



IRF24/1275

Gateway determination report – PP-2023-2300

Cumberland State Forest, 89-97 Castle Hill Road &
121-131 Oratava Avenue, West Pennant Hills

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans

Planning Proposal, 87-97 Castle Hill Road & 121-131 Oratava Avenue, West Pennant Hills, Cumberland State Forest, 3 June 2024, Mecone.

Appendix 1: Traffic Report – In Roads Group, 17 April 2019

Appendix 2: Bushfire Assessment – Travers Bushfire & Ecology, May 2019

Appendix 3: Biodiversity Development Assessment Report - Travers Bushfire & Ecology, 27 May 2024

Appendix 4: Arborist Report – ArborSite, 25 March 2024

Appendix 5: Vegetation Management Report - Travers Bushfire & Ecology, 24 May 2024

Appendix 6: Council report 13 April 2021 including Local Planning Panel advice 18 February 2021

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	The Hills Shire Council
PPA	Sydney Central City Planning Panel
NAME	Cumberland Forest
NUMBER	PP-2023-2300
LEP TO BE AMENDED	The Hills Local Environmental Plan 2019
ADDRESS/DESCRIPTION	Northern Site: 89-97 Castle Hill Road, West Pennant Hills, Part Lot 6 & part Lot 7, DP11133 Southern Site: 121-131 Oratava Avenue, West Pennant Hills, Part Lots 15, 16, & 17, DP11133
RECEIVED	6/06/2024
FILE NO.	IRF24/1275
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- to enable the divestment of surplus Forestry land.
- to facilitate low density residential development that is consistent with surrounding development.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend The Hills LEP 2019 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed (to part lots only)
---------	---------	------------------------------

Zone	RU3 - Forestry	R2 – Low Density Residential
Maximum height of the building	n/a	9m
Minimum lot size	40ha	1,140m ² (Northern Site) 1,700m ² (Southern Site)
Number of dwellings	2 vacant caretaker dwellings (one on each site)	4 residential lots (concept subdivision plans shown in Figure below)

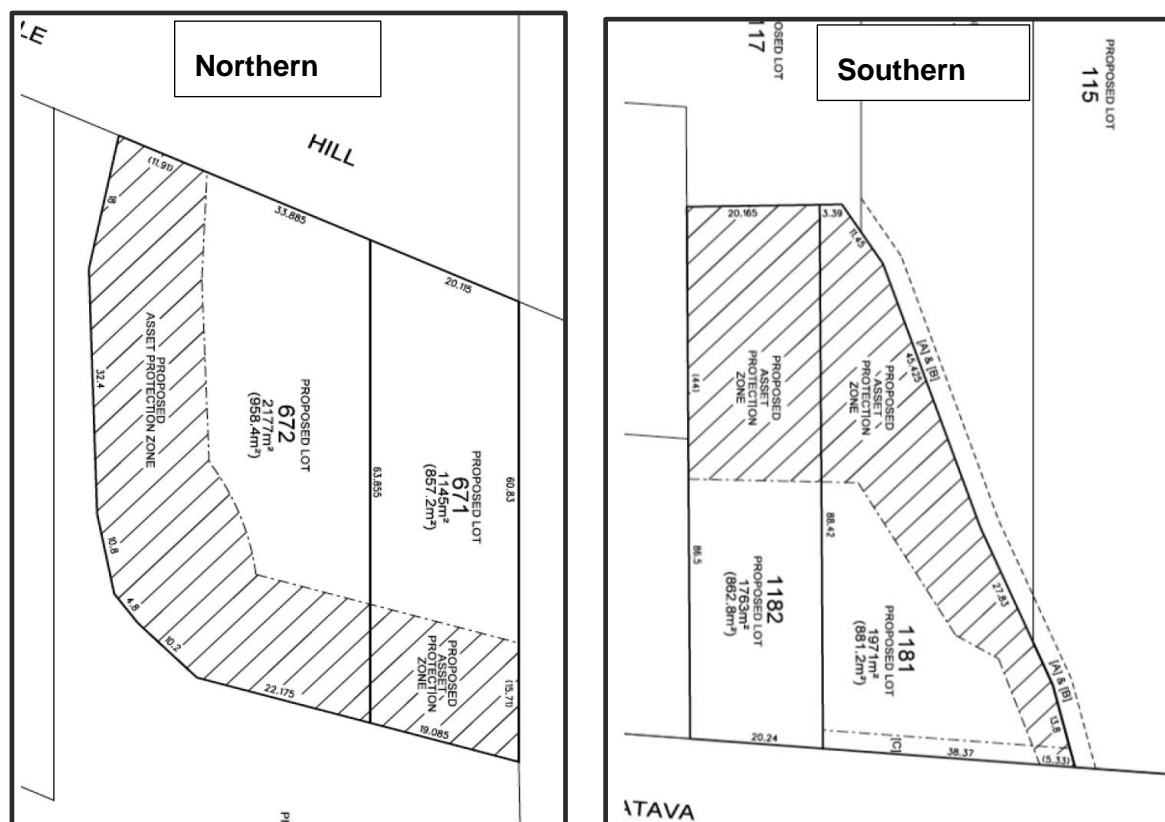


Figure 1 Indicative subdivision plans for the sites showing a total of 4 residential lots

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. It is noted the larger minimum lot sizes are appropriate given the environmental and bushfire constraints on the sites.

The planning proposal is to be updated prior to exhibition to include amendments to the heritage map supporting The Hills LEP 2019 to exclude the areas to be rezoned from the application of archaeological item A26 and to update the address/property description of the item accordingly under Schedule 5 Environmental Heritage. This is discussed further in Section 4.1 of this report.

The planning proposal is also to be updated to replace references to The Hills LEP 2012 with The Hills LEP 2019. The Gateway determination has been conditioned accordingly.

