

**ITEM 2 PLANNING PROPOSAL – DERRIWONG ROAD AND OLD NORTHERN ROAD, DURAL (2/2023/PLP)****THEME: SHAPING GROWTH****MEETING DATE: 21 FEBRUARY 2023****COUNCIL MEETING****GROUP: SHIRE STRATEGY****AUTHOR: MANAGER FORWARD PLANNING****NICHOLAS CARLTON****RESPONSIBLE OFFICER: GROUP MANAGER – SHIRE STRATEGY  
DAVID REYNOLDS****PURPOSE**

The planning proposal applicable to land at Derriwong Road and Old Northern Road, Dural, is being reported to Council for a decision on whether or not the application should proceed to Gateway Determination.

**RECOMMENDATION**

The Planning Proposal be submitted to the Department of Planning and Environment for Gateway Determination in accordance with Option 1 in this Report.

**IMPACTS****Financial**

This matter has no direct financial impact upon Council's adopted budget or forward estimates. The planning proposal is accompanied by a draft Voluntary Planning Agreement (VPA) offer which seeks to secure development contributions for the infrastructure demand generated by the proposal. If the planning proposal was to progress to Gateway Determination, a further report to Council would be required to enable Council to consider an associated draft Voluntary Planning Agreement.

**Strategic Plan - Hills Future**

The planning proposal, if supported, would contribute to the Shire’s housing needs and has the potential to secure land for a portion of a future Round Corner Arterial Bypass, which would align with Council’s strategically identified regional transport priorities.

**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 (Clauses 3.31 to 3.37). This report seeks a decision of Council as to whether or not prepare and submit a planning proposal to DPE for Gateway Determination in accordance with Sections 3.33 and 3.34 of the Act.

**PROPONENT**

Urbis Pty Ltd on behalf of LegPro Pty Ltd

**OWNERS**

LegPro Pty Ltd  
Mr Joseph Moussa  
Mrs Josephine Moussa

**POLITICAL DONATIONS**

None disclosed by the Proponent

**1. HISTORY**

The site has been the subject of a previous planning proposal, which was ongoing for a duration of approximately six (6) years. The key dates associated with the previous proposal are summarised below.

May 2016	A previous planning proposal was lodged with Council incorporating the subject site and additional land further south opposite the Dural Service Centre.
December 2016	Council resolved to hold the planning proposal in abeyance until the wider Dural Investigation Area planning was completed to enable a more cohesive development and infrastructure outcome and provide a clear boundary to urban development.
February 2017	A Rezoning Review was lodged with the Department of Planning and

Environment. The Sydney West Central Planning Panel determined that the planning proposal should not proceed to Gateway Determination.

March 2019

The Phase 1 Urban Capacity and Capability Assessment for the Dural locality was completed. The Assessment concluded that while some land is environmentally capable of accommodating development, there is insufficient infrastructure capacity to facilitate development uplift in the Dural locality at this time.

Council resolved to receive the outcomes of this Assessment, discontinue further investigations with respect to rural rezoning in the locality and further lobby the State Government with respect to regional road upgrades and reclassification along Annangrove Road, Old Northern Road and New Line Road to address existing road capacity problems. Council also resolved to consider the merits of any future planning proposal, where it can be demonstrated that required local and regional infrastructure upgrades can be delivered at no cost to Council.

June 2019

The Local Planning Panel considered the planning proposal and advised that the application should not proceed to Gateway Determination.

July 2019

Council considered the planning proposal and resolved to forward the application to the Department for Gateway Assessment to determine State Government agency views on the merits of the planning proposal. Council's resolution was as follows:

1. *That the planning proposal applicable to land at Derriwong Road and Old Northern Road, Dural be submitted to the Department of Planning and Environment for Gateway Assessment to determine State Government agency views on the merits of the planning proposal.*
2. *Should the Department of Planning and Environment determine that the proposal has strategic and site-specific merit and issue a Gateway Determination, the following matters should be resolved prior to any exhibition of the planning proposal:*
  - a) *The inclusion of 1,000m<sup>2</sup> and 2,000m<sup>2</sup> minimum lot sizes at the periphery of the zoned area to serve as a transition to the adjoining rural area;*
  - b) *Access arrangements and relationship between proposed residential lots and the planned arterial bypass road;*
  - c) *Establishment of a mechanism to ensure that the proposed amendments would not facilitate a proliferation of seniors housing development proposals on adjoining rural land; and*
  - d) *The ability to service the proposed residential yield with new local and regional infrastructure, at no cost to Council. This would include further resolution of ongoing discussions with State and Federal Government surrounding the funding of required regional road upgrades.*

April 2020 DPE issued a Gateway Determination that the planning proposal should not proceed.

September 2020 The Proponent initiated a Gateway Determination Review and DPE referred the matter to the Independent Planning Commission (IPC) for advice on whether the Gateway Determination should be altered. The IPC advised that the planning proposal should not proceed to Gateway Determination.

The findings of the IPC concluded that the proposal does not have strategic merit as it is inconsistent with the locational housing objectives and rural management objectives of the strategic planning framework as the site is located within the Metropolitan Rural Area, which is not delineated for any additional urban development. The IPC noted that this was a matter that could be reconsidered by Government and Council as part of the next review of the Greater Sydney Region Plan and Local Strategic Planning Statement.

However, the IPC concluded that the proposal before the commission at that time (and specifically the 'Northern Site' element, which is now the relevant land that is the subject of this new planning proposal), demonstrated considerable site-specific merit for a number of reasons. These included the social and economic benefits of the local infrastructure improvements proposed (including the key contribution of the Round Corner regional bypass), the presence of surrounding land uses along Old Northern Road compromising the site's agricultural potential, the site's proximity to jobs and services in the nearby Dural Neighbourhood Village, the ability of the site 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.

A copy of the Independent Planning Commission's Advice is provided as Attachment 3 to this report.

November 2020 DPE advised Council that it had not yet determined whether to alter the Gateway Determination in light of the IPC's advice. DPE invited Council to submit a revised planning proposal if Council was satisfied that it could address the concerns raised by the IPC and DPE's Gateway Determination.

February 2021 Council resolved to submit a revised planning proposal to DPE for Gateway Assessment, commence negotiations with the Proponent to prepare a draft VPA to secure local infrastructure contributions and consider a further report on the draft VPA and a draft DCP prior to any public exhibition of the planning proposal.

Council's resolution was, in part, as follows:

*"Council proceed with Option 1 as set out in this Report".*

For reference, "Option 1" (as contained within the Council Report and referred to in Council's resolution) was that *"Council submit the revised proposal to the Department of Planning, Industry and Environment (DPIE)*



*including the requirements set out in Council's previous resolution of 9 July 2019)".*

- July 2021      A Gateway Determination was issued by DPE authorising the planning proposal to proceed, subject to a number of conditions including public agency consultation prior to public exhibition. The planning proposal could not proceed to public exhibition unless a letter of support was provided by TfNSW.
- Agency consultation was undertaken with RFS, TfNSW and SINSW. TfNSW objected to the proposal and advised that it would not accept the land or reserve other land for a regional bypass corridor at this time. As such, Council was unable to meet the condition of the Gateway Determination to obtain a letter of support from TfNSW.
- August 2021 – Consultation continued to occur between Council Officers, DPE (including the Planning Delivery Unit), TfNSW, SINSW and the Proponent. Council Officers sought advice from DPE on the next steps of the proposal in the absence of being able to satisfy the Gateway conditions that would enable the proposal's progression to public exhibition.
- March 2022
- April 2022      A Gateway Alteration was issued by DPE that deleted all conditions of the Gateway Determination and stated that the planning proposal should *not* proceed.
- Reasons for this decision included the proposal's inability to comply with Gateway conditions in light of TfNSW's consistent submissions, the substantial amount of work that was still required to comply with other Gateway Conditions and the inability to meet the 9 month finalisation timeframe.
- The Gateway Alteration letter from DPE advised that Council and the Proponent may wish to consider a new planning proposal but flagged a number of implications with a future proposal. These included the provision of a local road corridor, the removal of a regional road bypass, no future references to 'land-banking' a local road corridor, and consideration of design, alignment, land dedication and revised traffic and transport analysis in consultation with TfNSW with respect to a local road corridor.
- The letter also noted that the regional bypass corridor was the core element of the proposal's strategic merit, and that as a result, any future planning proposal would need to meet the strategic merit test in the absence of the regional bypass road, noting TfNSW's objection to this element of the proposal previously.

## 2. THE SITE

The site has a total area of approximately 12.88 hectares and comprises five (5) individual land parcels known as 614, 618 and 626 Old Northern Road and 21 and 27 Derriwong Road, Dural.

The site is located to the north of Round Corner Town Centre and is bound by Old Northern Road to the east and Derriwong Road to the south and west. The subject land surrounds

Dural Public School. Old Northern Road forms the boundary between The Hills Shire Council and Hornsby Shire Council Local Government Areas.

The site falls to the west and south-west towards O'Hara Creek and currently comprises rural residential development, including a dam. The site is predominantly cleared of substantial vegetation though some patches of vegetation remain. Desktop analysis suggests parts of the site were used for agricultural purposes as recently as 2014, whilst other parts of the site have been used for small businesses and home businesses. There are a number of surrounding land uses including large rural properties, agricultural land uses, Dural Public School, Redfield College and various commercial uses. The site and its surrounding locality are identified in the figure below.

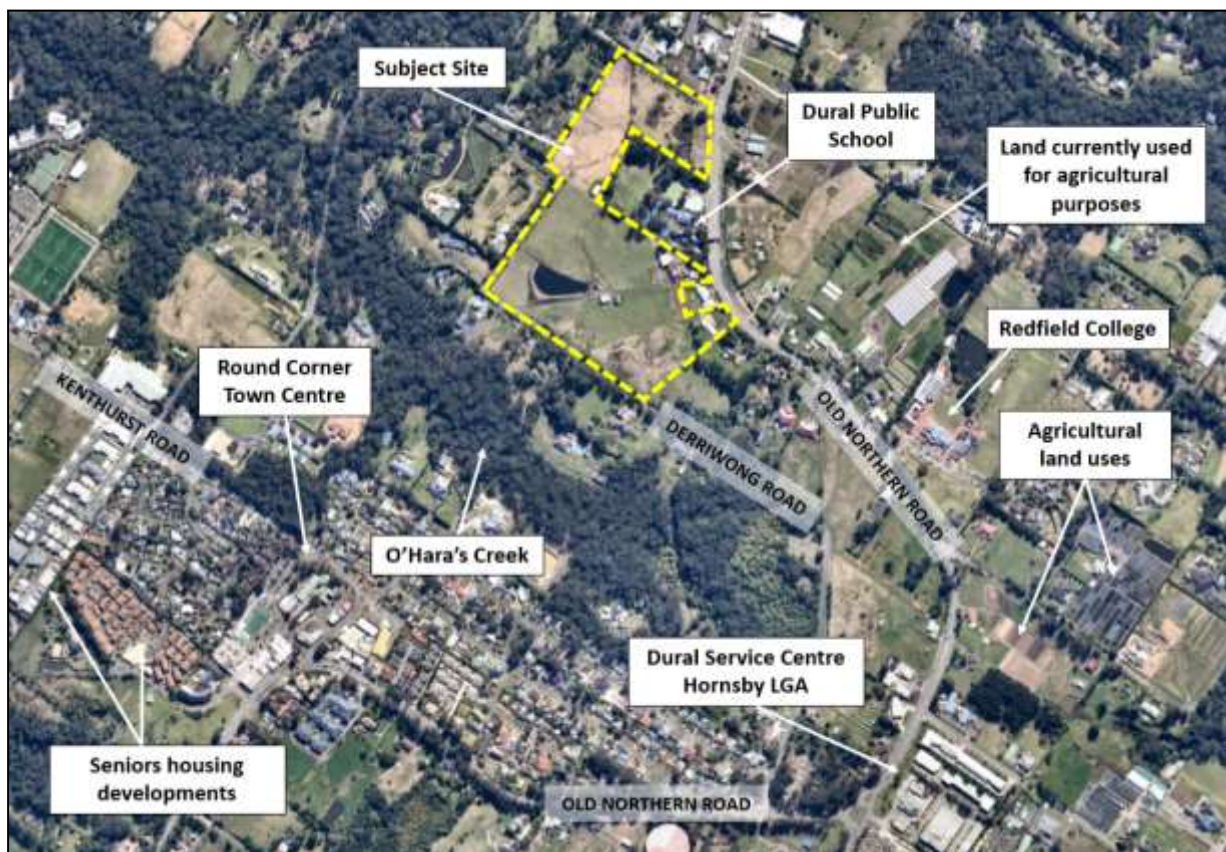


Figure 1  
Subject site and aerial view of surrounding locality

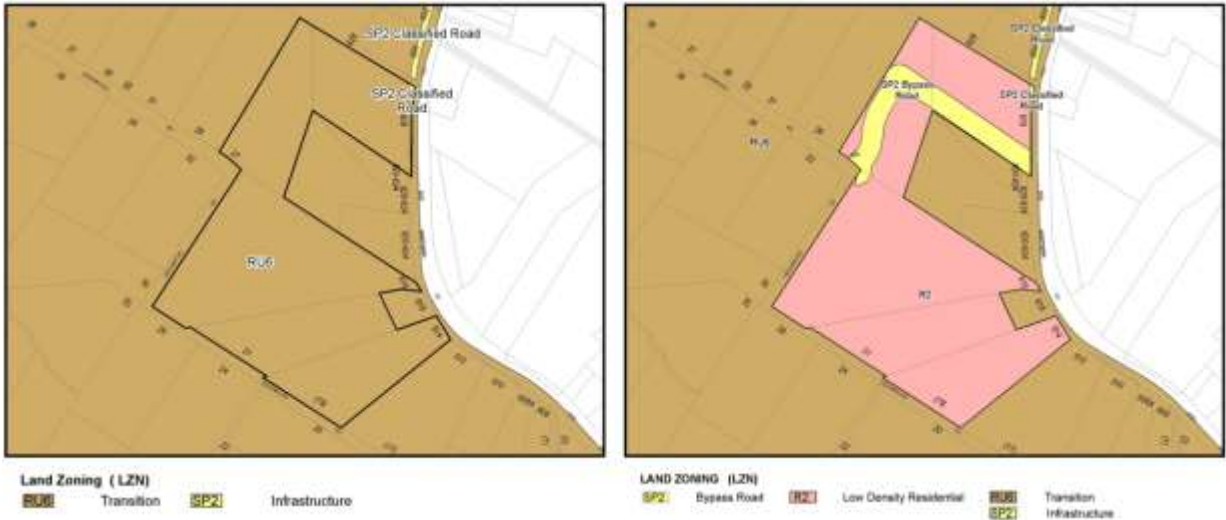
### 3. DESCRIPTION OF PLANNING PROPOSAL

The subject planning proposal was lodged on 30 September 2022. It seeks to rezone the land from RU6 Transition to R2 Low Density Residential and SP2 Infrastructure (Local Road). It would also make associated amendments to maximum building height and minimum lot size controls to facilitate a low density subdivision comprising approximately 110 lots.

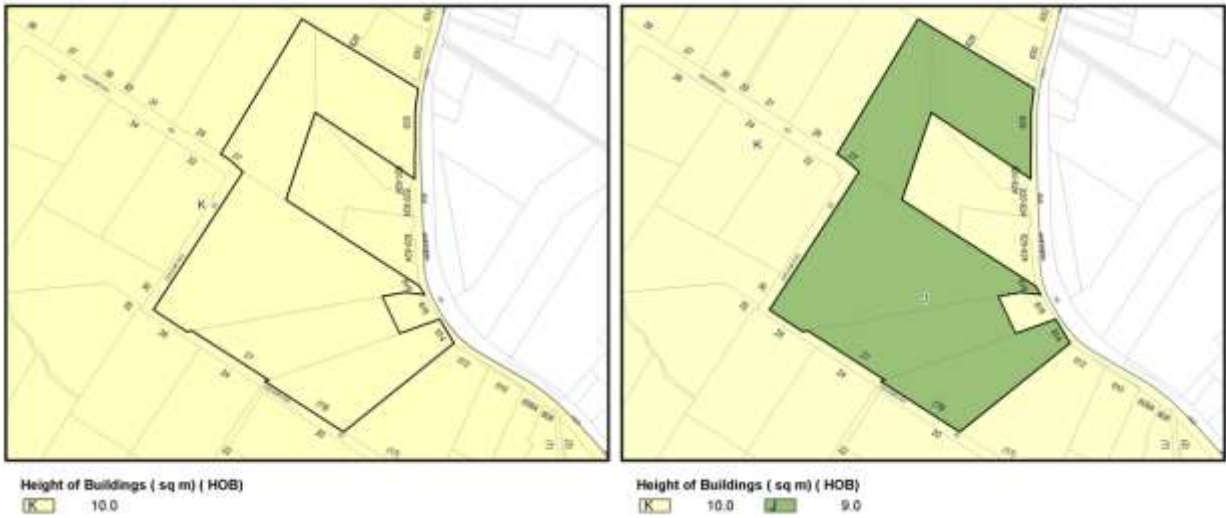
A comparison between the existing and proposed controls under LEP 2019 is provided in Table 1 and Figures 2-4 below.

Planning Control	Existing	Proposed
Land Zone	RU6 Transition SP2 Infrastructure (Classified Road)	R2 Low Density Residential SP2 Infrastructure (Local Road) SP2 Infrastructure (Classified Road) (retained)
Height of Building	10m	9m
Floor Space Ratio	N/A	No change
Minimum Lot Size	2 hectares	600m <sup>2</sup> , 1,000m <sup>2</sup> and 2,000m <sup>2</sup>

**Table 1**  
Existing and proposed development controls under LEP 2019

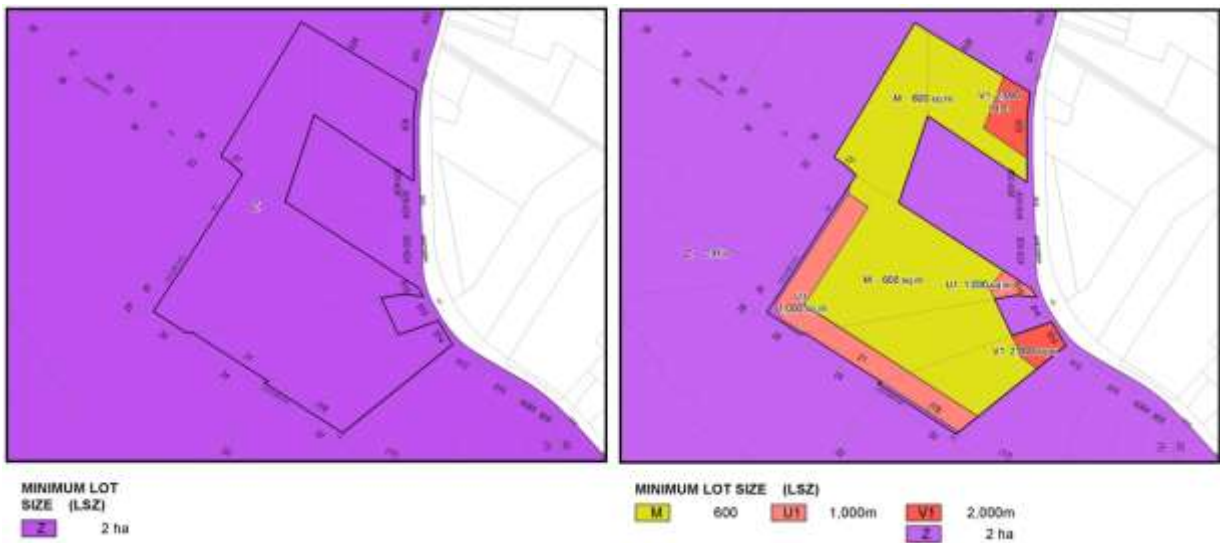


**Figure 2**  
Existing (left) and Proposed (right) Land Zone Map



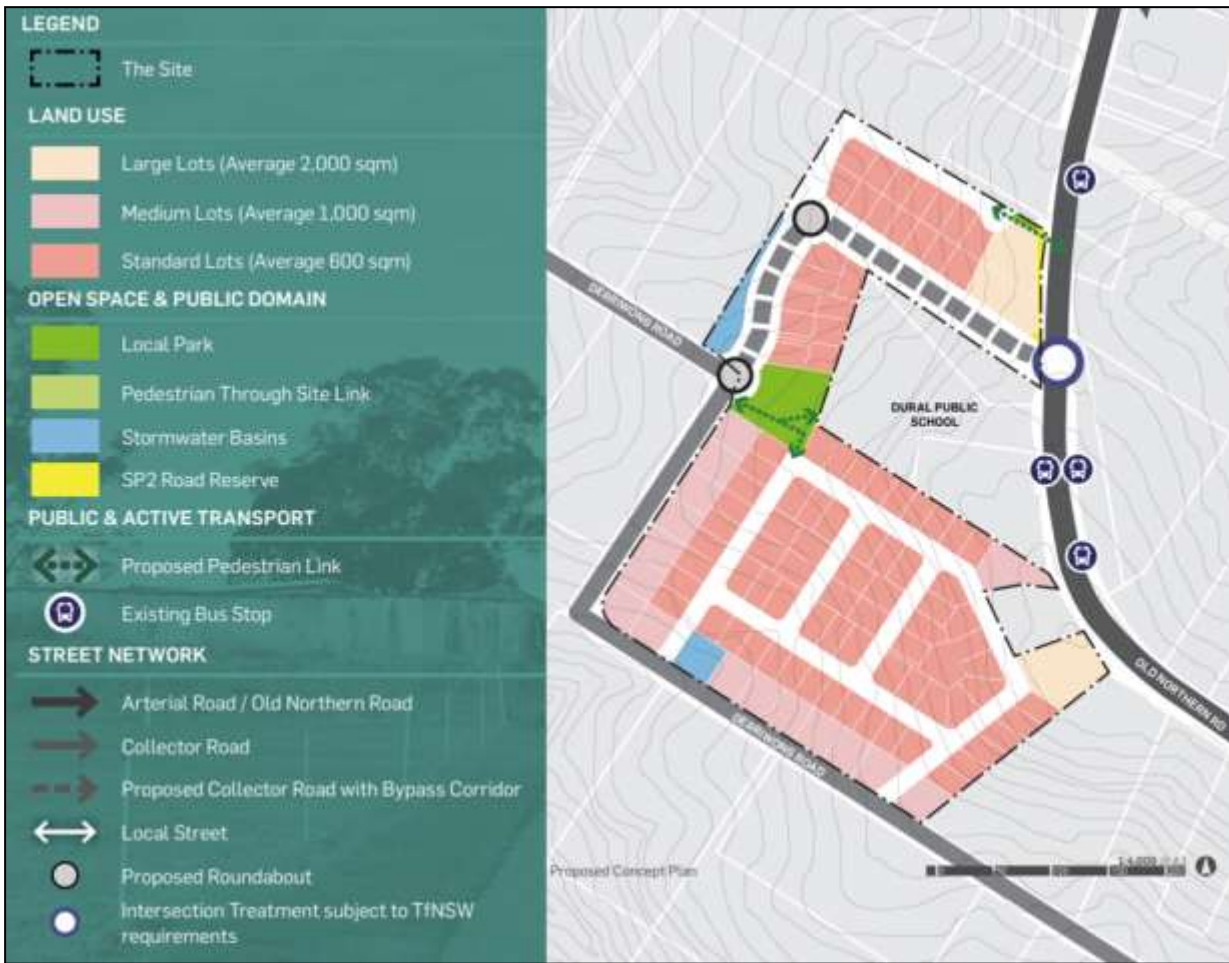
**Figure 3**  
Existing (left) and Proposed (right) Height of Building Map





**Figure 4**  
Existing (left) and Proposed (right) Minimum Lot Size Map

A proposed concept plan prepared by the Proponent is provided in the following figure, illustrating the indicative subdivision layout, proposed lot sizes and internal road network including a potential new bypass corridor through the site.



**Figure 5**  
Proposed Concept Plan

The planning proposal is accompanied by a draft site-specific Development Control Plan (DCP) and draft Voluntary Planning Agreement (VPA) letter of offer.

The draft DCP comprises 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.

The draft VPA letter of offer proposes infrastructure contributions comprising the following:

- Embellishment and dedication of 4,000m<sup>2</sup> of land for the purpose of a new local park;
- Embellishment and dedication of 141m<sup>2</sup> of land for the purpose of a pedestrian link;
- Land dedication associated with a portion of a future Round Corner bypass road (approx. 13,223m<sup>2</sup> forming a 32m wide road reservation);
- Works to construct a 21.5m wide local collector road within the future Round Corner bypass road corridor);
- Embellishment and dedication of two stormwater detention basins;
- Active open space monetary contribution of \$363,305.80; and
- Community facilities monetary contribution of \$101,242.90.

The Proponent has valued the above land, works and monetary items at \$17,826,409, which would equate to \$162,000 per lot. These items are proposed to be in addition to the already applicable Section 7.12 Contributions Plan, which levies development at a rate of 1% of the cost of development.

It is noted that as part of these local infrastructure works and the broader master plan concept, the Proponent has identified the following benefits to State Government infrastructure:

- The provision of the local collector road which includes a drop off and pick up facility adjacent to Dural Public School and widened verges to accommodate future expansion;
- Provision of sewer infrastructure up to the boundary of Dural Public School and undergrounding of overhead powerlines across the School site;
- Potential for the School to utilise the public park and benefit from improved connectivity and access to the School via the park;
- The ability to install and upgrade pedestrian pathways to the School site's frontage and northern edge to mitigate potential impacts on existing pedestrian entrances; and
- Provision of a new intersection at Old Northern Road to support improved traffic distribution within the locality in north south movements and more broadly around the school.

If the proposal is supported by Council for progression to Gateway Determination, Council officers would undertake further work and negotiations with the Proponent with respect to the DCP and VPA, which would culminate in a further report to Council for Council to consider whether or not to exhibit these supporting documents concurrent with the planning proposal.

#### Comparison between Previous Proposal and Current Proposal

As detailed within the History section of this report, the land was subject to a previous planning proposal, which was supported by Council and ultimately received a Gateway Determination however did not subsequently proceed beyond this point. A comparison between the previous and current proposal is provided below.



**Figure 6**  
Comparison between current (left) and previous (right) proposal

As shown above, the current proposal is generally similar in terms of the key outcomes previously sought, noting the following differences:

- The subject site has been expanded to include one additional property at 614 Old Northern Road (at the south eastern edge of the site);
- The average lot sizes proposed have been adjusted. The new proposal has greater number of 600m<sup>2</sup> lots and previously proposed 700m<sup>2</sup> lots have been removed. The new proposal includes more larger lots (generally 1,000m<sup>2</sup>) at the site's peripheries;
- The new proposal seeks to achieve 110 lots, in comparison to the 101 lots previously proposed;
- The location of the proposed public park has changed from its original proposed location fronting Old Northern Road, to a more central location the rear of the site adjoining Derriwong Road and Dural Public School;
- The previous proposal identified land that could form part of a broader regional bypass corridor running directly through the site, along the southern boundary of Dural Public School. In resolving to support the previous proposal, Council was of the view that the achievement of the full regional bypass corridor (between Annangrove Road and Old Northern Road) would be contingent on the remaining land acquisition and road construction being funded by the NSW Government / TfNSW, at no cost to Council. It is noted however that TfNSW was not supportive of this outcome. Under the current proposal, the alignment of the corridor has been adjusted to run north (along the western boundary of the site) and then east (along the northern boundary of Dural Public School). The corridor through the site would be identified as part of a local

bypass corridor. In light of the current position of TfNSW, the achievement of the full local bypass corridor (between Annangrove Road and Old Northern Road) would be contingent on the remaining land acquisition and road construction being funded by Council, unless the NSW Government was to change its current position with respect to this regional transport corridor and an associated funding commitment.

#### 4. LOCAL PLANNING PANEL ADVICE

The Local Planning Panel considered the proposal on Wednesday 21 December 2022 and provided their advice electronically on Thursday 22 December 2022. The Panel's advice is as follows:

1. *The planning proposal has not yet satisfied the strategic merit test. It may be able to demonstrate strategic merit if the following factors were resolved:*
  - a. *The proposed corridor can be delivered in the proposed location, to serve a bypass function, with an intersection at Old Northern Road;*
  - b. *The road to be dedicated is a regional corridor width;*
  - c. *The issues raised by SINSW can be addressed without compromising the function of the future bypass road.*
2. *The planning proposal should however proceed to Gateway Determination to allow for the above factors to be progressed.*
3. *The Panel acknowledges the engagement with agencies that has been undertaken to date on this and previous iterations of planning proposals for this site and notes that they have been unable to resolve issues raised by agencies and that progressing to Gateway Determination appears to be the only way to continue to resolve the issues.*
4. *The Panel notes the advice of the Independent Planning Commission as it relates to the previous iteration of the proposal and the Panel's view remains consistent with the Independent Planning Commission advice as it relates to site specific merit.*

A copy of the Council Officer's Assessment Report to the Local Planning Panel is provided as Attachment 1 to this report. The Local Planning Panel's advice is provided as Attachment 2.

While the Panel was of the view that the proposal had not satisfied the strategic merit test, it noted that potential resolution of some of the outstanding matters (which remain unresolved) could provide the proposal with a pathway to demonstrate strategic merit. The nature of the issues raised in Point 1 of the Panel's advice reflects the need to continue to work through the views of TfNSW and SINSW to ensure the positions of each respective agency would not hinder the ability for the proposed road alignment to serve its intended bypass function. The Panel's advice recognises that the best pathway for these matters to be addressed is through the Gateway Determination process, which allows for further consultation and negotiation to occur with the relevant Government agencies with respect to this site and the achievement of Council's regional transport objectives.

#### 5. MATTERS FOR CONSIDERATION

The table below sets out the key matters that should be considered by Council in determining whether or not the planning proposal should proceed to Gateway Determination. These matters have been summarised from the Council Officer's Assessment Report to the Local Planning Panel, which contains a detailed technical assessment against all relevant strategic and site specific merit factors and is provided as Attachment 1 to this report.

