

## REZONING REVIEW – Briefing Report

Date of Referral:	31 January 2018	
Department Ref. No:	RR_2018_THILL_001_00	
LGA:	The Hills Shire	
LEP to be Amended	The Hills Local Environmental Plan 2012	
Address:	64 Mackillop Drive and 34 Salamander Grove, Baulkham Hills (Lots 1001 and 1002 DP 1190982 and Lot 574 DP 713531)	
Reason for review:	<input checked="" type="checkbox"/> Council notified the proponent that it will not support proposed amendment	<input type="checkbox"/> Council failed to indicate support for proposal within 90 days, or failed to submit the proposal after indicating its support
Is a disclosure statement relating to reportable political donations under s147 of the Act required and provided?	<input type="checkbox"/> Provided <input checked="" type="checkbox"/> Not required Comment: The application form states that there are no reportable political or gifts to disclose.	

## SUMMARY OF THE PROPOSAL

### Background

The rezoning review request (**Attachment C1**) was submitted by Aqualand Dee Why Development Pty Ltd for 64 Mackillop Drive and 34 Salamander Grove, Baulkham Hills (Lots 1001 and 1002 DP 1190982 and Lot 574 DP 713531) to:

- rezone land at 64 Mackillop Drive – Lot 1001 from R2 Low Density Residential to part R3 Medium Density Residential and part RE1 Public Recreation, and retain part R2 Low Density Residential; and Lot 1002 from part R2 Low Density Residential and part R3 Medium Density Residential to R4 High Density Residential;
- increase the building height from 9m to part 9m, part 12m and part 16m across the site; and
- amend Heritage Item No. 17 by removing its application to the entirety of Lot 1002 and replacing it with heritage curtilage across part Lot 1001.

The proposal will enable higher-density residential development and deliver 255 more dwellings on the subject site than the current zoning allows.

The request has been submitted as The Hills Shire Council indicated it does not support the proposal (**Attachment D**).



## Locality and context

The site (Figure 1) is approximately 550-600m walking distance from Norwest Railway Station (currently under construction). It is in the suburb of Baulkham Hills and adjoins Bella Vista, which is predominantly characterised by low-density to medium-density residential uses in suburban streetscapes (**Attachment B**).

The development north-west of and adjacent to the site at 40-52 Barina Downs Road comprises nine 3-5-storey residential flat buildings.

Norwest Business Park is within an 800m radius of the site and is the nearest local centre to the site with retail, commercial and industrial uses. The Norwest Precinct is undergoing transition in parts to high-density mixed-use and residential development as envisioned by the North West Rail Link – Norwest Station Structure Plan (2013).



Figure 1: Site (outlined in yellow) and surrounds.

## Site description

The rezoning review applies to the following parcels of land:

- Lots 1001 and 1002 DP 1190982, 64 Mackillop Drive, Baulkham Hills; and
- Lot 574 DP 713531, 34 Salamander Grove, Baulkham Hills.

64 Mackillop Drive consists of a third lot (Lot 1003) that is not part of this rezoning review. The third lot is at the western end of 64 Mackillop Drive and contains St Joseph's Centre for Reflective Living, which provides a range of facilities for uses such as conferences. This lot is being retained by the Sisters of Saint Joseph and will retain its current low-density and high-density residential zonings.



The subject site has a combined total area of approximately 12.5ha. As shown in Figure 2, the site is predominantly vacant, with a single-storey residential brick dwelling on Lot 574 (34 Salamander Grove) and a heritage-listed former farmhouse building on Lot 1002.

The site has a vehicular entrance off Mackillop Drive and Lot 574 can be accessed from Salamander Grove.

Vegetation on-site includes a tree-lined avenue leading to the St Joseph's Centre, mature Brush Box trees to the south of the farmhouse on Lot 1002 and vegetation around the perimeter of the site, including along Barina Downs Road.

Cumberland Plain Woodland and Sydney Turpentine Ironbark Forest communities are present on parts of the site.

There is a prominent east to west ridgeline through the site running parallel to Barina Downs Road, and the site then slopes to the north and south from the ridgeline.



Figure 2: The site (outlined in red).

### Current planning provisions

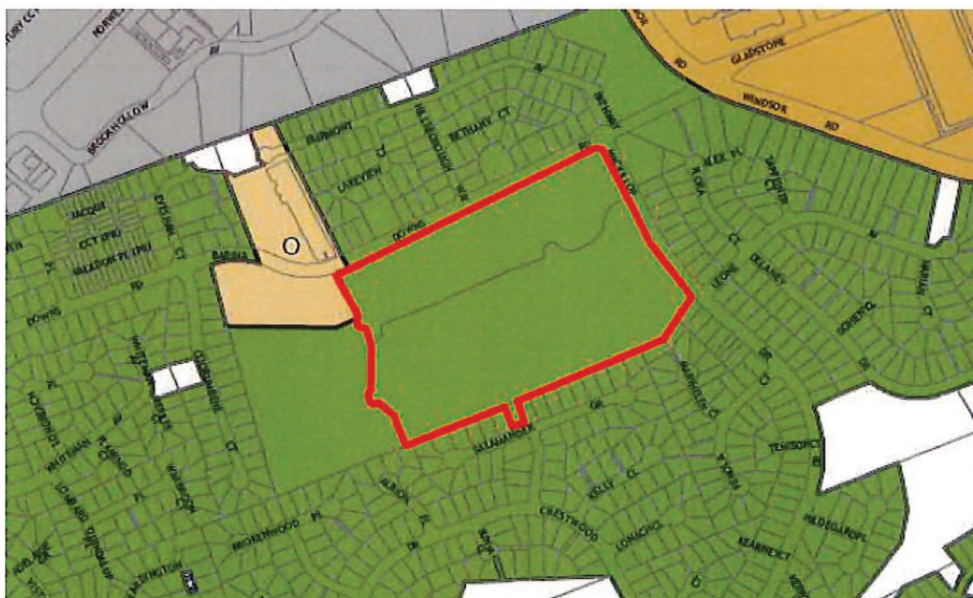
The current planning controls applying to the site under The Hills Local Environmental Plan (LEP) 2012 are:

