



# ORDINARY MEETING OF COUNCIL

Tuesday, 13 September 2022

## LOCAL PLANNING PANEL MEETING 18 AUGUST, 2022

## THE HILLS SHIRE

**ITEM-1**                      **PLANNING PROPOSAL – 30-32 TELFER ROAD, CASTLE HILL  
(2/2022/PLP) - LOCAL PLANNING PANEL**

**THEME:**                      **SHAPING GROWTH**

**MEETING DATE:**                      **18 August 2022**

**MEETING DATE:**                      **LOCAL PLANNING PANEL**

**GROUP:**                      **SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS**

**AUTHOR:**                      **SENIOR TOWN PLANNER**

**AUTHOR:**                      **DRAGANA STRBAC**

**RESPONSIBLE**                      **MANAGER – FORWARD PLANNING**  
**OFFICER:**                      **NICHOLAS CARLTON**

#### PURPOSE

This report presents the planning proposal for 30-32 Telfer Road, Castle Hill (2/2022/PLP), to the Local Planning Panel (LPP) for advice, in accordance with Section 2.19 of the *Environmental Planning and Assessment Act 1979*.



#### RECOMMENDATION

1. The planning proposal applicable to land at 30-32 Telfer Road, Castle Hill, be forwarded to the Department of Planning and Environment for Gateway Determination, subject to amendments which apply a minimum lot size of 1,500m<sup>2</sup> to the front lot containing the existing dwelling and a minimum lot size of 700m<sup>2</sup> for the balance of the site.
2. Clause 2.14.2 in Part B Section 2 - Residential of The Hills Development Control Plan (DCP) 2012 be amended to remove the site from the mapped 30% site coverage requirement currently applying to C4 Environmental Living zoned land, to enable residential outcomes consistent with the objectives of the R2 Low Density Residential zone.

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<b>Proponent</b>	JS Architects
<b>Owner</b>	Mr Maher Mina
<b>Planning Consultant</b>	Ethos Urban
<b>Architect</b>	JS Architects
<b>Surveyor</b>	Summit Geomatic Pty Ltd
<b>Geotechnical</b>	Geotesta Pty Ltd ( <i>engaged by Proponent</i> ) Willows Engineering Consultants Pty Ltd ( <i>engaged by Council</i> )
<b>Arborist</b>	Seasoned Tree Consulting
<b>Site Area</b>	4,293m <sup>2</sup>
<b>List of Relevant Strategic Planning Documents</b>	Greater Sydney Region Plan Central City District Plan Section 9.1 Ministerial Directions Local Strategic Planning Statement and supporting strategies
<b>Political Donation</b>	None disclosed

## EXECUTIVE SUMMARY

This report recommends that the planning proposal applicable to land at 30-32 Telfer Road, Castle Hill proceed to Gateway Determination, subject to minor amendments. The Planning Proposal, as submitted by the Proponent, seeks to rezone the site from C4 Environmental Living (formerly E4 Environmental Living) to R2 Low Density Residential and reduce the minimum lot size from 2,000m<sup>2</sup> to 700m<sup>2</sup>, to facilitate the subdivision of the land into four (4) residential lots.

	<b>Current (LEP 2019)</b>	<b>Planning Proposal (as submitted by Proponent)</b>
<b>Land Use Zone</b>	C4 Environmental Living	R2 Low Density Residential
<b>Maximum Height of Building</b>	9 metres	No change proposed
<b>Maximum Floor Space Ratio</b>	N/A	No change proposed
<b>Minimum Lot Size</b>	2,000m <sup>2</sup>	700m <sup>2</sup>

**Table 1**  
Existing and Proposed Controls

This report recommends a minor amendment to the submitted proposal, to map a minimum lot size of 1,500m<sup>2</sup> on the front portion of the site (which corresponds with the location of the existing dwelling and larger lot shown within the Proponent's subdivision concepts). The remaining portion of the site would be mapped with a minimum lot size of 700m<sup>2</sup>, as requested by the Proponent. These amendments would facilitate the indicative subdivision layout provided by the Proponent, whilst ensuring that the streetscape and residential character is maintained in this locality through retention of the larger lot and dwelling at the front of the site.

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It is considered that the planning proposal, amended in accordance with the recommendations of this report, is suitable to progress to Gateway Determination, on the basis that:

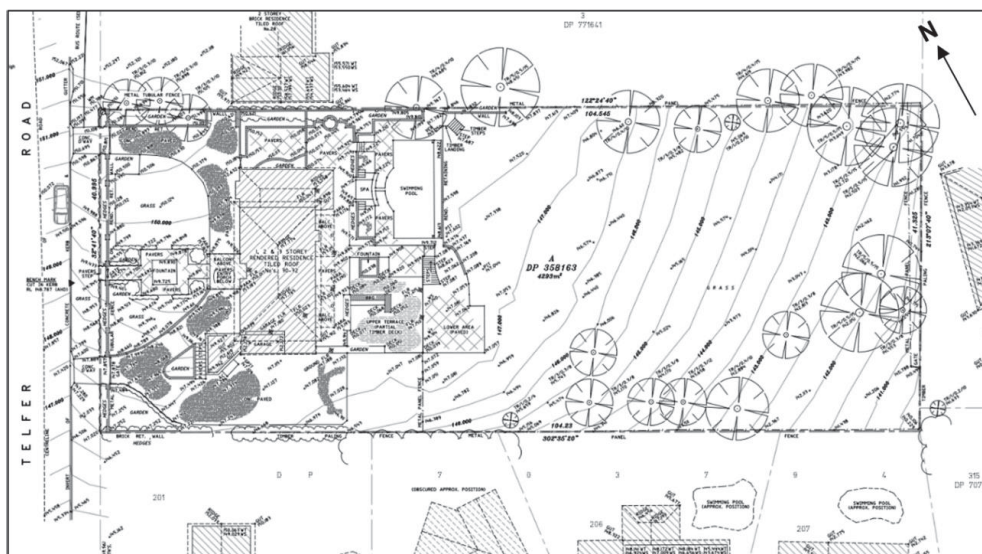
- a) The proposed zone, development controls and indicative subdivision layout will facilitate residential development outcomes that are consistent with the established low density residential development to the south, east and west of the site.
- b) The planning proposal is acceptable from a geotechnical and landslide risk point of view, subject to the implementation of the recommended geotechnical measures to stabilise the land.
- c) Any potential ecological impacts will be suitably addressed through the implementation of the recommended arboricultural measures detailed within the Proponent's Arboricultural Impact Assessment Report. It is also noted that this aspect of the proposal will need to be assessed in more detail as part of a future development application once the detailed design has been determined (including building footprints etc.).
- d) The precedent for other sites in the locality to seek similar outcomes is limited due to the smaller existing lot sizes and the environmental characteristics of the C4 zoned land for north of the subject site, including a more intensive presence of endangered ecological communities (i.e. Blue Gum High Forest) and a more pronounced slope.