Matter for Consideration	Planning Comment
Strategic Merit	<p>▪ <u>The Greater Sydney Region Plan and the Central City District Plan</u></p> <p>The Plans acknowledge the essential retail and community services provided by rural villages and towns, however, does not advocate for them to become part of the urban area. The Plan states 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.</p> <p>This is also consistent with Council's vision for and implementation of an Urban Growth Boundary within the LSPS and LEP 2019. It should be noted that the RU6 Transition zone applied to land at the interface between urban and rural areas is <i>not</i> an indication of land that is earmarked to transition to urban development. Rather, it is an area intended to provide a buffer between urban development and rural areas.</p> <p>The planning proposal seeks to rezone land within the Metropolitan Rural Area to permit urban development and as such, is technically inconsistent with the Priorities and Actions of the Region and District Plans as they relate to the management of rural land.</p> <p>However, the Proponent submits that the planning proposal is a natural extension of the Dural village (which is also consistent with the Independent Planning Commission's advice, discussed further below). The proposal would provide an opportunity for a walkable catchment surrounding the State Government public school within a fully contained and serviced residential development.</p> <p>The proposal is not indicative of a broader extension of the Dural or Round Corner town centres, as it seeks to provide a transition of lot sizes around the periphery of the site which transitions back into an appropriate character adjoining the rural land zoned RU6 Transition.</p> <p>While the planning proposal varies from blanket policy position within the Greater Sydney Region Plan relating to the Metropolitan Rural Area and rezoning for urban purposes, this does not preclude Council's discretion to ultimately consider the merit of an individual proposal on balance and having consideration to the full range of relevant assessment factors, as well as other key objectives and outcomes within the strategic framework.</p> <p>Should Council resolve to support the planning proposal's progression to Gateway Determination, Council would continue discussions with the Department of Planning and Environment (DPE) and the Greater Cities Commission (GCC), noting that the Region Plan is currently under review and in particular noting that the Independent Planning Commission (IPC) advised that the site should be seriously considered for urban development in the next review of the Plan (the IPC's advice is discussed further below and provided as Attachment 3).</p>



The preparation of the next iteration of the Region Plan and the subject planning proposal application are two separate planning processes, however it would not be unreasonable for these to occur concurrently. The planning framework established by the NSW Government facilitates the ability for any person to lodge a planning proposal, regardless of whether or not it aligns with the current strategic policies of Government or Council. Once lodged, Council is then required to then consider such an application having regard to all strategic and site-specific merit factors in each individual case.

Importantly, when DPE determined that the previous proposal should not proceed, they indicated that the Proponent and Council may wish to consider the lodgement of a new planning proposal with a local bypass corridor. This indication was presumably given from DPE in the full knowledge of the GCC's timeline for reviewing the Region Plan as this was known at the time. The determination stated that DPE recognised the public benefit offering supporting the planning proposal, specifically the delivery of a segment of the regional bypass road, was a key reason for the proposal to proceed and DPE would need to form the view that the new planning proposal has strategic merit with a local bypass corridor.

▪ Section 9.1 Ministerial Directions

Direction 9.1 Rural Zones seeks to protect the agricultural production value of rural land. The direction requires that a planning proposal must not contain provisions that will rezone land from rural to residential or that will increase the permissible density of development within a rural zone. The Direction requires that Council not permit residential intensification of rural land unless justified by a strategy or study.

Similarly, Direction 9.2 Rural Lands also seeks to protect the agricultural production value of rural land, facilitate orderly and economic use and development of rural lands for rural purposes, promote the social and economic values of rural lands and ensure their ongoing agricultural viability, and minimise potential land fragmentation or land use conflicts in rural areas, particularly between residential and other rural uses. It requires that a planning proposal must be consistent with any applicable strategic plan, including the Region and District Plans and the LSPS.

While the planning proposal is inconsistent with these directions, this may be acceptable where the inconsistency is justified by a study that has been approved by the Planning Secretary and is in force, which identifies the subject land and gives consideration to the objectives of the Directions, or is otherwise considered to be of minor significance.

The studies that have been completed and submitted by the Proponent indicate that the land subject to this planning proposal is capable of accommodating urban development in the form proposed, following the resolution of outstanding infrastructure servicing issues (as discussed further within this report). It is noted however that these studies have not been endorsed by the Planning Secretary and as such, if the Planning Proposal was to progress to Gateway Determination, it would be necessary for the Planning Secretary to consider and endorse these studies in order to allow for the proposal to progress despite the inconsistency with the Ministerial Directions.

Council's Local Strategic Planning Statement would also be a relevant factor, which is discussed further below.

▪ Hills Future 2036 – Local Strategic Planning Statement & Rural Strategy

Council's LSPS comprises 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 policy set out in the District and Region Plan by Government and acknowledges that Council has enough land zoned and planned for within the existing urban area to meet its identified housing targets to 2036 and beyond. The site is located above the Urban Growth Boundary, within the Metropolitan Rural Area of Greater Sydney, as shown in the figure below.



Figure 7  
LSPS Urban Growth Boundary (blue) and subject site (red star)

The LSPS also includes an action to investigate opportunities for limited residential expansion in rural villages in line with the criteria recommended in the Rural Strategy. This criteria is as follows:

Table 1: Planning proposal criteria for rural village expansion

Criteria	New proposals must demonstrate
1. Infrastructure provision	Timely provision of utilities, transport, open space and communication infrastructure
2. Access	Access to a range of transport options that allow efficient travel between homes, jobs and services
3. Housing diversity	Provision of a range of housing types
4. Employment lands	Provision of employment opportunities or access to employment areas
5. Avoidance of risks	Land use conflicts are avoided and safe evacuation routes are available (flood and bushfire)
6. Natural resources	Responsible use of natural resources and minimisation of development footprint
7. Environmental protection	Protection and enhancement of biodiversity, air quality, heritage and waterways
8. Quality and equity in services	Access to health, education and other essential services

Figure 8

## Extract of LSPS – Rural village expansion criteria for planning proposals

The LSPS envisages rural village expansion will occur in a coordinated manner on larger consolidated lots surrounding a centre, to create scope to plan for a larger area, rather than on a site-by-site basis. This allows for efficient infrastructure provision, environmental protection and avoidance of bushfire risk. Notably, a coordinated infrastructure approach allows for fair apportionment of contributions, with all required upgrades being known in advance of rezoning.

The Proponent submits that the subject planning proposal illustrates the logical extension of the Dural village and satisfies the rural village expansion criteria as the proposal consolidates five (5) existing lots into one amalgamated site.

The structure plan within Council's 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 Hills (refer to Figure 12 contained within Section 4c) of the Council Officer's Report to the Local Planning Panel provided as Attachment 1 to this report). There is also an action within the LSPS to advocate for State Government support for these regional road upgrades. This is a particularly relevant factor for this planning proposal, as the proposal would reserve a corridor of land which could potentially form part of this broader bypass corridor in the future.

▪ Dural Urban Capacity & Capability Assessment

An Urban Capacity and Capability Assessment was commissioned by Council in 2019 for the Dural/Round Corner Locality. This is discussed in more detailed in Section 4d) of the Council Officer's Report to the Local Planning Panel (Attachment 1).

In summary, the Assessment established that while there may be some *physical* capacity for development uplift in the locality, at this time, local and regional infrastructure issues are an impediment to orderly urban development and the resolution of these issues would likely require significant Government investment.

The environmental capability of the land is identified in the figure below. The

subject site is identified as “Land Capable of Development”. The figure below also indicates the potential location of a future bypass corridor (referred to as the “Kenthurst Bypass” and shown as a yellow and black dotted line), which goes through the site.

This Figure also shows the broader corridor that would need to be secured and constructed to achieve a future bypass road, in addition to the small portion through the planning proposal subject site (outlined in yellow below).

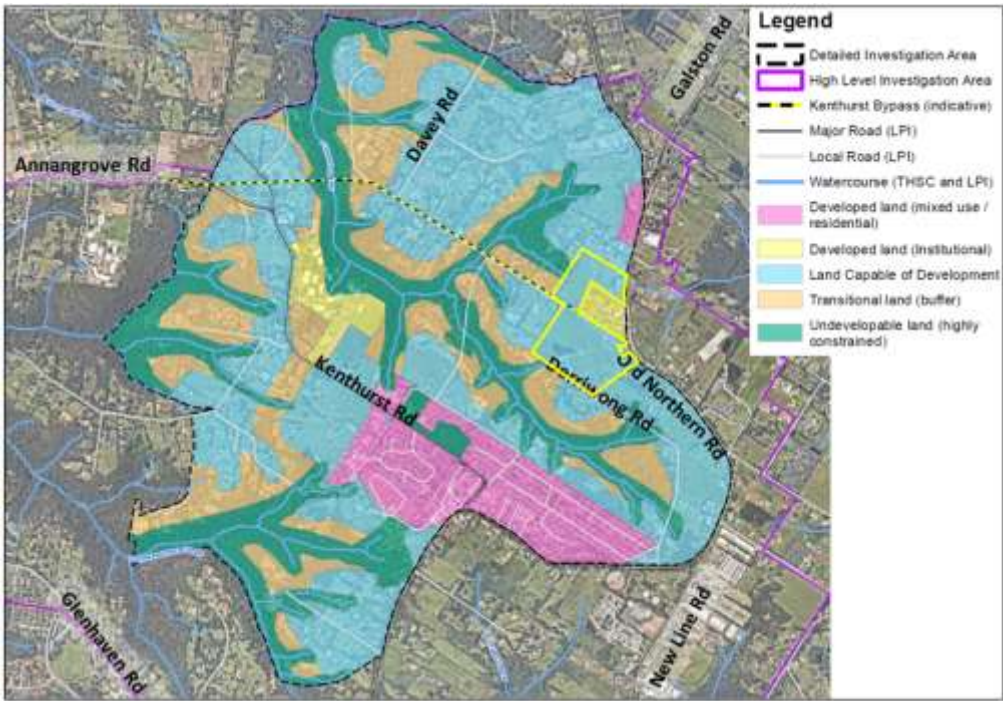


Figure 9  
Outcomes of Environmental Study

On 26 March 2019, Council considered a report on the outcomes of the Dural Urban Capacity and Capability Assessment and resolved that Council discontinue investigations with respect to rezoning of rural land for urban development in Dural. Council also resolved 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.

▪ Regional Bypass Corridor – Annangrove Road to Old Northern Road

The previous planning proposal applicable to the site proposed the reservation of a 32m wide regional road bypass, which Council envisaged would be delivered at no cost to Council and would form part of the arterial road corridor owned and managed by the State Government. In this respect, the previous proposal was consistent with Council's resolution relating to the Dural Urban Capacity and Capability Assessment, subject to further discussions and a commitment from State Government as part of the Public Agency consultation phase.

The previous proposal, notably the proposed regional bypass corridor, was the

subject of extensive consultation with State Government as part of the Gateway Determination process. This consultation involved Council Officers, the Department of Planning and Environment (DPE), Transport for NSW (TfNSW), Schools Infrastructure NSW (SINSW) and the Planning Delivery Unit (PDU). These discussions are outlined in greater detail within Section 5(a) of the Council Officer's Report to the Local Planning Panel (Attachment 1).

In summary, it was concluded that TfNSW do not have any proposals, investigations or long term plans for a regional bypass road in this locality. To date there has been no commitment from the State Government to reclassify Annangrove Road and there is no funding or commitment from State Government for the delivery of a regional bypass road between Annangrove Road and Old Northern Road as a bypass of Round Corner.

Consequently, the current planning proposal application now proposes the delivery of a local collector road to be dedicated to Council. This local collector road is still proposed to be provided within a 32m wide road reservation corridor and as such, the proposal retains the potential to resolve regional infrastructure issues in the longer term. However, the achievement of a bypass road, as envisaged in Council's LSPS, would be contingent upon one of the following circumstances occurring:

- If the State Government was to change its position with respect to the regional bypass corridor and reclassification of Annangrove Road, as part of the consultation process associated with this planning proposal, and agree to fund the acquisition and construction of the full corridor between the subject site and Annangrove Road as part of the arterial road network; or
- If Council accepts and maintains the 32m road reservation (containing a 21.5m wide local collector road) as an interim arrangement, with the expectation that at some point in the future, the State Government will change its position and commit to funding the acquisition and construction of the full corridor between the subject site and Annangrove Road as well as the reclassification of Annangrove Road; or
- If the State Government does not change its position at any point in the future, Council could seek to fund the acquisition and construction of the full corridor as a local bypass corridor between the subject site and Annangrove Road (although it is noted that this would not align with earlier decisions of Council relating to the Dural Urban Capacity and Capability Assessment and previous planning proposal – namely, that this regional infrastructure upgrade be at no cost to Council).

Council may accept the local collector road from the Proponent with the intent to further negotiate with State Government about delivery of a future regional bypass corridor. However, if these further negotiations were unsuccessful and a regional bypass corridor does not eventuate, the land would simply remain as a local collector road.

It is noted that the opportunity to secure part of a future bypass corridor is a key strategic merit factor for both the previous and current planning proposals and its

proposed regional status aligns with Council's adopted policy with respect to lobbying State Government for a regional bypass corridor in association with the reclassification of Annangrove Road to ensure a contiguous east-west arterial link from the North West Growth Centre to Old Northern Road.

Council has made submissions and resolutions to reaffirm the need for the NSW Government to recognise the regional function of Annangrove Road to the North West Growth Centre and beyond. Council has also long recognised the need to move regional traffic outside of Round Corner Village. Preliminary investigations by Council have determined a bypass, rather than the upgrade of Kenthurst Road, is the most economical solution. To date, there has been no commitment from the NSW Government on these matters.

▪ Advice of the Independent Planning Commission

As detailed in the History section of this report, the previous planning proposal was referred to the Independent Planning Commission (IPC) by the Department of Planning and Environment, following the lodgement of a Gateway Determination Review by the Proponent in response to the Department's initial Gateway Determination that the planning proposal would not proceed in April 2020.

The IPC issued a Gateway Determination Advice Report in September 2020. While this related to the previous proposal, the current proposal remains similar in many respects and as such, the advice of the IPC remains relevant to consideration of the proposal. A copy of the IPC's Advice Report is provided as Attachment 3 to this report.

With respect to Strategic Merit, the IPC concluded as follows:

- *The Commission notes that one of the Department's core functions is to implement the District Plans and ensure that Local Strategic Planning Statements are generally consistent. Consequently, the Commission accepts that given the strategic context of the Planning Proposal, the Department's Gateway Determination that the Planning Proposal lacks strategic merit was the right decision. While the Commission accepts that at this stage the Planning Proposal should not proceed, it does consider that the merits of including the Northern Site in a future housing strategy warrants investigation.*

The Commission was of the view that the proposal had considerable site specific merit, however ultimately recommended that *"the planning proposal should not proceed past Gateway Determination"*. The Commission stated that:

- *The Commission accepts that a Planning Proposal must demonstrate strategic merit before site specific merit warrants serious consideration. However, given the benefits associated with the Planning Proposal, the Commission recommends that the Site, in the particular the Northern Site, be seriously considered for urban development and inclusion in the Central City District Plan when it is reviewed and updated in 2023, and that any subsequent update of Council's Local Strategic Planning Statement and Council's Housing Strategy reflect this position.*

The advice of the IPC is unique and significant. While it concludes that the planning proposal should not proceed, having regard to technical application of



	<p>the current framework, it effectively goes on to identify the merits and benefits of the proposal and ultimately recommend that Government reconsider the position with respect to allowing urban development on this land as part of their review of the Central City District Plan.</p> <p>It is noted that the Greater Cities Commission is currently in the early stages of reviewing the Region Plan, with reviews of the District Plans scheduled to occur in 2023. Accordingly, at this time, there have been no changes to the existing strategic planning framework in response to IPC's advice at either State or Local level. This would occur through the review of the District Plan and Council's LSPS and Housing Strategy and would be subject to decisions of Council in the future in due course. As discussed earlier in the report, the planning proposal and the review of the District Plan are both able to progress simultaneously as separate planning processes.</p> <p>Clearly, there are different views and objectives within the applicable layers of the strategic planning framework which are somewhat conflicting in this instance. While the planning proposal does not align with the blanket policy position in the Region Plan relating to the Urban Growth Boundary, there are nonetheless logical grounds to consider an exception in this specific instance, having regard to the strong alignment of the proposal with Council's regional transport objectives (in securing a portion of a future bypass corridor) and the unique opportunity to allow for some additional housing within the catchment surrounding the Dural Public School, without creating a precedent of similar outcomes within the rural area.</p> <p>It is noted that should Council resolve to progress the planning proposal to Gateway Determination, this would be a matter that may give greater weight to the GCC's consideration of the land as part of its review of the Region and District Plans.</p>
Traffic and Transport	<ul style="list-style-type: none"> <li>▪ <u>Regional Road Network</u></li> </ul> <p>The current regional road network for west-east vehicle movement between the growing North West Growth Centre and the localities of Pennant Hills and Hornsby follows Annangrove Road, Kenthurst Road, Old Northern Road and New Line Road. This route bisects the Round Corner town centre and traffic volumes are expected to increase as development continues within the North West Growth Centre. Council has requested that the State Government consider re-classifying Annangrove Road to a classified State road as a result of current and expected future traffic volumes. To date there has been no commitment from the State Government to reclassify Annangrove Road or in relation to its extension to Old Northern Road as a bypass of Round Corner.</p> <p>The Urban Capacity and Capability Assessment included detailed traffic analysis of the existing road network in the Dural locality. The Assessment concluded that road capacity and traffic issues are already being experienced in Dural, with further delays to be expected as planned development occurs within the North West Growth Centre, unless upgrade works are undertaken to cater for increased demand.</p> <p>The completion of any major road upgrades in Dural will come at a significant cost to Government as a consequence of high property values, difficult</p>

topography and other environmental constraints. In 2018, Transport for NSW (TfNSW) estimated that the upgrading of Old Northern Road and New Line Road alone would exceed \$300 million. It is expected that this cost would have increased substantially since the time of this estimation in line with construction cost escalations. A Federal Grant of \$10 million was allocated in the 2019/2020 Federal Budget to fund a major project business case to investigate the potential upgrade of new Line Road to a four lane divided carriageway. It is understood that the investment from the Australian Government was on a 50/50 basis with the NSW Government, bringing the total government investment in the project to \$20 million. However, the extent of this investigation comprises the length of New Line Road between Castle Hill Road and Old Northern Road, and therefore does not extend as far north along Old Northern Road as the subject site.

Business cases are used by the Australian Government to manage the priority of various projects nationwide and remain informed on the appropriate investments required to support future development. Business case planning occurs in the preliminary stages of a project, many years prior to full funding commitments for projects or detailed planning and construction (if justified by the business case).

The inclusion of business case funding with respect to the upgrade of New Line Road does indicate some movement at a Federal level towards securing the necessary upgrades to New Line Road and the preparation of a business case for the upgrade of this regional road is supported. However, the resolution of the existing regional infrastructure issues will ultimately require significant further funding by Government, following the completion of the business case planning process.

The Proponent's Traffic Impact Assessment includes traffic counts of existing traffic conditions along Old Northern Road, which were collected by the Proponent's traffic consultant outside Dural Public School on Thursday 18 August 2022 during both the AM and PM peak periods. Peak traffic volume in the AM peak travelled southbound along Old Northern Road and totalled 973 trips. Peak traffic volumes in the PM peak travelled northbound along Old Northern Road and totalled 981 trips. The Proponent's traffic report states that "in both peak periods, the traffic volume in the peak direction approaches 1,000 vehicles per hour, indicating that Old Northern Road is currently close to capacity".

The Proponent's Traffic Impact Assessment states that 105 trips will be generated by the proposed development in the AM peak (with 67% of these trips distributed to Old Northern Road) and 109 trips generated in the PM peak (with 75% of these trips distributed to Old Northern Road). Given the proposed residential land use, these trips are predominantly leaving the site in the AM peak and accessing the site in the PM peak.

The planning proposal would facilitate development in addition to this planned growth and as such, the additional traffic would likely exacerbate (albeit to a very small extent) the existing traffic issues, in the absence of any firm commitment from Government for the funding of the required road upgrades.

However, the planning proposal could partially contribute to a broader regional traffic solution, if the bypass corridor was to eventuate.

- Bypass Corridor and State Government Agency Views



The planning proposal seeks to contribute to the resolution of regional traffic issues through the proposed dedication of land for a portion of a future bypass corridor. As mentioned earlier in this report, Council's understanding when supporting the previous planning proposal was that this would be in the form of a regional bypass corridor to be funded, owned and managed by the State Government as part of the arterial road network. In response to submissions from TfNSW, the new planning proposal includes the construction of a local collector road and dedication of a wider corridor to Council so that there is potential for future expansion and upgrade of the road if it does form part of a bypass corridor in the future.

The bypass corridor has been the subject of extensive consultation with TfNSW and SINSW, both as part of the previous planning proposal Gateway process and separately initiated by the Proponent during the pre-lodgement phase of this current planning proposal. Further discussion on the views of each agency is included within Section 5(a) of the Council Officer's Assessment Report to the Local Planning Panel.

#### *Transport for NSW Views*

In summary, TfNSW advised that it has no current plans, proposals or investigations for a regional bypass road that connects Annangrove Road to Old Northern Road. Therefore, there is no funding or commitment to the delivery of a regional bypass road, including corridor design, alignment and future reservation.

TfNSW has no current proposals or long term plans to re-classify Annangrove Road to a classified State road.

TfNSW recommended that should Council determine to deliver a future *local* bypass, Council would need to be satisfied through its own studies and technical work with respect to the appropriate width and alignment. This should be undertaken by Council, not the Proponent. TfNSW encouraged, but does not require, this assessment to be undertaken prior to Gateway Determination, however advised that it should be undertaken prior to finalisation of the LEP amendments. TfNSW requires a level of assurance that the proposed corridor design and reservation for the southern section of the corridor (located on the Proponent's site) has been appropriately assessed taking into account future land use and traffic growth along the entire corridor.

TfNSW was of the view that the currently proposed local bypass alignment is preferable to the previous scheme (which ran along the southern boundary of the school) as it would improve sight distances and allow better opportunity to widen Old Northern Road. However, widening of Old Northern Road will likely be necessary to accommodate the optimal ultimate layout for traffic signals.

It remains open to Council to proceed with funding the technical analysis and studies as detailed within TfNSW's advice. It should be noted that some of these investigations were completed as part of the Dural Urban Capability and Capacity Assessment, as detailed earlier in this report. However, in light of the outcomes and recommendation of this Urban Capability and Capacity Assessment, Council resolved not to progress further with Phase 2 investigations, which would have resulted in the completion of the further work

required by TfNSW above, including a precinct-wide structure plan and regional traffic analysis. Council could, in the future, resolve to proceed with the design, acquisition and construction of a bypass road, however it is estimated that this would be costly for Council and this would represent a shift in policy position compared with Council's existing resolution regarding all local and regional infrastructure in the Dural locality being delivered at no cost to Council.

Notwithstanding the advice from TfNSW, it also remains open for Council to accept the dedication of this land as a local collector road now, with a long-term intention to negotiate and continue lobbying TfNSW to change its position in the future with respect to the provision of the broader regional bypass road and reclassification of Annangrove Road. While correspondence from TfNSW to date remains firm and consistent with respect to there being no commitment, funding or future investigations into the delivery of a regional bypass road in this locality or the reclassification of Annangrove Road, this approach would nonetheless allow Council to secure a portion of a future corridor through the site for a regional bypass road, consistent with Council's regional transport priorities.

To date, Council's policy position differs to the views of TfNSW. Council has encouraged a holistic and longer term review by TfNSW as to the role, function and need to classify Annangrove Road to recognise its use as a regional connector from the North West to the north of Sydney and Central Coast. Council has been of the view that this should therefore be TfNSW's priority and identified within their planning, given the expected congestion of Windsor Road from Vineyard to the M2/M7 Motorway Interchange.

#### *Schools Infrastructure NSW Views*

SINSW advised in submissions that The Department of Education's existing primary and secondary school facilities are anticipated to have capacity to accommodate the demand resulting from the proposal. SINSW requested that the road corridor be located to the northern boundary of the school site in order to accommodate kiss and drop and/or bus bay facilities. A fine grain review of the proposed kiss and drop zone will be required to ensure this area is adequate for the school's use.

Given that the local collector road will be a high pedestrian activity area in the future, SINSW requested that transport planning for the proposal include traffic calming measures, such as lower vehicle speeds to 30km/hr along this road.

It is noted that traffic calming measures and lower vehicle speeds of 30km/hr as requested by SINSW would not be conducive to the provision of a regional bypass road as envisaged by Council, where the primary function would be to prioritise vehicular movements to improve traffic flow and accommodate larger through-traffic volumes at higher speeds. This has been a longstanding consideration in the appropriateness of the bypass location adjacent to the Dural Public School and further investigations and negotiations with SINSW would be required if the planning proposal was to progress.

#### ▪ Local Road Network

The Proponent's Traffic Impact Assessment concludes that the planning proposal would generate 105 - 109 vehicle trips in the AM and PM peak periods respectively. The Proponent's assessment concludes that the additional trips

	<p>generated by the proposal will have negligible impact on existing traffic conditions.</p> <p>The Traffic Impact Assessment however does not account for drivers conducting illegal right turns into the indented bus bay at Jaffa Road to access the Round Corner Town Centre. This matter would need to be addressed further if the planning proposal was to progress to Gateway Determination.</p> <p>Further detailed discussion of the proposal's traffic and transport impacts is discussed within the Council Officer's Assessment Report to the Local Planning Panel, provided as Attachment 1 to this report.</p>								
Local Infrastructure Demand and Public Benefit Offer	<p>Based on the 110 dwellings proposed (approximately 352 persons) the following local infrastructure would be required using current benchmark rates:</p> <ul style="list-style-type: none"> <li>▪ 6% of a local community centre;</li> <li>▪ 1% of a branch library;</li> <li>▪ 18% of an active open space facility (playing field); and</li> <li>▪ 5,702m<sup>2</sup> of passive open space (based on 1.62 hectares per 1,000 people).</li> </ul> <p>The provision of 6% of a local community centre or 18% of a playing field would be difficult in isolation, especially in the absence of any broader critical mass of urban development within the locality. Accordingly, the Proponent has submitted a Voluntary Planning Agreement (VPA) offer to Council, which includes the following items:</p> <table border="1"> <thead> <tr> <th>Item</th><th>Council Officer Comment</th></tr> </thead> <tbody> <tr> <td>1. Embellishment and dedication to Council of 4,000m<sup>2</sup> of land for use as a local park.</td><td>Public benefit.</td></tr> <tr> <td>2. Embellishment and dedication to Council of 141m<sup>2</sup> of land for use as a pedestrian link (north east corner of the site).</td><td>The pedestrian pathway does not link to a broader pedestrian network and is considered to be of minimal public benefit. Crossing Old Northern Road at this location is not permeable for pedestrians and the proposed through site link appears to be provided in isolation from broader pedestrian movements in the locality.</td></tr> <tr> <td>3. Dedication of a maximum of 13,223m<sup>2</sup> of land forming a 32 metre road reservation through the site for the future Round Corner Bypass.</td><td>Potential public benefit. The road reservation has the potential to accommodate a regional bypass road however, as detailed above, the achievement of this bypass corridor would ultimately be contingent on a number of other factors external to this proposal.</td></tr> </tbody> </table>	Item	Council Officer Comment	1. Embellishment and dedication to Council of 4,000m <sup>2</sup> of land for use as a local park.	Public benefit.	2. Embellishment and dedication to Council of 141m <sup>2</sup> of land for use as a pedestrian link (north east corner of the site).	The pedestrian pathway does not link to a broader pedestrian network and is considered to be of minimal public benefit. Crossing Old Northern Road at this location is not permeable for pedestrians and the proposed through site link appears to be provided in isolation from broader pedestrian movements in the locality.	3. Dedication of a maximum of 13,223m <sup>2</sup> of land forming a 32 metre road reservation through the site for the future Round Corner Bypass.	Potential public benefit. The road reservation has the potential to accommodate a regional bypass road however, as detailed above, the achievement of this bypass corridor would ultimately be contingent on a number of other factors external to this proposal.
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	<p>4. Construction of a 21.5m wide collector road within the road reservation, including two roundabouts, kiss and drop lane adjacent to Dural Public School and widened verges to accommodate future expansion.</p>	<p>Potential public benefit. The widened verges have the potential to accommodate a regional bypass road, however the offer does not secure works or funding for any future upgrade of the road that would be necessary, beyond the 21.5m wide local collector road.</p> <p>It is also unclear whether Council or the Proponent would be responsible for funding the construction of intersection upgrade works where the local collector road connected to Old Northern Road (any intersection at this location would be subject to TfNSW approval).</p> <p>The local road in isolation from its potential regional status is not required to improve the existing local road network and would primarily service the Proponent's development.</p> <p>There are however benefits to the Dural Public School and as such, this would represent a public benefit to regional infrastructure.</p>
	<p>5. Embellishment and dedication to Council of two stormwater detention basins</p>	<p>The stormwater infrastructure is required to service the proposed development and does not provide a broader public benefit to the community.</p>
	<p>6. Monetary contribution to Council of \$363,305.80 towards active open space</p>	<p>Public benefit.</p>
	<p>7. Monetary contribution to Council of \$101,242.90 towards community facilities</p>	<p>Public benefit.</p>
	<p>8. Section 7.12 monetary contribution to Council (estimated at a <i>minimum</i> of \$550,000)</p>	<p>Neutral. This Plan is already applicable to the subject site however does not plan or cater for the extent of uplift proposed through this proposal.</p>
<p>The location of the proposed items offered are shown in the figure below.</p>		

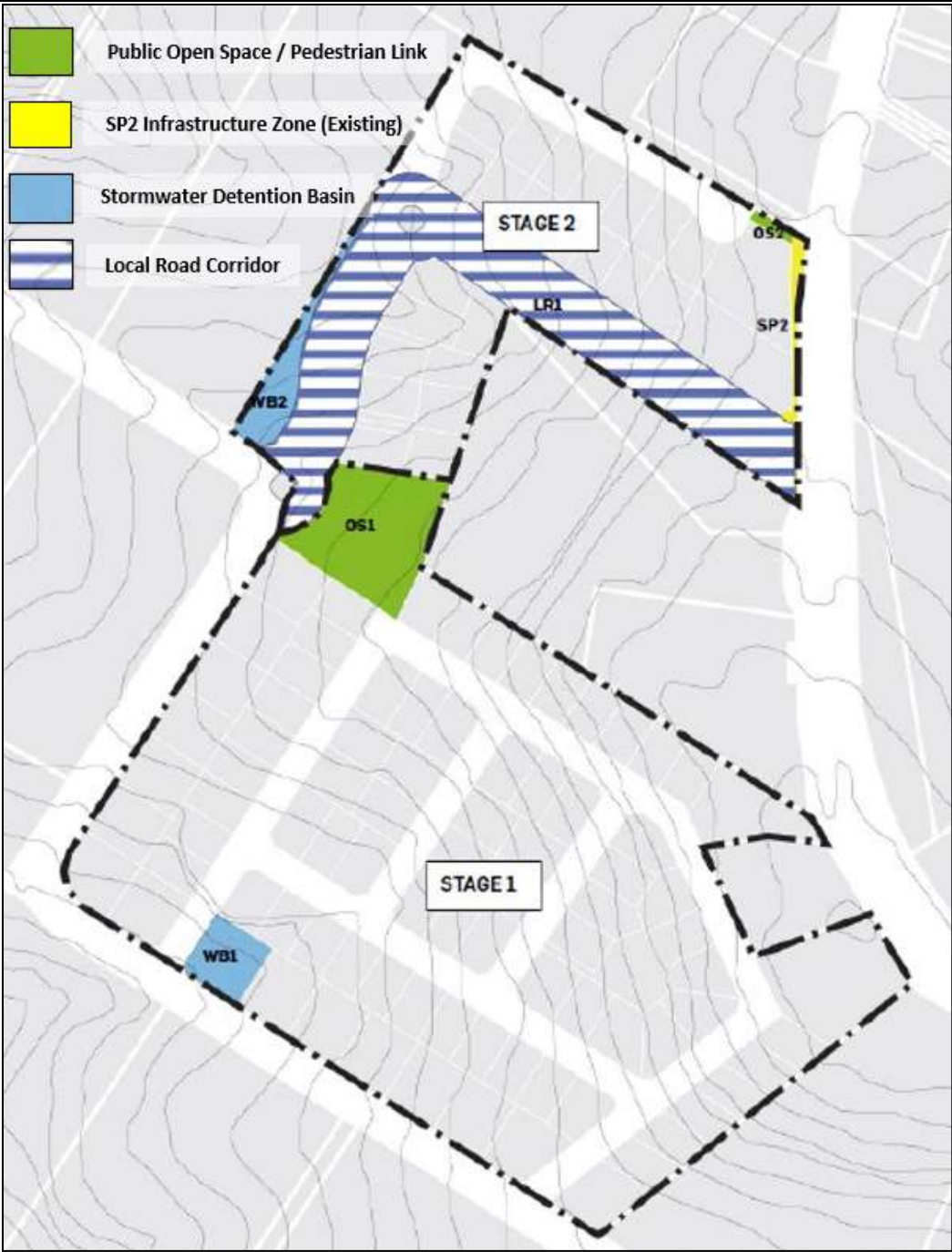


Figure 10  
Location of items proposed to be dedicated to Council

The Proponent has valued their offer at \$17,826,409. This comprises approximately \$465,000 of monetary contributions, \$7.4 million of works and \$10 million in land values based on the Proponent's valuation of \$500/m<sup>2</sup>. Council Officers are continuing to assess the appropriateness of the preliminary offer.

