



THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL
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18 December 2023

Ms Jazmin van Veen
Director, Central (GPOP)
Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Our Ref: 3/2024/PLP

Dear Ms van Veen,

PLANNING PROPOSAL SECTION 3.34 NOTIFICATION

Proposed The Hills Local Environmental Plan 2019 (Amendment No. (#)) – to permit farm gate premises in the RU6 Transition zone and introduce two optional LEP clauses for farm stay accommodation and farm gate premises.

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

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

1. Permit farm gate premises, with consent, in the RU6 Transition zone;
2. Introduce the new Standard Instrument Clause 5.24 for farm stay accommodation (including a local objective); and
3. Introduce the new Standard Instrument Clause 5.25 for farm gate premises.

Please find enclosed the information required in accordance with 'A guide to preparing planning proposals' issued under Section 3.33(3) of the EP&A Act. The planning proposal and supporting material is enclosed with this letter for your consideration. Please note that given the minor nature of this planning proposal, Council is seeking delegation as the Local Plan Making Authority.

Following receipt by Council of the Department's written advice, Council will proceed with the planning proposal. Any future correspondence in relation to this matter should quote reference number 3/2024/PLP. Should you require any further information please contact Jessie Wiseman, Strategic Planning Coordinator on 9843 0122.

Yours faithfully,

Nicholas Carlton
MANAGER - FORWARD PLANNING

Attachment 1: Planning Proposal (including attachments)

PLANNING PROPOSAL

LOCAL GOVERNMENT AREA: The Hills Shire Council

NAME OF PLANNING PROPOSAL: Proposed The Hills Local Environmental Plan (LEP) 2019 Amendment No (#) – to permit farm gate premises in the RU6 Transition zone and introduce two optional LEP clauses for farm stay accommodation and farm gate premises.

STATUS: Pre-Gateway Determination

ADDRESS OF LAND: Land to which The Hills Local Environmental Plan 2019 applies.

SUPPORTING MATERIAL:

Attachment A	Assessment against State Environment Planning Policies
Attachment B	Assessment against Section 9.1 Local Planning Directions
Attachment C	Council Report and Minute (28 November 2023)
Attachment D	Local Planning Panel Report and Minute (13 December 2023)

BACKGROUND:

The Department of Planning and Environment (the Department) has carried out a number of reforms to the planning system over recent years aimed at supporting agritourism and small-scale agricultural development. Agritourism is a tourism-related experience or product that connects agricultural products, people or places, with visitors to a farm. The State Government's agritourism reforms seek to make it easier for farmers to diversify their income from farming businesses whilst maintaining primary production as the principal use.

In summary the key changes to the planning system under the reforms, that are of relevance to the current proposal include:

- In December 2022 the new land use term 'agritourism' which includes 'farm gate premises' and 'farm experience premises' was introduced to the Standard Instrument Local Environmental Plan. The term was permitted in zones where the 'agriculture' group term was permitted which meant that under The Hills LEP 2019 the new terms were initially permitted in the RU1 Primary Production zone.
- In December 2022 the definition of 'farm stay accommodation' was revised to allow for accommodation in moveable dwellings, including tents and caravans, as well as in buildings. Under The Hills LEP 2019 this land use term is currently permitted in the RU1 Primary Production, RU2 Rural Landscape, RU6 Transition and SP3 Tourist zone and permissibility was not changed by the amendments.
- In December 2022 two optional clauses were introduced to the Standard Instrument LEP for 'farm gate premises' and 'farm stay accommodation' that councils may elect to include in their LEP. However, if adopted, these objectives must be adopted in the form (and in accordance with any directions) set out in the Standard Instrument.
- In December 2022 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) was revised to introduce and exempt and complying pathways for 'farm experience premises', 'farm gate premises' and 'farm stay accommodation' (subject to certain sensitive land exclusions and meeting specified development standards).
- In August 2023 permissibility changes were made to The Hills LEP 2019 by way of an amending State Environmental Planning Policy to permit 'agritourism' including 'farm gate premises' and 'farm experience premises' in the RU2 Rural Landscape zone.

At the Council Meeting of 28 November 2023, Council considered a report on extending the permissibility of the new agritourism land use terms to the RU6 Transition zone as well as including the optional LEP clauses for farm stay accommodation and farm gate premises and DCP controls for the new and revised land uses. Council resolved as follows:

1. *Council initiate a Planning Proposal to amend The Hills LEP 2019 to:*
 - a. *Permit farm gate premises, with consent, in the RU6 Transition zone;*
 - b. *Introduce the new Standard Instrument Clause 5.24 for farm stay accommodation (including a local objective); and*
 - c. *Introduce the new Standard Instrument Clause 5.25 for farm gate premises.*
2. *The planning proposal be reported to the Local Planning Panel for advice. Provided the Panel's advice is consistent with the recommendations of this report, it is recommended that the Planning Proposal then be forwarded to the Department of Planning and Environment for Gateway Determination.*
3. *Draft Amendments to Part B Section 1 – Rural (Attachment 5) and Part C Section 1 – Parking (Attachment 6) of The Hills Development Control Plan (DCP) to introduce controls for farm gate premises, farm experience premises and farm stay accommodation, be publicly exhibited for a period of 28 days concurrently with the Planning Proposal.*

A copy of the Council Report and Minute is provided as Attachment C to this report, which also includes further information regarding the background and history of the NSW Government's Agritourism Reforms.

The matter was then subsequently considered by the Local Planning Panel on 13 December 2023. The Panel's advice was as follows:

1. *A Council-initiated planning proposal be forwarded to the Department of Planning and Environment to amend The Hills Local Environmental Plan (LEP) 2019 to:*
 - a. *Permit 'farm gate premises', with consent, in the RU6 Transition zone;*
 - b. *Introduce the new Standard Instrument Clause 5.24 for 'farm stay accommodation' (including a local objective); and*
 - c. *Introduce the new Standard Instrument Clause 5.25 for 'farm gate premises'.*
2. *Draft Amendments to Part B Section 1 – Rural and Part C Section 1 – Parking of The Hills Development Control Plan (DCP) to introduce controls for farm gate premises, farm experience premises and farm stay accommodation, be publicly exhibited for a period of 28 days concurrently with the Planning Proposal.*
3. *Panel was satisfied that this Planning Proposal has both strategic and site specific merit as outlined in the council officers report.*

A copy of the Local Planning Panel Report and Advice is provided as Attachment D to this report.

THE SITE:

In terms of proposed changes to permissibility, this planning proposal relates to land zoned RU6 Transition under The Hills Local Environmental Plan 2019. In terms of the proposed inclusion of optional clauses for farm stay accommodation and farm gate premises, the planning proposal relates to land where these land uses are permitted (or are proposed to be permitted) under LEP 2019. This includes the following land use zones:

- RU1 Primary Production (farm gate premises and farm stay accommodation)
- RU2 Rural Landscape (farm gate premises and farm stay accommodation)
- RU6 Transition (farm gate premises and farm stay accommodation)

It is noted that farm stay accommodation is also permitted with consent in the MU1 Mixed Use zone and SP3 Tourist zone, given the term is a subset of 'tourist and visitor accommodation' which is mandated as a permitted use in these zones under the Government's Standard Instrument Local Environmental Plan. It is not anticipated there will be uptake of the opportunity in these locations given the requirement for farm stay accommodation to take place on a commercial farm.

For reference, a map of the RU1 Primary Production, RU2 Rural Landscape and RU6 Transition zoned areas within The Shire is shown in the following figure.

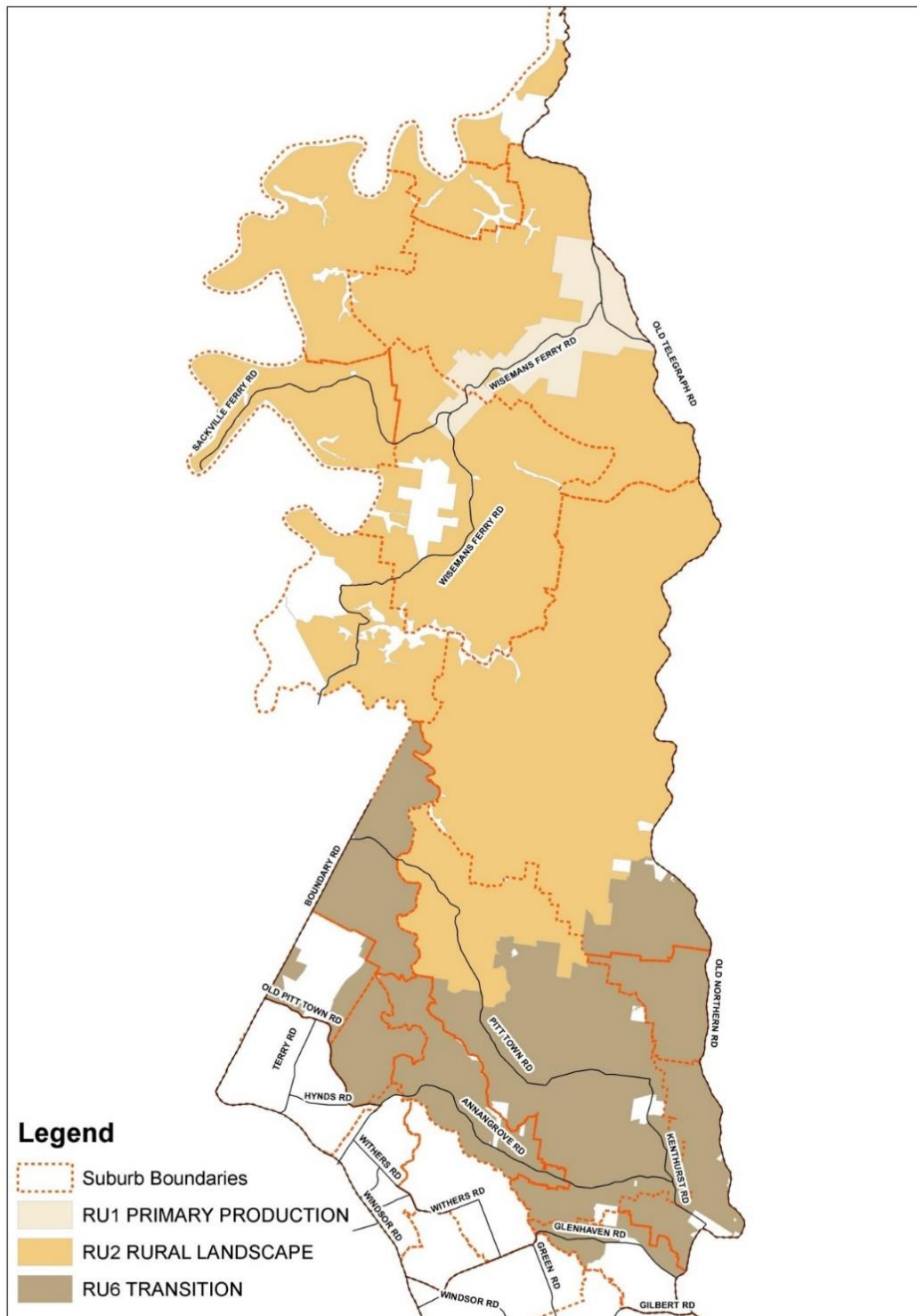


Figure 1
Map of the Shire's Rural Zones

The new and revised land use terms only apply to commercial farms, which is defined as follows:

Commercial Farm means a farm on which agriculture is undertaken that is—

- (a) on land categorised as farmland under the Local Government Act 1993, section 515, or
- (b) a primary production business within the meaning of the Income Tax Assessment Act 1997 of the Commonwealth, or part of a primary production business, including a business that—
 - i. was a primary production business, and
 - ii. has temporarily ceased to be a primary production business because of a natural disaster, including a drought, flood or bush fire.

In the context of the Hills Shire, approximately 5.6% (around 283) of RU1, RU2 and RU6 zoned lots are likely to meet the above requirements and therefore be eligible for agritourism development. This is broken-down further by land use zone in the table below:

	RU1	RU2	RU6	Total
Total number of lots	136	1,632	3,278	5,046
Lots classified as farmland or that have a primary production business	22	63	198	283

Table 1

Breakdown of Lots Likely to be Eligible for Agritourism by Land Use Zone

Accordingly, the potential magnitude of the take-up of these new land use opportunities is fairly limited, simply due to the limited number of lots which would satisfy the above pre-conditions.

PART 1 OBJECTIVES OR INTENDED OUTCOME

The planning proposal seeks to extend the permissibility of farm gate premises in line with State and local objectives for supporting rural productive capacity and tourism activities. It also seeks to provide a suitable framework for the assessment of the new land use opportunities that balances flexibility for farmers to operate the new activities whilst mitigating any potential impacts on rural character and amenity.

PART 2 EXPLANATION OF THE PROVISIONS

The proposed outcomes will be achieved by amending The Hills Local Environmental Plan 2019 as follows:

- Permit farm gate premises, with consent, in the RU6 Transition zone;
- Introduce the new Standard Instrument Clause 5.24 for farm stay accommodation (including a local objective); and
- Introduce the new Standard Instrument Clause 5.25 for farm gate premises.

PART 3 JUSTIFICATION

SECTION A - NEED FOR THE PLANNING PROPOSAL

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

The Department of Planning and Environment (the Department) has proposed various reforms to the planning system to support agritourism and small scale agricultural development. The changes seek to make it easier for farmers to diversify their income from farming businesses whilst maintaining primary production as the principal use. It is understood that across the State, farmers have faced a number of challenges including bushfires and the economic impacts of the COVID-19

pandemic and the Government is seeking to support the recovery and resilience of regional communities and farming by growing emerging industries that are supplementary to agriculture. This planning proposal is in response to the reforms undertaken by the Department and has been prepared following the full suite of material including Model Development Control Plan clauses being made available in August 2023.

This planning proposal responds to Action 5.2 of Council's LSPS, which requires Council to review planning controls and permissible uses in rural zones to facilitate land uses that will support and serve rural industries and encourage tourism in appropriate locations. It will also give effect to the following relevant planning priorities of LSPS:

- Planning Priority 4 – Retain and manage the Shire's rural productive capacity;
- Planning Priority 5 – Encourage support activities and tourism in rural areas; and
- Planning Priority 16 – Manage and protect the rural/urban interface.

This planning proposal also responds to Council's Economic Growth Plan, which articulates that tourism and other local services that support our rural industries are significant contributors to the functioning of the Shire's rural area and its economic success.

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

Yes, the planning proposal is considered to be the best way to achieve the intended outcomes.

The planning proposal recommends that farm gate premises be permitted with consent in the RU6 Transition zone under LEP 2019. The proposed new land use opportunity aligns with Council's policies and objectives for supporting rural productive capacity and tourism activities. It is consistent with the objectives of the zone that seek to encourage innovative and sustainable tourist development, sustainable agriculture and provision of farm produce direct to the public. Allowing for farm gate premises will provide for a wider range of uses ancillary to farming operations beyond currently allowed roadside stalls, cellar door premises or artisan food and drink industries. The permissibility change is considered appropriate as it will enable local growers the opportunity to diversify or supplement their income and facilitate the growth of emerging industries that are ancillary to agriculture.

This planning proposal also seeks to introduce Standard Instrument Clause 5.24 for farm stay accommodation (including a local objective), as well as Standard Instrument Clause 5.25 for farm gate premises, within The Hills LEP. The clauses set out a range of considerations for the assessment of development applications and allow for the addition of local objectives and development standards. To reinforce that development must complement the rural character, it is proposed that an additional local objective (in addition to the two mandated objectives) be included within the proposed clause for farm stay accommodation, relating to protecting the rural character of the locality.

SECTION B - RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

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

Yes, a discussion of consistency is provided below.

- **Greater Sydney Region Plan and Central City District Plan**

The Greater Sydney Region Plan and Central City District Plan emphasise the importance of protecting and enhancing the environmental, social and economic values in rural areas. The relevant objectives and planning priorities of these Plans are as follows:

- Objective 24 - Economic sectors are targeted for success.
- Objective 29 – Environmental, social and economic values in rural areas are protected and enhanced.
- Planning Priority C12 – Supporting growth of targeted industry sectors.
- Planning Priority C18 – Better managing rural areas.

The Plans seek to support the growth of targeted industry sectors, including the agricultural industry, so that key economic sectors are targeted for success. In particular, the Plans reinforce the need to protect and support agricultural production and mineral resources and articulates that there are agricultural clusters at Maroota, Middle Dural, Galston and Arcadia within the Central City District. However, they do also recognise the importance of providing certainty for rural industries and ensuring their operations can continue without encroachment from incompatible land uses. This planning proposal is consistent with these key priorities as it strikes a balance between providing increased opportunities for agritourism developments in the right locations, while also protecting against potential land use conflicts and other potential impacts.

It is therefore considered that the planning proposal is consistent with the above objectives and planning priorities within these Strategic Plans.

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

Yes, a discussion of consistency is provided below.

▪ **The Hills Local Strategic Planning Statement and Supporting Strategies**

Council's Local Strategic Planning Statement (LSPS) and supporting Rural Strategy articulate that tourism and rural support services are significant contributors to the functioning of the rural area and the rural economy's success. The Rural Strategy also notes that major components of the Shire's tourism industry are located in or based around the Shire's rural area. Farm-gate sales, farmers' markets, eco-tourist facilities and recreation on the Hawkesbury River combine to offer a rural experience on Sydney's doorstep.

This planning proposal responds to Action 5.2 of Council's LSPS, which requires Council to review planning controls and permissible uses in rural zones to facilitate land uses that will support and serve rural industries and encourage tourism in appropriate locations. It will also give effect to the following relevant planning priorities of LSPS:

- Planning Priority 4 – Retain and manage the Shire's rural productive capacity;
- Planning Priority 5 – Encourage support activities and tourism in rural areas; and
- Planning Priority 16 – Manage and protect the rural/urban interface.

▪ **Economic Growth Plan**

This Planning Proposal is consistent with Council's Economic Growth Plan, which articulates that tourism and other local services that support our rural industries are significant contributors to the functioning of the Shire's rural area and its economic success. The Economic Growth Plan seeks to position and promote The Hills Shire as an attractive destination for business, investment and visitors through a review of Council's Sydney Hills brand identity and the creation and delivery of marketing campaigns. Specifically, it includes actions that require Council to undertake a tourism land use review, as well as identify and promote nature based and agritourism opportunities in the Shire including:

- Boutique value adding.
- Farm gate sales.
- Nature based accommodation and activities next to natural attractions and assets.

- Agritourism opportunities such as farm stays and destination wineries.

▪ **The Hills Future Community Strategic Plan**

This planning proposal seeks to build on the objectives of the State Government's recent agritourism reforms, which sought to support the recovery and resilience of farm businesses and regional economies within New South Wales (NSW). This planning proposal, coupled with the objectives of the reforms and new land use terms, align with Council strategies related to rural productivity, supporting existing businesses and the visitor economy. Establishing permissibility and planning controls within The Hills LEP and DCP will ensure future agritourism opportunities are facilitated and appropriately managed within a robust framework of planning mechanisms, in line with community expectations.

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

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

As previously discussed, the Department has carried out a number of reforms to the planning system aimed at supporting agritourism and small-scale agricultural development. This has included changes to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* to introduce exempt and complying development pathways for agritourism and related terms. The reforms seek to make it easier for farmers to diversify their income from farming businesses whilst maintaining primary production as the principal use.

The planning proposal is considered to be consistent with the objectives of the Codes SEPP and the associated agritourism reforms as it seeks to encourage the uptake of agritourism activities in appropriate locations within the Shire, where an exempt or complying development pathway may not be available.

The *State Environmental Planning Policy (Primary Production) 2021*, in part, aims to guide the use and development of lands for primary production within NSW. While the SEPP sets consideration for development applications, this planning proposal is in keeping with its main aims and objectives.

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

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

- Ministerial Direction 4.1 – Flooding
- Ministerial Direction 4.2 – Coastal Management
- Ministerial Direction 4.3 – Planning for Bushfire Protection
- Ministerial Direction 4.5 – Acid Sulfate Soils

These biodiversity and resilience/hazards directions establish objectives and requirements to ensure that planning proposals properly consider potential environmental related constraints. In regard to these biodiversity and resilience/hazards directions, it is recognised that the physical attributes of the rural area pose challenges for the growth of agritourism. In particular, steep topography and vegetation cover render some parts of the Shire inaccessible to people or areas are at risk of bushfire or flooding. It is considered that this planning proposal (and associated DCP amendments) strikes an appropriate balance in terms of encouraging agritourism, while also mitigating potential environmental constraints and land use conflicts.

Notwithstanding the above, it is anticipated that in the majority of cases, future agritourism and farm stay accommodation development will most likely need to go through the standard development application process and be comprehensively assessed against the relevant development controls within The Hills LEP and DCP. In this regard the recommended optional LEP clauses for farm stay accommodation and farm gate premises, together with proposed DCP provisions, will assist in providing an appropriate framework for consideration of environmental constraints on a site-by-site basis.

- Ministerial Direction 9.1 – Rural Zones

Ministerial Direction 9.1 Rural Zones seeks to protect the agricultural production value of rural land and requires that any planning proposal not contain provisions that will increase the permissible density of land within a rural zone. This planning proposal seeks to permit farm gate premises in the RU6 Transition zone and introduce a new optional clause for farm gate premises that assists in ensuring future development is suitable for the land and surrounding locality and has due regard to potential impacts in terms of rural amenity. Noting the intention of the Direction and the agritourism reforms is to support rural industries and assist farmers to diversify their income whilst maintaining primary production as the principal use, the proposal is in keeping with the aims and objectives of this Ministerial Direction.

SECTION C - ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

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

As previously discussed, it is recognised that the physical attributes of the rural area pose challenges for the growth of agritourism. In particular, steep topography and vegetation cover render some parts of the Shire inaccessible to people or areas are at risk of bushfire or flooding. It is considered that this planning proposal (and associated DCP amendments) strikes an appropriate balance in terms of encouraging agritourism, while also mitigating potential environmental constraints and land use conflicts.

Notwithstanding the above, it is anticipated that in the majority of cases, future agritourism and farm stay accommodation development will most likely need to go through the standard development application process and be comprehensively assessed against the relevant development controls within The Hills LEP and DCP. In this regard the recommended optional LEP clauses for farm stay accommodation and farm gate premises, together with proposed DCP provisions, will assist in providing an appropriate framework for consideration of environmental constraints on a site-by-site basis.

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

It is noted that the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) currently contains provisions that could potentially enable agritourism land uses to operate at a certain scale (up to 100 visitors) as exempt development in the RU1, RU2 and RU6 zones. In addition, a complying development pathway is available for agritourism developments in the RU1 and RU2 zones.

The opportunity for a complying development pathway may also be excluded for certain sensitive land or where proposed development is not able to meet specified development standards within the SEPP.

It is estimated that of the 283 lots that are likely to meet the definition of commercial farms in the RU1, RU2 and RU6 zones, only around 27.2% could be eligible for a complying development pathway, based on environmental affectations and other constraints identified which preclude the

complying development pathway. Complying development pathways may then be further restricted on the remaining lots by some of the specified requirements for complying development such as setbacks from boundaries and setbacks from dwellings on neighbouring land.

It is therefore anticipated that in the majority of cases, future agritourism and farm stay accommodation development will most likely need to go through the standard development application process and be comprehensively assessed against the relevant development controls within The Hills LEP and DCP.

The planning proposal is also supported by draft amendments to The Hills DCP 2012, which seek to guide the built form, design and ongoing operation of farm gate premises and mitigate potential impacts on rural character and amenity. The proposed DCP amendments have been guided by the Department's Model DCP Clauses for agritourism and having consideration for controls already in force in other comparable local government areas. However, they have been refined and tailored to suit local circumstances.

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

Tourism and other local services that support our rural industries are significant contributors to the functioning of the Shire's rural area and its economic success. As articulated within Council's recently adopted Economic Growth Plan, Council is committed to position and promote The Hills Shire as an attractive destination for business, investment and visitors through a review of Council's Sydney Hills brand identity and the creation and delivery of marketing campaigns.

The planning proposal seeks to promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities. Specifically, it seeks to expand the permissibility of farm gate premises to the RU6 Transition zone within The Hills LEP 2019. This is intended to enable landowners to showcase the agricultural produce of the land. This may include setting up a building or place to sell agricultural products such as a small restaurant or café, pick-your-own produce or running tastings and workshops. Other activities that meet the definition for farm gate premises can also be undertaken.

SECTION D - STATE AND COMMONWEALTH INTERESTS

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

Future development on the site would need to be supported by the necessary infrastructure. It is anticipated that this would be conditioned as part of any future development application. Therefore, there would be no notable impact on infrastructure demand for these types of uses. It is also anticipated that consultation would be undertaken with service providers to ensure that the essential services have been adequately accounted for.

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

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

- NSW Department of Primary Industry
- NSW Rural Fire Service
- State Emergency Services
- Sydney Water
- Hornsby Shire Council
- Hawkesbury City Council

PART 4 MAPPING

No mapping changes are proposed. Proposed changes are to the instrument only.

PART 5 COMMUNITY CONSULTATION

The planning proposal and associated amendments to The Hills Development Control Plan 2012 will be advertised on Council's website and social media platforms.

PART 6 PROJECT TIMELINE

STAGE	DATE
Commencement Date (Gateway Determination)	February 2024
Government agency consultation	March - April 2024
Commencement of public exhibition period (28 days)	March - April 2024
Completion of public exhibition period	April 2024
Timeframe for consideration of submissions	May 2024
Timeframe for consideration of proposal post exhibition	May 2024
Report to Council on submissions	June 2024
Planning Proposal to PCO for opinion	July 2024
Date Council will make the plan (if delegated)	July 2024

ATTACHMENT A: LIST OF STATE ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)	APPLICABLE TO THSC	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
Biodiversity and Conservation (2021)	YES	NO	-
Building Sustainability Index: BASIX (2004)	YES	NO	-
Exempt and Complying Development Codes (2008)	YES	YES	CONSISTENT
Housing (2021)	YES	NO	-
Industry and Employment (2021)	YES	NO	-
No. 65 – Design Quality and Residential Apartment Development	YES	NO	-
Planning Systems (2021)	YES	NO	-
Precincts – Central River City (2021)	YES	NO	-
Precincts – Eastern Harbour City (2021)	NO	-	-
Precincts – Regional (2021)	NO	-	-
Precincts – Western Parkland City (2021)	NO	-	-
Primary Production (2021)	YES	YES	CONSISTENT
Resilience and Hazards (2021)	YES	NO	-
Resources and Energy (2021)	YES	NO	-
Sustainable Buildings (2022)	YES	NO	-
Transport and Infrastructure (2021)	YES	NO	-

ATTACHMENT B: ASSESSMENT AGAINST SECTION 9.1 MINISTERIAL DIRECTIONS

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

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

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

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 28 November 2023

ITEM 4 FURTHER REPORT - AGRITOURISM REFORMS AND DRAFT DEVELOPMENT CONTROL PLAN AMENDMENTS (FP201, FP85)

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

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

532. RESOLUTION

1. Council initiate a Planning Proposal to amend The Hills LEP 2019 to:
 - a. Permit farm gate premises, with consent, in the RU6 Transition zone;
 - b. Introduce the new Standard Instrument Clause 5.24 for farm stay accommodation (including a local objective); and
 - c. Introduce the new Standard Instrument Clause 5.25 for farm gate premises.
2. The planning proposal be reported to the Local Planning Panel for advice. Provided the Panel's advice is consistent with the recommendations of this report, it is recommended that the Planning Proposal then be forwarded to the Department of Planning and Environment for Gateway Determination
3. Draft Amendments to Part B Section 1 – Rural (Attachment 5) and Part C Section 1 – Parking (Attachment 6) of The Hills Development Control Plan (DCP) to introduce controls for farm gate premises, farm experience premises and farm stay accommodation, be publicly exhibited for a period of 28 days concurrently with the Planning Proposal.

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 F De Masi
Clr V Ellis
Clr M Blue
Clr J Brazier
Clr R Boneham
Clr J Cox
Clr R Jethi
Clr Dr M Kasby
Clr Dr B Burton
Clr R Tracey
Clr A Hay OAM

VOTING AGAINST THE MOTION

None

MEETING ABSENT

Clr M Hodges MP

**ITEM 4 FURTHER REPORT - AGRITOURISM REFORMS AND DRAFT
DEVELOPMENT CONTROL PLAN AMENDMENTS (FP201, FP85)****THEME:** Shaping Growth**MEETING DATE:** 28 NOVEMBER 2023

COUNCIL MEETING

GROUP: SHIRE STRATEGY**SENIOR TOWN PLANNER****AUTHOR:** DRAGANA STRBAC**RESPONSIBLE MANAGER – FORWARD PLANNING
OFFICER:** NICHOLAS CARLTON

PURPOSE

This report provides an update on the Department of Planning and Environment's reforms to support agritourism and small-scale agricultural development. As foreshadowed in previous reports to Council on this matter, it considers additional land use zones in which it may be appropriate to permit the new agritourism land use terms as well as associated DCP controls relating to farm stay accommodation, farm gate premises and farm experience premises.

RECOMMENDATION

1. Council initiate a Planning Proposal to amend The Hills LEP 2019 to:
 - a. Permit farm gate premises, with consent, in the RU6 Transition zone;
 - b. Introduce the new Standard Instrument Clause 5.24 for farm stay accommodation (including a local objective); and
 - c. Introduce the new Standard Instrument Clause 5.25 for farm gate premises.
 2. The planning proposal be reported to the Local Planning Panel for advice. Provided the Panel's advice is consistent with the recommendations of this report, it is recommended that the Planning Proposal then be forwarded to the Department of Planning and Environment for Gateway Determination
 3. Draft Amendments to Part B Section 1 – Rural (Attachment 5) and Part C Section 1 – Parking (Attachment 6) of The Hills Development Control Plan (DCP) to introduce controls for farm gate premises, farm experience premises and farm stay accommodation, be publicly exhibited for a period of 28 days concurrently with the Planning Proposal.
-

IMPACTS**Financial**

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

Strategic Plan - Hills Future

The objective of the Government's agritourism reforms is to support the recovery and resilience of farm businesses and regional economies within New South Wales (NSW). The objectives of the reforms and new land use terms align with Council strategies related to rural productivity, supporting existing businesses and the visitor economy. Establishing permissibility and planning controls within The Hills LEP and DCP will ensure future agritourism opportunities are facilitated and appropriately managed within a robust framework of planning mechanisms, in line with community expectations.

LINK TO HILLS SHIRE PLAN

Strategy:

5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.

Outcomes:

5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity

LEGISLATIVE CONTEXT

The legislative framework for Planning Proposals which amend a Council's Local Environmental Plan is established within Part 3, Division 3.4 of the Environmental Planning and Assessment Act 1979 (the Act) (Clauses 3.31 to 3.37). This report, in part, seeks a decision of Council as to whether or not to prepare and submit a planning proposal to the Department of Planning and Environment for Gateway Determination in accordance with Sections 3.33 and 3.34 of the Act (following consideration by the Local Planning Panel).

The legislative framework for preparing and amending a Development Control Plan (DCP) is established within Part 3, Division 3.6 of the Environmental Planning and Assessment Act 1979 (the Act) (Clauses 3.41 - 3.46). This report, in part, seeks a decision of Council as to whether or not to progress and publicly exhibit amendments to The Hills Development Control Plan in accordance with Section 3.43 of the Act.

EXECUTIVE SUMMARY

The Department of Planning and Environment (the Department) has carried out a number of reforms to the planning system aimed at supporting agritourism and small-scale agricultural development. Agritourism is a tourism-related experience or product that connects agricultural products, people or places, with visitors to a farm. The State Government's agritourism reforms seek to make it easier for farmers to diversify their income from farming businesses whilst maintaining primary production as the principal use.

Under the Standard Instrument LEP, the term *agritourism* is a 'group term', which encompasses both *farm gate premises* and *farm experience premises*:

- *Farm gate premises* provide visitors to a farm with agricultural products predominantly from the farm or services or activities related to the products. This includes cellar door premises as a separately defined term and includes uses such as shopfronts with produce tastings, farmgate sales, cooking classes or fruit-picking experiences.

- *Farm experience premises* provide visitors to the farm with small-scale and low-impact tourist or recreational activities, including activities such as horse riding, farm tours, functions or conferences, farm field days and school visits.

Farm stay accommodation is not a new term under the Standard Instrument LEP, however as part of the Government reforms the definition was expanded to allow for accommodation in moveable dwellings (such as tents and caravans) in order to facilitate small scale camping on farms. The term *farm stay accommodation* falls under the 'group term' of *tourist and visitor accommodation* within the LEP, rather than the new *agritourism* group term. The Department have prepared a guide called 'Setting up an Agritourism Business' to provide general information about the planning requirements to help farmers wishing to establish an agritourism business. A copy of this guide is provided as Attachment 1 to this report.

As set out in the Background section of this report, the potential take-up of agritourism uses is fairly limited within The Shire, given only a small number of operations (around 283 lots or 5.6% of RU1, RU2 and RU6 zoned lots) would appear to meet the definition of a "commercial farm" (being the lots classified as farmland or that have a primary production business), which is necessary pre-condition in order to be eligible to satisfy the land use definition for agritourism uses.

In March 2022, Council considered the reforms and resolved to 'opt-in' to enable the Department to make changes to LEP 2019 that would permit new *agritourism* land uses in certain rural zones and introduce new clauses with numeric criteria to help manage the scale farm stay accommodation and farm gate premises. However, in November 2022, Council had to reconsider the matter as the Department made changes to the proposed agritourism policy reform framework. Having consideration for these changes, Council resolved to withdraw its nomination, and decline to nominate any additional land use zones in LEP 2019 or optional clauses. Instead, it was foreshadowed that a further report would be provided to Council, following further investigation of the implications of the Department's reforms *and* receipt of the full suite of information from the Department which was not available at that time (including the Model Development Control Plan clauses).

