
MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 25 June 2024

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 Blue
Clr M Hodges MP
Clr V Ellis
Clr J Brazier
Clr R Boneham
Clr J Cox
Clr Dr M Kasby
Clr Dr B Burton
Clr R Tracey
Clr A Hay OAM

VOTING AGAINST THE MOTION

None

MEETING ABSENT

Clr F De Masi

ABSENT FROM THE ROOM

Clr R Jethi

**ITEM 4 PLANNING PROPOSAL – MELIA COURT AND GLEN ROAD,
CASTLE HILL (5/2024/PLP)**

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

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

265. RESOLUTION

The planning proposal for land at Melia Court and Glen Road, Castle Hill *not* proceed to Gateway Determination.

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 Blue
Clr M Hodges MP
Clr V Ellis
Clr J Brazier
Clr R Boneham
Clr J Cox
Clr R Jethi
Clr Dr M Kasby
Clr Dr B Burton
Clr R Tracey
Clr A Hay OAM

VOTING AGAINST THE MOTION

None

MEETING ABSENT

Clr F De Masi

CALL OF THE AGENDA

A MOTION WAS MOVED BY COUNCILLOR COX AND SECONDED BY COUNCILLOR BONEHAM THAT items 5, 6, 7, 9, 10, 11 and 12 be moved by exception and the recommendations contained therein be adopted.

THE MOTION WAS PUT AND CARRIED.

266. RESOLUTION

Items 5, 6, 7, 9, 10, 11 and 12 be moved by exception and the recommendations contained therein be adopted.

ITEM 5 **LTC RECOMMENDATIONS MAY 2024 - GUM NUT CLOSE, NORTH KELLYVILLE – PROPOSED ‘NO STOPPING 8.00-9.30AM & 2.30-4.00PM SCHOOLDAYS’ RESTRICTIONS**

267. RESOLUTION

Council approve the installation of ‘No Stopping 8.00-9.30am and 2.30-4.00pm school days’ restrictions on the northern side of Gum Nut Close, North Kellyville between Messenger Street and the boundary of 7 and 9 Gum Nut Close.

ITEM 6 **LTC RECOMMENDATIONS MAY 2024 - HILLVIEW ROAD NORTH KELLYVILLE – PROPOSED PARKING RESTRICTIONS**

268. RESOLUTION

The Committee endorse the installation of ‘No Parking’ restrictions on Hillview Road, North Kellyville, as detailed in Attachment 1 to the report.

ITEM 7 **LTC RECOMMENDATIONS MAY 2024 - SANCTUARY DRIVE, ROUSE HILL – PROPOSED 2023/24 AUSTRALIAN GOVERNMENT BLACKSPOT INTERSECTION UPGRADES AT CADDIES BOULEVARD & GRANDIFLORA STREET**

269. RESOLUTION

Council approves the 2023/24 Australian Blackspot funded upgrades to the two intersections on Sanctuary Drive at Caddies Boulevard and Grandiflora Street, Rouse Hill according to the plans at Attachments 1 and 2 in this report.

ITEM 4	PLANNING PROPOSAL – MELIA COURT AND GLEN ROAD, CASTLE HILL (5/2024/PLP)
THEME:	SHAPING GROWTH
MEETING DATE:	25 JUNE 2024
	COUNCIL MEETING
GROUP:	SHIRE STRATEGY
	GRADUATE TOWN PLANNER
	ERIKA JUAN
AUTHOR:	STRATEGIC PLANNING COORDINATOR
	JESSIE WISEMAN
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING
	NICHOLAS CARLTON

PURPOSE

This report relates to the planning proposal for land at Melia Court and Glen Road, Castle Hill (5/2024/PLP). The matter is being reported to Council for a decision on whether or not the planning proposal should be submitted to the Department of Planning, Housing and Infrastructure (the Department) for a Gateway Determination.



RECOMMENDATION

The planning proposal for land at Melia Court and Glen Road, Castle Hill *not* proceed to Gateway Determination.

IMPACTS

Financial

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

Strategic Plan - Hills Future

The planning proposal, if supported, would contribute to the Shire's housing needs. The proposal seeks to increase housing density in an area that has not been identified for growth, is not in walking distance to the Metro Stations and that is heavily environmentally constrained.