A significant portion of the public benefit value relates to the dedication of land for a future bypass corridor. However, as detailed throughout this report, realising the public benefit associated with the bypass corridor would be contingent upon a number of related factors external to this proposal. If this does not eventuate, then the land would have limited public benefit value as it would

	<p>essentially be a local road to service the development.</p> <p>It is also noted that the Proponent's preliminary offer indicates that the bypass road (and associated upgrades to the school frontage including the kiss and drop zone) would be delivered as part of Stage 2 works on the site. Stage 1 of the development would see the delivery of approximately 85 of the total 110 lots within the development. Should Council determine to proceed with the proposal, the public benefits within Stage 2 would need to be developed in association with <i>any</i> residential development on the land and will therefore be required as part of Stage 1 works.</p>
Infrastructure Capacity (Utilities)	<p>As part of the Urban Capacity and Capability Assessment, preliminary infrastructure capacity investigations were undertaken with respect to drinking water, wastewater, gas and electricity supply within the broader Dural locality and instances where augmentation is required. The following conclusions were made:</p> <ul style="list-style-type: none"> <li>▪ Gas Services: Jemena's policy is to extend gas mains to all developments wherever possible, depending upon economic viability;</li> <li>▪ Electrical Infrastructure: Endeavour Energy has no long term plans to increase capacity as the Dural locality has not been identified by the State Government as a growth area. The Dural Load Area has existing capacity to supply small developments of 175 to 230 small/medium sized lots before requiring network upgrades; and</li> <li>▪ Potable and Waste Water: the potable water reservoirs and sewage pumping stations in the study area do not have sufficient spare capacity to accommodate development in the study area. Development in the area would require installation of trunk water and sewer networks, including new water reservoir/s, sewer pump stations and potentially a new treatment plant or upgrades to an existing plant.</li> </ul> <p>The Proponent has submitted a Preliminary Infrastructure Review in support of the planning proposal to ascertain the extent utilities servicing available to the site and the potential need to upgrade, extend or alter services to accommodate the additional growth proposed.</p> <p>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 such facilities. The viability of doing so is a commercial matter for the Proponent to consider should the matter progress. Without adequate provision of sewer, power and water, the development would fail in its current form. The infrastructure capacity is discussed in greater detail within the Council Officer Assessment Report to the Local Planning Panel (Attachment 1).</p>
Vegetation	<p>The site is largely cleared of existing vegetation though there are some remaining patches. The Proponent's material indicates the presence of Northern Foothills Blackbutt Grassy Forest and Sydney Turpentine Ironbark Forest (STIF), which are endangered and critically endangered ecological communities respectively under the Biodiversity Conservation Act 2016 (BC Act).</p> <p>The Proponent's material indicates that attempts will be made at the development application stage to retain areas mapped as STIF, which is predominantly along the site's frontage to Derriwong Road. While it is prudent to</p>

ensure early consideration of impacts to this vegetation community, it is noted that the Proponent's development concept proposes larger minimum lot sizes of 1,000m<sup>2</sup> at this location which could likely be capable of retaining and avoiding this vegetation as part of future built form applications.

The proposed lot size of 1,000m<sup>2</sup> in this location is a *minimum* size requirement and actual resulting lot sizes may naturally vary above this minimum number following completion of surveys and the creation of a detailed subdivision plan. Further, the lot sizes may need to be increased in this location to address impacts to STIF vegetation once more detailed planning and ecological investigations have been completed at the DA stage. This potential outcome should be incorporated into controls within the draft site specific DCP, if the proposal proceeds to Gateway Determination.

Parts of the adjoining Dural Public School are also listed on the Biodiversity Values Map and therefore the adjoining development must consider the potential for Serious and Irreversible Impact ("SAIL"). Should the planning proposal progress, further surveys and ecological reporting would be required to be undertaken by the Proponent to verify the Biodiversity Values Map, ascertain the exact extent to which threatened species are present on the land and demonstrate that the proposed development does not constitute a SAIL. This would include detailed surveys and consideration of potential clearing on the school site as part of the proposed kiss and drop road works and the broader local road corridor works.

It is also recommended that a 10m vegetated buffer be provided where development lots adjoin the Dural Public School, to reduce the potential for impacts on high value biodiversity areas. The site specific DCP should also include provisions with respect to cut and fill, provision of utilities services and stormwater infrastructure that minimise impacts on these areas that are at risk of creating SAIL.

While this would likely be a sufficient planning response for proposed residential lots along the southern boundary of the Dural Public School, there may be implications for the ability to deliver the bypass road within the reservation corridor proposed by the Proponent. The image below illustrates the extent of the Biodiversity Values Map.

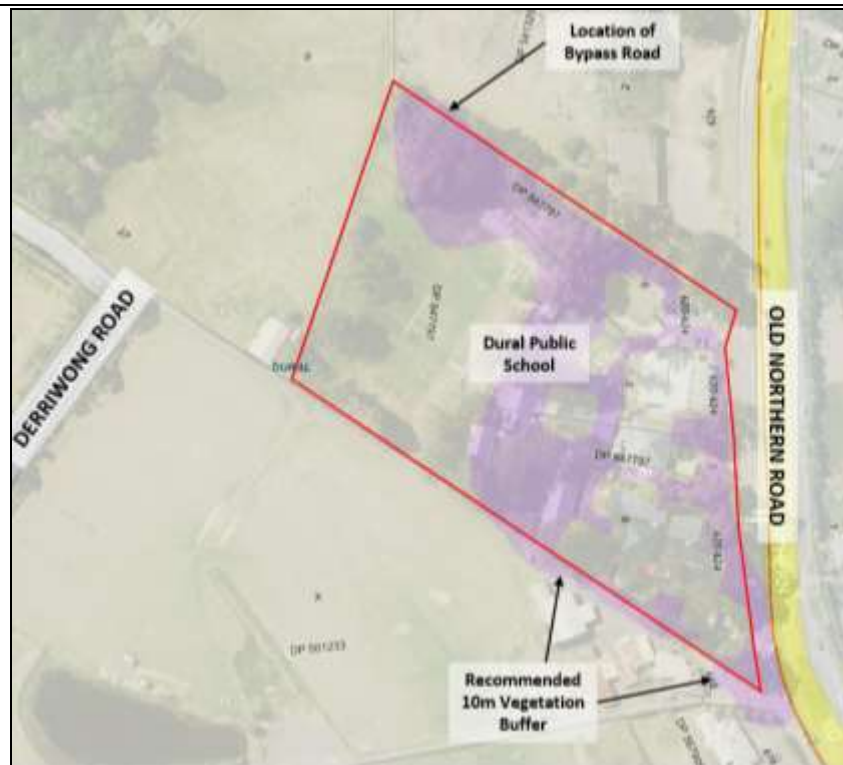


Figure 11  
Biodiversity Values Map (purple)

Should the planning proposal progress to Gateway Determination and consensus is reached with TfNSW with respect to the design of the proposed road infrastructure, it is anticipated that consultation would also be required with DPE's Environment & Heritage Group to determine the appropriate response required to this small portion of land north of the school that is identified on the Biodiversity Values Map.

Potential  
Impacts on  
Agricultural  
Land

The RU6 Transition Zone is used in special circumstances to provide a transition between more intensive rural land uses such as intensive agriculture and extractive industries and other areas supporting more intensive settlement. Guidance provided by the Department of Planning and Environment indicates that the zone is not to be used to identify future urban land. The zone provides an appropriate buffer between urban land and rural areas and allows the rural areas to develop and grow without restriction from residential uses in close proximity. Whilst the land uses permitted within the zone do not lead to high land values, the RU6 Transition Zone is necessary to protect existing rural enterprises and encourage future investment in these and other rural lands.

On the opposite side of Old Northern Road, within the Hornsby Shire Council area, the rural land 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). While no Odour Assessment has been submitted by the Proponent, 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.



	Existing planning controls and Council policies have generally confined new development to within close proximity of centres. There is currently a clear distinction between the Shire's semi-rural villages and the surrounding rural zoned land which reduces land use conflict and gives the Shire's rural areas a positive identity. The Proponent 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	<p>In comparison to the previous planning proposal, the revised application has been lodged under a different legislative context as it relates to the permissibility of seniors housing developments in the Metropolitan Rural Area. Previously, seniors housing could be permitted on rural land in instances where rural sites adjoined urban zoned land, subject to the issue of a Site Compatibility Certificate from the Department of Planning and Environment or Sydney Central City Planning Panel. State policy has since been amended to remove the Site Compatibility Certificate planning pathway.</p> <p>While there is no longer a potential impact to surrounding land, there remains potential to create new seniors housing development opportunities within the subject site, if the land is rezoned. Seniors housing is currently prohibited on the land given its rural zoning of RU6 Transition. However, the R2 Low Density Residential zone is a 'prescribed zone' under <i>State Environmental Planning Policy (Housing) 2021</i>. Should the planning proposal proceed, seniors housing would therefore become permitted with consent on the land.</p> <p>While the Proponent has submitted a development concept indicating a low density residential subdivision, the planning proposal relates to the land use zoning and primary development standards and does not secure a specific development outcome (as this would be the subject of a future development application). As such, it cannot be guaranteed that parts of the land rezoned to R2 would in fact be developed for the illustrated purpose. However, it is anticipated that the draft site-specific development control plan would provide detailed guidance on ensuring the proposed development outcome is achieved on the site, which includes establishment of the local road pattern as part of Stage 1 works on the site.</p>
Heritage	<p>The site does not comprise 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. More detail on the specific location of heritage items is contained within Section 5(g) of the Council Officer's Assessment Report to the Local Planning Panel (Attachment 1).</p> <p>The Proponent has submitted a Heritage Impact Statement in support of the proposal. Broadly, the proposal will not diminish the values or views of the surrounding heritage items as there is appropriate separation between the items and the subject site. The provision of larger lot sizes at the periphery of the sites will assist in integrating with the low density rural character of the locality. No physical works are proposed to the heritage items, with the exception of Old Northern Road.</p> <p>The Heritage Impact Statement submitted by the Proponent notes that the intersection treatment of the proposed bypass road with Old Northern Road is subject to further discussions and direction from TfNSW. The Proponent</p>

	recommends that an Historical Archaeological Impact Assessment (HAIA) be prepared by a suitably qualified archaeological consultant prior to the submission of a development application in association with any impacts to Old Northern Road. It is anticipated that Heritage NSW will be consulted on this matter should the planning proposal progress to Gateway Determination.
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## OPTIONS

Determining whether or not this proposal should proceed to Gateway Determination is a complex task, having regard to competing strategic planning objectives, historical advice from the Department of Planning and Environment and the Independent Planning Commission and the status of the Region and District Plans, which are currently under review by the Greater Cities Commission.

The following potential options have been canvassed having regard to the assessment of the proposal and these other relevant factors:

- *Option 1 – Proceed to Gateway Determination*

Given the strategic alignment of the proposal with Council's regional transport objectives and the reservation of part of a future bypass corridor, it would be justifiable to forward the planning proposal for Gateway Determination with a view to 'future-proofing' and achieving Council's long-term strategic vision. A decision to this effect would place a greater emphasis on the potential to secure part of the bypass corridor in the strategic merit assessment of the Proposal. This would also reflect the strong site-specific merit demonstrated by the proposal, the advice of the IPC with respect to the previous proposal pertaining to the potential benefits and would remain largely consistent with Council's previous decisions with respect to the previous planning proposal.

Proceeding with this option would retain the opportunity for Council to secure a part of the future bypass corridor and continue to advocate for the outcome that is consistent with its policy position to date, being a regional bypass corridor to address regional road capacity issues that are a result of State Government-initiated rezonings in the North-West Growth Centre. It may however require some cost input by Council with respect to, at a minimum, investigations and/or design of the future bypass corridor and maintenance of the corridor land (as a local road).

While TfNSW has expressed a consistent view to date, which does not support the funding or provision of a regional bypass corridor by Government, Council may deem it appropriate to secure this first part of the corridor at this time, to ensure flexibility remains in the future for the bypass road to be delivered if either:

- Government changes its current position and agrees to funding the design, acquisition and construction of the broader corridor as a regional bypass road; or
- Council opts to pursue the design, acquisition and construction of the broader corridor as a local bypass road.

If neither of these outcomes was to eventuate, the proposed corridor would remain in Council's ownership as a local collector road primarily servicing the development.

If Council does resolve to submit the planning proposal for Gateway Determination, a further report would ultimately be required with respect to a draft Voluntary Planning Agreement and Development Control Plan, which addresses some of the matters raised within this report and could be publicly exhibited alongside the planning proposal.

- Option 2 – Not Proceed to Gateway Determination

It would also be justifiable to determine that the planning proposal should not proceed to Gateway Determination. A decision to this effect would place a greater emphasis on the technical inconsistency of the proposal with the Region Plan, District Plan and LSPS having regard to the treatment of land within the Metropolitan Rural Area. It would also reflect that despite the strong site-specific merit demonstrated by the proposal and the advice of the IPC with respect to the previous proposal, the Region Plan has not yet been updated to identify any urban development on this land and the consideration of site-specific merit is only a relevant factor once a proposal has first satisfied the strategic merit test.

While Option 1 presents a pathway for Council to continue to secure its strategic vision for a regional bypass corridor, Option 2 places greater weight on the current views of TfNSW and acknowledges that despite the contribution of this proposal, the ultimate provision of a regional bypass corridor is contingent on a number of factors that are becoming increasingly uncertain or unlikely, therefore presenting a speculative risk or financial burden to Council.

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## CONCLUSION

It is recommended that the planning proposal proceed to Gateway Determination, as set out in Option 1 above. It is considered that on balance, the opportunity to progress Council's regional transport objectives for the reservation of part of a future bypass corridor between Annangrove Road and Old Northern Road should not be foregone.

This would remain consistent with the longstanding policy position of Council as well as its past decisions in relation to the previous planning proposal and the advice of the IPC which highlighted the site-specific merits and public benefits of the proposal.

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## ATTACHMENTS

1. Council Officer Assessment Report to Local Planning Panel, 21 December 2022 (38 pages)
2. Local Planning Panel Advice, 22 December 2022 (2 pages)
3. Independent Planning Commission Advice, 4 September 2020 (12 pages)
4. TfNSW Submission, 18 August 2021 (3 pages)
5. TfNSW Submission, 13 April 2022 (5 pages)
6. TfNSW Submission, 28 July 2022 (2 pages)
7. TfNSW Submission, 13 November 2022 (1 page)
8. SINSW Submission, 22 October 2021 (3 pages)
9. SINSW Submission, 11 April 2022 (3 pages)
10. SINSW Submission, 7 November 2022 (2 pages)

LOCAL PLANNING PANEL MEETING 21 DECEMBER, 2022

THE HILLS SHIRE

ITEM-1 LOCAL PLANNING PANEL - PLANNING PROPOSAL –  
DERRIWONG ROAD AND OLD NORTHERN ROAD, DURAL  
(2/2023/PLP)

THEME: SHAPING GROWTH

MEETING DATE: 21 December 2022

LOCAL PLANNING PANEL

GROUP: SHIRE STRATEGY

AUTHOR: MANAGER – FORWARD PLANNING  
NICHOLAS CARLTON

RESPONSIBLE OFFICER: GROUP MANAGER – SHIRE STRATEGY  
DAVID REYNOLDS

### PURPOSE

This report presents the planning proposal for land at Derriwong Road and Old Northern Road, Dural (2/2023/PLP) to the Local Planning Panel (LPP) for advice, in accordance with Section 2.19 of the *Environmental Planning and Assessment Act 1979*.



### RECOMMENDATION

The planning proposal be submitted to the Department of Planning and Environment for Gateway Determination.

Proponent Urbis Pty Ltd on behalf of LegPro Pty Ltd (Urbis)

Owner LegPro Pty Ltd  
Mr Joseph Moussa  
Mrs Josephine Moussa

Planning Consultant Urbis

Urban Designer Urbis

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<b>Traffic Engineer</b>	SCT Consulting
<b>Ecologist</b>	Ecological Consultants Australia, trading as Kingfisher Urban Ecology and Wetlands
<b>Bushfire Consultant</b>	Eco Logical Australia
<b>Economic Consultant</b>	Urbis
<b>Heritage Consultant</b>	Urbis
<b>Site Investigation Consultant</b>	JBS&G Australia
<b>Infrastructure Servicing Consultant</b>	Group Development Services
<b>Surveyor</b>	Land Partners
<b>Acoustic Engineer</b>	Rodney Stevens Acoustics
<b>Aboriginal Archaeologist</b>	Kelleher Nightingale Consulting
<b>Site Area</b>	12.88 hectares
<b>List of Relevant Strategic Planning Documents</b>	Greater Sydney Region Plan Central City District Plan Section 9.1 Ministerial Directions Local Strategic Planning Statement and supporting strategies
<b>Political Donation</b>	None disclosed

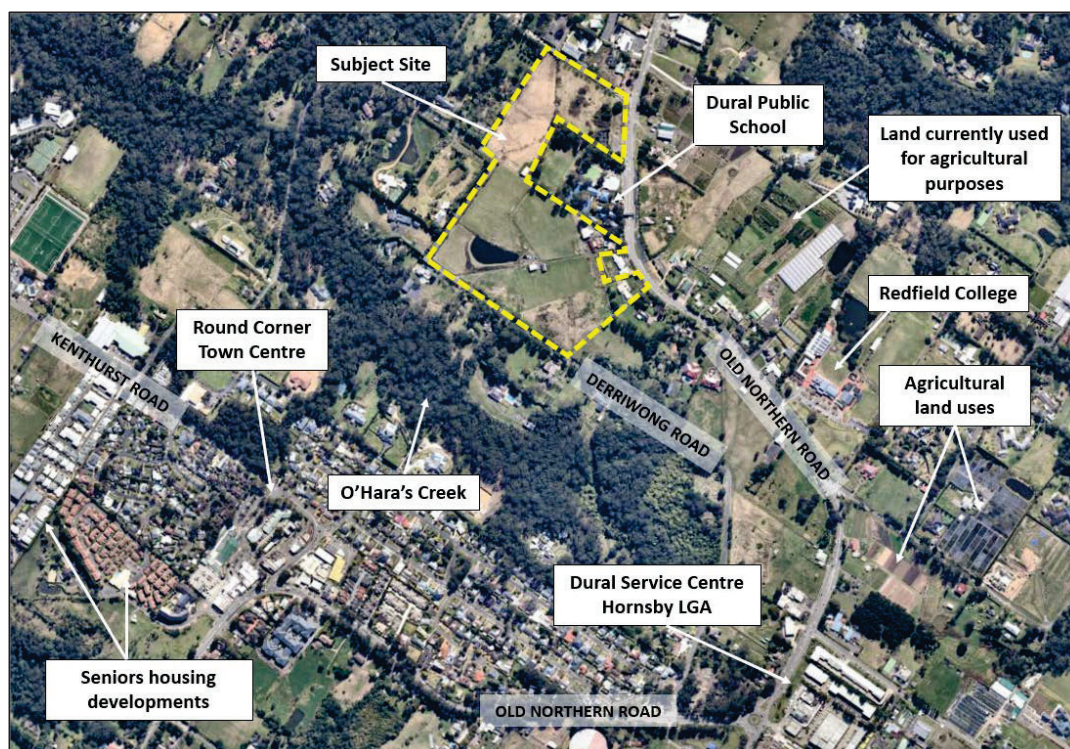
## 1. THE SITE

The site has a total area of approximately 12.88 hectares and comprises five (5) individual land parcels known as 614, 618 and 626 Old Northern Road and 21 and 27 Derriwong Road, Dural.

The site is located to the north of Round Corner Town Centre and is bound by Old Northern Road to the east and Derriwong Road to the south and west. The subject land surrounds Dural Public School. Old Northern Road forms the boundary between The Hills Shire Council and Hornsby Shire Council Local Government Areas.

The site falls to the west and south-west towards O'Hara Creek and currently comprises rural residential development, including a dam. The site is predominantly cleared of substantial vegetation though some patches of vegetation remain. Desktop analysis suggests parts of the site were used for agricultural purposes as recently as 2014, whilst other parts of the site have been used for small businesses and home businesses. There are a number of surrounding land uses including large rural properties, agricultural land uses, Dural Public School, Redfield College and various commercial uses. The site and its surrounding locality are identified in the figure below.





**Figure 1**  
Subject site and aerial view of surrounding locality

## 2. HISTORY

The site has been the subject of a previous planning proposal, which was ongoing for a duration of approximately six (6) years. The key dates are summarised below.

- |                      |   |
|----------------------|---|
| <b>May 2016</b>      | A previous planning proposal was lodged with Council incorporating the subject site and additional land further south opposite the Dural Service Centre.  |
| <b>December 2016</b> | Council resolved to hold the planning proposal in abeyance until the wider Dural Investigation Area planning was completed to enable a more cohesive development and infrastructure outcome and provide a clear boundary to urban development.  |
| <b>February 2017</b> | A rezoning review was lodged with the Department of Planning and Environment. The Sydney West Central Planning Panel determined that the planning proposal should not proceed to Gateway Determination.   |
| <b>March 2019</b>    | <p>The Phase 1 Urban Capacity and Capability Assessment for the Dural locality was completed. The Assessment concluded that while some land is environmentally capable of accommodating development, there is insufficient infrastructure capacity to facilitate development uplift in the Dural locality at this time.</p> <p>Council resolved to receive the outcomes of this Assessment, discontinue further investigations with respect to rural rezoning in the locality and further</p> |

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lobby the State Government with respect to regional road upgrades and reclassification along Annangrove Road, Old Northern Road and New Line Road to address existing road capacity problems. Council also resolved to consider the merits of any future planning proposal, where it can be demonstrated that required local and regional infrastructure upgrades can be delivered at no cost to Council.

A copy of Council's Report and Minute, including the Phase 1 Urban Capacity and Capability Assessment is provided as Attachment 1 to this report.

**June 2019**

The Local Planning Panel considered the planning proposal and advised that the application should not proceed to Gateway Determination.

**July 2019**

Council considered the planning proposal and resolved to forward the application to the Department for Gateway Assessment to determine State Government agency views on the merits of the planning proposal. Council's resolution was as follows:

1. *That the planning proposal applicable to land at Derriwong Road and Old Northern Road, Dural be submitted to the Department of Planning and Environment for Gateway Assessment to determine State Government agency views on the merits of the planning proposal.*
2. *Should the Department of Planning and Environment determine that the proposal has strategic and site-specific merit and issue a Gateway Determination, the following matters should be resolved prior to any exhibition of the planning proposal:*
  - a) *The inclusion of 1,000m<sup>2</sup> and 2,000m<sup>2</sup> minimum lot sizes at the periphery of the zoned area to serve as a transition to the adjoining rural area;*
  - b) *Access arrangements and relationship between proposed residential lots and the planned arterial bypass road;*
  - c) *Establishment of a mechanism to ensure that the proposed amendments would not facilitate a proliferation of seniors housing development proposals on adjoining rural land; and*
  - d) *The ability to service the proposed residential yield with new local and regional infrastructure, at no cost to Council. This would include further resolution of ongoing discussions with State and Federal Government surrounding the funding of required regional road upgrades.*

**April 2020**

DPE issued a Gateway Determination that the planning proposal should not proceed.

**September 2020**

The Proponent initiated a Gateway Determination Review and DPE referred the matter to the Independent Planning Commission (IPC) for advice on whether the Gateway Determination should be altered. The IPC advised that the planning proposal should not proceed to Gateway Determination.

The findings of the IPC concluded that the proposal does not have strategic merit as it is inconsistent with the locational housing objectives and rural management objectives of the strategic planning framework as the site is located within the Metropolitan Rural Area, which is not delineated for any additional urban development. The IPC noted that this was a matter that 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 IPC concluded that the proposal before the commission at that time (and specifically the 'Northern Site' element, which is now the relevant land that is the subject of this new planning proposal), demonstrated considerable site-specific merit for a number of reasons. These included the social and economic benefits of the local infrastructure improvements proposed (including the key contribution of the Round Corner regional bypass), the presence of surrounding land uses along Old Northern Road compromising the site's agricultural potential, the site's proximity to jobs and services in the nearby Dural Neighbourhood Village, the ability of the site 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.

A copy of the Independent Planning Commission's Advice is provided as Attachment 2 to this report.

**November 2020** DPE advised Council that it had not yet determined whether to alter the Gateway Determination in light of the IPC's advice. DPE invited Council to submit a revised planning proposal if Council was satisfied that it could address the concerns raised by the IPC and DPE's Gateway Determination.

**February 2021** Council resolved to submit a revised planning proposal to DPE for Gateway Assessment, commence negotiations with the Proponent to prepare a draft VPA to secure local infrastructure contributions and consider a further report on the draft VPA and a draft DCP prior to any public exhibition of the planning proposal.

Council's resolution was, in part, as follows:

*"Council proceed with Option 1 as set out in this Report".*

For reference, "Option 1" (as contained within the Council Report and referred to in Council's resolution) was that *"Council submit the revised proposal to the Department of Planning, Industry and Environment (DPIE) including the requirements set out in Council's previous resolution of 9 July 2019"*.

**July 2021** A Gateway Determination was issued by DPE authorising the planning proposal to proceed, subject to a number of conditions including public agency consultation prior to public exhibition. The planning proposal could not proceed to public exhibition unless a letter of support was provided by TfNSW.



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Agency consultation was undertaken with RFS, TfNSW and SINSW. TfNSW objected to the proposal and advised that it would not accept the land or reserve other land for the remainder of a regional bypass corridor at this time. As such, Council was unable to meet the condition of the Gateway Determination to obtain a letter of support from TfNSW.

**August 2021 – March 2022** – Consultation continued to occur between Council Officers, DPE (including the Planning Delivery Unit), TfNSW, SINSW and the Proponent. Council Officers sought advice from DPE on the next steps of the proposal in the absence of being able to satisfy the Gateway conditions that would enable the proposal's progression to public exhibition.

**April 2022** A Gateway Alteration was issued by DPE that deleted all conditions of the Gateway Determination and stated that the planning proposal should *not* proceed.

Reasons for this decision included the proposal's inability to comply with Gateway conditions in light of TfNSW's consistent submissions, the substantial amount of work that was still required to comply with other Gateway Conditions and the inability to meet the 9 month finalisation timeframe.

The Gateway Alteration letter from DPE advised that Council and the Proponent may wish to consider a new planning proposal but flagged a number of implications with a future proposal. These included the provision of a local road corridor, the removal of a regional road bypass, no future references to 'land-banking' a local road corridor, and consideration of design, alignment, land dedication and revised traffic and transport analysis in consultation with TfNSW with respect to a local road corridor.

The letter also noted that the regional bypass corridor was the core element of the proposal's strategic merit, and that as a result, any future planning proposal would need to meet the strategic merit test in the absence of the regional bypass road, noting TfNSW's objection to this element of the proposal previously.