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**1. THE SITE**

The site is located at 30-32 Telfer Road, Castle Hill and is legally described as Lot A DP 358163. It is rectangular in shape with a 41-metre frontage to Telfer Road and a site area of approximately 4,293m<sup>2</sup>.

The site slopes approximately 10 metres from north-west to south-east and contains various trees concentrated around the periphery of the site. The existing topography is shown in the Proponent's Survey Plan prepared by Summit Geomatic Pty Ltd (as shown in Figure 1 below). The site is zoned C4 Environmental Living (formerly E4 Environmental Living) and is identified on the Landslide Risk Map under The Hills Local Environmental Plan (LEP) 2019.

**Figure 1**

Survey Plan of Subject Site

(Source: Summit Geomatic Pty Ltd)

The site currently contains a double storey dwelling house with outbuildings and swimming pool, which are located on the western portion of the site (towards the Telfer Road frontage). A photograph of the existing dwelling, and the undeveloped area to the rear of the subject site, are shown in the Figures 2 and 3 below.

**Figure 2**

Existing dwelling on subject site

**Figure 3**

Undeveloped area to the rear site

The site is located adjacent to a well-established low density residential area to the south and west, which features a range of single detached dwellings. North of the site is characterised by environmentally sensitive development (predominately single detached dwellings) on relatively larger lot sizes (ranging from approximately 2,250m<sup>2</sup> to 4,000m<sup>2</sup>).

Telfer Way Reserve (a small local park) is also located north-east of the site, which features a playground and runs alongside a small creek. This local park can be accessed via a pathway from Telfer Road (between 26 and 28 Telfer Road – refer to Figure 4). The immediate site context is shown in Figures 4 and 5 below.





**Figure 4**  
Aerial view of subject site (outlined in red) and surrounding locality



**Figure 5**  
Existing Land Zone Map (LEP 2019) for subject site and surrounds

## 2. DESCRIPTION OF PLANNING PROPOSAL

The Planning Proposal seeks to facilitate the subdivision of the existing lot to create four (4) residential lots ranging in size from 703m<sup>2</sup> – 1,561m<sup>2</sup>, with lots at the rear of the site to be accessed via a right of carriageway (as shown in Figure 6 below).

The concept submitted by the Proponent indicates that the existing dwelling on Lot 1 (at the front of the site) will be retained, with three (3) additional lots created at the rear. However, it is noted that under the proposed planning controls (being a minimum lot size of 700m<sup>2</sup>), this lot could technically be further subdivided into two lots facilitating a potential total of five (5) lots on the subject land.

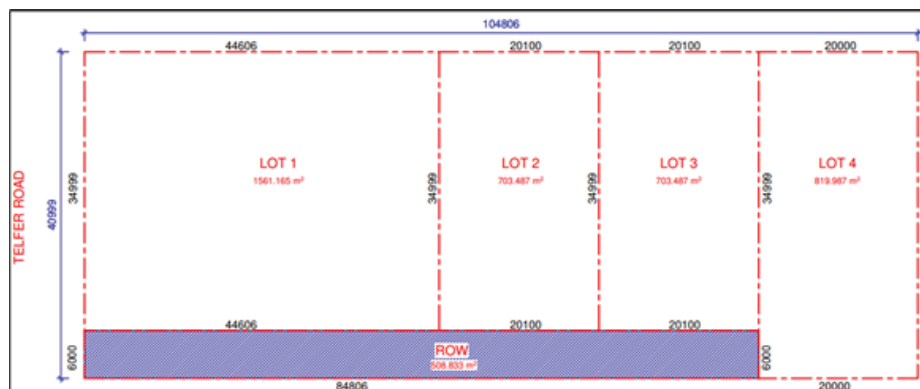


Figure 6  
Indicative Subdivision Plan

To achieve the proposed development outcome, the Planning Proposal, as submitted by the Proponent, seeks to amend LEP 2019 to:

- Rezone the site from C4 Environmental Living (formerly E4 Environmental Living) to R2 Low Density Residential; and
- Reduce the minimum lot size control for the site from 2000m<sup>2</sup> to 700m<sup>2</sup>.

The proposed LEP map amendments are shown below in Figures 7 and 8.

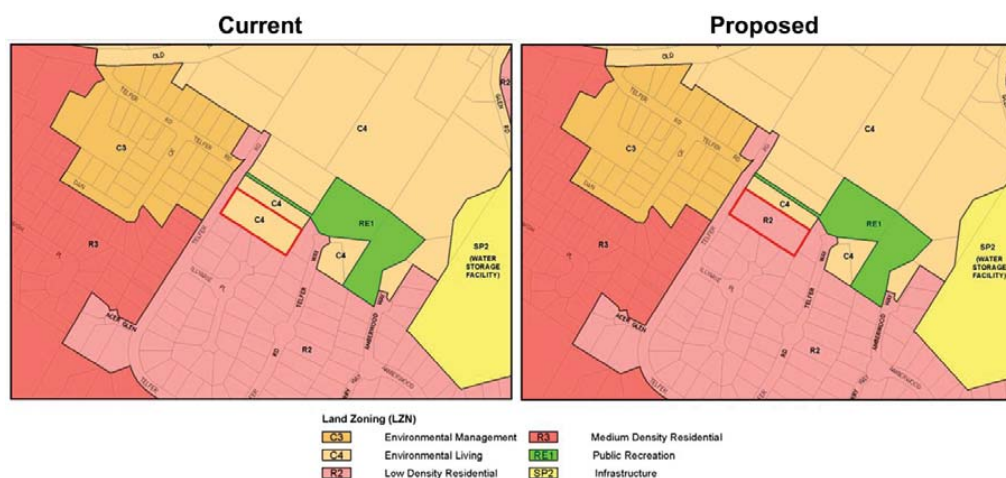
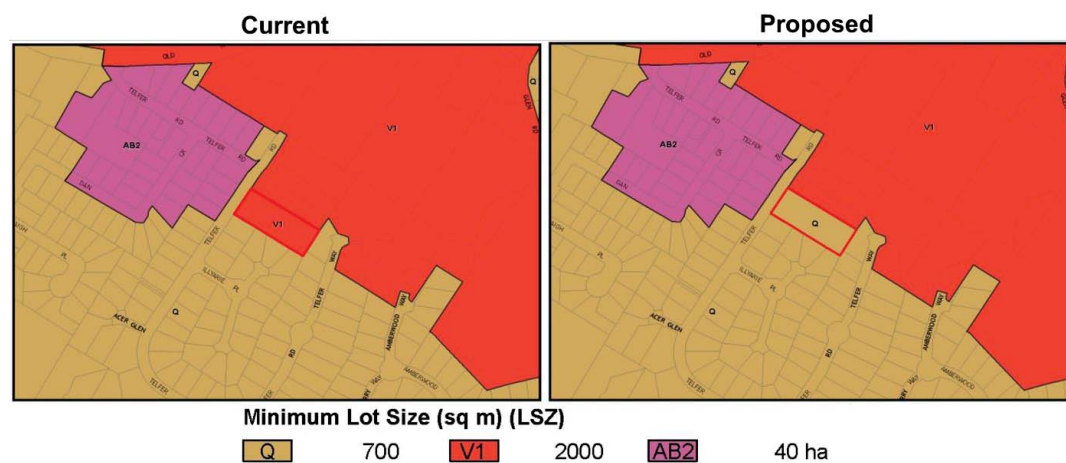