- Lot 1001 DP 1190982 (part 64 Mackillop Drive) – zoned R2 Low Density Residential (Figure 3, next page);
- Lot 1002 DP 1190982 (part 64 Mackillop Drive) – zoned part R2 Low Density Residential and part R3 Medium Density Residential (Figure 3, next page);



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- The map displays the following zoning districts and features:
- RE1:** Residential Single-Family, located in the western and southern portions of the map.
  - R3:** Residential Single-Family, located in the central-eastern portion of the map.
  - R4:** Residential Single-Family, located in the central portion of the map.
  - SP2:** Single-Family Detached, located in the northern portion of the map.
  - SP2 STORAGE (UTILITY):** Located in the southwestern corner of the map.
- Major roads shown include BAYVIEW, BROADVIEW, SAN JOSE AVENUE, and various local streets like ALBION, CRESTWOOD, and HILLEGARD.

R2	Low Density Residential
R3	Medium Density Residential



J	9.0
K	10.0
M1	12.0
M2	12.5
N	14.0
O	16.0



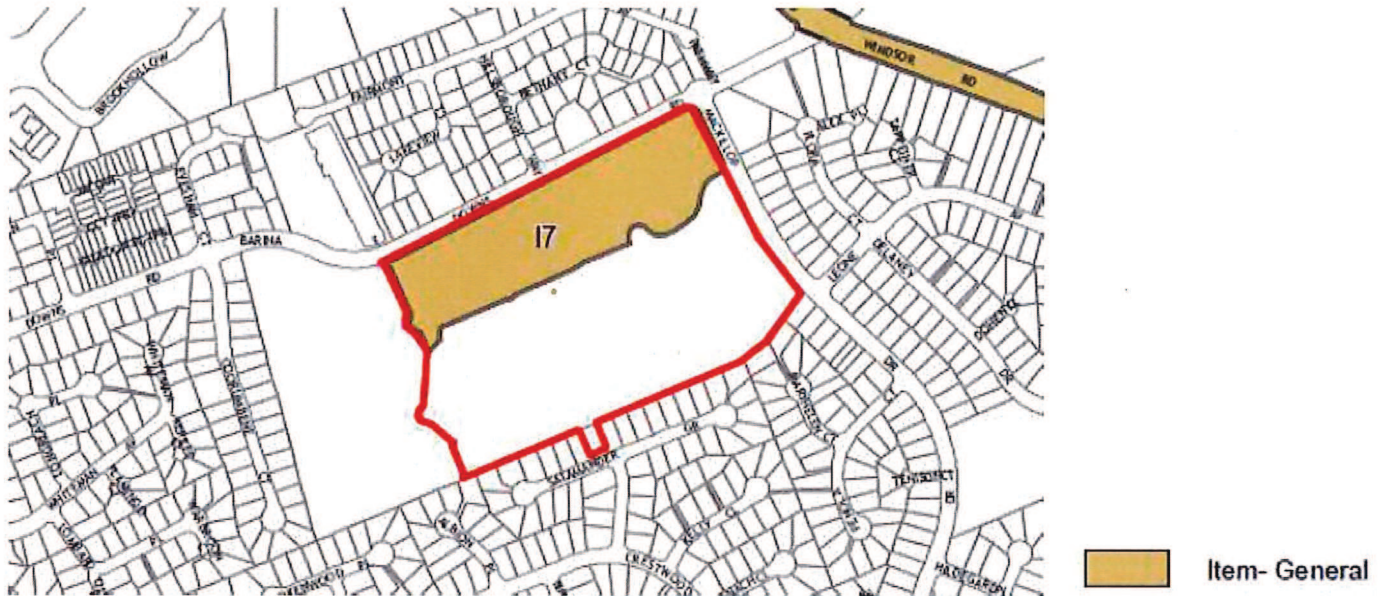


Figure 5: Existing heritage (site outlined in red).

### Proposed planning provisions

The proposed planning controls for the site are:

- Lot 1001 DP 1190982 (part 64 Mackillop Drive) – rezone to part R3 Medium Density Residential and part RE1 Public Recreation, and retain part R2 Low Density Residential (Figure 6, next page);
- Lot 1002 DP 1190982 (part 64 Mackillop Drive) – rezone to R4 High Density Residential (Figure 6, next page);
- amend maximum building height to part 9m, part 12m and part 16m (Figure 7, next page);
- nil floor space ratio provision (no amendment proposed);
- minimum lot size 700m<sup>2</sup> (no amendment proposed); and
- remove Heritage Item No. 17 and replace with heritage curtilage across part Lot 1001 DP 1190982 (Figure 8, page 7).