The Department notes that reducing the minimum lot size for the areas to be rezoned means the remainder of the part lots may not achieve a minimum 40 hectare lot size. It is anticipated NSW Forestry would consolidate its land holdings or at least the part lots within the same application in order to meet the minimum 40 hectare lot size.

1.4 Site description and surrounding area

The sites are located on the periphery of the Cumberland State Forest in the suburb of West Pennant Hills, approximately 3 km southeast of the Castle Hill Strategic Centre and 20 km north west of Sydney CBD.

The sites are separated into the northern site at 87-97 Castle Hill Road (with an area of 3,322m²), and the southern site at 121-131 Oratava Avenue (with an area of 3,377m²) (refer to Figure 2 - Figure 4 below). Current access to the northern site is via two crossovers onto Castle Hill Road and access to the southern site is via a private internal road that connects to Oratava Avenue.

The sites each contain a vacant single dwelling being former caretakers' dwelling and are not publicly accessible.

The sites contain Blue Gum High Forest and Sydney Turpentine-Ironbark Forest (Critically Endangered Ecological Communities (CEEC)) and are of high conservation significance. The sites are also identified as containing bushfire prone land, with half of the northern sites and all of the southern sites identified as containing 'category 1 – highest risk'. The entire Cumberland State Forest is identified as containing a local archaeological heritage item 'Cumberland State Forest Bellamy Quarry and Sawpit' under *Schedule 5 Environmental Heritage of The Hills LEP 2019*. The items are not located within the proposed rezoning areas as shown in Figure 2 below.

The surrounding locality is characterised by low density housing. The Cherrybrook Metro Station is approximately 700 m and 1.6 km to the northwest of the northern and southern sites, respectively. The land around the metro station has been rezoned to enable a new mixed-use town centre with retail, community and library facilities, new open space and residential dwellings.

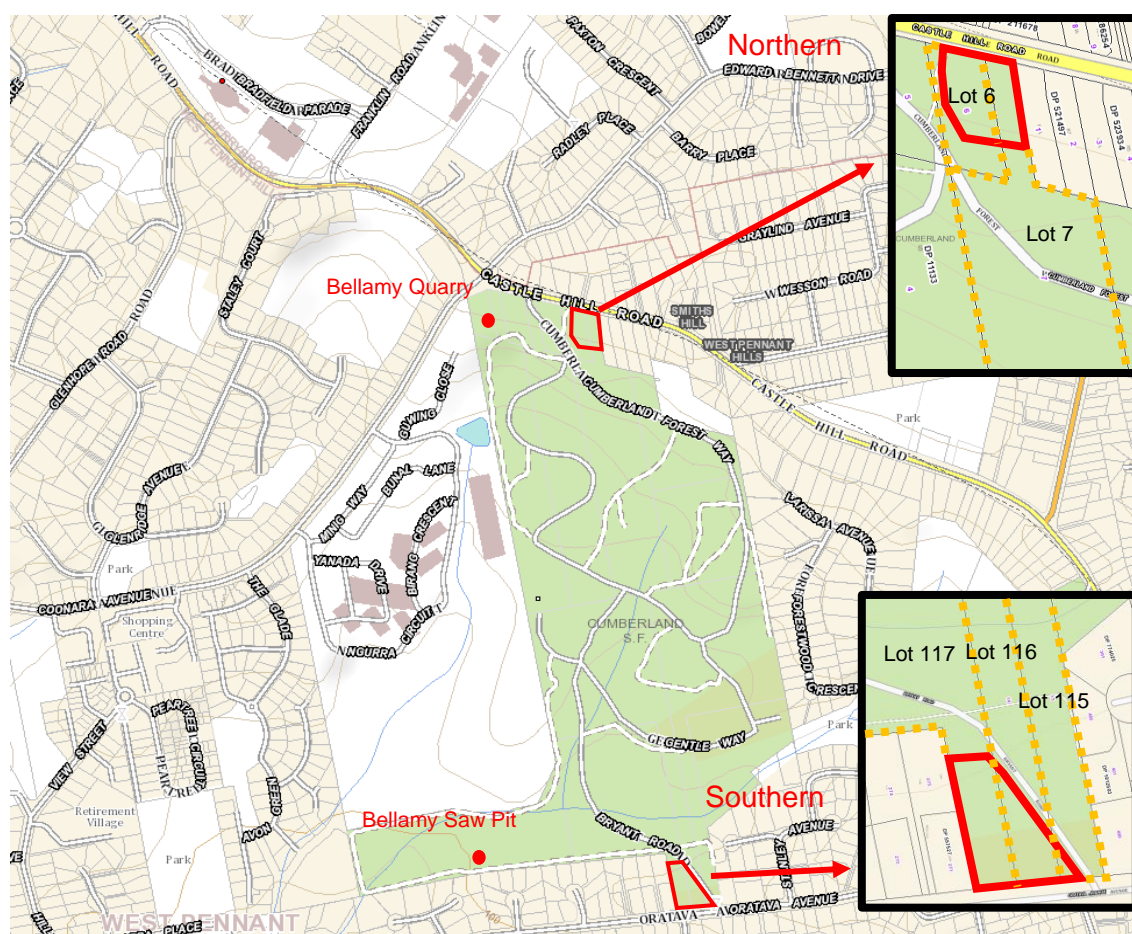


Figure 2 Subject site



Figure 3 Northern Site aerial image (L) and Southern Site aerial image (R) (source: Planning Proposal Mecone)