Figure 7  
Existing (left) and proposed (right) zoning maps



**Figure 8**  
Existing (left) and proposed (right) minimum lot size maps

The Proponent's Planning Proposal Report, Proposed Subdivision Plan and Survey Plan are provided as attachments to this report (Attachments 1-3).

### 3. STRATEGIC MERIT CONSIDERATIONS

The Planning Proposal requires consideration of the following strategic merit considerations:

- Greater Sydney Region Plan and Central City District Plan
- Section 9.1 Ministerial Directions
- The Hills Future 2036 – Local Strategic Planning Statement

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

The Greater Sydney Region Plan and Central City District Plan articulate various objectives and planning priorities that guide Councils in planning and delivering growth. Key priorities and objectives relevant to this proposal are:

- **Planning Priority C1 – Planning for a city supported by infrastructure.**
- *Objective 2 – Infrastructure aligns with forecast growth – growth infrastructure compact.*
- **Planning Priority C3 – Providing services and social infrastructure to meet people's changing needs.**
- *Objective 6 – Services and infrastructure meet communities' changing needs.*
- **Planning Priority C5 - Providing housing supply, choice and affordability with access to jobs, services and public transport.**
- *Objective 10 – Greater housing supply*
- **Planning Priority C15 – Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes**
- *Objective 27 – Biodiversity is protected, urban bushland and remnant vegetation is enhanced*
- *Objective 28 – Scenic and cultural landscapes are protected*

The Planning Proposal seeks to facilitate the delivery of four (4) residential lots (with development potential for an additional fifth lot given the minimum lot size controls proposed). The objectives of the C4 Environmental Living zone are to protect environmental values and facilitate low impact residential development, which reflects the objectives and priorities of the Region and District Plans.



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The current LEP provisions applicable to the site, being a minimum lot size of 2,000m<sup>2</sup>, could potentially already facilitate the subdivision of the site into two lots (noting it has a site area of approximately 4,293m<sup>2</sup>). In comparison, the proposed development outcome would facilitate additional development on the subject site (being an extra two lots beyond that maximum achievable under the current controls. The proposal could therefore be considered to be inconsistent with Priority C15 and Objective 27. However, given the environmental constraints are likely to be able to be resolved subject to further investigations and as detailed further within this report, these potential inconsistencies are considered minor. These environmental considerations are further discussed in Section 4(a) of this report.

The site is sparsely vegetated and therefore the proposal is unlikely to have adverse impacts to the environmental characteristics of the existing landscape (Priority C15 and Objective 28). The proposed development outcome sought through the Planning Proposal will generally align with the established subdivision pattern and character of land surrounding the site (to the south and west), especially noting the retention of the existing dwelling and larger lot at the front of the site, along Telfer Road, which will minimise the potential change to the character of the site when viewed from the street.

The District Plan articulates that housing is to be delivered in the right locations and anticipates that future housing supply will be provided around strategic centres, including Castle Hill. It refers specifically to Councils' Housing Strategy to guide residential growth. The Strategy anticipates 6,500 additional dwellings be delivered in Castle Hill by 2036. The housing planned for Castle Hill, however, is predominately high and medium density development in proximity to the station and core of the centre. The current proposal represents relatively minor incremental growth adjacent to an existing low density residential area, thereby providing a housing option for residents seeking larger homes to meet lifestyle needs, consistent with the expected family dominant demographic.

Bus stops are located within 300 to 500 metres walking distance from the site, which provide future residents access to services and jobs. Noting the low density and scale of the proposal, the Planning Proposal is considered consistent with the Region and District Plans (Priority C5, Objective 10, Priority C3 and Objective 6).

The Region and District Plans also articulate the importance of ensuring that future growth can be accommodated by infrastructure that will meet the needs of the current and future population. The proposed development will be well serviced by public transport infrastructure and public open space. A local park and bus stops are within a short walking distance of the subject site. Further discussion on this is provided in Section 4(f) of this report.

**b) Section 9.1 Ministerial Directions**Direction 3.1 Conservation Zones

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

The site contains sparsely distributed vegetation around the periphery which has been considered by way of an Arboricultural Impact Assessment Report (refer Attachment 6). This report assesses the potential impact the proposed development is likely to have on the trees and recommends methods to mitigate development impacts, where appropriate. It is noted that whilst the site does contain some Sydney Blue Gum trees (indicating the presence of Blue Gum High Forest, which is listed as a Critically Endangered Ecological Community under the

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*Biodiversity Conservation Act 2016*), these are recommended for retention where they are in good health.

Whilst the site is identified as being of 'land slide risk' under LEP 2019, the Geotechnical Assessment Report submitted with the Planning Proposal has concluded that the proposed development outcome is suitable from a geotechnical engineering point of view, subject to appropriate stabilisation measures being implemented at the design and construction phases of development.

The environmental constraints are further discussed in Section 4(a) of this report. Given the potential environmental issues which underpin the application of the current conservation zoning to the site can be suitably resolved, coupled with the fact that the proposed development is of minor significance, any inconsistencies with this direction are justifiable.

#### Direction 4.4 Remediation of Contaminated Land

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

The Proponent's Planning Proposal report articulates that the site has historically been used for residential purposes and no issues relating to land contamination have been previously raised. Further, the Planning Proposal relates to land zoned C4 Environmental Living, which already permits residential living, albeit in a lower density form. It is therefore considered that the Planning Proposal is consistent with this Direction.

