

Rezoning Review Briefing Report RR-2023-7 / PP-2022-3364

Derriwong Road and Old Northern Road, Dural

The purpose of this report is to brief the Sydney Central City Planning Panel (the Panel) on rezoning review request RR-2023-7 for planning proposal PP-2022-3364 for Derriwong Road and Old Northern Road, Dural (**Attachments A1-A2**).

The report includes an outline of what is proposed, and a summary of the key issues raised by the Hills Shire Council (Council) and the proponent to date. It does not provide a recommendation.

Element	Description	
Date of request	17 April 2023	
Department ref. no	RR-2023-7 / PP-2022-3364	
LGA	The Hills Shire	
LEP to be amended	<i>The Hills Local Environment Plan 2019</i>	
Address	Derriwong Road and Old Northern Road, Dural	
Reason for review	<input checked="" type="checkbox"/> Council notified the proponent it will not support the proposed amendment	<input type="checkbox"/> Council failed to indicate support for the proposal within 90 days
Planning Proposal Authority (PPA) role	Council does not have the option of being PPA as it does not support the planning proposal. The Panel will nominate the PPA role if it recommends the planning proposal proceed to Gateway determination.	
Consultation	No formal consultation on the planning proposal has occurred.	
Brief overview of the timeframe / progress of the planning proposal	<p>May 2016 Previous planning proposal lodged with Council for subject site and additional land further south opposite the Dural Service Centre.</p> <p>December 2016 Council resolved to defer a decision on proposal pending a wider Dural Investigation Area assessment for more cohesive development and infrastructure outcomes and provide a clear boundary to urban development.</p> <p>February 2017 Rezoning Review lodged with Sydney West Central Planning Panel, which determined that the planning proposal should not proceed to Gateway Determination. The Panel found that the proposal was consistent with some</p>	

Element	Description
	<p>aspects of strategic plans, but was premature given the strategic context was not yet known and a study to do this was being developed. The Panel also noted concern for inadequate physical and social infrastructure.</p> <p>March 2019 Council completed investigations into Dural through the Phase 1 Urban Capacity Assessment . The assessment concluded that some land is environmentally capable of accommodating development but there was insufficient infrastructure capacity.</p> <p>Council resolved to discontinue further rural rezoning investigations, lobby the State Government with respect to regional road upgrades, including Old Northern Road and New Line Road, and only consider future planning proposals which demonstrated local and regional infrastructure upgrades could be delivered at no cost to Council.</p> <p>June 2019 Council had continued to hold the proposal in abeyance, following the 2017 rezoning review. The Hills Local Planning Panel considered the planning proposal and advised that the application should not proceed to Gateway Determination.</p> <p>July 2019 Council resolved to forward the planning proposal to the Department for Gateway Assessment. In its resolution, Council noted the submission would allow for State Government agency views to be determined.</p> <p>April 2020 The Department issued a Gateway Determination that the planning proposal should not proceed as it did not demonstrate sufficient strategic or site-specific merit.</p> <p>September 2020 Proponent initiated a Gateway Determination Review and the Department referred the matter to the Independent Planning Commission (IPC). The IPC advised that the planning proposal should not proceed to Gateway Determination, and noted:</p> <ul style="list-style-type: none">• The proposal did not have strategic merit being inconsistent with the locational housing and rural management objectives of the strategic planning framework. The site is located within the Metropolitan Rural Area (MRA) identified in the Greater Sydney Region Plan (Region Plan) and the Central City District Plan (District Plan), an area which is not identified for any additional urban development. However, this matter could be reconsidered by Government and Council as part of the next review of the Greater Sydney Region Plan and Local Strategic Planning Statement.• The proposal (specifically the 'Northern Site', which approximates the current subject site) demonstrated considerable site-specific