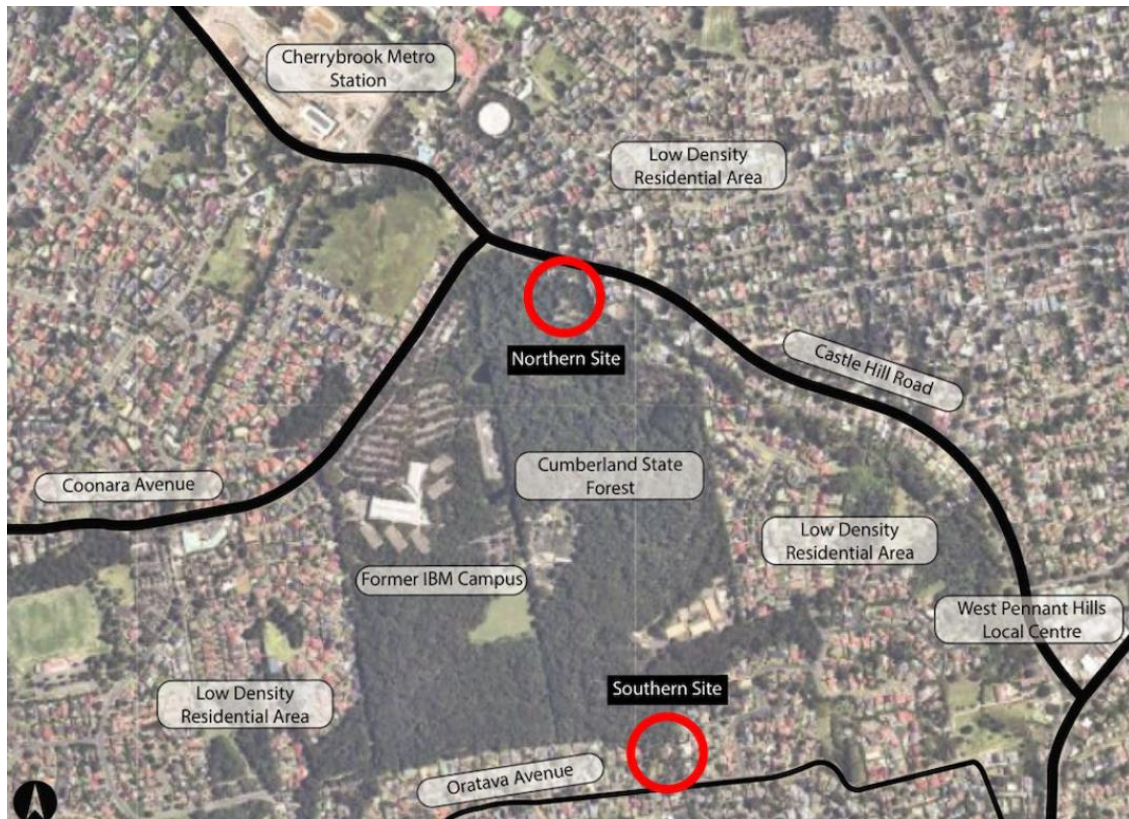


Figure 4 Site Context (source: Planning Proposal Mecone)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Zoning, Minimum Lot Size, and Building Height maps, which are suitable for community consultation. In addition, the Heritage map (Her_024) is to be updated to remove the areas to be rezoned from the application of archaeological item A26. The Gateway determination has been conditioned accordingly.

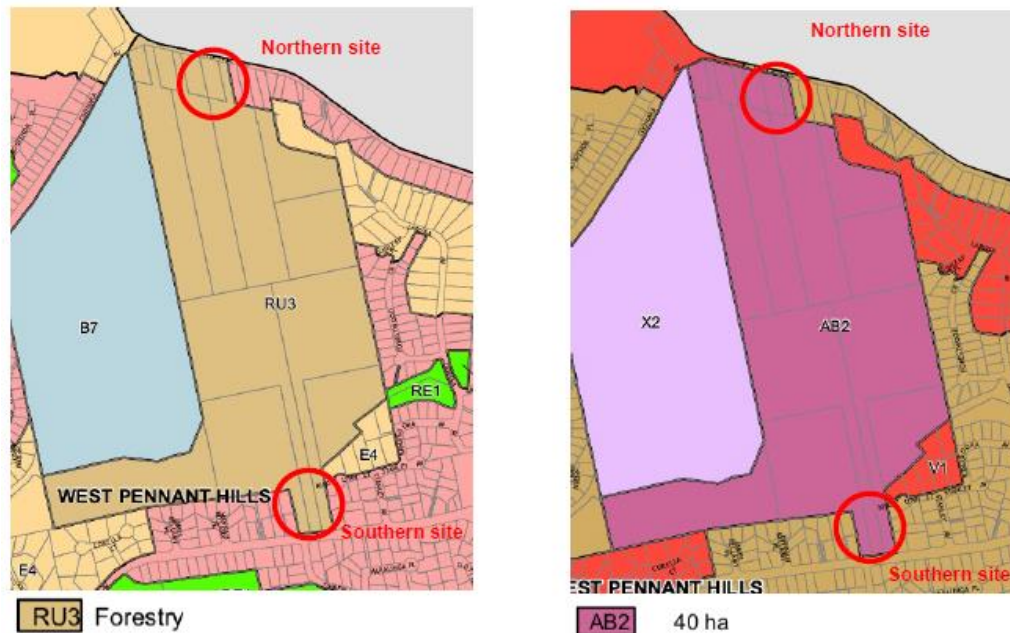


Figure 5 Current zoning and Minimum Lot Size maps (Source: Planning Proposal, Mecone)