### 3. DESCRIPTION OF PLANNING PROPOSAL

The subject planning proposal was lodged on 30 September 2022. It seeks to rezone land from RU6 Transition to R2 Low Density Residential and SP2 Infrastructure (Local Road) and make associated amendments to maximum building height and minimum lot size requirements to facilitate a low density subdivision comprising approximately 110 lots.

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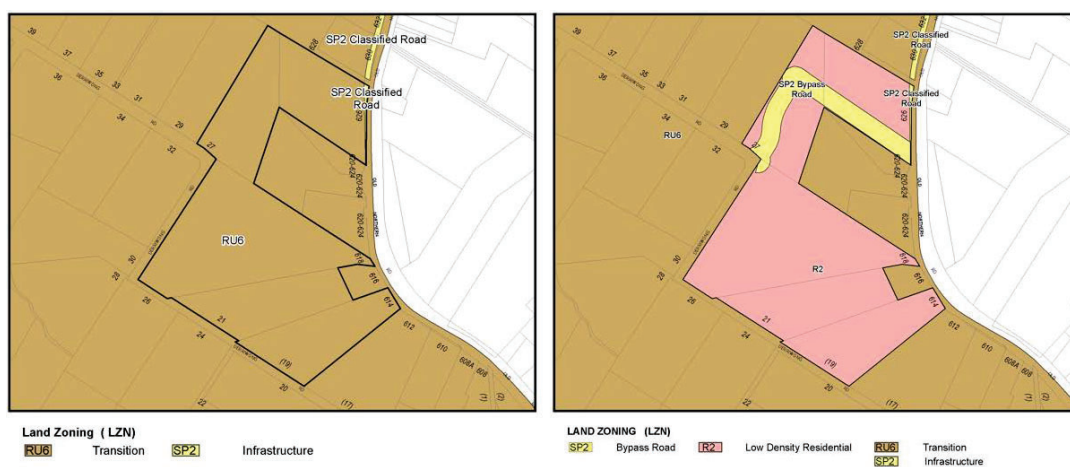
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A comparison between the existing and proposed controls under LEP 2019 is provided in the table below.

Planning Control	Existing	Proposed
Land Zone	RU6 Transition SP2 Infrastructure (Classified Road)	R2 Low Density Residential SP2 Infrastructure (Local Road) SP2 Infrastructure (Classified Road) (retained)
Height of Building	10m	9m
Floor Space Ratio	N/A	No change
Minimum Lot Size	2 hectares	600m <sup>2</sup> , 1,000m <sup>2</sup> and 2,000m <sup>2</sup>

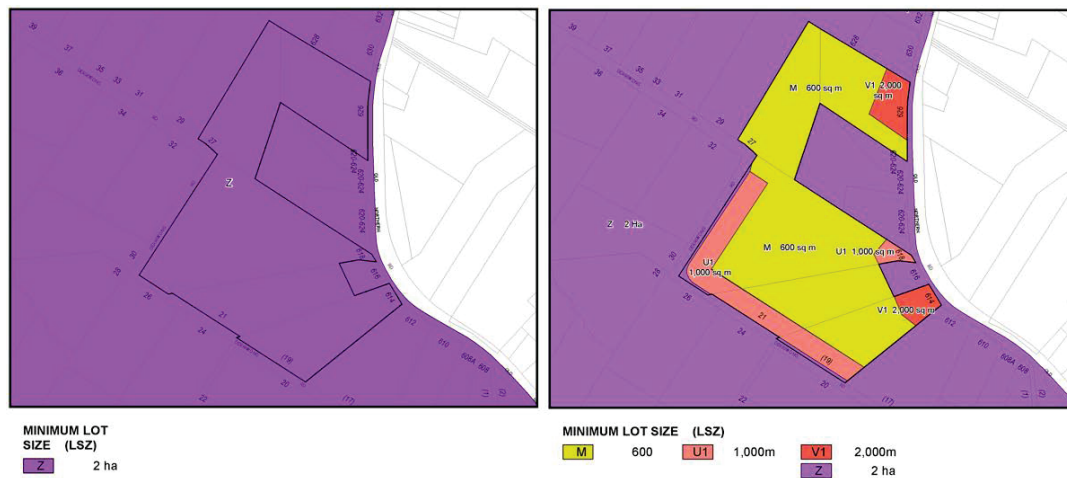
**Table 1**

Existing and proposed development controls under LEP 2019



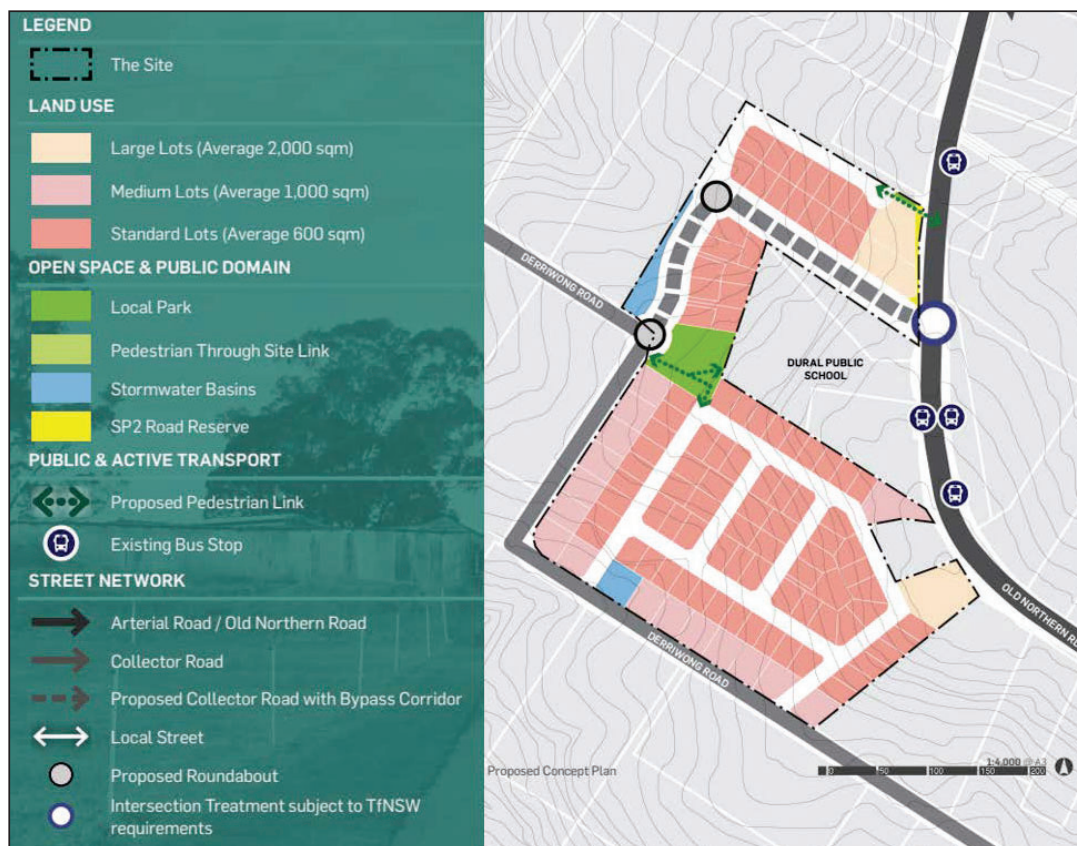
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**Figure 4**  
Existing (left) and Proposed (right) Minimum Lot Size Map

A proposed concept plan prepared by the Proponent is provided in the following figure, illustrating the indicative subdivision layout, proposed lot sizes and internal road network including a potential new local bypass road.



**Figure 5**  
Proposed Concept Plan

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The planning proposal is accompanied by a draft site-specific Development Control Plan (DCP) and draft Voluntary Planning Agreement (VPA) letter of offer.

The draft DCP comprises 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.

The draft VPA letter of offer proposes infrastructure contributions comprising the following:

- Embellishment and dedication of 4,000m<sup>2</sup> of land for the purpose of a new local park;
- Embellishment and dedication of 141m<sup>2</sup> of land for the purpose of a pedestrian link;
- Land dedication associated with a portion of a future Round Corner bypass road (approx. 13,223m<sup>2</sup> forming a 32m road reservation);
- Works to construct a 21.5m wide local collector road within the future Round Corner bypass road corridor);
- Embellishment and dedication of two stormwater detention basins;
- Active open space monetary contribution of \$363,305.80; and
- Community facilities monetary contribution of \$101,242.90.

The Proponent has valued the above land, works and monetary items at \$17,826,409, which would equate to \$162,000 per lot. These items are proposed to be in addition to the already applicable Section 7.12 Contributions Plan, which levies development at a rate of 1% of the cost of development.

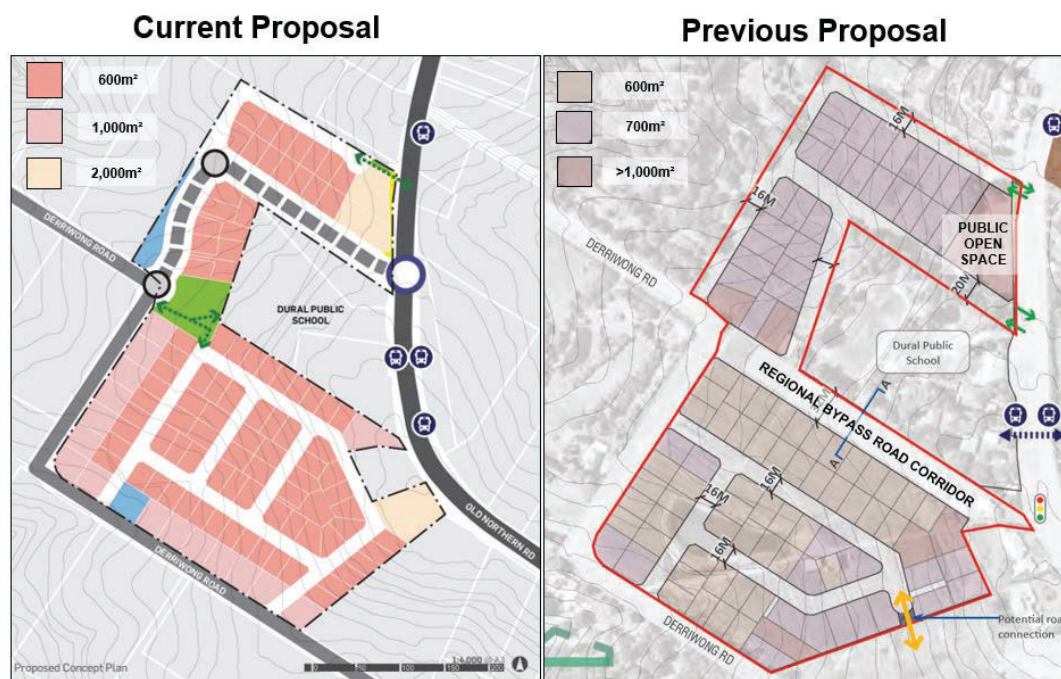
It is noted that as part of these local infrastructure works and the broader master plan concept, the Proponent has identified the following benefits to State Government infrastructure:

- The provision of the local collector road which includes a drop off and pick up facility adjacent to Dural Public School and widened verges to accommodate future expansion;
- Provision of sewer infrastructure up to the boundary of Dural Public School and undergrounding of overhead powerlines across the School site;
- Potential for the School to utilise the public park and benefit from improved connectivity and access to the School via the park;
- The ability to install and upgrade pedestrian pathways to the School site's frontage and northern edge to mitigate potential impacts on existing pedestrian entrances; and
- Provision of a new intersection at Old Northern Road to support improved traffic distribution within the locality in north south movements and more broadly around the school.

*Comparison between Previous Proposal and Current Proposal*

As detailed within the History section of this report, the land was subject to a previous planning proposal, which was supported by Council and ultimately received a Gateway Determination however did not subsequently proceed beyond this point. A comparison between the current and previous proposal is provided below.



**Figure 6**

Comparison between current (left) and previous (right) proposal

As shown above, the current proposal is generally similar in terms of the key outcomes previously sought, noting the following differences:

- The subject site has been expanded to include one additional property at 614 Old Northern Road (at the south-eastern edge of the site);
- The average lot sizes proposed have been adjusted. The new proposal has greater number of 600m<sup>2</sup> lots and the previously proposed 700m<sup>2</sup> lots have been removed. The new proposal includes more larger lots (generally 1,000m<sup>2</sup>) at the site's periphery;
- The new proposal seeks to achieve 110 lots, in comparison to the 101 lots previously proposed;
- The location of proposed public park has changed from its original proposed location fronting Old Northern Road, to a more central location the rear of the site adjoining Derriwong Road and Dural Public School;
- The previous proposal identified land that could form part of a broader regional bypass corridor running directly through the site, along the southern boundary of Dural Public School. In resolving to support the previous proposal, Council was of the view that the achievement of the full regional bypass corridor (between Annangrove Road and Old Northern Road) would be contingent on the remaining land acquisition and road construction being funded by the NSW Government / TfNSW, at no cost to Council. It is noted however that TfNSW was not then and are not now supportive of this outcome. Under the current proposal, the alignment of the corridor has been adjusted to run north (along the western boundary of the site) and then east (along the northern boundary of Dural Public School).

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The corridor through the site would be identified as part of a local bypass corridor. Based on the current position of TfNSW, the achievement of the full local bypass corridor (between Annangrove Road and Old Northern Road) would be contingent on the remaining land acquisition and road construction being funded by Council, unless the NSW Government was to change its current position with respect to this regional transport corridor and an associated funding commitment.

**4. STRATEGIC MERIT CONSIDERATIONS****a) Greater Sydney Region Plan and Central City District Plan**

- Greater Sydney Region Plan and Central City District Plan

The Greater Sydney Region Plan and Central City District Plan were released in March 2018 and contain priorities relating to the management of rural land. Objective 29 of the Greater Sydney Region Plan seeks to ensure that the environmental, social and economic values in rural areas are protected and enhanced. Under Planning Priority C18, Better Managing Rural Areas, there are two actions that Council is required to consider in land use planning:

- *Maintain or enhance the values of the Metropolitan Rural Area using place-based planning to deliver targeted environmental, social and economic outcomes; and*
- *Limit urban development to within the Urban Area.*

The Plan acknowledges the essential retail and community services provided by rural villages and towns, but does not advocate for them to become part of the urban area, which is consistent with Council's vision for and implementation of an Urban Growth Boundary within the LSPS (discussed in further detail in Section 4(c)). The Plan states 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.

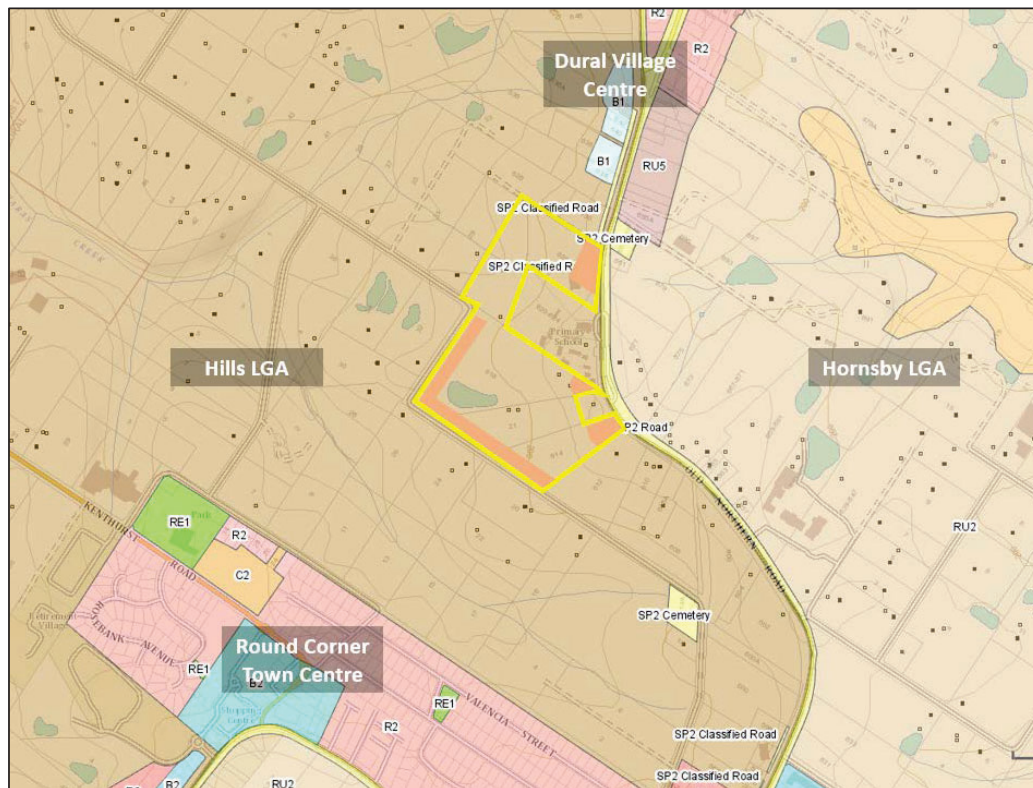
The planning proposal seeks to rezone land within the Metropolitan Rural Area to permit urban development and as such, is technically inconsistent with these Planning Priorities and actions. However, the Proponent submits that the planning proposal is a natural extension of the Dural village, which is consistent with the Independent Planning Commission's advice discussed in further detail in Section 4(f). The proposal would provide an opportunity for a walkable catchment surrounding the State Government public school within a fully contained and serviced residential development. The proposal is not indicative of a broader extension of the Dural or Round Corner town centres, as it seeks to provide a transition of lot sizes around the periphery of the site which transitions back into an appropriate character adjoining the rural land zoned RU6 Transition. In this respect, the remaining rural land between the subject site and the Round Corner village (to the south of the site) is expected to be retained and protected as rural zoned land. This individual proposal is not indicative of a broader precedent for the release of rural land for urban development at this location given the unique circumstances of this surrounding the Dural Public School and the opportunity to secure a portion of a future bypass link at its potential intersection with Old Northern Road.

It is further noted that any potential expansion of the Dural village centre (to the north of the site) would logically occur on the larger land holdings within the Hills, rather than within the more fragmented land ownership pattern on the opposite side of Old Northern Road within Hornsby LGA. The images below demonstrate the proposed village expansion as a contained cluster around the Dural Public School and the surrounding land ownership patterns and lot fragmentation.





Figure 7  
Subject land surrounding Dural Public School

**Figure 8**

Local centres, indicative location of proposed larger lot sizes (orange) within the subject site and surrounding land ownership fragmentation

While the planning proposal varies from blanket policy position within the Greater Sydney Region Plan relating to the Metropolitan Rural Area and rezoning for urban purposes, this does not preclude Council's discretion to ultimately consider the merit of the proposal on balance and having consideration to the full range of relevant assessment factors, as well as other key objectives and outcomes within the strategic framework.

Should Council resolve to support the planning proposal's progression to Gateway Determination, Council would continue discussions with the Department of Planning and Environment (DPE) and the Greater Cities Commission (GCC), noting that the Region Plan is currently under review and in particular noting that the Independent Planning Commission (IPC) advised that the site should be seriously considered for urban development in the next review of the Plan. The IPC's advice is further discussed within Section 4(f) of this report.

The preparation of the next iteration of the Region Plan and the subject planning proposal application are two separate planning processes, however it would not be unreasonable for these to occur concurrently. The planning framework established by the NSW Government facilitates the ability for any person to lodge a planning proposal, regardless of its technical alignment with the current strategic policies of Government or Council. Once lodged, Council is then required to then consider such an application having regard to all strategic and site-specific merit factors in each individual case.

Importantly, when DPE determined that the previous proposal should not proceed, they indicated that the Proponent and Council may wish to consider the lodgement of a new planning proposal with a local bypass corridor. This indication was presumably given from DPE in the full

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knowledge of the GCC's timeline for reviewing the Region Plan as this was known at the time. The determination stated that DPE recognised the public benefit offering supporting the planning proposal, specifically the delivery of a segment of the regional bypass road, was a key reason for the proposal to proceed and DPE would need to form the view that the new planning proposal has strategic merit with a local bypass corridor.

**b) Section 9.1 Ministerial Directions**

Direction 9.1 Rural Zones seeks to protect the agricultural production value of rural land. The direction requires that a planning proposal must not contain provisions that will rezone land from rural to residential or that will increase the permissible density of development within a rural zone. The Direction requires that Council not permit residential intensification of rural land unless justified by a strategy or study.

Similarly, Direction 9.2 Rural Lands also seeks to protect the agricultural production value of rural land, facilitate orderly and economic use and development of rural lands for rural purposes, promote the social and economic values of rural lands and ensure their ongoing agricultural viability, and minimise potential land fragmentation or land use conflicts in rural areas, particularly between residential and other rural uses.

This Direction requires planning proposals to be consistent with any applicable strategic plan including the Region and District Plans and the LSPS. Proposals are also required to:

- Consider the significance of agriculture and primary production to the State and rural communities, including the requirements of SEPP (Primary Production) 2021 for the purpose of ensuring ongoing viability of the land;
- Identify and protect environmental values and consider the natural and physical constraints of the land;
- Promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities;
- Support farmers in exercising their right to farm;
- Reduce the potential for land fragmentation and land use conflicts, particularly between residential and other rural uses; and
- Consider the social, economic and environmental interests of the community.

The Direction states that a planning proposal may be inconsistent with these objectives if justified by a study that has been approved by the Planning Secretary and is in force, which identifies the subject land and gives consideration to the objectives of this Direction, or is otherwise considered to be of minor significance.

The studies that have been completed and submitted by the Proponent indicate that the land subject to this planning proposal is capable of accommodating urban development in the form proposed, following the resolution of outstanding infrastructure servicing issues (as discussed further within this report). It is noted however that these studies have not been endorsed by the Planning Secretary and if the Planning Proposal was to progress to Gateway Assessment, it would be necessary for the Planning Secretary to consider the status of these studies in considering whether or not the inconsistency with the Ministerial Direction is justified in the circumstances of this case. Council's Local Strategic Planning Statement would also be a relevant factor, which is discussed further below.



### c) Hills Future 2036 – Local Strategic Planning Statement & Rural Strategy

Council adopted the Hills Future 2036 Local Strategic Planning Statement and supporting strategies in October 2019. A letter of support was received from the Greater Sydney Commission Assurance Panel on 4 March 2020 and the LSPS was formally made on 6 March 2020.

The LSPS comprises 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 policy set out in the District and Region Plan by Government and acknowledges that Council has enough land zoned and planned for within the existing urban area to meet its identified housing targets to 2036 and beyond. The site is located above the Urban Growth Boundary, within the Metropolitan Rural Area of Greater Sydney, as shown in the figure below.

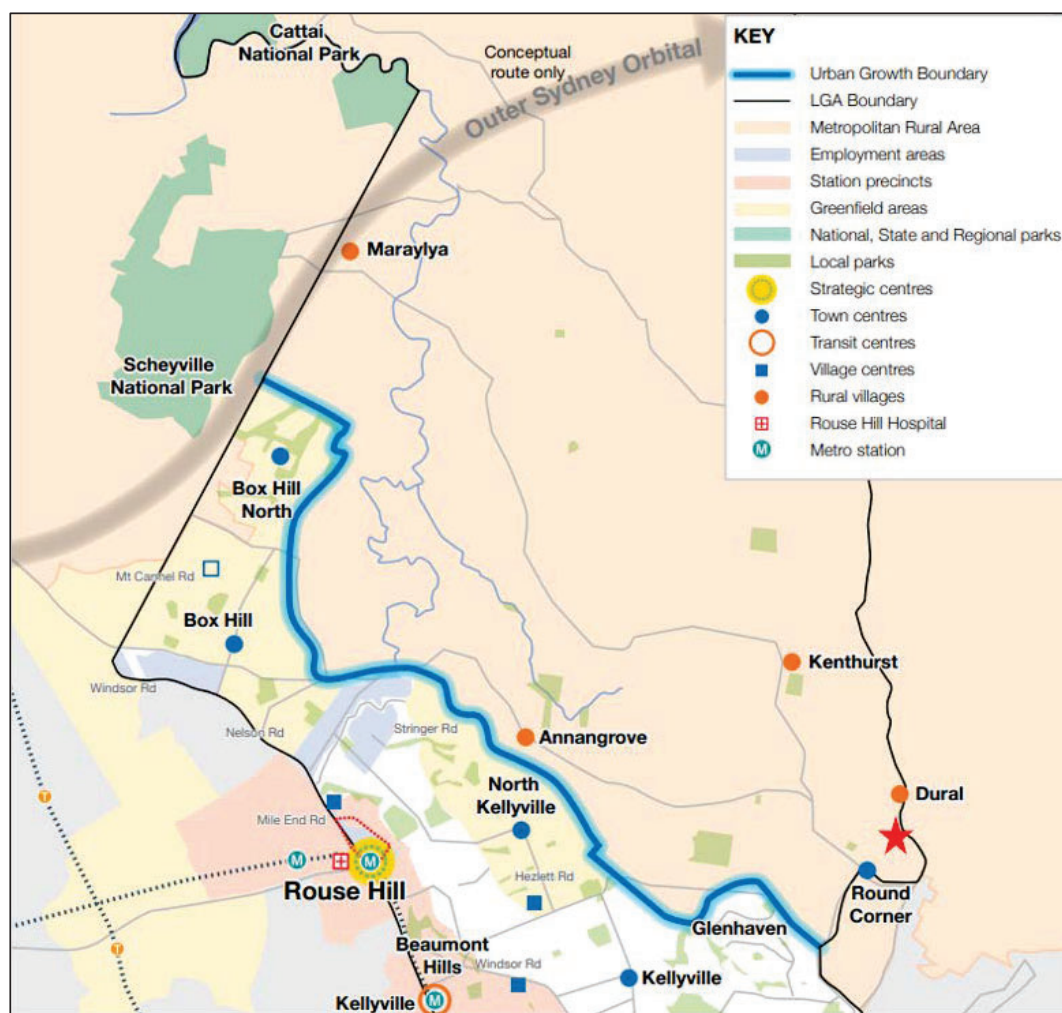


Figure 9

LSPS Urban Growth Boundary (blue) and subject site (red star)

The Urban Growth Boundary seeks to protect the productive capacity and scenic characteristics of the rural area. The subject site is located within an identified Agricultural Cluster in north west Sydney, as shown in the figure below.

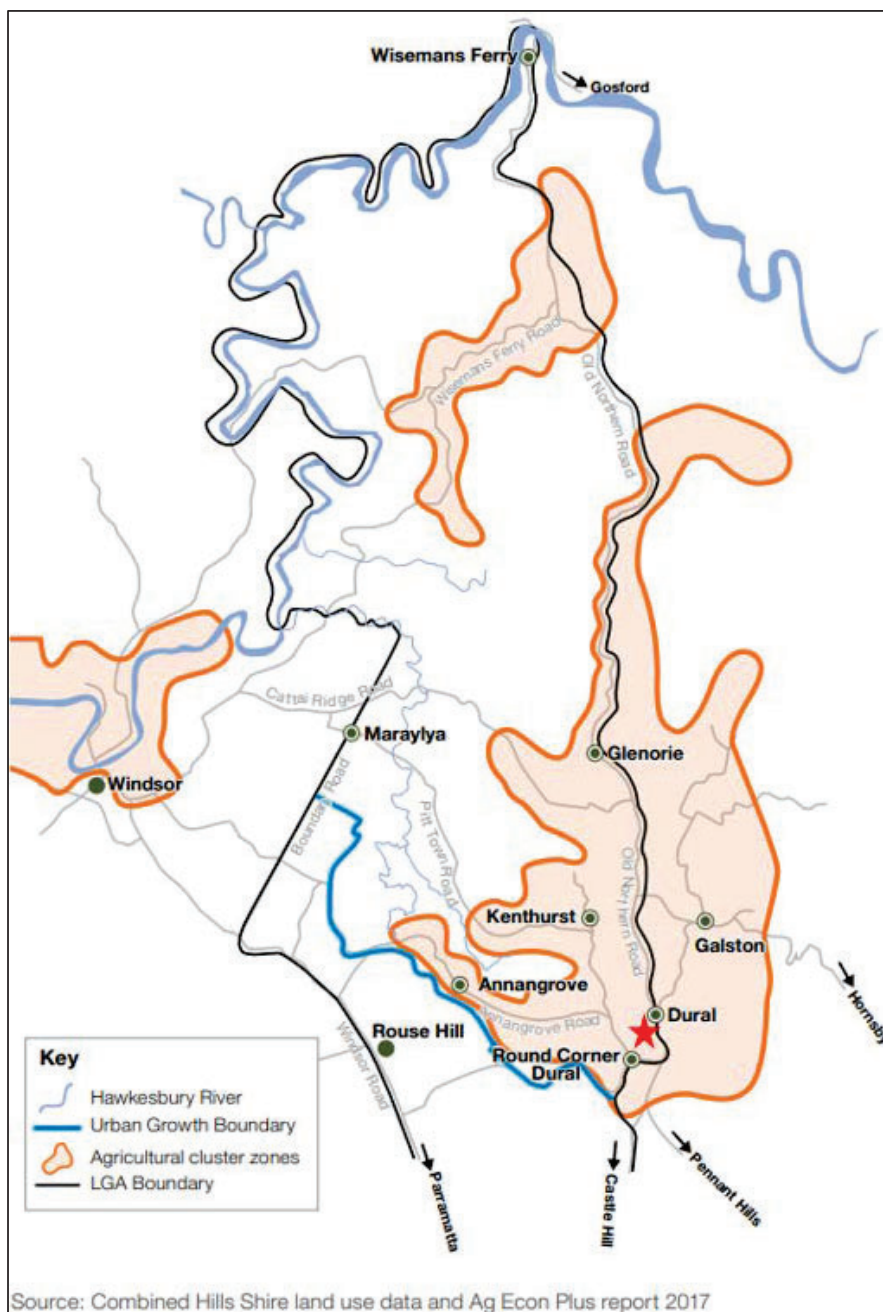


Figure 10

LSPS Agricultural Clusters within The Hills Shire and subject site (red star)

The LSPS also includes an action to investigate opportunities for limited residential expansion in rural villages in line with the criteria recommended in the Rural Strategy. This criteria is as follows:

Table 1: Planning proposal criteria for rural village expansion	
Criteria	New proposals must demonstrate
1. Infrastructure provision	Timely provision of utilities, transport, open space and communication infrastructure
2. Access	Access to a range of transport options that allow efficient travel between homes, jobs and services
3. Housing diversity	Provision of a range of housing types
4. Employment lands	Provision of employment opportunities or access to employment areas
5. Avoidance of risks	Land use conflicts are avoided and safe evacuation routes are available (flood and bushfire)
6. Natural resources	Responsible use of natural resources and minimisation of development footprint
7. Environmental protection	Protection and enhancement of biodiversity, air quality, heritage and waterways
8. Quality and equity in services	Access to health, education and other essential services

**Figure 11**

Extract of LSPS – Rural village expansion criteria for planning proposals

The LSPS envisages rural village expansion will occur in a coordinated manner on larger consolidated lots surrounding a centre, to create scope to plan for a larger area, rather than on a site-by-site basis. This allows for efficient infrastructure provision, environmental protection and avoidance of bushfire risk. Notably, a coordinated infrastructure approach allows for fair apportionment of contributions, with all required upgrades being known in advance of rezoning.