Element	Description
	<p>merit for a number of reasons including:</p> <ul style="list-style-type: none"> ○ social and economic benefits of the proposed local infrastructure improvements (including the Round Corner regional bypass), ○ compromised agricultural potential due to surrounding land uses along Old Northern Road, ○ proximity to jobs and services in the nearby Dural Neighbourhood Village, ○ the ability to overcome view and vista impacts through site specific design, and ○ the low likelihood of generating a significant impact on the local and regional road network. <p>November 2020 The Department wrote to Council inviting a response to the IPC advice. The Department also noted it would consider a revised planning proposal if Council provided further justification to the matters raised by the IPC.</p> <p>February 2021 Council resolved to submit a revised planning proposal to the Department for Gateway Assessment, commence negotiations with the Proponent to prepare a draft VPA to secure local infrastructure contributions and consider the draft VPA and a draft DCP prior to any public exhibition.</p> <p>July 2021 The Department issued a Gateway Determination for the planning proposal to proceed subject to conditions including public exhibition, agency consultation and written TfNSW support. TfNSW did not support the proposal or the need for a regional bypass and advised that it would not accept the proposed contribution of land or reserve other land for a regional bypass corridor. Council was unable to meet the condition of the Gateway Determination.</p> <p>August 2021 - March 2022 Consultation between Council staff, the Department, TfNSW, SINSW and the Proponent.</p> <p>April 2022 The Department issued a Gateway Alteration that the planning proposal should not proceed, due to TfNSW's lack of support and the unlikely resolution of challenges to the proposal within an acceptable timeframe. The Department noted that the regional bypass corridor was the core element of the proposal's strategic merit. Noting TfNSW's objection to this element, any future planning proposal would need to justify its strategic merit test in the absence of the regional bypass road.</p>

Planning Proposal

Table 1 – Planning Proposal Overview

Element	Description
Site Area	12.88 hectares
Site Description	The site comprises five individual lots known as 614, 618 and 626 Old Northern Road and 21 and 27 Derriwong Road, Dural. (Figure 1).
Proposal summary	<p>The planning proposal seeks to rezone the site to facilitate redevelopment for low density residential development of approximately 110 lots ranging in size from 600 to 2,000sqm (Attachments B1). The concept plan is included as Figure 2. The proposal seeks to make the following amendments to <i>The Hills Local Environment Plan 2019</i> (The Hills LEP):</p> <ul style="list-style-type: none">• rezone the majority of the site from RU6 Transition to R2 Low Density Residential and SP2 Infrastructure (Local Road)• decrease the maximum height of building (HOB) control from 10m to 9m,• amend the minimum lot size (MLS) control from 2 hectares to 600m², 1,000m² and 2,000m². <p>The proposal is accompanied by a draft Development Control Plan (DCP) and supporting technical reports (Attachment B2-B14) and a draft Voluntary Planning Agreement (VPA) (Attachment C).</p> <p>Council resolved that the planning proposal should not proceed to Gateway Determination (Attachment D).</p>
Relevant State and Local Planning Policies, Instruments	<ul style="list-style-type: none">• Greater Sydney Region Plan• Central City District Plan• The Hills Shire Council Local Environmental Plan 2019• The Hills Future 2036: Local Strategic Planning Statement• Future Transport Strategy 2056• The Hills Housing Strategy 2019