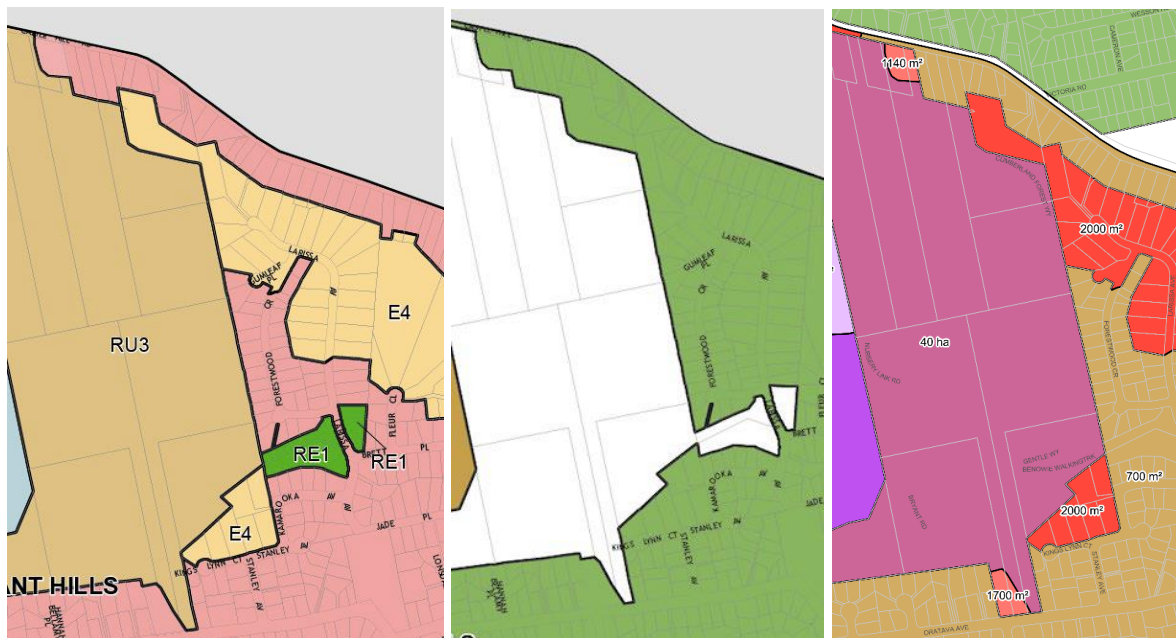


Figure 6 Proposed Zoning, height of building and Minimum Lot Size maps (Source: Planning Proposal, Mecone)

1.6 Background

The planning proposal was the subject of a Rezoning Review.

On 1 February 2024, Mecone Group Pty Limited lodged a rezoning review request as Council failed to indicate its support 90 days after the submission of a Planning proposal.

The Sydney Central City Planning Panel decision was handed down on the 22 February 2024. The Panel determined that the proposal should be submitted for a Gateway determination as the proposal has demonstrated strategic and site specific merit.

The planning proposal has background which is relevant to the assessment of the proposal and conditions of the Gateway determination. A summary of this is included in the table below.

Table 4 Relevant background to the planning proposal

Date	Description
10 May 2019	Planning proposal lodged with Council.
18 February 2021	<p>Planning proposal reported to The Hills Local Planning Panel (LPP) for advice. The LPP advised that the planning proposal should proceed to Gateway determination with the following conditions:</p> <ul style="list-style-type: none"> • amend the proposal to apply a minimum lot size standard of 1,140 sqm to the northern site and 1,700 sqm to the southern site. • submission of the following if it proceeds to exhibition: <ul style="list-style-type: none"> ○ an updated Biodiversity Development Assessment Report ○ an Arborist Report ○ a Vegetation Management Plan ○ a Landscape Plan ○ clarification on the subdivision plan's inconsistency with The Hills Development Control Plan 2012 (The Hills DCP) minimum frontage requirements. <p>The advice of the Local Planning Panel is reflected in the discussion and recommendations of the Council staff report on 13 April 2021.</p>
15 March 2021	The former Minister for Energy and Environment, the Hon Matt Kean MP advised that he has written to the Minister responsible for NSW Forestry seeking a view on Council's proposal to add Cumberland State Forest to the national parks system. Any transfer from state forest to a reserve category under the National Parks and Wildlife Act would also require an Act of Parliament
13 April 2021	<p>Council staff reported the planning proposal request to Council recommending support generally in alignment with the LPP advice however, Council resolved the following in relation to the proposal:</p> <ol style="list-style-type: none"> 1. <i>The planning proposal be held in abeyance until the NSW Government concludes its consideration of the proposal to transfer the Cumberland State Forest to a reserve category under the National Parks and Wildlife Act 1974.</i>
31 October 2023	Council staff confirmed by email that there has been no further correspondence between Council and State Government regarding the State Forest following Council's consideration of the planning proposal on 13 April 2021.
22 November 2023	Proponent submits a rezoning review (RR-2024-1) to the Sydney Central Planning Panel (the Panel).

Date	Description
22 February 2024	<p>The Panel determined that the planning proposal demonstrated strategic merit and subject to changes, site specific merit. The panel recommended that the proposal be amended to:</p> <ul style="list-style-type: none"> Amend the minimum lot size to 1,140m² for the Northern site and 1,700m² for the Southern Site; and Update the Biodiversity Development Assessment Report, Arborist Report and Vegetation Management Plan.

2 Need for the planning proposal

The planning proposal is not the direct result of any local planning priorities or actions identified in the Local Strategic Planning Statement (LSPS) or other strategic documents.

The planning proposal is a result of NSW Forestry identifying the two sites as financially burdensome and surplus to its needs. The proposal states the vacant caretaker dwellings are in disrepair and the resources required for regenerating and managing the sites would impose a disproportionate financial burden on Forestry. Divesting the sites will enable Forestry to direct its resources towards other critical areas of the Forest estate.

It is noted both sites are located on the edge of the Cumberland State Forest and they are physically isolated from the wider forested area. In addition, the divestment would make land available for additional housing supply.