#### Direction 5.1 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 has the potential to reduce car dependency.

#### Direction 6.1 Residential Zones

The objectives of this direction are to encourage a variety and choice of housing types, make efficient use of infrastructure and prevent the reduction of permissible residential density on land. Under the current provisions, the C4 Environmental Living zoning and minimum lot size control limits the subdivision of the site to two (2) Torrens Title lots. The planning proposal would allow for the delivery of two (2) additional residential lots (four (4) residential lots in total) and permit land uses in addition to the residential land uses that are already permitted under the C4 Environmental Living zone such as attached dual occupancies, dwelling houses and

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secondary dwellings. The proposal is considered to be consistent with this Direction as it will facilitate choice of housing types and it will not reduce permissible residential density.

The proposal would facilitate an orderly development outcome which aligns with the surrounding character to the south and west, whilst also making more efficient use of public transport infrastructure and facilitating a dwelling typology that is appropriate to the local family-dominated demographic.

**c) Hills Future 2036 - 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 Housing Strategy is of relevance to the proposal. In particular, for Castle Hill, the Housing Strategy anticipates an additional 6,500 dwellings be delivered by 2036 which is predominately high density housing within the station precinct based on a transit-oriented approach.

Outside of the station precincts and greenfield release areas, the Strategy articulates that existing low density residential areas will contribute only a small amount of growth with such areas providing for dwelling renewal and market options for residents seeking larger homes that meet their needs and lifestyles.

The proposed development would allow for the delivery of up to four (4) residential lots, which is consistent with the established low density character and is supported by proximate public transport options and a local park. This is considered to appropriately reflect Council's long standing hierarchical zoning framework that identifies the intention for housing growth close to centres, services and transport whilst protecting areas with environmental and scenic qualities and low density character.

Traditionally within The Hills Shire, larger minimum lot size controls (2,000m<sup>2</sup> – 4,000m<sup>2</sup>) have generally been applied to land zoned C4 Environmental Living to maintain lower densities of residential development as a method of mitigating any adverse effects on the environmental qualities and/or constraints of the land. Essentially, this larger lot size is seen as allowing for an appropriate density of residential development, which is consistent with the zone objectives and avoids issues associated with the constraints in these areas that may be experienced if more dense subdivision and building were to occur.

Although the site is presently zoned C4 Environmental Living with a minimum lot size of 2,000m<sup>2</sup>, the investigations have revealed that any ecological and geotechnical impacts can be suitably managed in the context of a smaller lot size (refer Section 4(a) of this report). Given this, and the proposal to amend the zoning and applicable objectives, there is no compelling need to retain the traditionally larger lot sizes on this site from an ecological or geotechnical perspective (although it remains relevant from a streetscape character and amenity perspective as discussed in Section 4 (c) of this report). The rezoning of the land to permit further low density residential subdivision (up to three (3) additional lots in comparison to the existing development) is therefore considered to be 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.

#### 4. SITE SPECIFIC MERIT CONSIDERATIONS

This planning proposal requires consideration of the following site-specific merit considerations:

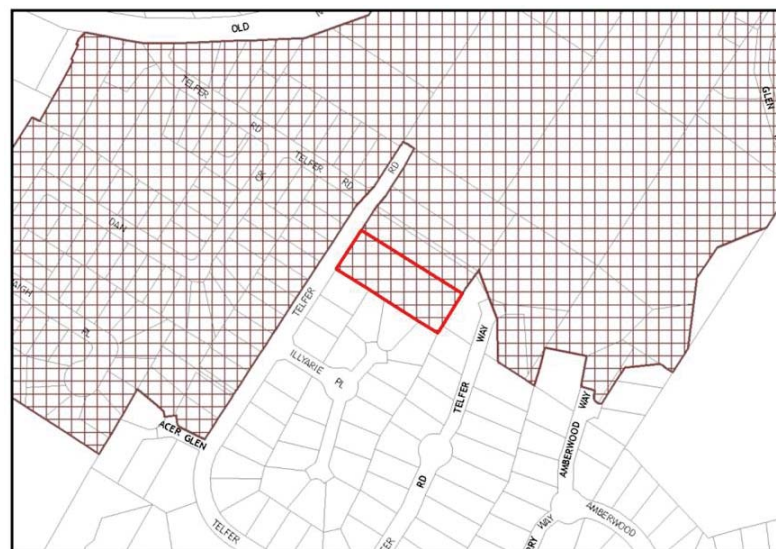
- a) Environmental Constraints
- b) Orderly Development and Access
- c) Streetscape Character
- d) Precedent for Other Sites in the Locality
- e) Appropriateness of Proposed R2 Low Density Residential Zone
- f) Infrastructure Provision

##### a) Environmental Constraints

##### Geotechnical and Landslide Risk

Under Clause 7.6 – Landslide Risk of LEP 2019, the site is identified and mapped as susceptible to landslide risk. This clause seeks to ensure that development is commensurate to the underlying geotechnical conditions and to restrict development on unsuitable land.

An extract of the Landslip Risk Map from LEP 2019 is included below.



**Landslide**



**Landslide Risk**

**Figure 9**  
Landslide Risk Map

##### - Applicant's assessment

In recognition of the geotechnical constraints of the site, a Landslide Risk Assessment Report (prepared by Geotesta dated September 2019) was submitted with the proposal (provided as Attachment 4 to this report). The purpose of the report was to provide a geotechnical assessment of the slope stability issues for the site and to provide a preliminary scheme for site drainage improvements that could be incorporated into the design of the proposed



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subdivision and residential development. The findings of the report conclude that stabilisation of the site is feasible and practical by means of surface and sub-surface drainage, engineer designed retaining structures and avoiding excessive cut and fill.

A more detailed summary of the recommendations proposed in the report is provided below:

- Stabilisation of Slope
  - Installation of engineer designed retaining walls for any cut or fill batter higher than 1m or create a minimum batter of 2H:1V in unretained cut or engineered fill. Review of existing surface stormwater drain.
- Drainage
  - Drainage of the slope in the vicinity of the proposed dwellings/buildings should be well managed. This may include ensuring that the surface stormwater drain is regularly maintained and diverted away from the slope.
  - Any retaining wall structures should have adequate surface and subsurface drainage installed behind the crest and at the toe of the wall to collect water and direct it to an appropriate outlet point specified by Council.
- Footing Designs
  - Bored piers should be used to support the proposed dwelling. At a minimum the pier footings should be founded in the natural very stiff silty clay and penetrate through any fill material. The founding depth should be 2.0-2.5m or to a hard layer, whichever is shallower.
- Site Revegetation
- Erosion and Sediment Control
- Construction Supervision and Site Maintenance
- *Peer review*

Whilst the Proponent's report does provide a geotechnical assessment of the site conditions and slope stability issues for the site, it is considered to be quite general in nature and was reliant on data that was obtained as part of a previous geotechnical investigation undertaken more than ten years ago. The report also provides limited detail on alternate land uses that would be permissible if the R2 Low Density Residential zone is applied and whether different forms of slope stabilisation are required for these different land uses (i.e. dual occupancies and childcare centres – notwithstanding that these are *not* the intended development outcome as submitted by the Proponent).