Subject site and context

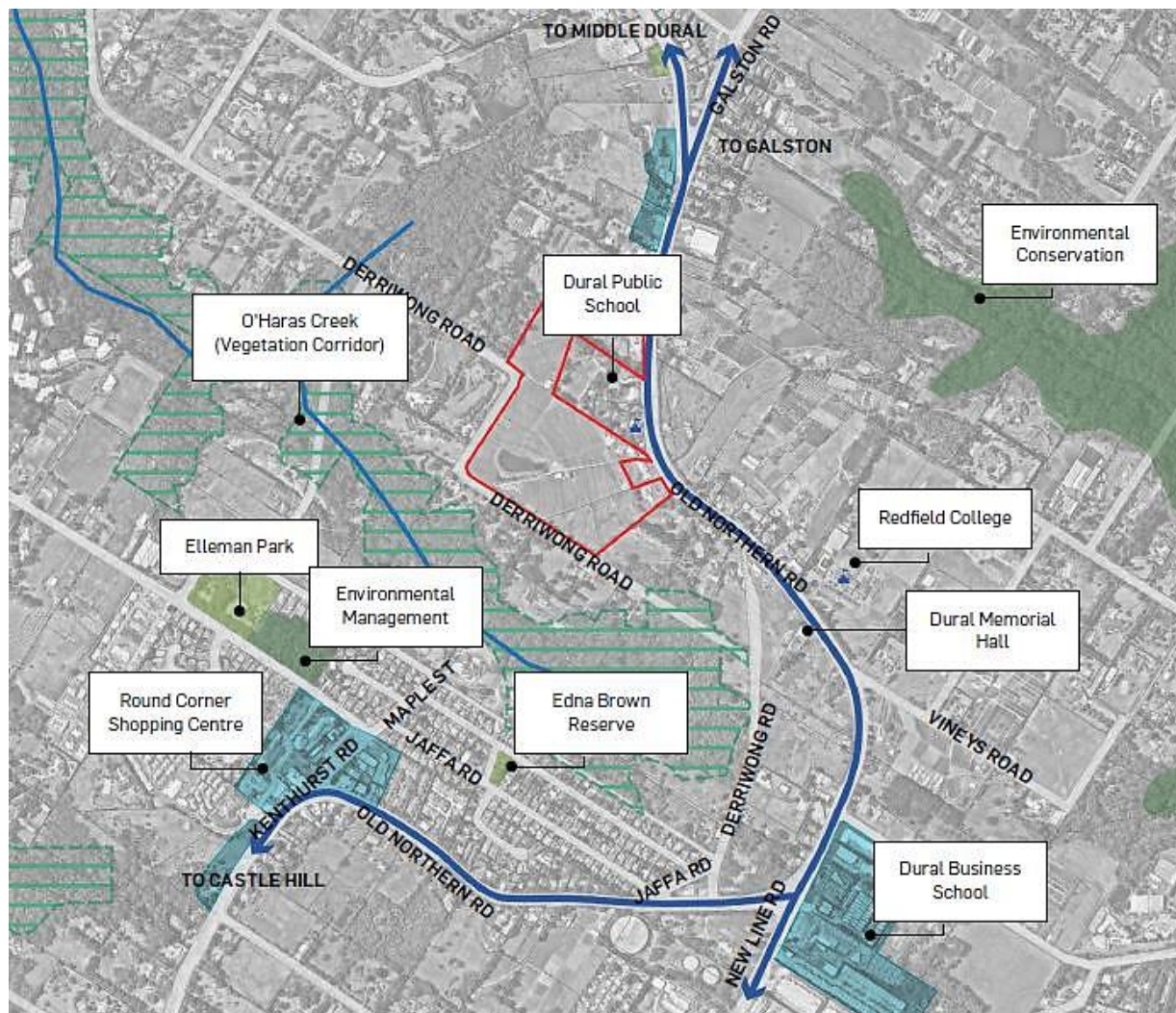


Figure 1 – Subject site and context (source: Proponent rezoning review request (Urbis) – 5 April 2023)

Details of the site and context are shown in **Figure 1**. The site is located to the north of Round Corner Town Centre and is bound by Old Northern Road to the east, Derriwong Road to the south and west, and adjoins three sides of Dural Public School. The site falls to the west and south-west towards O'Hara Creek and currently comprises rural residential development, including a dam. It is predominantly cleared of substantial vegetation although some patches remain. The site appears to have been recently used for agricultural purposes, small businesses and home businesses. It is zoned RU6 Transition and SP2 Infrastructure (Classified Road) under *The Hills Local Environment Plan 2019*.

Old Northern Road forms the boundary between The Hills Shire Council and Hornsby Shire Council Local Government Areas (LGAs). Land on the opposite side of Old Northern Road in the Hornsby LGA is zoned RU2 Rural Landscape, which permits intensive livestock agriculture.

Surrounding land uses include Dural Public School and Redfield College, and large rural properties, agricultural land uses and various commercial uses in both LGAs.

Concept plan

The proposal includes a concept plan for development (**Figure 2**).