The planning proposal is the appropriate mechanism to facilitate the amendment of The Hills LEP 2019 to make the proposed changes to enable future development of the land.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Greater Sydney Regional Plan.

Table 5 Regional Plan assessment

Regional Plan Objectives	Justification
<p>Direction: A city for people</p> <p>Objective 7: Communities are healthy, resilient and socially connected</p>	<p>The Planning Proposal promotes a healthy community by facilitating additional housing in a walkable residential neighbourhood in close proximity to recreational opportunities in the Cumberland State Forest.</p>
<p>Direction: Housing the city</p> <p>Objective 10: Greater housing supply</p> <p>Objective 11: Housing is more diverse and affordable</p>	<p>The Planning Proposal will facilitate new residential dwellings and contribute to The Hills 10-year cumulative dwelling target.</p>

<p>Direction: A well-connected city</p> <p>Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities</p>	<p>The Planning Proposal will facilitate new housing in the vicinity of the Cherrybrook Metro Station, which provides a 30-minute service to Sydney CBD.</p>
<p>Direction: A city in its landscape</p> <p>Objective 27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced</p>	<p>The Planning Proposal will facilitate limited development of disturbed/degraded areas of the forest and enable Forestry to direct its limited maintenance resources strategically towards more critical areas of the forest.</p>

3.2 District Plan

The site is within the Central City District Plan District. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets. The planning proposal has been assessed against relevant planning priorities and is consistent with priorities for infrastructure and collaboration, liveability and productivity in the plan as outlined in the table below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 6 District Plan assessment

District Plan Priorities	Justification
C1 Planning for a city supported by infrastructure	<p>The proposal will be adequately serviced by existing public infrastructure including local bus routes to the Cherrybrook Metro station and Pennant Hills/Beecroft Stations.</p> <p>The sites are currently serviced by electricity, water and sewer infrastructure.</p>
C4. Fostering healthy, creative, culturally rich and socially connected communities	<p>The proposal will promote a healthy community by facilitating additional housing in a walkable residential neighbourhood in close proximity to recreational opportunities in the Cumberland State Forest.</p>
C5. Providing housing supply, choice and affordability, with access to jobs, services and public transport	<p>The proposal will facilitate additional housing in a location with access to retail, supporting services and public transport.</p> <p>The proposal is consistent with this planning priority.</p>
C9. Delivering integrated land use and transport planning and a 30-minute city	<p>The future Cherrybrook town centre and Castle Hill strategic centre will be accessible within 30 minutes by public transport (bus/metro).</p> <p>The proposal is consistent with this planning priority.</p>
C15. Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes	<p>The sites to be rezoned include remnant native vegetation with some cleared areas. A high proportion of the native vegetation show previous clearing and management, as well as more intact areas (northern site) that are heavily impacted by weed invasions.</p> <p>The proposal would require the removal of 0.55 hectares of vegetation (including 0.45 hectares of CEEC). This removal of this vegetation is not considered significant (further discussed under Section 4.1 below). The proposal's impacts are minor and manageable.</p> <p>The proposal is justifiably inconsistent with this planning priority.</p>

3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 7 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	<p>The LSPS was endorsed by the Greater Cities Commission on 4 March 2020 and outlines the Shire's 20-year vision for land use planning, population, housing, economic growth and environmental management.</p> <p>The planning proposal is consistent with the LSPS, in particular:</p> <ul style="list-style-type: none"> • Priority 6 - Plan for new housing to support Greater Sydney's growing population

	<p>The proposal will facilitate additional dwellings within proximity to the Cherrybrook Metro Station and future town centre. The Proposal will also help meet The Hills Shire Council's cumulative 10-year dwelling target.</p> <ul style="list-style-type: none"> Planning Priority 7 - Plan for housing in the right locations <p>The proposal will facilitate additional housing in a location within 30 minutes of Castle Hill strategic centre and under 45 minutes from Sydney CBD (by public transport).</p> <p>The planning proposal is justifiably inconsistent with the LSPS priority regarding environmental value.</p> <ul style="list-style-type: none"> Priority 17. Protect areas of high environmental value and significance <p>As outlined in Table 6 above, the proposal will require the removal of 0.55 hectares of vegetation (including 0.45 hectares of CEEC). The proposal's impacts are minor and manageable.</p>
Local Housing Strategy (LHS)	<p>The Housing Strategy identifies that most new housing will be located in greenfield areas and station precincts. The proposal is consistent with the Housing Strategy as it is enabling a minor increase in 4 residential lots that can be adequately serviced by existing infrastructure and are within close proximity to Cherrybrook station (and future town centre) and heavy rail (Beecroft station and supporting centre).</p>

3.4 Local planning panel (LPP) recommendation

The planning proposal was reported to The Hills Local Planning Panel (LPP) for advice on 18 February 2021. The LPP advised that the planning proposal should proceed to Gateway Determination (Appendix 6), with the following conditions:

- amend the proposal to apply a minimum lot size standard of 1,140 sqm to the northern site and 1,700 sqm to the southern site.
- the submission of updated Biodiversity report, Arborist report, Vegetation Management Plan and Landscape Plan if it proceeds to exhibition
- clarification on the subdivision plan's inconsistency with The Hills Development Control Plan 2012 (The Hills DCP) minimum frontage requirements.

Department response

The planning proposal has subsequently been revised to address site specific issues with an increased minimum lot sizes, and revised reports as required. It is noted the planning proposal does not clarify the concept plan's inconsistency with The Hills DCP minimum frontage requirements. This can be addressed at development application stage.

3.5 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 8 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Regional Plans	Consistent	Refer to section 3.1 of this report.