The Proponent submits that the subject planning proposal illustrates the logical extension of the Rural village and satisfies the rural village expansion criteria as the proposal consolidates five (5) existing lots into one amalgamated site. An assessment of the proposal's consideration of environmental constraints and infrastructure provision are provided as part of the site-specific merit assessment, within Section 5 of this report.

The structure plan within Council's 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 Hills. There is also an action within the LSPS to advocate for State Government support for these regional road upgrades. This is a particularly relevant factor for this planning proposal, as the proposal would reserve a corridor of land which could potentially form part of this broader bypass corridor in the future.



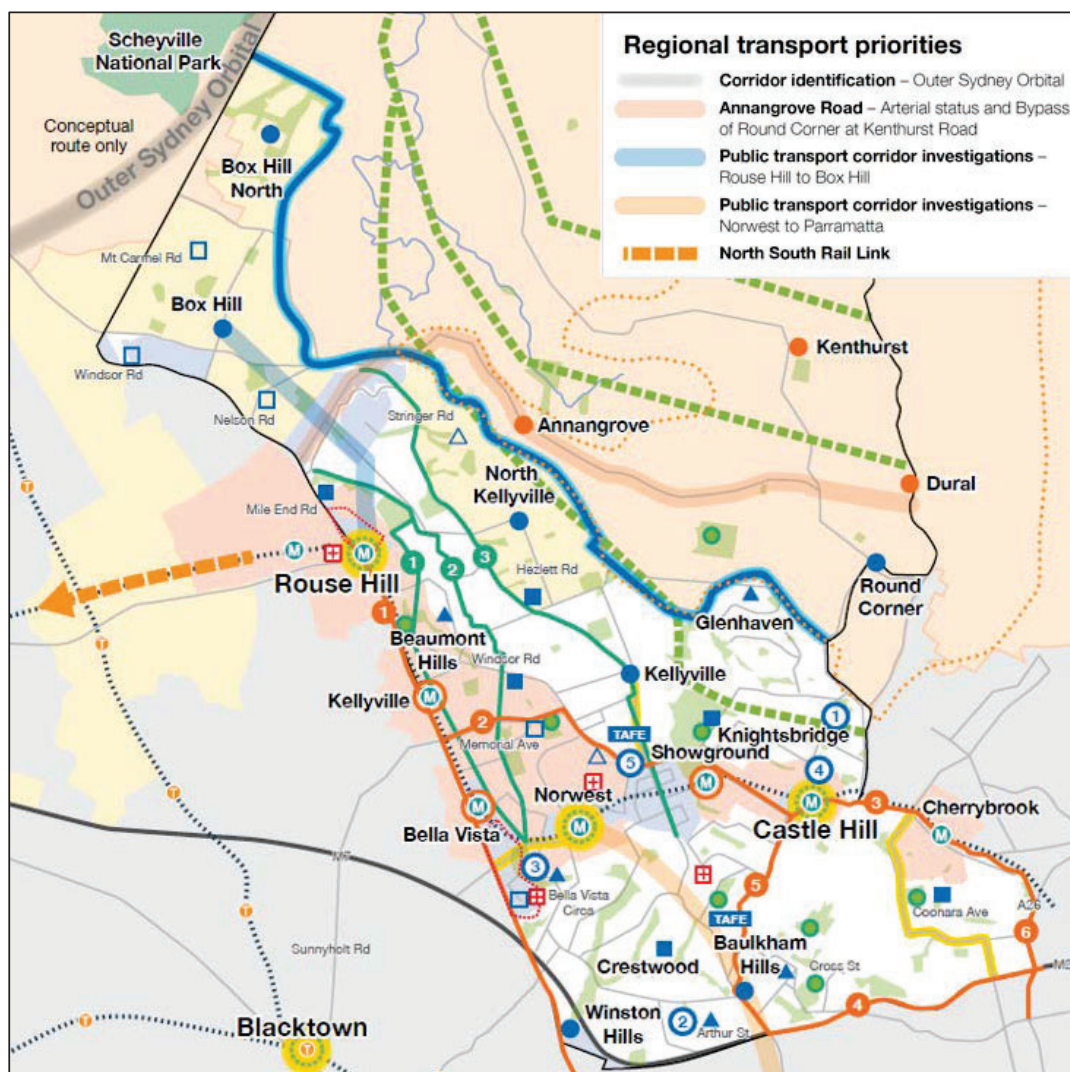


Figure 12

Extract of LSPS – Council's Regional Transport Priorities

#### d) Dural Urban Capacity & Capability Assessment

In 2019, Council commissioned an Urban Capacity and Capability Assessment for the Dural/Round Corner locality. The need for this assessment arose, in part, due to a number of landowner-initiated planning proposals, which were submitted to Council in the absence of any holistic or coordinated approach to planning for the area. The previous planning proposal applicable to this site was held in abeyance pending the outcome of these strategic investigations, following which Council determined to submit the proposal to DPE for Gateway Assessment.

The figure below provides the location of the investigation area that was examined in this study. The approximate location of the land affected by the planning proposal is shown in yellow.

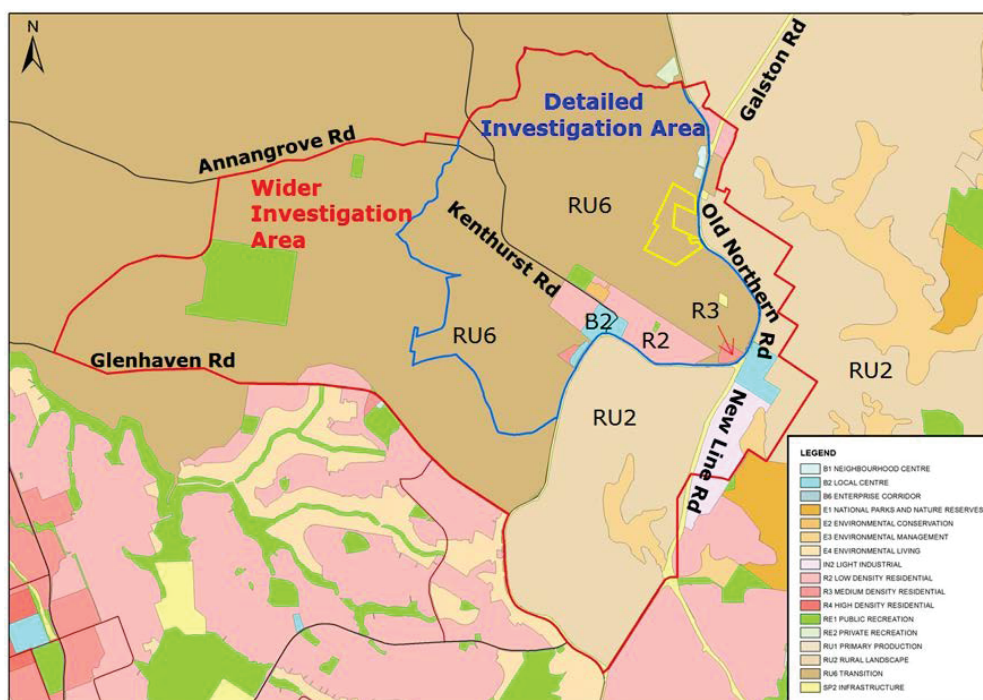


Figure 13

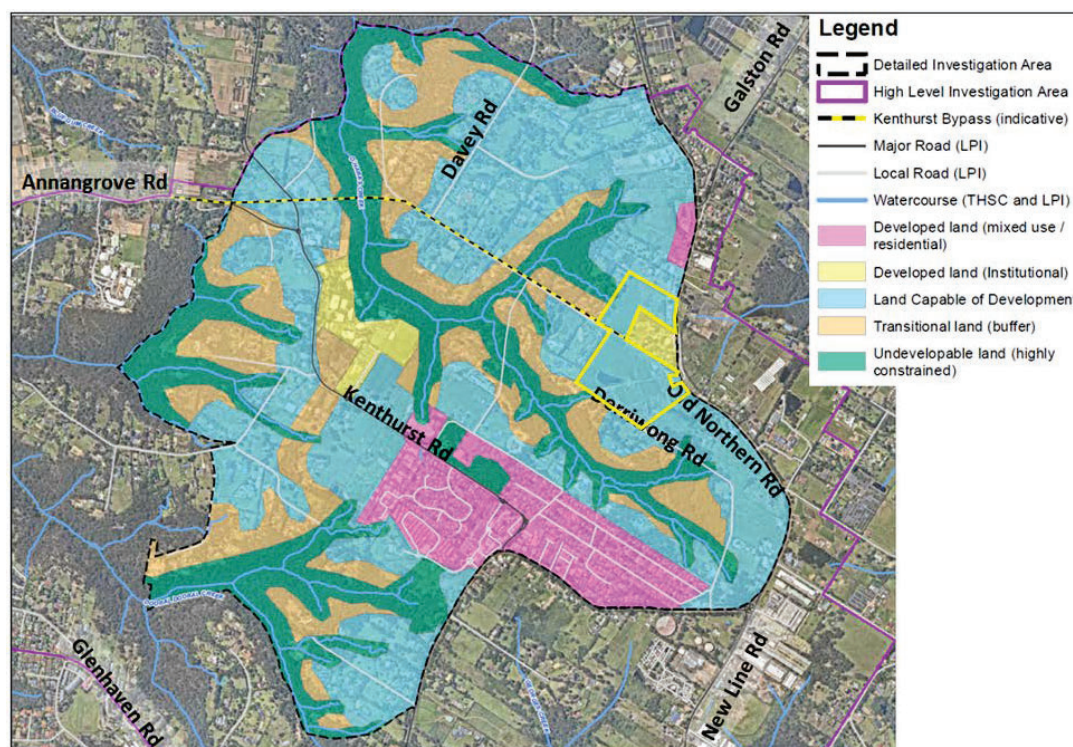
Dural investigation areas, planning proposal site (yellow) and current land zoning

The Assessment reached the following conclusions about the Investigation Area:

- *There are no government plans to encourage additional growth in the investigation area.*
- *The investigation area has some physical capability for development uplift.*
- *Constraints arising from lack of capacity in transport and service infrastructure would be likely to preclude any development uplift in the investigation area. At this time there is no government will to invest in upgrades to these services. Private investment in infrastructure would be necessary to facilitate any substantial development uplift.*

The Urban Capacity and Capability Assessment establishes that at this time, local and regional infrastructure issues are an impediment to orderly urban development within this locality and that the resolution of these issues would likely require significant Government investment. The environmental capability of the land is identified in the figure below. The subject site is identified as "Land Capable of Development". The figure below also indicates the potential location of a future bypass corridor (referred to as the "Kenthurst Bypass" and shown as a yellow and black dotted line), which goes through the site.





**Figure 14**  
Outcomes of Environmental Study

On 26 March 2019, Council considered a report on the outcomes of the Dural Urban Capacity and Capability Assessment and resolved as follows:

1. Council receive the report outlining the outcomes of the Urban Capability and Capacity Assessment for the Dural locality;
2. Council discontinue any further investigations with respect to the rezoning of rural land for urban development within the Dural locality at this time;
3. If the proponent of any future planning proposal to rezone land within the Dural locality is able to demonstrate that they can deliver the required local and regional infrastructure upgrades at no cost to Council, Council consider such a planning proposal and review its position with respect to rezoning within the Dural locality at that time;
4. Invite Hornsby Shire Council to join with The Hills Shire Council in lobbying the State Government for the funding of essential upgrades to Old Northern Road / New Line Road to address existing road capacity problems in Dural;
5. Approach the Roads and Maritime Services for the re-classification of Annangrove Road from a sub-arterial road to an arterial road to recognise the higher traffic volumes that are expected on Annangrove Road in the near future; and
6. Lobby the State Government for the reservation of a corridor that will facilitate a future bypass road between Annangrove Road and Old Northern Road, plus a funding commitment for the construction of a bypass road that will be needed as a consequence of population increase in the North West Growth Centre.

To date there has been no commitment from the State Government to reclassify Annangrove Road or secure funding or a commitment to deliver its extension to Old Northern Road as a bypass of Round Corner.

**e) Delivery of Regional Bypass Corridor - Annangrove Road to Old Northern Road**

The previous planning proposal applicable to the site proposed the reservation of a 32m wide regional road bypass, which Council envisaged be delivered at no cost to Council and would form part of the arterial road corridor owned and managed by the State Government. In this respect, the previous proposal was consistent with dot point 3 of Council's resolution relating to the Dural Urban Capacity and Capability Assessment, subject to further discussions and a commitment from State Government as part of the Public Agency consultation phase.

The previous proposal, notably the proposed regional bypass corridor, was the subject of extensive consultation with State Government as part of the Gateway Determination process. This consultation involved Council Officers, the Department of Planning and Environment (DPE), Transport for NSW (TfNSW), Schools Infrastructure NSW (SINSW) and the Planning Delivery Unit (PDU). These discussions are outlined in greater detail within Section 5(a) of this report. In summary, it was concluded that TfNSW do not have any proposals, investigations or long term plans for a regional bypass road in this locality and as a result, there is no funding or commitment from State Government for the delivery of a regional bypass road.

Consequently, the current planning proposal application now proposes the delivery of a local collector road to be dedicated to Council. This local collector road is still proposed to be provided within a 32m wide road reservation corridor and as such, the proposal retains the potential to resolve regional infrastructure issues in the longer term. However, the achievement of a bypass road, as envisaged in Council's LSPS, would be contingent upon one of the following circumstances occurring:

- If the State Government was to change its position with respect to the regional bypass corridor and reclassification of Annangrove Road, as part of the consultation process associated with this planning proposal, and agree to fund the acquisition and construction of the full corridor between the subject site and Annangrove Road as part of the arterial road network; or
- If Council accepts and maintains the 32m road reservation (containing a 21.5m wide local collector road) as an interim arrangement, with the expectation that at some point in the future, the State Government will change its position and commit to funding the acquisition and construction of the full corridor between the subject site and Annangrove Road as well as the reclassification of Annangrove Road; or
- If the State Government does not change its position at any point in the future, Council could seek to fund the acquisition and construction of the full corridor as a local bypass corridor between the subject site and Annangrove Road (although it is noted that this would not align with earlier decisions of Council relating to the Dural Urban Capacity and Capability Assessment and previous planning proposal – namely, that this regional infrastructure upgrade be at no cost to Council).

In order to ensure the option remains open in the future, it would be reasonable for Council to accept the local collector road from the Proponent with the intent to further negotiate with State Government about delivery of a future regional bypass corridor, whilst accepting that if these further negotiations were unsuccessful and a regional bypass corridor does not eventuate, the land would simply remain as a local collector road. It is noted that the opportunity to secure part

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of a future bypass corridor is a key strategic merit factor for both the previous and current planning proposals and its proposed regional status aligns with Council's adopted policy with respect to lobbying State Government for a regional bypass corridor in association with the reclassification of Annangrove Road to ensure a contiguous east-west arterial link from the North West Growth Centre to Old Northern Road.

Council has made submissions and resolutions to reaffirm the need for the NSW Government to recognise the regional function of Annangrove Road to the North West Growth Centre and beyond. Council has also long recognised the need to move regional traffic outside of Round Corner Village. Preliminary investigations by Council have determined a bypass, rather than the upgrade of Kenthurst Road, is the most economical solution. To date, there has been no commitment from the NSW Government on these matters.

Further discussion on the bypass corridor, including the views of TfNSW and SINSW is provided within Section 5(a) of this report. The bypass corridor is also discussed as part of the assessment of the Proponent's public benefit offer within Section 5(b) of this report.

**f) Advice of the Independent Planning Commission**

As detailed within the History section of this report, the previous planning proposal was referred to the Independent Planning Commission (IPC) by the Department of Planning and Environment, following the lodgement of a Gateway Determination Review by the Proponent in response to the Department's initial Gateway Determination that the planning proposal would not proceed in April 2020.

The IPC issued a Gateway Determination Advice Report in September 2020. While this related to the previous proposal, the current proposal remains similar in many respects and as such, the advice of the IPC remains relevant to consideration of the proposal. A copy of the IPC's Advice Report is provided as Attachment 2 to this report.

With respect to Strategic Merit, the IPC concluded as follows:

- *The Commission notes that one of the Department's core functions is to implement the District Plans and ensure that Local Strategic Planning Statements are generally consistent. Consequently, the Commission accepts that given the strategic context of the Planning Proposal, the Department's Gateway Determination that the Planning Proposal lacks strategic merit was the right decision. While the Commission accepts that at this stage the Planning Proposal should not proceed, it does consider that the merits of including the Northern Site in a future housing strategy warrants investigation.*

The Commission also advised that:

- *The Commission finds that the proposal has considerable site-specific merit, particularly the northern site as:*
  - *It would secure a key contribution to Council's Round Corner bypass;*
  - *It would provide a number of key economic and social improvements by delivering local infrastructure improvements benefiting the school and the local community;*
  - *The capability of the subject land to be used for agricultural pursuits is compromised by the proliferation of uses in the area and along Old Northern Road;*
  - *The northern site is generally contiguous with the Dural Neighbourhood Village and if developed would provide additional housing, choice, and affordability and*

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would likely support the Dural Neighbourhood Village Centre with access to jobs and services;

- The view and vista impacts particularly on the Northern Site can be overcome with site-specific design and planning; and
- The development of the Northern Site is unlikely to have a significant impact on the local and regional road network.

Ultimately, the Commission recommended that “the planning proposal should not proceed past Gateway Determination”. However, the Commission stated that:

- *The Commission accepts that a Planning Proposal must demonstrate strategic merit before site specific merit warrants serious consideration. However, given the benefits associated with the Planning Proposal, the Commission recommends that the Site, in the particular the Northern Site, be seriously considered for urban development and inclusion in the Central City District Plan when it is reviewed and updated in 2023, and that any subsequent update of Council’s Local Strategic Planning Statement and Council’s Housing Strategy reflect this position.*

The advice of the IPC is unique and significant. While it concludes that the planning proposal should not proceed, having regard to technical application of the current framework, it effectively goes on to identify the merits and benefits of the proposal and ultimately recommend that Government reconsider the position with respect to allowing urban development on this land as part of their review of the Central City District Plan.

It is noted that the Greater Cities Commission is currently in the early stages of reviewing the Region Plan, with reviews of the District Plans scheduled to occur in 2023. Accordingly, at this time, there have been no changes to the existing strategic planning framework in response to IPC’s advice at either State or Local level. This would occur through the review of the District Plan and Council’s LSPS and Housing Strategy and would be subject to decisions of Council in the future in due course. As discussed earlier in the report, the planning proposal and the review of the District Plan are both able to progress simultaneously as separate planning processes.

Clearly, there are different views and objectives within the applicable layers of the strategic planning framework which are somewhat conflicting in this instance. While the planning proposal does not align with the blanket policy position in the Region Plan relating to the Urban Growth Boundary, there are nonetheless logical grounds to consider an exception in this specific instance, having regard to the strong alignment of the proposal with Council’s regional transport objectives (in securing a portion of a future bypass corridor) and the unique opportunity to allow for some additional housing within the catchment surrounding the Dural Public School, without creating a precedent of similar outcomes within the rural area.

It is noted that should Council resolve to progress the planning proposal to Gateway Determination, this would be a matter that may give greater weight to the GCC’s consideration of the land as part of its review of the Region and District Plans.

## 5. SITE SPECIFIC MERIT CONSIDERATIONS

The following matters require further consideration as part of the site-specific merit assessment of the proposed development:

- a) Traffic and Transport;
- b) Local Infrastructure Demand and Public Benefit Offer;
- c) Infrastructure Capacity (Utilities);
- d) Vegetation;
- e) Potential Impacts on Agricultural Land;



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- f) Potential for Seniors Housing; and
- g) Heritage.

**a) Traffic and Transport**

- *Regional Road Network*

The current regional road network for west-east vehicle movement between the growing North West Growth Centre and the localities of Pennant Hills and Hornsby follows Annangrove Road, Kenthurst Road, Old Northern Road and New Line Road. This route bisects the Round Corner town centre and traffic volumes are expected to increase as development continues within the North West Growth Centre. This is also linked with Council's efforts to request that the State Government re-classify Annangrove Road to a classified State road as a result of current and expected future traffic volumes. To date there has been no commitment from the State Government to reclassify Annangrove Road or in relation to its extension to Old Northern Road as a bypass of Round Corner.

The Urban Capacity and Capability Assessment included detailed traffic analysis of the existing road network in the Dural locality. The Assessment concluded that road capacity and traffic issues are already being experienced in Dural, with further delays to be expected as planned development occurs within the North West Growth Centre, unless upgrade works are undertaken to cater for increased demand.

The planning proposal would facilitate development in addition to this planned growth and as such, the additional traffic would likely exacerbate (albeit to a very small extent) the existing traffic issues, in the absence of any firm commitment from Government for the funding of the required road upgrades. That being said, as detailed earlier within this report, the planning proposal could partially contribute to a broader regional traffic solution, if the bypass corridor was to eventuate.

The completion of any major road upgrades in Dural will come at a significant cost to Government as a consequence of high property values, difficult topography and other environmental constraints. In 2018, Transport for NSW (TfNSW) estimated that the upgrading of Old Northern Road and New Line Road alone would exceed \$300 million. It is expected that this cost would have increased substantially since the time of this estimation in line with construction cost escalations. A Federal Grant of \$10 million was allocated in the 2019/2020 Federal Budget to fund a major project business case to investigate the potential upgrade of new Line Road to a four lane divided carriageway. It is understood that the investment from the Australian Government was on a 50/50 basis with the NSW Government, bringing the total government investment in the project to \$20 million. However, the extent of this investigation comprises the length of New Line Road between Castle Hill Road and Old Northern Road, and therefore does not extend as far north along Old Northern Road as the subject site.

Business cases are used by the Australian Government to manage the priority of various projects nationwide and remain informed on the appropriate investments required to support future development. Business case planning occurs in the preliminary stages of a project, many years prior to full funding commitments for projects or detailed planning and construction (if justified by the business case).

The inclusion of business case funding with respect to the upgrade of New Line Road does indicate some movement at a Federal level towards securing the necessary upgrades to New Line Road and the preparation of a business case for the upgrade of this regional road is supported. However, the resolution of the existing regional infrastructure issues will ultimately

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require significant further funding by Government, following the completion of the business case planning process.

The Proponent's Traffic Impact Assessment includes traffic counts of existing traffic conditions along Old Northern Road, which were collected by the Proponent's traffic consultant outside Dural Public School on Thursday 18 August 2022 during both the AM and PM peak periods.

Peak traffic volume in the AM peak travelled southbound along Old Northern Road and totalled 973 trips. Peak traffic volumes in the PM peak travelled northbound along Old Northern Road and totalled 981 trips. The Proponent's traffic report states that *"in both peak periods, the traffic volume in the peak direction approaches 1,000 vehicles per hour, indicating that Old Northern Road is currently close to capacity"*.

The Proponent's Traffic Impact Assessment states that 105 trips will be generated by the proposed development in the AM peak (with 67% of these trips distributed to Old Northern Road) and 109 trips generated in the PM peak (with 75% of these trips distributed to Old Northern Road). Given the proposed residential land use, these trips are predominantly leaving the site in the AM peak and accessing the site in the PM peak.

- *Bypass Corridor and State Government Agency Views*

The planning proposal seeks to contribute to the resolution of regional traffic issues through the proposed dedication of land for a portion of a future bypass corridor. As mentioned earlier in this report, Council's understanding when supporting the previous planning proposal was that this would be in the form of a regional bypass corridor to be owned and managed by the State Government as part of the arterial road network. In response to submissions from TfNSW, the new planning proposal includes the construction of a local collector road and dedication of a wider corridor to Council so that there is potential for future expansion and upgrade of the road if it does form part of a bypass corridor in the future.

The bypass corridor has been the subject of extensive consultation with TfNSW and SINSW, both as part of the previous planning proposal Gateway process and separately initiated by the Proponent during the pre-lodgement phase of this current planning proposal. Submissions have been received from TfNSW on four (4) occasions, being 18 August 2021, 13 April 2022, 28 July 2022 and 13 November 2022 – these are provided as Attachments 3 to 6 respectively. There have also been a number of meetings between Council Officers, the Proponent and TfNSW over this period. The views of TfNSW to date are summarised as follows:

- TfNSW has no current plans, proposals or investigations for a regional bypass road that connects Annangrove Road to Old Northern Road. Therefore, there is no funding or commitment to the delivery of a regional bypass road, including corridor design, alignment and future reservation.
- Future Transport Strategy 2056, NSW Infrastructure Strategy 2018-2038, Greater Sydney Region Plan, Central City District Plan and TfNSW Road Network Plans have not identified a strategic merit / need for a regional bypass road connecting Annangrove Road to Old Northern Road. TfNSW is of the view that the strategic justification for the bypass road has not been fully or appropriately assessed.
- TfNSW has no current proposals or long term plans to re-classify Annangrove Road to a classified State road.
- TfNSW is investigating options to upgrade New Line Road between Quarry Road and Castle Hill Road to improve safety and cater for future growth in the area.

- Should Council determine to deliver a future *local* bypass, Council would need to be satisfied through its own studies and technical work with respect to the appropriate width and alignment. These studies would include regional traffic studies, strategic road designs and survey plans, a strategic level scoping report on environmental constraints and a regional land use and transport assessment that considers and assesses all future development uplift and its cumulative traffic impacts in the Dural locality, culminating in a precinct-scale Structure Plan for Dural. This is to be undertaken by Council, not the Proponent. TfNSW encourages, but does not require, this assessment to be undertaken prior to Gateway Determination, however it should be undertaken prior to finalisation of the LEP amendments.
- TfNSW has concerns that the future corridor design and reservation is being identified only within the subject site and as a separate exercise to the remaining corridor. Council should work to identify a corridor design and reservation for the entirety of the corridor. TfNSW will need a level of assurance that the proposed corridor design and reservation for the southern section of the corridor (located on the Proponent's site) has been appropriately assessed taking into account future land use and traffic growth along the entire corridor.
- The currently proposed local bypass alignment is the preferred of three options that were previously put forward by the Proponent as it would improve sight distances and allow better opportunity to widen Old Northern Road. The methodology for Council to determine an appropriate corridor width for the local bypass is ultimately a matter for Council.
- Widening of Old Northern Road will likely be necessary to accommodate the optimal ultimate layout for traffic signals. TfNSW expressed concern with the ultimate form of the bypass' intersection with Old Northern Road.
- The Dural Public School Drop Off and Pick Up zone on the Hornsby side of Old Northern Road should be relocated to within the proposed local side roads of the development to reduce unsafe and illegal vehicle movements along this section of Old Northern Road.
- Additional technical advice was provided with respect to the traffic signal design guide, turning paths and traffic volume assessment.

Submissions received from TfNSW have remained firm and consistent in their views with respect to no commitment, funding or future investigations into the delivery of a regional bypass road in this locality or the reclassification of Annangrove Road. Each submission received from TfNSW has placed the onus on Council with respect to decisions around a *local* bypass road and the responsibility for any design, acquisition and construction of the road.

It remains open to Council to proceed with funding the technical analysis and studies as detailed within TfNSW's submissions above. It should be noted that some of these investigations were completed as part of the Dural Urban Capability and Capacity Assessment, as detailed earlier in this report. However, Council resolved not to progress to Phase 2 investigations which would have resulted in the completion of further work required by TfNSW above, including a precinct-wide structure plan and regional traffic analysis. Council could, in the future, resolve to proceed with the design, acquisition and construction of a bypass road, however it is estimated that this would be costly for Council and would not align with Council's previous resolution regarding local and regional infrastructure in the Dural locality being delivered at no cost to Council.

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Notwithstanding the advice from TfNSW, it also remains open for Council to accept the dedication of this land as a local collector road now, with a long-term intention to negotiate and continue lobbying TfNSW to change its position in the future with respect to the provision of the broader regional bypass road and reclassification of Annangrove Road. While correspondence from TfNSW to date suggests that this is highly unlikely in the short term, this approach would nonetheless allow Council to secure a portion of a future corridor through the site for a regional bypass road, consistent with Council's regional transport priorities.

To date, Council's policy position differs to the views of TfNSW. Council has encouraged a holistic and longer term review by TfNSW as to the role, function and need to classify Annangrove Road to recognise its use as a regional connector from the North West to the north of Sydney and Central Coast. Council has been of the view that this should therefore be TfNSW's priority and identified within their planning, given the expected congestion of Windsor Road from Vineyard to the M2/M7 Motorway Interchange.