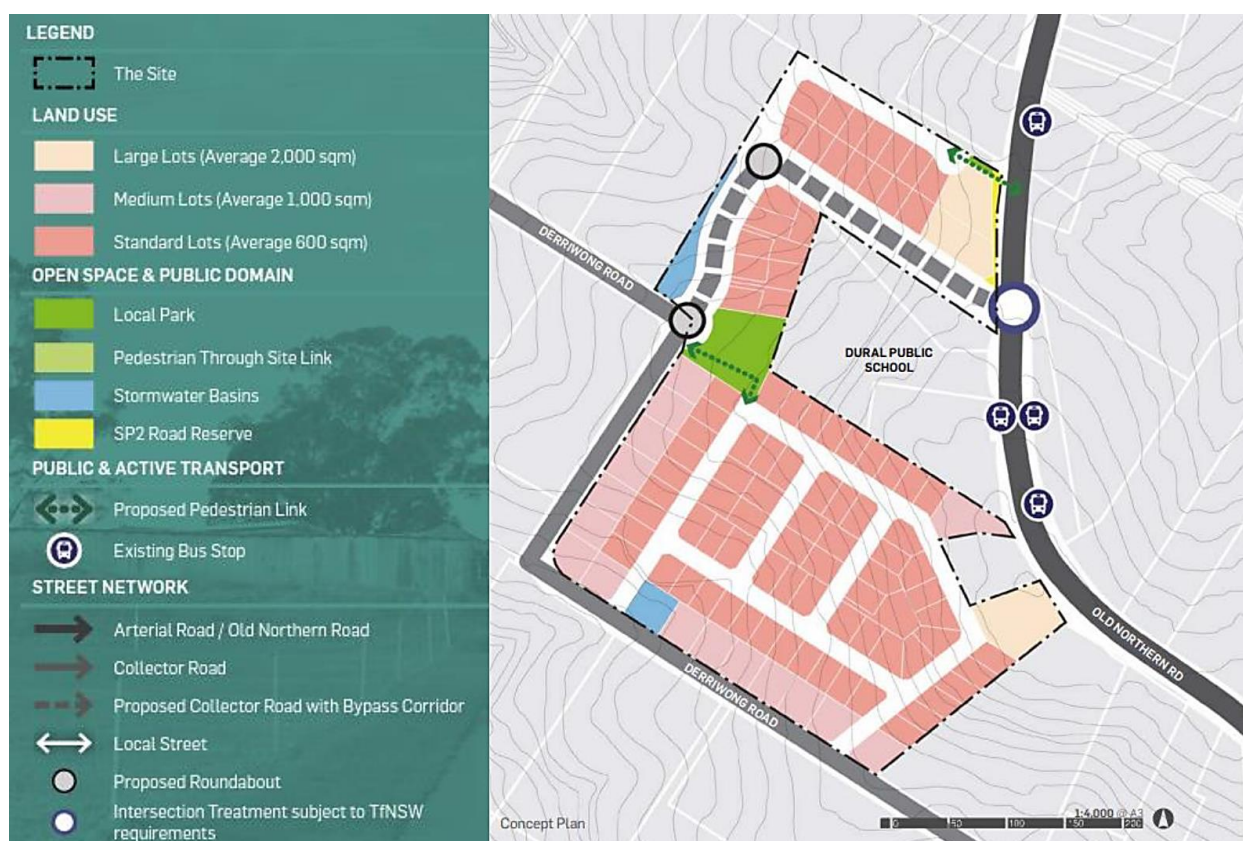


Figure 2 – Concept plan (source: Council report – 21 February 2023)

Draft Development Control Plan (DCP)

The accompanying draft DCP includes development controls relating to subdivision requirements, site planning, residential density, visual character, road network, vehicular access, public open space and landscaping, bushfire management, stormwater management, utilities requirements and dwelling design.

Voluntary Planning Agreement

An offer for a proposed Voluntary Planning Agreement (VPA) between the proponent and Council dated 15 September 2022 is included in the briefing package.

The VPA offer proposes contributions towards land dedication, road and infrastructure provision, public domain upgrades and monetary contributions. The proponent has valued the offer at a total of \$17,826, 409, equivalent to a value of \$162,000 per lot. This would be in addition to a 1% section 7.12 contribution. This is a separate issue between the proponent and Council and does not require this Panel to make any recommendations relating to the proposed VPA.