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.1 Conservation Zones	Not applicable	<p>The objective of this direction is to protect and conserve environmentally sensitive areas and require a planning proposal to include provisions that protect and conserve these areas.</p> <p>This direction states a planning proposal that applies to land within a conservation zone or land otherwise identified for environmental conservation/protection purposes in a LEP must not reduce the conservation standards that apply to that land.</p> <p>The two sites subject to this planning proposal are not zoned a conservation zone or identified in The Hills LEP as containing biodiversity.</p> <p>It is considered this Direction does not apply. However, the proposal is seeking to remove native vegetation with the proposed impacts considered minor and manageable. This is discussed further in Section 4.1 below.</p>
3.2 Heritage conservation	Not applicable	<p>This Direction requires a planning proposal to contain provisions that facilitate the conservation of heritage items, places, works, relics, moveable objects or precincts of environmental heritage significance to an area, Aboriginal objects or places.</p> <p>The entire Cumberland State Forest is identified in The Hills LEP 2019 as a local archaeological heritage item (A26), 'Cumberland State Forest, Bellamy Quarry and Sawpit'.</p> <p>However this item is not located within the areas to be rezoned or immediately adjacent to these areas. No additional provisions are required to facilitate the conservation of the archaeological item. The Gateway determination will be conditioned to amend the Heritage Map (HER_024) to remove the areas to be rezoned from the affectation of the archaeological heritage item.</p>
3.7 Public Bushland	Justifiably inconsistent	<p>Public bushland is defined in the <i>Standard Instrument – Principal Local Environmental Plan</i> which means land:</p> <p>(a) on which there is vegetation that is –</p> <p>(i) a remainder of the natural vegetation of the land, or</p> <p>(ii) representative of the structure and floristics of the natural vegetation of the land, and</p> <p>(b) that is owned, managed or reserved for open space or environmental conservation by the Council or a public authority.</p> <p>It is considered this planning proposal contains land defined as 'public bushland' as the sites contain a remainder of the natural vegetation of the land and it is owned by a public authority, NSW Forestry.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>The Direction requires a planning proposal to be consistent with the objectives of the direction and gives priority to retaining public bushland.</p> <p>The proposal is removing 0.55ha of native vegetation (Section 4.3 of this report) therefore inconsistent with the objective to preserve biodiversity.</p> <p>The proposal has been located and designed to avoid or minimise direct and indirect impacts on native vegetation, threatened species, threatened ecological communities and their habitat. Minimisation measures have also been recommended in the vegetation management plan.</p> <p>Overall it is considered the proposal's impacts are minor and manageable.</p>
4.3 Planning for Bushfire Protection	Inconsistent	<p>This direction applies as the proposal includes land that is mapped as bushfire prone land.</p> <p>This direction requires consultation with RFS following the receipt of a Gateway determination and the consideration of any comments within the planning proposal. Until this occurs, the planning proposal will remain inconsistent with this direction.</p>
4.4 Remediation of Contaminated Land	Consistent	<p>The sites are not identified as having a previous use which could cause contamination or as requiring remediation works. The sites have been historically used for residential purposes (caretakers' dwellings).</p>
5.1 Integrating Land Use and Transport	Consistent	<p>The location of the sites is within the existing urban area and benefits from a location close to various options of public transport.</p>
6.1 Residential Zones	Consistent	<p>This planning proposal is seeking the rezoning of a rural RU3 Forestry Zone to R2 Low Density Residential.</p> <p>The sites are within an existing urban area and benefits from existing infrastructure and public transport options.</p>
9.1 Rural Zones	Justifiably inconsistent	<p>The objective of this direction is to protect the agricultural production value of rural land. RU3 Forestry is a rural zone under the Standard Instrument. The direction states a planning proposal must not rezone land from rural to residential.</p> <p>The proposal is considered justifiably inconsistent as it is of minor significance. The areas to be rezoned contain dilapidated caretakers' cottages, these areas were not and are not used for agricultural production.</p>

3.6 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 9 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Biodiversity and Conservation) 2021	Chapter 2 Vegetation in non-rural areas	Consistent	The submitted Biodiversity Development Assessment Report (BDAR) states that the site is suitable for development with the requirement of 0.45ha of offsetting required.
SEPP (Housing) 2021		Consistent	There are no provisions in this SEPP that directly apply to the planning proposal, however it is noted that the SEPP will need to be taken into consideration as part of any future development application on the land.
SEPP (Resilience and Hazards) 2021	Chapter 4 – Remediation of Land	Consistent	The site does not contain a known contamination.

4 Site-specific assessment

4.1 Heritage

All properties within the Cumberland State Forest are identified as containing the local archaeological heritage item, 'Cumberland State Forest, Bellamy Quarry and Sawpit' (A26). These areas are not located within or immediately adjacent to the sites to be rezoned as shown in Figure 2 in Section 1.4 Site description and surrounding area.

The planning proposal states the quarry is approximately 150m west of the northern site (on the opposite side of the park entry), and the saw pit is approximately 320m east of the southern site. Given the distances between the proposed rezoning sites and the archaeological items and the low-density nature of the proposed rezoning, it is considered that the planning proposal would not result in a heritage impact.

As the proposed rezoning sites will be removed from the Cumberland State Forest and given the separation between the items and the proposed rezoning sites, the Heritage LEP map (HER_024) is to be updated to remove the areas to be rezoned. This will also require an update to the property description for this heritage item within Schedule 5 Environmental Heritage of The Hills LEP 2019. The Gateway has been conditioned accordingly.

4.2 Bushfire

The planning proposal is supported by a Bushfire protection assessment (Appendix 2).

The sites subject to rezoning are identified as containing bushfire prone land. The vegetation within and surrounding the sites pose bushfire risk to future development on both sites. The Bushfire protection assessment concluded that future development on site can comply with the planning

principles of *Planning for Bushfire Protection* including the incorporation of asset protection zones to comply with BAL 29 (as shown in Figure 7 below).