Submissions have been received from SINSW on three (3) occasions, being 22 October 2021, 11 April 2022 and 7 November 2022 – these are provided as Attachments 7 to 9 respectively. There have also been a number of meetings between Council Officers, the Proponent and SINSW over this period. The views of SINSW to date are summarised as follows:

- The Department of Education's existing primary and secondary school facilities are anticipated to have capacity to accommodate the demand resulting from the proposal.
- SINSW requests that the road corridor be located to the northern boundary of the school site in order to accommodate kiss and drop and/or bus bay facilities.
- Previous feedback regarding the road layout and associated transport impacts to the school has been taken into account by the Proponent in preparing their new planning proposal. SINSW is generally supportive of the proposed pedestrian linkages as well as the indicative location for the kiss and drop zone. A fine grain review of the proposed kiss and drop zone will be required to ensure this area is adequate for the school's use.
- Given that the local collector road will be a high pedestrian activity area in the future, SINSW request that transport planning for the proposal include traffic calming measures, such as lower vehicle speeds to 30km/hr along this road.
- SINSW requests Council consider the opportunity of undergrounding the overhead electricity service lines which currently traverse the northern part of the school site.

It is noted that traffic calming measures and lower vehicle speeds of 30km/hr as requested by SINSW would not be conducive to the provision of a regional bypass road, where the primary function would be to prioritise vehicular movements to improve traffic flow and accommodate larger through-traffic volumes at higher speeds. This has been a longstanding consideration in the appropriateness of the bypass location adjacent to the Dural Public School and further investigations and negotiations with SINSW would be required if the planning proposal was to progress.

- *Local Road Network*

The Proponent's Traffic Impact Assessment concludes that the planning proposal would generate 105 - 109 vehicle trips in the AM and PM peak periods respectively. The Proponent's assessment concludes that the additional trips generated by the proposal will have negligible impact on existing traffic conditions, representing less than 1% of current traffic demands. The

Traffic Impact Assessment reiterates the proposed benefits of the proposal with respect to the local collector road and the relocation of the kiss and drop facilities at Dural Public School.

Current southbound movements along Derriwong Road where drivers are seeking to access Round Corner Town Centre often result in illegal right turns into the indented bus bay to access the Round Corner Town Centre and avoid queuing further south where Derriwong Road intersects with Old Northern Road. The proposal would contribute additional vehicular movements from this direction and potentially exacerbate this. This issue is demonstrated in the figure below. The Traffic Impact Assessment has not considered how this matter would be addressed and if the planning proposal was to progress to Gateway Determination, further consideration of this issue would be required.



Figure 15

Illegal vehicular movements to access Round Corner Town Centre

#### b) Local Infrastructure Demand and Public Benefit Offer

Based on the 110 dwellings proposed (approximately 352 persons) the following local infrastructure would be required using current benchmark rates:

- 6% of a local community centre;
- 1% of a branch library;
- 18% of an active open space facility (playing field); and
- 5,702m<sup>2</sup> of passive open space (based on 1.62 hectares per 1,000 people).

The provision of 6% of a local community centre or 18% of a playing field would be difficult in isolation, especially in the absence of any broader critical mass of urban development within the locality. Accordingly, the Proponent has submitted a Voluntary Planning Agreement (VPA) offer to Council, which includes the following items:



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Item	Comment
1. Embellishment and dedication to Council of 4,000m <sup>2</sup> of land for use as a local park.	Public benefit.
2. Embellishment and dedication to Council of 141m <sup>2</sup> of land for use as a pedestrian link (north east corner of the site).	The pedestrian pathway does not link to a broader pedestrian network and is considered to be of minimal public benefit. Crossing Old Northern Road at this location is not permeable for pedestrians and the proposed through site link appears to be provided in isolation from broader pedestrian movements in the locality.
3. Dedication of a maximum of 13,223m <sup>2</sup> of land forming a 32 metre road reservation through the site for the future Round Corner Bypass.	Potential public benefit. The road reservation has the potential to accommodate a regional bypass road however, as detailed above, the achievement of this bypass corridor would ultimately be contingent on a number of other factors external to this proposal.
4. Construction of a 21.5m wide collector road within the road reservation, including two roundabouts, kiss and drop lane adjacent to Dural Public School and widened verges to accommodate future expansion.	<p>Potential public benefit. The widened verges have the potential to accommodate a regional bypass road, however the offer does not secure works or funding for any future upgrade of the road that would be necessary, beyond the 21.5m wide local collector road.</p> <p>It is also unclear whether Council or the Proponent would be responsible for funding the construction of intersection upgrade works where the local collector road connected to Old Northern Road (any intersection at this location would be subject to TfNSW approval).</p> <p>The local road in isolation from its potential regional status is not required to improve the existing local road network and would primarily service the Proponent's development.</p> <p>There are however benefits to the Dural Public School and as such, this would represent a public benefit to regional infrastructure.</p>
5. Embellishment and dedication to Council of two stormwater detention basins	The stormwater infrastructure is required to service the proposed development and does not provide a broader public benefit to the community.
6. Monetary contribution to Council of \$363,305.80 towards active open space	Public benefit.
7. Monetary contribution to Council of \$101,242.90 towards community facilities	Public benefit.
8. Section 7.12 monetary contribution to Council (estimated at a <i>minimum</i> of \$550,000)	Neutral. This Plan is already applicable to the subject site however does not plan or cater for the extent of uplift proposed through this proposal.

**Table 2**  
Proponent's Preliminary VPA Offer



The location of the proposed items offered are shown in the figure below.

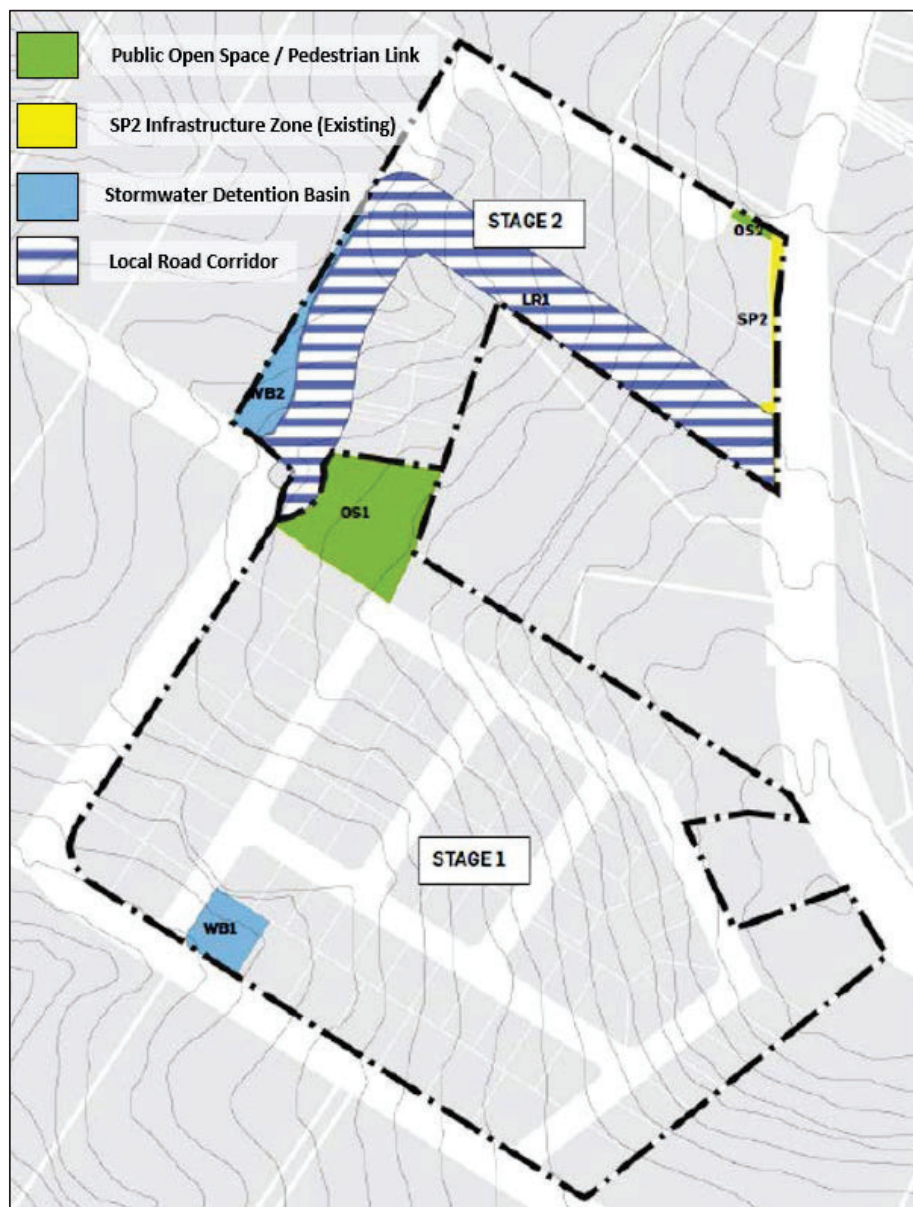


Figure 16

Location of items proposed to be dedicated to Council

The Proponent has valued their offer at \$17,826,409. This comprises approximately \$465,000 of monetary contributions, \$7.4 million of works and \$10 million in land values based on the Proponent's valuation of \$500/m<sup>2</sup>. Council Officers are continuing to assess the appropriateness of the preliminary offer.

A significant portion of the public benefit value relates to the dedication of land for a future bypass corridor. However, as detailed throughout this report, realising the public benefit associated with the bypass corridor would be contingent upon a number of related factors

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external to this proposal. If this does not eventuate, then the land would have limited public benefit value as it would essentially be a local road to service the development.

It is also noted that the Proponent's preliminary offer indicates that the bypass road (and associated upgrades to the school frontage including the kiss and drop zone) would be delivered as part of Stage 2 works on the site. Stage 1 of the development would see the delivery of approximately 85 of the total 110 lots within the development. Should Council determine to proceed with the proposal, the public benefits within Stage 2 would need to be developed in association with any residential development on the land and will therefore be required as part of Stage 1 works.

**c) Infrastructure Capacity (Utilities)**

As part of the Urban Capacity and Capability Assessment, preliminary infrastructure capacity investigations were undertaken with respect to drinking water, wastewater, gas and electricity supply within the broader Dural locality and instances where augmentation is required. The following conclusions were made:

- Gas Services: Jemena's policy is to extend gas mains to all developments wherever possible, depending upon economic viability;
- Electrical Infrastructure: Endeavour Energy has no long term plans to increase capacity as the Dural locality has not been identified by the State Government as a growth area. The Dural Load Area has existing capacity to supply small developments of 175 to 230 small/medium sized lots before requiring network upgrades; and
- Potable and Waste Water: the potable water reservoirs and sewage pumping stations in the study area do not have sufficient spare capacity to accommodate development in the study area. Development in the area would require installation of trunk water and sewer networks, including new water reservoir/s, sewer pump stations and potentially a new treatment plant or upgrades to an existing plant.

The Proponent has submitted a Preliminary Infrastructure Review in support of the planning proposal to ascertain the extent utilities servicing available to the site and the potential need to upgrade, extend or alter services to accommodate the additional growth proposed. The preliminary findings of the report are as follows:

- *The proposed development can likely be serviced. Lead-in infrastructure would need to be constructed for sewer serviceability.*
- *There is sufficient capacity within the local potable water mains network and flexibility in where to provide the connection point.*
- *There is capacity within the local provision of HV electrical infrastructure to service the proposed development.*
- *Two or more electrical substations will be required to be constructed within the site.*
- *Gas can be made available to the site if required.*
- *High speed NBN internet can be supplied to the site.*

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 such facilities. The viability of doing so is a commercial matter for the Proponent to consider should the matter progress. Without adequate provision of sewer, power and water, the development would fail in its current form.

**d) Vegetation**

The site is largely cleared of existing vegetation though there are some remaining patches. The Proponent's material indicates the presence of Northern Foothills Blackbutt Grassy Forest and Sydney Turpentine Ironbark Forest (STIF), which are endangered and critically endangered ecological communities respectively under the Biodiversity Conservation Act 2016 (BC Act).

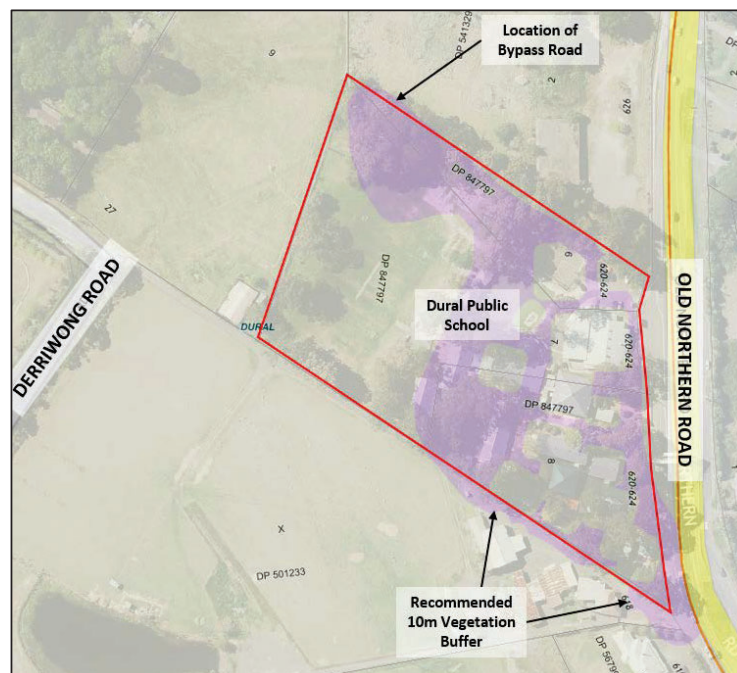
The Proponent's material indicates that attempts will be made at the development application stage to retain areas mapped as STIF, which is predominantly along the site's frontage to Derriwong Road. While it is prudent to ensure early consideration of impacts to this vegetation community, it is noted that the Proponent's development concept proposes larger minimum lot sizes of 1,000m<sup>2</sup> at this location which could likely be capable of retaining and avoiding this vegetation as part of future built form applications.

The proposed lot size of 1,000m<sup>2</sup> in this location is a *minimum* size requirement and actual resulting lot sizes may naturally vary above this minimum number following completion of surveys and the creation of a detailed subdivision plan. Further, the lot sizes may need to be increased in this location to address impacts to STIF vegetation once more detailed planning and ecological investigations have been completed at the DA stage. This potential outcome should be incorporated into controls within the draft site specific DCP.

Parts of the adjoining Dural Public School are also listed on the Biodiversity Values Map and therefore the adjoining development must consider the potential for Serious and Irreversible Impact ("SAIL"). Should the planning proposal progress, further surveys and ecological reporting would be required to be undertaken by the Proponent to verify the Biodiversity Values Map, ascertain the exact extent to which threatened species are present on the land and demonstrate that the proposed development does not constitute a SAIL. This would include detailed surveys and consideration of potential clearing on the school site as part of the proposed kiss and drop road works and the broader local road corridor works.

It is also recommended that a 10m vegetated buffer be provided where development lots adjoin the Dural Public School, to reduce the potential for impacts on high value biodiversity areas. The site specific DCP should also include provisions with respect to cut and fill, provision of utilities services and stormwater infrastructure that minimise impacts on these areas that are at risk of creating SAIL.

While this would likely be a sufficient planning response for proposed residential lots along the southern boundary of the Dural Public School, there may be implications for the ability to deliver the bypass road within the reservation corridor proposed by the Proponent. The image below illustrates the extent of the Biodiversity Values Map.



**Figure 17**  
Biodiversity Values Map (purple)

Should the planning proposal progress to Gateway Determination and consensus is reached with TfNSW with respect to the design of the proposed road infrastructure, it is anticipated that consultation would also be required with DPE's Environment & Heritage Group to determine the appropriate response required to this small portion of land north of the school that is identified on the Biodiversity Values Map.

#### **e) Potential Impacts on Agricultural Land**

The objectives of the RU6 Transition zone are as follows:

- *To protect and maintain land that provides a transition between rural and other land uses of varying intensities or environmental sensitivities;*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones;*
- *To encourage innovative and sustainable tourist development, sustainable agriculture and the provision of farm produce directly to the public; and*
- *To ensure that development does not have a detrimental impact on the rural and scenic character of the land.*

The land uses permitted within the zone reflect these objectives, including a number of traditional rural activities such as agricultural produce industries, farm buildings, garden centres, intensive plant agriculture, landscaping material supplies and plant nurseries. Guidance provided by the Department of Planning and Environment to assist the preparation of Standard Instrument LEPs (PN11-002) indicate that the zone is not to be used to identify future urban land. Rather, it is to be used in special circumstances to provide a transition between more intensive rural land uses such as intensive agriculture and extractive industries and other areas supporting more intensive settlement. Whilst the permitted land uses do not lead to high land



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values, the RU6 Transition Zone is necessary to protect existing rural enterprises and encourage future investment in these and other rural lands.

The zone provides an appropriate buffer between urban land and rural areas and allows the rural areas to develop and grow without being restricted by residential uses in close proximity. The Hills Shire's agricultural productivity is high, and the area's local and regional output values continue to increase despite growing pressure to rezone rural land. The combined economic output for rural industries in 2017-2018 was \$303.3 million. The most valuable economic contributors are cut flowers and nurseries, which account for approximately three quarters of the total value of agricultural production in the Shire. The Hills is NSW's number one producer of cut flowers, providing 21% of the State's cut flowers, and the second highest contributor to nursery-related production.

On the opposite side of Old Northern Road, within the Hornsby Shire Council area, the rural land 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). While no Odour Assessment has been submitted by the Proponent, 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.

The Hills Shire's rural areas have a distinctive character that is enjoyed and valued by the local community and visitors to the Shire. Existing planning controls and Council policies have generally confined new development to within close proximity of centres, avoiding ribbon development along main roads and maintaining attractive views towards the Blue Mountains from the prominent ridge of Old Northern Road. There is currently a clear distinction between the Shire's semi-rural villages and the surrounding rural zoned land which reduces land use conflict and gives the Shire's rural areas a positive identity.

The Proponent 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 would assist in minimising potential character impacts and land use conflict within the surrounding rural area.

**f) Potential for Seniors Housing**

In comparison to the previous planning proposal, the revised application has been lodged under a different legislative context as it relates to the permissibility of seniors housing developments in the Metropolitan Rural Area.

Previously, seniors housing could be permitted on rural land in instances where rural sites adjoined urban zoned land, subject to the issue of a Site Compatibility Certificate from the Department of Planning and Environment or Sydney Central City Planning Panel. At the time of Council's consideration of the previous planning proposal, the proposed rezoning to urban land therefore had the potential to facilitate a proliferation of seniors housing developments on adjoining rural land not subject to the proposal. This is no longer a potential impact of the current planning proposal, as the State policy has since been amended to remove the Site Compatibility Certificate planning pathway.

While there is no longer a potential impact to surrounding land, there remains potential to create new seniors housing development opportunities within the subject site, if the land is rezoned. Seniors housing is currently prohibited on the land given its rural zoning of RU6 Transition. However, the R2 Low Density Residential zone is a 'prescribed zone' under *State Environmental Planning Policy (Housing) 2021*. Should the planning proposal proceed, seniors housing would therefore become permitted with consent on the land.



While the Proponent has submitted a development concept indicating a low density residential subdivision, the planning proposal relates to the land use zoning and primary development standards and does not secure a specific development outcome (as this would be the subject of a future development application). As such, it cannot be guaranteed that parts of the land rezoned to R2 would in fact be developed for the illustrated purpose. However, it is anticipated that the draft site-specific development control plan would provide detailed guidance on ensuring the proposed development outcome is achieved on the site, which includes establishment of the local road pattern as part of Stage 1 works on the site.

#### g) Heritage

The site does not comprise 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 image below shows the location of surrounding heritage items. Those located on the eastern side of Old Northern Road are within Hornsby LGA and are therefore listed as heritage items under Hornsby Local Environmental Plan 2013.

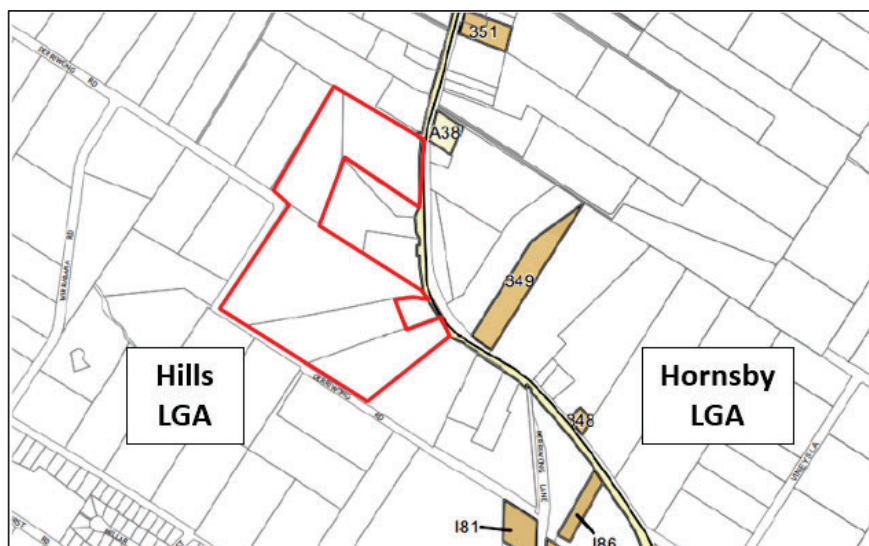


Figure 18

Locally listed heritage items under Hills LEP (west of Old Northern Road) and Hornsby LEP (east of Old Northern Road)

The surrounding items generally comprise post-war dwellings, lightweight structures, outbuildings and an early Federation weatherboard house. There is also an archaeological item (marked A38 in the figure above) within Hornsby LGA comprising a cemetery associated with some of the earliest British settlers.

The Proponent has submitted a Heritage Impact Statement in support of the proposal. Broadly, the proposal will not diminish the values or views of the surrounding heritage items as there is appropriate separation between these items and the subject site. The provision of larger lot sizes at the periphery of the sites will assist in integrating with the low density rural character of the locality.

The development concept indicates a proposed pedestrian through site link immediately to the south of the cemetery located within Hornsby Shire LGA. It is anticipated that works associated with this through site link would be located within the site's boundaries and would not extend

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across Old Northern Road. As such, it is anticipated that the provision of this link would not impact on the heritage listed cemetery.

No physical works are proposed to the heritage items, with the exception of Old Northern Road. The significance of Old Northern Road is stated as follows:

*“The Great North Road was the finest example of modern road making in Australia of the 1820s and 1830s and is a towering testimonial to Heneage Finch and especially Sir Thomas Mitchell, to their surveyors and to the convict chain gangs who did the work. The combination of features, road surfaces, retaining walls, bridges, culverts, cisterns, work stations, make this stretch of road of national importance.”*

The Heritage Impact Statement submitted by the Proponent notes that the intersection treatment of the proposed bypass road with Old Northern Road is subject to further discussions and direction from TfNSW. The Proponent recommends that an Historical Archaeological Impact Assessment (HAIA) be prepared by a suitably qualified archaeological consultant prior to the submission of a development application in association with any impacts to Old Northern Road. It is anticipated that Heritage NSW will be consulted on this matter should the planning proposal progress to Gateway Determination.

## OPTIONS

Determining whether or not this proposal should proceed to Gateway Determination is a complex task, having regard to competing strategic planning objectives, historical advice from the Department of Planning and Environment and the Independent Planning Commission and the status of the Region and District Plans, which are currently under review by the Greater Cities Commission.

The following potential options have been canvassed having regard to the assessment of the proposal and these other relevant factors:

- Option 1 – Proceed to Gateway Determination

Given the strategic alignment of the proposal with Council's regional transport objectives and the reservation of part of a future bypass corridor, it would be justifiable to forward the planning proposal for Gateway Determination with a view to 'future-proofing' and achieving Council's long-term strategic vision. A decision to this effect would place a greater emphasis on the potential to secure part of the bypass corridor in the strategic merit assessment of the Proposal. This would also reflect the strong site-specific merit demonstrated by the proposal, the advice of the IPC with respect to the previous proposal pertaining to the potential benefits and would remain largely consistent with Council's previous decisions with respect to the previous planning proposal.

Proceeding with this option would retain the opportunity for Council to secure a part of the future bypass corridor and continue to advocate for the outcome that is consistent with its policy position to date, being a regional bypass corridor to address regional road capacity issues that are a result of State Government-initiated rezonings in the North-West Growth Centre. It may however require some cost input by Council with respect to, at a minimum, investigations and/or design of the future bypass corridor and maintenance of the corridor land (as a local road).

While TfNSW has expressed a consistent view to date, which does not support the funding or provision of a regional bypass corridor by Government, Council may deem it appropriate

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to secure this first part of the corridor at this time, to ensure flexibility remains in the future for the bypass road to be delivered if either:

- Government changes its current position and agrees to funding the design, acquisition and construction of the broader corridor as a regional bypass road; or
- Council opts to pursue the design, acquisition and construction of the broader corridor as a local bypass road.

If neither of these outcomes was to eventuate, the proposed corridor would remain in Council's ownership as a local collector road primarily servicing the development.

If Council does resolve to submit the planning proposal for Gateway Determination, a further report would ultimately be required with respect to a draft Voluntary Planning Agreement and Development Control Plan, which addresses some of the matters raised within this report and could be publicly exhibited alongside the planning proposal.

- Option 2 – Not Proceed to Gateway Determination

It would also be justifiable to determine that the planning proposal should not proceed to Gateway Determination. A decision to this effect would place a greater emphasis on the technical inconsistency of the proposal with the Region Plan, District Plan and LSPS having regard to the treatment of land within the Metropolitan Rural Area. It would also reflect that despite the strong site-specific merit demonstrated by the proposal and the advice of the IPC with respect to the previous proposal, the Region Plan has not yet been updated to identify any urban development on this land and the consideration of site-specific merit is only a relevant factor once a proposal has first satisfied the strategic merit test.

While Option 1 presents a pathway for Council to continue to secure its strategic vision for a regional bypass corridor, Option 2 places greater weight on the current views of TfNSW and acknowledges that despite the contribution of this proposal, the ultimate provision of a regional bypass corridor is contingent on a number of factors that are becoming increasingly uncertain or unlikely, therefore presenting a speculative risk or financial burden to Council.

## CONCLUSION

It is recommended that the planning proposal proceed to Gateway Determination, as set out in Option 1 above. It is considered that on balance, the opportunity to pursue Council's regional transport objectives for the reservation of part of a future bypass corridor between Annangrove Road and Old Northern Road should not be foregone.

This would remain consistent with the longstanding policy position of Council as well as its past decisions in relation to the previous planning proposal and the advice of the IPC which highlighted the site-specific merits and public benefits of the proposal.

## ATTACHMENTS (UNDER SEPARATE COVER)

1. Dural Urban Capacity and Capability Assessment, 15 March 2019
2. Independent Planning Commission Advice, 4 September 2020
3. TfNSW Submission, 18 August 2021
4. TfNSW Submission, 13 April 2022
5. TfNSW Submission, 28 July 2022

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6. TfNSW Submission, 13 November 2022
7. SINSW Submission, 22 October 2021
8. SINSW Submission, 11 April 2022
9. SINSW Submission, 7 November 2022
10. Proponents Planning Proposal Report
11. Urban Design Report
12. Traffic Impact Assessment
13. Ecological Assessment
14. Bushfire Hazard Report
15. Economic Impact Assessment
16. Heritage Impact Assessment
17. Detailed Site Investigation Report
18. Infrastructure Services Report
19. Survey Plan
20. Acoustic Assessment
21. Proponent's LEP Mapping
22. Draft Site Specific DCP
23. Public Benefit Offer
24. Aboriginal Heritage Assessment Report

**LOCAL PLANNING PANEL – THE HILLS SHIRE COUNCIL****DETERMINATION OF THE LOCAL PLANNING PANEL ON 21 DECEMBER 2022  
– DETERMINATION MADE ELECTRONICALLY****PRESENT:**

Garry Fielding	Chair
Elizabeth Kinkade PSM	Expert
Peter Brennan	Expert
Ken Willimott	Community Representative

**DECLARATIONS OF INTEREST:**

Nil Disclosed

**COUNCIL STAFF:**

The Panel were briefed by the following Council Staff on 21 December 2022:

David Reynolds	-	Group Manager - Shire Strategy, Transformations & Solutions
Nicholas Carlton	-	Manager – Forward Planning
Megan Munari	-	Principal Coordinator, Forward Planning
Kayla Atkins	-	Strategic Planning Coordinator

**ITEM 1:                   LOCAL PLANNING PANEL – PLANNING PROPOSAL –  
DERRIWONG ROAD AND OLD NORTHERN ROAD, DURAL  
(2/2023/PLP)****COUNCIL OFFICER’S RECOMMENDATION:**

That the planning proposal request for land at Derriwong Road and Old Northern Road, Dural proceed to Gateway Determination.

**PANEL’S ADVICE REGARDING THE PLANNING PROPOSAL:**

1. The planning proposal has not yet satisfied the strategic merit test. It may be able to demonstrate strategic merit if the following factors were resolved:
  - a. The proposed corridor can be delivered in the proposed location, to serve a bypass function, with an intersection at Old Northern Road;
  - b. The road to be dedicated is a regional corridor width;
  - c. The issues raised by SINSW can be addressed without compromising the function of the future bypass road.
2. The planning proposal should however proceed to Gateway Determination to allow for the above factors to be progressed.
3. The Panel acknowledges the engagement with agencies that has been undertaken to date on this and previous iterations of planning proposals for this site and notes that they have been unable to resolve issues raised by agencies and that progressing to Gateway Determination appears to be the only way to continue to resolve the issues.



4. The Panel notes the advice of the Independent Planning Commission as it relates to the previous iteration of the proposal and the Panel's view remains consistent with the Independent Planning Commission advice as it relates to site specific merit.

