



Planning Proposal at 87-97 Castle Hill Road & 121-131 Oratava Avenue, West Pennant Hills - Cumberland State Forest (PP-2023-2300)

Introduction

The planning proposal is at the post exhibition stage, which is the last stage before a Local Environmental Plan (LEP) may be made and finalised. The Sydney Central City Planning Panel (the Panel) determined at a rezoning review that the proposal had strategic and site merit on 22 February 2024. It should be noted that since this rezoning review The Hills Shire Council has opted to have no local members for the Panel. Subsequently, a Gateway assessment was undertaken, and a Gateway determination was issued by the Department on 15 July 2025 for the proposal to proceed, subject to conditions.

The purpose of this memorandum is to provide a summary of the key matters raised by the community and public agencies during the public exhibition of the planning proposal (Attachment A), particularly Conservation Programs, Heritage and Regulation (CPHR) and the NSW Rural Fire Service (RFS). In response, this memorandum makes a recommendation to the Panel that the proposal does not proceed as the proponent now seeks a withdrawal of the proposal based on the unresolvable issues raised by CPHR and RFS. These agency issues were also reflected in community submissions received during public exhibition.

The Proposal

The proposal seeks to amend The Hills Local Environmental Plan (LEP) 2019 to enable the divestment of surplus forestry land to allow for low density residential development in keeping with the surrounding area by the Forestry Corporation of NSW. The proposed amendments can be seen in Table 1.

The planning proposal applies to two parcels of land located at 87-97 Castle Hill Road (Northern site, 3,322m²) and 121-131 Oratava Avenue (Southern site, 3,377m²) in West Pennant Hills. Both sites are situated on the edge of the Cumberland State Forest and are referred to in this memorandum as the site.

Planning Control	Current LEP Controls	Exhibited Planning Proposal
Land Use Zone	RU3 Forestry	R2 Low Density Residential
Maximum HOB	No control.	9m
Minimum lot size	40ha	1,140sqm (Northern site) 1,700sqm (Southern site)

Table 1: Current and proposal controls

Public Consultation

In accordance with the Gateway determination, the planning proposal and supporting material were publicly exhibited on the NSW Planning Portal for 20 working days, from 17 February 2025 to 17 March 2025.

Community submissions

A total of 50 community submissions were received during the exhibition period all objecting to the proposal, including a submission from Susan Higginson MP and from two The Hills Shire Councillors.

In summary, the main concerns raised in community submissions included:

- Loss of biodiversity and forest (86%);
- Bush fire/ Asset Protection Zones (APZ) (31%);
- Traffic and road congestion (18%);
- National Park nomination (10%); and
- Revocation of forestry land (6%).

A copy of all the community submissions can be found at **Attachment E**.

Agency Submissions

Government agencies were consulted in accordance with the Gateway determination. Of the agency submissions received, CPHR and RFS raised concerns, including:

- RFS requiring further assessment to confirm the intended developments compatibility with bushfire risk; and
- CPHR seeking to confirm that the proposal would not cause unacceptable biodiversity impacts, including clearing for bushfire asset protection zones (APZs).

A copy of Council submission can be found at **Attachment F** and agency submissions at **Attachment G**.

The Proponent's response to all community and agency submissions is provided as **Attachments J-J8**.

CPHR and RFS Issues

RFS Issues and proponent response

On 20 March 2025, RFS provided its first submission, requesting further information and analysis (**Attachment H**), including justification of the suitability of existing Asset Protection Zones (APZ) as the proposal relies on the forest's existing APZs.

In response, the proponent provided additional information **Attachments J-J8**, including:

- building envelope plans provided to show developable areas are outside of an APZs (**Attachments J5**); and
- additional bushfire study, with no proposed changes to existing APZ (**Attachment J7**).

On 2 October 2025, RFS provided the following response to the proponent's additional information that was submitted on 17 July 2025 (**Attachment K**):

- the APZs relied upon for the future dwellings will need to be managed to the standards of inner protection area; and

- future dwellings must be within the building envelope plans provided, with APZ's ranging from 30m to 57m.