A copy of the rezoning review request package, which includes the proponent's planning proposal request and amended LEP maps, is provided at **Attachments C1-C19**.



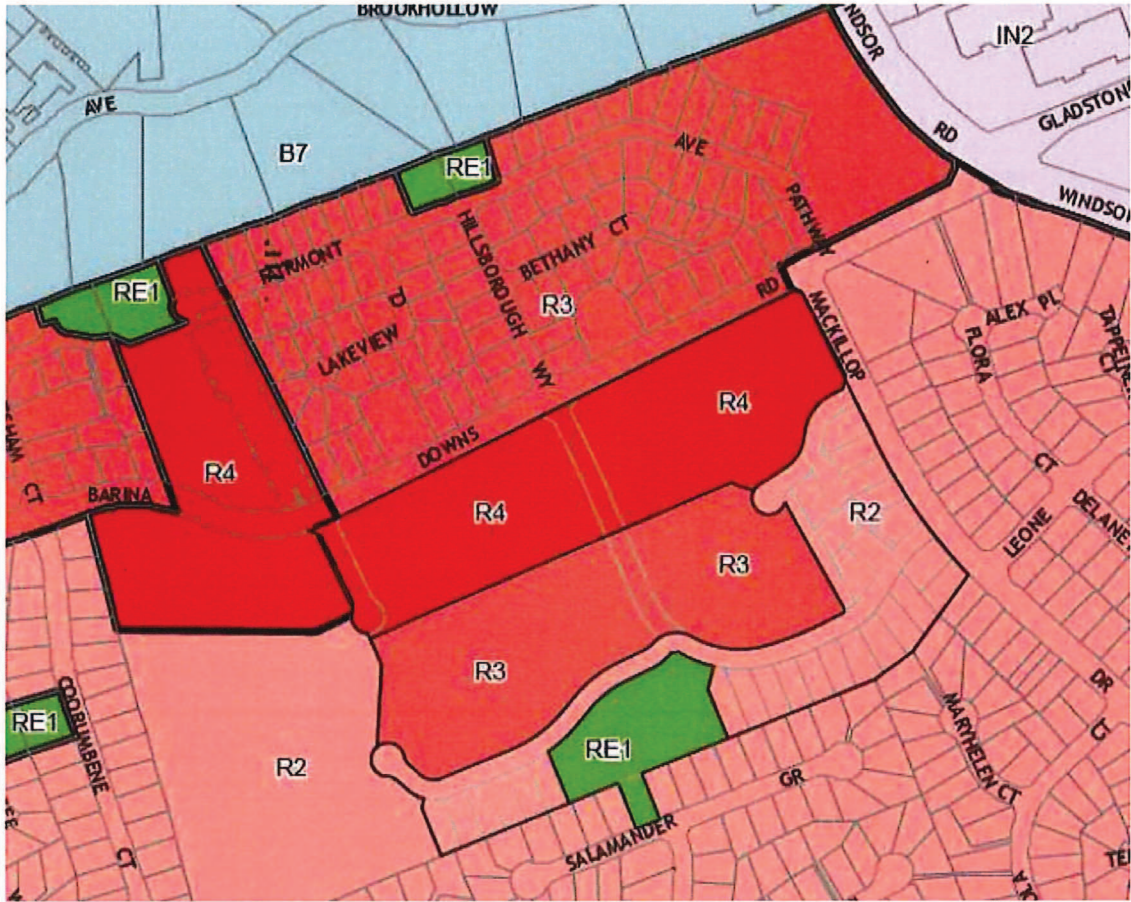


Figure 6: Proposed zoning map.