In light of the above, Council engaged an expert consultant (Willows Engineering) to undertake an independent peer review of the Proponent's Landslide Risk Assessment Report and advise Council directly on the implications and risks of developing on the land, as it relates to topography, potential instability and erosion. A copy of the Peer Review Report is provided as Attachment 5 to this report. The Final Expert Review Report prepared by Willows Engineering (dated June 2022) concluded the following:

1. *The planning proposal to designate the site as 'R2 – Low Density Residential' and to reduce the minimum lot size to 700m<sup>2</sup>, as well as future residential development on the lots, appears feasible from a geotechnical engineering point of view.*

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2. *Regardless of the land zoning, future land use or development type, slope stability risks at the site can be managed by adopting 'good hillside construction practice' and by following the ("Proponents") geotechnical report recommendations.*
3. *The landslide risk assessment in the Geotesta report is considered suitable for the indicative development described in the planning proposal. The Low 'risk to property' and tolerable 'risk to life' are consistent with the AGS 2007c risk acceptance criteria.*
4. *The Geotesta report has been prepared in accordance with the AGS 2007c landslide risk assessment method and terminology. However, the Geotesta report does not address all items listed in the AGS 2007c, 'reporting standards'.*
5. *Further site investigations are required as part of the development application to confirm the geotechnical model, design parameters and construction staging.*

Based on the expert advice of both Geotechnical consultants it is concluded that the outcome sought through the Planning Proposal is suitable for the subject site with respect to landslide risk issues, subject to the implementation of the recommended risk mitigation measures within each report at the Development Application stage. As part of any future Development Application, the final details of the development and geotechnical solutions would be further assessed and determined in a greater level of detail and would need to be reviewed by Council's Geotechnical Review Panel. However, the investigations to date are sufficient to provide confidence that the changes to the planning controls sought through this proposal can be responsibly supported, having regard to geotechnical factors and landslide risk.

It is further noted that Clause 1.9 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 does not permit complying development on land identified as being 'environmentally sensitive land' (including land identified on a Landslide Risk Map under an LEP) and therefore future development on this site will need to go through the Development Application approval pathway.

#### Vegetation

Whilst it is acknowledged that the Proponent's Planning Proposal Report states that "...the site is not identified to contain bushland, remnant vegetation or biodiversity values", Council Officers requested that this be confirmed in an Arborist Report that properly assesses the significance and/or retention value of existing trees on the subject site, as well as any potential impacts to trees on the subject site and on neighbouring properties. It was also requested that recommendations be provided as to how any potential impacts can be mitigated and resolved, whilst also having regard to any potential impacts of the proposal on privacy and amenity of adjoining residents.

As requested by Council Officers, the Proponent subsequently submitted an Arboricultural Impact Assessment Report (dated 22 July 2022) prepared by Seasoned Tree Consulting, which is provided as Attachment 6 to this report. It found that there were approximately 24 trees located on the subject site, or in the immediate vicinity of the subject site on neighbouring properties (as shown in Figure 10 below). These trees are generally located along the periphery of the subject site and were each assessed as part of the Arboricultural Impact Assessment Report.

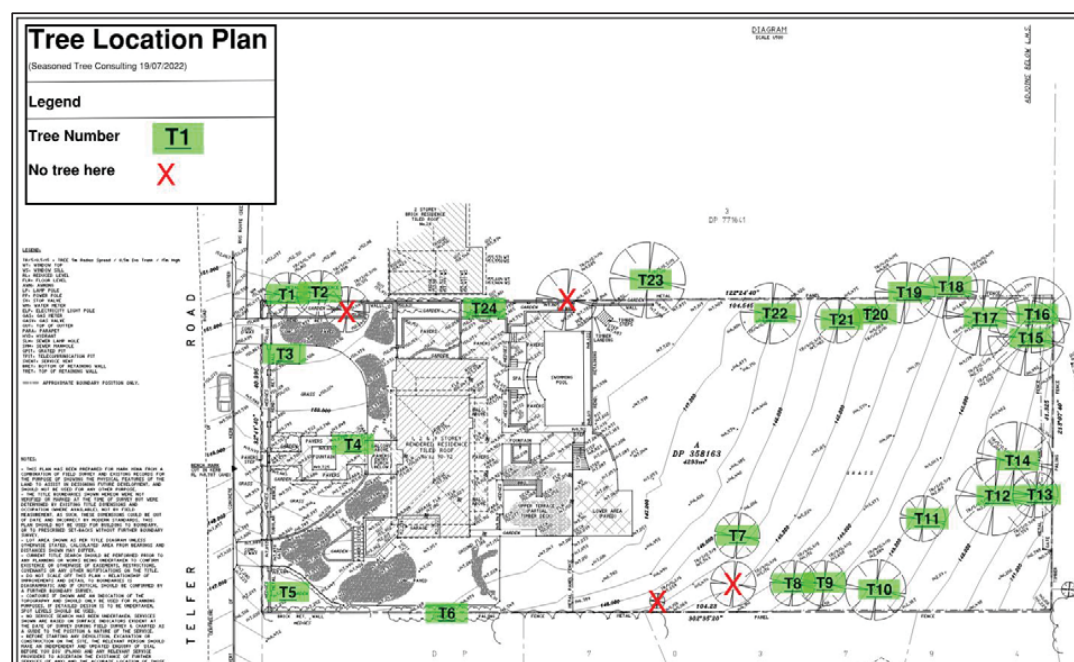


Figure 10

Tree Location Plan (Source: Seasoned Tree Consulting)

The Arboricultural Impact Assessment Report concluded that the proposed subdivision layout will likely require the removal and replacement of approximately three (3) trees (being T8, T9, and T10) on the subject site to accommodate the proposed subdivision development and right of carriageway. These trees are categorised as *Nyssa Sylvatica* (Black Tupelo), *Fraxinus Sp* (Ash), and *Lagerstroemia Indica* (Crepe myrtle), respectively. The report also notes that these trees are in poor condition.

The Arboricultural Impact Assessment Report also recommends that 14 trees be retained and protected, some of which are situated on the neighbouring site (T1, T2, T7, T11, T12, T14, T15, T16, T17, T18, T19, T21, T22, T23). It also notes that a further seven (7) trees (being T3, T4, T5, T6, T13, T20 and T24) are exempt and do not require permission to be removed or pruned. Of these, a noxious weed species (privet) is recommended for removal (being T13).