**VOTING:**

Unanimous

ATTACHMENT 3



New South Wales Government  
Independent Planning Commission

# Gateway Determination Review Request for Derriwong Road and Old Northern Road, Dural

## Gateway Determination Advice Report

Chris Wilson (Chair)  
Soo-Tee Cheong

4 September 2020

## 1 INTRODUCTION

1. On 3 August 2020, the NSW Independent Planning Commission (**Commission**) received a referral from the NSW Department of Planning, Industry and Environment (**Department**) seeking advice pursuant to section 2.9(1)(c) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).
2. The request for advice relates to a Planning Proposal (the **Planning Proposal**) and Gateway Determination (the Gateway Determination) for land known as 584, 586, 590, 600, 600A, 602, 606, 618 and 626 Old Northern Road and 7, 11, 21 and 27 Derriwong Road, Dural (the **Site**) within The Hills Shire Council Local Government Area (**LGA**).
3. On 19 May 2016, the Proponent lodged the Planning Proposal with The Hills Shire Council (**Council**) seeking to amend The Hills Shire Council LEP 2019 (**HLEP**) to:
  - rezone the Site from RU6 Transitional Zone to a mixture of R2 Low Density Residential, RE1 Private Recreation, and RE2 Public Recreation;
  - include a site-specific clause in Schedule 1 permitting Seniors Housing, Health Services Facility and ancillary retail associated with the Health Services Facility;
  - amend the maximum height of buildings from 10m to a mixture of 9m and 12m and insert a new site-specific provision within Clause 4.3A to permit the land subject to the 9m maximum building height control to be redeveloped up to 12m in height where development is for the purposes of Seniors Housing; and
  - amend the minimum lot size standard from 2ha to 700m<sup>2</sup>.
4. On 13 December 2016, Council resolved that the Planning Proposal be held in abeyance until further investigations relating to urban capacity in Dural were finalised.
5. On 26 July 2019, Council submitted the Planning Proposal to the Department which included additional amendments to the HLEP Land Zone Map, Height of Building Map, Minimum Lot Size Map and the introduction of a local provision for land at Derriwong Road and Old Northern Road, Dural.
6. On 19 April 2020, the delegate for the Minister for Planning and Public Spaces' (**Minister**) issued a Gateway Determination that the Planning Proposal did not have strategic or site-specific merit and should not proceed.
7. On 29 May 2020, Dural Land Holdings Pty Ltd (**Proponent**) wrote to the Department requesting a review of the Gateway Determination.
8. The matter was referred by the Department (as the Minister's delegate) to the Commission for advice. The letter accompanying the referral requested that the Commission "review the planning proposal and prepare advice concerning the merits of the review request. The advice should include a clear and concise recommendation to the Minister's delegate confirming whether, in its opinion, the Gateway determination issued on 19 April 2020 should be overturned and given a Gateway to proceed or not."
9. Mr Peter Duncan AM, the then Acting Chair of the Commission, nominated Chris Wilson (Chair) and Soo-Tee Cheong to constitute the Commission Panel to review the Gateway determination and provide the advice as requested.

### 1.1 Site and Locality

10. The 'Site' for the purposes of this Advice Report is defined as 584, 586, 590, 600, 600A, 602, 606, 618 and 626 Old Northern Road and 7, 11, 21 and 27 Derriwong Road, Dural (Lot 1 DP 660184, Lot 11 DP 866560, Lot D DP 38097, Lot 11 and 101 DP 713628, Lot 1 DP 656036, Lot 1 DP 73652, Lot X DP 501233, Lot 2 DP 541329, Lot 12 DP 866560, Lot 2 DP 567995 and Lot 9 DP 237576).

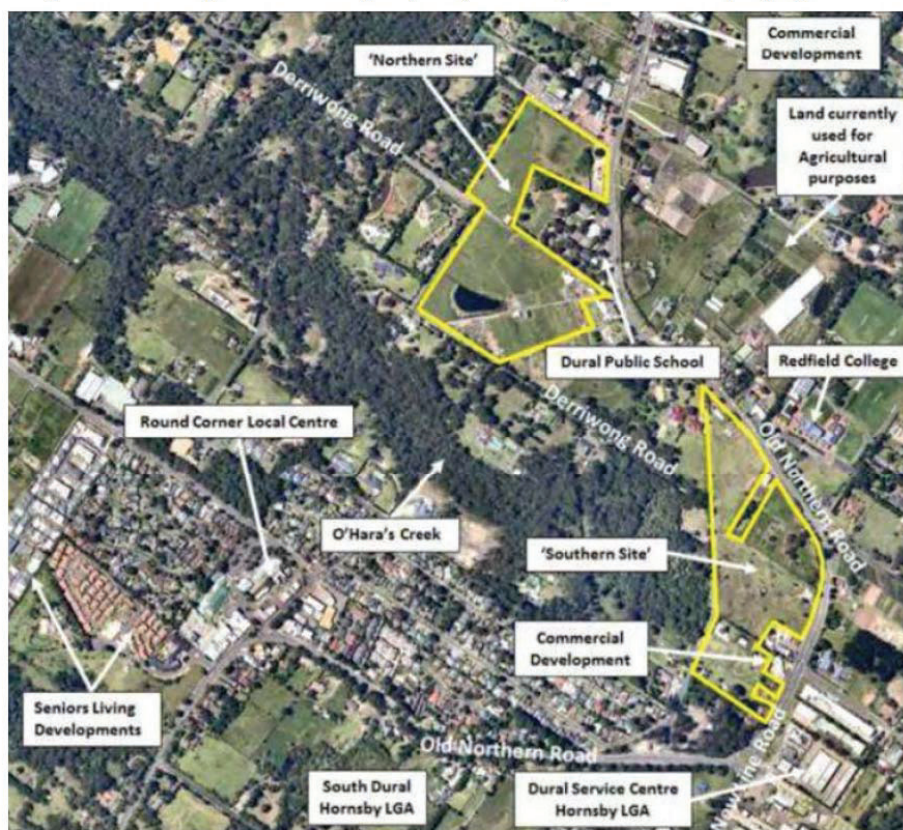


11. The Department's Gateway Determination Report (**Department's Gateway Report**), dated 19 April 2020, states:

*These sites [Northern Site & Southern Site] are located north of Round Corner, Dural Town Centre and south of the Dural Rural Village, in a peri-urban area that is defined by a mix of urban and rural characteristics. The land is surrounded by large rural properties, Dural Public School, Redfield College and various commercial uses. Land in the broader locality is presently being used for agricultural uses (particularly within the bordering Hornsby LGA).*

12. The location of the Site is illustrated in Figure 1 below.

Figure 1 – Land Subject to the Planning Proposal (Source: Department's Gateway Report)



## 1.2 The Planning Proposal

13. The Department's Gateway Review Justification Assessment (**Department's Assessment**), dated 3 August 2020 which accompanied the Department's referral to the Commission states:

*The planning proposal seeks to facilitate the delivery of 181 residential lots, a day surgery/medical centre with a café, community centre/indoor recreation facility, seniors housing in the form of a residential aged care facility and independent living units, and a public park.*

*The intended overall outcome is to facilitate the redevelopment of the site to accommodate a mix of residential typologies and increased range of permissible land uses.*

### 1.3 History of the Planning Proposal and Gateway Determination

14. Table 1 below provides an overview of the key steps in the consideration of the Planning Proposal.

*Table 1 - History of the Planning Proposal and Gateway Determination*

Date	Event
19 May 2016	The Planning Proposal is lodged with The Hills Shire Council.
28 June 2016	The Council resolved to undertake a land use study for the Dural Round Corner Precinct in partnership with Hornsby Council to determine the capacity and capability of the broader Dural area for additional urban development.
13 December 2016	The Council resolved that the Planning Proposal be held in abeyance until the wider Dural area investigations were finalised.
10 February 2017	The Proponent lodged a rezoning review with the Sydney West Central Planning Panel (Planning Panel) on the basis that Council had failed to indicate its support 90 days after the Planning Proposal was lodged.
11 April 2017	Council allocated funding for Phase 1 of the 'Dural Urban Capability and Capacity Assessment'.
20 April 2017	The Planning Panel considered the rezoning and determined that it should not proceed as it did not demonstrate strategic merit, particularly given that implications for the urban-rural interface remained unresolved.
26 March 2018	In response to the findings of the 'Dural Urban Capability and Capacity Assessment', Council resolved that planning proposals for the Dural area should not proceed unless they can deliver local and regional infrastructure upgrades at no cost to Council.
19 June 2019	Council referred the Planning Proposal to the Planning Panel recommending that it be forwarded to the Department for Gateway Determination. The Sydney West Central Planning Panel recommended the Planning Proposal not proceed to gateway for a number of reasons, including that it demonstrates a lack of strategic merit.
9 July 2019	Council resolved that the proposal should be submitted to the Department for Gateway assessment to determine State Government agency views on the merits of the proposal.
26 July 2019	The Planning Proposal and a request for a Gateway determination were sent to the Department.
20 December 2019	The Proponent provided unsolicited Senior Counsel's advice and requested that the advice be considered as part of the assessment of the proposal.
5 February 2020	The Proponent also requested that the Department consider issuing a conditional Gateway Determination for the Northern Site only if the Department had residual concerns relating to Planning Proposal's impact on the local or regional road network.
19 April 2020	The Department issued a Gateway Determination that the Planning Proposal lacked strategic and site-specific merit and should not proceed.
29 May 2020	The Proponent lodged a request to review the Gateway Determination.
3 August 2020	The Commission received the Department's request to review the Gateway Determination.

### 1.4 The Gateway Determination

15. The Minister's delegate determined that the Planning Proposal should not proceed for the following reasons:
- *The proposal does not give effect to the Central City District Plan, in particular:*
    - *Priority 1 Planning for a City Supported by Infrastructure;*
    - *Priority 5 Providing housing supply, choice and affordability, with access to jobs and services;*
    - *Priority 18 Better managing rural areas;*



- *The proposal contains unresolved inconsistencies with the Section 9.1 Directions 1.2 Rural Zones, 2.3 Heritage Conservation, 3.1 Residential Zones, 4.4 Planning for Bushfire Protection, and 6.3 Site Specific Provisions;*
- *There are no plans or funding to increase capacity on the surrounding road network to facilitate this proposal; and*
- *The proposal does not adequately demonstrate the site has no potential to accommodate agricultural uses under its current zoning and land use conflict will not arise as a result*

### 1.5 The Proponent's Position

16. The Proponent states that the Planning Proposal gives effect to the Central City District Plan (**District Plan**) as it:
  - *delivers population growth aligned with new infrastructure investment while supporting the plan's priority to maximise use of existing infrastructure;*
  - *provides a logical outcome to deliver new housing supply, choice, and affordability within a readily accessible area that accommodates jobs and services that can support various demographic groups; and*
  - *offers a place-based planning solution by proposing a scale of development that can deliver significant public benefits, in a density that is commensurate with surrounding local areas and is not in conflict with a desired transition to rural lands north of Dural.*
17. The Proponent states that the Section 9.1 inconsistencies are justifiable in the circumstances and that the Planning Proposal accords with the objectives and actions contained within the District Plan.
18. The Proponent states that the Planning Proposal does not rely upon plans or funding to increase capacity on the surrounding road network, instead citing a traffic report produced by AECOM which identified negligible impact on the road network and key intersections compared to background traffic.
19. The Proponent considers that the Planning Proposal will provide more affordable allotments while maintaining Dural's character; achieve a high level of design excellence; and include a number of public benefits including:
  - The reservation of a 32-metre wide road corridor between Old Northern Road and Derriwong Road which to form the eastern end of a potential bypass of Round Corner village centre;
  - sewerage system upgrades in the immediate locality around the site enabling the removal of septic systems from the playground of the adjacent Dural Public School;
  - road widening to enable safer drop-off and pick-up of students at Dural Public School;
  - the dedication of local open space; and
  - the construction of a signalised traffic intersection on Old Northern Road.
20. The Proponent also considers that the Planning Proposal is consistent with the findings of the Dural Urban Capacity and Capability Assessment which should have informed the preparation of the Council's Local Strategic Planning Statement (**LSPS**). The Proponent considers that the Assessment identifies the Site as **suitable** for future urban development.

### 1.6 The Council's Position

21. As set out in paragraphs 3-5, in 2017 Council commissioned the Urban Capability and Capacity Assessment for the Dural locality in response to a number of rezoning requests around Dural including the subject Planning Proposal. The Assessment found that the Site had capacity and capability for urban development but was constrained by the need for major regional infrastructure provision.
22. Upon consideration of the Urban Capability and Capacity Assessment, Council resolved to discontinue progression of the Planning Proposal unless the Proponent could demonstrate the delivery of local and regional infrastructure at no cost to Council.
23. However, in 2019 Council resolved that the Planning Proposal should be submitted for Gateway assessment to determine State Government agency views on the merits of the proposal. Council considered that the Planning Proposal should proceed through Gateway given the contribution it would make to both regional and local infrastructure provision.
24. Specifically, Council supports the reservation of a 32-metre wide road corridor between Old Northern Road and Derriwong Road which would form the eastern end of a proposed bypass of Round Corner village centre. Council considers that the delivery of the reservation will provide impetus for the delivery of the bypass.
25. Council considers that State Government investment in regional roads in the Dural locality is already necessary to address existing issues. Therefore, Council finds that it may be appropriate for State Government to review its assumptions around the timing of infrastructure investment and the need to start securing a corridor for a future bypass, something which the Planning Proposal can offer.
26. Council also supports the local public benefits that the Planning proposal would deliver being local sewerage system upgrades which would enable the removal of septic systems from Dural Public School; road widening to enable safer drop-off and pick-up of students at Dural Public School; and the dedication of local open space.
27. The Department's Assessment summary of Council's Letter to the Department dated 1 July 2020 states:  
*"Council was satisfied that on balance, the planning proposal has adequate strategic merit to progress to Gateway determination, noting the benefits of strengthening rural villages and ensuring that these areas grow with rural communities. Council identifies that the interface with agricultural development is a key matter for consideration and provides that a solution may be to investigate larger lots sizes on the periphery of the subject sites and along the Old Northern Road ridgeline."*

### 1.7 The Department's Position

28. The Department found that the Planning Proposal lacked strategic or site-specific merit, as it would not give effect to the District Plan, particularly as it relates to infrastructure, housing supply, choice and affordability, and management of rural areas.
29. In particular, the Planning Proposal is considered inconsistent with the objectives of the District Plan which clearly delineates the urban and rural areas of the region and identifies where significant urban growth should occur. Those areas contemplated for urban development and housing include existing urban areas and release areas within the Northwest Growth Area.
30. The Department also noted that this strategic approach is supported by Future Transport 2056 which enables the State to prioritise and align investment in transport with growth areas and planned precincts. The focus of the District Plan therefore is to ensure existing and identified urban investigation areas for future housing are aligned with transport expenditure.

31. The Department also noted that the Planning Proposal was located in the Metropolitan Rural Area (MRA) which discourages significant urban development. The District Plan does contemplate that rural villages could have some limited growth to ensure they thrive. The Department confirmed in its meeting with the Commission that background growth for rural villages in the MRA would be approximately 1.5% per annum and not at the scale envisaged in the Planning Proposal.
32. The Department found that the Planning Proposal did not adequately demonstrate that the Site lacked the potential to accommodate agricultural uses under its current zoning, and that the extension of urban areas in the location would not further conflict with or undermine agricultural uses and rural activities in the area.
33. The Department also found that the Planning Proposal is inconsistent with the Section 9.1 Directions issued by the Minister for Planning and Public Spaces. These included Directions 1.2 Rural Zones, 2.3 Heritage Conservation, 3.1 Residential Zones, 4.4 Planning for Bushfire Protection and 6.3 Site-Specific Provisions. The Department did however acknowledge that these inconsistencies could have been conditioned if the Planning Proposal had demonstrated strategic merit.
34. The Department identified some local benefits, including the sewerage system upgrades in the immediate locality, road widening to enable safer drop-off and pick-up of students at Dural Public School, and provision of local open space. However, the Department concluded that the Planning Proposal does not make a sufficient contribution toward improving State infrastructure, as the site in isolation cannot adequately secure the scale of improvement required in the road network to accommodate proposed development.

## 2 THE COMMISSION'S CONSIDERATION

### 2.1 The Commission's Meetings

35. As part of its review, the Commission met with representatives of key stakeholders as set out in Table 2. All meetings and the site inspection notes were made available on the Commission's website.

*Table 2 – Commission's Meetings*

Meeting	Date of Meeting	Transcript/Notes Available on
Site Inspection	11 August 2020	13 August 2020
Proponent	12 August 2020	19 August 2020
Council	12 August 2020	19 August 2020
Department	13 August 2020	19 August 2020



## 2.2 Material considered by the Commission

36. In this review, the Commission has carefully considered the following material (**material**):
- the Original Planning Proposal and associated attachments, dated 19 May 2016;
  - Urban Capability and Capacity Assessment of the Dural Locality (**Urban Capability and Capacity Assessment**) prepared for Council, dated 15 March 2019;
  - The Central City District Plan, dated 2018;
  - Council report and resolution, dated 26 March 2019;
  - the Hills Shire Council Local Planning Panel minutes and recommendation, dated 19 June 2019;
  - Council's report and resolution, dated 9 July 2019;
  - the Planning Proposal and accompanying cover letter submitted to the Department dated 26 July 2019;
  - the Department's Gateway determination and accompanying Gateway Report, dated 19 April 2020;
  - Council's Draft Housing Strategy, dated 22 October 2019;
  - Council's Rural Strategy, dated October 2019;
  - Council's Local Strategic Planning Statement (**LSPS**), dated 6 March 2020;
  - Derriwong & Old Northern Road, Dural, Bushfire Strategic Study, dated 28 May 2020;
  - The Proponent's Gateway review request cover letter and application form, dated 29 May 2020;
  - Council's letter to the Department regarding the Gateway Determination review request, dated 29 May 2020;
  - Council's letter to the Department with regard to the preparation of the Department's Gateway Review Justification Assessment, dated 1 July 2020;
  - the Department's Assessment, accompanying the Department's referral dated 3 August 2020;
  - Additional material submitted by the Proponent dated 17 June 2020;
  - Additional material submitted by the Department at the request of the Commission, dated 24 August 2020.

## 2.3 Strategic Merit

### *Planning for a City Supported by Infrastructure*

37. The Commission accepts the Department's view that the Planning Proposal is inconsistent with key strategic objectives outlined in both the District Plan and the LSPS. Whilst acknowledging that the Planning Proposal preceded these strategic plans, both the District Plan and the LSPS clearly delineate those areas contemplated for additional urban development being within the Northwest Growth Area and existing urban centres. The Commission also accepts that this strategic approach enables the State to prioritise and align investment in transport with growth areas and planned precincts.
38. The Commission notes that there is a point of contention in relation to the infrastructure capacity requirements between the Department, Proponent and Council. The Department advises that there are no current plans or funding to increase the surrounding State road network, and consequently, the Planning Proposal is therefore inconsistent with Priority C1 of the Central City District Plan: Planning for a City Supported by Infrastructure.
39. The Commission acknowledges that the Urban Capability and Capacity Assessment prepared for Council found that the investigation area (Dural) including the Site has physical capacity for limited urban development but is constrained by the need for regional infrastructure provision. This is inconsistent with the Proponents claim that the Urban Capability and Capacity Assessment found that the site was **suitable** for urban development as envisaged by the Planning Proposal.

40. However, the Commission agrees that the Planning Proposal is likely to have minimal impact on the local and regional road network and is unlikely to trigger the need for improvements to the State road network. This is also supported by Council which views the reservation of a 32-metre wide road corridor between Old Northern Road and Derriwong Road for its identified bypass of Round Corner village centre as a key reason for pursuing the Planning Proposal.
41. Both the Proponent and Council support the local and regional public benefits associated with the Planning Proposal, benefits which the Department acknowledges. The Commission considers that these public benefits are significant and generally offset and improve the Planning Proposal's impact on local and regional service infrastructure.

#### *Managing Rural Areas*

42. The Commission acknowledges that the District Plan does not envisage that significant urban development occur in the MRA. The District Plan states in 'Priority C18: Better Managing Rural Areas' that:
 

*"Ongoing planning and management of rural towns and villages will need to respond to local demand for growth, the character of the town or village and the surrounding landscape and rural activities. Rural and bushland towns and villages will not play a role in meeting regional or district-scale demand for residential growth."*
43. In its meeting with the Commission, the Department confirmed that while rural villages like Dural require growth to enhance their vibrancy, this growth should be limited (1.5%) to ensure that the environmental, social and economic values of such rural villages are protected and enhanced.
44. Similarly, the Hills LSPS does not envisage urban development within the vicinity of Round Corner, or the Dural Neighbourhood Centre given the direction provided by the District Plan regarding the preservation of rural land within the MRA.
45. The Commission notes that this position is also reflected in Council's Draft Housing Strategy 2019 which states:
 

*"The projected number of new dwellings exceeds the targets established for the Shire in the Central City District Plan. We do not intend to accelerate or rezone additional land for residential uses above what is either currently zoned or strategically identified, unless exemplary development and community outcomes can be achieved."*
46. The Commission also notes that the HLEP lists the objectives of the RU6 Transition Zone as:
  - To protect and maintain land that provides a transition between rural and other land uses of varying intensities or environmental sensitivities.
  - To minimise conflict between land uses within this zone and land uses within adjoining zones.
  - To encourage innovative and sustainable tourist development, sustainable agriculture and the provision of farm produce directly to the public.
47. Based on the above, the Commission accepts that rural towns such as Dural are not intended to support regional or district-scale demand for residential growth, and that any future residential development should maintain or enhance the rural character of Dural and the Metropolitan Rural Area.

#### *Providing Housing, Choice and Affordability, with Access to Jobs and Services*

48. The Commission notes that the Planning Proposal is located between two existing villages which would provide some access to jobs and services. The Site, particularly the Northern Site, is generally contiguous with the Dural Neighbourhood Village and the development of the Site is likely to support the Centre with access to jobs and services.



49. It can be argued that the Planning Proposal is consistent with Priority 5 of the District Plan, *Providing housing supply, choice and affordability, with access to jobs and services*. The priority aims to provide greater housing supply and diversity and affordability through well designed, well located housing and a variety of housing stock to suit all stages of life. Despite not being identified in the Hills Draft Housing Strategy 2019 for residential uses, the Commission considers that there is merit in investigating its inclusion in a future Council housing strategy, particularly the Northern Site. This is discussed in more detail in paragraphs 50, 55, 70 & 71 below.

#### Conclusion

50. The Commission notes that one of the Department's core functions is to implement the District Plans and ensure that local strategic planning statements are generally consistent. Consequently, the Commission accepts that given the strategic context of the Planning Proposal, the Department's Gateway Determination that the Planning Proposal lacks strategic merit was the right decision. While the Commission accepts that at this stage the Planning Proposal should not proceed, it does consider that the merits of including the Northern Site in a future housing strategy warrants investigation. This is discussed further below.

## 2.4 Site Specific Merit

#### Social

51. A key reason for Council supporting the Planning Proposal relates to the dedication of the road corridor for the Round Corner bypass. The bypass would result in taking a significant amount of traffic away from the Round Corner village centre. This would likewise improve east-west movement within the region and result in positive social outcomes for Dural in general. The Commission also acknowledges the difficulty that councils have in getting traction with regional infrastructure such as the Round Corner bypass.
52. The sewerage system upgrade proposed in the immediate locality of the Site would also address a service capacity issue identified by the Urban Capability and Capacity Report. Dural Public School would benefit from this upgrade with the removal of septic systems beneath the playground.
53. Road widening to facilitate the potential bypass would also deliver an improved pick-up / drop-off area for Dural Public School, enabling parents to make safer turns in and out.
54. The Planning Proposal includes a section of the Northern Site to be dedicated as open space to Council. The Commission views this as important community infrastructure for the proposed development.
55. The Commission considers that the delivery of these public benefits would result in positive social and economic outcomes and further support the case that the Site, in particular the Northern Site, should be investigated for inclusion in a future Council housing strategy.

#### Section 9.1 Directions

56. At the Commission's meeting with the Department, the Department cited the Section 9.1 inconsistencies as a further reason for declining to progress the Planning Proposal. The Department also stated that the inconsistencies may not be insurmountable and that they could potentially be addressed if the Planning Proposal had not lacked strategic merit.
57. The Commission acknowledges the Proponent's view that while departing from Section 9.1 Directions, the Planning Proposal is justifiable in the circumstances of the case and in accordance with the objectives and actions contained within the District Plan.
58. The Commission agrees that the inconsistencies associated with the Planning Proposal may not be insurmountable and that if the Planning Proposal were to proceed, best practice and site-specific design would be able to mitigate the inconsistencies.

*Agricultural Viability*

59. The Commission acknowledges the Department's view that an insufficient amount of evidence was provided to show that the agricultural use of the land was ceased due to locational constraints or otherwise.
60. However, the Commission has formed the view, based on its Site Inspection and desktop analysis, that the Site's proximity to the village centres of Round Corner and Dural, other urban land uses, the Site's proximity to the Old Northern Road, and the size of allotments limit the agricultural potential of the land.
61. The Commission also notes the Proponent's view that more intensive agricultural uses aren't present in the immediate locality and that the Planning Proposal would not negatively impact sensitive land uses any more than the existing urban land uses south of the Site.
62. The Commission concludes, especially given the proliferation of multiple land-uses along the Old Northern Road, that the Planning Proposal is unlikely to result in significant land use conflicts and that potential impacts could be minimised through site-specific design as proposed.

*Views and Vistas*

63. The Commission acknowledges the landscape value of the Site with vistas looking towards the Blue Mountains. The Proponent has advised that due to the downward slope of the land towards the vista and through the strategic subdivision of larger lots and height control, the views and vistas can be maintained along Old Northern Road.
64. The Commission agrees that with site-specific design and planning, the potential impact of the Planning Proposal on the views and vistas of existing residents and from Old Northern Road can largely be mitigated.

*Local Road Network*

65. The Commission acknowledges the data provided to the Department prepared by AECOM and referenced in the Proponent's Gateway review request which identifies a declining trend in weekday PM peak hour traffic at an average rate of 5.1% per annum on Old Northern Road and 0.15% per annum on New Line Road.
66. The Commission also acknowledges the findings of the Urban Capability and Capacity Assessment, which identified the road network within the broader study area to be operating over capacity with the potential for further traffic generation as regional growth centres are developed. The Commission accepts however that this related to broad urban growth around Dural and not just the current Site.
67. The Commission accepts that the benefits and opportunities for enhancing network capacity provided by the Planning Proposal, particularly the Northern Site, specifically, the bypass reservation, the road widening, and improved drop off / pick up areas for Dural Public School warrant further investigation.

### 3 CONCLUSION: THE COMMISSION'S ADVICE

68. The Commission has undertaken a review of the Gateway determination as requested by the Department and provides the following advice on whether the Planning Proposal should proceed past Gateway.
69. Based on its consideration of the Material, the Commission finds that the Planning Proposal does not have strategic merit at this stage as:
- It is inconsistent with the locational housing objectives of State, regional and local strategic plans given it is not located in an area clearly delineated for additional urban development; and
  - It is inconsistent with the rural management objectives of State, regional and local strategic plans and environmental planning instruments which aim to maintain the rural character of the MRA and the rural areas of Dural by allowing limited residential growth around rural villages.
70. However, the Commission finds that the proposal has considerable site-specific merit, particularly the Northern Site as:
- It would secure a key contribution to Council's Round Corner bypass;
  - It would provide a number of key economic and social improvements by delivering local infrastructure improvements benefiting the school and the local community;
  - The capability of the subject land to be used for agricultural pursuits is compromised by the proliferation of uses in the area and along Old Northern Road;
  - The Northern Site is generally contiguous with the Dural Neighbourhood Village and if developed would provide additional housing, choice, and affordability and would likely support the Dural Neighbourhood Village Centre with access to jobs and services;
  - The view and vista impacts particularly on the Northern Site can be overcome with site-specific design and planning; and
  - The development of the Northern Site is unlikely to have a significant impact on the local and regional road network.
71. Accordingly, the Commission recommends that the Planning Proposal should not proceed past Gateway.
72. The Commission accepts that a Planning Proposal must demonstrate strategic merit before site specific merit warrants serious consideration. However, given the benefits associated with the Planning Proposal, the Commission recommends that the Site, in particular the Northern Site, be seriously considered for urban development and inclusion in the Central City District Plan when it is reviewed and updated in 2023, and that any subsequent update of Council's Local Strategic Planning Statement and Council's Housing Strategy reflect this position.



**Chris Wilson (Chair)**

Member of the Commission



**Soo-Tee Cheong**

Member of the Commission



Transport  
for NSW

18 August 2021

TfNSW Reference: SYD21/00845/02  
Council Ref: 23/2016/PLP

Michael Edgar  
General Manager  
The Hills Shire Council  
PO Box 7064  
Norwest 2153

Attention: Kayla Atkins

Dear Mr Edgar,

**PUBLIC AGENCY CONSULTATION – PLANNING PROPOSAL FOR 618 & 626 OLD  
NORTHERN ROAD AND 21 & 27 DERRIWONG ROAD, DURAL**

Transport for NSW (TfNSW) appreciates the opportunity to comment on the above Planning Proposal that was referred to us by Council dated 26 July 2021, in accordance with the Gateway determination.

TfNSW has reviewed the submitted documentation and notes that the planning proposal seeks to amend The Hills Local Environmental Plan 2019 as follows:

- Amend the Land Zone map to rezone the site from RU6 Transition to R2 Low Density Residential;
- Amend the Height of Building map to reduce the maximum height of building from 10m to 9m;
- Amend the minimum lot size map to reduce the minimum lot size from 2 ha to 700m<sup>2</sup> and;
- Introduce a local provision enabling a minimum lot size of 600m<sup>2</sup> with a yield capped at 101 lots.

Detailed comments on the proposal are provided at **Attachment A** for Council's consideration as required under Condition 2 of the Gateway Determination which requires TfNSW advice to the certainty of transport infrastructure requirements in relation to:

- The proposed lot layout and location / alignment of a regional bypass road connecting Annangrove Road to Old Northern Road including future access restrictions;
- The location and proximity of the bypass alignment to the public school and;
- The proposed alignment of the bypass corridor including the corridor width and commitment from the State Government for delivery of the bypass road.

As provided within past correspondence on this matter, TfNSW has no current plans, proposals or investigations for a regional bypass road that connects Annangrove Road to

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P 131782 | W [transport.nsw.gov.au](http://transport.nsw.gov.au) | ABN 18 804 239 602

Old Northern Road. In this regard, certainty to the funding and delivery of the regional bypass road to support the proposed planning proposal as required by Condition 2 of the Gateway Determination has not been met and therefore the proposal is unable to proceed to public exhibition.