Since this time, the Department has released the final Model Development Control Plan clauses for agritourism and has implemented an amending State Environmental Planning Policy (SEPP) which has extended the permissibility of agritourism (farm experience premises and farm gate premises) to the RU2 Rural Landscape zone and RU1 Primary Production zone under The Hills LEP 2019. Accordingly, the only remaining discretionary decision for Council to make with respect to the permissibility of agritourism uses is in the context of the RU6 Transition zone.

This report recommends that Council initiate a planning proposal to permit *farm gate premises* with consent in the RU6 Transition zone in The Hills LEP 2019. It also recommends that Council introduce optional clauses to assist in managing the impacts of farm stay accommodation and farm gate premises (wherever these uses are permitted). Extending the permissibility of farm gate premises to the RU6 Transition zone is considered appropriate to enable local growers to diversify and supplement their income and facilitate the growth of emerging industries that are ancillary to agriculture. It is also consistent with Council's strategic framework for rural lands and economic development and would support rural productive capacity and tourism activities.

It is recommended that the land use term *farm experience premises* (as well as the overarching 'group term' *agritourism*) *not* be permitted with consent in the RU6 Transition zone. The *farm experience premises* definition encompasses a range of activities such as functions and conferences and there is not sufficient certainty that the potential impacts of these more intense uses in terms of noise, traffic, parking and visual amenity could be suitably managed and

mitigated in the RU6 Transition zone, given the prevailing lot size of 2 hectares in this location is significantly smaller than other rural areas within The Shire.

No changes are recommended to the permissibility of *farm stay accommodation* under The Hills LEP 2019, noting the opportunity to suitably manage the potential impacts of this use through the proposed introduction of the optional LEP clause, together with proposed DCP controls.

It is noted that the proposed amendment to permissibility as recommended within this report is consistent with Council's previous resolution at its Meeting of 8 March 2022 (provided as Attachment 2 to this report for reference). The following table provides a summary of the recommended permissibility for the new and revised land uses in the Shire's rural zones:

Land Use Terms	Current Permissibility			Proposed Permissibility
	RU1 Primary Production*	RU2 Rural Landscape*	RU6 Transition	RU6 Transition
Agritourism	✓	✓	X	X
Farm Experience Premises	✓	✓	X	X
Farm Gate Premises	✓	✓	X	✓
Farm Stay Accommodation	✓	✓	✓	✓

Table 1

Summary of recommended approach for permissibility

* Note: No changes are proposed to the current permissibility in the RU1 and RU2 zones

The Department's final optional clauses for *farm gate premises* and *farm stay accommodation* have removed numeric standards that previously formed part of the clause and were considered by Council. These clauses now contain more general heads of considerations (noise, pollution, visual amenity, flora or fauna, water quality, traffic, safety, bushfire, land suitability and compatibility with nearby uses), rather than specific development standards relating to size of buildings or number of guests. These changes were made by the Department in response to further investigations and feedback from rural landowners, industry and operators following based on which the Department concluded that the previously proposed numeric standards would have been overly restrictive and, in some instances, would rule out the ability to operate certain activities on rural land, such as fruit picking.

It is considered that the revised optional LEP clauses strike a more appropriate balance between providing flexibility for farmers to operate these activities whilst giving sufficient opportunity to consider and mitigate any potential impacts on rural character and amenity as part of the Development Assessment process. It will also enable each application to be considered on its own merits, noting that there is a wide variety of potential agritourism uses and each will have their own unique complexities and characteristics that need to be considered. Accordingly, it is recommended that the optional clauses for *farm gate premises* and *farm stay accommodation* be included within Council's LEP.

This report also recommends that supporting amendments be made to The Hills DCP, to introduce controls for *farm gate premises*, *farm experience premises* and *farm stay accommodation*. The proposed controls seek to supplement the permissibility and optional clauses within the LEP and assist in managing the scale and impacts of the new land uses to continue to protect rural and scenic character and the amenity of nearby landowners. Including these controls in the DCP (rather than the LEP) also provides Council with flexibility to revise the controls more expeditiously and responsively at some point in the future if required, should the increased take-up of the new opportunities result in outcomes not anticipated by the current review.

BACKGROUND

a) NSW Government Agritourism Reforms

The Department commenced their Agritourism Reforms with the exhibition of an Explanation on Intended Effect in March 2021. In mid-December 2021, a draft amendment to the Standard Instrument Local Environmental Plan was released by the Department that included new definitions for 'agritourism', 'farm gate premises' and 'farm experience premises', a revised definition for 'farm stay accommodation' and optional clauses that would establish several considerations and criteria to control the scale of farm stay accommodation and farm gate premises. At this time, Council was invited to nominate whether to permit these new and amended uses in additional zones, as well as whether to adopt the optional clauses and numerical criteria to be included within these clauses.

At the Council Meeting of 8 March 2022, Council considered a report on this matter and resolved to nominate additional zones to permit the new land use terms and to opt into the new clauses for farm gate premises and farm stay accommodation including specific criteria for maximum gross floor area and maximum number of guests. The specific resolution was as follows:

1. *The RU1 Primary Production and RU2 Rural Landscape zone in LEP 2019 are nominated to permit with consent the new land use terms for agritourism, including farm gate premises and farm experience premises.*
2. *The RU6 Transition zone in LEP 2019 is nominated to permit with consent the new land use term farm gate premises only (with the term farm experience premises and the associated agritourism group term to be prohibited).*
3. *Council opts-in to the inclusion of the new optional clause for farm gate premises in LEP 2019 with the maximum gross floor area capped at 75 square metres and the maximum number of guests capped at 15 at any one time.*
4. *Council opts-in to the inclusion of the new optional clause for farm stay accommodation in LEP 2019 with the maximum gross floor area of buildings capped at 60 square metres and the maximum number of moveable dwellings and associated guests capped at three (3) moveable dwellings and fifteen (15) guests at any one time.*

It is noted that when Council initially considered these changes in March 2022, the optional clauses contained parameters for farm gate premises and farm stay accommodation, including maximum number of guests and gross floor area for farm gate premises and maximum number of guests, gross floor area and number of moveable dwellings for farm stay accommodation.

In June 2022, the Department revised its proposed reforms in response to industry feedback. The key changes included:

- Removal of all numerical standards from the optional LEP clauses (relating to maximum number of guests and gross floor area for farm gate premises and maximum number of guests, gross floor area and number of moveable dwellings for farm stay accommodation); and
- Clarification of exempt and complying development pathways.

The Department then invited Councils to advise of any adjustment to their previous nomination in light of these changes, including the revised optional clauses. On 22 November 2022, Council resolved to withdraw its previous nomination and decline to nominate any additional land use zones in LEP 2019 or opt-in to the optional clauses for farm gate premises and farm stay accommodation. This was intended to provide the opportunity for Council to consider a further report on this matter and the potential impacts of these uses in the future in the RU6 Transition zone, once the full suite of information was made available by the Department (including Model Development Control Plan clauses). A copy of the previous Council Report and Minute is provided as Attachment 3 to this report.

In August 2023, the Department finalised and released Model Development Control Plan (DCP) Clauses as guidance for local councils to assist in preparing their own respective DCP provisions for agritourism related uses. A copy of the Model DCP Clauses are provided as Attachment 4 to this report. The release of this information from the Department has enabled Council officers to progress with their foreshadowed review and prepare this report to Council for consideration.

For reference, a map of the RU1, RU2 and RU6 zoned areas within The Shire is shown in the following figure.

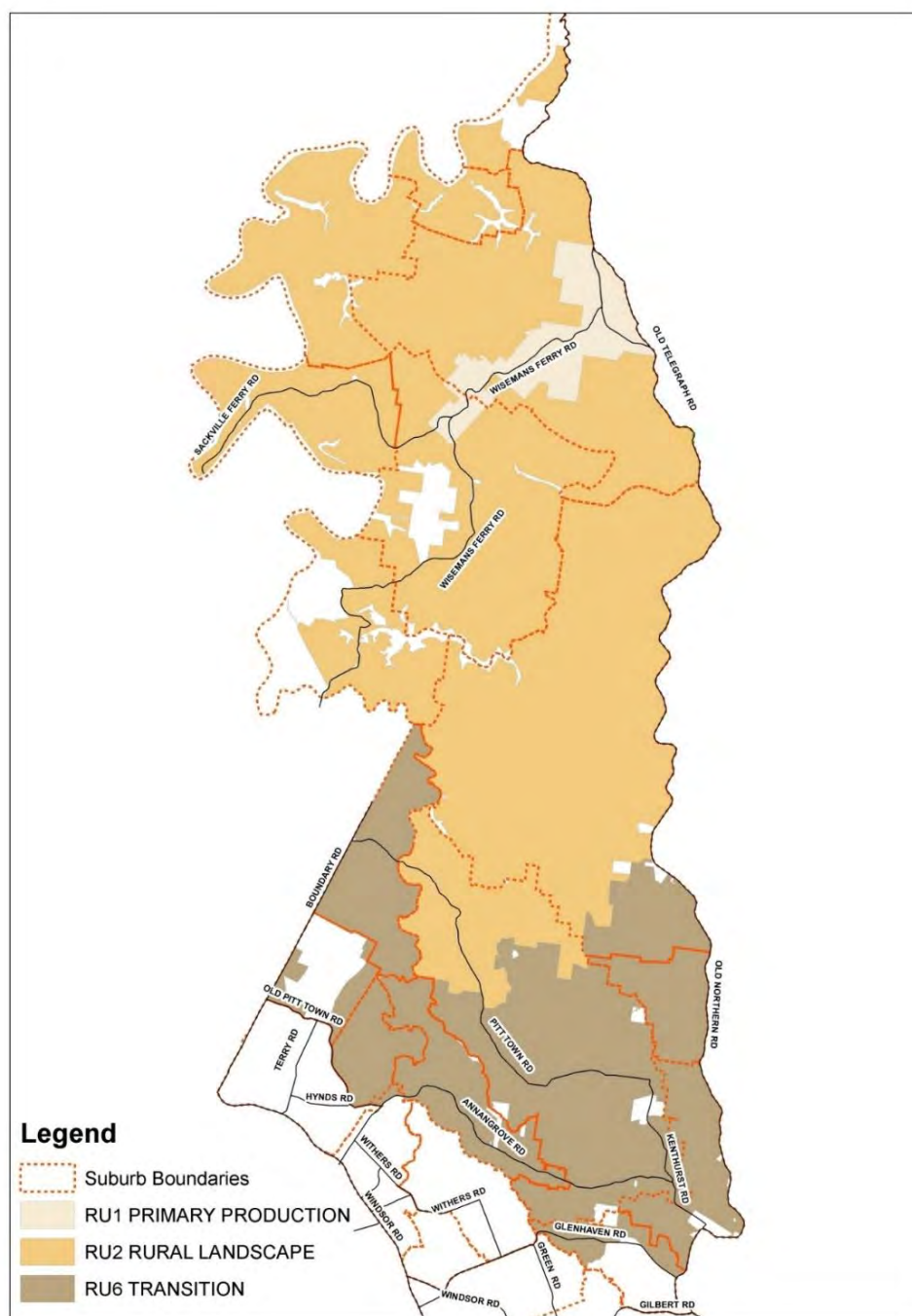


Figure 1
Map of the Shire's Rural Zones

b) Pre-condition for Agritourism Uses – Commercial Farm

The new and revised land use terms only apply to commercial farms, which is defined as follows:

Commercial Farm means a farm on which agriculture is undertaken that is—

- (a) on land categorised as farmland under the [Local Government Act 1993](#), section 515, or

(b) a primary production business within the meaning of the [Income Tax Assessment Act 1997](#) of the Commonwealth, or part of a primary production business, including a business that—

- (i) was a primary production business, and
- (ii) has temporarily ceased to be a primary production business because of a natural disaster, including a drought, flood or bush fire.

In the context of the Hills Shire, approximately 5.6% (around 283) of RU1, RU2 and RU6 zoned lots are likely to meet the above requirements and therefore be eligible for agritourism development. This is broken-down further by land use zone in the table below:

	RU1	RU2	RU6	Total
Total number of lots	136	1,632	3,278	5,046
Lots classified as farmland or that have a primary production business	22	63	198	283

Table 2
Breakdown of Lots Likely to be Eligible for Agritourism by Land Use Zone

Accordingly, the potential magnitude of the take-up of these new land use opportunities is fairly limited, simply due to the limited number of lots which would satisfy the above pre-conditions.

c) Summary of Development Approval Pathways

It is noted that the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) currently contains provisions that could potentially enable agritourism land uses to operate at a certain scale (up to 100 visitors) as exempt development in the RU1, RU2 and RU6 zones. In addition, a complying development pathway is available for agritourism developments in the RU1 and RU2 zones.

The opportunity for a complying development pathway may also be excluded for certain sensitive land or where proposed development is not able to meet specified development standards within the SEPP.

It is estimated that of the 283 lots that are likely to meet the definition of commercial farms in the RU1, RU2 and RU6 zones, only around 27.2% could be eligible for a complying development pathway, based on environmental affectations and other constraints identified which preclude the complying development pathway. Complying development pathways may then be further restricted on the remaining lots by some of the specified requirements for complying development such as setbacks from boundaries and setbacks from dwellings on neighbouring land.

It is therefore anticipated that in the majority of cases, future agritourism and farm stay accommodation development will most likely need to go through the standard development application process and be comprehensively assessed against the relevant development controls within The Hills LEP and DCP.

1. PROPOSED AMENDMENTS TO THE HILLS LOCAL ENVIRONMENTAL PLAN

Currently the agritourism group term is permitted with consent within the RU1 Primary Production and RU2 Rural Landscape zones under The Hills LEP 2019. The group term is currently prohibited within the RU6 Transition zone. It is open to Council to consider extending the permissibility of agritourism (including both farm gate premises and farm experience premises) to the RU6 Transition zone.

a) Permissibility in RU6 Transition Zone – Farm Gate Premises

Farm gate premises are defined as follows:

- (a) *means a building or place—*
 - (i) *on a commercial farm, and*
 - (ii) *ancillary to the farm, and*
 - (iii) *used to provide visitors to the farm, on a commercial basis, with agricultural products predominantly from the farm, supplemented by products from other farms in the region, or with services or activities related to the products, including the following—*
 - (A) *processing, packaging and sale of the products, but not the processing of animals,*
 - (B) *the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided,*
 - (C) *tastings or workshops,*
 - (D) *the provision of information or education related to the products, and*
- (b) *includes cellar door premises.*

Examples of the types of uses that would be permitted under this definition include shopfronts with produce tastings, farmgate sales, cooking classes or fruit-picking experiences.

It is recommended that farm gate premises be permitted with consent in the RU6 Transition zone under LEP 2019. The proposed new land use opportunity aligns with Council's policies and objectives for supporting rural productive capacity and tourism activities. It is consistent with the objectives of the zone that seek to encourage innovative and sustainable tourist development, sustainable agriculture and provision of farm produce direct to the public. Allowing for farm gate premises will provide for a wider range of uses ancillary to farming operations beyond currently allowed roadside stalls, cellar door premises or artisan food and drink industries. The permissibility change is considered appropriate as it will enable local growers the opportunity to diversify or supplement their income and facilitate the growth of emerging industries that are ancillary to agriculture.

Notwithstanding the foregoing, consideration also needs to be given to managing the potential impacts of the new land use noting that it is difficult to predict the potential uptake of opportunities and the scale and intensity of operations that may be sought. In this regard suitable measures are suggested to manage potential impacts and assist in the protection of rural and scenic character and the amenity of nearby landowners (refer Section 1(d) and Section 2 of this report).

b) Permissibility in RU6 Transition Zone – Farm Experience Premises

Farm experience premises are defined as follows:

means a building or place—

- (a) on a commercial farm, and*
- (b) ancillary to the farm, and*
- (c) used to provide visitors to the farm, on a commercial basis, with small-scale and low-impact tourist or recreational activities, including the following, but not including motor sports—*
 - (i) horse riding,*
 - (ii) farm tours,*
 - (iii) functions or conferences,*
 - (iv) farm field days.*

It is recommended that farm experience premises *not* be permitted with consent in the RU6 Transition zone under LEP 2019. In this regard, some concern exist around the inclusion of functions and conferences as part of the defined use, noting that the separately defined use, 'function centres', are not currently permitted in the rural zones and historically considerable compliance action has been required to address the impacts of some unauthorised operations of this nature in the RU6 zone.

It is considered prudent to exclude the use in the RU6 Transition zone, noting that the prevailing 2 hectare lot size is smaller than other rural areas in The Shire and is likely to inhibit the ability to manage and mitigate impacts such as noise, traffic, parking and visual impacts. The suggested approach would not preclude ongoing consideration of some of the other activities in the RU6 Transition zone which would fall within this definition, such as horse riding, under the existing permitted and separately defined term recreation facility (outdoor).

c) Permissibility in RU6 Transition Zone – Farm Stay Accommodation

Farm stay accommodation is defined as follows:

means a building or place—

- (a) on a commercial farm, and*
- (b) ancillary to the farm, and*
- (c) used to provide temporary accommodation to paying guests of the farm, including in buildings or moveable dwellings.*

Whilst the definition has been expanded to allow for accommodation in moveable dwellings (such as tents and caravans) in addition to accommodation in buildings, no changes are recommended to the permissibility of farm stay accommodation under LEP 2019, noting it is currently permitted across the RU1 Primary Production, RU2 Rural Landscape and RU6 Transition zones.

A summary of the current and proposed permissibility was previously provided as Table1 in the Executive Summary of this report for reference. It is noted that the proposed permissibility amendments recommended within this report (Sections 1 a), b) and c) above) are consistent with the outcomes contained in Council's previous resolution at its Meeting of 8 March 2022.

d) Optional LEP Clauses

Under the Standard Instrument Local Environmental Plan there are optional clauses that councils may elect to include in their LEP. If an optional clause is adopted, it is to be adopted in the form (and in accordance with any directions) set out in the Standard Instrument. The Department has introduced two new optional clauses for 'Farm Stay Accommodation' and 'Farm Gate Activities' to the Standard Instrument. The clauses set out a range of considerations for

the assessment of development applications and also allow for the addition of local objectives and development standards.

This report recommends that both clauses be introduced to The Hills LEP 2019 to assist the assessment of any development applications, as detailed below.

Clause 5.25 - Farm Gate Premises

(1) *The objectives of this clause are as follows—*

- (a) *to allow for tourism and related commercial uses on land used principally for primary production at a scale that does not adversely affect the principal use of the land for primary production,*
- (b) *to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses.*

(2) *Development consent must not be granted to development for the purposes of farm gate premises on land unless the consent authority has considered—*

- (a) *whether the development will result in noise or pollution that will have a significant adverse impact on the following on or near the land—*
 - (i) *residential accommodation,*
 - (ii) *primary production operations,*
 - (iii) *other land uses, and*
- (b) *whether the development will have a significant adverse impact on the following on or near the land—*
 - (i) *the visual amenity or heritage or scenic values,*
 - (ii) *native or significant flora or fauna,*
 - (iii) *water quality,*
 - (iv) *traffic,*
 - (v) *the safety of persons, and*
- (c) *whether the development is on bush fire prone land or flood prone land, and*
- (d) *the suitability of the land for the proposed development, and*
- (e) *the compatibility of the development with nearby land uses.*

It is recommended that the above local provision be introduced within The Hills LEP. The proposed clause, if adopted, would apply to any development applications for farm gate premises where they are permitted under LEP 2019, being the RU1 Primary Production, RU2 Rural Landscape and RU6 Transition zones.

The objectives of the clause complement the objectives of the rural zones that seek to encourage primary production as well as innovative and sustainable tourist development, agriculture and provision of farm produce direct to the public. The range of considerations will also assist in ensuring future development is suitable for the land and surrounding locality and has due regard to potential impacts in terms of rural amenity.

Whilst it is noted that Council previously considered including numeric standards for gross floor area and number of guests into the optional LEP clause for farm gate premises, there is a possibility that such numeric controls could be overly restrictive and may rule out the ability to operate certain activities that fall under the farm gate premises land use term, such as fruit picking. As a result, the Department subsequently amended the optional clause to remove the numeric standards, whilst allowing councils to include development standards if they wish to do so.

Council's recently adopted Economic Growth Plan includes a focus on identifying and promoting agritourism opportunities in the Shire, including farm gate sales, as part of efforts to position the Shire as a destination for business, investment and visitors. Noting that the nature and scope of future agritourism operations is difficult to predict, it is considered appropriate to refrain from using numeric standards in the LEP clause, thereby providing some flexibility and investment confidence for farmers and landowners. This approach would mean that the assessment of future development applications for farm gate premises would be assisted by the range of considerations in proposed clause 5.25 of the LEP, without strict reference to numeric standards on size of buildings or number of guests.

Notwithstanding the above, this report also recommends that The Hills Development Control Plan be amended to introduce new provisions to guide the built form, design and ongoing operation of farm gate premises and mitigate potential impacts on rural character and amenity. Notably, the recommended DCP provisions regulate matters such as maximum site coverage, setbacks, minimum car parking and acoustic impacts. The number of visitors would be assessed on a site-specific basis having regard to considerations such as lot size, neighbouring land uses, on-site car parking capacity, and potential impacts on natural features, rural character and amenity, and the productive capacity of the farm. This is further discussed in Section 2 of this report.

It is considered that these measures strike an appropriate balance between protecting rural amenity, whilst also providing flexibility for landowners and farmers.

Clause 5.24 - Farm Stay Accommodation

(1) *The objectives of this clause are as follows—*

- (a) *to diversify the uses of agricultural land without adversely impacting the principal use of the land for primary production. (mandated objective)*
- (b) *to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses. (mandated objective)*
- (c) *to ensure that development does not have a detrimental impact on the rural character of the locality. (optional – local objective)*

(2) *Development consent must not be granted to development for the purposes of farm stay accommodation on a landholding unless the consent authority is satisfied all buildings or manufactured homes used to accommodate guests on the landholding will be—*

- (a) *on the same lot as an existing lawful dwelling house, or*
- (b) *on a lot of a size not less than the minimum lot size for a dwelling house to be permitted on the lot under an environmental planning instrument applying to the land.*

(3) *Subclause (2) does not apply if the development is a change of use of an existing dwelling to farm stay accommodation.*

(4) *Development consent must not be granted to development for the purposes of farm stay accommodation on land unless the consent authority has considered—*

- (a) *whether the development will result in noise or pollution that will have a significant adverse impact on the following on or near the land—*
 - (i) *residential accommodation,*
 - (ii) *primary production operations,*

- (iii) *other land uses, and*
- (b) *whether the development will have a significant adverse impact on the following on or near the land—*
 - (i) *the visual amenity or heritage or scenic values,*
 - (ii) *native or significant flora or fauna,*
 - (iii) *water quality,*
 - (iv) *traffic,*
 - (v) *the safety of persons, and*
- (c) *whether the development is on bush fire prone land or flood prone land, and*
- (d) *the suitability of the land for the development, and*
- (e) *the compatibility of the development with nearby land uses.*

It is recommended that the above local provision also be introduced within The Hills LEP. The proposed clause, if adopted, would apply to any development applications for farm stay accommodation where they are permitted under LEP 2019, including the RU1 Primary Production, RU2 Rural Landscape and RU6 Transition zones. It is considered that the abovementioned clause will assist in managing any potential impacts of farm stay accommodation and facilitate the continued protection of rural and scenic character and the amenity of nearby landowners. The proposed clause sets appropriate considerations, aligned with the considerations for farm gate premises, that will assist in strengthening and guiding the development assessment process, noting the options now available for farm stay accommodation extend to accommodation in moveable dwellings (such as tents and caravans) to facilitate small scale camping on farms.

While there are mandated objectives in the optional clauses, Council may prepare additional local objectives to supplement core objectives where appropriate, provided that these are not inconsistent with the core objectives, and do not conflict with any relevant State or regional planning guidance. To reinforce that development must complement the rural character, it is recommended that Council include an additional local objective (in addition to the two mandated objectives) within this proposed clause relating to protecting the rural character of the locality (as indicated in the recommended subclause (1)(c) of proposed Clause 5.24)

Clause 5.4 of The Hills LEP 2019 sets controls for miscellaneous permissible uses, including the number of bedrooms in buildings for farm stay accommodation. Under this clause, the size of farm stay accommodation is currently restricted to no more than three (3) bedrooms in buildings (noting this provision does not relate to portable and lightweight temporary shelters provided for farm stay accommodation, such as tents and campervans).

Whilst it is noted that Council previously considered including numeric criteria for gross floor area and number of visitors into the optional LEP clause for farm stay accommodation, there is the possibility that such numeric controls could be overly restrictive and may make the operation of farm stay accommodation unviable for property owners. As a result, the Department subsequently amended the optional clause to remove the numeric standards, whilst allowing councils to include development standards if they wish to do so.

Similar to the approach for farm gate premises above, it is considered appropriate to refrain from using numeric standards in the LEP clause, noting Clause 5.4 already sets a size criterion for accommodation in buildings.

The DCP provides an appropriate mechanism to provide guidance on the maximum number of guests for farm stay accommodation. In this regard it is considered appropriate that the DCP set a cap on the number of guests at 15 at any one time. This is consistent with the cap previously considered by Council and is considered to provide a balance between providing flexibility and appropriately managing potential impacts on rural amenity. It is also noted that

inclusion of this limitation as a DCP requirement would provide sufficient opportunity for Council to consider variations to the control on a case-by-case basis where this could be adequately justified through the Development Application process.

This report recommends that The Hills Development Control Plan be amended to introduce new provisions that seek to regulate the built form, scale and operation for farm stay accommodation. Notably, the recommended DCP provisions establish site coverage and setback requirements, and the maximum number of guests that can be on the landholding at any one time. Such provisions, together with the use only being allowed on land used for primary production or categorised as farmland, will serve to manage, and mitigate any potential impacts on rural amenity. This is further discussed in Section 2 of this report.

2. DRAFT DEVELOPMENT CONTROL PLAN AMENDMENTS

In support of the agritourism reforms, draft amendments are proposed to Part B Section 1 – Rural and Part C Section 1 – Parking of The Hills Development Control Plan (DCP) 2012 to ensure appropriate built forms and development outcomes are achieved and mitigate any potential impacts on rural character and amenity. The proposed DCP amendments have been guided by the Department's Model DCP Clauses for agritourism and having consideration for controls already in force in other comparable local government areas. However, they have been refined and tailored to suit local circumstances.

a) Part B Section 1 – Rural

Chapter 2 of Part B Section 1 – Rural of the DCP currently provides controls relating to site coverage, setbacks, cut and fill, stormwater management and wastewater management that apply to all new development. It is recommended that these existing controls also apply to farm gate premises, farm experiences premises and farm stay accommodation. It is also proposed that a new control be included in this section, relating to building design and material that would apply to all new development and assist in ensuring future development complements and integrates with the existing landscape and scenic values of the area.

It is recommended that a new 'Agritourism and Farm Stay Accommodation' section be introduced within Part B Section 1 – Rural of the DCP. It is proposed that this new section will include controls addressing the following matters:

- Permissibility - reinforcing that the farming activities must satisfy the definition of 'commercial farm' and applications must demonstrate the proposal is ancillary and will not adversely impact the use of the property for primary production.
- Location of buildings – including the design and placement of structures to reduce visual impacts and to maximise energy efficiency.
- Vegetation and landscaping – to minimise visual dominance of development.
- Water supply and potable water – including a requirement for the submission of a water supply and management plan to demonstrate availability for the proposed use.
- Waste Management and Amenities - including guidance that such facilities are appropriate to the rural setting and scale of the development.
- Car parking – areas to be located behind the front building line with the surface to an all-weather standard to mitigate stormwater runoff.
- Access points - to be shared with the existing access to the farm, where possible.
- Ongoing operations – includes a requirement for a management plan for the operation of the activity to be submitted including frequency of operations, maximum number of guests and communication of emergency procedures.

- Noise – including a requirement for a site-specific noise management plan prepared by a suitably qualified person for any activities that may involve a noise generating activity.
- Visitor numbers – For farm stay accommodation a cap of 15 visitors at any one time is proposed, consistent with Council's previous resolution at its Meeting of 8 March 2022 (albeit consideration at that time related to LEP rather than DCP provisions). For farm gate premises and farm experience premises the proposed DCP control provides for consideration on a site-specific basis having regard to factors such as lot size, neighbouring land uses, parking capacity, impacts on productive capacity of the farm, impacts on natural features, rural character and amenity of surrounding residents.

Various administrative amendments are also proposed to this section, including formatting and updating references to new legislation and employment land use zones. A control which restricts the number of animals in animal boarding establishments in the RU6 transition zone in Chapter 11 – Animal Boarding or Training Establishments and Veterinary Hospitals of Part B Section 1 – Rural of the DCP is also proposed to be removed given animal boarding establishments are no longer permitted in the RU6 Transition zone.

The proposed amendments to Part B Section 1 – Rural of The Hills DCP 2012 are provided as Attachment 5 to this report.

b) Part C Section 1 – Parking

Various amendments are proposed to Part C Section 1 – Parking to include minimum on-site parking provisions for farm gate premises, farm stay accommodation and farm experience premises. The proposed amendments to Part C Section 1 – Parking of The Hills DCP 2012 are provided as Attachment 6 to this report.

3. CONCLUSION AND NEXT STEPS

It is considered appropriate to extend the permissibility of the new land use term farm gate premises to the RU6 Transition zone (noting it is already permissible in the RU1 Primary Production zone and RU2 Rural Landscape zone) to enable local growers to diversify or supplement their income and facilitate the growth of emerging industries that are ancillary to agriculture. Additionally, the inclusion of appropriate provisions within Council's LEP for farm stay accommodation and farm gate premises and additional controls in Council's DCP for farm stay accommodation, farm gate premises and farm experience premises is considered to provide a suitable framework for the assessment of the new land use opportunities, striking a balance between flexibility to farmers to operate these activities whilst mitigating any potential impacts on rural character and amenity.

This report recommends that Council initiates its own planning proposal to concurrently amend land use permissibility and include the two optional local clauses provisions alongside draft Development Control Plan amendments, which seek to establish appropriate development controls to manage future agritourism and farm stay accommodation development (having regard to the Department's Model Development Control Plan clauses and a review of controls in force in other comparable local government areas).

Should Council resolve to proceed with the above amendments, a planning proposal would then be prepared by Officers and reported to the Local Planning Panel for advice. Provided the Panel's advice is consistent with the recommendations in this report and Council's resolution, the planning proposal would then be referred to the Department of Planning and Environment for Gateway Determination.

Once the Gateway Determination has been issued, it is anticipated that the planning proposal and the draft amendments to Part B Section 1 – Rural and Part C Section 1 – Parking of The Hills Development Control Plan (DCP) would then be publicly exhibited concurrently for a period of 28 days. The matter would then be reported back to a Council Meeting for further consideration and a decision on whether or not to finalise the Planning Proposal and associated DCP amendments.

ATTACHMENTS

1. Department Guide – Setting up an Agritourism Development (55 pages)
2. Council Report and Minutes – 8 March 2022 (20 pages)
3. Council Report and Minutes - 22 November 2022 (13 Pages)
4. Department's Model DCP Clauses (17 pages)
5. Draft Part B Section 1 – Rural of The Hills Development Control Plan 2012 (42 pages)
6. Draft Part C Section 1 – Parking of The Hills Development Control Plan 2012 (37 pages)

LOCAL PLANNING PANEL – THE HILLS SHIRE COUNCIL

**DETERMINATION OF THE LOCAL PLANNING PANEL ON 13 DECEMBER 2023
– DETERMINATION MADE ELECTRONICALLY**

PRESENT:

Garry Fielding	Chair
Peter Brennan	Expert
Chris Young	Expert
Alan Haselden	Community Representative

DECLARATIONS OF INTEREST:

Nil.

COUNCIL STAFF:

The Panel were briefed by the following Council Staff on 13 December 2023:

Nicholas Carlton	-	Manager - Forward Planning
Janelle Atkins	-	Principal Planner
Jessie Wiseman	-	Strategic Planning Coordinator

**ITEM 1: LOCAL PLANNING PANEL – PLANNING PROPOSAL AND DCP
AMENDMENTS – AGRITOURISM DEVELOPMENTS (FP201)**

COUNCIL OFFICER’S RECOMMENDATION:

1. A Council-initiated planning proposal be forwarded to the Department of Planning and Environment to amend The Hills Local Environmental Plan (LEP) 2019 to:
 - a. Permit ‘farm gate premises’, with consent, in the RU6 Transition zone;
 - b. Introduce the new Standard Instrument Clause 5.24 for ‘farm stay accommodation’ (including a local objective); and
 - c. Introduce the new Standard Instrument Clause 5.25 for ‘farm gate premises’.
2. Draft Amendments to Part B Section 1 – Rural and Part C Section 1 – Parking of The Hills Development Control Plan (DCP) to introduce controls for farm gate premises, farm experience premises and farm stay accommodation, be publicly exhibited for a period of 28 days concurrently with the Planning Proposal.