The planning proposal does not demonstrate strategic or site specific merit to warrant amendments to the current controls.

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 to prepare and submit a planning proposal to the Department for Gateway Determination in accordance with Sections 3.33 and 3.34 of the Act.

PROPONENT

EINV Group Pty Ltd

OWNERS

Castle Hill Glen Pty Ltd

POLITICAL DONATIONS

None disclosed by Proponent.

EXECUTIVE SUMMARY

This report recommends that the planning proposal applicable to land at Melia Court and Glen Road, Castle Hill *not* proceed to Gateway Determination. The Planning Proposal seeks to facilitate a high density residential development on the site comprising 185 dwellings within six residential flat buildings (3-6 storeys in height with 147 apartments) and 38 terraces (2-3 storeys in height). The proposal also identifies a proposed publicly accessible park, nature corridors, a nature reserve and a central loop road with a single entrance to the site via Glen Road.

The planning proposal does not satisfy either the strategic or site specific merit test and it is recommended that it should *not* proceed to Gateway Determination, on the basis that:

- a. The planning proposal is inconsistent with the objectives and priorities of the Greater Sydney Region Plan, Central City District Plan, Section 9.1 Ministerial Directions, North West Rail Link Corridor Strategy, The Hills Corridor Strategy, Cherrybrook Station Precinct Place Strategy, Council’s Local Strategic Planning Statement and Castle Hill Precinct Plan (recently adopted by Council on 11 June 2024), as these documents relate to providing for housing supply in the right locations, creating great places, protecting areas of environmental significance and balancing growth with suitable levels of infrastructure.

- b. The site is not identified as being suitable for development uplift within any of the relevant strategies or plans which identify locations for medium to higher density development to occur in closer proximity to Cherrybrook or Castle Hill Metro Stations (within the walkable catchment from the station). The land was considered as part of the broader investigation areas around these stations however was not deemed as an appropriate area for any uplift above what can be achieved under the current controls.
- c. The proposed outcome is inappropriate having regard to the environmental constraints of the site including steep topography, landslide risk, hydrological constraints and endangered ecological communities. The location, design, scale and form of the proposed development does not adequately consider or respond to the scenic or biodiversity values of the site or the current and future character of development on the surrounding land. A lower scale and density of development with a smaller footprint, reduced vegetation clearing and reduced cut and fill would more appropriately respond to the site constraints, similar to the outcomes within the surrounding area.
- d. The traffic and parking impacts generated by the proposed uplift have not been suitably considered or addressed.
- e. The proposed planning mechanisms sought to be implemented by the planning proposal would enable a broader range of potential outcomes in comparison to the intended development outcome submitted by the Proponent. The proposal would not provide certainty that the outcomes illustrated in the concept plans will be delivered.
- f. The proposal does not adequately address the demand for infrastructure likely to be generated by the proposal or provide any tangible public benefits.

1. HISTORY

08/08/2006 A subdivision application (DA No. 1089/2006/ZA) was approved for the subject site. The subdivision consent, as amended, facilitates 1 community lot, 22 residential lots (742m² to 1,193m²) and a new cul-de-sac (extract below). Physical works were commenced on the subject site prior to 8 August 2011 and therefore the consent remains active for the developer to progress.



Figure 2
Extract of Approved Subdivision Plan

The existing approval is considered to be a more appropriate outcome for the site, particularly in terms of balancing environmental constraints, blending in with the surrounding local character and infrastructure capacity within the locality.