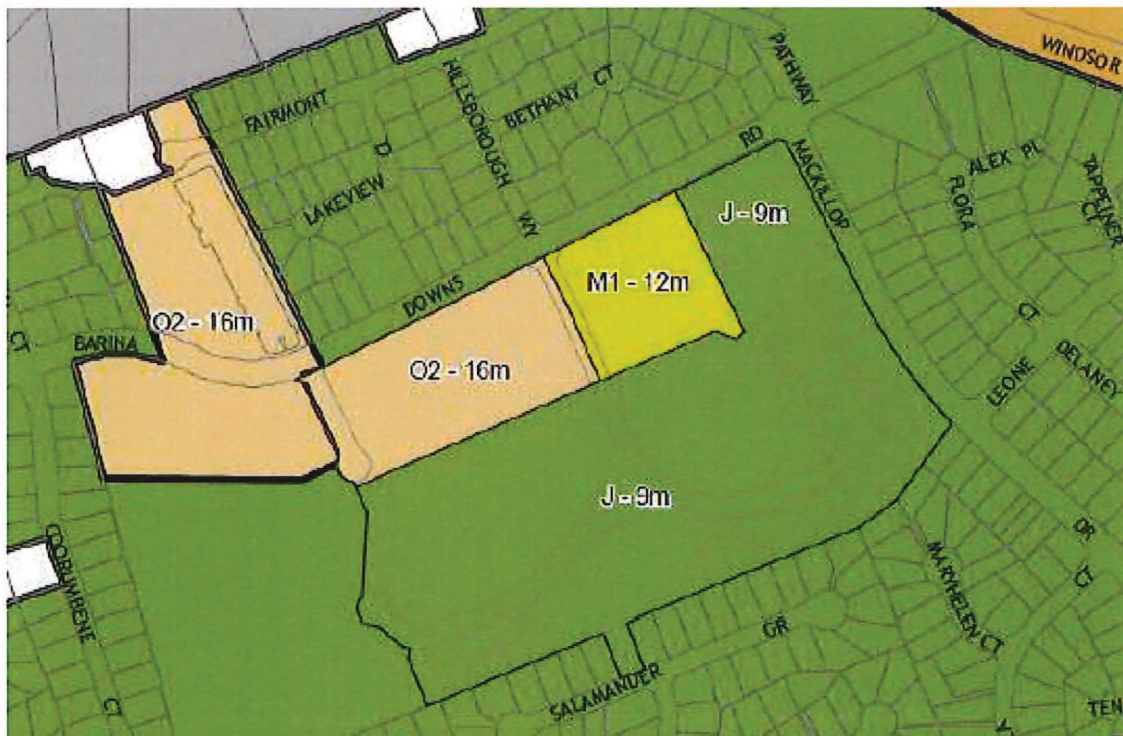


Figure 7: Proposed height of buildings map.



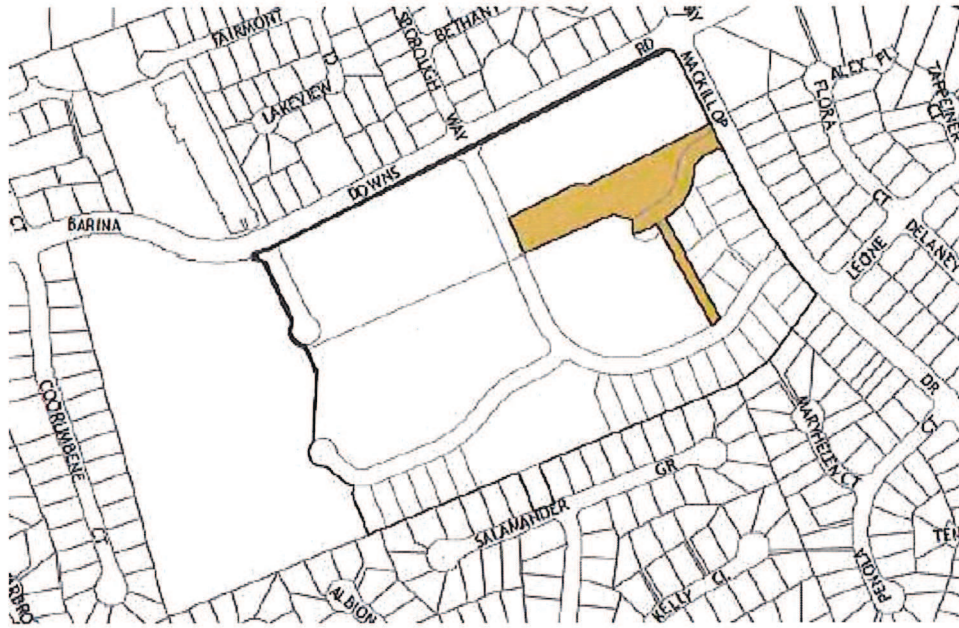


Figure 8: Proposed heritage map.

## **INFORMATION ASSESSMENT**

*Does the proposal seek to amend a zone or planning control that is less than five years old?*

Yes. The subject site's planning controls changed as part of The Hills LEP 2012 (Amendment No. 8), which came into force on 22 November 2013. The amendment enabled increased density on the site and resulted in changes to zoning and intensity of permissible development.

Council subsequently approved a master plan for the site in 2013 for 153 dwellings and included the adjacent Sisters of Saint Joseph's site (Lot 1003 DP 1190982). Council states (**Attachment D**) the master plan aligns with the densities envisaged in the Norwest Structure Plan, transitions between densities within the station precinct and lower-density development at the periphery, and is appropriate in terms of infrastructure capacity in the locality.

Council considers there are no circumstances since Amendment No. 8 that warrant further amendment to its LEP for the site.

In summary, Amendment No. 8 changed the controls for the subject site as follows:

- rezoned land from R2 Low Density Residential to part R3 Medium Density Residential and part R4 High Density Residential; and
- increased the maximum height of buildings control for the portion of the land to be rezoned R4 High Density Residential from 9m to 16m.

Amendment No. 8 was considered to have strategic merit as it demonstrated consistency with the strategic planning framework in force at the time (November 2013), being:

- Metropolitan Plan for Sydney 2036;
- Draft Metropolitan Strategy for Sydney 2031 (March 2013);
- Draft North West Rail Link Corridor Strategy (March 2013);
- Draft North West Subregional Strategy (March 2008);



- Hills 2026 Community Strategic Direction (not endorsed by DPE); and
- The Hills Shire Local Strategy – Residential Direction and Integrated Transport Direction (not endorsed by the Department).

Amendment No. 8 demonstrated strategic merit in accordance with the above as it provides housing opportunities in locations accessible by public transport, walking and cycling.