The Arboricultural Impact Assessment Report flags that these recommendations will need to be assessed in more detail throughout the development application process, noting that a further two trees (being T12 and T14) may require removal once a development application is lodged for a house on the subdivided blocks of land. Both trees are in poor health.

Based on the information presented in the Arboricultural Impact Assessment Report, it is likely that proposed Lots 2 and 3 would be capable of providing a building envelope without impacting the tree protection zone of trees on site or on neighbouring properties.

It is noted that proposed Lot 4 contains some Sydney Blue Gum trees, indicating the presence of Blue Gum High Forest, which is listed as a Critically Endangered Ecological Community under the *Biodiversity Conservation Act 2016*. The creation of a building envelope on proposed Lot 4 would likely require the removal of at least two Sydney Blue Gum trees, with the potential to retain three Sydney Blue Gum trees located at the northern end of the proposed lot. However, as previously discussed, the two (2) trees that would require removal

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are in poor condition with internal decay. Given the preliminary advice in the Arboricultural Impact Assessment Report, the removal of two Sydney Blue Gum trees is unlikely to be an impediment to the construction of a house on proposed Lot 4, provided it is done in an ecologically sensitive way that allows for the retention of other trees.

It is noted that this will need to be assessed in more detail as part of a future development application once the detailed design has been determined (including building footprints etc.). Notwithstanding the above, the existing suite of tree protection controls within Part C Section 3 – Landscaping of The Hills DCP 2012 provides a reasonable level of confidence that appropriate development outcomes can be achieved on site with minimal impact on existing vegetation.

**Stormwater and Hydrology**

As previously discussed in this report, the subject site slopes approximately 10 metres from north-west to south-east. Therefore, 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. The location of the OSD system would need to be selected to optimise the collection of stormwater runoff from the site and to enable connection to a single outlet discharge. An easement may need to be created within the downstream properties through which the pipe will run. Evidence of the downstream property owner agreeing to the easement will need to be obtained as part of any future subdivision application.

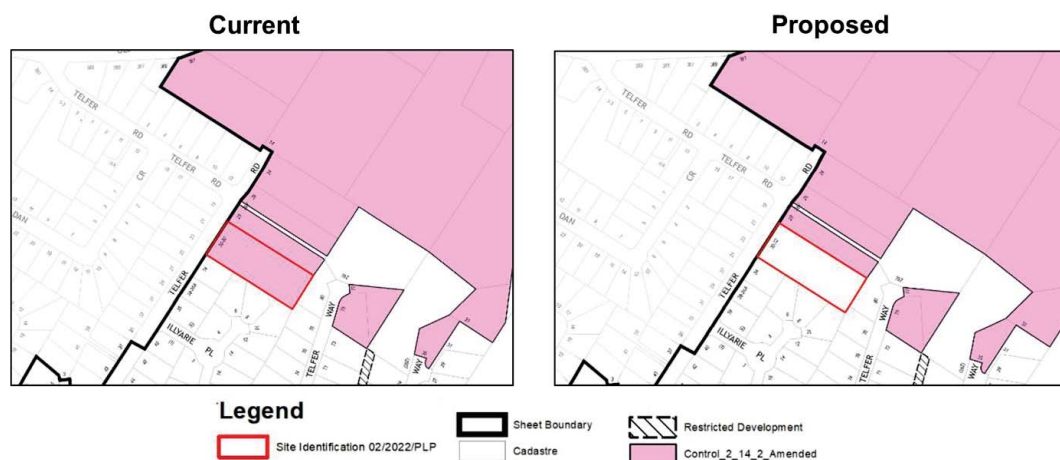
It is considered that these issues will be able to be resolved at the Development Assessment stage (through the submission of a Flood Impact Assessment and Stormwater Management Plan), should the planning proposal proceed in its current form. Any future development application will also need to comply with Council's Stormwater and Waterways Design Requirements, Council's Adopted Stormwater Policy, the Upper Parramatta River Catchment Trust On-site Stormwater Detention Handbook and along with any other relevant guidelines.

**b) Orderly Development and Access**

It is expected that the proposal will facilitate orderly development outcomes on the subject site that would be consistent with the established pattern of adjoining subdivisions and the prevailing character of the locality in terms of its size, shape, and configuration.

Under Council's DCP (Clause 2.14.2 in Part B Section 2 - Residential), the maximum site coverage permitted in residential zones is 60%, except for certain C4 Environmental Living zoned land shaded in pink in Map Sheet 28, where a maximum site coverage of 30% applies in recognition of the environmentally sensitive nature of that land. It is recommended that Clause 2.14.2 in Part B Section 2 of the DCP be amended to remove the subject site from the mapped 30% site coverage requirement and enable reasonable residential development outcomes that are consistent with the objectives and character of the R2 Low Density Residential zone. The proposed DCP map amendment is shown below in Figure 11.





**Figure 11**  
Existing (left) and proposed (right) DCP Map – Sheet 28

The Proponent's Indicative Subdivision Plan indicates that a 6m wide battle-axe driveway will be provided, which is intended to service lots 2-4. Should the proposal proceed, any future subdivision application over the site will require the battle-axe driveway to be a minimum of 6 metres wide, with the provision for a 5-metre-wide medium duty driveway, as per Section 2.13.1 of the DCP and Section 5.4 of Council's Subdivision Design Guidelines. This control would provide scope for either 500mm of landscaping on either side of the driveway or a 1m wide landscaping strip along one side only. A 1 metre landscaped buffer along the southern property boundary be preferable in this case as it would not only allow for denser landscaping, but also provide greater separation from adjoining properties to the south and mitigate any potential impacts on the privacy and amenity of adjoining residents resulting from the planning proposal.

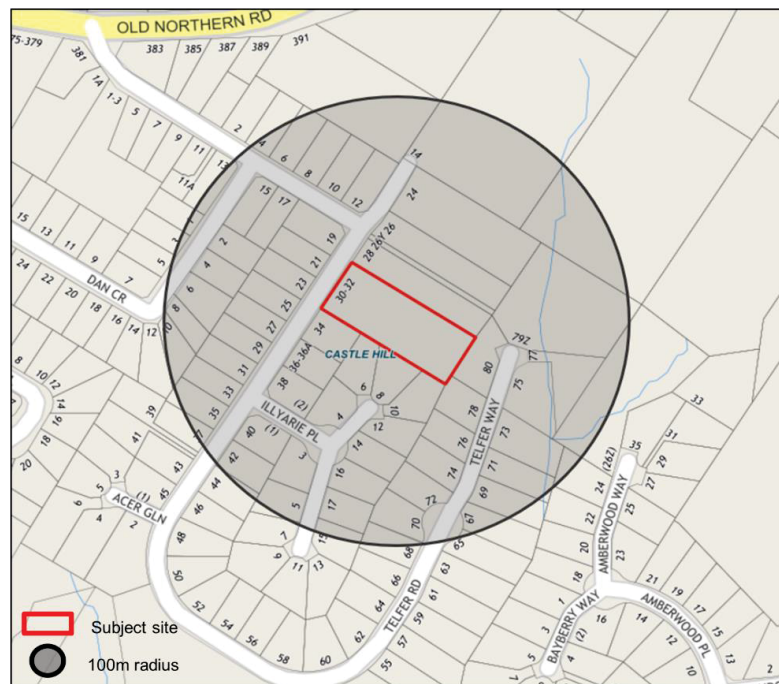
Any future subdivision plan must also clearly identify the intended owner of the battle-axe driveway. Further, at Development Application stage, a long-section plan of the driveway shall be provided in accordance with Council's and Australian Standards with respect to grade changes.