4.3 Biodiversity

The planning proposal is supported by a Biodiversity Development Assessment Report (BDAR) (Appendix 3) and Vegetation Management Plan (VMP) (Appendix 5).

A BDAR was prepared for the site in 2020 with most field data coming from early 2019. New plot data for the BAM calculator was collected in May 2024 in very similar locations to previous data collections to address the current vegetation conditions of the site. The BDAR has been revised to a streamlined assessment type on the basis that impacts to native vegetation are below the 1 ha threshold and the site is not core koala habitat.

The development footprint needs to include an area used for future development footprints and a suitable APZ, and it has been assumed that the full development footprint would be impacted. Figure 7 shows the vegetation to be impacted by the proposal.

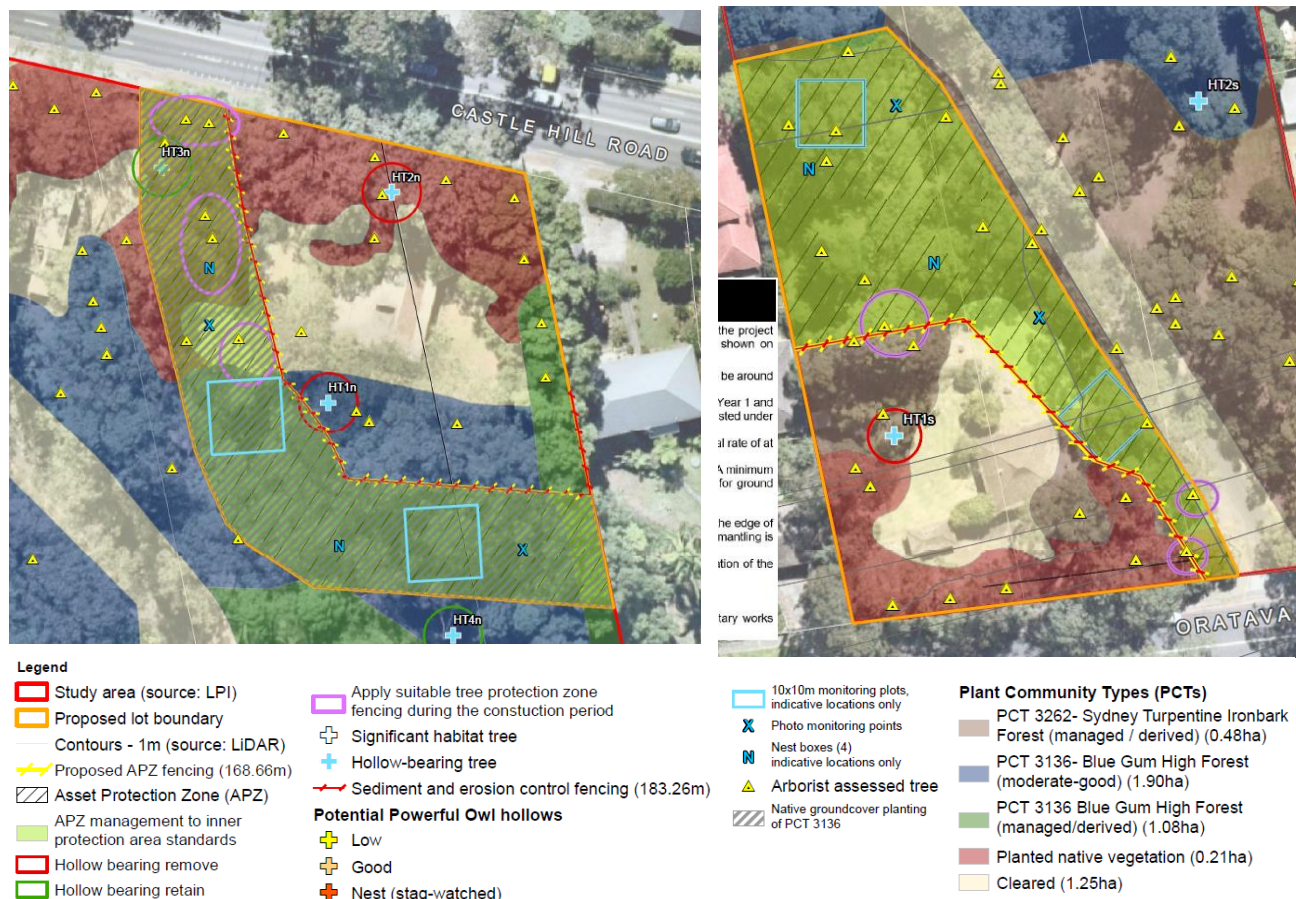


Figure 7 Excerpt from Vegetation Management Plan showing the vegetation to be impacted (Source: Travers Bushfire & Ecology May 2024)

The BDAR notes the size of the area to be rezoned is approximately 0.71ha. This includes remnant native vegetation comprising Blue Gum High Forest (BGHF) and Sydney Turpentine Ironbark Forest (STIF), as well as planted (predominantly) native vegetation and some cleared areas. The native vegetation comprising approximately 0.55ha of the 0.71 ha. A high proportion of these lands shows previous clearing and management, as well as more intact areas (northern site) that are heavily impacted by weed invasion.

The planning proposal will impact 0.55ha of native vegetation which requires offsets including:

- 0.16ha of Blue Gum High Forest (PCT 3136)
- 0.29ha of Sydney Turpentine Ironbark Forest (PCT3262)

0.10ha of planted native vegetation does not require offsetting.

The report concludes that as the proposal will result in the reduction in extent of both Blue Gum High Forest and Turpentine-Ironbark Forest, it may constitute a significant impact on matters of national environmental significance. The report recommends a referral to Department of Climate Change, Energy, the Environment and Water to determine if EPBC assessment is required. The Gateway has been conditioned accordingly.