The proponent notes in the planning proposal (**Attachment C3**) that the existing master plan for the site occurred before Council's adoption of The Hills Corridor Strategy. The proponent considers the master plan does not sufficiently consider the North West Rail Link Corridor Strategy for increased density. The proponent states that while the proposal is for a higher density than the approved master plan, The Hills Corridor Strategy does not preclude the consideration of higher densities on large sites such as the subject land.

## STRATEGIC MERIT TEST

*Consistency with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment.*

*Proponents will not be able to depend on a draft regional, district or corridor/precinct plan when the Minister for Planning, Greater Sydney Commission or Department of Planning and Environment have announced that such a plan will be updated before being able to be relied upon.*

### Central City District Plan

The Central City District Plan was released on 18 March 2018. The planning proposal does not address the plan as it was submitted before this date. The planning proposal provides an assessment against the superseded Draft West Central District Plan. An additional strategic and site-specific merit assessment (**Attachment C2**) has been submitted by the proponent, which includes consideration of the Revised Draft Central City District Plan.

The relevant planning priorities of the Central City District Plan have been identified below to assist in any strategic merit assessment by the Panel.

- *Planning Priority C3 – Providing services and social infrastructure to meet people's changing needs.* The plan aims to improve the balance between housing supply and infrastructure provision. The planning proposal delivers housing supply and several proposed public domain improvements through a voluntary planning agreement.
- *Planning Priority C5 – Providing housing supply, choice and affordability with access to jobs, services and public transport.* The housing target for The Hills Shire local government area in the plan is 8550 homes between 2016 and 2021. The proposal will enable additional residential development to occur on the site.
- *Planning Priority C6 – Creating and renewing great places and local centres, and respecting the District's heritage.* The plan aims to provide active streetscapes and enhance access to public places. It also prioritises conserving and interpreting heritage to foster distinctive local places and to give future generations a better understanding of history and past experiences. The plan identifies the need for improved public access and connection to heritage through interpretation and



sympathetic adaptive re-use. The planning proposal includes an amendment to a local heritage listing.

- *Planning Priority C9 – Delivering integrated land use and transport planning and a 30-minute city.* The plan discusses the importance of integrating land use and transport planning to create access to housing, services, employment and community facilities. The subject site is within the North West Rail Link – Norwest Station Precinct, which envisions integrated land use and transport planning.
- *Planning Priority C17 – Delivering high quality open space.* The plan prioritises planning for the delivery of quality public open space. The planning proposal includes rezoning part of the land to RE1 Public Recreation to enable the dedication of approximately 11,150m<sup>2</sup> of public open space to Council.

The proponent's strategic and site-specific merit assessment (**Attachment C2**) also addresses the following priorities from the Revised Draft Central City District Plan:

- *Planning Priority C4 – Fostering healthy, creative, culturally rich and social connected communities;*
- *Planning Priority C15 – Protecting and enhancing bushland and biodiversity; and*
- *Planning Priority C16 – Increasing urban tree canopy cover and delivering Green Grid Connections.*

#### North West Rail Link Corridor Strategy

The Department of Planning and Environment and Transport for NSW's North West Rail Link Corridor Strategy (2013) (Sydney Metro Northwest) and associated Norwest Railway Station Structure Plan identify the potential to increase residential densities close to rail and employment with a variety of housing types to ensure affordability, and to reinforce Norwest as an employment centre.

The proponent's strategic and site-specific merit assessment states that the proposal has strategic merit because it is consistent with this strategy. The strategy identifies the site as (Figure 9, next page):

- suitable for medium-density apartment living and low-density detached living;
- suitable for short-term redevelopment; and
- suitable for expanding retail, community and cultural uses to activate new pedestrian streets and plazas.

The strategy identifies medium-density apartment living of 3-6 storeys as the future built form character of the land currently zoned R3 Medium Density Residential on the subject site, and single detached dwellings as the future built form character of the land currently zoned R2 Low Density Residential.