Whilst it is not Council's preferred design outcome for subdivisions, the proposed battle-axe subdivision is the most logical option for this individual site given its street frontage, extensive depth, and topography. The retention of the existing dwelling and larger lot at the front of the property will minimise the extent of change to character at the street frontage of the property. The proposal, in its current form, demonstrates that all lots can be adequately accessed from Telfer Road and will not result in any fragmented or isolated allotments. It is also noted that Telfer Road already contains two battle-axe subdivisions to the south-west (39 and 41 Telfer Road) and small access ways off Illyarie Place. As such, it is unlikely that the proposed battle-axe lot configuration will significantly interrupt the existing subdivision pattern along Telfer Road.

### c) Streetscape and Residential Character

The streetscape is generally characterised by single detached dwellings with landscaped front setbacks and wide frontages. Surrounding lots within a 100m radius of the subject site range in size from approximately 700m<sup>2</sup> to 15,000m<sup>2</sup>. Whilst most of the lots within this radius are on the lower end of this scale (the median for the residential zoned land is 867m<sup>2</sup>), it is noted that

the subject site does directly adjoin lots that are larger in size (greater than 2,000m<sup>2</sup>) to the north, as shown in Figure 12 below, and will be at the interface at this location.



**Figure 12**

Telfer Road Subdivision Pattern (with subject site outlined in red)

Based on the Proponent's Planning Proposal Report and Indicative Subdivision Plan, it is intended for the existing dwelling to be retained on proposed Lot 1. The retention of the existing dwelling on this larger lot will maintain the presentation to the street, despite the proposed lots 2-4 at the rear being smaller than the prevailing average lot size.

Whilst the Proponent's Indicative Subdivision Plan demonstrates that the site will be subdivided into four (4) lots, under the proposed planning controls (being a minimum lot size of 700m<sup>2</sup> across the entire site), Lot 1 could technically be further subdivided into two lots, facilitating a total of five (5) lots on the subject land. Noting that the minimum residential lot width of 18 metres (Clause 2.13.1 of Part B Section 2 of Council's DCP) could not be achieved if subdivision of Lot 1 was to be contemplated at some future time, the prevailing open landscaped character and presentation to the street would likely be affected if this outcome was to occur. Therefore, to facilitate the indicative subdivision layout provided by the proponent, and also ensure maximum protection of the existing streetscape and residential character, it is recommended that a minimum lot size of 1,500m<sup>2</sup> be applied to the front lot containing the existing dwelling, with a minimum lot size of 700m<sup>2</sup> applied to the balance of the site (as shown in Figure 13 below). This will effectively limit the number of lots to a total of four (4), consistent with the intended development outcome as submitted by the Proponent.

In recognition of the site's context and the scale of development on adjoining sites, applying a minimum lot size of 1,500m<sup>2</sup> at the front of the subject site also provides an appropriate transition from the R2 Low Density Residential zone to the E4 Environmental Living zone. Overall, this recommended planning mechanism will ensure an outcome that is more consistent with the local residential character and subdivision pattern.

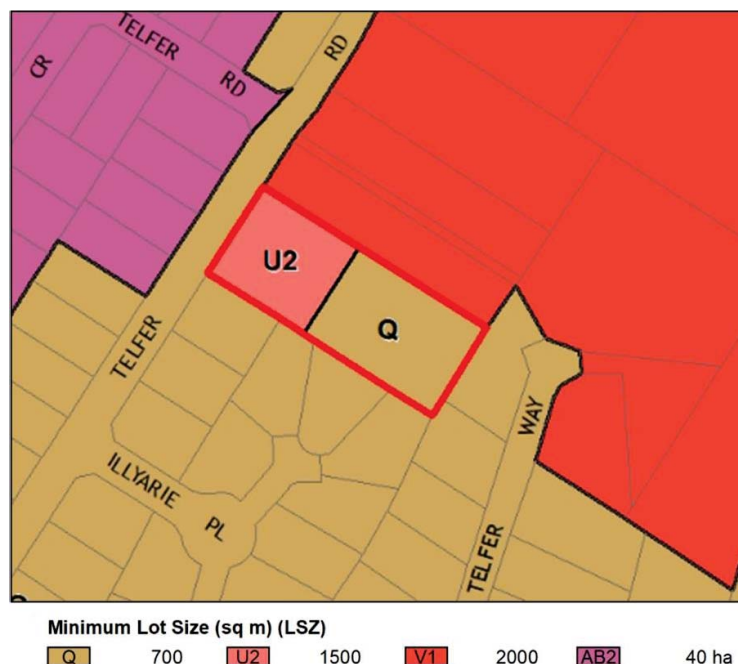


Figure 13  
Recommended Minimum Lot Size Map

#### d) Precedent for Other Sites in the Locality

It is acknowledged that proceeding with the subject planning proposal could be seen as a precedent for applications seeking a similar outcome, which would in turn compromise the integrity of C4 Environmental Living zone objectives, noting that the zone extends from the subject site north to Castle Hill Road.

Notwithstanding this, the subject site can be clearly distinguished from the other sites in the C4 Environmental Living zone to the north in terms of its location, size, and environmental characteristics. The lots immediately north of the site are relatively smaller in size and have narrower frontages (26-28 Telfer Road) and land further north (24 Telfer Road) is subject to greater environmental constraints including a more intensive presence of endangered ecological communities (i.e., Blue Gum High Forest) and a more pronounced slope. For this reason, it is considered unlikely that these lots could satisfy and overcome the relevant environmental constraints in the same way as this current application.

Noting the foregoing, it is not anticipated that other sites will be able to demonstrate the same unique set of characteristics that apply to the subject site and therefore the precedent for other sites in the locality to seek similar outcomes based on the outcome of this particular application is expected to be limited. Notwithstanding, should landowners seek to submit a similar planning proposal for consideration, detailed individual site analysis will be needed to address and overcome the specific site constraints including (but not necessarily limited to) landslide risk, biodiversity, site topography, lot size and character.

