire Protection	YES	NO	-
1.4	Remediation of Contaminated Land	YES	NO	-
4.5	Acid Sulfate Soils	YES	NO	-
4.6	Mine Subsidence and Unstable Land	YES	NO	-
	ransport and Infrastructure			
5.1	Integrating Land Use and Transport	YES	YES	CONSISTENT
5.2	Reserving Land for Public Purposes	YES	NO	-
5.3	Development Near Regulated Airports and Defence Airfields	YES	NO	-
5.4	Shooting Ranges	NO	-	-
6. H	lousing			
6.1	Residential Zones	YES	NO	-
6.2	Caravan Parks and Manufactured Home Estates	YES	NO	-
7. lı	ndustry and Employment			
7.1	Business and Industrial Zones	YES	YES	CONSISTENT
7.2	Reduction in non-hosted short-term rental accommodation period	NO	-	-
7.3	Commercial and Retail Development along the Pacific Highway, North Coast	NO	-	-
8. F	Resources and Energy			
8.1	Mining, Petroleum Production and Extractive Industries	YES	NO	-
9. F	Primary Production			

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
9.1	Rural Zones	YES	NO	-
9.2	Rural Lands	YES	-	-
9.3	Oyster Aquaculture	YES	NO	-
9.4	Farmland of State and Regional Significance on the NSW Far North Coast	NO	-	-