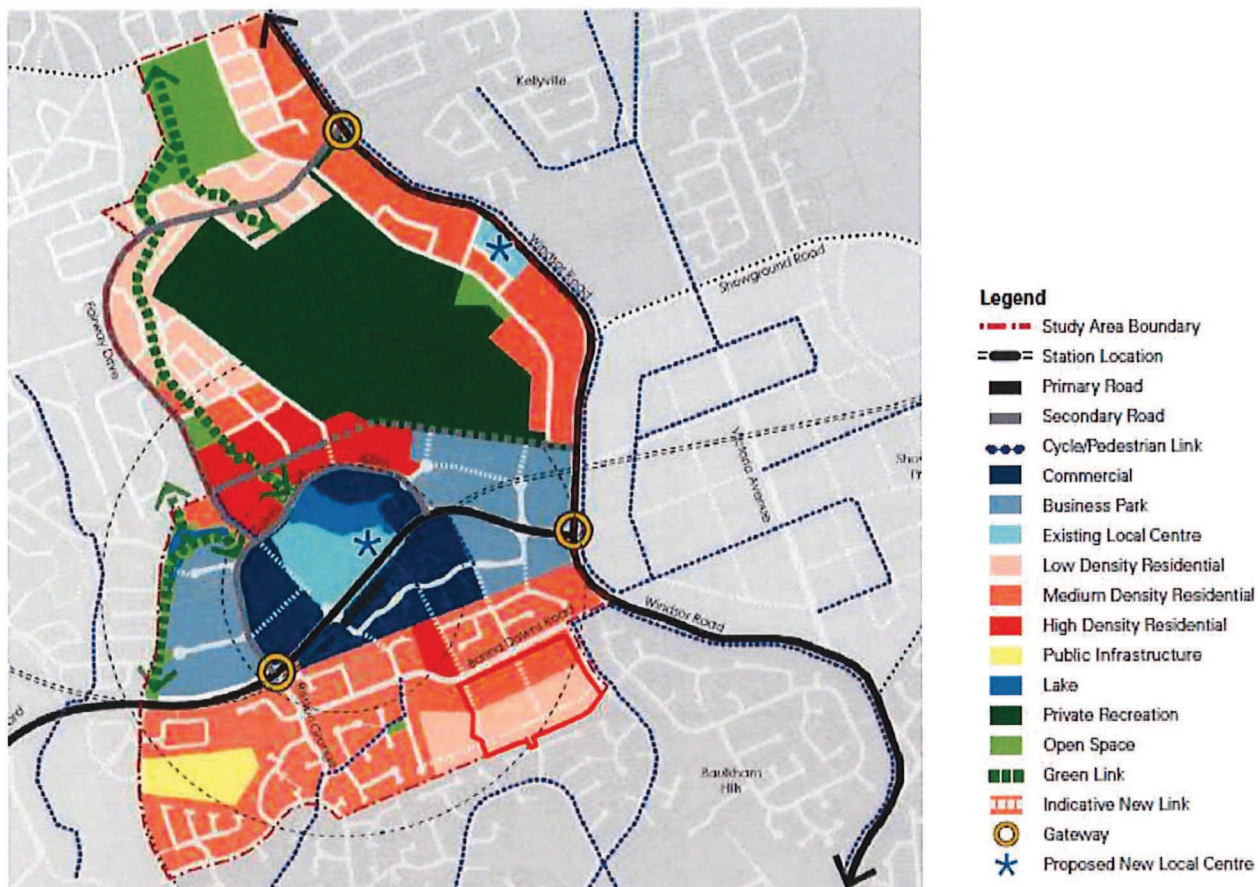


Figure 9: Norwest Structure Plan (site outlined in red).

### Relevant local strategy

There is no relevant local strategy that has been endorsed by the Department that can be relied on to establish strategic merit.

However, the planning proposal documentation (**Attachment C3-C19**) demonstrates consistency with Council's The Hills 2026 Community Strategic Direction, The Hills Future Strategic Plan and Centres Direction, which encourage compatible land uses around Metro stations to enable housing and employment growth.

Council notes the proposal is not consistent with its strategic planning objectives as set out in The Hills Corridor Strategy as the site is outside the Norwest Precinct boundary under the strategy.

*Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.*

The proponent notes in the strategic and site-specific merit assessment that The Hills Corridor Strategy (November 2015) has not been recognised by existing planning controls.

### **SITE-SPECIFIC MERIT TEST**

*The natural environment (including known significant environmental values, resources or hazards).*

The subject site is constrained by several environmental factors. The proponent notes in the planning proposal and the strategic and site-specific merit assessment that the



proposal will not result in any additional environmental impacts than what was approved under the current master plan for the site.

### Vegetation

As identified in The Hills Shire Council's Vegetation Mapping (2012), the site contains Gardens/Modified Vegetation Communities and Cumberland Plain Woodland. The proposal's flora and fauna assessment (**Attachment C9**) identifies the Cumberland Plain Woodland as in good condition, and identifies the presence of moderate to low condition Sydney Turpentine Ironbark Forest (Figure 10). Cumberland Plain Woodland and Sydney Turpentine Ironbark Forest are identified as critically endangered ecological communities under the *Environmental Protection and Biodiversity Act 1999* and the *Biodiversity Conservation Act 2016*.

The proposal is in accordance with the recommendations of the flora and fauna assessment with regard to species retention and mitigation measures.

The flora and fauna assessment also reviewed the framework and new assessment methodology from the *Biodiversity Conservation Act 2016* against the proposal and concluded that a future development application is unlikely to trigger the biodiversity offsets scheme, and therefore impacts from the proposal would not require offsets.

### Slope constraints

There is a prominent east to west ridgeline through the site, running parallel to Barina Downs Road. The site is generally level through this ridgeline and slopes down from the ridgeline towards the south and north. The proposal has been designed to consider slope constraints.



#### **Legend**

- |  |  |
|--|--|
|  Cumberland Plain Woodland (ELA 2017)         |  <i>Grevillea juniperina</i> subsp. <i>juniperina</i> |
|  Sydney Turpentine Ironbark Forest (ELA 2017) |  Hollow-bearing tree                                  |
|  Previously Approved for Removal              |  Stag   |
|  Impact to Native Vegetation                  |  |

Figure 10: Mapped vegetation on-site.



*The existing uses, approved uses and likely future uses of land in the vicinity of the proposal.*

Existing and approved land uses in the vicinity of the site generally comprise low-density to medium-density residential uses in suburban streetscapes. However, north-west of and adjacent to the site at 40-52 Barina Downs Road comprises nine 3-5-storey residential flat buildings.

The subject site contains a locally listed heritage item, a former farmhouse building on Lot 1002. The farmhouse is of significance as it is an example of an interwar Californian bungalow, and the views to and from the item and its setting on the ridge surrounded by open space make up a significant heritage curtilage.