Key Issues

Issue 1: Strategic merit

Council view

Overall, Council considers that the planning proposal does not have strategic merit to progress to a Gateway Determination.

- The Greater Sydney Region Plan and the Central City District Plan

The planning proposal is inconsistent with Region and District Plans. The Region and District Plans state that maintaining and enhancing the distinctive rural village character is a high priority and that further rural residential or urban development is generally not supported. The plans inform Council's vision for and implementation of an Urban Growth Boundary within the LSPS and LEP 2019 and the RU6 Transition zone as a buffer between urban and rural areas.

The proposal is inconsistent with the Region and District Plans objectives for the management of rural land as it seeks to rezone land within the MRA to permit urban development. However, Council staff acknowledge that the proposal does not seek to extend the Dural or Round Corner town centres, instead it would create a transition of 1,000sqm lot sizes on the site's perimeter, responding appropriately to the character of the adjoining RU6 Transition zoned rural land (**Figure 2**). Staff also note that progressing the planning proposal to Gateway Determination would permit Council to continue discussions with the Department and Greater Cities Commission (GCC) in response to the IPC's advice regarding reconsidering the permissibility of urban development in the MRA as part of the Region Plan review.

- Section 9.1 Ministerial Directions

The proposal is inconsistent with Direction 9.1 Rural Zones and 9.2 Rural Lands which seek to protect the agricultural production value of rural land. The directions aim to prevent the rezoning of land from rural to residential uses or increased development density in a rural zone unless justified by an endorsed strategy or study. However, the proponent's technical studies indicate that the site is capable of accommodating the proposed urban development following the resolution of outstanding infrastructure servicing issues. Council's Dural Urban Capacity and Capability Assessment provides a similar conclusion, with the site located in an area identified as 'Land Capable of Development'. The LSPS includes an action to investigate opportunities for limited residential expansion in rural villages, as discussed below. If the proposal progressed to a Gateway Determination, the Planning Secretary or delegate would need to agree to any inconsistencies with the directions.

- Hills Future 2036 – Local Strategic Planning Statement (LSPS) & Rural Strategy

The proposal is inconsistent with Council's LSPS and Rural Strategy. The LSPS includes an action to implement an Urban Growth Boundary to limit residential growth to within the existing and planned urban areas of the Shire. This reflects the objectives of the Region and District Plan and acknowledges there is sufficient land within the existing urban area to meet the District Plan housing targets to 2036 and beyond. The site is located outside the Urban Growth Boundary, within the MRA. The proposal is inconsistent with the LSPS in this regard. However, Council staff note that the LSPS also includes an action to investigate opportunities for limited residential expansion in rural villages based on criteria recommended in the Rural Strategy. The criteria are primarily intended to ensure rural village expansion occurs in a coordinated manner on larger consolidated lots surrounding existing centres instead of an ad hoc site-by-

site basis. This allows for efficient infrastructure provision, environmental protection and avoidance of bushfire risk.

The LSPS identifies the upgrade of Annangrove Road to arterial status and the provision of a Round Corner bypass as a regional transport priority for the LGA and to advocate for State Government support for this regional road upgrade. The proposal seeks to reserve a corridor of land which could potentially form part of this broader bypass corridor.

- **Dural Urban Capacity & Capability Assessment**

Council resolved in 2019 that any future planning proposals to rezone land in Dural must be able to demonstrate that they can deliver the required local and regional infrastructure upgrades at no cost to Council. The previous proposal sought to provide a reservation for a regional road bypass at no cost to Council. Following extensive consultation, TfNSW did not support this bypass. The current proposal seeks to dedicate a local road reservation similar to that proposed in the previous proposal, with the potential to be converted to Council's desired regional bypass. However, given the lack of TfNSW support, the achievement and cost to Council of the bypass is uncertain.