PANEL’S ADVICE:

1. A Council-initiated planning proposal be forwarded to the Department of Planning and Environment to amend The Hills Local Environmental Plan (LEP) 2019 to:
 - a. Permit ‘farm gate premises’, with consent, in the RU6 Transition zone;
 - b. Introduce the new Standard Instrument Clause 5.24 for ‘farm stay accommodation’ (including a local objective); and
 - c. Introduce the new Standard Instrument Clause 5.25 for ‘farm gate premises’.
2. Draft Amendments to Part B Section 1 – Rural and Part C Section 1 – Parking of The Hills Development Control Plan (DCP) to introduce controls for farm gate premises, farm experience premises and farm stay accommodation, be publicly exhibited for a period of 28 days concurrently with the Planning Proposal.
3. Panel was satisfied that this Planning Proposal has both strategic and site specific merit as outlined in the council officers report

VOTING:
Unanimous

ITEM-1 LOCAL PLANNING PANEL – PLANNING PROPOSAL AND DCP AMENDMENTS – AGRITOURISM DEVELOPMENTS (FP201)**THEME: SHAPING GROWTH****MEETING DATE: 13 December 2023****LOCAL PLANNING PANEL****GROUP: SHIRE STRATEGY****STRATEGIC PLANNING COORDINATOR****AUTHOR: JESSIE WISEMAN****RESPONSIBLE OFFICER: MANAGER – FORWARD PLANNING
NICHOLAS CARLTON****PURPOSE**

This report presents a Council-initiated planning proposal for agritourism development in rural areas to the Local Planning Panel (LPP) for advice, in accordance with Section 2.19 of the *Environmental Planning and Assessment Act 1979*.



Figure 1
Approach to Date and Next Steps

RECOMMENDATION

1. A Council-initiated planning proposal be forwarded to the Department of Planning and Environment to amend The Hills Local Environmental Plan (LEP) 2019 to:
 - a. Permit 'farm gate premises', with consent, in the RU6 Transition zone;
 - b. Introduce the new Standard Instrument Clause 5.24 for 'farm stay accommodation' (including a local objective); and
 - c. Introduce the new Standard Instrument Clause 5.25 for 'farm gate premises'.
2. Draft Amendments to Part B Section 1 – Rural and Part C Section 1 – Parking of The Hills Development Control Plan (DCP) to introduce controls for farm gate premises, farm experience premises and farm stay accommodation, be publicly exhibited for a period of 28 days concurrently with the Planning Proposal.

Proponent	The Hills Shire Council
List of Relevant Strategic Planning Documents	Greater Sydney Region Plan Central City District Plan State Environmental Planning Policies Local Strategic Planning Statement and Supporting Strategies Section 9.1 Ministerial Directions
Political Donation	Not Applicable

1. BACKGROUND

a) NSW Government Agritourism Reforms

The Department of Planning and Environment (the Department) has carried out a number of reforms to the planning system over recent years aimed at supporting agritourism and small-scale agricultural development. Agritourism is a tourism-related experience or product that connects agricultural products, people or places, with visitors to a farm. The State Government's agritourism reforms seek to make it easier for farmers to diversify their income from farming businesses whilst maintaining primary production as the principal use.

In summary the key changes to the planning system under the reforms, that are of relevance to the current proposal include:

- In December 2022 the new land use term 'agritourism' which includes 'farm gate premises' and 'farm experience premises' was introduced to the Standard Instrument Local Environmental Plan. The term was permitted in zones where the 'agriculture' group term was permitted which meant that under The Hills LEP 2019 the new terms were initially permitted in the RU1 Primary Production zone.
- In December 2022 the definition of 'farm stay accommodation' was revised to allow for accommodation in moveable dwellings, including tents and caravans, as well as in buildings. Under The Hills LEP 2019 this land use term is currently permitted in the RU1 Primary Production, RU2 Rural Landscape, RU6 Transition and SP3 Tourist zone and permissibility was not changed by the amendments.
- In December 2022 two optional clauses were introduced to the Standard Instrument LEP for 'farm gate premises' and 'farm stay accommodation' that councils may elect to include in their LEP. However, if adopted, these objectives must be adopted in the form (and in accordance with any directions) set out in the Standard Instrument.
- In December 2022 *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) was revised to introduce and exempt and complying pathways for 'farm experience premises', 'farm gate premises' and 'farm stay accommodation' (subject to certain sensitive land exclusions and meeting specified development standards).
- In August 2023 permissibility changes were made to The Hills LEP 2019 by way of an amending State Environmental Planning Policy to permit 'agritourism' including 'farm gate premises' and 'farm experience premises' in the RU2 Rural Landscape zone.

At the Council Meeting of 28 November 2023, Council considered a report on extending the permissibility of the new agritourism land use terms to the RU6 Transition zone as well as

including the optional LEP clauses for farm stay accommodation and farm gate premises and DCP controls for the new and revised land uses. Council resolved as follows:

1. *Council initiate a Planning Proposal to amend The Hills LEP 2019 to:*
 - a. *Permit farm gate premises, with consent, in the RU6 Transition zone;*
 - b. *Introduce the new Standard Instrument Clause 5.24 for farm stay accommodation (including a local objective); and*
 - c. *Introduce the new Standard Instrument Clause 5.25 for farm gate premises.*
2. *The planning proposal be reported to the Local Planning Panel for advice. Provided the Panel's advice is consistent with the recommendations of this report, it is recommended that the Planning Proposal then be forwarded to the Department of Planning and Environment for Gateway Determination.*
3. *Draft Amendments to Part B Section 1 – Rural (Attachment 5) and Part C Section 1 – Parking (Attachment 6) of The Hills Development Control Plan (DCP) to introduce controls for farm gate premises, farm experience premises and farm stay accommodation, be publicly exhibited for a period of 28 days concurrently with the Planning Proposal.*

A copy of the Council Report and Minute is provided as Attachment 1 to this report, which also includes further information regarding the background and history of the NSW Government's Agritourism Reforms.

2. DESCRIPTION OF PLANNING PROPOSAL

The planning proposal has two components, being:

- a) Listing 'farm gate premises' as a permissible use within the RU6 Transition Zone; and
- b) Adopting standard instrument clauses that relate to 'farm stay accommodation' and 'farm gate premises'.

These are discussed in more detail below.

a) Permissibility Changes

This planning proposal seeks to extend the permissibility of 'farm gate premises' to the RU6 Transition zone. *Farm gate premises* provide visitors to a farm with agricultural products predominantly from the farm or services or activities related to the products. This includes cellar door premises as a separately defined term and includes uses such as shopfronts with produce tastings, farmgate sales, cooking classes or fruit-picking experiences.

The proposed new land use opportunity aligns with Council's policies and objectives for supporting rural productive capacity and tourism activities. It is also consistent with the objectives of the zone that seek to encourage innovative and sustainable tourist development, sustainable agriculture and provision of farm produce direct to the public. Allowing for farm gate premises will provide for a wider range of uses ancillary to farming operations beyond currently allowed roadside stalls, cellar door premises or artisan food and drink industries. The permissibility change is considered appropriate as it will enable local growers the opportunity to diversify or supplement their income and facilitate the growth of emerging industries that are ancillary to agriculture.

This proposed change to permissibility of the use is shown in the following table, in the context of the other relates Agritourism uses in the Shire's rural zones. The permissibility change that would occur through this planning proposal only relates to 'farm gate premises' in the RU6 Transition Zone and is highlighted in grey.

Land Use Terms	Current Permissibility			Proposed Permissibility
	RU1 Primary Production*	RU2 Rural Landscape*	RU6 Transition	RU6 Transition
Agritourism	✓	✓	X	X
Farm Experience Premises	✓	✓	X	X
Farm Gate Premises	✓	✓	X	✓
Farm Stay Accommodation	✓	✓	✓	✓

Table 1

Summary of recommended approach for permissibility

* Note: No changes are proposed to the current permissibility in the RU1 and RU2 zones

b) New Standard Instrument Clauses

This planning proposal also seeks to introduce Standard Instrument Clause 5.24 for farm stay accommodation (including a local objective), as well as Standard Instrument Clause 5.25 for farm gate premises, within The Hills LEP. The clauses set out a range of considerations for the assessment of development applications and allow for the addition of local objectives and development standards. The proposed Standard Instrument clauses, as well as further justification on their inclusion in The Hills LEP, are detailed in Attachment 1 to this report.

While there are mandated objectives in the optional clauses, Council can prepare additional local objectives to supplement core objectives where appropriate, provided that these are not inconsistent with the core objectives, and do not conflict with any relevant State or regional planning guidance. To reinforce that development must complement the rural character, it is recommended that Council include an additional local objective (in addition to the two mandated objectives) within the proposed clause for farm stay accommodation, relating to protecting the rural character of the locality.

3. DRAFT DEVELOPMENT CONTROL PLAN AMENDMENTS

Council has also resolved to progress with supporting amendments to The Hills DCP, to introduce controls for *farm gate premises*, *farm experience premises* and *farm stay accommodation*. The proposed controls seek to complement the permissibility and optional clauses within the LEP and assist in managing the scale and impacts of the new land uses to continue to protect rural and scenic character and the amenity of nearby landowners. Including these controls in the DCP (rather than the LEP) also provides Council with flexibility to revise the controls more expeditiously and responsively at some point in the future if required, should the increased take-up of the new opportunities result in outcomes not anticipated by the current review.

The draft amendments are proposed to Part B Section 1 – Rural and Part C Section 1 – Parking of The Hills Development Control Plan (DCP) 2012 to ensure appropriate built forms and development outcomes are achieved and mitigate any potential impacts on rural character and amenity. The proposed DCP amendments have been guided by the Department's Model DCP Clauses for agritourism and having consideration for controls already in force in other comparable local government areas. However, they have been refined and tailored to suit local circumstances.

While the Local Planning Panel's advice is being sought specifically with respect to the planning proposal (LEP amendments), the proposed amendments to Part B Section 1 – Rural and Part C Section 1 – Parking of The Hills DCP 2012 are included within Attachment 2 and 3 of this report, respectively, for the Panel's information and context.

4. STRATEGIC CONTEXT

a) Greater Sydney Region Plan and Central City District Plan

The Greater Sydney Region Plan and Central City District Plan emphasise the importance of protecting and enhancing the environmental, social and economic values in rural areas. The relevant objectives and planning priorities of these Plans are as follows:

- Objective 24 - Economic sectors are targeted for success.
- Objective 29 – Environmental, social and economic values in rural areas are protected and enhanced.
- Planning Priority C12 – Supporting growth of targeted industry sectors
- Planning Priority C18 – Better managing rural areas.

The Plans seek to support the growth of targeted industry sectors, including the agricultural industry, so that key economic sectors are targeted for success. In particular, the Plans reinforce the need to protect and support agricultural production and mineral resources and articulates that there are agricultural clusters at Maroota, Middle Dural, Galston and Arcadia within the Central City District. However, they do also recognise the importance of providing certainty rural industries and ensuring their operations can continue without encroachment from incompatible land uses.

This planning proposal is consistent with the priorities in these Strategic Plans as it strikes a balance between providing increased opportunities for agritourism developments in the right locations, while also protecting potential land use conflicts and other potential impacts.

b) Section 9.1 Ministerial Directions

Section 9.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) enables the Minister for Planning to issue directions that Councils must address when preparing planning proposals. The planning proposal is consistent with Directions 4.1, 4.2, 4.3, 4.5 and 9.1, as detailed below.

- Ministerial Direction 4.1 – Flooding
- Ministerial Direction 4.2 – Coastal Management
- Ministerial Direction 4.3 – Planning for Bushfire Protection
- Ministerial Direction 4.5 – Acid Sulfate Soils

These biodiversity and resilience/hazards directions establish objectives and requirements to ensure that planning proposals properly consider potential environmental related constraints. In regard to these biodiversity and resilience/hazards directions, it is recognised that the physical attributes of the rural area pose challenges for the growth of agritourism. In particular, steep topography and vegetation cover render some parts of the Shire inaccessible to people or areas are at risk of bushfire or flooding. It is considered that this planning proposal (and associated DCP amendments) strikes an appropriate balance in terms of encouraging agritourism, while also mitigating potential environmental constraints and land use conflicts.

Notwithstanding the above, it is anticipated that in the majority of cases, future agritourism and farm stay accommodation development will most likely need to go through the standard development application process and be comprehensively assessed against the relevant development controls within The Hills LEP and DCP. In this regard the recommended optional LEP clauses for farm stay accommodation and farm gate premises, together with proposed DCP provisions, will assist in providing an appropriate framework for consideration of environmental constraints on a site-by-site basis.

- Ministerial Direction 9.1 – Rural Zones

Ministerial Direction 9.1 Rural Zones seeks to protect the agricultural production value of rural land and requires that any planning proposal not contain provisions that will increase the permissible density of land within a rural zone. This planning proposal seeks to permit farm gate premises in the RU6 Transition zone and introduce a new optional clause for farm gate premises that assists in ensuring future development is suitable for the land and surrounding locality and has due regard to potential impacts in terms of rural amenity. Noting the intention of the Direction and the agritourism reforms is to support rural industries and assist farmers to diversify their income whilst maintaining primary production as the principal use, the proposal is in keeping with the aims and objectives of this Ministerial Direction.

c) State Environmental Planning Policies

As previously discussed, the Department has carried out a number of reforms to the planning system aimed at supporting agritourism and small-scale agricultural development. This has included changes to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* to introduce exempt and complying development pathways for agritourism and related terms. The reforms seek to make it easier for farmers to diversify their income from farming businesses whilst maintaining primary production as the principal use.

The planning proposal is considered to be consistent with the objectives of the Codes SEPP and the associated agritourism reforms as it seeks to encourage the uptake of agritourism activities in appropriate locations within the Shire, where an exempt or complying development pathway may not be available.

The *State Environmental Planning Policy (Primary Production) 2021*, in part, aims to guide the use and development of lands for primary production within NSW. While the SEPP sets consideration for development applications, this planning proposal is in keeping with its main aims and objectives.

d) Local Strategic Planning Statement and Rural Strategy

Council's Local Strategic Planning Statement (LSPS) and supporting Rural Strategy articulate that tourism and rural support services are significant contributors to the functioning of the rural area and the rural economy's success. The Rural Strategy also notes that major components of the Shire's tourism industry are located in or based around the Shire's rural area. Farm-gate sales, farmers' markets, eco-tourist facilities and recreation on the Hawkesbury River combine to offer a rural experience on Sydney's doorstep.

This planning proposal responds to Action 5.2 of Council's LSPS, which requires Council to review planning controls and permissible uses in rural zones to facilitate land uses that will support and serve rural industries and encourage tourism in appropriate locations. It will also give effect to the following relevant planning priorities of LSPS:

- Planning Priority 4 – Retain and manage the Shire's rural productive capacity;
- Planning Priority 5 – Encourage support activities and tourism in rural areas; and

- Planning Priority 16 – Manage and protect the rural/urban interface.

e) Economic Growth Plan

This Planning Proposal is consistent with Council's Economic Growth Plan, which articulates that tourism and other local services that support our rural industries are significant contributors to the functioning of the Shire's rural area and its economic success. The Economic Growth Plan seeks to position and promote The Hills Shire as an attractive destination for business, investment and visitors through a review of Council's Sydney Hills brand identity and the creation and delivery of marketing campaigns. Specifically, it includes actions that require Council to undertake a tourism land use review, as well as identify and promote nature based and agritourism opportunities in the Shire including:

- Boutique value adding.
- Farm gate sales.
- Nature based accommodation and activities next to natural attractions and assets.
- Agritourism opportunities such as farm stays and destination wineries.

5. CONCLUSION AND NEXT STEPS

It is considered appropriate to extend the permissibility of the new land use term 'farm gate premises' to the RU6 Transition zone to enable local growers in these areas to diversify and supplement their income and facilitate their continued operation as well as the growth of emerging industries that are ancillary to agriculture. Additionally, the inclusion of appropriate provisions within Council's LEP for farm stay accommodation and farm gate premises and additional controls in Council's DCP for farm stay accommodation, farm gate premises and farm experience premises will provide a suitable framework for the assessment of the new land use opportunities, providing flexibility to farmers to operate these activities whilst mitigating any potential impacts on rural character and amenity.

This report recommends that the Council-initiated planning proposal be supported by the Local Planning Panel, with the next step for Council officers to forward the proposal to Department of Planning and Environment for Gateway Determination. Once the Gateway Determination has been issued, it is anticipated that the planning proposal and the draft DCP amendments then be publicly exhibited concurrently for a period of 28 days, before then being reported back to Council for further consideration and finalisation.

ATTACHMENTS

1. Council Report and Minute, 28 November 2023) (17 pages)
2. Part B Section 1 – Rural of The Hills Development Control Plan 2012 (42 pages)
3. Part C Section 1 – Parking of The Hills Development Control Plan 2012 (37 pages)

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 28 November 2023

ITEM 4 FURTHER REPORT - AGRITOURISM REFORMS AND DRAFT DEVELOPMENT CONTROL PLAN AMENDMENTS (FP201, FP85)

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

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

532. RESOLUTION

1. Council initiate a Planning Proposal to amend The Hills LEP 2019 to:
 - a. Permit farm gate premises, with consent, in the RU6 Transition zone;
 - b. Introduce the new Standard Instrument Clause 5.24 for farm stay accommodation (including a local objective); and
 - c. Introduce the new Standard Instrument Clause 5.25 for farm gate premises.
2. The planning proposal be reported to the Local Planning Panel for advice. Provided the Panel's advice is consistent with the recommendations of this report, it is recommended that the Planning Proposal then be forwarded to the Department of Planning and Environment for Gateway Determination
3. Draft Amendments to Part B Section 1 – Rural (Attachment 5) and Part C Section 1 – Parking (Attachment 6) of The Hills Development Control Plan (DCP) to introduce controls for farm gate premises, farm experience premises and farm stay accommodation, be publicly exhibited for a period of 28 days concurrently with the Planning Proposal.

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 F De Masi
Clr V Ellis
Clr M Blue
Clr J Brazier
Clr R Boneham
Clr J Cox
Clr R Jethi
Clr Dr M Kasby
Clr Dr B Burton
Clr R Tracey
Clr A Hay OAM

VOTING AGAINST THE MOTION

None

MEETING ABSENT

Clr M Hodges MP

ORDINARY MEETING OF COUNCIL

28 NOVEMBER 2023

ITEM 4 FURTHER REPORT - AGRITOURISM REFORMS AND DRAFT DEVELOPMENT CONTROL PLAN AMENDMENTS (FP201, FP85)**THEME:** Shaping Growth**MEETING DATE:** 28 NOVEMBER 2023

COUNCIL MEETING

GROUP: SHIRE STRATEGY**AUTHOR:** SENIOR TOWN PLANNER

DRAGANA STRBAC

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

This report provides an update on the Department of Planning and Environment's reforms to support agritourism and small-scale agricultural development. As foreshadowed in previous reports to Council on this matter, it considers additional land use zones in which it may be appropriate to permit the new agritourism land use terms as well as associated DCP controls relating to farm stay accommodation, farm gate premises and farm experience premises.

RECOMMENDATION

1. Council initiate a Planning Proposal to amend The Hills LEP 2019 to:
 - a. Permit farm gate premises, with consent, in the RU6 Transition zone;
 - b. Introduce the new Standard Instrument Clause 5.24 for farm stay accommodation (including a local objective); and
 - c. Introduce the new Standard Instrument Clause 5.25 for farm gate premises.
2. The planning proposal be reported to the Local Planning Panel for advice. Provided the Panel's advice is consistent with the recommendations of this report, it is recommended that the Planning Proposal then be forwarded to the Department of Planning and Environment for Gateway Determination
3. Draft Amendments to Part B Section 1 – Rural (Attachment 5) and Part C Section 1 – Parking (Attachment 6) of The Hills Development Control Plan (DCP) to introduce controls for farm gate premises, farm experience premises and farm stay accommodation, be publicly exhibited for a period of 28 days concurrently with the Planning Proposal.

IMPACTS**Financial**

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

ORDINARY MEETING OF COUNCIL

28 NOVEMBER 2023

Strategic Plan - Hills Future

The objective of the Government's agritourism reforms is to support the recovery and resilience of farm businesses and regional economies within New South Wales (NSW). The objectives of the reforms and new land use terms align with Council strategies related to rural productivity, supporting existing businesses and the visitor economy. Establishing permissibility and planning controls within The Hills LEP and DCP will ensure future agritourism opportunities are facilitated and appropriately managed within a robust framework of planning mechanisms, in line with community expectations.

LINK TO HILLS SHIRE PLAN**Strategy:**

5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.

Outcomes:

5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity

LEGISLATIVE CONTEXT

The legislative framework for Planning Proposals which amend a Council's Local Environmental Plan is established within Part 3, Division 3.4 of the Environmental Planning and Assessment Act 1979 (the Act) (Clauses 3.31 to 3.37). This report, in part, seeks a decision of Council as to whether or not to prepare and submit a planning proposal to the Department of Planning and Environment for Gateway Determination in accordance with Sections 3.33 and 3.34 of the Act (following consideration by the Local Planning Panel).

The legislative framework for preparing and amending a Development Control Plan (DCP) is established within Part 3, Division 3.6 of the Environmental Planning and Assessment Act 1979 (the Act) (Clauses 3.41 - 3.46). This report, in part, seeks a decision of Council as to whether or not to progress and publicly exhibit amendments to The Hills Development Control Plan in accordance with Section 3.43 of the Act.

EXECUTIVE SUMMARY

The Department of Planning and Environment (the Department) has carried out a number of reforms to the planning system aimed at supporting agritourism and small-scale agricultural development. Agritourism is a tourism-related experience or product that connects agricultural products, people or places, with visitors to a farm. The State Government's agritourism reforms seek to make it easier for farmers to diversify their income from farming businesses whilst maintaining primary production as the principal use.

Under the Standard Instrument LEP, the term *agritourism* is a 'group term', which encompasses both *farm gate premises* and *farm experience premises*:

- *Farm gate premises* provide visitors to a farm with agricultural products predominantly from the farm or services or activities related to the products. This includes cellar door premises as a separately defined term and includes uses such as shopfronts with produce tastings, farmgate sales, cooking classes or fruit-picking experiences.

TO STRIVE FOR BETTER THINGS

ORDINARY MEETING OF COUNCIL

28 NOVEMBER 2023

- *Farm experience premises* provide visitors to the farm with small-scale and low-impact tourist or recreational activities, including activities such as horse riding, farm tours, functions or conferences, farm field days and school visits.

Farm stay accommodation is not a new term under the Standard Instrument LEP, however as part of the Government reforms the definition was expanded to allow for accommodation in moveable dwellings (such as tents and caravans) in order to facilitate small scale camping on farms. The term *farm stay accommodation* falls under the 'group term' of *tourist and visitor accommodation* within the LEP, rather than the new *agritourism* group term. The Department have prepared a guide called 'Setting up an Agritourism Business' to provide general information about the planning requirements to help farmers wishing to establish an agritourism business. A copy of this guide is provided as Attachment 1 to this report.

As set out in the Background section of this report, the potential take-up of agritourism uses is fairly limited within The Shire, given only a small number of operations (around 283 lots or 5.6% of RU1, RU2 and RU6 zoned lots) would appear to meet the definition of a "commercial farm" (being the lots classified as farmland or that have a primary production business), which is necessary pre-condition in order to be eligible to satisfy the land use definition for agritourism uses.

In March 2022, Council considered the reforms and resolved to 'opt-in' to enable the Department to make changes to LEP 2019 that would permit new *agritourism* land uses in certain rural zones and introduce new clauses with numeric criteria to help manage the scale farm stay accommodation and farm gate premises. However, in November 2022, Council had to reconsider the matter as the Department made changes to the proposed agritourism policy reform framework. Having consideration for these changes, Council resolved to withdraw its nomination, and decline to nominate any additional land use zones in LEP 2019 or optional clauses. Instead, it was foreshadowed that a further report would be provided to Council, following further investigation of the implications of the Department's reforms *and* receipt of the full suite of information from the Department which was not available at that time (including the Model Development Control Plan clauses).

Since this time, the Department has released the final Model Development Control Plan clauses for agritourism and has implemented an amending State Environmental Planning Policy (SEPP) which has extended the permissibility of agritourism (farm experience premises and farm gate premises) to the RU2 Rural Landscape zone and RU1 Primary Production zone under The Hills LEP 2019. Accordingly, the only remaining discretionary decision for Council to make with respect to the permissibility of agritourism uses is in the context of the RU6 Transition zone.

This report recommends that Council initiate a planning proposal to permit *farm gate premises* with consent in the RU6 Transition zone in The Hills LEP 2019. It also recommends that Council introduce optional clauses to assist in managing the impacts of farm stay accommodation and farm gate premises (wherever these uses are permitted). Extending the permissibility of farm gate premises to the RU6 Transition zone is considered appropriate to enable local growers to diversify and supplement their income and facilitate the growth of emerging industries that are ancillary to agriculture. It is also consistent with Council's strategic framework for rural lands and economic development and would support rural productive capacity and tourism activities.

It is recommended that the land use term *farm experience premises* (as well as the overarching 'group term' *agritourism*) *not* be permitted with consent in the RU6 Transition zone. The *farm experience premises* definition encompasses a range of activities such as functions and conferences and there is not sufficient certainty that the potential impacts of these more intense uses in terms of noise, traffic, parking and visual amenity could be suitably managed and

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mitigated in the RU6 Transition zone, given the prevailing lot size of 2 hectares in this location is significantly smaller than other rural areas within The Shire.

No changes are recommended to the permissibility of *farm stay accommodation* under The Hills LEP 2019, noting the opportunity to suitably manage the potential impacts of this use through the proposed introduction of the optional LEP clause, together with proposed DCP controls.

It is noted that the proposed amendment to permissibility as recommended within this report is consistent with Council's previous resolution at its Meeting of 8 March 2022 (provided as Attachment 2 to this report for reference). The following table provides a summary of the recommended permissibility for the new and revised land uses in the Shire's rural zones:

Land Use Terms	Current Permissibility			Proposed Permissibility
	RU1 Primary Production*	RU2 Rural Landscape*	RU6 Transition	RU6 Transition
Agritourism	✓	✓	X	X
Farm Experience Premises	✓	✓	X	X
Farm Gate Premises	✓	✓	X	✓
Farm Stay Accommodation	✓	✓	✓	✓

Table 1

Summary of recommended approach for permissibility

* Note: No changes are proposed to the current permissibility in the RU1 and RU2 zones

The Department's final optional clauses for *farm gate premises* and *farm stay accommodation* have removed numeric standards that previously formed part of the clause and were considered by Council. These clauses now contain more general heads of considerations (noise, pollution, visual amenity, flora or fauna, water quality, traffic, safety, bushfire, land suitability and compatibility with nearby uses), rather than specific development standards relating to size of buildings or number of guests. These changes were made by the Department in response to further investigations and feedback from rural landowners, industry and operators following based on which the Department concluded that the previously proposed numeric standards would have been overly restrictive and, in some instances, would rule out the ability to operate certain activities on rural land, such as fruit picking.

It is considered that the revised optional LEP clauses strike a more appropriate balance between providing flexibility for farmers to operate these activities whilst giving sufficient opportunity to consider and mitigate any potential impacts on rural character and amenity as part of the Development Assessment process. It will also enable each application to be considered on its own merits, noting that there is a wide variety of potential agritourism uses and each will have their own unique complexities and characteristics that need to be considered. Accordingly, it is recommended that the optional clauses for *farm gate premises* and *farm stay accommodation* be included within Council's LEP.

This report also recommends that supporting amendments be made to The Hills DCP, to introduce controls for *farm gate premises*, *farm experience premises* and *farm stay accommodation*. The proposed controls seek to supplement the permissibility and optional clauses within the LEP and assist in managing the scale and impacts of the new land uses to continue to protect rural and scenic character and the amenity of nearby landowners. Including these controls in the DCP (rather than the LEP) also provides Council with flexibility to revise the controls more expeditiously and responsively at some point in the future if required, should the increased take-up of the new opportunities result in outcomes not anticipated by the current review.

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BACKGROUND

a) NSW Government Agritourism Reforms

The Department commenced their Agritourism Reforms with the exhibition of an Explanation on Intended Effect in March 2021. In mid-December 2021, a draft amendment to the Standard Instrument Local Environmental Plan was released by the Department that included new definitions for 'agritourism', 'farm gate premises' and 'farm experience premises', a revised definition for 'farm stay accommodation' and optional clauses that would establish several considerations and criteria to control the scale of farm stay accommodation and farm gate premises. At this time, Council was invited to nominate whether to permit these new and amended uses in additional zones, as well as whether to adopt the optional clauses and numerical criteria to be included within these clauses.

At the Council Meeting of 8 March 2022, Council considered a report on this matter and resolved to nominate additional zones to permit the new land use terms and to opt into the new clauses for farm gate premises and farm stay accommodation including specific criteria for maximum gross floor area and maximum number of guests. The specific resolution was as follows:

1. *The RU1 Primary Production and RU2 Rural Landscape zone in LEP 2019 are nominated to permit with consent the new land use terms for agritourism, including farm gate premises and farm experience premises.*
2. *The RU6 Transition zone in LEP 2019 is nominated to permit with consent the new land use term farm gate premises only (with the term farm experience premises and the associated agritourism group term to be prohibited).*
3. *Council opts-in to the inclusion of the new optional clause for farm gate premises in LEP 2019 with the maximum gross floor area capped at 75 square metres and the maximum number of guests capped at 15 at any one time.*
4. *Council opts-in to the inclusion of the new optional clause for farm stay accommodation in LEP 2019 with the maximum gross floor area of buildings capped at 60 square metres and the maximum number of moveable dwellings and associated guests capped at three (3) moveable dwellings and fifteen (15) guests at any one time.*

It is noted that when Council initially considered these changes in March 2022, the optional clauses contained parameters for farm gate premises and farm stay accommodation, including maximum number of guests and gross floor area for farm gate premises and maximum number of guests, gross floor area and number of moveable dwellings for farm stay accommodation.

In June 2022, the Department revised its proposed reforms in response to industry feedback. The key changes included:

- Removal of all numerical standards from the optional LEP clauses (relating to maximum number of guests and gross floor area for farm gate premises and maximum number of guests, gross floor area and number of moveable dwellings for farm stay accommodation); and
- Clarification of exempt and complying development pathways.

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The Department then invited Councils to advise of any adjustment to their previous nomination in light of these changes, including the revised optional clauses. On 22 November 2022, Council resolved to withdraw its previous nomination and decline to nominate any additional land use zones in LEP 2019 or opt-in to the optional clauses for farm gate premises and farm stay accommodation. This was intended to provide the opportunity for Council to consider a further report on this matter and the potential impacts of these uses in the future in the RU6 Transition zone, once the full suite of information was made available by the Department (including Model Development Control Plan clauses). A copy of the previous Council Report and Minute is provided as Attachment 3 to this report.

In August 2023, the Department finalised and released Model Development Control Plan (DCP) Clauses as guidance for local councils to assist in preparing their own respective DCP provisions for agritourism related uses. A copy of the Model DCP Clauses are provided as Attachment 4 to this report. The release of this information from the Department has enabled Council officers to progress with their foreshadowed review and prepare this report to Council for consideration.

For reference, a map of the RU1, RU2 and RU6 zoned areas within The Shire is shown in the following figure.

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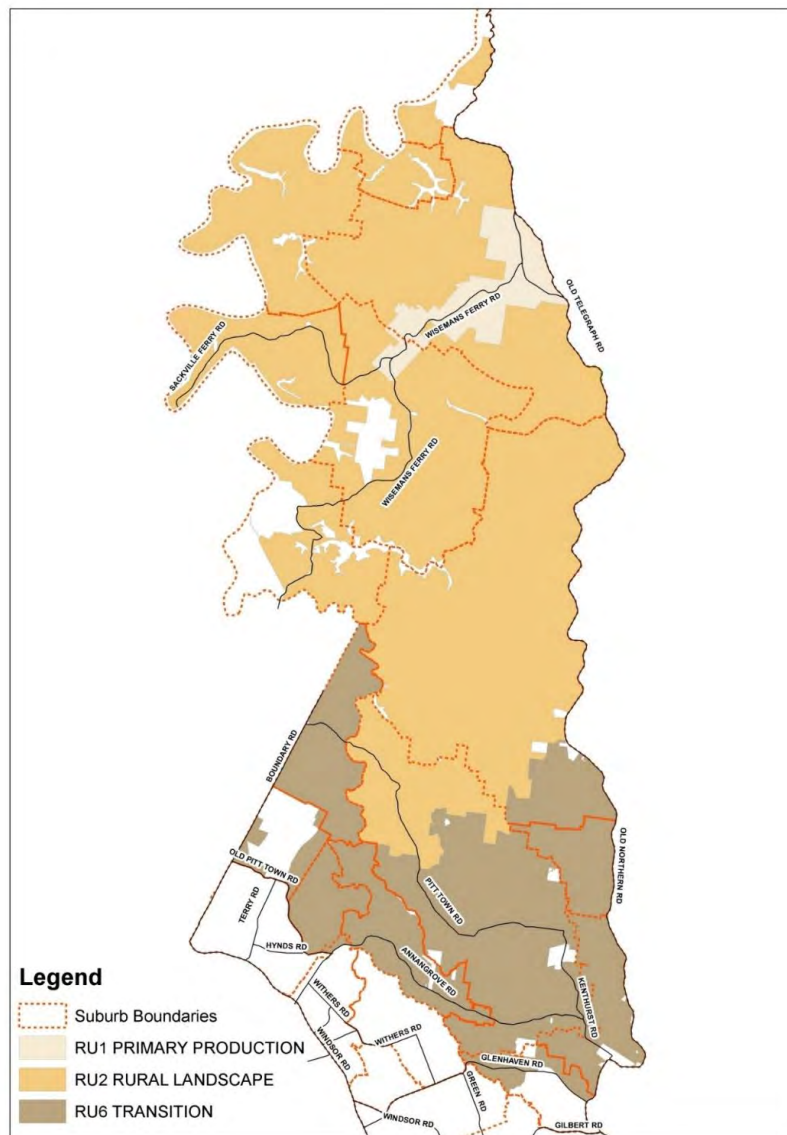


Figure 1
Map of the Shire's Rural Zones

b) Pre-condition for Agritourism Uses – Commercial Farm

The new and revised land use terms only apply to commercial farms, which is defined as follows:

Commercial Farm means a farm on which agriculture is undertaken that is—

- (a) on land categorised as farmland under the [Local Government Act 1993](#), section 515, or

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(b) a primary production business within the meaning of the [Income Tax Assessment Act 1997](#) of the Commonwealth, or part of a primary production business, including a business that—

- (i) was a primary production business, and
- (ii) has temporarily ceased to be a primary production business because of a natural disaster, including a drought, flood or bush fire.