The proposed development exceeds the nominated threshold triggers of impacting Biodiversity Values Land. Biodiversity offsets are required under the Biodiversity Offsets Scheme including species credits as discussed below.

During the 2024 survey, the presence of Dural Land Snail (endangered under the Biodiversity Conservation Act 2016 and EPBC Act) was confirmed within the subject sites. The report recommended that prior to any habitat removal, a search for living Dural Land Snail specimens within the development areas be undertaken following rainfall. Recovered specimens are to be relocated into retained habitat areas and a monitoring of success undertaken. In addition, the Dural Land Snail has been included as requiring biodiversity offsets.

A breeding pair of Powerful Owl were observed during survey undertaken in 2024. No Powerful Owl or medium-large hollows suitable for nesting/roosting by these species are present within the development footprint. However, Powerful Owl has been included in biodiversity offsets including all associated vegetation within 800m of the Powerful Owl detection locations and suitable trees for nesting/roosting.

The proposal has been located and designed to avoid or minimise direct and indirect impacts on native vegetation, threatened species, threatened ecological communities and their habitat through the following:

- The proposal will avoid 99% of the BGHF within the Cumberland State Forest. The northern site is located in the most disturbed area with lower vegetation integrity scores that is not currently managed through weed control.
- The proposal will avoid 98% of the STIF within the Cumberland State Forest. The southern site is located where there is an existing dwelling and landscaped gardens and planted trees primarily, with only a small number of remnant trees in the northern portion of the site, that could largely be retained insitu.
- Development areas have been located taking advantage of the existing cleared areas supporting the two existing dwellings.
- The access driveway to the northern lot is located on existing cleared and planted vegetation areas.
- The proposal does not directly impact any known roosting or breeding hollows for Powerful Owl.
- The proposal avoids impacts to threatened flora species. Only planted specimens that would not occur naturally were located.
- The proposal avoids any direct impacts to riparian zones, wetlands and groundwater dependent ecosystems.

The following minimisation actions are recommended:

- Avoid removal of the planted Turpentine trees along the eastern boundary of the northern investigation area (separating residences further east) that provide potential Powerful Owl roosting habitat as well as screening of light overflows from the urban landscape.

- Avoid development within 200 m of any current or previously known breeding trees occupied by the local Powerful Owl pair.

Overall it is considered the proposal's impacts are minor and manageable, subject to further assessment and the implementation of appropriate mitigation measures at the DA stage.

4.4 Social and economic

The planning proposal is unlikely to have any negative social or economic impacts, it will provide additional housing opportunities and a small increase in population to support local businesses.

4.5 Infrastructure

The site is currently serviced by all essential services and infrastructure.

5 Consultation

5.1 Community

The planning proposal is categorised as a standard under the LEP Making Guidelines (September 2022). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- The Hills Shire Council
- Transport for NSW (TfNSW)
- Rural Fire Service (RFS)
- NSW Department of Climate Change, Energy, the Environment and Water – Biodiversity and Conservation
- Australian Department of Climate Change, Energy, the Environment and Water
- Sydney Water
- Utility Providers

6 Timeframe

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard proposal.

The Department recommends an LEP completion date of 12 Months in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination, the LEP is to be completed by 30 May 2025.

It is recommended that if the gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

7 Local plan-making authority

As the planning proposal was subject of a rezoning review with the Sydney Central City Planning Panel appointing itself as Planning Proposal Authority, Council is not authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal demonstrates strategic and site-specific merit. The proposal provides an opportunity to provide additional, diverse housing in The Hills Shire, in a location well serviced by transport and other infrastructure.

The proposal is supported to proceed with conditions for the following reasons:

- It is consistent with the objectives and priorities of the Central City District Plan.
- It is consistent with the strategic direction and objectives of The Hills Council's Local Strategic Planning Statement and Local Housing Strategy.
- It can be made consistent with all relevant section 9.1 Ministerial Directions.
- It is not considered to have significant adverse impacts overall including environmental, social, economic, traffic and infrastructure impacts.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Amend the heritage map supporting The Hills LEP 2019 to remove the application of local archaeological item A26 'Cumberland State Forest, Bellamy Quarry and Sawpit' from the areas to be rezoned, update the explanation of provisions accordingly including the revision of the address/property description for this item under Schedule 5 Environmental Heritage.
- Replace references to The Hills LEP 2012 to The Hills LEP 2019 throughout the planning proposal.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Direction 3.7 Public Bushland, 9.1 Rural Zones are minor or justified; and
- Note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be updated to:
 - Amend the heritage map supporting The Hills LEP 2019 to remove the application of local archaeological item A26 'Cumberland State Forest, Bellamy Quarry and Sawpit' from the areas to be rezoned, update the explanation of provisions accordingly including the revision of the address/property description for this item under The Hills LEP Schedule 5 Environmental Heritage.
 - Replace references to The Hills LEP 2012 to The Hills LEP 2019 throughout the planning proposal.
2. Prior to community consultation, consultation is required by the following public authorities:

- NSW Rural Fire Service
3. Prior to community consultation, the planning proposal is to be revised to address conditions 1 and 2.
 4. Consultation is required with the following public authorities:
 - The Hills Shire Council
 - Transport for NSW
 - NSW Department of Climate Change, Energy, the Environment and Water - Biodiversity and Conservation
 - Australian Department of Climate Change, Energy, the Environment and Water
 - Sydney Water
 - Utility Providers
 5. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the planning proposal was the subject of a rezoning review, Council will not be given local plan-making authority. The LEP completion date of 30 May 2025.



09.07.24

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15.07.24

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