Proponent view

- The planning proposal aligns with aspects of The Hills Shire Local Strategic Planning Statement, The Hills Shire Council Local Housing Strategy and Rural Strategy, and the Dural Urban Capacity and Capability Assessment to:
 - Provide for limited expansion of a rural village.
 - Relate to land that was identified as being capable of urban development.
 - Reserve a road corridor to support future realisation of the Round Corner Bypass.
- The proposal is consistent with the MRA in representing small-scale development as a 'logical' expansion of Dural Village, which is not meeting regional or district-scale housing demand. The proposal is an appropriate place-based outcome that is consistent with the values of the MRA to balance support for agricultural uses with local housing needs.
- The proposal is not transformational for the character of the broader Dural area and does not create a precedent for broader expansion of the urban boundary.
- The proposal will provide a limited amount of additional housing within the walking catchment of the existing Dural Primary School and will reduce existing safety issues associated with drop-off/pick-up on Old Northern Road by providing a new 'drop-off and pick-up' facility adjoining the school as a potential development contribution. This additional housing will assist in supporting the school by providing a range of suitable housing typologies for families with young children.
- The proposal will supplement existing utility services where required, including sewer and water for new housing, and permit the additional benefit of delivering a sewer connection to the boundary of the Dural Primary School for future connection.

Issue 2: Site Specific Merit

Council view

- Traffic issues and roads

In considering the proponent's Traffic Impact Assessment (Attachment B3), Council staff noted that the proposal would result in a 'very small' exacerbation of existing traffic issues. However, the proposed dedication of land for a local bypass could partially contribute to a broader regional traffic solution, if the bypass corridor was to eventuate.

As noted earlier, TfNSW does not support a regional bypass. TfNSW recommended Council determine to deliver a local bypass designed to appropriately connect to the existing road network, particularly Old Northern Road. Given the lack of support and funding from TfNSW, Council would potentially be responsible for the provision and cost of the local bypass, which is inconsistent with Council's policy to achieve a regional bypass at no cost to Council.

Schools Infrastructure NSW (SINSW) did not oppose the proposal on the condition that pedestrian safety issues be addressed and mitigated, including the relocation of the bypass corridor to the northern boundary of the school to accommodate a kiss and drop, and / or bus bay facilities (which has been incorporated into the current proposal) and generally implementing traffic calming measures.

- Infrastructure capacity

The proponent has demonstrated that the site can be serviced with the required utilities infrastructure through a combination of existing capacity or extension and augmentation of facilities (**Attachment B9**).

- Vegetation

The proponent's Ecological Assessment indicates the presence of Northern Foothills Blackbutt Grassy Forest and Sydney Turpentine Ironbark Forest on the site, which are endangered and critically endangered ecological communities respectively under the *Biodiversity Conservation Act 2016* (**Attachment B4**).

Council staff believe that conservation and retention of these communities is possible by:

- requiring proposed large minimum lot sizes of 1,000sqm along Derriwong Road,
- introducing an appropriate site specific DCP control,
- undertaking detailed surveys,
- monitoring development in the adjoining Dural Public School and recommending a 10m vegetated buffer around the school site,
- consultation with the Department's Environment and Heritage Group and
- assessment consideration at the development application stage.

- Potential impacts on agricultural land

The site is zoned RU6 Transition Zone to provide a transition between more intensive rural land uses such as intensive agriculture and extractive industries and other areas supporting more intensive settlement. The zone provides a buffer between urban land and rural areas and allows the rural areas to develop and grow without restriction from residential uses in close proximity.

Land on the opposite side of Old Northern Road in the Hornsby LGA is zoned RU2 Rural Landscape, which permits intensive livestock agriculture. Intensive livestock agriculture requires substantial buffers from residential areas (up to 1km for poultry sheds and waste storage) *State Environmental Planning Policy (Primary Production) 2021*. The proposal would permit urban development within 1km of these permissible rural uses, creating potential for land use conflict and diminishing the ability of these areas to accommodate productive rural uses. However, the proposal seeks to integrate new development into the existing character of the locality through the provision of larger minimum lot sizes at the peripheries of the site. This may assist in minimising potential character impacts and land use conflict within the surrounding rural area.

- Potential for seniors housing

The previous proposal was lodged under a legislative context permitting seniors housing developments in the MRA subject to the issue of a Site Compatibility Certificate from the Department or Sydney Central City Planning Panel. This policy has since been amended to remove the Site Compatibility Certificate planning pathway.