In the context of the Hills Shire, approximately 5.6% (around 283) of RU1, RU2 and RU6 zoned lots are likely to meet the above requirements and therefore be eligible for agritourism development. This is broken-down further by land use zone in the table below:

	RU1	RU2	RU6	Total
Total number of lots	136	1,632	3,278	5,046
Lots classified as farmland or that have a primary production business	22	63	198	283

Table 2

Breakdown of Lots Likely to be Eligible for Agritourism by Land Use Zone

Accordingly, the potential magnitude of the take-up of these new land use opportunities is fairly limited, simply due to the limited number of lots which would satisfy the above pre-conditions.

c) Summary of Development Approval Pathways

It is noted that the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) currently contains provisions that could potentially enable agritourism land uses to operate at a certain scale (up to 100 visitors) as exempt development in the RU1, RU2 and RU6 zones. In addition, a complying development pathway is available for agritourism developments in the RU1 and RU2 zones.

The opportunity for a complying development pathway may also be excluded for certain sensitive land or where proposed development is not able to meet specified development standards within the SEPP.

It is estimated that of the 283 lots that are likely to meet the definition of commercial farms in the RU1, RU2 and RU6 zones, only around 27.2% could be eligible for a complying development pathway, based on environmental affectations and other constraints identified which preclude the complying development pathway. Complying development pathways may then be further restricted on the remaining lots by some of the specified requirements for complying development such as setbacks from boundaries and setbacks from dwellings on neighbouring land.

It is therefore anticipated that in the majority of cases, future agritourism and farm stay accommodation development will most likely need to go through the standard development application process and be comprehensively assessed against the relevant development controls within The Hills LEP and DCP.

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1. PROPOSED AMENDMENTS TO THE HILLS LOCAL ENVIRONMENTAL PLAN

Currently the agritourism group term is permitted with consent within the RU1 Primary Production and RU2 Rural Landscape zones under The Hills LEP 2019. The group term is currently prohibited within the RU6 Transition zone. It is open to Council to consider extending the permissibility of agritourism (including both farm gate premises and farm experience premises) to the RU6 Transition zone.

a) Permissibility in RU6 Transition Zone – Farm Gate Premises

Farm gate premises are defined as follows:

- (a) means a building or place—
 - (i) on a commercial farm, and
 - (ii) ancillary to the farm, and
 - (iii) used to provide visitors to the farm, on a commercial basis, with agricultural products predominantly from the farm, supplemented by products from other farms in the region, or with services or activities related to the products, including the following—
 - (A) processing, packaging and sale of the products, but not the processing of animals,
 - (B) the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided,
 - (C) tastings or workshops,
 - (D) the provision of information or education related to the products, and
- (b) includes cellar door premises.

Examples of the types of uses that would be permitted under this definition include shopfronts with produce tastings, farmgate sales, cooking classes or fruit-picking experiences.

It is recommended that farm gate premises be permitted with consent in the RU6 Transition zone under LEP 2019. The proposed new land use opportunity aligns with Council's policies and objectives for supporting rural productive capacity and tourism activities. It is consistent with the objectives of the zone that seek to encourage innovative and sustainable tourist development, sustainable agriculture and provision of farm produce direct to the public. Allowing for farm gate premises will provide for a wider range of uses ancillary to farming operations beyond currently allowed roadside stalls, cellar door premises or artisan food and drink industries. The permissibility change is considered appropriate as it will enable local growers the opportunity to diversify or supplement their income and facilitate the growth of emerging industries that are ancillary to agriculture.

Notwithstanding the foregoing, consideration also needs to be given to managing the potential impacts of the new land use noting that it is difficult to predict the potential uptake of opportunities and the scale and intensity of operations that may be sought. In this regard suitable measures are suggested to manage potential impacts and assist in the protection of rural and scenic character and the amenity of nearby landowners (refer Section 1(d) and Section 2 of this report).

b) Permissibility in RU6 Transition Zone – Farm Experience Premises

Farm experience premises are defined as follows:

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means a building or place—

- (a) *on a commercial farm, and*
- (b) *ancillary to the farm, and*
- (c) *used to provide visitors to the farm, on a commercial basis, with small-scale and low-impact tourist or recreational activities, including the following, but not including motor sports—*
 - (i) *horse riding,*
 - (ii) *farm tours,*
 - (iii) *functions or conferences,*
 - (iv) *farm field days.*

It is recommended that farm experience premises *not* be permitted with consent in the RU6 Transition zone under LEP 2019. In this regard, some concern exist around the inclusion of functions and conferences as part of the defined use, noting that the separately defined use, 'function centres', are not currently permitted in the rural zones and historically considerable compliance action has been required to address the impacts of some unauthorised operations of this nature in the RU6 zone.

It is considered prudent to exclude the use in the RU6 Transition zone, noting that the prevailing 2 hectare lot size is smaller than other rural areas in The Shire and is likely to inhibit the ability to manage and mitigate impacts such as noise, traffic, parking and visual impacts. The suggested approach would not preclude ongoing consideration of some of the other activities in the RU6 Transition zone which would fall within this definition, such as horse riding, under the existing permitted and separately defined term recreation facility (outdoor).

c) Permissibility in RU6 Transition Zone – Farm Stay Accommodation

Farm stay accommodation is defined as follows:

means a building or place—

- (a) *on a commercial farm, and*
- (b) *ancillary to the farm, and*
- (c) *used to provide temporary accommodation to paying guests of the farm, including in buildings or moveable dwellings.*

Whilst the definition has been expanded to allow for accommodation in moveable dwellings (such as tents and caravans) in addition to accommodation in buildings, no changes are recommended to the permissibility of farm stay accommodation under LEP 2019, noting it is currently permitted across the RU1 Primary Production, RU2 Rural Landscape and RU6 Transition zones.

A summary of the current and proposed permissibility was previously provided as Table1 in the Executive Summary of this report for reference. It is noted that the proposed permissibility amendments recommended within this report (Sections 1 a), b) and c) above) are consistent with the outcomes contained in Council's previous resolution at its Meeting of 8 March 2022.

d) Optional LEP Clauses

Under the Standard Instrument Local Environmental Plan there are optional clauses that councils may elect to include in their LEP. If an optional clause is adopted, it is to be adopted in the form (and in accordance with any directions) set out in the Standard Instrument. The Department has introduced two new optional clauses for 'Farm Stay Accommodation' and 'Farm Gate Activities' to the Standard Instrument. The clauses set out a range of considerations for

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the assessment of development applications and also allow for the addition of local objectives and development standards.

This report recommends that both clauses be introduced to The Hills LEP 2019 to assist the assessment of any development applications, as detailed below.

Clause 5.25 - Farm Gate Premises

(1) *The objectives of this clause are as follows—*

- (a) *to allow for tourism and related commercial uses on land used principally for primary production at a scale that does not adversely affect the principal use of the land for primary production,*
- (b) *to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses.*

(2) *Development consent must not be granted to development for the purposes of farm gate premises on land unless the consent authority has considered—*

- (a) *whether the development will result in noise or pollution that will have a significant adverse impact on the following on or near the land—*
 - (i) *residential accommodation,*
 - (ii) *primary production operations,*
 - (iii) *other land uses, and*
- (b) *whether the development will have a significant adverse impact on the following on or near the land—*
 - (i) *the visual amenity or heritage or scenic values,*
 - (ii) *native or significant flora or fauna,*
 - (iii) *water quality,*
 - (iv) *traffic,*
 - (v) *the safety of persons, and*
- (c) *whether the development is on bush fire prone land or flood prone land, and*
- (d) *the suitability of the land for the proposed development, and*
- (e) *the compatibility of the development with nearby land uses.*

It is recommended that the above local provision be introduced within The Hills LEP. The proposed clause, if adopted, would apply to any development applications for farm gate premises where they are permitted under LEP 2019, being the RU1 Primary Production, RU2 Rural Landscape and RU6 Transition zones.

The objectives of the clause complement the objectives of the rural zones that seek to encourage primary production as well as innovative and sustainable tourist development, agriculture and provision of farm produce direct to the public. The range of considerations will also assist in ensuring future development is suitable for the land and surrounding locality and has due regard to potential impacts in terms of rural amenity.

Whilst it is noted that Council previously considered including numeric standards for gross floor area and number of guests into the optional LEP clause for farm gate premises, there is a possibility that such numeric controls could be overly restrictive and may rule out the ability to operate certain activities that fall under the farm gate premises land use term, such as fruit picking. As a result, the Department subsequently amended the optional clause to remove the numeric standards, whilst allowing councils to include development standards if they wish to do so.

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Council's recently adopted Economic Growth Plan includes a focus on identifying and promoting agritourism opportunities in the Shire, including farm gate sales, as part of efforts to position the Shire as a destination for business, investment and visitors. Noting that the nature and scope of future agritourism operations is difficult to predict, it is considered appropriate to refrain from using numeric standards in the LEP clause, thereby providing some flexibility and investment confidence for farmers and landowners. This approach would mean that the assessment of future development applications for farm gate premises would be assisted by the range of considerations in proposed clause 5.25 of the LEP, without strict reference to numeric standards on size of buildings or number of guests.

Notwithstanding the above, this report also recommends that The Hills Development Control Plan be amended to introduce new provisions to guide the built form, design and ongoing operation of farm gate premises and mitigate potential impacts on rural character and amenity. Notably, the recommended DCP provisions regulate matters such as maximum site coverage, setbacks, minimum car parking and acoustic impacts. The number of visitors would be assessed on a site-specific basis having regard to considerations such as lot size, neighbouring land uses, on-site car parking capacity, and potential impacts on natural features, rural character and amenity, and the productive capacity of the farm. This is further discussed in Section 2 of this report.

It is considered that these measures strike an appropriate balance between protecting rural amenity, whilst also providing flexibility for landowners and farmers.

Clause 5.24 - Farm Stay Accommodation

(1) *The objectives of this clause are as follows—*

- (a) *to diversify the uses of agricultural land without adversely impacting the principal use of the land for primary production. (mandated objective)*
- (b) *to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses. (mandated objective)*
- (c) *to ensure that development does not have a detrimental impact on the rural character of the locality. (optional – local objective)*

(2) *Development consent must not be granted to development for the purposes of farm stay accommodation on a landholding unless the consent authority is satisfied all buildings or manufactured homes used to accommodate guests on the landholding will be—*

- (a) *on the same lot as an existing lawful dwelling house, or*
- (b) *on a lot of a size not less than the minimum lot size for a dwelling house to be permitted on the lot under an environmental planning instrument applying to the land.*

(3) *Subclause (2) does not apply if the development is a change of use of an existing dwelling to farm stay accommodation.*

(4) *Development consent must not be granted to development for the purposes of farm stay accommodation on land unless the consent authority has considered—*

- (a) *whether the development will result in noise or pollution that will have a significant adverse impact on the following on or near the land—*
 - (i) *residential accommodation,*
 - (ii) *primary production operations,*

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- (iii) other land uses, and
- (b) whether the development will have a significant adverse impact on the following on or near the land—
 - (i) the visual amenity or heritage or scenic values,
 - (ii) native or significant flora or fauna,
 - (iii) water quality,
 - (iv) traffic,
 - (v) the safety of persons, and
- (c) whether the development is on bush fire prone land or flood prone land, and
- (d) the suitability of the land for the development, and
- (e) the compatibility of the development with nearby land uses.

It is recommended that the above local provision also be introduced within The Hills LEP. The proposed clause, if adopted, would apply to any development applications for farm stay accommodation where they are permitted under LEP 2019, including the RU1 Primary Production, RU2 Rural Landscape and RU6 Transition zones. It is considered that the abovementioned clause will assist in managing any potential impacts of farm stay accommodation and facilitate the continued protection of rural and scenic character and the amenity of nearby landowners. The proposed clause sets appropriate considerations, aligned with the considerations for farm gate premises, that will assist in strengthening and guiding the development assessment process, noting the options now available for farm stay accommodation extend to accommodation in moveable dwellings (such as tents and caravans) to facilitate small scale camping on farms.

While there are mandated objectives in the optional clauses, Council may prepare additional local objectives to supplement core objectives where appropriate, provided that these are not inconsistent with the core objectives, and do not conflict with any relevant State or regional planning guidance. To reinforce that development must complement the rural character, it is recommended that Council include an additional local objective (in addition to the two mandated objectives) within this proposed clause relating to protecting the rural character of the locality (as indicated in the recommended subclause (1)(c) of proposed Clause 5.24)

Clause 5.4 of The Hills LEP 2019 sets controls for miscellaneous permissible uses, including the number of bedrooms in buildings for farm stay accommodation. Under this clause, the size of farm stay accommodation is currently restricted to no more than three (3) bedrooms in buildings (noting this provision does not relate to portable and lightweight temporary shelters provided for farm stay accommodation, such as tents and campervans).

Whilst it is noted that Council previously considered including numeric criteria for gross floor area and number of visitors into the optional LEP clause for farm stay accommodation, there is the possibility that such numeric controls could be overly restrictive and may make the operation of farm stay accommodation unviable for property owners. As a result, the Department subsequently amended the optional clause to remove the numeric standards, whilst allowing councils to include development standards if they wish to do so.

Similar to the approach for farm gate premises above, it is considered appropriate to refrain from using numeric standards in the LEP clause, noting Clause 5.4 already sets a size criterion for accommodation in buildings.

The DCP provides an appropriate mechanism to provide guidance on the maximum number of guests for farm stay accommodation. In this regard it is considered appropriate that the DCP set a cap on the number of guests at 15 at any one time. This is consistent with the cap previously considered by Council and is considered to provide a balance between providing flexibility and appropriately managing potential impacts on rural amenity. It is also noted that

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inclusion of this limitation as a DCP requirement would provide sufficient opportunity for Council to consider variations to the control on a case-by-case basis where this could be adequately justified through the Development Application process.

This report recommends that The Hills Development Control Plan be amended to introduce new provisions that seek to regulate the built form, scale and operation for farm stay accommodation. Notably, the recommended DCP provisions establish site coverage and setback requirements, and the maximum number of guests that can be on the landholding at any one time. Such provisions, together with the use only being allowed on land used for primary production or categorised as farmland, will serve to manage, and mitigate any potential impacts on rural amenity. This is further discussed in Section 2 of this report.

2. DRAFT DEVELOPMENT CONTROL PLAN AMENDMENTS

In support of the agritourism reforms, draft amendments are proposed to Part B Section 1 – Rural and Part C Section 1 – Parking of The Hills Development Control Plan (DCP) 2012 to ensure appropriate built forms and development outcomes are achieved and mitigate any potential impacts on rural character and amenity. The proposed DCP amendments have been guided by the Department's Model DCP Clauses for agritourism and having consideration for controls already in force in other comparable local government areas. However, they have been refined and tailored to suit local circumstances.

a) Part B Section 1 – Rural

Chapter 2 of Part B Section 1 – Rural of the DCP currently provides controls relating to site coverage, setbacks, cut and fill, stormwater management and wastewater management that apply to all new development. It is recommended that these existing controls also apply to farm gate premises, farm experiences premises and farm stay accommodation. It is also proposed that a new control be included in this section, relating to building design and material that would apply to all new development and assist in ensuring future development complements and integrates with the existing landscape and scenic values of the area.

It is recommended that a new 'Agritourism and Farm Stay Accommodation' section be introduced within Part B Section 1 – Rural of the DCP. It is proposed that this new section will include controls addressing the following matters:

- Permissibility - reinforcing that the farming activities must satisfy the definition of 'commercial farm' and applications must demonstrate the proposal is ancillary and will not adversely impact the use of the property for primary production.
- Location of buildings – including the design and placement of structures to reduce visual impacts and to maximise energy efficiency.
- Vegetation and landscaping – to minimise visual dominance of development.
- Water supply and potable water – including a requirement for the submission of a water supply and management plan to demonstrate availability for the proposed use.
- Waste Management and Amenities - including guidance that such facilities are appropriate to the rural setting and scale of the development.
- Car parking – areas to be located behind the front building line with the surface to an all-weather standard to mitigate stormwater runoff.
- Access points - to be shared with the existing access to the farm, where possible.
- Ongoing operations – includes a requirement for a management plan for the operation of the activity to be submitted including frequency of operations, maximum number of guests and communication of emergency procedures.

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- Noise – including a requirement for a site-specific noise management plan prepared by a suitably qualified person for any activities that may involve a noise generating activity.
- Visitor numbers – For farm stay accommodation a cap of 15 visitors at any one time is proposed, consistent with Council's previous resolution at its Meeting of 8 March 2022 (albeit consideration at that time related to LEP rather than DCP provisions). For farm gate premises and farm experience premises the proposed DCP control provides for consideration on a site-specific basis having regard to factors such as lot size, neighbouring land uses, parking capacity, impacts on productive capacity of the farm, impacts on natural features, rural character and amenity of surrounding residents.

Various administrative amendments are also proposed to this section, including formatting and updating references to new legislation and employment land use zones. A control which restricts the number of animals in animal boarding establishments in the RU6 transition zone in Chapter 11 – Animal Boarding or Training Establishments and Veterinary Hospitals of Part B Section 1 – Rural of the DCP is also proposed to be removed given animal boarding establishments are no longer permitted in the RU6 Transition zone.

The proposed amendments to Part B Section 1 – Rural of The Hills DCP 2012 are provided as Attachment 5 to this report.

b) Part C Section 1 – Parking

Various amendments are proposed to Part C Section 1 – Parking to include minimum on-site parking provisions for farm gate premises, farm stay accommodation and farm experience premises. The proposed amendments to Part C Section 1 – Parking of The Hills DCP 2012 are provided as Attachment 6 to this report.

3. CONCLUSION AND NEXT STEPS

It is considered appropriate to extend the permissibility of the new land use term farm gate premises to the RU6 Transition zone (noting it is already permissible in the RU1 Primary Production zone and RU2 Rural Landscape zone) to enable local growers to diversify or supplement their income and facilitate the growth of emerging industries that are ancillary to agriculture. Additionally, the inclusion of appropriate provisions within Council's LEP for farm stay accommodation and farm gate premises and additional controls in Council's DCP for farm stay accommodation, farm gate premises and farm experience premises is considered to provide a suitable framework for the assessment of the new land use opportunities, striking a balance between flexibility to farmers to operate these activities whilst mitigating any potential impacts on rural character and amenity.

This report recommends that Council initiates its own planning proposal to concurrently amend land use permissibility and include the two optional local clauses provisions alongside draft Development Control Plan amendments, which seek to establish appropriate development controls to manage future agritourism and farm stay accommodation development (having regard to the Department's Model Development Control Plan clauses and a review of controls in force in other comparable local government areas).

Should Council resolve to proceed with the above amendments, a planning proposal would then be prepared by Officers and reported to the Local Planning Panel for advice. Provided the Panel's advice is consistent with the recommendations in this report and Council's resolution, the planning proposal would then be referred to the Department of Planning and Environment for Gateway Determination.

ORDINARY MEETING OF COUNCIL**28 NOVEMBER 2023**

Once the Gateway Determination has been issued, it is anticipated that the planning proposal and the draft amendments to Part B Section 1 – Rural and Part C Section 1 – Parking of The Hills Development Control Plan (DCP) would then be publicly exhibited concurrently for a period of 28 days. The matter would then be reported back to a Council Meeting for further consideration and a decision on whether or not to finalise the Planning Proposal and associated DCP amendments.

ATTACHMENTS

1. Department Guide – Setting up an Agritourism Development (55 pages)
2. Council Report and Minutes – 8 March 2022 (20 pages)
3. Council Report and Minutes - 22 November 2022 (13 Pages)
4. Department's Model DCP Clauses (17 pages)
5. Draft Part B Section 1 – Rural of The Hills Development Control Plan 2012 (42 pages)
6. Draft Part C Section 1 – Parking of The Hills Development Control Plan 2012 (37 pages)

TO STRIVE FOR BETTER THINGS

ATTACHMENT 2

The Hills Development Control Plan (DCP) 2012

www.thehills.nsw.gov.au

THE
HILLS
Sydney's Garden Shire



Part B Section 1
Rural

B1

In Force 4 May 2018

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INTRODUCTION

LAND TO WHICH THIS SECTION OF THE PLAN APPLIES

This section applies to the land within the following zones or any additional land where rural or agricultural land uses are permissible:

RU6 – Transition	RU2 – Rural Landscape
RU1 – Primary Production	RU3 – Forestry
SP3 – Tourist	W2 – Recreational Waterways
EC2 – Environmental Conservation	Land zoned RE2 Private Recreation at 74 O'Briens Road, Cattai (Riverside Oaks Golf Course)

It should be noted that whilst this section applies to the abovementioned zones, not all land uses covered by this section are permissible in all of these zones.

Part 2: Extractive Industries also applies to those lands identified in [Section 3.9 of State Environmental Planning Policy \(Resources and Energy\) 2021](#) ~~Sydney Regional Environmental Plan No 9 – Extractive Industry (No 2 – 1995)~~, refer to ~~figure~~ Part 2, Figure ~~7~~ 9.

AIM

The aim of this section is to ensure that rural development is compatible with the capability of land, has regard to the natural environment, scenic qualities and rural character and contributes to the social and economic wellbeing of the rural area.

WHAT IS RURAL CHARACTER?

The rural part of the Shire is the land beyond the urban edge and its character can vary from setting to setting and means different things to people depending on a range of things such as background, age or where they live that relates to the appearance, economic and social structure of rural communities.

Beyond the more populated areas it provides an important backdrop to the urban areas and rural villages. In general, it is a relatively undeveloped place, with a natural look that could be described as unplanned and non-uniform. In terms of its physical characteristics, it is agricultural activities, large land parcels, low scale dwellings, farm sheds and natural scenic beauty.

Within the Shire rural character is made up of activities such as 'lifestyle' housing, market gardens, cropping orchards, sand mining, horses, animal grazing, houses and outbuildings, vegetation, rolling hills, creeks, gullies, wetlands, rural enterprises and tourism.

Being so close to the urban fringe, the Shire has seen somewhat of a shift away from rural agricultural to more rural lifestyle in some areas where people enjoy the qualities of the area that make it rural with open spaces and countryside and a close community within the rural villages.

STATEMENT OF OUTCOMES AND DEVELOPMENT CONTROLS

Development in the rural areas is generally guided by Statements of Outcomes and Development Controls. In some specific circumstances potential variations to a development control due to such matters as slope or existing building location, are identified to allow flexibility in the application of the control where the variation sought would meet the outcome to be achieved. Other variations may be considered as part of a merit assessment and would be evaluated against the Statement of Outcome for that control.

In addition to those policies, guidelines and documents specified in the *Introduction*, this Rural Part of the DCP is to be read in conjunction with other relevant Parts relating to:

- *Dual Occupancy*
- *Business*
- *Landscaping*
- *Parking*
- *Heritage*
- *Flood Controlled Land*
- *Signage*

PART 1: GENERAL DEVELOPMENT

1. Site Planning

A. General Controls Applying to Rural Subdivision

STATEMENT OF OUTCOMES

- New lots are usable parcels that avoid multiple access points, maintain the scenic and rural character of the Shire and have regard to environmentally sensitive areas.
- New lots have dimensions that maintain the scenic and rural character of the Shire.
- New lots have sufficient area for the erection of a dwelling and associated structures, free of topographic constraints or restrictions.
- New public roads cater to rural traffic movements and allow for dual carriageways
- Waste water and effluent areas are appropriately sized and located to have minimal impact on the environment.

DEVELOPMENT CONTROLS

General Controls	
Minimum Lot Width (For lots fronting a public road)	60m at the building line
Minimum Lot Dimensions for Residential Development at Riverside Oaks Golf Course	Minimum width of 15 metres x minimum depth of 30 metres.
Building Platforms	Minimum size 15m by 20m
All rural development	Must not be sited on slopes greater than 20% or on prominent ridgelines
Riverside Oaks Golf Course	Minimum size 10 metres x 15 metres
New Public Road Construction Width	20m
Minimum area for wastewater and effluent disposal areas	1,000m ²
Wastewater and effluent disposal areas	Refer to Section 2 - New Development for requirements
Riverside Oaks Golf Course	
Building Platforms	Minimum size 10 metres x 15 metres
Minimum Lot Dimensions for Residential Development	Minimum width of 15 metres x minimum depth of 30 metres.

VARIATIONS

- a) Battle-axe lots may be considered on merit based on site constraints. Minimum access widths are set out below:

Number of lots to be accessed	Minimum access widths
One lot	6.0 metre wide access handle with the construction of a 3.0 metre wide all-weather pavement
2 to 4 lots	6.0 metre wide access handle with the construction of a 3.0 metre wide all-weather pavement and suitable passing bays
Greater than 4 lots	Public road required

Note: Refer Council's Subdivision Design Guidelines for specification detail.

B. Additional Controls: Subdivision in Maraylya, Box Hill and Nelson

STATEMENT OF OUTCOMES

- Subdivision outcomes in Maraylya, Box Hill and Nelson reflect orderly development outcomes that utilise existing roads, have regard to site constraints and minimise development impacts on environmentally sensitive areas and important vegetation corridors such as those strategically identified in the Constrained Land Layer.

DEVELOPMENT CONTROLS

General controls	
Constrained Land Layer	Development areas must be clear of the Constrained Land Layer shown in Figure 1
Front setback for land adjacent to Boundary Road (within Maraylya, Box Hill and Nelson Precincts)	50m
New Public Roads	New public roads should be located in accordance with those in Figure 1
Land adjacent to Boundary Road (within Maraylya, Box Hill and Nelson Precincts)	
Front Setback	50m

Notes:

- The Constrained Land Layer is comprised of:
 - Land with a slope of 20% or more
 - Watercourses
 - High conservation corridors
 - Riparian corridors for creek categories 2 and above (Strahler method of ordering watercourses)
 - The 1 in 100 year flood extent from the Hawkesbury River
- To help guide future changes an indicative layout plan for Maraylya, Box Hill and Nelson Precinct based on 2 hectare subdivision potential and the future road pattern is also shown in Figure 1. It is a general illustration of what might be achieved only and does not in any way guarantee Council approval of a Development Application based on this layout.
- The Box Hill North Precinct was zoned for urban development on 20 February 2015. Site specific development controls for this area are contained in Part D Section 17 of the Development Control Plan.

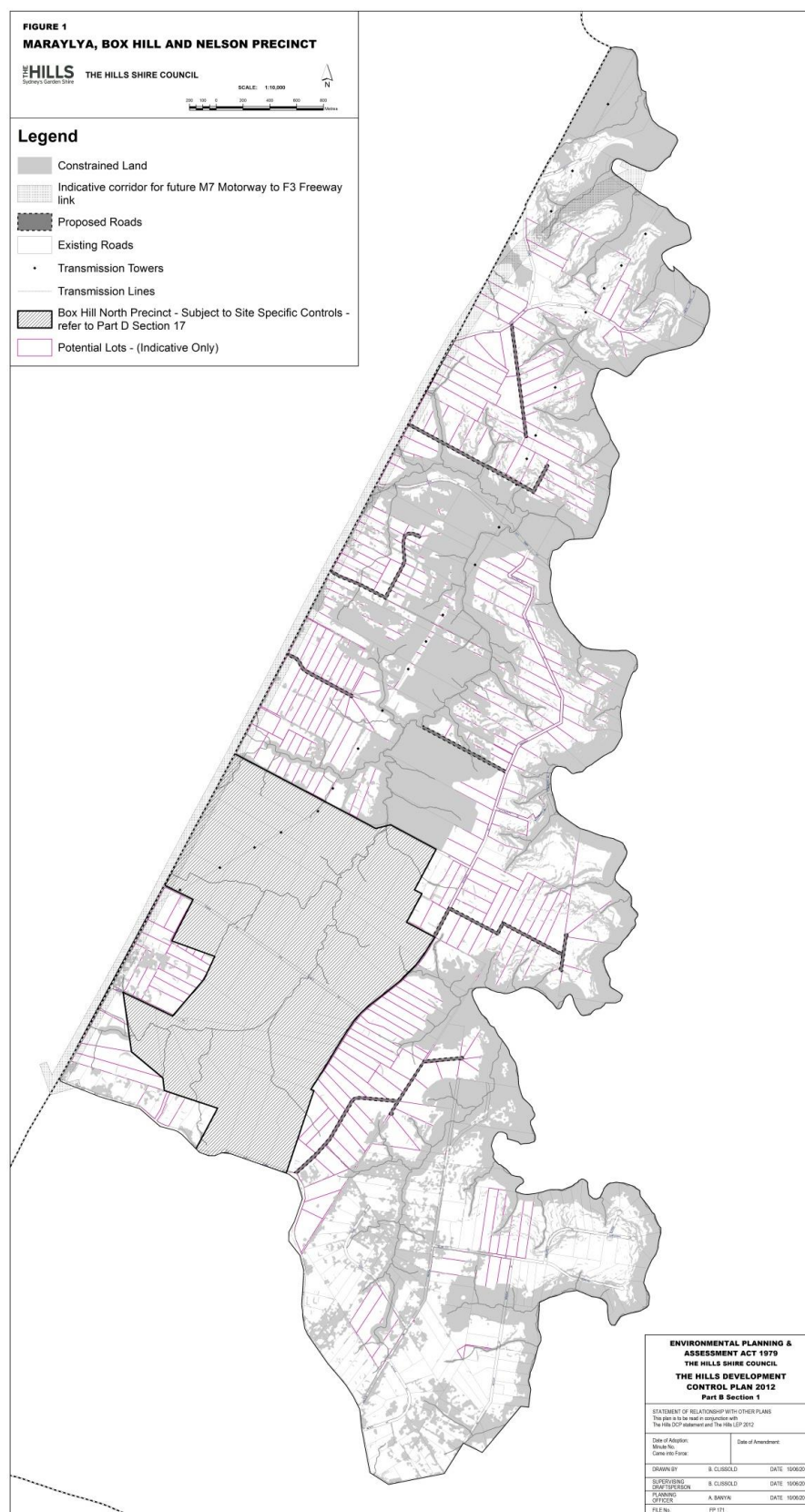


Figure 1: Maraylya, Nelson and Box Hill Precincts

Additional Controls: Rural Cluster Subdivision

STATEMENT OF OUTCOMES

- Rural cluster subdivision maintains the scenic and rural character of the Shire and minimises environmental impacts and bushfire hazards.
- Access to and within the site (including access to the association property) is safe and convenient for all users and maintains the open rural feel of the area.
- Rural cluster subdivision ensures existing environmental and biodiversity values are maintained or improved through effective ongoing management.

DEVELOPMENT CONTROLS

General Controls	
Site Layout	<p>Lots must be clustered and grouped (Refer Figure 2)</p> <p>A minimum of 3 development lots (excluding the association property) are to be provided</p> <p>Lot location and arrangement must consider both ecological constraints and bushfire risk</p>
Site Access	<p>Vehicular access must be via a common driveway with secondary access to individual dwellings (Refer Figure 2)</p>
Association Property	<p>Minimum 60% of site area</p> <p>All lots must have direct access to the association property (Refer Figure 2)</p>
Vegetation Management Plan	<p>A Vegetation Management Plan shall demonstrate the subdivision will ensure the protection of the landscape, biodiversity and rural setting of the land</p> <p>Environmental management measures must demonstrate:</p> <ul style="list-style-type: none"> • The same or greater biodiversity values on the site will be retained after subdivision • Natural creek lines are protected from increased nutrient loads and weed infestation, and • High biodiversity features including threatened ecological communities, populations, species and their habitats are maintained

Note: Refer Council's Vegetation Management Plan Guidelines for detailed guidelines on content and requirements.

VARIATIONS

- a) Site Access: Separate access to individual dwellings from an existing public road may be considered where a single common driveway is not achievable due to site constraints or where necessary to facilitate emergency access for emergency services.