The proposal's statement of heritage impact (**Attachment C5**) notes the planning proposal is "unlikely to impact on the heritage item any greater than that currently approved", where the house would retain its aesthetic and representative values. The proposal notes that it leaves the previously approved allotment of land adjacent to Mackillop Drive and the access to the site undeveloped, with two-storey building heights to the north and lower bulk and scale to the south and southwest, and the provision of open space along the ridgeline maintaining views to and from the heritage farmhouse.

The planning proposal will increase residential density in the area. The proposal will not change the areas and locations of existing business and industrial zones or reduce the capacity for employment and industrial uses.

As noted previously, the subject site was rezoned under The Hills LEP 2012 (Amendment No. 8), which came into force on 22 November 2013, and a subsequent master plan was approved. A comparison of densities and built form between the approved master plan and the current proposal is shown in the following tables from Council's report (**Attachment D**).

	Density (dwg/ha)
Approved master plan	15
Subject proposal	33

Table 1: Approved and proposed density.

The planning proposal would provide for an additional 255 dwellings on the subject site above what has previously been considered by Council, as demonstrated in Table 2 below:

Dwelling type	Approved master plan	Planning proposal	Net change
Low Density	78	28	-50
Medium Density	75	110	+35
Apartments	Nil	270	+270
<b>Total</b>	<b>153</b>	<b>408</b>	<b>+255</b>

Table 2: Approved, proposed and net change in dwelling types.



Additional public open space will be provided as part of the proposal through a voluntary planning agreement.

Norwest Business Park is within an 800m radius of the subject site and is the nearest local centre with retail, commercial and industrial uses. The Norwest Precinct is undergoing transition in parts to high-density mixed-use and residential development as envisioned by the North West Rail Link – Norwest Station Structure Plan (2013).

Council's report notes that approved planning proposals and those under evaluation in the Norwest Precinct have the potential to contribute 3200 apartments, which is more than the required apartment stock for the Norwest Precinct under the North West Rail Link Corridor Strategy.

The Department notes that the strategy identifies 20-year growth forecasts across the corridor to enable the coordination of future land use changes with the delivery of infrastructure, rather than setting targets for housing delivery.

Figure 11 indicates the number of apartments approved or currently under evaluation. These sites are specifically identified for high-density residential development / high-density apartment built form.

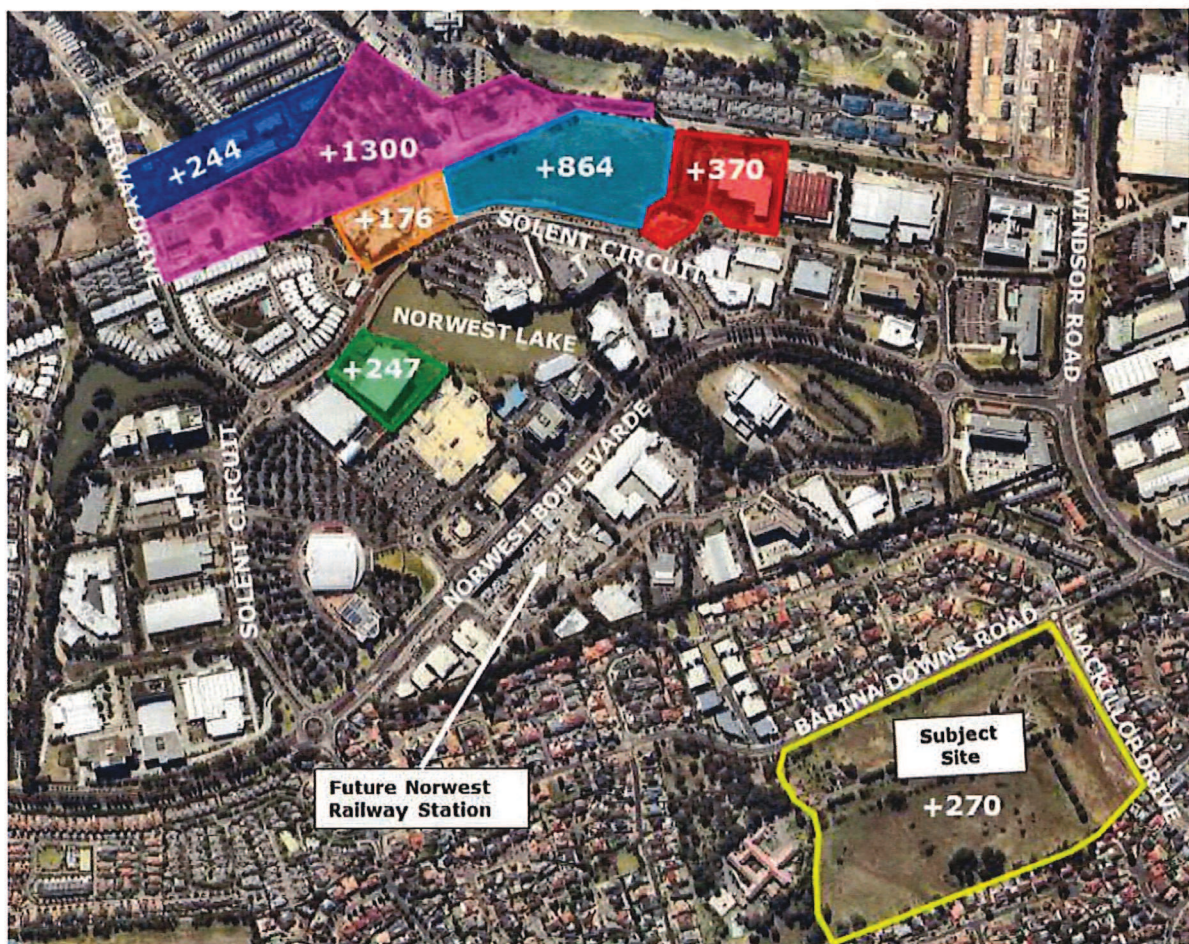


Figure 11: Apartments approved or under evaluation in the Norwest locality (site outlined in yellow).