Seniors housing is currently prohibited on the site under the existing RU6 Transition zone but would be permitted under the proposed R2 Low Density Residential zone as a 'prescribed zone' under *State Environmental Planning Policy (Housing) 2021*. The proposed development concept does not specifically preclude the development of seniors housing. However, it is anticipated that the draft site-specific development control plan would provide detailed guidance at the development application stage to ensure the proposed outcome of low-density residential development is achieved on the site.

- Heritage

The site does not comprise of any heritage items, however it is in the vicinity of a number of locally listed items, including Old Northern Road, which is an archaeological item of environmental heritage. The proponent's Heritage Impact Statement concludes that the proposal will not diminish the values or views of the surrounding heritage items and recommends that an Historical Archaeological Impact Assessment (HAIA) be prepared at the development application stage (**Attachment B7**).

Proponent view

- The planning proposal has site specific merit.
- Site investigations have been undertaken to inform the proposal for hydrology and water quality (note: no specialist report has been provided by the proponent), Site Contamination (**Attachment B8**), Bushfire Hazard (**Attachment B5**), Flora and Fauna Assessment (**Attachment B4**), Urban Design (**Attachment B2**), Economic Impact Assessment (**Attachment B6**), Heritage Impact Statement (**Attachment B7**) Acoustic Assessment (**Attachment B11**) and Aboriginal Heritage Assessment (**Attachment B14**). The proposal is considered a logical expansion of Dural rural village compatible with existing and potential future uses on surrounding land and provides a suitable urban layout and road network.
- The proposal development can be serviced with road and other required infrastructure by a combination of existing capacity and augmentation of facilities. This conclusion is supported by the Traffic Impact Assessment (**Attachment B3**) and an Infrastructure Services Report (**Attachment B9**).

- Social infrastructure – the proposed delivery of expanded recreational opportunities of a 4,000sqm park and public benefit offer will provide a positive social impact to the local and wider community.

Other issues

The Department wrote to Council on 1 May 2023 advising of the rezoning review request. Council responded on 26 May 2023 (**Attachment E**).

Council's response confirmed that the material submitted by the proponent in support of the rezoning review is consistent with the application that was assessed and considered by Council, apart from an additional document provided by the proponent about kiss and drop facilities for the Dural Public School, which is not included as an attachment to this report.

The Department has combined Council's response package into a single document containing brief and detailed Council discussion about the planning proposal, and Council staff's pre-lodgement feedback to the proponent. The Council Report and Minutes dated 21 February 2023 are included as a separate attachment.

Attachments

Attachment A1 – Rezoning review submission form

Attachment A2 – Proponent Request for Rezoning Review (5 April 2023)

Attachment B1 – Planning Proposal (September 2022)

Attachment B2 – Appendix A - Urban Design Report (15 September 2022)

Attachment B3 – Appendix B - Traffic Impact Assessment (12 September 2022)

Attachment B4 – Appendix C - Ecological Assessment (August 2022)

Attachment B5 – Appendix D - Bushfire Hazard Report (8 September 2022)

Attachment B6 – Appendix E - Economic Impact Assessment (August 2022)

Attachment B7 – Appendix F - Heritage Impact Statement (13 September 2022)

Attachment B8 – Appendix G - Detailed Site Investigation Report (5 September 2022)

Attachment B9 – Appendix H - Infrastructure Services Report (September 2022)

Attachment B10 – Appendix I - Survey Plan (29 August 2022)

Attachment B11 – Appendix J - Acoustic Assessment (5 September 2022)

Attachment B12 – Appendix K - LEP Mapping (undated)

Attachment B13 – Appendix L - Site Specific Draft DCP (undated)

Attachment B14 – Appendix N - Aboriginal Heritage Assessment Report (August 2022)

Attachment C – Appendix M - Public Benefit Offer (15 September 2022)

Attachment D – Council Meeting Agenda and Minutes (21 February 2023) – including Local Planning Panel Agenda and Advice (18 August 2022)

Attachment E – Council response to rezoning review (26 May 2023)

Rezoning Review – Briefing Report

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20/06/2023

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03/07/2023

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