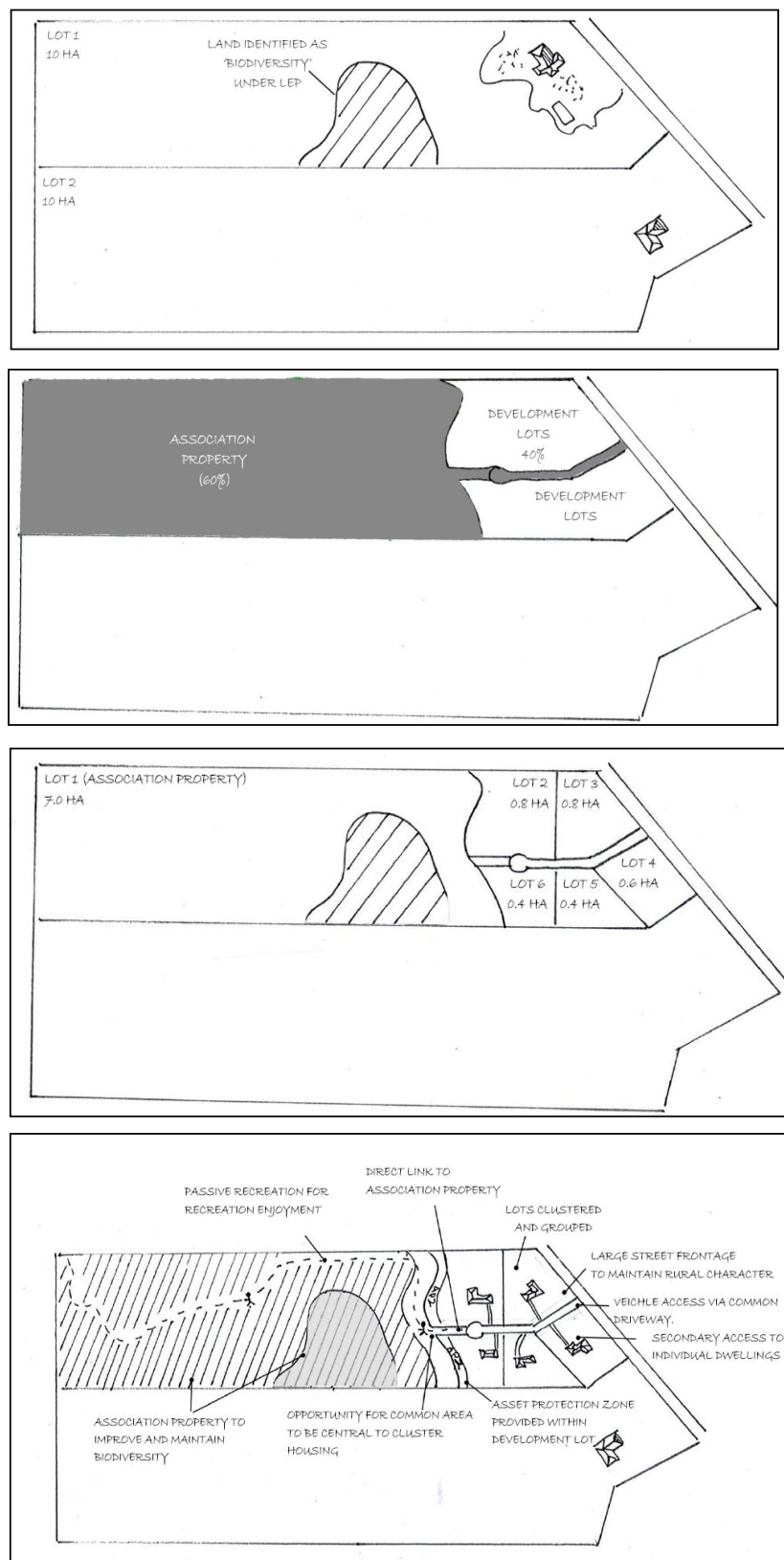


Figure 2: Rural Cluster Subdivision – Key Principles

2. New Development

STATEMENT OF OUTCOMES

- The scale, siting and visual appearance of new development maintains the open rural feel of the landscape and preserves scenic and environmental qualities of the area.
- The location of new rural/ residential development is to have regard to the potential impacts arising from existing adjacent rural business activities.

DEVELOPMENT CONTROLS

Maximum Site Coverage* (refer note)	
Lots greater than 10 hectares in size	25% of the land area; or 5,000m ² , whichever is the lesser
Lots between 2 and 10 hectares in size	15% of the site area; or 2,500m ² , whichever is the lesser
Lots less than 2 hectares in size	50% of the site area; or 2,500m ² , whichever is the lesser
Residential Development at Riverside Oaks Golf Course	Two storey dwellings: 60% of the site area Single storey dwellings: 65% of the site area
Minimum Setbacks	
Lots fronting a classified road	30m
Lots fronting any other road	10m
Side and rear setbacks	5m
Side setback for a residential dwelling adjacent to a lot where intensive plant agriculture, intensive livestock agriculture, rural industry, plant nursery or other approved rural activity	40m
Side and rear setback associated with agricultural produce industry, agritourism , animal boarding or training establishments, community facilities, farm-stay accommodation , recreation facilities, places of public worship, landscape material supplies, garden centres, plant nurseries, intensive plant agriculture or veterinary hospitals	5m for parking or manoeuvring areas (excluding any existing kerb crossings or driveways to be retained) 15m for any structure or area (including storage, display, or loading areas)
Roadside stalls and boundary fencing	Nil
Development adjacent to the Hawkesbury River	30m
Front setback for land adjacent to Boundary Road (within Maraylya, Box Hill and Nelson Precinct)	50m
Setbacks for Residential Development in Riverside Oaks Golf Course	Setback to access road: 4.5m Secondary access road (corner allotments): 2m Garages: 5.5m Side boundaries: 0.9m Rear boundary setback: (a) 1 storey: 4m (b) 2 storey element: 6m

General Controls	
Building Design & Materials	<p>The building design and materials should complement and integrate with the existing landscape including scenic values.</p> <ul style="list-style-type: none"> Recessive earthy tones which are less reflective are preferred. Suitable earth toned colours include slate, deep grey, deep browns and varying shades of green that complement the natural environment. Where highly reflective colours or surfaces are chosen for energy efficiency purposes, the application shall demonstrate how the development will not have an adverse visual impact to the local character of the area
Front Fences	<p>1.8m maximum height</p> <p>Must be of open style and not be of solid masonry or solid panel construction</p>
Cut and Fill	<ul style="list-style-type: none"> Cut shall not exceed 1m and fill shall not exceed 600mm. Filling of land is to only be in conjunction with an approved land use or legitimate rural activity such as horse riding. Fill shall be limited to the use of Virgin Excavated Material as defined under the <i>Protection of the Environment Operations Act 1997</i>
Stormwater Management	<p>Stormwater management arrangements are to demonstrate there are no impacts to adjoining lots, watercourses or existing native bushland</p>
Salinity (refer note)	<p>Development proposed in areas where there is a known salinity hazard must incorporate appropriate management responses</p>
Wastewater and Effluent Disposal Areas	<p>Proposals must demonstrate sufficient area is available for any proposed on-site sewerage management and effluent disposal areas. Proposals must ensure compliance with Council's applicable Local Approvals Policy.</p> <p>Wastewater and effluent disposal areas must be located on land that meets the following locational criteria:</p> <p>40m from a dam or intermittent watercourse 100m from a permanent water course 6m from a structure, property boundary or native vegetation Not on slope greater than 15% Soil depth greater than 300mm</p>
Lighting	<p>Any lighting must not cause a detrimental impact on the amenity of adjoining properties and shall comply with AS 4282 - Control of the obtrusive effects of outdoor lighting.</p>

Notes:

- a) Site coverage includes areas containing dwellings, outbuildings, ancillary items (such as pools, manoeuvring areas, garages and the like). For the avoidance of doubt, the following is included within site coverage for specific uses:

Use/Activity	Inclusions in Calculation of Site Coverage:
<i>Agricultural produce industries</i>	<i>All structures associated with the activity on site, all storage areas (including all indoor or outdoor storage areas for produce, machinery or vehicles) as well as all loading, parking or manoeuvring areas and any associated dwellings, outbuildings, hard-surface areas or ancillary items</i>
<i>Agritourism, animal boarding or training establishments, community facilities, recreation facilities, places of public worship, landscape material supplies, garden centres and plant nurseries and veterinary hospitals</i>	<i>All structures associated with the activity on site and any outdoor areas utilised by the activity (either frequently or infrequently including storage and/or display areas)* as well as all loading, parking and manoeuvring areas and any associated dwellings, outbuildings, hard-surface areas, fenced in areas or ancillary items</i>

**For agritourism, natural surface areas that are utilised by an activity such as orchards and plantations will not be included for the purposes of calculating site coverage.*

- b) Some areas within Box Hill, Nelson and Rouse Hill are affected by salinity. Applicants in these areas should contact Council's Environmental Health Team to determine if a site is identified as having a known salinity hazard.

VARIATIONS

- a) Variations to site coverage may be permitted where light weight structures (such as gazebos and tents) are proposed as part of a rural enterprise development.

3. Dwellings

STATEMENT OF OUTCOMES

- Dwellings, including attached dual occupancies and secondary dwellings should fit within the rural setting of the rural landscape while providing for a residential lifestyle.
- Driveways have sufficient width to accommodate safe access to and from properties.
- Residential developments have a high standard of aesthetic quality and amenity for both occupants and surrounding residents.

DEVELOPMENT CONTROLS

General Controls	
Front elevations	Must not be greater than 50% of the street frontage if the lot is sited on a public road
Minimum width access driveways	4m
Water supply	Sites that do not have access to reticulated water must provide a minimum water supply of 80,000 litres for domestic purposes
Secondary Dwellings and Attached Dual Occupancies	
Construction Materials	Secondary dwellings or attached dual occupancies shall be constructed of the same material of the existing dwelling. Existing dwellings may be renovated to match the proposed external materials of the new dwelling
Structures not permitted	The use of temporary buildings and moveable structures as secondary dwellings is not acceptable. This includes but are not limited to the following:

	<ul style="list-style-type: none"> • Demountable buildings • Portable modular buildings • Portable modular cabins and sheds • Caravans • Shipping containers
Additional controls	Refer to Dual Occupancy Section of the DCP

4. Rural Sheds

STATEMENT OF OUTCOMES

- Rural sheds do not detract from the scenic and environmental qualities of the rural area and maintain the amenity of surrounding residents.

DEVELOPMENT CONTROLS

Size* (refer notes)		
Maximum gross floor area	Zone	
	RU1 and RU2	RU6
	500m ²	300m ²
General Controls		
Landscaping	Where a shed is setback less than 10m from an adjoining side or rear property boundary landscape screening with a width of 2m must be provided	

Notes:

- The maximum accumulative building footprint of all sheds on an individual allotment shall not exceed the maximum allowable floor area.
- Where there is an inconsistency between the size of a shed and overall site coverage of development on a site, the site coverage control shall override.

5. Tennis Courts

STATEMENT OF OUTCOMES

- Tennis courts do not impact on the amenity of surrounding development.

DEVELOPMENT CONTROLS

General Controls	
Landscaping screening to boundaries	Dense landscaping must be incorporated into side and rear setbacks to screen the court from the view of adjoining properties
Fencing	Must be green or black mesh
Lighting	Shall not emit light spill outside the property boundary

6. Agriculture & Rural Industries

STATEMENT OF OUTCOMES

- Agriculture, aquaculture and rural industries are sensitive to adjoining land uses and minimise noise, odour and visual impacts.

DEVELOPMENT CONTROLS

General Controls	
Acoustic/noise impacts	Proposals must demonstrate they will not give rise to offensive noise as defined in the Protection of the Environment Operations Act and complies with the NSW Industrial Noise Policy Noise Policy for Industry.
Odour and dust impacts	Proposals must demonstrate that appropriate measures will be undertaken to reduce the impacts of odours and dust on adjoining properties
Intensive Plant Agriculture, and Rural Industries and Agritourism	
Landscape screening to boundaries	Dense Landscape screening with a minimum depth of 3 metres must be incorporated into all boundary setbacks to effectively screen the development from adjoining property boundaries

7. Agritourism and Farm Stay Accommodation**STATEMENT OF OUTCOMES**

- Agritourism development and farm stay accommodation complement the agricultural use of the land.
- Agritourism land uses and farm stay accommodation are ancillary to a commercial farm and do not constrain or adversely affect the agricultural activities on the property or on adjacent lands.
- Agritourism land uses and farm stay accommodation are of low scale and compatible with the rural character and heritage of the property.
- Agritourism land uses and farm stay accommodation minimise impacts on adjoining properties, the natural environment and visitor safety.
- The number of visitors is appropriately managed to address cumulative effects of traffic on roads.

DEVELOPMENT CONTROLS

General Controls	
Permissibility	The farming activities on the subject site must satisfy the definition of a 'commercial farm' in The Hills LEP. Information must be submitted with the Development Application demonstrating that the use satisfies the criteria to be categorised as a "commercial farm".
Location	
Location of Buildings	<p>The design and placement of buildings, structures and moveable dwellings should be sited to reduce visual bulk and tree removal, where possible</p> <p>Placement and design of buildings must not interrupt the skyline of any major ridges or hilltops when viewed from main roads, public reserves, scenic points or other housing areas</p> <p>Buildings shall be climate responsive and oriented to maximise energy efficiency</p>
Vegetation and Landscaping	
Landscaping	Landscaping should be used to minimise the physical and visual dominance of development, including any car parking and vehicle circulation areas, and should include plants native to the local area

Additional Controls	Refer Part C Section 3 – Landscaping.
Water Supply and Management	
Water Supply	<p>Where the site is not connected to reticulated water, a water supply and management plan is to demonstrate adequate potable water supply, both quality (in accordance with the NSW Private Water Supply Guidelines) and quantity, is available for the proposed use</p> <p>Details of the water supply system, including tank locations and capacity must be submitted with the development application</p> <p>This water supply is to be in addition to water required for firefighting purposes</p> <p>Development is not to adversely impact existing water supplies for residential and primary production uses on the landholding</p>
Hazards	
Flood Prone Land	Refer Part C Section 6 – Flood Controlled Land
Waste Management	
Waste	<p>Refer Clause 2.22 Waste Management – Storage and Facilities in Part B Section 6 – Business</p> <p>Waste management must be appropriate to the rural setting of the property and scale of the development or activity</p>
Traffic, Access and Parking	
Location of Parking	Car parking areas should be located behind the front building line and should not form a visually prominent element of the rural landscape or be highly visible from the road frontage
Parking Surface	The surface of car parking areas must be permeable to an all-weather standard to mitigate stormwater runoff
Access Points	Where possible, access should be shared with any existing access to the farm to minimise environmental, traffic and character impacts
Minimum Car Parking Spaces and Car Parking Design	Refer Part C Section 1 – Parking
Signage	
Signage	Refer Part C Section 2 – Signage
Ongoing Operations	
Operational information	<p>A management plan for the ongoing operation is to provide:</p> <ol style="list-style-type: none"> a description of the development to be carried out on the property a map of where the development will be on the property, relevant dimensions and key features on the land the proposed frequency of operation of the farm gate premises, farm experience premises or farm stay accommodation the maximum number of guests at any one time for the farm gate premises, farm

	<p>experience premises or farm stay accommodation, and how this will be monitored</p> <p>e. how key information and emergency requirements will be communicated to guests</p>
Noise	<p>A site-specific noise management plan is to be prepared by an appropriately qualified person in accordance with the NSW EPA 'Noise Policy for Industry' and submitted with any development application for agritourism and farm stay accommodation that may involve a noise generating activity. The plan must:</p> <ol style="list-style-type: none"> include an acoustic assessment that quantifies existing background noise levels and outlines all expected noise generating activities including traffic movements determine appropriate noise trigger levels and where an activity is predicted to exceed that level, it should identify all feasible and reasonable mitigation measures <p>The use of fireworks, helicopters and/or other comparable activities known to cause disturbance to livestock and/or farming activities is not permitted</p>
Amenities	The number of toilets to be provided must be appropriate to the rural setting and scale of the activity
Farm Stay Accommodation	
Guest Numbers	The maximum number of guests (to the farm stay accommodation) that will be permitted on the landholding at any one time will not be more than 15 persons
Farm Gate Premises and Farm Experience Premises	
Visitor and Event Numbers	<p>The maximum number of visitors and events that will be permitted will be considered on a site-specific basis and have regard to the following factors:</p> <ul style="list-style-type: none"> lot size neighbouring land uses on-site car parking capacity servicing requirements potential impacts on the productivity capacity of the farm potential impacts on natural features potential impacts to rural character and amenity of surrounding residents

8. Landscape Material Supplies, Garden Centres & Plant Nurseries

STATEMENT OF OUTCOMES

- Rural business premises such as landscaping material supplies or garden centres/plant nurseries do not impact on the amenity of surrounding development.
- Rural businesses have a high aesthetic quality and maintain the scenic value of the rural landscape.

DEVELOPMENT CONTROLS

General Controls	
Landscaping screening to boundaries	Dense landscape screening must be incorporated into side and rear setbacks to effectively screen the development from adjoining property boundaries
Acoustic	Where a proposal is likely to have noise impacts to surrounding properties measures must be taken to reduce impacts
Odour and dust control	Proposals must demonstrate that appropriate measures will be undertaken to reduce the impacts of odours and dust on adjoining properties
Bulk storage bins	Shall not be located in any setback area
Covering of loads (trucks)	Prior to leaving sites all laden trucks are to have their payloads fully covered by suitable material to prevent spillage from the trucks onto roads and adjoining properties

9. Tourist Facilities, Restaurants & Cafes**STATEMENT OF OUTCOMES**

- Tourist facilities, restaurants and cafes ~~and reception establishments~~ minimise impacts on the rural streetscape and adjoining land uses.
- Tourist facilities are directly accessible from a public road.

DEVELOPMENT CONTROLS

General Controls	
Car parking areas in front setback	Car parking may be forward of the building setback when a minimum 5m width landscaping buffer is provided to the front boundary of the site
Additional controls	Refer to Business Section of the DCP
Tourist Facilities	
Access	Must have direct access to a public road

Note: Tourist facilities include 'bed and breakfast accommodation', 'camping grounds', 'caravan parks' and 'eco-tourist facilities'.

10. Community Facilities, Recreation Facilities and Places of Public Worship**STATEMENT OF OUTCOMES**

- Community facilities, recreation facilities and places of public worship do not impact on the amenity of surrounding development or character of the rural area.

DEVELOPMENT CONTROLS

General Controls	
Acoustic/noise impacts	Proposals must demonstrate they will not give rise to offensive noise as defined in the <i>Protection of the Environment Operations Act</i> and shall comply with the NSW Industrial Noise Policy Noise Policy for Industry.

Waste	Development shall comply with the objectives and controls of Clause 2.22 Waste Management – Storage and Facilities in Part B Section 6 - Business of this DCP
Landscaping screening to boundaries	Dense landscape screening with a minimum depth of 3 metres must be incorporated into side and rear setbacks to effectively screen the development from adjoining property boundaries
Places of Public Worship	
Hours of operation	Proponents must provide detailed information with respect to the proposed hours of operation. This should include everyday activities as well as the frequency of special events including any proposed bell ringing and maximum number of people attending these events

11. Animal Boarding or Training Establishments and Veterinary Hospitals

STATEMENT OF OUTCOMES

- Animal boarding or training establishments and veterinary hospitals are sensitive to adjoining land uses and minimise noise, odour and visual impacts.
- Animal boarding or training establishments do not impact on the amenity of surrounding development or character of the rural area.

DEVELOPMENT CONTROLS

General Controls	
Odour	Proposals must demonstrate that they will not give rise to offensive odour as defined in the Protection of the Environment Operations Act. All proposals must demonstrate that appropriate measures will be undertaken to reduce the impacts of odours on adjoining properties
Waste	Development shall comply with the objectives and controls of Clause 2.22 Waste Management – Storage and Facilities in Part B Section 6 - Business of this DCP
Acoustic/noise impacts	Proposals must demonstrate they will not give rise to offensive noise as defined in the Protection of the Environment Operations Act and shall comply with the NSW Industrial Noise Policy Noise Policy for Industry. For boarding kennels and the like, an acoustic assessment shall have regard to any permanent acoustic mitigation measures proposed (not including landscaping) and be modelled based on a Sound Power Level of 86 dB per dog, allowing for a worst case scenario of all dogs continuously barking for a 15 minute period
Landscaping screening to boundaries	Dense landscape screening with a minimum depth of 3 metres must be incorporated into side and rear setbacks to effectively screen the development from adjoining property boundaries
Wastewater treatment	Where development is not connected to the reticulated sewer system the establishment shall have a separate

	wastewater treatment system that shall adequately treat wash-down water from the animal holding areas. Appropriate controls are required to prevent animal hair/fur entering the system. The system shall be adequately sized to allow for buffering of any disinfectants that may be used. Where the property is connected to the sewer system, animal wash-down water is to be drained to the reticulated sewer in accordance with Sydney Water requirements
Animal Boarding or Training Establishments	
Maximum number of dogs boarded on-site	6 dogs per hectare of site area at any one time up to a maximum of 30 dogs in total
Maximum number of animals (including dogs) boarded on any site within RU6 Transition zone	30 animals at any one time
Hours of operation	Customer pick-up and drop-off shall be limited to between 8:00am and 4:00pm. Animals must be contained to an indoor enclosure between 7:00pm and 7:00am Monday to Friday and 7:00pm to 8:00am on weekends and public holidays
Veterinary Hospitals	
Location of lodging areas	All animal lodging areas shall be located internally and used only for temporary or short-term lodging associated with medical procedures administered on-site

12. Water Storage Facilities (Dams, Weirs, Reservoirs)

STATEMENT OF OUTCOMES

- Water storage facilities do not have an adverse impact on the environment or residential amenity.

DEVELOPMENT CONTROLS

General Controls	
Location relative to effluent disposal areas	Shall not be located within 40m of an effluent disposal area

Note: Some development may have additional requirements under the Water Management Act 2000 and the Dams Safety Act ~~1978~~ 2015.

13. Development adjoining or in the visual catchment of the Hawkesbury River

STATEMENT OF OUTCOMES

- Nearby development does not detract from the scenic qualities of the Hawkesbury River.

DEVELOPMENT CONTROLS

General Controls	
Location of buildings	Buildings on land adjoining the river or within the visual catchment of the river shall be located so that the ridgeline is below the top of the escarpment or setback

	20m from the top of the escarpment as shown in Figure 3
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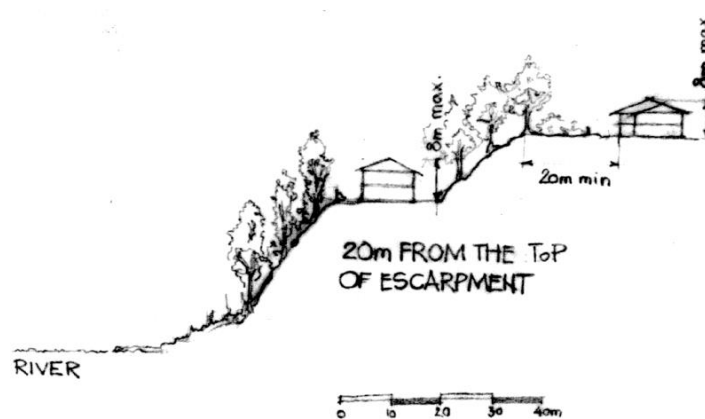


Figure 3: Location of buildings in relation to the top of the escarpment

14. Restricted Development Areas (Kenthurst)

STATEMENT OF OUTCOMES

- Areas of particular environmental significance in Kenthurst locality are protected from development.

DEVELOPMENT CONTROLS

General Controls	
Restricted Development Area	<p>Development, other than bushfire hazard reduction, on land identified as a Restricted Development Area in Refer Figure 4 is prohibited. In these areas, development includes:</p> <ul style="list-style-type: none"> • the erection of a fence on the land • the removal of soil or rock from the land • the deposit of soil, rock and any other matter on the land • the destruction or removal of any tree or other vegetation on the land.

~~Note: Development, other than bushfire hazard reduction, is prohibited in restricted development areas. In these areas, development includes:~~

- ~~• the erection of a fence on the land~~
- ~~• the removal of soil or rock from the land~~
- ~~• the deposit of soil, rock and any other matter on the land~~
- ~~• the destruction or removal of any tree or other vegetation on the land.~~



Figure 4: Restricted Development Areas (Kenthurst)

15. Land at 2 Schwebel Lane, Glenorie

The site specific outcomes and controls apply where development is for the purpose of a concrete batching plant/landscape supplies and associated uses.

STATEMENT OF OUTCOMES

- To ensure the aesthetic character, streetscape and residential amenity of Glenorie Village is maintained.
- To make provisions for substantial landscaping to maintain and enhance the aesthetic qualities of the site and provide a visual barrier between the site, public roads, adjoining land uses and Glenorie Village
- To ensure safe vehicular access to the site
- To minimise the level of noise transmitted to adjoining land uses.

DEVELOPMENT CONTROLS

General Controls	
Setbacks and Landscaping	<p>Setbacks are to be in accordance with Figure 5</p> <p>Where indicated on Figure 5 setbacks are to be landscaped at sufficient densities so that an effective visual barrier is achieved</p>
Materials	External building materials must not utilise metal-siding systems, masonry block work and textured or highly patterned brickwork
Access	All vehicular access to the site is to be from Schwebel Lane and be as far as practicable from the intersection of Old Northern Road and Schwebel Lane
Noise Transmission	<p>The equivalent continuous energy average (LAeq) emanating from the site measured over a 15-minute period shall not exceed the background noise level by more than 5dB</p> <p>This is to be assessed at the most affected point on or within the residential boundary and any other noise sensitive receivers such as schools in the vicinity of the subject site</p> <p>Where the background noise level plus 5dB exceeds 45dB(A), then the LAeq emanating from the site shall not exceed the acceptable noise levels specified in the Noise Guide for Local Government or the NSW Industrial Noise Policy Noise Policy for Industry</p> <p>A landscaped earth mound or other noise attenuation device shall be constructed within the setback adjacent to the southern property boundary as shown Figure 5</p> <p>Noise attenuation must be achieved without compromising the landscape objective of this plan</p>

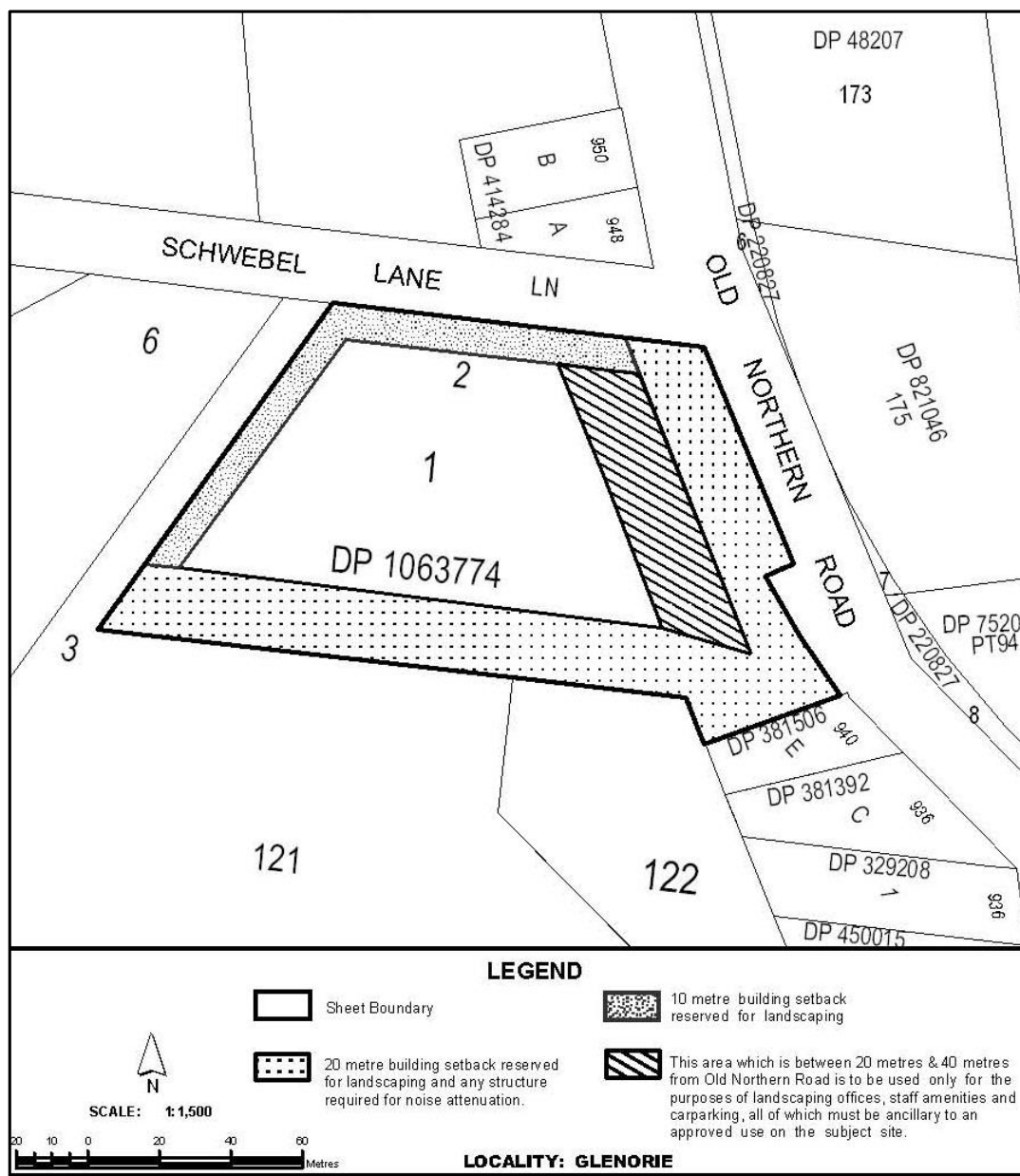


Figure 5: 2 Schwebel Lane, Glenorie

16. Land at Riverside Oaks Tourist Complex

The following site specific outcomes and controls apply to all development within the approved Riverside Oaks Tourist Complex (shown in Figure 6).

STATEMENT OF OUTCOMES

- Dwelling houses are provided only in conjunction with upgrades to the Riverside Oaks Golf Course tourist facility.
- Residential development integrates with the natural environment and minimises disturbance to native flora, fauna and culturally significant sites.
- To provide future residents with a high level of amenity in an attractive natural setting.
- To reduce safety risks in bushfire and flood prone areas.

DEVELOPMENT CONTROLS

General Controls	
Modification of Previous Development Consents	<p>Previous Development Consents on Lot 28 DP 270416, 74 O'Briens Road, Cattai must be modified under the provisions of Section 96 4.55 of the <i>Environmental Planning and Assessment Act 1979</i> to remove all aspects of development that have not yet been commenced, prior to the granting of consent for any residential development in accordance with Schedule 1 of The Hills LEP 2012. This includes (but is not limited to) development approved under DA No. 89/804 and later modifications:</p> <ul style="list-style-type: none"> - two hotels - holiday cabins and corporate lodges (that are not yet constructed) - retail facilities - tennis courts, golf academy and driving range that were to occur in the vicinity of proposed precinct C - community facilities
Staging of Development	<p>The provision of residential development on the site is to be staged as follows:</p> <ul style="list-style-type: none"> • <u>Stage 1</u>: Precinct D (maximum of 59 residential dwellings), 13 holiday cabins • <u>Stage 2</u>: Upgrade of the main access road from O'Briens Road, Precinct A (maximum of 135 residential dwellings), Precinct B (maximum of 29 residential dwellings), spa and treatment facilities • <u>Stage 3</u>: 150-room hotel, 5 corporate lodges, tennis court • <u>Stage 4</u>: Precinct C (maximum of 77 residential dwellings) <p>A single masterplan Development Application is to be submitted for the site which indicates the staging of all proposed future development on the site</p>
Development Areas	<p>All dwellings, associated roads and Asset Protection Zones (APZs) shall be as shown on Figure 6. APZs and residential development must not impact upon land identified for 'conservation' on Figure 6</p>

	*For the purposes of this control conservation land is land identified on Figure 6 as 'Conservation Zone Biobank Site'
Bushland and Biodiversity	<p>Conservation land on figure 6 is to be protected from development and clearing. Vegetation within this area is to be retained</p> <p>*For the purposes of this control conservation land is land identified on Figure 6 as 'Conservation Zone Biobank Site'</p> <p>All works associated with road upgrades are to be located clear of the conservation land and vegetation identified for retention on Figure 6, including the proposed road between Precincts C and D, and any associated stormwater measures, retaining walls and the like. Culverts are not to restrict fauna movement throughout the site</p> <p>The Yellow-bellied Glider corridor identified on Figure 7 is to be preserved and kept clear of residential development</p>
Flood Management and Safety	<p>Refer Part C Section 6 – Flood Controlled Land</p> <p>The main access road between Precinct C and D is to be upgraded to Council's satisfaction</p> <p>Provide a flood-free all-weather emergency access track between Precincts A and C to Council's satisfaction</p> <p>Flood mitigation measures and warning systems, emergency evacuation measures and flood education programs are to be implemented to the satisfaction of Council, the State Emergency Service and the Office of Environment and Heritage</p>
Dwellings - Number of Storeys	Maximum of two (2) storeys
Private Open Space and Solar Access	<p>Minimum dimension 4 metres x 6 metres, directly accessible from the dwelling's living areas</p> <p>50% of the principal private open space area is to receive a minimum of 2 hours direct sunlight between 9am and 3pm during mid-winter</p>
Car Parking	2 spaces per dwelling (one space must be within a garage)
Internal Road and Access Road Design	Road designs are to avoid dead-end roads / turning heads
Cut and Fill	Refer Section 2 – New Development in Rural DCP
Landscaping and Street Trees	Refer Part C Section 3 – Landscaping
Potable Water and Wastewater Servicing	Potable water and wastewater pump stations are to be located, designed and maintained to prevent the ingress of floodwater

	<p>Potable water and wastewater treatment facilities are to be upgraded / augmented as required to ensure that all lots have access to services prior to occupation</p> <p>Appropriate licences are to be obtained for the water and wastewater treatment systems prior to occupation of the dwellings</p>
Heritage	<p>European heritage: refer Part C Section 4 – Heritage</p> <p>Aboriginal heritage: Avoid impact on areas containing known Aboriginal artefacts and culturally important sites</p> <p>Where the Aboriginal Assessment identifies a site as significant, a letter from the relevant Aboriginal Lands Council is required which expresses support or recommendations for the subdivision proposal</p>
Waste Collection	<p>The internal road network is to have longitudinal gradients and widths suitable for a standard heavy rigid vehicle. Where roads terminate, a 19 metre turning head is required to enable waste vehicles to enter and leave in a forward direction</p> <p>Road surfaces and bridge capacities are to withstand a fully loaded waste collection vehicle (28 tonne axle load)</p>
Development near the Hawkesbury River	Refer Section 40 13 of this DCP
Road Safety Audit	Prior to the issue of any consent for residential development (including subdivision) on the site, an independent road safety audit of the intersection of Wiseman's Ferry Road / O'Briens Road shall be submitted to the satisfaction of Council and the Roads and Maritime Services
Community Management Plan	<p>A Community Management Plan is to be prepared to Council's satisfaction to provide for the ongoing maintenance of community facilities on the site, including (but not limited to) roads, potable water and waste water treatment facilities, and flood safety infrastructure</p> <p>The Management Plan is to address the ongoing management and occupation of tourist dwellings and demonstrate how the restriction on permanent residential occupancy will be enforced</p>



Figure 6: (Riverside Oaks Tourist Complex)

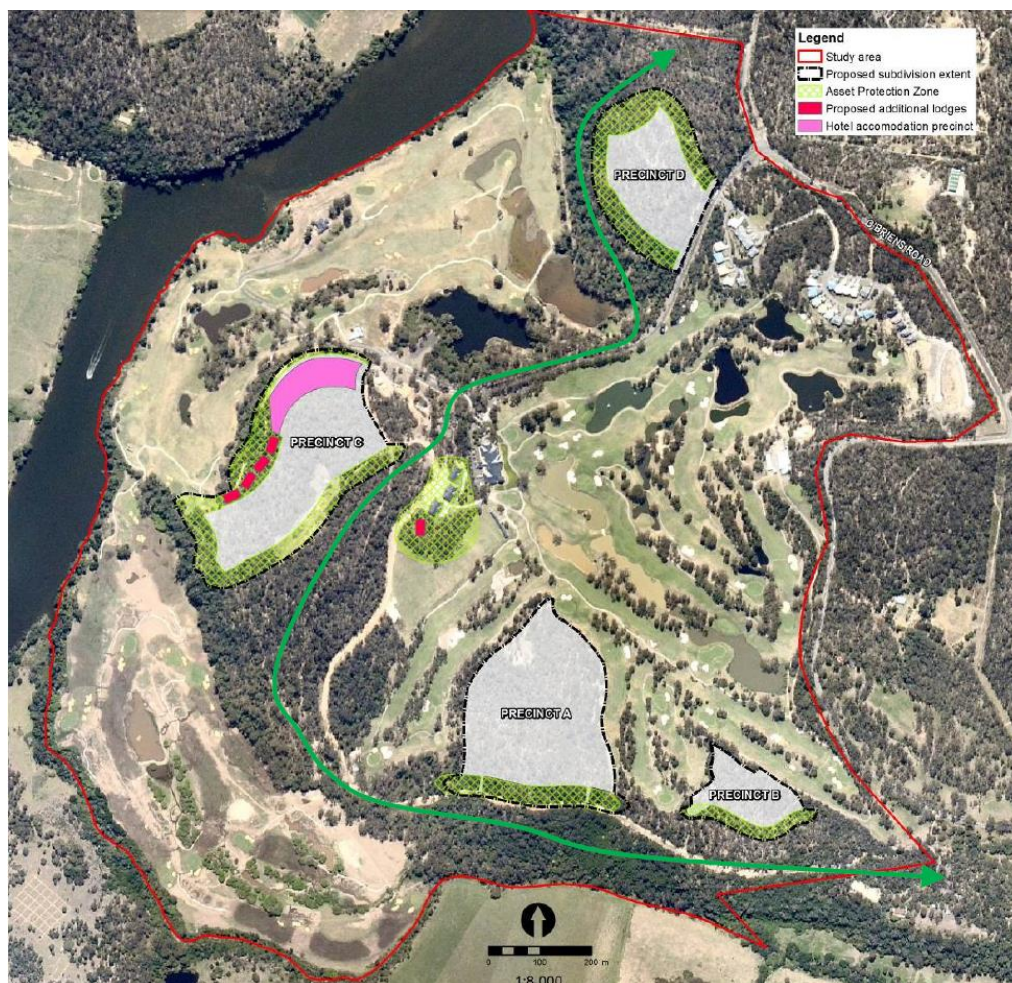


Figure 7: Proposed Yellow Bellied Glider Corridor

PART 2: EXTRACTIVE INDUSTRIES

1. Site Planning

STATEMENT OF OUTCOMES

- Extractive industries and related activities maintain an effective buffer to protect landscape quality, the habitats of threatened species, populations and ecological communities of the shire.
- Extractive industries maintain and enhance the rural-residential streetscape, existing character and amenity of rural-residential activities.