Thank you for the opportunity to provide advice on the subject planning proposal. Should you have any questions or further enquiries in relation to this matter, Tricia Zapanta would be pleased to receive your email via [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au)

Yours sincerely



Andrew Popoff  
**A / Senior Manager Strategic Land Use**  
**Land Use, Network & Place Planning, Greater Sydney**



**Attachment A: Detailed Comments on Planning Proposal for 618 & 626 Old Northern Road and 21 & 27 Derriwong Road, Dural**  
(18 August 2021)

1. It is noted that Condition 2 of the Gateway Determination has outlined the need for TfNSW to provide certainty to transport infrastructure requirements to support the planning proposal. Specifically, *"it is recognised that the public benefit offering supporting this proposal that is, the delivery of a segment of the regional bypass road, is a key reason it is proceeding. It is crucial that State agencies provide certainty that the regional bypass road will be delivered and its alignment."* TfNSW advice for the proposed bypass road and the upgrade of other roads surrounding the site are as follows:

- There are no current proposals, investigations or long term plans for a regional bypass road connecting Annangrove Road to Old Northern Road. Therefore, there is no funding or commitment to the delivery of a regional bypass road including corridor design and alignment considerations to support the planning proposal.
- There are no proposals, investigations or long term plans for the future upgrade of Old Northern Road in the immediate vicinity of this planning proposal.
- TfNSW is investigating options to upgrade New Line Road between the intersections of Old Northern Road / Quarry Road and New Line Road / Boundary Road and also the intersection of New Line Road / Castle Hill Road to ease congestion, improve safety and cater for future growth in the area. Funding of \$10 million was provided by the Federal government to commence planning investigations in mid-2020. TfNSW has been actively engaging with both The Hills Shire and Hornsby Shire Councils as part of the development of the project. The Strategic Business Case for New Line Road is expected to be prepared by Q2 2022.
- TfNSW has no current proposals or long term plans to re-classify Annangrove Road from an unclassified Regional road to a classified State road. It is noted that the re-classification proposal is a Council driven initiative and would be subject to the NSW Road Reclassification Review, which is currently underway.

In light of the above, TfNSW is not in any position to provide any form of commitment to the proposed regional bypass road which includes the proposed corridor width and alignment, access restrictions and funding for future delivery. Therefore, the proposal does not satisfy Condition 2 of the Gateway Determination and should not proceed to public exhibition.



Transport  
for NSW

13 April 2022

TfNSW Reference: Syd21/00845  
Council ref: 23/2016/PLP

Mr Michael Edgar  
General Manager  
The Hills Shire Council  
PO Box 7064  
Norwest 2153

Attention: Nicholas Carlton

Dear Mr Edgar,

**FURTHER PUBLIC AGENCY CONSULTATION – PLANNING PROPOSAL 21-27  
DERRIWONG ROAD AND 618-626 OLD NORTHERN ROAD, DURAL**

I refer to The Hills Shire Council's letter of 10 March 2022 seeking advice from TfNSW following the meeting of 16 February 2022 and the proponent's latest alternative options for a bypass road corridor through their land at Derriwong Road and Old Northern Road, Dural.

TfNSW reiterates previous advice that Strategic Planning documents such as Future Transport Strategy 2056, NSW Infrastructure Strategy 2018-2038, Greater Sydney Region Plan, Central City District Plan and TfNSW Road Network Plans have not identified a strategic merit / need for a regional bypass road connecting Annangrove Road to Old Northern Road. In the absence of any plans and/or funding, TfNSW is not in a position to commit to a corridor alignment, future reservation and/or delivery of a road corridor (at significant cost).

It is noted that Council is seeking the views of TfNSW on the bypass road corridor options submitted by the Proponent and in particular the following questions:

- The appropriate corridor reservation width necessary for the road to function as a bypass, having regard to potential future traffic volumes;
- The proposed corridor alignment options, including commentary from SINSW with respect to the relationship between the proposed corridors and Dural Public School (it is noted that Transport for NSW PO Box K659 HAYMARKET NSW 2000 Our Ref: 23/2016/PLP "Option 2" submitted by the Proponent appears to be reliant on the corridor traversing land currently owned by Department of Education in order to provide connection through to Old Northern Road); and
- Proposed points of intersection to Old Northern Road, having regard to safety, engineering and potential design responses. While it is acknowledged that TfNSW may not consider that the appropriate warrants have been met at this time, Council

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would require confidence that in the future, there are no other barriers to TfNSW being in a position to grant the appropriate approvals for connection of the bypass corridor to Old Northern Road at one of the proposed locations.

Should Council wish to pursue this proposed new road corridor further as a local road bypass, TfNSW provides comment for each of the above questions at **TAB A** for Council's consideration.

Thank you for the opportunity to provide further advice on the subject planning proposal. Should you have any questions or further enquiries in relation to this matter, Tricia Zapanta would be pleased to receive your email via [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au).

Yours sincerely



Pete Mann  
**A/ Senior Manager, Strategic Land Use**  
**Land Use, Network & Place Planning, Greater Sydney**

**Attachment A:**

Detailed comments on Planning Proposal for 21-27 Derriwong Road and 618 – 626 Old Northern Road, Dural – future local bypass road alignment options (April 2021).

TfNSW's comments in relation to Council's request for advice on future local bypass road alignment options are as follows:

**1. Appropriate corridor reservation width necessary for the road to function as a bypass, having regard to potential future traffic volumes**

As Council would appreciate, should Council pursue the option to reserve a corridor for a future local bypass road, several studies would need to be undertaken to Council's satisfaction to identify and protect a future road corridor including width and alignment. These studies would include but not limited to the following:

- Traffic studies (TfNSW notes that several traffic studies have already been undertaken by Council but gaps in the traffic analysis were previously identified by TfNSW as outlined in email correspondence dated 4 February 2022).
- Strategic road design plans overlayed on survey plan to identify extent of land take, construction space, integration with adjoining properties (both sides) and design to accommodate land contours (i.e. batters, bridge structures, culverts etc).
- Strategic level scoping report to identify any potential environmental constraints.
- It is noted that whilst this planning proposal is for 101 residential lots only, there is significant potential scope for further housing growth in this part of Dural. In this regard, Council in determining corridor width, alignment and connection of a future local bypass road to Old Northern Road should also consider the cumulative traffic impacts of additional development uplift planned for this part of Dural.

**2. Proposed corridor alignment options**

TfNSW has identified the following potential issues with the two alignment options proposed by the proponent:

- Option 1 – road geometry constraints and potential access and safety issues due to close proximity to the Bivianos Restaurant driveway.
- Option 2 – potential constraints to the future road widening of Old Northern Road due to the proximity of the existing pedestrian bridge. In addition, there may be safety issues due to vehicular conflict/interactions with the egress at the DOPU zone (southbound).

Council should give consideration to investigating a third alignment option as per the sketch provided below, which may require internal local roads to be readjusted. This option provides improved sight distances on both approaches to the local bypass road intersection in addition to offering a better opportunity to widen Old Northern Road, if required.



Additional matters to consider include:

- A traffic and transport assessment and traffic volumes are requested to properly assess the feasibility of any option.
- Provision of traffic signals is subject to Traffic Control Signal (TCS) warrants being met in accordance with the Traffic Signal Design Guide.
- Should (TCS) be warranted and proposed as part of the local bypass road corridor at Old Northern Road, the proponent is to liaise with the Hornsby Shire Council.
- Turning paths of the design vehicles are required to determine the road geometry, lane widths and intersection layouts.
- Widening of Old Northern Road will also likely be necessary to accommodate for an optimal ultimate layout for traffic signals.

Page 4 of 5



- Left-in / left-out access arrangements for all other side roads off Old Northern Road should be considered if a set of traffic signals are provided. TfNSW preference is to reduce the number of connections to Old Northern Road.
- The proponent is requested to investigate the relocation of the existing Drop-off and Pick up (DOPU) zone adjacent to the southbound carriageway on Old Northern Road into the local side roads. There is a history of drivers undertaking unsafe and illegal vehicle movements along this section of Old Northern Road.

Given the advice above, TfNSW advises Council (consistent with email advice provided to DPIE dated 4 March 2022) that prior to public exhibition of the amended planning proposal (extended as determined by DPIE), a traffic assessment in relation to the site's traffic impacts to the surrounding transport network, the future local bypass road connection to Old Northern Road and its interface / connection with the school should be undertaken by the proponent. This should be supported by additional transport analysis of the cumulative traffic impacts of future development uplift identified in a precinct-scale Structure Plan (undertaken by Council) to determine if the future local bypass road connection to Old Northern Road is appropriate to accommodate the full extent of future development uplift planned for this area of Dural.

TfNSW is of the view that additional transport investigations are required prior to the amended planning proposal going on public exhibition as traffic studies submitted to date have focused on the regional bypass road. This investigation should address the transport issues outlined above noting that SINSW has expressed similar concerns in relation to a bypass road in close proximity to the school and has requested additional analysis to determine future road safety impacts.



Transport  
for NSW

28 July 2022

TfNSW Reference: Syd21/00845

Jonathan Busch  
SCT Consulting  
Level 10, 99 Mount Street  
North Sydney NSW 2060

Dear Mr Busch,

**DERRIWONG ROAD DURAL – PRE PLANNING PROPOSAL MEETING**

We appreciate the opportunity to provide comment on the above pre planning proposal as discussed at the meeting with Transport for NSW (TfNSW) on 30 June 2022.

TfNSW has reviewed the presentation and notes provided and notes the revised proposal intends to:

- Be lodged with Council as a new planning proposal for approx 100-105 dwellings;
- Identify land to be dedicated for a future local road bypass and;
- Proponent will deliver a corridor design and reservation for a future local road bypass including an intersection with Old Northern Road for the section within the site and ownership only.

Detailed comments on the proposal are provided at **Attachment A** for your consideration prior to submitting the proposal for Council's consideration. Please note that the comments provided are of a preliminary nature. They are not to be interpreted as binding upon TfNSW and may change following review of the formal planning proposal referred from the appropriate planning authority.

It is strongly recommended the proponent seeks the appropriate preliminary approvals on the proposal from Council and Department of Planning, Industry and Environment prior to undertaking further detailed studies.

Thank you for the opportunity to provide advice on the subject planning proposal. Should you have any questions or further enquiries in relation to this matter, Tricia Zapanta would be pleased to receive your email via [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Pete Mann'.

Pete Mann  
**A/ Senior Manager, Strategic Land Use**  
**Land Use, Network & Place Planning, Greater Sydney**

**Transport for NSW**  
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**Attachment A: Detailed Comments on the Pre-Planning Proposal for Derriwong Road Dural (July 2022)**

1. TfNSW notes the proponent's intention to submit a new planning proposal following confirmation from DPIE of their non-support for the previous planning proposal for Derriwong Road.
2. TfNSW understands that the development concept for approx. 100 lots remains the same with the primary change to this revised planning proposal being the requirement by the proponent to identify land components to enable dedication of land for a future local road bypass. This work will be undertaken by the proponent as part of a site-specific traffic impact assessment and will include a corridor design and reservation for the southern section of the future local road bypass only, from Derriwong Road (at the site's northern boundary) to Old Northern Road.
3. TfNSW has reviewed the presentation and offers the following preliminary comments to the pre-planning proposal -
  - TfNSW has concerns that the future corridor design and reservation is being identified only within the subject site and as a separate exercise to the remaining corridor. Given Council has undertaken various traffic assessments in support of a future bypass, work to identify a corridor design and reservation should be undertaken and completed by Council in its entirety, ensuring that traffic assessment gaps which were previously identified by TfNSW are addressed. Should Council decide that the southern section of the proposed bypass (subject of this pre planning proposal) can be determined by the proponent, TfNSW will need a level of assurance that the proposed corridor design and reservation for the southern section has been appropriately assessed taking into account future land use and traffic growth along the entire corridor.
  - In light of the above concerns, TfNSW reiterates previous advice outlining the need for a regional land use and transport assessment that assesses future development uplift and associated traffic and transport improvements required to support housing growth as a prerequisite to the consideration of future planning proposals in this locality. TfNSW is of the view this work should precede any rezoning of land for housing and encourages Council, not the proponent, to undertake this work prior to this proposal being considered. This will ensure that the ultimate corridor design/reservation and associated land components for the local road bypass (and other potential transport improvements) have been identified in the event the subject site creates a precedence for other rezonings in the surrounding area. A particular concern for TfNSW is the ultimate form of the bypass' intersection with Old Northern Road which will depend on the scale of future development uplift at this location.
  - Consultation with SINSW should be undertaken prior to the lodgement of a planning proposal with Council to clearly identify their concerns with a future bypass adjacent to their site and to inform a future corridor design that addresses their road safety and traffic efficiency concerns.

**From:** [Steven Issa](#)  
**To:** [Mike Williams](#)  
**Cc:** ["Sinclair Hill"](#)  
**Subject:** RE: Dural  
**Date:** Sunday, 13 November 2022 12:53:19 PM

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Hi Mike,

Thank you for your patience.

The Hills Shire Council has advised that the Planning Proposal was re-lodged with Council on 30 September.

The proposed rezoning is not identified in Council's Local Housing Strategy, and the assessment of transport network changes required to support the proposal isn't in any of Transport's future planning or programs.

In lieu of developer contributions for the proposal, it is understood that Council is seeking the dedication of land required for a bypass which traverses through the subject site. However, TfNSW is of the view the strategic justification for the bypass road has not been fully or appropriately assessed. As TfNSW will not agree to the funding and delivery of the bypass road, Council is still determining whether they support Council funding and delivering the bypass road themselves.

Council has requested advice from Transport on an appropriate corridor reservation width for the bypass. Transport has provided advice to Council in this regard, including that a regional traffic assessment that considers the cumulative traffic impacts of additional development uplift planned for this part of Dural would assist Council to assess the appropriate corridor width. The methodology Council undertake to determine an appropriate corridor width for the bypass is ultimately a matter for Council.

If Council were to proceed with the Planning Proposal, they would need to undertake regional traffic assessment to ensure an appropriate design of the bypass road's intersection to Old Northern Road prior to TfNSW's concurrence to the connection – noting this may require some localised widening of the proposed bypass corridor and Old Northern Road. Transport encourages, but does not require, this assessment to be undertaken prior to Gateway determination. It should however, be undertaken prior to the finalisation of the plan.

Please note that comments above are provided as general advice, are not to be interpreted as binding upon TfNSW and may change following review of the formal planning proposal referred from the appropriate planning authority.

Please let me know if you have any questions.

Kind Regards,

Steve.



22 October 2021

The General Manager  
The Hills Council  
3 Columbia Court  
Norwest NSW 2153

Attn: Kayla Atkins - Strategic Planning Coordinator

Dear Kayla,

**SINSW Submission to Planning Proposal 23/2016/PLP - Derriwong Road and Old Northern Road, Dural**

School Infrastructure NSW (SINSW), as part of the Department of Education (DoE), welcomes Council's invitation to provide comments on Planning Proposal (reference 23/2016/PLP) which aims to amend *The Hills Local Environmental Plan 2019* (THLEP 2019) to rezone the subject land to low density residential land uses including setting aside land for new roads and utility infrastructure upgrades.

SINSW understands that a Gateway Determination was issued in July 2021 permitting the progression of the PP subject to a range of further investigations and stakeholder engagement, including with SINSW and Transport for NSW (TfNSW). In particular the GD seeks the following:

*Prior to public exhibition, consultation is required with Transport for NSW and Schools Infrastructure NSW. Both agencies must provide certainty regarding the infrastructure requirements as outlined in the Assessment Report (Section 6.2). If this is not provided, the proposal cannot proceed to exhibition.*

Subject to the endorsement of the PP progressing to public exhibition by TfNSW, SINSW requests further consultation with TfNSW and Council. The following matters are provided for your consideration as part of your assessment in relation to school capacity, transport impacts and opportunities, local character and landscape, property matters and utility servicing:

1. Primary and Secondary School Capacity

The proposed amendments to THLEP 2012 will result in a total estimated uplift of approximately 80-100 additional dwellings. Based on SINSW student population projections, the proposal would result in up to 23 additional government primary school students and 11 government secondary school students (generating the need for 1 and 0.5 Teaching Spaces respectively in The Hills LGA).





The Department of Education's existing primary and secondary school facilities are anticipated to have capacity to accommodate the demand resulting from the proposal.

## 2. Transport Impacts and Sustainable Transport Options

Public school students are the most vulnerable road user and ensuring their safety when travelling to and from the school is a key outcome for SINSW.

The following feedback is provided in relation to the proposed layout provided by Council:

- New roads and road safety:
  - Given that the public school already faces one major road, adding an additional significant road on the school boundaries is inappropriate, with impacts on the road safety of students traveling to school and on the amenity of the school itself.
  - Whilst an additional road frontage could potentially help school operations, road frontages on all sides of the school are unnecessary and detract from the schools integration with the surrounding neighbourhood. An active transport frontage (footpath or Shared User Path) would be appropriate for one side or propose residential lots back on to the school on two sides, with footpath connections through to nearby streets on sides without road frontages.
  - The cul-de-sac at the northern boundary of the school may encourage unsafe vehicle movements and should be reconsidered.
  - SINSW remains concerned about the dedication of land for a road bypass on the southern boundary of the school and requests further engagement on this matter with Council and TfNSW. If the bypass is necessary, an alternative that is not adjacent to the school must be found.
- Parking Provision:
  - Angle parking should not be used near schools as it requires vehicles to make a reversing motion which increases risk for school children, who are particularly difficult to observe for reversing drivers.
  - It is unclear what the purpose of the 91 carpark spaces is near the school. The school could potentially use a kiss and drop bay on one of the road frontages, but otherwise road design should not include excessive parking.
  - The parking provisions should comply with the NSW Education Facilities Standards and Guidelines which are widely available: <https://efsg.det.nsw.edu.au/>
- Active Transport:
  - SINSW seeks to work with Council to deliver opportunities for greater active and public transport opportunities to and from the school site. In particular around the design of streets around the school site. There may be other opportunities instead of new roads on all of the school boundaries that should be explored.



3. Local Character and Landscape

- The students and school community value the rural character of the school and surrounds. The proposed density should consider the existing rural character of the area. Higher minimum lot size is one way to achieve this. Other design options should also be considered.
- The development layout should encourage pedestrian accessibility with a fine grain footpath network. The general subdivision layout is not considered to support active transport options to and from the school.

4. Property Matters

- SINSW requests detailed consultation with Council on any matters related to land dedication to ensure that appropriate Due Diligence has been conducted. At this time SINSW has not agreed to any dedication of lands identified in the PP.

5. Utility Infrastructure

- SINSW requests Council consider the opportunity of undergrounding the overhead electricity service lines which currently traverse the northern part of the school site.

Should you require further information about this submission, please contact Lincoln Lawler at [Lincoln.Lawler@det.nsw.edu.au](mailto:Lincoln.Lawler@det.nsw.edu.au) or Alejandra Rojas at [Alejandra.Rojas1@det.nsw.edu.au](mailto:Alejandra.Rojas1@det.nsw.edu.au).

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Paul Towers', written over a light blue horizontal line.

Paul Towers  
**Executive Director, Infrastructure Planning**

Cc:

Tricia Zapanta - Transport for NSW - [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au)

Elizabeth Kimbell – DPIE - [Elizabeth.Kimbell@planning.nsw.gov.au](mailto:Elizabeth.Kimbell@planning.nsw.gov.au)



Education

11 April 2022

Nicholas Carlton  
Manager - Forward Planning  
The Hills Council, 3 Columbia Court  
Norwest NSW 2153

Dear Mr. Carlton,

**RE: SINSW Submission to PP 23/2016/PLP - Derriwong Road and Old Northern Road, Dural**

School Infrastructure New South Wales (SINSW), as part of the Department of Education (DoE), welcomes the opportunity to provide additional comments on Planning Proposal (reference 23/2016/PLP).

The below advice responds to a request from Council regarding alternative options for a bypass road corridor submitted by the proponent. SINSW understands that Council require advice on the following matters:

- The appropriate corridor reservation width necessary for the road to function as a bypass, having regard to potential future traffic volumes.
- The proposed corridor alignment options, including commentary from SINSW with respect to the relationship between the proposed corridors and Dural Public School.
- Proposed points of intersection to Old Northern Road, having regard to safety, engineering and potential design responses.

The above matters are discussed in detail within Attachment A to this letter. This advice aims to assist Council in embedding planning for critical social infrastructure into long term plans to secure their delivery and create great places that serve community needs. Should you require further information about this submission, please contact Alejandra Rojas, Manager of SINSW Strategic Planning at [Alejandra.Rojas1@det.nsw.edu.au](mailto:Alejandra.Rojas1@det.nsw.edu.au).

Yours Sincerely,

A handwritten signature in blue ink, appearing to read 'Rebecca'.

**Rebecca Willott****R/Executive Director, Infrastructure Planning**

School Infrastructure NSW

Level 8, 259 George Street Name Suburb NSW 2000]

GPO Box 33, Sydney, NSW 2001

**Attachment A - SINSW Submission to Planning Proposal 23/2016/PLP****Relationship of the Proposed Corridor to Dural Public School**

The proponent has presented two alignment options for SINSW's consideration for the proposed east/west connector road between Derriwong and old Northern Road. This connector road would be classified as a local road (rather than a bypass corridor) due to a lack of support and funding from Transport for NSW (TfNSW). SINSW notes that the proposed road width enables future conversion of this local road to a regional road, if required.

Option 1 proposes a corridor which travels north through Lot 9/ DP237576, in close proximity to the western boundary of the school. The corridor then turns east to connect to Old Northern Road along the alignment of the existing private road to the north. This option includes a local road and partial street (with round-about) which frame the northern and western boundaries of the school site. Option 2 maintains the local road alignment, but relocates the round-about and positions the corridor along the southern boundary of the school. This option relies on the acquisition of a small portion of the school site to facilitate the corridors connection to Old Northern Road.

**Access and Movement Framework**

SINSW recognises that previous feedback (regarding the location of the significant road corridor) has been taken into account by the proponent in the design of the updated concept. SINSW has reviewed both proposed alignments and is generally supportive of Option 1, subject to amendments including relocation of the local road to the north of the school site. SINSW requests that this road be relocated to the northern boundary of the school site in order to accommodate kiss-and-drop and/or bus bay facilities.

Option 2 is not feasible at this time, as any proposal for new use of school lands must go through a lengthy Treasury process which would impact on the Gateway timeframes.

In the interests of reaching a mutually beneficial outcome for the site, SINSW request a workshop between the proponent, Council and SINSW's Property and Sustainable Transport teams to discuss Option 1 in further detail.

**School Transport Access and Old Northern Road**

SINSW generally requests that transport planning for the proposal be guided by the NSW Governments Movement and Place Framework (MAPF) and its Built Environment Performance Indicators. These indicators are based on qualities that contribute to a well-designed built environment and should be used by proponents in the formulation of transport concepts.

The MAPF's core 'Amenity and Use' and 'Primary Schools' indicators are of particular importance to SINSW, as these encourage urban designers to consider the impact on adjacent places/uses, as well as emphasising movement that supports place. The 'Primary Schools' indicator provides two specific metrics to judge the effect of infrastructure on the accessibility of public schools in an area; these being walkability and public transport access. These metrics require designers to assess whether proposed infrastructure facilitates access to primary school facilities (or public transport connections to schools) or whether it exacerbates gaps in the network.

The primary school-focused MAPF amenity indicator can be accessed via the link below:

<https://www.movementandplace.nsw.gov.au/place-and-network/built-environment-indicators/primary-schools>

SINSW also directs the proponent to SINSW's 'School Site Selection and Development Guidelines' (refer Attachment B). The guidelines note that school sites should be located within structured movement networks that emphasise safe pedestrian pathways from residential areas to the school site.

Based on the above, SINSW reiterates that road frontages on all sides of the school are unnecessary and may detract from the schools integration with the surrounding neighbourhood. Rather, the development layout should encourage pedestrian accessibility with a fine grain footpath network. This could be achieved via an active transport frontage (footpath or Shared User Path) for one side of the school site. Alternatively, the proposed residential lots could back on to the school on two sides, with footpath connections through to nearby streets on sides without road frontages.





Education

7 November 2022

Clare Brown  
Director  
Urbis Pty Ltd  
ANGEL PLACE, LEVEL 8, 123 PITT STREET  
Sydney, NSW 2000, Australia

Dear Ms. Brown,

**RE: SINSW Advice - Pre-lodgement Engagement for Derriwong Road and Old Northern Road, Dural**

School Infrastructure New South Wales (SINSW), as part of the Department of Education (DoE), welcomes the opportunity to provide pre-lodgement advice on the amended concept for the proposed development at Derriwong Road and Old Northern Road, Dural. SINSW has previously provided detailed advice on earlier iterations of this draft Planning Proposal and understand that the Proponent has amended the scheme to respond to comments from both The Hills Shire Council (Council) and state agencies including SINSW / DoE. Following receipt of early advice from SINSW and these other parties, the Proponent seeks to re-lodge the Planning Proposal with Council.

SINSW has reviewed the updated concept and note that the scope has been amended to include a:

- Dwelling yield of approximately 120 residential dwellings
- Revised road layout, consisting of a proposed collector road with bypass corridor (including two roundabouts) and local roads (internal to the site).
- A proposed 160m 'kiss and drop' area within the Collector Road, along the northern boundary of the existing Dural Public School. This area will accommodate up to 25 parallel parking spaces
- A 4,000sqm local park to the rear of the existing school, including a pedestrian through-site-link which will connect to the school and the residential lots to the south-west and north of the site.

SINSW has provided detailed comments within Attachment A to this letter. Should you require further information about this submission, please contact the SINSW Strategic Planning Team at **Strategicplanning@det.nsw.edu.au**.

Yours Sincerely,

**Paul Towers**  
**Executive Director, Infrastructure Planning**

School Infrastructure NSW  
Level 8, 259 George Street Name Suburb NSW 2000]

GPO Box 33, Sydney, NSW 2001

**Attachment - Pre-lodgement Engagement for Derriwong Road and Old Northern Road, Dural****Demand for Educational Facilities**

Following a meeting with the Proponents representative (Urbis Pty Ltd) dated 24th August 2022, SINSW understand that the project now proposes a yield of 120 residential dwellings.

The draft Proposal falls within the intake area for both Dural Public School and Galston High School. Based on the above and a review of the surrounding teaching space demand, it is likely that the number of students projected to be generated by the proposal can be accommodated by the surrounding schools.

**Access and Movement Framework**

SINSW has reviewed the concept planning package provided by the Proponent and recognise that previous feedback (regarding the road layout and associated transport impacts to the school) has been taken into account by the Proponent in the design of the updated concept. SINSW is generally supportive of the proposed pedestrian linkages as well as the indicative location for the kiss-and-drop zone, as this will redistribute pick-up and drop-off demand away from the schools frontage busy on Old Northern Road.

Notwithstanding the above, fine-grain review of the proposed kiss-and-drop zone will be required to ensure that this area is adequate for the school's use. Further, given that this road will be a high pedestrian activity area in future, SINSW request that transport planning for the proposal include traffic calming measures, such as lower vehicle speeds to 30km/h ('School Streets') along this road.

Subject to the satisfaction of the above requirements and further detailed design to be undertaken by the Proponent as part of the planning process, SINSW provide in-principle support to the above elements of the concept masterplan package prepared by Urbis Pty Ltd.

*The Mayor advised in accordance with the Code of Meeting Practice that this meeting is being recorded.*

**ITEM 1 CONFIRMATION OF MINUTES**

A MOTION WAS MOVED BY COUNCILLOR BLUE AND SECONDED BY COUNCILLOR HODGES THAT the Minutes of the Ordinary Meeting of Council held on 7 February 2023 be confirmed.

THE MOTION WAS PUT AND CARRIED.

**39 RESOLUTION**

The Minutes of the Ordinary Meeting of Council held on 7 February 2023 be confirmed.

**APOLOGIES AND LEAVE OF ABSENCE**

A MOTION WAS MOVED BY COUNCILLOR HODGES AND SECONDED BY COUNCILLOR BRAZIER THAT the apologies from Councillors Hay OAM and Cox be accepted and leave of absence granted.

THE MOTION WAS PUT AND CARRIED.

**40 RESOLUTION**

The apologies from Councillors Hay OAM and Cox be accepted and leave of absence granted.

*(Councillor Ellis was absent from the Meeting).*

**MATTER OF URGENCY**

Councillor Dr Kasby sought permission to move an Urgency Motion to consider a matter concerning an inquiry into allegations of impropriety against agents of the Hills Shire Council and property developers in the region.

The Mayor did not grant urgency as the matter was not viewed as urgent.

**ITEM 2 PLANNING PROPOSAL – DERRIWONG ROAD AND OLD NORTHERN ROAD, DURAL (2/2023/PLP)**

**Proceedings in Brief**

*Mike Williams (In favour) of Legacy Property addressed Council regarding this matter.*

A MOTION WAS MOVED BY COUNCILLOR TRACEY AND SECONDED BY COUNCILLOR HODGES THAT The planning proposal not proceed to Gateway Determination in accordance with Option 2 of this Report.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

**41 RESOLUTION**

The planning proposal not proceed to Gateway Determination in accordance with Option 2 of this Report.

*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 M Hodges  
Clr F De Masi  
Clr M Blue  
Clr J Brazier  
Clr R Boneham  
Clr R Jethi  
Clr Dr M Kasby  
Clr Dr B Burton  
Clr R Tracey

**VOTING AGAINST THE MOTION**

None

**MEETING ABSENT**

Clr A Hay OAM  
Clr J Cox  
Clr V Ellis

**CALL OF THE AGENDA**

A MOTION WAS MOVED BY COUNCILLOR BLUE AND SECONDED BY COUNCILLOR HODGES items 3, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 17, 18 and 19 be moved by exception and the recommendations contained therein be adopted.

THE MOTION WAS PUT AND CARRIED.

**42 RESOLUTION**

Items 3, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 17, 18 and 19 be moved by exception and the recommendations contained therein be adopted.

**ITEM 3                      LTC RECOMMENDATIONS JANUARY 2023 - SOLENT CIRCUIT,  
NORWEST – PROPOSED MARKED PEDESTRIAN CROSSING**

**43 RESOLUTION**

Council approve the installation of a marked pedestrian crossing on Solent Circuit, Norwest in accordance with Figure 3 in the report.