*The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.*

#### Services and amenities

The proposal (**Attachment C10**) notes that the site is serviced by or capable of connecting to wastewater, drainage, electricity, telephone and communications services.

Consultation with utility providers would be required as part of any Gateway determination to establish the existing and future capacity of the site for the proposed densities.

#### Traffic and transport

Generation of additional traffic would be an outcome of the proposal due to increased residential densities. The proposal's traffic impact assessment (**Attachment C6**) mentions an increase in traffic movements and concludes that the proposal is "supportable on traffic planning grounds". The key findings of the traffic impact assessment are detailed below:

- the proposed development is expected to generate 173 and 174 vehicles per hour during the AM and PM peak periods respectively. This represents an increase of 16-17 vehicles per hour above that previously assessed (157 vehicles per hour) in the approved master plan;
- under all modelled scenarios, the intersections of Barina Downs Road with Mackillop Drive and Reston Grange operate well;
- the intersection of Barina Downs Road and Windsor Road experiences considerable delays and queuing under "existing" and "without station" scenarios; and
- planned upgrades of Norwest Boulevard, including signalisation of intersections, will improve performance during peak periods.

#### Developer contributions

The proponent proposes to enter into a voluntary planning agreement with Council that proposes contributions towards the provision of public amenities.

#### COUNCIL VIEWS

The Department received Council's views on the proposal on 23 February 2018 (**Attachment D**). Council confirmed that the documents submitted for the rezoning review are consistent with the original development concept Council considered. However, the following documents were not received by Council as part of the planning proposal application:

- Item 17 Density Calculation Diagram;
- Item 18 Car Parking Calculations;
- Item 19 Density Summary Updated; and
- Item 20 Target Summary.

Further, an addendum report has been submitted by the proponent addressing the strategic merit of the proposal in relation to the recently superseded Revised Draft Central City District Plan. The proponent's strategic and site-specific merit assessment submitted as part of the supporting documentation for the rezoning review provides a marked-up development concept that identifies an indicative location of a 1600m<sup>2</sup> ridge-top park proposed to be dedicated to Council. The proponent's original documentation,



including the draft development control plan amendments and voluntary planning agreement offer, did not clearly identify land proposed to be dedicated.

A summary of Council's comments and recommendations is as follows:

#### Lack of strategic merit

- The proposal is broadly consistent with the principles of increasing housing supply. However, it exceeds growth targets, residential projections and infrastructure capacity within the locality.
- There is a need to ensure a more diverse supply of housing in the Norwest Precinct, especially given the significant opportunities for apartment development in closer proximity to the station. The previous approved planning proposal provided a greater diversity of housing choice.
- Identifying the northern portion of the site as medium density in the Norwest Structure Plan acknowledges the need to transition densities and heights to the existing low-density detached dwelling interface at the edge of the precinct and beyond. The increase in height sought by the planning proposal is considered to be inconsistent with this strategic direction, especially given the approved master plan achieved a more appropriate transition of height and density.
- The previous planning proposal for the site considered the North West Rail Link Corridor Strategy and provided a more appropriate outcome consistent with the strategy.
- The site is not identified within The Hills Corridor Strategy – Norwest Precinct. The precinct is envisioned to be a natural expansion of the existing business park with a specialised commercial and employment core surrounded by increased housing densities. To exceed the residential yield forecast for the Norwest Precinct by rezoning the site and increasing building height would be inconsistent with the adopted vision and growth for the Norwest locality.

#### Local infrastructure demand

- The additional yield proposed under the planning proposal is unplanned growth. The proponent's planning proposal report acknowledged that the local road network currently exceeds capacity, causing excessive delays and queues. However, the proposal did not adequately address or provide solutions to the impacts that would be generated by the increased yield sought on the site nor the cumulative impacts of growth in the locality.
- The approved planning proposal has unresolved stormwater management issues. The proponent has not demonstrated how the increased yield from this planning proposal will further impact on stormwater management.
- While the proponent has proposed to dedicate 11,150m<sup>2</sup> of land at no cost to Council as public open space, there are significant concerns about the quality, walkability and embellishment potential of the proposed public open space given the topography and stormwater management concerns. Much of this land was already secured under the old proposal and additional passive open space is not needed.

#### Public benefit

- Council's assessment of the planning proposal determined that the contents of the letter of offer for a voluntary planning agreement do not provide a substantial



community benefit or justification for increased yield, particularly as uplift had already occurred on this site under the previously approved planning proposal. Further, the drainage reserve was already proposed to be dedicated to Council under an existing (executed) voluntary planning agreement associated with the approved master plan.

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