CPHR Issues and proponent response

On 17 March 2025, CPHR provided comments regarding biodiversity (**Attachment I**), recommending the lot sizes and associated APZs be reduced to avoid and minimise impacts on the Critically Endangered Ecological Communities (CEECs).

In response, the proponent stated that the proposal is not introducing an APZ and the existing APZs are managed under existing Forest Management Plans (FMP) and Cumberland State Forest Fuel Management Plan will manage impact on CEECs (**Attachment J**).

The proponent's response was provided to CPHR and the RFS's comments from 2 October 2025 were also provided to CPHR for review.

On 5 November 2025, CPHR provided a response confirming (**Attachment L**):

- all four proposed lots contain Blue Gum High Forest (BGHF) and Sydney Turpentine Ironbark Forest (STIF), both listed as critically endangered ecological communities (CEECs) and as Serious and Irreversible Impact (SII) entities under the *Biodiversity Conservation Act 2016* (BC Act), could be avoided or minimised, as required by the BC Act 2016; and
- managing the APZ as an Inner Protection Area is predicted to have a substantially greater impact compared with the proposed management under the Cumberland State Forest Fuel Management Plan 2020–2025, the existing APZs.

This advice from the agencies was provided to the proponent and on 17 December 2025 the proponent responded in writing that they seek to withdraw the proposal because they are unable to adequately resolve CPHR's concerns in the context of RFS's requirements for providing and managing the required APZs (**Attachment M**).

PPA Team analysis and recommendation to the Panel

The PPA team considers that it is not possible for the APZs to be relocated so they do not unacceptably impact CEECs such that either the exhibited or an appropriately revised residential development outcome can be provided, because:

- all four proposed lots contain CEECs;
- RFS has confirmed that the APZs need to be managed as Inner Protection Areas (IPA) which is a higher level of management required beyond the existing applicable APZs;
- CPHR has formed the view with reference to the proponent's information as well as RFS's submissions that:
 - management of the APZ's as IPA is predicated to have a substantially greater impact than the existing APZ management arrangements; and
 - the IPA cannot be provided such that they adequately avoid and minimise impacts as required by the *Biodiversity Conservation Act 2016*.

- the required width of the APZs range from 30m to 56m. These required widths cannot be provided on the site allowing for the accommodation of residential development and be clear of the identified CEECs.

As this planning proposal has received a Gateway determination, even if the proponent has requested the proposal to be withdrawn, a formal gateway alteration to 'not proceed' will be required to align with the proponent's request.

As such, it is recommended that the Panel as the Planning Proposal Authority (PPA) request the Local Plan Making Authority, alter the Gateway determination to not proceed under Section 3.35 of the *Environmental Planning and Assessment Act 1979*. The Panel's request will then be considered by the Department as the Minister's delegate.

All submitters, Council and agencies will be notified accordingly once a final decision is made.

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[Attachments](#)

Attachment A-A5 - Planning proposal and supporting documents – July 2025

Attachment B – Rezoning Review Record of Decision (February 2024)

Attachment C – Gateway Determination (July 2025)

Attachment D – Authorisation of exhibition (February 2025)

Attachment E – Community submissions (redacted)

Attachment F – The Hills Shire Council submission

Attachment G – Agency submission

Attachment H – RFS submission dated 20 March 2025

Attachment I – CPHR submission dated 16 March 2025

Attachment J – Proponent response to submissions (16 July 2025)

Attachment J1 – Letter from Forestry Corporation (15 July 2026)

Attachment J2 – Cumberland State Forest Fuel Management Plan 2020-2025

Attachment J3 – Cumberland State Forest Fuel Management Zones Plan

Attachment J4 – Preliminary Flood Impact Assessment (July 2025)

Attachment J5 – Building Envelope and Subdivision plans (August 2025)

Attachment J6 – Traffic Statement from InRoads Group (July 2025)

Attachment J7 – Additional Bushfire information (August 2025)

Attachment J8 – Response to community submissions (April 2025)

Attachment K – RFS submission dated 2 October 2025

Attachment L – CPHR submission dated 5 November 2025

Attachment M – Proponent's request to withdraw (17 December 2025)