DEVELOPMENT CONTROLS

General Controls	
Adjoining property boundary	Minimum setback of 10m
Public road	Minimum setback of 30m
National Park, State Forest or Crown Lands boundary	Minimum setback of 40m
Any site or relic of heritage, archaeological, geological or cultural significance	Minimum setback of 40m
Top bank of a watercourse	Minimum setback of 40m, or otherwise to the requirements of the Office of Water
Public or Community facility	Minimum setback of 100m
Residence not associated with extraction	Minimum setback of 100m
Electricity transmission lines	In accordance with the requirements of the controlling electricity authority / transmission corporation

Note: The above setbacks may vary depending upon the nature and location of extractive industries.

2. Transport

STATEMENT OF OUTCOMES

- Maintain and upgrade the safety and efficiency of the existing road network, and achieve safe, coordinated and controlled transport links for extractive industries.
- The safety and amenity of existing rural and residential activities is maintained and protected.

DEVELOPMENT CONTROLS

General Controls	
Access to public roads	Access points to public roads are to be controlled and limited to maintain the safety and efficiency of the public road network
Internal access carriageways - width	Minimum of 12m wide in accordance with established road construction standards as Illustrated in Figure-6 8 (Typical Cross Section of Internal Haul Roads)
Internal access carriageways - setbacks	Minimum 10m setback from adjoining property boundary Minimum 50m setback from environmentally sensitive areas including habitats of threatened species

	Minimum 100m setback from residences not associated with extraction
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Note:

Alternative designs of internal access/Intersection points will consider:

- Specific needs of the operation and site characteristics;
- Austroads: Guide to Traffic ~~Engineering Practice Management~~;
- ~~RMS: Road Design Guides~~ Austroads Guide to Road Design;
- ~~RMS Transport for NSW~~: Guide to Traffic Generating Developments;
- Or other designs agreed to by ~~the Roads and Maritime Services (RMS)~~ Transport for NSW.



Figure 6 8: Typical Cross Section of Internal Haul Roads

3. Water Resources

STATEMENT OF OUTCOMES

- Ground water resources and supplies are conserved to protect groundwater dependent riparian ecosystems and natural habitats.
- The quality, quantity and location of water supplies and downstream drainage patterns are maintained and protected, and water usage is conserved sustainably.

DEVELOPMENT CONTROLS

General Controls	
Drainage Outlets	Employ operational practices capable of maintaining and monitoring drainage outlets at downstream boundaries together with pre-existing groundwater flow and quality conditions
Water flow patterns & water quality	Determine the likely impact upon groundwater and nominate an effective freeboard above wet weather high ground water level capable of conserving water flow patterns and water quality on each extraction site
Extraction	Not to occur within 2 metres of the wet weather high groundwater level or otherwise to the requirements of the Office of Environment and Heritage

4. Visual Amenity & Scenic Quality

STATEMENT OF OUTCOMES

- The natural, scenic and landscape quality of the area is conserved and the rural character is retained.
- The aesthetic, visual, cultural, scientific, historic, social and other special values of the landscape are conserved.

DEVELOPMENT CONTROLS

General Controls	
Rehabilitation of Extraction Sites	Extraction sites are to be rehabilitated to a final landform capable of integrating with the physical elements and land use patterns of the local landscape
Protection of Landforms	The proposal should demonstrate that areas of high visual sensitivity such as outstanding, distinctive or diverse landforms or land cover features will be preserved and protected
Machinery and Equipment	To be stored in buildings and structures of non-reflective materials and of a height, bulk and scale proportional to the surrounding landscape
Perimeter Screen Planting	Extraction sites must provide perimeter screen planting of a sufficient height to screen views of the site from surrounding public and private places

5. Flora & Fauna Buffer Zones

STATEMENT OF OUTCOMES

- Sufficient separation is provided to threatened species and critical ecological communities, and the scenic and environmental quality of the Shire is retained.

DEVELOPMENT CONTROLS

General Controls	
Extractive Industry Buffer Zones	<p>To be 50m from important habitats of threatened species, populations, ecological communities and/or no less than the site specific requirements of the National Parks & Wildlife Services.</p> <p>The buffer zone should not be disturbed except for ongoing management or rehabilitation purposes</p>

6. Heritage & Archaeological Resources

STATEMENT OF OUTCOMES

- Archaeological resources, geological features and areas and items of heritage value are identified, protected and conserved.

DEVELOPMENT CONTROLS

General Controls	
Buffer Areas	<p>Site planning for extractive operations should provide buffer areas to conserve:</p> <ul style="list-style-type: none"> • Potential Habitation Sites or sites with potential Archaeological Deposits

	<ul style="list-style-type: none"> Archaeological sites protected under the National Parks & Wildlife Act, 1974 and as listed in the Register of Aboriginal Sites Aboriginal Heritage Information Management System. Distinct geological features
Heritage items	Conserve and protect local, regional and state listed heritage items

Note: Reference should also be made to ~~the Office of NSW Environment and Heritage Aboriginal Sites Register~~ Aboriginal Heritage Information Management System and Council's Aboriginal Sites Predictive Study.

7. Soil Conservation

STATEMENT OF OUTCOMES

- Wind, water & and soil erosion of disturbed and rehabilitated areas are minimised by maintaining effective sediment and erosion control measures for the protection of environmentally sensitive areas and downstream properties.

DEVELOPMENT CONTROLS

General Controls	
Clearing and extraction	Limit the extent of cleared areas at any one time by ensuring that soil surface conditions on extraction sites are protected & maintained by natural or manufactured material or mulch or by any other acceptable soil stabilisation technique
Drainage control	<p>Developments must ensure that drainage control measures are provided for upstream catchments from runoff that may by pass the extraction site. They should also ensure infiltration into and control runoff from the subject site</p> <p>Ensure the long term stability of natural channels downstream of the site by maintaining pre-existing rates, volumes and quality of channel flow. Protection measures may include controlled entry and exit points from sub-catchments</p>
Sediment Control	Sediment control design should include details of the proposed dewatering method for the settling volume, spillway configuration, energy dissipation and the design life of the structure
Wind Breaks	Ensure that wind breaks including trees, shrubs and bund walls are of a height, length, orientation, location & and permeability capable of reducing wind velocity across extraction areas
Drainage Control Measures	<p>Ensure that drainage control measures such as diversion channels or holding structures including graded banks, drains or dams are designed for a peak discharge of a 1 in 20 Annual Exceedance Probability (AEP) storm event with a minimum one metre flood freeboard margin</p> <p>Ensure that sediment control dams are located downstream of wet screening plants and between tailing dams and downstream boundaries. These structures should have a sediment trapping capacity at least half the volume of the largest tailing dam</p>

	<p>Ensure that all batters of dams and detention basins have a preferred gradient of 4H (Horizontal):1V (Vertical), which should be stabilized by vegetation or other appropriate measure</p> <p>Sediment loss should be controlled by the installation of upstream diversion channels, catch drains and sediment traps along the downstream toe of the embankment. These should be maintained until vegetation cover is achieved</p>
Tailing (Sludge) Pond Measures	
Tailing (Sludge) Pond Design	<p>Design should have regard to:</p> <ul style="list-style-type: none"> • Site investigations including soil profiles, water table level, & in-situ materials • Site suitability, including topography, geotechnical and meteorological conditions of the locality • Physical, mineral & chemical properties of tailings; • Stability of embankments including heights, slope, natural strength, materials & degree of compaction foundations • Potential seepage into groundwater including high pressure groundwater levels resulting from high water table levels within the embankment

8. Acoustic Management

STATEMENT OF OUTCOMES

- The acoustic quality and environment of residents, **p**Public & community facilities and other receivers in the Shire is maintained and protected.
- The potential for offensive noise emission is limited.

DEVELOPMENT CONTROLS

General Controls	
Acoustic Buffer	Provide an effective acoustic buffer to residences and public places not associated with their operations
Noise Control	Implement effective noise control measures where noise emissions exceed maximum average background noise level
Acoustic Shielding	Proponents are encouraged to implement the extraction "cell" technique as a means of facilitating acoustic shielding around worked extraction sites
Minimise Road Traffic Noise	<p>Ensure that road traffic noise is minimised to reduce potential impacts upon the acoustic environment of residents and community facilities within the locality</p> <p>Proponents should indicate the special transport needs of the activity, which are most likely to generate noise outside normal operating hours</p>
Hours of Operation	Ensure that the hours of operation of extraction and the transportation of materials are limited to 7.00am to 6.00pm Monday to Friday inclusive, and 7.00am to 4.00pm Saturday. Variations to these hours may be justified having regard to the nature and location of a particular project
Acoustic Barriers	Signs and barriers should be installed and maintained at the point of access to ensure compliance. The

	barriers should be kept locked except during authorised hours of operation
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Note: Noise levels must be assessed in accordance with the NSW ~~Industrial Noise Policy~~ Noise Policy for Industry and any other ~~EPA~~ NSW Environment Protection Authority (EPA) requirements.

9. Air Quality Management

STATEMENT OF OUTCOMES

- To preserve the air quality and protect the health and amenity of residents, visitors and industry employees.

DEVELOPMENT CONTROLS

General Controls	
Dust Air Pollution	<p>Implement effective measures capable of controlling air pollution caused by dust, particularly during dry and windy weather conditions.</p> <p>Ensure that dust suppression equipment is fitted to all processing equipment.</p> <p>Employ wind activated water sprinkler systems to ensure extraction sites minimise dust generation particularly during high periods of wind and when sites are unattended.</p> <p>Ensure that stockpiles of material are effectively stabilised and maintained so as to prevent any dust nuisance</p>
Covering of Loads (Trucks)	Prior to leaving extraction sites all laden trucks are to have their payloads fully covered by suitable material to prevent spillage from the trucks onto roads and adjoining properties
Access Roads	Ensure that access roads are sealed at the entrance to extraction sites and remaining unsealed portions of access roads are watered on a regular basis as a means of dust suppression

10. Rehabilitation

STATEMENT OF OUTCOMES

- Extraction sites are fully rehabilitated in an orderly, progressive and controlled manner and the environment of threatened species is protected.
- The natural attributes of surrounding catchments are conserved and the scenic, heritage and environmental quality of the Shire is protected and enhanced.
- Rehabilitation achieves a final landform that is capable of supporting agricultural production or other post-extraction use that is compatible with the rural/residential character of the region.

DEVELOPMENT CONTROLS

General Controls

Rehabilitation - Design and Materials	<p>Extraction sites are to be rehabilitated to a usable and stable final landform</p> <p>The rehabilitation of extraction sites is to integrate with the shape, form, contour, vegetation, soil composition, drainage and land use characteristics of the surrounding terrain</p> <p>The final use of land for agricultural purposes will only be considered where it can be demonstrated that the original land use was agricultural or where the adjoining land use is for agriculture. Otherwise, all sites are to be rehabilitated to bushland</p> <p>Extraction areas should be progressively rehabilitated to integrate with the shape, form, contour, colour, land use, drainage characteristics, landscape quality and diversity of the pre-existing surrounding terrain, under the direction of a qualified person. Rehabilitation should commence prior to proceeding onto the next extraction area</p> <p>Stockpiles of clean topsoil & overburden should be appropriately formed and shaped to ensure the viability of the soil and seed source of the site/area for later re-spreading or backfilling</p> <p>Extracted areas should be backfilled only with earth and rock materials sourced as a result of extraction. No solid waste or putrescible materials are to be disposed of within the site without the prior approval of Council and other State Government agencies</p>
Rehabilitation – Planting and Maintenance	<p>Rehabilitation should incorporate, where appropriate, endemic native plants, grass covers and species</p> <p>Disturbed areas should be appropriately maintained until rehabilitation is well established</p> <p>Permanent ground cover should be established on areas disturbed for more than 30 days and is to be maintained by regular watering and additional applications of seed and fertiliser</p> <p>Proponents should regularly maintain rehabilitated areas having regard to the following criteria:</p> <ul style="list-style-type: none"> • Replanting exposed areas & replacing dead plants within six months • Repairing erosion problems • Pest and weed control • Fertiliser applications where appropriate • Regular watering • Application of lime or gypsum to control pH and improve soil structure, where appropriate
Rehabilitation Bond	<p>Proponents will be required to pay a Rehabilitation Bond of a minimum \$3.00 per square metre</p> <p>The amount and phasing of the bond payment may vary depending upon the approved works program referred to in the Rehabilitation Strategy</p>

11. Community Engagement

STATEMENT OF OUTCOMES

- Community participation and employment associated with Extractive Industries is encouraged, facilitated and promoted.

DEVELOPMENT CONTROLS

General Controls	
Community Engagement	Proposals should provide opportunities to involve the local community where possible, for example via employment and the engagement of local community groups

12. Setbacks from Maroota Public School

STATEMENT OF OUTCOMES

- To protect and maintain the safety and amenity of the Maroota Public School and residences not associated with extraction.

DEVELOPMENT CONTROLS

General Controls	
Extractive Activities - Setbacks	Extractive Industries are to be set back at least 250m from Maroota Public School

13. Section ~~94~~ 7.11 Contributions

STATEMENT OF OUTCOMES

- To attain sufficient funds necessary to maintain and upgrade the regional and local road networks.

DEVELOPMENT CONTROLS

General Controls	
Developer Contributions	<p>As a result of road damage caused by heavy vehicles extractive industry operators shall contribute to the maintenance of the regional and local road network.</p> <p>Proponents may be required to make developer contributions under Section 94 7.11 of the Environmental Planning & Assessment Act 1979 and in accordance with Council's Contribution Plan No.6 – Extractive Industries and shall be imposed as a condition of consent.</p> <p>The current Section 94 7.11 levy is based upon a per tonne rate, payable for material transported from extraction sites.</p>

	<p>As a condition of consent proponents may be required to submit to Council monthly certified statements of material won from each extraction site all within fourteen days after the end of each proceeding month.</p> <p>Monies currently collected from developer contributions will be placed in a trust account and transferred to the Transport for NSW Roads and Traffic Authority for the maintenance, restoration and rehabilitation of the Old Northern and Wiseman's Ferry Roads and other associated works in accordance with road improvement programs as agreed between Council and the Roads and Maritime Services Transport for NSW.</p>
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14. Environmental Management Systems

STATEMENT OF OUTCOMES

- Extractive Industries consistently perform to good environmental management practices and ensure the ecological sustainability of extractive industry sites.
- Internationally and nationally recognised environmental management systems are implemented.

DEVELOPMENT CONTROLS

General Controls	
Environmental Management	All aspects of the operation are to employ and maintain good environmental management practices. This may involve the establishment a Management Committee including at least two permanent residents not associated with the extractive operation. This management committee may provide input into the proponent company's environmental management system and details of which may be recorded in the annual Environmental Management Plan.

15. Information Required for an Extractive Industries Development Application

Council requires a high standard of application, which will enable it to conduct a proper and informed environmental impact assessment of the social, economic and environmental consequences of extractive industries.

To facilitate the timely consideration of your application, Council has designed this preferred format, content & structure for all Extractive Industry development applications.

EXECUTIVE SUMMARY

- The study site and locality;
- Background on the Proposal;
- Objectives of the Proposal;
- Justification for the Proposal;
- Management of the Proposal;
- Statutory requirements;
- The structure of the application; and
- Executive Summary: The General findings & Recommendations.

SITE ANALYSIS

- Location and ownership details including zoning & surrounding land uses;
- Topography, slopes, geology and meteorology;
- Visual and Landscape aspects;
- Soils and soil erosion;
- Hydrology, including surface & groundwater resources;
- Air quality;
- Background Noise levels;
- Flora and Fauna;
- Archaeology & Heritage; and
- Transport including accessibility.

DESCRIPTION OF THE DEVELOPMENT

- Previous and surrounding land uses;
- Local & Regional context;
- Operating objectives & procedures;
- Extraction program plan for the life of operation;
- Extraction quantity/rate and life span;
- Hours of operation;
- Equipment and on-site facilities;
- Internal & external transport arrangements;
- Power supplies and services;
- Energy consumption;
- Employment and the Multiplier effects;
- Site Management, occupational health & safety;
- Rehabilitation staging and phasing;
- Post-extraction landforms and uses; and
- Risks, safeguards & contingencies.

THE PLANNING CONTEXT

- Address the procedures for Integrated Development in ~~Section 90~~ Division 4.8 of the Environmental Planning & Assessment Act, 1979;
- Address ~~Schedule 2 Part 8~~ Division 5 'Environmental Impact Statements' and Schedule 3 'Designated Development' of the Environmental Planning & Assessment Regulation, 2000
- ~~State Environmental Planning Policy (Resources and Energy) 2021 SREP No.9 (2-1995) — Extractive Industries (only Maroota)~~
- ~~State Environmental Planning Policy (Biodiversity and Conservation) 2021 SREP No.20 — Hawkesbury-Nepean River;~~
- Related Acts including Protection of the Environment Operations Act 1997; and
- Consultation with public authorities & the community.

ENVIRONMENTAL IMPACT AND MITIGATION DURING CLEARING WORKS

- Phasing/staging in relation to extraction program;
- Construction materials and equipment;
- Drainage works;
- Temporary structures and works;
- Soil conservation & management procedures;
- Location and containment of major work areas;
- Hours of operation;
- Noise generation during works;
- Transport arrangements;
- Dust suppression measures;
- Number of employees;
- Expected time frame;
- Safety issues; and
- Contingency arrangements.

ENVIRONMENTAL IMPACT AND MITIGATION DURING EXTRACTION

- Extraction program plans (extent and depth);
- Extraction materials and equipment;
- Soil conservation & management procedures;
- Hydrology including drainage works, ground – water protection & management strategies;
- Sediment and erosion control plan including tailing dam designs;
- Temporary structures and works;
- Location & containment of major work areas;
- Hours of operation;
- Noise generation during works;
- Transport arrangements;
- Air quality management, including dust suppression;
- Waste minimisation measures;
- Protection methods for environmentally sensitive areas, including flora, fauna and heritage;
- Number of employees;
- Expected time frame for each extraction phase/stage;
- Site management issues; and
- Risks, safeguards & contingency arrangements.
- Identify areas of archaeological sensitivity and/or sites with Potential Archaeological Deposits;
- Assess the scientific, educational, landscape and cultural value of aboriginal sites including possible mythological or cultural sites with no physical elements; and
- Detail how all facets of the operation will employ and maintain good environmental management practices.

ENVIRONMENTAL IMPACT AND MITIGATION DURING REHABILITATION

- Rehabilitation strategy;
- Rehabilitation materials and equipment;
- Soil conservation & management procedures;
- Hydrology including drainage work and water management strategies;
- Sediment and erosion control plan including capping of tailing dams;
- Temporary structures and works;
- Location and containment of major work areas;
- Hours of operation;
- Noise generation during works;
- Transport arrangements;
- Air quality management, including dust;
- Protection methods for environmentally sensitive areas, including flora, fauna and heritage;
- Number of employees;
- Time frame for each rehabilitation phase/stage;
- Site management issues;
- Risks, safeguard & contingency arrangements;
- Participation with community & public authorities;
- Final landform including water management; and
- Post extraction land use capabilities.

ECONOMIC APPRAISALS

- Estimates of material quality and quantity;
- Scope of the assessment
- Economic appraisal technique used;
- Project costs and benefits;
- Community costs and benefits including the no go option;
- Externalities including environmental effects and costs;

- Identify the number, degree, and extent of economic linkages between extractive industry and businesses within the Shire by way of an Economic Appraisal Report and;
- Conclusions.

SOCIAL IMPACT ASSESSMENT

- Scoping;
- Profiling;
- Formulating options/alternatives;
- Projecting & predicting effects;
- Impact management;
- Monitoring and mitigating;
- Evaluation
- Identify, mitigate and manage/monitor social impacts resulting from extractive industries by way of a Social Impact Assessment and Social Impact Management Plan and;
- Conclusion.

CUMULATIVE IMPACT

- Extraction activities within the locality;
- Social impacts and mitigating measures/management;
- Environmental impacts including groundwater, flora, fauna, noise and air quality;
- Transport routes including road damage and access arrangements;
- Community facilities and services;
- Hazard analysis including identified, discounted and emergency hazard management; and
- Relationships with other non-extraction land uses within the locality.

ENVIRONMENTAL MANAGEMENT SYSTEMS

- Water Management Plan;
- Noise Monitoring Plan;
- Sediment & Erosion Control Plan;
- Extraction Program Plan;
- Flora/fauna Monitoring Program;
- Rehabilitation Management plan;
- Waste Management Plan;
- Environmental Management Plan;

ECOLOGICALLY SUSTAINABLE DEVELOPMENT

- Identify principles and objectives of the National Strategy for Ecologically Sustainable Development (ESD) 1992 relating to the project;
- The framework in which council, public authorities and the community can participate in the preparation, monitoring of performance and rehabilitation of the project;
- Implementation of the precautionary principle including an evaluation of measures undertaken to avoid serious or irreversible damage to the environment;
 - Means of ensuring inter-generational equity;
 - Means of conserving biological diversity & ecological integrity within the locality;
 - Recognition of the global dimension of impacts, including greenhouse gas emissions;
 - Recognition of economic appraisal and social impact assessments;
 - Efficient mining procedures including occupational health & safety;
 - Achieving social equity and satisfaction;
 - Water resource management;
 - Waste management/ minimisation strategy;
 - Risks, safeguards & contingency arrangement; and
 - Other effective monitoring and review programs.

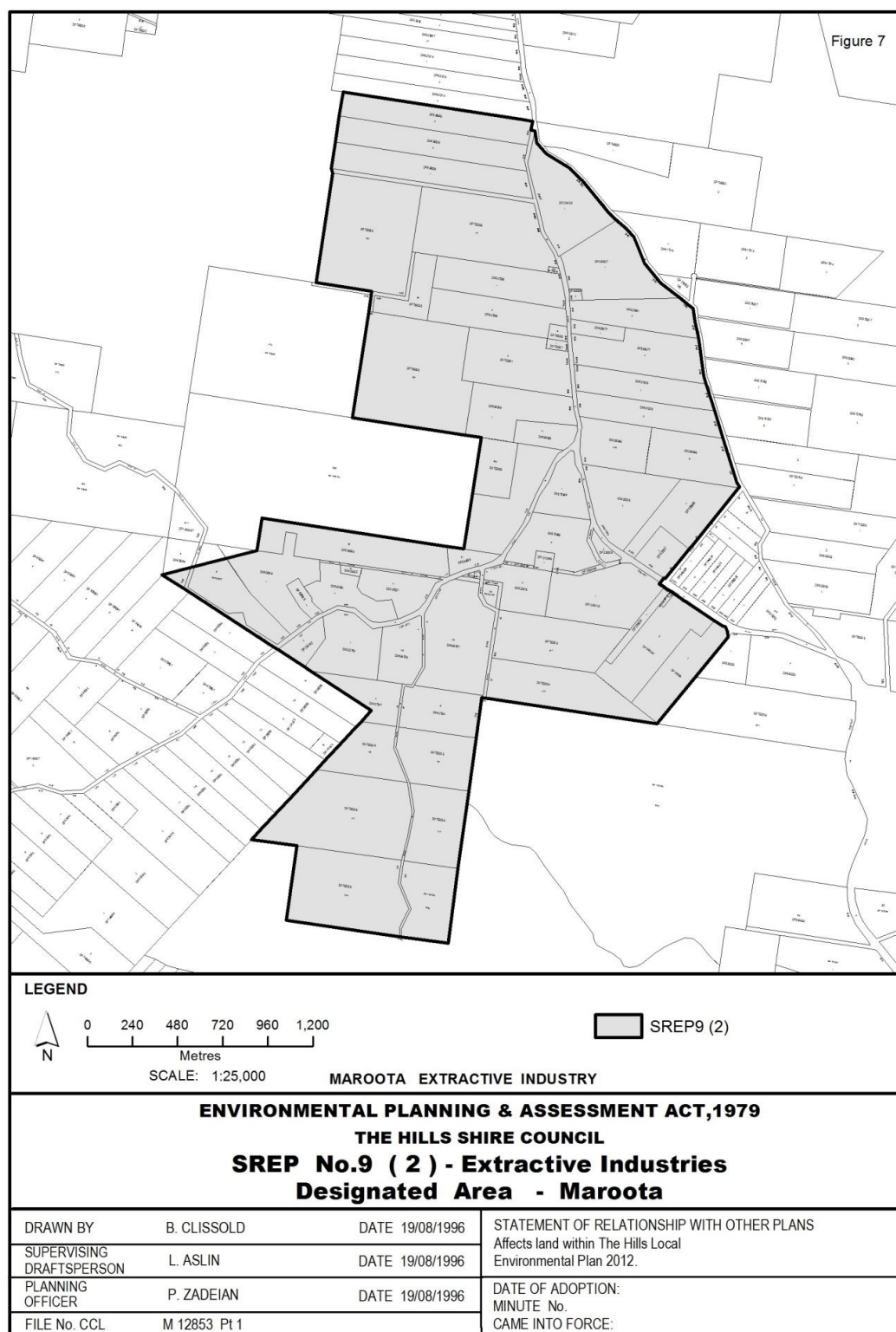
REVIEW OF ALTERNATIVES

- Alternative sources of material;

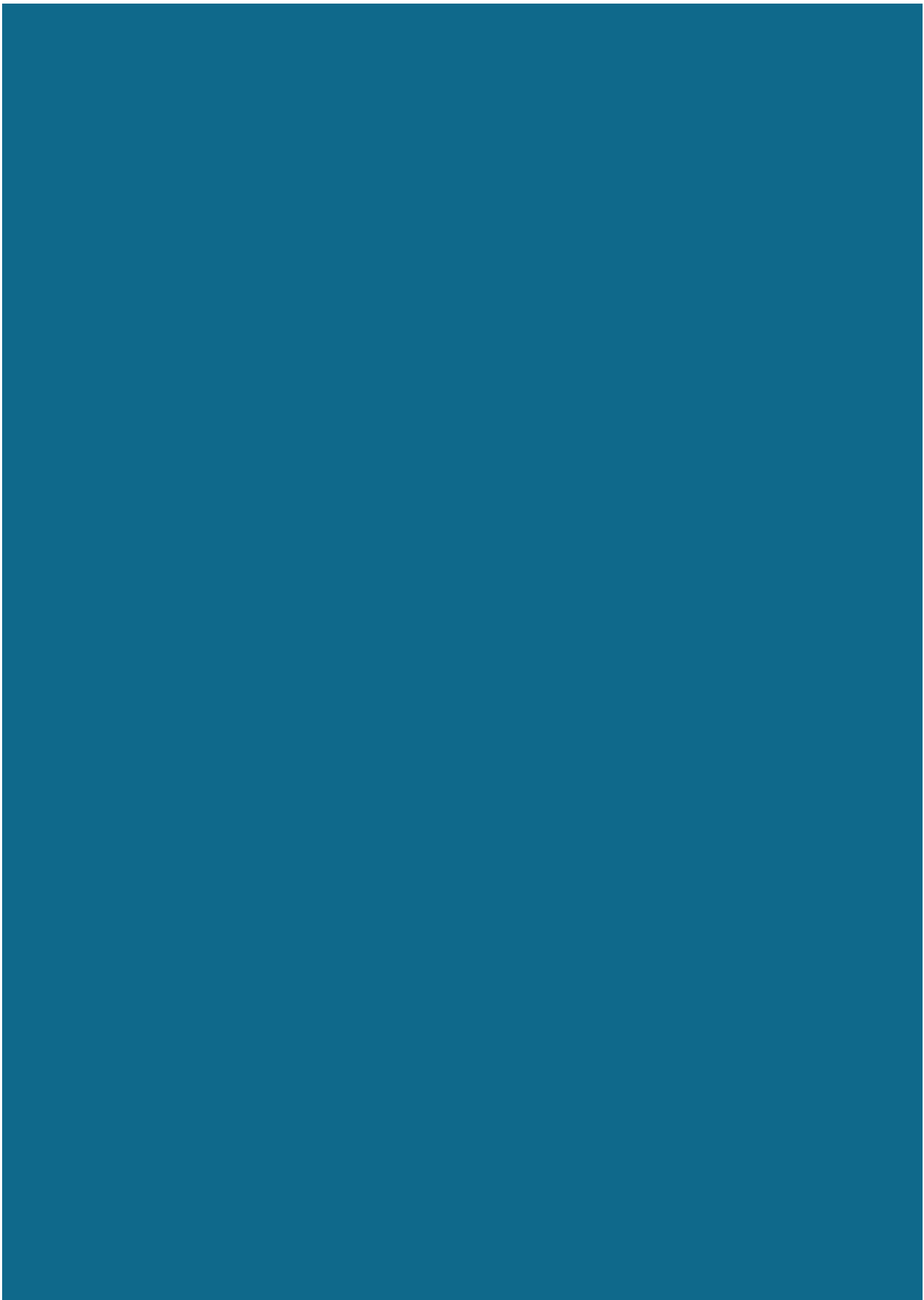
- Alternative transport routes;
- Alternative sources of employment; and
- Alternative land uses including “no go” option.

RECOMMENDATIONS

- Need for the development in local and regional context;
- Alternatives to the development;
- The preferred option;
- Summary impact assessment of the preferred option; and
- Conclusions.