#### e) Appropriateness of Proposed R2 Low Density Residential Zone

It is recognised that detached dwellings are a permitted land use within both the C4 Environmental Living zone and the R2 Low Density Residential zone. However, it is noted the

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C4 Environmental Living zone is generally applied to constrained land where a larger lot outcome is anticipated. This is reflected in the zone objectives which are to:

- *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.*

Should the proposal be facilitated by retaining the existing C4 Environmental Living zoning but reducing the minimum lot size, this would likely set an undesirable precedent and expectation for other C4 Environmental Living zoned land within The Hills, that similar lot size reductions may be appropriate. The Hills Development Control Plan 2012 also contains more stringent controls for built form requirements (including minimum road frontages, lot depths etc.) within the C4 Environmental Living zone, which may limit the viability and development potential of future development on the site.

Ultimately, it is apparent that the smaller lot sizes sought through this proposal do not align with the objectives and envisaged outcomes within the C4 Environmental Living zone and as such, rezoning the land to R2 Low Density Residential is considered to be the appropriate change in this instance, which ensures that the proposed development can align with the applicable zone objectives and prevailing character of the local area.

The R2 Low Density Residential zone is considered to be more appropriate for the site as it will facilitate a minimum 700m<sup>2</sup> subdivision pattern with a minimum lot width of 18 metres and a minimum lot depth of 27 metres. Relevant setback controls for buildings include the general front setback control of 7.5m, rear setback control of 4m and side setback control of 900mm.

It is recognised that various additional land uses would technically be permissible in the R2 Low Density Residential zone subject to meeting relevant criteria (as is currently the case for the broader area of land to the south of the site zoned R2 Low Density Residential). This would include detached dual occupancies (under The Hills LEP 2019), child care centres (under the provisions of *State Environmental Planning Policy (Transport and Infrastructure) 2021*) and seniors housing (under the provisions of *State Environmental Planning Policy (Housing) 2021*).

Whilst such land uses are not the intended development outcome submitted by the Proponent, if such uses were to be pursued by a future landowner/s, they would be subject to detailed site-specific consideration including assessment against a range of development standards such as minimum lot size and height limits. Child care centres and dual occupancy development would be subject to a maximum floor space ratio control of 0.5:1, intended to limit the density of development and prevent excessive site coverage. Seniors housing would be required to demonstrate compliance with specific accessibility requirements (maximum path gradients) which would likely preclude this form of development, noting the topography of the site and lack of take-up of this form of development in the immediate vicinity (to the south).

#### **f) Infrastructure Provision**

It is prudent that future development within The Hills Shire is matched by appropriate infrastructure to serve the growing population of residents, including playing fields, local parks, community facilities, drainage facilities and transport infrastructure. The site is well serviced by public transport infrastructure and public open space. The site is located approximately 150 metres walking distance from a local park (Telfer Way Reserve). It is also well serviced by the



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local bus network, with bus stops within 300 metres to 500 metres walking distance from the site.

The proposed development outcome will result in three (3) additional residential dwellings within an existing low density residential environment that is adequately serviced by existing public infrastructure (or 2 additional lots in comparison to what could theoretically be achieved under the current planning controls). This extent of growth is within the realm of yield and density fluctuation that would be expected within the surrounding locality having regard to the potential development opportunities available on surrounding land (in particular, secondary dwellings and/or dual occupancies). It is therefore considered reasonable for the development to continue to be levied under the existing Section 7.12 Contribution Plan which applies to the land. The Plan identifies and funds new and upgraded local infrastructure required to support minor incremental development such as this, as it occurs across The Hills Shire.

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**CONCLUSION**

The Planning Proposal generally aligns with the relevant strategic planning framework and will enable the subdivision of the land into four (4) residential lots. The proposed development outcome will facilitate orderly development and future development that reflects the objectives of the R2 Low Density Residential zone and aligns with the prevailing character of the surrounding locality. For the reasons set out within this report, it is recommended that the planning proposal applicable to land at 30-32 Telfer Road, Castle Hill, demonstrates adequate strategic and site-specific merit to warrant progression to Gateway Determination by the Department of Planning and Environment.

To facilitate the indicative subdivision layout provided by the proponent and ensure the streetscape and residential character is maintained, this report recommends that a minimum lot size of 1,500m<sup>2</sup> be applied to the front portion of the lot (containing the existing dwelling) and that a minimum lot size of 700m<sup>2</sup> (as requested by the Proponent) be applied to the balance of the site. This will effectively limit the number of lots that could be created to a total of four (4) lots and will facilitate the intended development outcome as submitted by the Proponent.

It is further recommended that the DCP Clause 2.14.2 in Section 2 of Part B of the DCP be amended to remove the site from the mapped 30% site coverage requirement currently applying to C4 Environmental Living zoned and to enable residential outcomes on the land consistent with the objectives and character of the R2 Low Density Residential zone which would be applied.

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**ATTACHMENTS**

1. Planning Proposal Report (28 Pages)
2. Subdivision Plan (1 pages)
3. Survey Plan (2 pages)
4. Landslide Risk Assessment Report (38 pages)
5. Peer Review – Landslide Risk Assessment Report (21 pages)
6. Arboricultural Impact Assessment Report (41 pages)

**ITEM 2****PLANNING PROPOSAL – 30-32 TELFER ROAD, CASTLE HILL  
(2/2022/PLP)**

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

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

**RESOLUTION**

The planning proposal for land at 30-32 Telfer Road, Castle Hill be forwarded to the Department of Planning and Environment for Gateway Determination, subject to the following:

1. The proposed minimum lot size controls be amended to a minimum of 1,500m<sup>2</sup> for the front lot containing the existing dwelling and 700m<sup>2</sup> for the balance of the site.
2. Amendments to Clause 2.14.2 in Part B Section 2 - Residential of The Hills Development Control Plan (DCP) 2012 (Attachment 5) be publicly exhibited concurrently with the planning proposal, to remove the site from the mapped 30% site coverage requirement currently applying to C4 Environmental Living zoned land and enable residential outcomes consistent with the objectives of the R2 Low Density Residential zone.

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

**VOTING FOR THE MOTION**

Mayor Dr P Gangemi  
Clr M Hodges  
Clr V Ellis  
Clr M Blue  
Clr J Brazier  
Clr R Boneham  
Clr J Cox  
Clr Dr M Kasby  
Clr Dr B Burton  
Clr R Tracey  
Clr F De Masi

**VOTING AGAINST THE MOTION**

None

**MEETING ABSENT**

Clr A Hay OAM  
Clr R Jethi