**Figure 7-9: Sydney Regional Environmental Plan No 9—Extractive Industry (No 2—1995)
Designated Area**

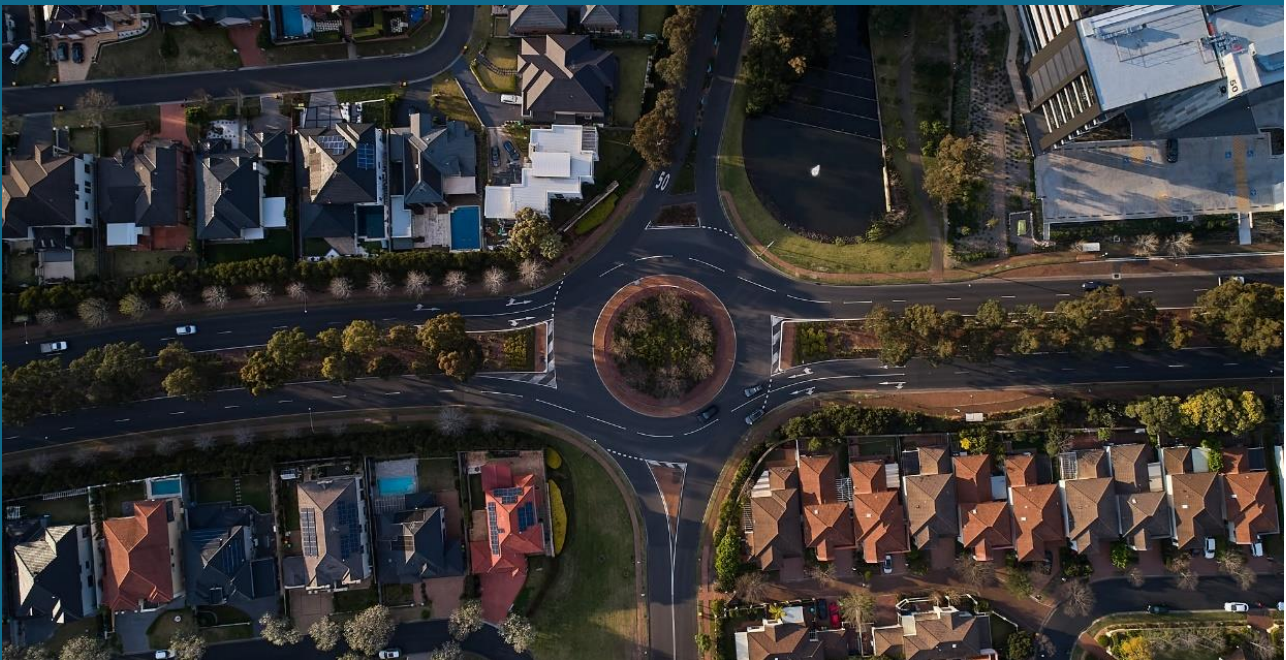


ATTACHMENT 3

The Hills Development Control Plan (DCP) 2012

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THE
HILLS
Sydney's Garden Shire



Part C Section 1
Parking

C1

EXHIBITION DRAFT – (DATE)

In-Pencil - For comment only

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1 Introduction

This Section of the DCP must be read in conjunction with Part A – Introduction of this DCP.

1.1 LAND TO WHICH THIS SECTION OF THE PLAN APPLIES

This Section of the DCP applies to all land identified under The Hills Local Environmental Plan (LEP) and to all permissible parking activities as defined in the LEP. Where the provision of parking is ancillary to the overall development, further specific controls are included in separate relevant Sections of this DCP.

1.2 AIMS AND OBJECTIVES OF THIS SECTION OF THE DCP

The aim of this Section of the DCP is to establish Council's specific objectives and development controls for the provision of parking within the Shire.

Objectives

Council's overarching objectives for parking developments are:

- (i) To provide guidelines aimed at improving overall traffic management and safety.
- (ii) To ensure satisfactory access, parking provisions, circulation and goods loading and delivery facilities are provided within developments.
- (iii) To ensure the efficient flow of traffic through car parks to minimise the potential for pedestrian and vehicle conflict.
- (iv) To set out Council's planning and engineering standards for parking in the Shire.
- (v) To encourage the use of more ecologically sustainable forms of transport such as bicycles.
- (vi) To ensure that all parking provided by development relates to the site's environmental conditions.

2 Objectives and Development Controls

The objectives and development controls for parking are set out in the following sections.

This Section of the DCP is to be read in conjunction with other relevant Sections of this DCP, including but not limited to:

- Part C Section 3 – Landscaping

2.1. GENERAL PARKING REQUIREMENTS

Objectives

- (i) To provide sufficient parking that is convenient for the use of residents, employees and visitors of the development.

Development Controls

2.1.1. GENERAL

- (a) Number of required parking spaces and associated conditions must be provided in accordance with Table 1. Any part spaces must be rounded up to the nearest whole number.
- (b) All car parking spaces must be provided on-site.
- (c) The minimum provision of spaces for restaurants or café as required in Table 1 applies to indoor and outdoor seating.
- (d) The provision of boat trailer and boat wash down areas are required for caravan parks and/or holiday cabin developments in the vicinity of the Hawkesbury River.
- (e) Car parking for child care centres must be situated in a convenient location, allowing for safe movement of children to and from the centre.
- (f) Parking spaces for an exhibition home may be permitted to be located within the front setback, provided the parking area is reinstated to lawn upon the expiry of the exhibition home consent. In the case of exhibition home villages a centralised parking area should be provided.
- (g) Any changes to parking provisions occurring after development consent or implementation of development consent must be subject to an application under Section 96 4.55 of the *Environmental Planning and Assessment Act 1979*.
- (h) Where justified, a proportion of car parking may be subject to time restrictions upon application, consideration and approval by Council. All employees parking are to be provided on-site.
- (i) Stack parking will not be included in the assessment of the number of car parking spaces for retail, commercial, medium density residential and industrial development and the like.
- (j) Access arrangements in bush fire prone areas shall be in accordance with Planning for Bushfire Protection 2006 2019.

2.1.2. MIXED USE PARKING

- (a) Where the component uses are operated concurrently, parking will be assessed as the sum of the requirements for each component. Component parking requirements are to be based on requirements in Table 1. Calculations shall include an appropriate proportion of any shared common or administrative area.

2.1.3. DUAL USE PARKING

- (a) Where the component uses are not operated concurrently, parking provisions will be based on whichever of the components generates the greatest car parking requirement. The onus will be on the Applicant to satisfy Council that the uses are not operated concurrently.
- (b) Where the main usage periods of the component uses do not coincide, Council may consider a reduction in the car parking requirements provided that the total car parking is not less than that needed for the component that generates the greatest requirement. The onus will be on the Applicant to satisfy Council that the main usage periods do not coincide.

2.1.4. REMODELLING OR ALTERATIONS TO EXISTING PREMISES

- (a) If the development does not result in increased floor space and the use of the building is not significantly changed, then additional parking provisions may not be required.
- (b) If the remodelling results in increased floor area, then additional parking will be required for the increase.
- (c) If the use of the development is changed, this will be taken into account in assessing the parking requirement according to the new use as well as any increase in floor space.

Submission Requirements

- Parking calculations – number of spaces provided for the proposed development using Table 1. Any part spaces must be rounded up to the nearest whole number.
- A Traffic Impact Report should be provided:
 - Where development is likely to generate significant traffic, or
 - Where it is a requirement of another section of the DCP.
- A Parking Study – will be required where proposed parking provisions need to be substantiated. This occurs when:
 - An activity or land use is not included in Table 1, or
 - Dual use or mixed use car parking arrangements may be proposed

Table 1 Required Minimum Car Parking Provisions**GFA** = Gross Floor Area**GLFA** = Gross Leasable Floor Area

Land Use Class	Land Use	Required Minimum Provision
Residential	Dwelling	1 space per dwelling
	Residential Flat Buildings, Shop Top Housing and Multi Dwelling Housing	1 space per 1 bedroom unit 2 spaces per 2 or 3 bedroom unit 2 visitor spaces per 5 units
	Residential Flat Buildings within the Castle Hill, Baulkham Hills and Rouse Hill Centres (See note 1 below)	1 space per 1 bedroom unit 1.5 spaces per 2 bedroom unit 2 spaces per 3 bedroom unit 2 visitor spaces per 5 units
	Residential flat buildings and dwellings in shop top housing and mixed use developments within the Sydney Metro Northwest Corridor	1 space per unit 1 visitor space per 5 units The following maximum parking rates apply to development seeking the Incentive Floor Space Ratio (and Key Site Bonus) under The Hills LEP within the Castle Hill North Precinct (Map Sheet 5): Studio or 1 bedroom – Max 0.5 spaces per unit. 2 bedroom – Max 0.8 spaces per unit. 3+ bedroom – Max 1.3 spaces per unit. Visitor spaces – Max 1 space per 5 units.
	Dual Occupancy	1 undercover space per dwelling below 125m ² of floor space 2 spaces (1 undercover) per dwelling above 125m ² of floor space
	Home Business or Home Industry	Car parking rate will be determined on a merit based assessment but must be provided at a rate that will ensure that the proposal does not result in a significant increase in traffic in accordance with The Hills LEP.
	Manor House	1 space per 1 bedroom unit 2 spaces per 2 or 3 bedroom unit 1 visitor space

Part C Section 1

Parking

Land Use Class	Land Use	Required Minimum Provision
Commercial	Commercial premises (including business premises, office premises)*	1 space per 25m ² of GFA
	Centre Commercial	1 space per 40m ² of GFA
	Commercial premises as part of a mixed use development with residential flat buildings – Castle Hill North Precinct	Max 1 space per 200m ² of GFA (see note 5)
	Commercial premises – 2-4 Burbank Place, Norwest (see Note 4 below)	1 space per 60m ² of GFA
	Commercial premises – 21-23 Lexington Drive, Bella Vista (see Note 5 below)	Minimum 1 space per 60m ² of GFA and maximum 1 space per 40m ² of GFA
Retail	Shops * # (including shopping centres and general business retail)	1 space per 18.5m ² of GLFA
	Service Station & Convenience Store	6 spaces per work bay, plus with Convenience Store - 1 space per 20m ² of GFA, plus with Restaurant - 15 spaces per 100m ² of GFA of restaurant or 1 space per 3 seats whichever is the greater, plus 1 space per restaurant employee
	Vehicle repair station	3 spaces per 100m ² of GFA or 3 spaces per work bay, whichever is the greater
	Vehicle sales or hire premises	0.75 spaces per 100m ² of site area, plus 6 spaces per work bay where vehicle servicing is provided on site.
	Garden Centre, Plant Nurseries, Landscaping Material Supplies	1 space per employee, plus 1 space per 18.5m ² of GLFA of ancillary retail floor space. Additional parking spaces to be determined by Council in respect of each application to ensure that parking demand generated by the activity is contained within the subject site. A Traffic and Parking Study is required to accompany the application.
	Roadside Stall	Minimum of 4 spaces located within the property boundaries.

Part C Section 1

Parking

Land Use Class	Land Use	Required Minimum Provision
	Market	2.5 spaces per stall (customers only)
	Bulky Goods Premises	1 space per 40m ² of GFA
Industry component uses –	Industrial	1 space per 50m ² of GFA, or 1 space per 2 employees, whichever is greater.
	Industrial – Edwards Road Precinct (See note 2 below)	1 space per 75m ² of GFA
	Warehouse	1 space per 50m ² of GFA
	Warehouse – Edwards Road Precinct (See note 2 below)	1 space per 75m ² of GFA
	Vehicle body repair workshop	1 space per 2 employees, plus 6 spaces per work bay
	Sex Services Premises	1 space per room used or capable of being used for sex services plus 1 space per employee. All car parking areas shall be well lit, easy to locate and monitored by surveillance.
	Visitor Parking	1 space for every 2 units constructed
Entertainment	Pubs/ ⁷ Registered Clubs	1 space per 1.85m ² of service area in bar and lounge, plus 1 space per 2 employees
	Entertainment Facilities* [#]	1 space per 5 seats or 1 space per 10m ² of non-fixed seating floor space
	<u>Food and Drink Premises</u>	
	Take-away food and drink premises* (No seating)	1 space per 18.5m ² of GFA.
	Restaurant or café*	1 per 5 seats, plus 12 spaces per 100m ² of GFA, plus 10 car spaces for queuing where a drive through facility is proposed.
	Function Centre	1 space per 3 seats, or 15 spaces per 100m ² of GFA, whichever is the greater. These rates apply to both indoor and outdoor seating.

Land Use Class	Land Use	Required Minimum Provision
	Restaurant or café within a commercial office building and Main Street Precinct, Castle Hill (see note 3)	1 space per 25m ² of GFA.
	Restaurant or café within a retail shopping complex	1 space per 18.5m ² of GLFA.
	Restaurant or café within Main Street Precinct, Castle Hill outdoor dining component (see note 3)	No car parking required.
Recreational Facilities	Gymnasiums/Fitness Centre*	1 space per 25m ² of GFA
	Squash Courts & Tennis Courts*	3 spaces per court, plus 1 space per 5 seats where spectator seating/galleries are provided
	Bowling Green	30 spaces for the first green, plus 15 spaces per each additional green
	Bowling Alley	3 spaces per alley
	Indoor Cricket or Soccer Centre*	15 spaces per pitch
	Equestrian Centre, Other Recreational Facility	Submit parking study to substantiate proposed car parking provisions.
Health	Hospital Nursing and Convalescent Homes	1 space per 2 beds for visitors, plus 1 space per 1.5 employees, plus 1 space per 2.5 visiting medical officers Unless otherwise specified by Seniors Living SEPP Part 5 (Housing for Seniors and People with a Disability) of State Environmental Planning Policy (Housing) 2021 .
	Medical Centres, Health consulting rooms	3 spaces per consulting room, plus 1 space per support employee
Education	Child Care Centre [#] (including Kindergartens, Crèches)	1 space per employee, plus 1 space per 6 children enrolled for visitors and/or parent parking Also see section 2.1.1(e)
	Educational Establishment (School) [#]	1 space per employee, plus 1 space per 8 year 12 students, plus 1 space per 30 students enrolled for visitors and/or parent parking
	Educational Establishment (Tertiary Institution) [#]	1 space per 2 students enrolled

Land Use Class	Land Use	Required Minimum Provision
Accommodation	Bed & Breakfast Accommodation	1 space per guest room in addition to residential requirement
	CaravanPark/Holiday Cabins	1 space per caravan or camping site, plus Also see section 2.1.1(d)
	Farm Stay Accommodation	1 space per farm stay accommodation room or cabin, plus 1 space per moveable dwelling or tent site, plus 1 space per 2 employees
	Hotel or Motel Accommodation #	1 space per 1 guest room, plus 1 space per 2 employees in addition to any space generated by a public bar or restaurant
	Marina	0.6 spaces per wet berth 0.2 spaces per dry storage berth 0.2 spaces per swing mooring 0.5 spaces per marina employee Development applications are to be accompanied by a Traffic and Parking Study to ensure that parking demand generated by the activity is contained within the subject site
Agritourism	Farm Gate Premises and Farm Experience Premises	1 space per 25m ² of gross floor area of a building or structure for farm gate premises or farm experience premises, plus 1 space per 3 visitors for any outdoor farm gate premises or farm experience premises activity, plus 1 space per premise for persons with disability or limited mobility, plus 1 space per 2 employees
Other	Veterinary Hospital	3 spaces per consulting room, plus 1 space per 10 cats or dogs accommodated overnight
	Animal Boarding or Training Establishment.	Development applications are to be accompanied by a Traffic and Parking Study to ensure that parking demand generated by the activity is contained within the subject site
	Place of Public Worship	1 space per 5 seats

	Funeralhome/chapel	1 space per 4 seats, plus 1 space per funeral service area
	Exhibition Home	3 spaces per exhibition home Also see section 2.1.1(f)

Notes. *Bicycle parking is also required – refer to Table 3 for provisions.

Set down areas are to be provided for these land uses – refer to section 2.6.

Notes:

1. Centre parking rates apply to Castle Hill Major Centre, Baulkham Hills Town Centre, Rouse Hill Major Centre and Circa Commercial Precinct as identified in Sheet 1, 2, 3 and 4 in Appendix A – Centre Maps to this Section.
2. Land within the Edwards Road Precinct is identified within Appendix B – Edwards Road Precinct to this Section.
3. Main Street Precinct, Castle Hill includes properties fronting Old Northern Road and part of Showground Road, Castle Hill and is identified in Sheet 1 in Appendix A – Centre Maps to this Section.
Land within the Castle Hill North Precinct is identified within Appendix C – Castle Hill North Precinct to this Section. To encourage provision of employment uses there is no minimum requirement for car parking for 'commercial premises' where provided as a mixed use development with 'residential flat buildings'.
4. Land at 2-4 Burbank Place, Norwest is identified within Appendix D – 2-4 Burbank Place, Norwest to this Section.
5. Land at 21-23 Lexington Drive, Bella Vista is identified within Appendix E – 21-23 Lexington Drive, Bella Vista to this Section.

2.2. PARKING FOR DISABLED PERSONS AND PARENTS WITH PRAMS

Objectives

- (i) To ensure appropriate on-site provision and design of parking for disabled persons and parents with prams.
- (ii) To ensure that designated spaces provided are easily accessible to points of entry to building or facility.
- (iii) To ensure amenity and safety in the design and construction and operation of the development in accordance with Council's ESD Objective 7.

Development Controls

- (a) A proportion of the total parking spaces required shall be provided for disabled persons in accordance with Table 2.
- (b) A continuous, accessible path of travel in accordance with AS 1428.1 shall be provided between each parking space and an accessible entrance to the building or to a wheelchair accessible lift.
- (c) A proportion of the total parking spaces required shall be provided for parents with prams at the rate of 1 space per 100 spaces at:-
 - Shopping centres;
 - Transport terminals;
 - Hospitals; and
 - Other large public facilities.
- (d) Parking spaces for disabled persons and parents with prams should:-
 - Have minimum 3.2 metres x 5.4 metres dimensions for each designated parking space;
 - Be provided adjacent to an accessible entrance or a wheelchair accessible lift;
 - Be signposted and identified for the nominated parking use;
 - Have a clearance height of 2.5 metres from floor level; and
 - Provide a level area with a gradient less than 1:40.
- (e) Directional signage to designated parking spaces should be provided from the entry of the parking facility.
- (f) Set down areas should be level with a gradient less than 1:40, have adequate circulation space and be located away from traffic flow. Adjacent kerb ramps should be provided to allow access to a footpath, building entrance or a wheelchair accessible lift.
- (g) Refer to Council's "Making Access for All: guidelines ensuring criteria for all public facilities" for further parking and access designs. ~~This document is available at the Customer Service Centre at Council's Administration Building or at Council's website.~~

Submission Requirements

- Site plan indicating:
 - Parking layout and locations of designated spaces for disabled persons and parents with prams; and
 - Locality of adjacent wheelchair accessible entrances and lifts.
- Parking calculations.

Table 2 Disabled Persons Parking Provisions

Source: AS 2890.1 1993 – Part 1 Parking Facilities – Off Street Car Parking

Land Use	Required Provision (percentage of total car parking)
Retail/Commercial A shopping centre with or without commercial premises (banks, credit union, restaurants or cafes, offices etc.), or an office area. Includes strip shopping centres or CBD areas, shopping complexes, supermarkets, and variety stores. May include post office, entertainment, community, recreation venues and the like.	2%
Transport Railway stations, bus/rail interchanges	3%
Community Civic centres, town halls, community centres, senior citizen's clubs, and health care.	3%
Recreation Leisure centres, gymnasiums, swimming pools, parks, gardens, foreshore, and sporting venue.	3%
Education Schools Tertiary institutions	3% 2%
Entertainment Theatres, libraries, art galleries, sports centres, entertainment centres	4%
Medical Hospitals Medical Centres (including community health centres, radiology units, rehabilitation units)	4% 3%
Places of Public Worship Individual churches or religious centres	3%

Notes.

1. Percentages in Table 2 apply to the total number of parking spaces to be provided.
2. Small car parks must provide a minimum of 1 space for disabled persons.

2.3. BICYCLE PARKING

Objectives

- (i) To provide convenient and accessible on-site bicycle parking and appropriate associated facilities.
- (ii) To encourage the use of bicycles in order to help reduce the dependence on motor vehicles in accordance with Council's ESD Objective 9

~~Development~~ Controls

- (a) The provision of bicycle parking must be in accordance with Table 3.
- (b) Bicycle parking should be located in close proximity to building entrances and clustered in lots not exceeding 16 spaces.
- (c) Bicycle parking facilities should not impede pedestrian or vehicular circulation.
- (d) Bicycle parking facilities should be located in highly visible, illuminated areas to minimise theft and vandalism.
- (e) Provision of shower and change facilities for bicycle riders should be provided in accordance with Table 3.
- (f) Installation and dimensions of bicycle parking facilities and storage should be in accordance with:
 - As 2890.3-1993 – Parking Facilities – Bicycle parking facilities; and
 - Guide to Traffic Engineering Practice BICYCLES – Part 14 – Austroads (Standards Australia).

Submission Requirements

- Parking calculations
- Site plan indicating location of:
 - Designated bicycle spaces/storage facilities; and
 - Shower and change facilities
- Statement of Environmental Effects indicating:
 - Security details for bicycle parking areas and
 - Provision of shower and change facilities.

Table 3 Provision of Bicycle Parking According to Land Use

Source: Guide to Traffic Engineering Practice “BICYCLES – Part 14 – Austroads” (Standards Australia).

Land Use	Minimum Bicycle Parking Provisions	Change and Shower Facilities
Commercial Premises (including business premises and office premises)	2 spaces plus 5% of the total number of car spaces required where – New development exceeds 5,000m ² in GFA, or Additions to existing developments that increase the size of the total development to greater than 5,000m ² of GFA.	Yes
Gymnasium/Fitness Centre or Squash/Tennis courts or Indoor Cricket/Soccer	1 per 4 employees, plus 1 per 200m ² of GFA	Yes
Industry – Warehousing, Factories	2 spaces plus 5% of the total number of car spaces required where – New development exceeds 4,000m ² in GFA, or Additions to existing developments that increase the size of the total development to greater than 4,000m ² of GFA.	Yes
Retail/Shops	2 spaces plus 5% of the total number of car spaces required where – New retail developments exceed GFLA of 5,000m ² , or Additions to existing developments that increase the size of the total development to greater than 5,000m ² of GFLA.	Yes
Bulky Goods Premises	2 spaces plus 5% of the total number of car spaces required where – New development exceeds 4,000m ² in GFA, or Additions to existing developments that increase the size of the total development to greater than 4,000m ² of GFA.	Yes
Schools	1 space per 5 pupils over year 4	Yes
Tertiary Institution	1 space per 50 full-time students	Yes

2.4. MOTORCYCLE PARKING

Objective

- (i) To have equitable provision of parking for motorcyclists.

Development Controls

- (a) Motorcycle parking is to be provided for all developments with on-site parking of more than 50 car parking spaces, at a rate of 1 motorcycle parking space for every 50 car parking spaces or part thereof.
- (b) Motorbike spaces should be 1.2 metres wide and 2.5 metres long when spaces are 90 degrees to the angle of parking. (See Figure 1 - Motorcycle Parking Dimensions).

Submission Requirements

- Parking calculations.
- Site plan – indicating location of designated motorcycle parking spaces.

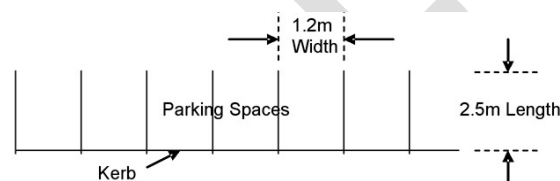


Figure 1 Motorcycle Parking Dimensions At 90 Degree Angle

Source: AS 2890.1 1993 – Parking Facilities - Part1: Off Street Car Parking

2.5. CARWASH BAYS

Objectives

- (i) To provide on-site car wash facilities within residential multi-unit developments.
- (ii) To ensure during the design, construction and operation of car wash bays, that water is utilised efficiently and that water leaving the site is of a quality and quantity comparable to that which is received in accordance with Council's ESD Objective 3.

Development Controls

- (a) The carwash bay can be either a designated care space separate to that of total car spaces as calculated, or can be a visitor space when not utilised by visitors.
- (b) A minimum provision of one designated carwash bay space per residential multi-unit development.
- (c) Car wash bays are not to be used to carry out engine degreasing or mechanical repairs and must be signposted to reflect this prohibition.

- (d) Wastewater must be treated so as to remove grease, oil and silt and must be either reused for car washing or used for irrigation of landscaped areas on site. To treat wastewater in this way application for a licence must be applied for from the Office of Environment and Heritage. Approval can be sought from www.environment.nsw.gov.au/licensing/ <https://www.environment.nsw.gov.au/licences-and-permits>.
- (e) Alternatively wastewater can be discharged to the sewer. This is only where (b) is not feasible according to a report provided by a hydraulic engineer, ~~the~~ Council or the Office of Environment and Heritage. Approval from Sydney Water must be sought by applying for "Permission to Discharge Trade Wastewater". Refer to the fact sheet on Sydney Water's website <https://www.sydneywater.com.au/>. - "Disposal of Trade Wastewater from Residential Car Wash Bays".
- (f) Wastewater option (e) requires the construction of a roof over the designated car wash space and must be bunded to exclude rainwater as per Sydney Water's requirements.
- (g) Approval must be obtained either from the Office of Environment and Heritage or Sydney Water prior to construction of the development.

Submission Requirements

- Site plan indicating locations of designated car wash spaces.
- Statement of Environmental Effects indicating:
 - Details of method wastewater removal

2.6. SET DOWN AREAS

Objectives

- (i) To provide designated set down areas in close proximity to busy centres.
- (ii) To provide safe and convenient designated set down areas for passengers to arrive close to their destination.

Development Controls

- (a) Set down areas must not conflict with the movement of other traffic, pedestrians and other vehicle parking.
- (b) There must be a safe continuous accessible path of travel from set down area/s to a wheelchair accessible entrance or lift.
- (c) The following forms of development should provide set down areas for cars:
 - Educational establishments.
 - Shopping centres.
 - Community centres.
 - Libraries.
 - Entertainment facilities.
 - Child care centres.
 - Recreational facilities.
 - Transport terminals and interchanges.

- (d) The following forms of development should provide set down areas for coaches and community buses:
- Hotel or motel accommodation.
 - Community centres.
 - Registered clubs.
 - Tourist destinations and centres.
 - Transport terminals and interchanges.
- (e) The number of set down areas must be in accordance to the development needs.
- (f) Set down areas for cars must be separate to set down areas used for coaches and community buses.
- (g) Set down areas, except those used for coaches and community buses, must be used only to drop off passengers and must not be used for passenger collection.
- (h) Set down areas must be signposted to indicate that their use is time limited.

Submission Requirements

- Site plan indicating location and design of designated set down areas.
- Statement of Environmental Effects – Details of types of vehicles expected to set down passengers and the likely frequency of use.

2.7. CAR PARK DESIGN AND LAYOUT

Objectives

- (i) To provide safe, convenient and accessible design and layout of parking areas.
- (ii) To provide suitable dimensions for all types of parking spaces.
- (iii) To provide appropriate parking design and layout that complements building design and function.
- (iv) To ensure pedestrian amenity is enhanced.

Development Controls

2.7.1 GENERAL

- (a) The layout of the car park should facilitate ease of access and egress of vehicles through the parking area at all times without congestion.
- (b) For all development other than single dwelling houses and dual occupancies, vehicles must enter and exit the site in a forward direction.
- (c) Adequate queuing distance should be provided where the parking area fronts an arterial road as justified by relevant data or a study carried out by a suitably qualified person.
- (d) Any changes to parking layout and design occurring after development consent or implementation of a development consent must be subject to an application under Section 96 4.55 of the *Environmental Planning and Assessment Act 1979*.

- (e) Provisions within this section are in accordance with AS 2590.1 – 1993 Parking Facilities – Part 1 Off Street Car Parking. For further design requirements for car park design and layout please refer to the Australian Standard.

2.7.2. PARKING DIMENSIONS

- (a) The minimum car parking dimensions required for right angle parking shall be provided in accordance with Table 4.
- (b) Two-way aisles are not recommended for angle parking other than for parking at right angles (90 degrees).
- (c) The preferred parking angle should be at 90 degrees to the aisle. Where site area is limited other angles of parking will be considered. For angle parking design requirements other than at 90 degrees refer to AS 2890.1-1993 – Parking Facilities – Part 1: Off Street Parking.
- (d) All parking spaces shall be designed to ensure they can be accessed by a maximum 3 point combined manoeuvre, i.e. 1 movement to enter the space and 2 movements to leave, or 2 movements to enter and 1 to leave. (See Figure 2 for manoeuvres).
- (e) Parallel parking is to be avoided unless it can be demonstrated that it does not disrupt traffic circulation or create a hazard.
- (f) At blind aisles the end spaces should be made one metre wider than the adjacent spaces (see Figure 3). Otherwise, provision should be made for cars to turn round at the end of aisles and allow vehicles to exit in a forward direction.
- (g) Spaces adjacent to obstructions must be 300mm wider on the side of the obstruction.
- (h) The width of car spaces in multi-storey or basement parking areas is to be exclusive of any building columns.
- (i) Basement parking areas should be setback the same distance as the building above.

2.7.3. PEDESTRIAN CIRCULATION AND SAFETY

- (a) Parking areas should be designed so that pedestrian entrances and exits are separate from vehicle entrances and exits.
- (b) Safe crossing points through to or leading to entrances must have adequate sight distance and must be provided with appropriate directional signs and indicative pavement markings.
- (c) Lifts and stair lobbies, and access to buildings should be clearly marked.
- (d) Where possible, parking aisles should be orientated parallel with expected pedestrian travel paths (See Figure 4).

2.7.4. DRAINAGE

- (a) All car parking areas are to provide adequate drainage of surface water to prevent flooding of adjoining properties.

2.7.5. LIGHTING AND VENTILATION

- (a) Covered or enclosed car parks must have adequate lighting and ventilation, preferably by natural means.
- (b) Where car parks might be utilised in the evening, adequate artificial lighting should be provided for the whole car park area.

2.7.6. PARKING DIRECTIONS

- (a) All car parking spaces should be clearly line marked.
- (b) Where designated parking spaces are provided such as customer, visitor, parents with prams and disabled persons parking, signposting must clearly indicate the location of these spaces.
- (c) Arrow markings on the surface of aisles and driveways should be used to demonstrate circulation pattern, whether in one-way or two-way directions.
- (d) Entries and exits must be appropriately signposted.

Submission Requirements

- Site Plan indicating car park layout including:
 - Traffic circulation details;
 - Location of parking spaces;
 - Location of directional and parking signs;
 - Pedestrian access and circulation through parking areas;
 - Contours demonstrating existing spot levels and proposed finished levels;
 - Vehicle turning path detail overlaid on the plans demonstrating that entry and exit is achieved in a forward direction; and
 - Location and height of any retaining walls.
- Cross Section indicating:
 - Extent of cut and fill;
 - Location and height any of retaining walls;
 - Headroom clearance to overhead obstructions (e.g. Fire sprinklers, servicing ducts, piping etc.); and
 - Longitudinal section of the driveway from the centreline of the public roadway from where access is proposed to the rear of the parking area. Transition grades to prevent vehicle scraping are to be detailed.
- Statement of Environmental Effects detailing:
 - Method of drainage; and
 - Lighting and ventilation methods.

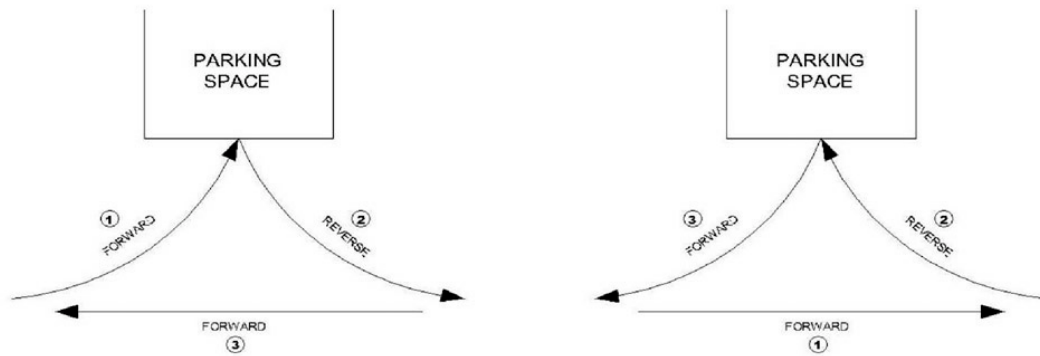
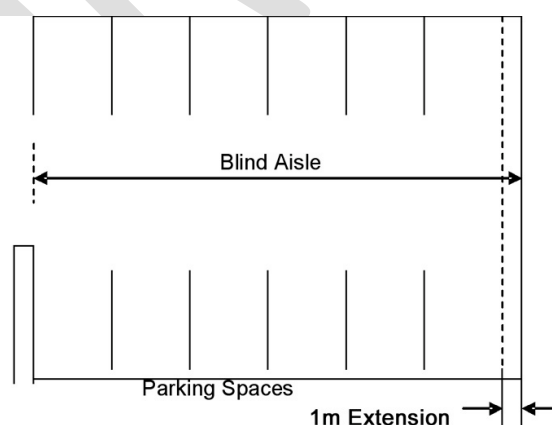


Figure 2 Vehicle Movements in and out of Parking Spaces

Table 4 Minimum Parking Bay Dimensions for Right-Angled Car Parking

Source: AS 2890.1 1993 – Parking Facilities – Part 1: Off Street Parking

Land Uses	User Class No.	Required Door Opening	Space Width (metres)	Space Length (metres)	Aisle Width (metres) One Way	Aisle Width (metres) Two Way
Tenant, employee and commuter parking, universities (generally parking all day)	1	Front Door, first stop	2.4	5.4	6.2	7.0
Long-term town centre parking, sports facilities, entertainment centres, hotels, motels (generally medium-term parking)	2	Front Door, second stop	2.5	5.4	5.8	7.0
Short-term town centre parking, shopping centres, supermarkets, hospitals & medical centres (generally short-term parking and where children & goods can be expected to be loaded into the vehicles).	3	Rear Door, full opening	2.6	5.4	5.4	7.0
Parking for people with disabilities	4	Front door, full opening plus wheelchair manoeuvre space	3.2	5.4	5.0	7.0

**Figure 3** Blind Aisle Extension**Note.** The maximum length of blind aisle is equal to six 90 degree car spaces.

Source: AS 2890.1 1993-Parking Facilities-Part 1: Off Street Car Parking

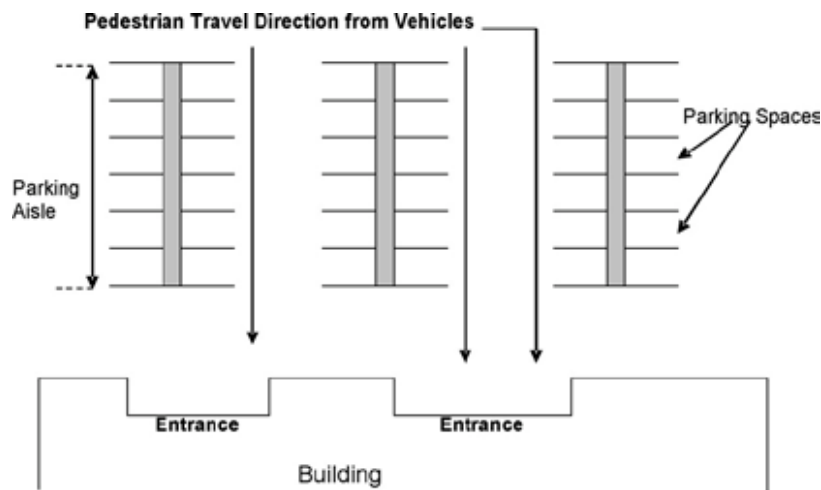


Figure 4 Example of Direct Pedestrian Access to Entrance

2.8. LANDSCAPING

Objectives

- (i) To provide appropriate landscaping for external and uncovered car parks so that they do not detract from the surrounding area.
- (ii) To provide shade and improve amenity of loading, service and parking areas and to provide a buffer to neighbouring properties.
- (iii) To utilise landscaping to provide amenity to neighbouring properties in accordance with Council's ESD objective 7.

Development Controls

- (a) Outdoor parking areas are to be provided with two meter wide landscaping strips:
 - Between rows served by different aisles.
 - Between spaces at a rate of one in every ten car parking spaces.
- (b) Outdoor parking areas are to be screened by a minimum of two metre wide landscaping strips. Such landscaping is to be of a mature and dense nature and be designed according to Part C Section 3 – Landscaping of this DCP.
- (c) Driveways are to be screened by a minimum of two metre wide landscaping strip on either side.
- (d) Where soils permit infiltration the landscaping strips should be used to promote reuse of drainage water.
- (e) Landscaping species selected should not:
 - Block signs;
 - Impede entry and access points;
 - Overgrow paths;

- Cause restrictions to pedestrian and vehicle movements; and
 - Compromise safety aspects such as sight distances.
- (f) Shade trees are to be provided within landscaping strips.
- (g) Plant and tree species selected for the purpose of providing shade should not be of a kind that will cause damage to vehicles because of their nature of dropping fruit, cones or nuts.
- (h) In addition reference should be made to Part C Section 3 – Landscaping of this DCP when selecting appropriate species.

Submission Requirements

- Landscape Plan

2.9. LOADING AND DELIVERY REQUIREMENTS

Objectives

- (i) To provide suitable access on-site for service vehicles, for the purpose of loading and/or delivering goods.
- (ii) To ensure that types of loading and delivery areas are suited to the needs of the development.
- (iii) To ensure that the adequate numbers of loading and delivery areas are allocated for appropriate types of service vehicles.
- (iv) To protect neighbourhood amenity and safety in the design and construction and operation of loading and service areas in accordance with Council's ESD objective 7.

Development Controls

- (a) All loading and delivery areas are to be provided on-site.
- (b) Loading and delivery facilities are to be designed in accordance with AS 2890.2-1989, Off Street Parking – Part 2: Commercial vehicles facilities.
- (c) The use of loading and delivery areas must not conflict with the safe efficient circulation of pedestrians and other vehicles on-site.
- (d) In larger developments loading and delivery areas should not operate independently of other parking areas.
- (e) Service vehicles are to be able to efficiently manoeuvre to and from loading and delivery areas in accordance with AUSTROADS Design Vehicular and Turning Templates.
- (f) Loading and delivery areas must not affect the amenity of adjoining residential properties.
- (g) Loading bays are not to be used for the storage of goods that may impede the use of the bay for the delivery or loading of goods.
- (h) The number of loading bays for supermarkets, department stores, mixed small shops and offices are required in accordance with Table 5.
- (i) Council may consider variations to the standards required by Table 5 in circumstances where the Applicant is able to demonstrate compliance with the objectives of this Section of the DCP by alternate means.

(j) For those land uses not referred to in Table 5 the Applicant will be required to demonstrate the development proposal satisfies the objectives of this Section of the DCP. In this regard the following information is to be submitted:

- The types of vehicles expected to load and deliver on-site.
- The frequency with which these vehicles will visit the site.
- The largest vehicles expected to visit the site. These areas must be able to be utilised by all smaller loading and delivery vehicles also.

Table 5 Minimum Number of Loading Bays Required

GLFA = Gross Leasable Floor Area

GFA = Gross Floor Area

Development	Number of Loading Bays
Supermarket (GLFA)	2 for the first 930m ² 2 for the next 930m ² 1 for each extra 930m ²
Department Store (GLFA)	2 for the first 4,645m ² 2 for the next 4,645m ² 1 for each extra 4,645m ²
Mixed Small Shops (GFLA)	2 for the first 465m ² 2 for the next 465m ² 1 for each extra 530m ²
Offices (GFA)	1 for the first 1,860m ² 1 for next 3,720m ² 1 for the next 3,720m ² 1 for each extra 9,250m ²

Submission Requirements

- Site Plan must indicate:
 - The relevant locations and dimensions of loading and delivery areas; and
 - The swept path of the design service vehicle to be overlaid on the site plan to demonstrate all turning movements of service vehicles from the public road to the delivery/loading dock.
- Loading Bay Calculations – in accordance with Table 5.

- Statement of Environmental Effects – where Table 5 is not applicable the statement of environmental effects must indicate the following to substantiate that the design and number of loading and delivery areas are appropriate for the proposed development:
 - The type/s of service vehicles expected to deliver to and load from the site;
 - The frequency with which these vehicles will visit the site, indicating times during the day/night and approximate number of visits per week or month; and
 - ~~Illustrate illustration~~ that the dimensions of the loading and delivery areas are suited to the types of vehicles visiting the site (Refer to AS 2890.2-1989 – Part 2: Commercial vehicle facilities for dimension requirements).

2.10. ACCESS DRIVEWAYS

Objectives

- (i) To provide driveways with safe access and egress to and from properties.
- (ii) To reduce conflicts between entering and exiting street traffic and car park traffic.
- (iii) To ensure safety in the design, construction and operation of access driveways in accordance with Council's ESD objective 7.

~~Development~~ Controls

- (a) Access driveway widths are to comply with AS 28901-1993 Parking Facilities – Part 1: Off Street Car Parking.
- (b) Driveways are to be provided in locations that have adequate sight distance.
- (c) Driveways will be prohibited in the locations shown in Figures 5 and 6.
- (d) Access driveways are to be constructed in accordance with Council's "Specification for the Construction of Footpath & Gutter Crossings" (2001).
- (e) Access driveways are to be located a minimum of one metre from drainage structures and other services facilities located on the nature strip.
- (f) Except for residential properties, driveway entrances and exits should be signposted appropriately.
- (g) Access driveways should not be entered from or exited onto intersections where one or more of the intersecting roads are a collector, sub-arterial or arterial road.
- (h) Indirect access must be sought in preference to direct access where the proposed development fronts a high-volume road. Where direct access is proposed, a study by a suitably qualified person must be conducted to indicate potential impacts. This study will also be assessed by Transport for NSW.
- (i) Driveways for multi dwelling housing, residential flat buildings and ~~Seniors Living SEPP~~ developments using Part 5 (Housing for Seniors and People with a Disability) of State Environmental Planning Policy (Housing) 2021 must be able to be accessed by service vehicles such as fire tankers, ambulances and bushfire tankers.
- (j) In addition, application of controls for driveways in other applicable Sections of the DCP should be applied.

Submission Requirements

- Site Plan including:
 - Indication of driveway locations in relation to the existing roadway and the kerb alignment; and
 - All tangent points on the kerb return must be identified.

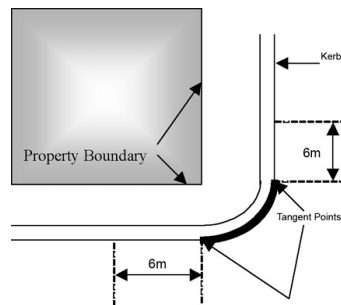


Figure 5 Driveways Prohibited Within 6 Metres from Tangent Points of Kerb

Source: AS 2890.1 – 1993 Parking Facilities – Part 1: Off-Street Car Parking

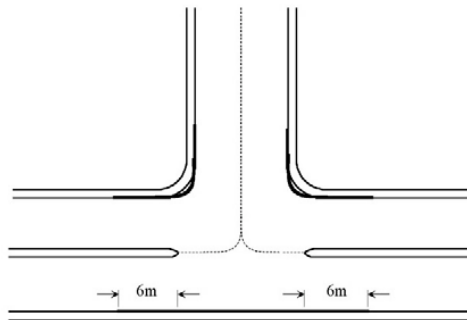


Figure 6 Driveways Prohibited On The Opposite Side Of The Road Or Within 6m Of Median Opening

3 References

Australian Standard – AS 2890.1 – 1993 – Part 1 Parking Facilities – Off Street car parking.

Australian Standard – AS 2890.2 – 1989 – Off Street parking – Part 2: Commercial vehicle facilities.

Australian Standard – AS 2890.3 – 1993 – Parking Facilities – Bicycle parking - facilities.

The ~~Baulkham~~ Hills Shire Council, 1993 Kellyville/Rouse Hill Landscape and Urban Design Strategy.

Department of Environment and Planning, 1981 Technical Bulletin 14: Guidelines for Site Landscaping of Commercial and Industrial Development.

Department of Urban Affairs & Planning, 1988 Rural Land Evaluation: A Manual for Conducting a Rural Land Evaluation Exercise at the Local Planning Level. Department of Urban Affairs and Planning, Sydney.

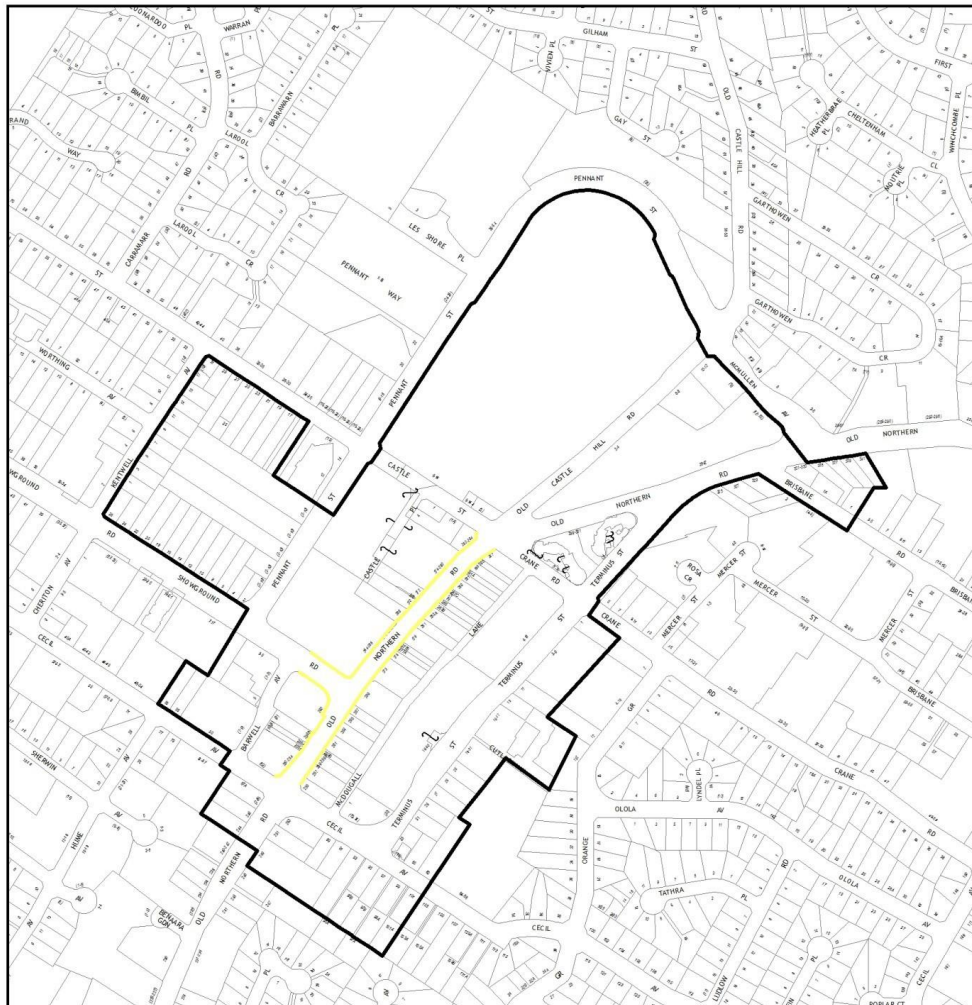
Department of Urban Affairs and Planning DUAP Circular No E3 Author.

Roads & Traffic Authority 1995, The Guide to Traffic Generating Developments.

Sinclair Knight Merz, 1996 Kellyville traffic and Parking Study. Prepared for The ~~Baulkham~~ Hills Shire Council.

Standards Australia - Guide to Traffic Engineering Practice BICYCLES - Part 14 – Austroads.

Appendix A – Centre Maps

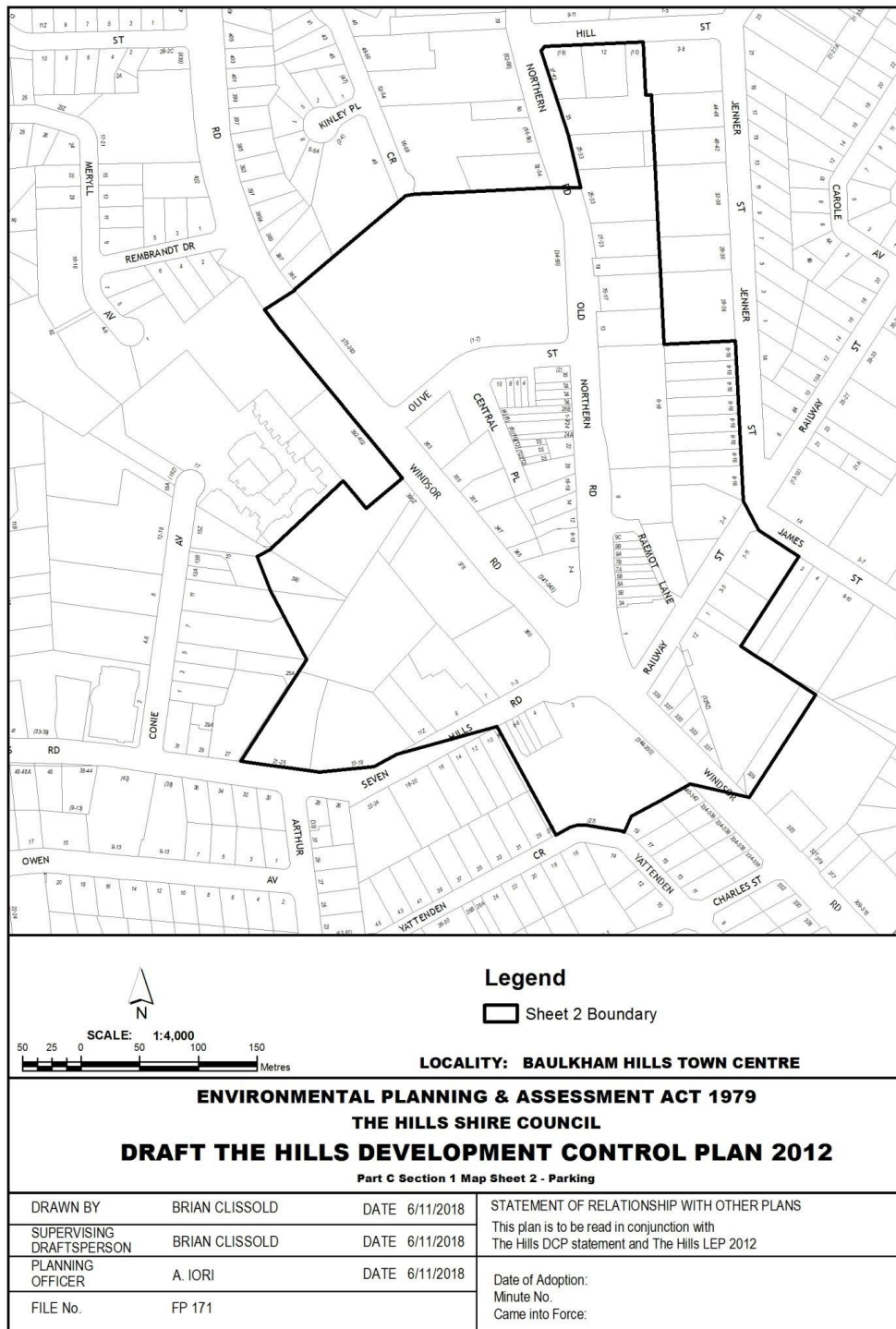


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ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 THE HILLS SHIRE COUNCIL DRAFT THE HILLS DEVELOPMENT CONTROL PLAN 2012 Part C Section 1 Map Sheet 1 - Parking			
DRAWN BY	BRIAN CLISSOLD	DATE	6/11/2018
SUPERVISING DRAFTSPERSON	BRIAN CLISSOLD	DATE	6/11/2018
PLANNING OFFICER	A. IORI	DATE	6/11/2018
FILE No.	FP 171	STATEMENT OF RELATIONSHIP WITH OTHER PLANS This plan is to be read in conjunction with The Hills DCP statement and The Hills LEP 2012 Date of Adoption: Minute No. Came into Force:	

Map Document: S:\Projects\PlanServ\Consolidating_DCP\The_Hills_DCP_2012\Draft\PartC_Sec1\Draft_All_Sheets_1-5\PartC_Sec1_Sh1.mxd

Part C Section 1

Parking



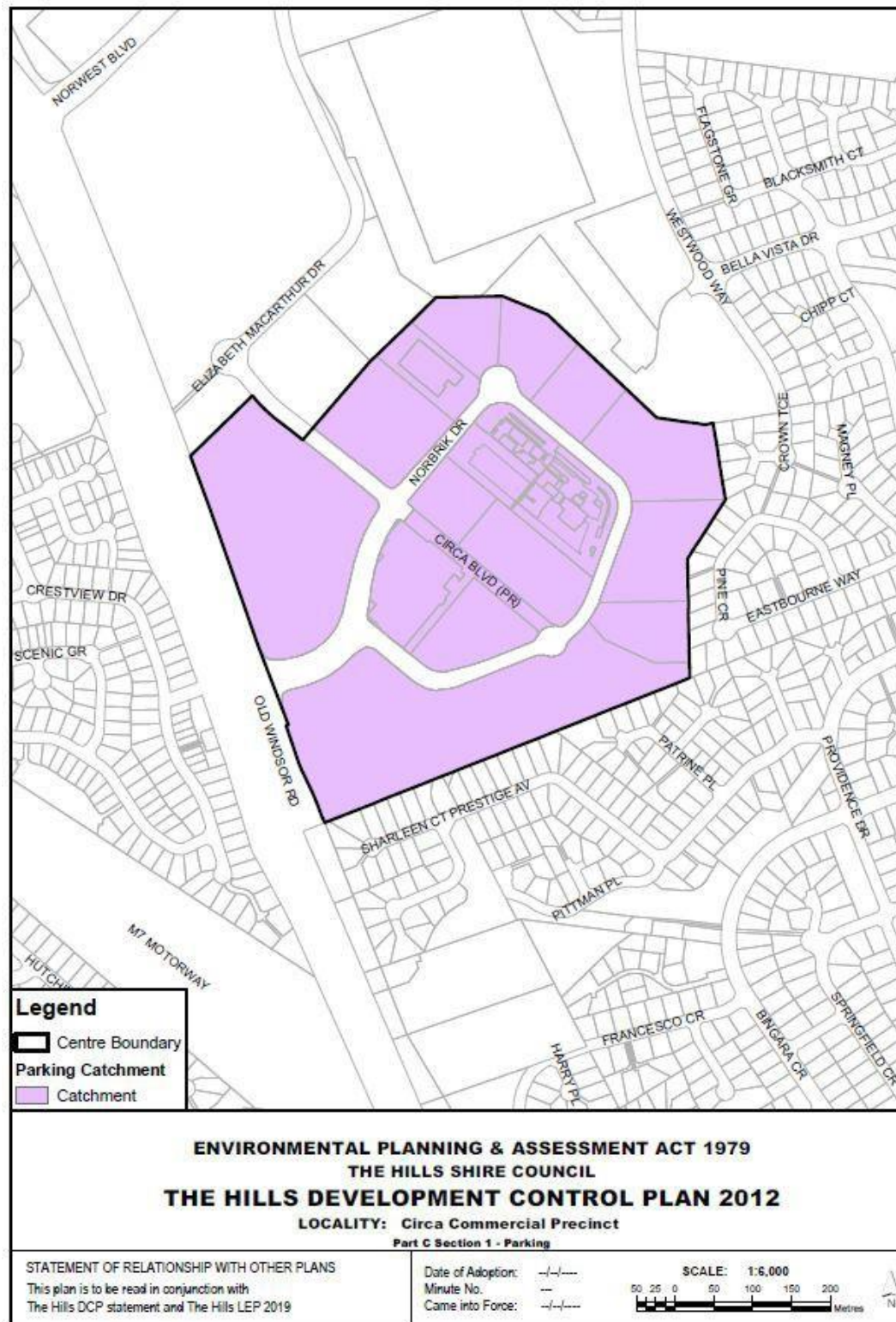
Part C Section 1

Parking

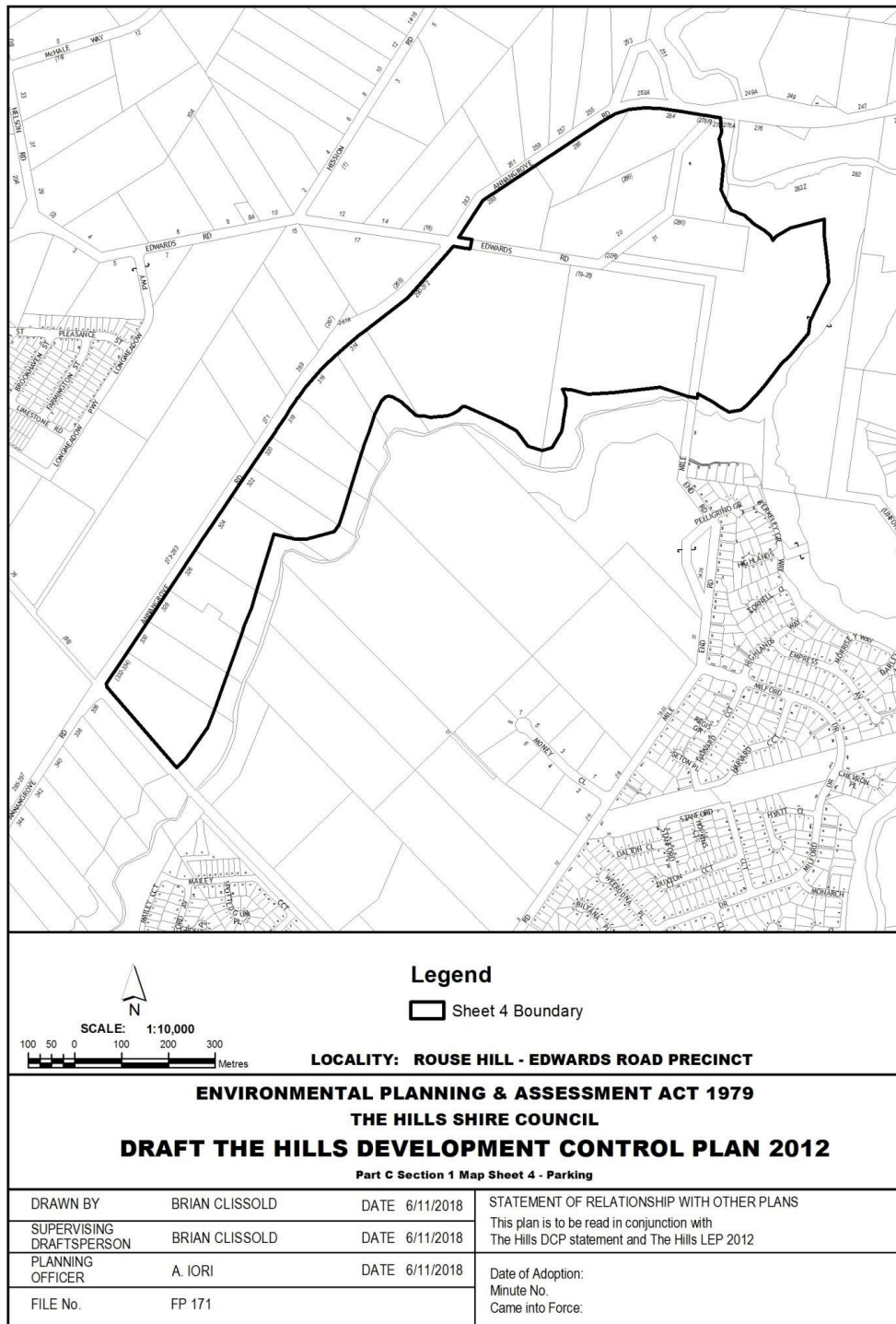


		Legend  Sheet 3 Boundary	
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ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 THE HILLS SHIRE COUNCIL DRAFT THE HILLS DEVELOPMENT CONTROL PLAN 2012 Part C Section 1 Map Sheet 3 - Parking			
DRAWN BY	BRIAN CLISSOLD	DATE	6/11/2018
SUPERVISING DRAFTSPERSON	BRIAN CLISSOLD	DATE	6/11/2018
PLANNING OFFICER	A. IORI	DATE	6/11/2018
FILE No.	FP 171	STATEMENT OF RELATIONSHIP WITH OTHER PLANS This plan is to be read in conjunction with The Hills DCP statement and The Hills LEP 2012 Date of Adoption: Minute No. Came into Force:	

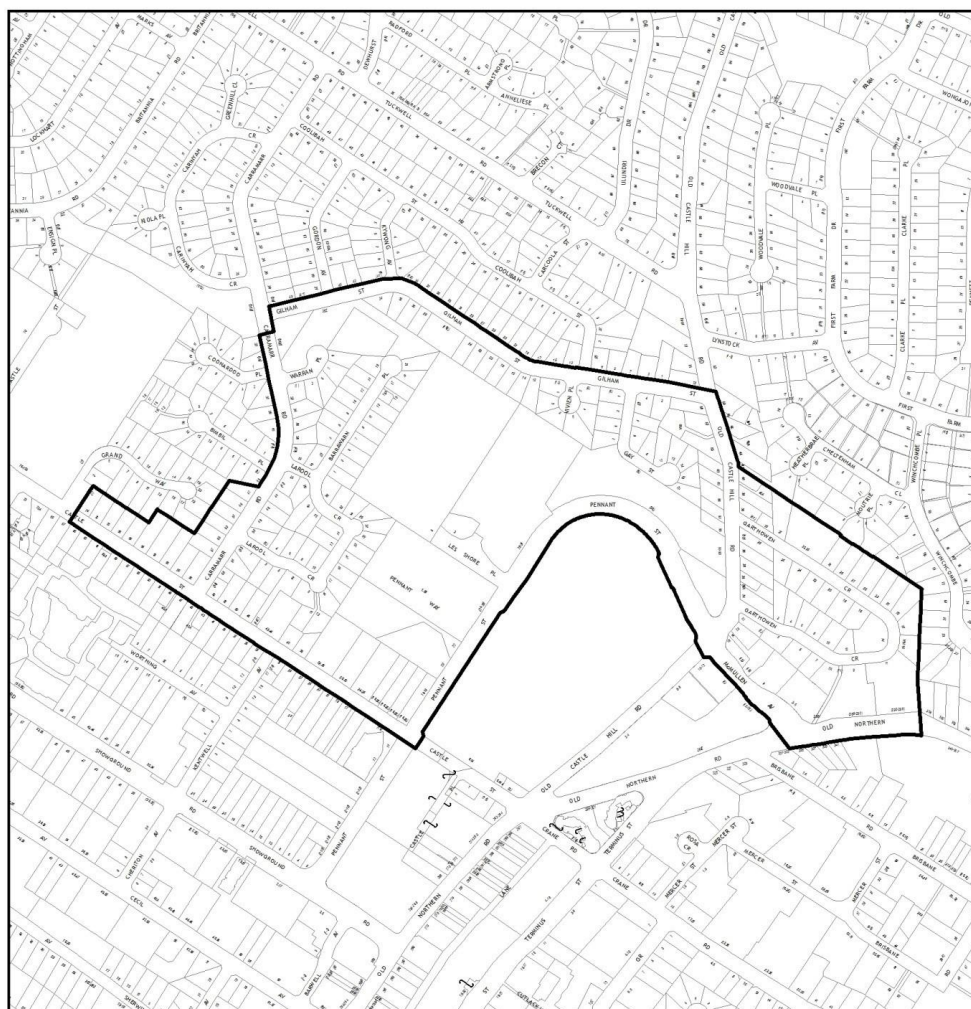
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Appendix B – Edwards Road Precinct



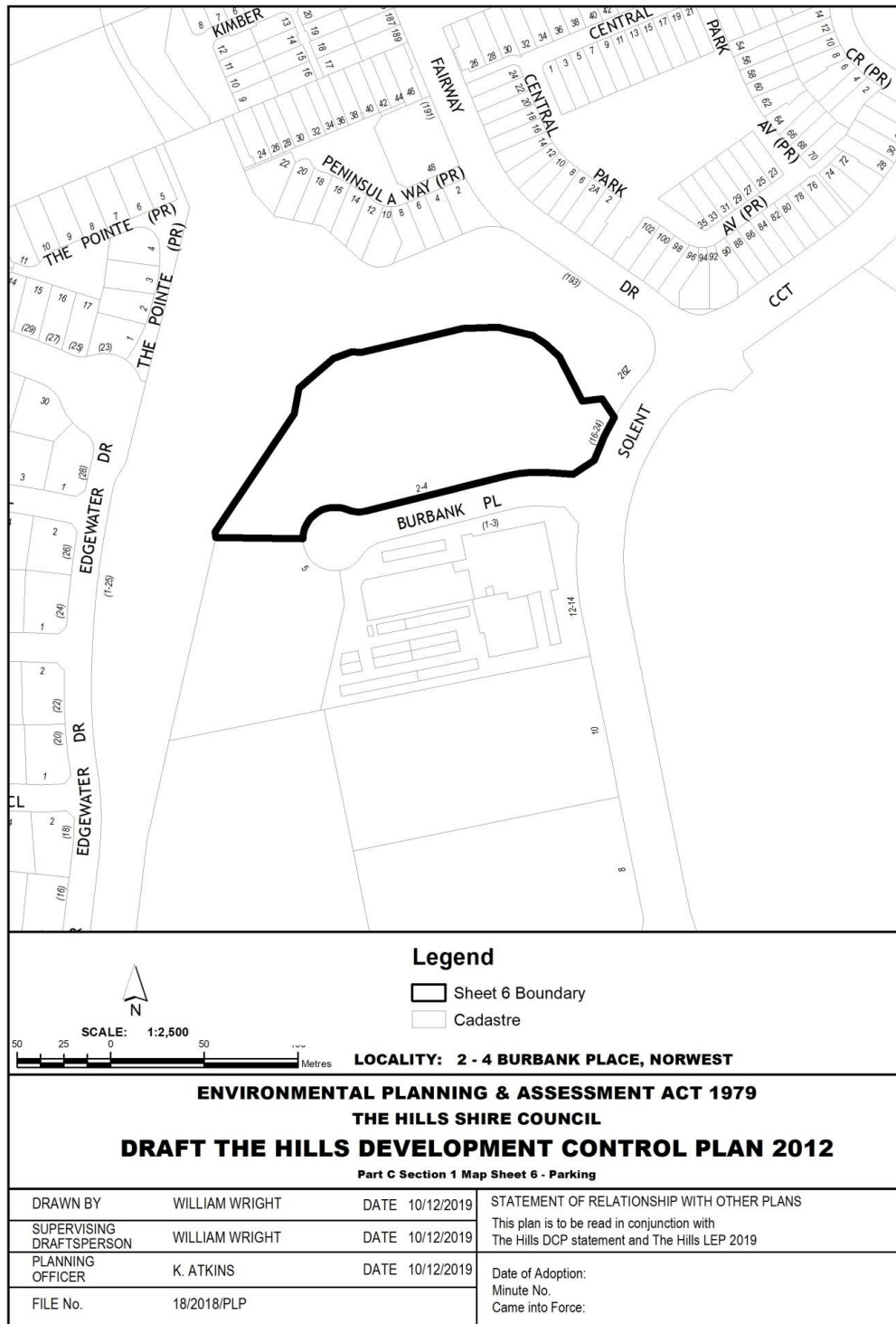
Appendix C – Castle Hill North Precinct



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LOCALITY: CASTLE HILL NORTH PRECINCT			
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DRAWN BY	BRIAN CLISSOLD	DATE 6/11/2018	STATEMENT OF RELATIONSHIP WITH OTHER PLANS This plan is to be read in conjunction with The Hills DCP statement and The Hills LEP 2012 Date of Adoption: Minute No. Came into Force:
SUPERVISING DRAFTSPERSON	BRIAN CLISSOLD	DATE 6/11/2018	
PLANNING OFFICER	A. IORI	DATE 6/11/2018	
FILE No.	FP 171		

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Appendix D – 2-4 Burbank Place, Norwest



Appendix E – 21-23 Lexington Drive, Bella Vista