- 2013** North West Rail Link Corridor Strategy was released by the State Government in 2013 to guide development along the North West Rail Link Corridor over a 20-25 year period. It includes a structure plan for each of the Station Precincts, including Castle Hill and Cherrybrook. The structure plans identify areas with potential for growth and articulates the desired development outcomes for these key growth areas. The subject site was not identified for growth as part of this Strategy, noting that it generally identifies uplift in well-located areas within closer proximity and walking distance of the Metro Stations.
- 11/09/2015** Land transferred/sold to current owner.
- 25/01/2018** Modification of Development Consent 1089/2006/ZA/C was approved, subject to conditions. The modification primarily related to amending the landslide risk stabilisation methodology.
- 07/10/2021** Pre-lodgement meeting held with Council officers for a proposal to rezone the land to R3 Medium Density Residential to facilitate approximately 64 townhouses on the site.
- 03/11/2021** Council Officer Pre-lodgement Feedback Letter provided to Proponent (Attachment 3). Concerns were raised regarding inconsistency with surrounding development, impact on scenic and district views, site not within walking catchment of a centre, environmental constraints, access and traffic impacts, questionable benefit of proposed public park and built form outcomes. It was advised that, based on the information provided, it would be difficult for Council officers to conclude that a planning proposal to facilitate medium density development demonstrates strategic and site specific merit.
- 01/06/2023** Pre-lodgement meeting held with Council officers for a Scoping Proposal for a potential planning proposal application that would seek to facilitate a residential development comprising residential flat buildings and terrace style units, facilitating 191 dwellings on the site.
- 14/06/2023** Council Officer Pre-lodgement Feedback Letter provided to Proponent (Attachment 4). The feedback identified a number of inconsistencies with the strategic framework, site specific concerns and included preliminary views of public authorities. The letter recommended that the Proponent strongly reconsider the lodgement of a planning proposal for this site, having regard to the substantial strategic and site-specific merit issues detailed.
- 04/03/2024** Planning proposal lodged with Council.
- 07/05/2024** Proponent presented the planning proposal at a Councillor Briefing session.
- 15/05/2024** Planning proposal reported to the Local Planning Panel for advice.
- 20/05/2024** Council officers wrote to the Proponent advising of the Panel advice and inviting the Proponent to withdraw the planning proposal. The Proponent subsequently declined the opportunity to withdraw the application.

2. THE SITE

The subject site is referred to by the Proponent as “Rogans Hill Park” 1020 Melia Court, Castle Hill and comprises three separate torrens title lots under single ownership (Lot 1020 in DP 876671, Lot 1021 in DP 876671 and Lot 2 in DP 576773). The subject site is triangular in shape

and has a cumulative site area of approximately 45,024m². It has frontages to both Glen Road and Melia Court, with vehicular access currently only available from Glen Road.

The site is currently vacant and includes grassed areas and vegetation, in particular Blue Gum High Forest which is listed as a Critically Endangered Ecological Community. The site features a steep topography, sloping from north to south with a change in elevation of approximately 60m across the site. The site is zoned C4 Environmental Living and is identified on the Landslide Risk Map under The Hills Local Environmental Plan (LEP) 2019.

The site is surrounded by Rogans Hill Reservoir and environmental land to the west, low density residential areas to the north and environmental living areas to the east. It is located approximately 1.5km and 1.7km walking distance from Cherrybrook and Castle Hill Metro Stations, respectively. The following figure shows an aerial image of the site and surrounds.



Figure 3

Aerial view of subject site (outlined in yellow) and surrounds

3. DESCRIPTION OF PLANNING PROPOSAL

a) Planning Proposal

The planning proposal seeks to facilitate a mix of medium and high-density residential development on the site comprising:

- Six residential buildings, with heights ranging from three to six storeys, containing 147 apartments;
- 38 terraces (ranging between two and three storeys);
- A publicly accessible park, nature corridors and nature reserve; and
- A central loop road.

An image of the proposal submitted by the Proponent is shown in the following figure.



Figure 4
Aerial view of the site

The proposed master plan submitted by the Proponent is shown in the following figure.



Figure 5
Proposed Master Plan

To achieve this outcome, the planning proposal seeks to amend The Hills LEP to:

- Rezone the subject site from C4 Environmental Living to R3 Medium Density Residential, R4 High Density Residential, C2 Environmental Conservation and RE1 Public Recreation;
- Increase the height of building controls from a maximum of 9m to a maximum of 10m to 22m across the site.

A comparison between the outcomes envisaged under the strategic planning framework, The Hills LEP and the planning proposal is provided in the following table.

Planning Control	LEP 2019	Strategic Policies ¹	Planning Proposal
Land Zone	C4 Environmental Living	No change	C2 Environmental Conservation R3 Medium Density Residential R4 High Density Residential RE1 Public Recreation
Height of Building	9m (2 storeys)	No change	10m - 22m (3-6 storeys)
Minimum Lot Size	2,000sqm	No change	No change
Floor Space Ratio	N/A	No change	No change
Residential yield	22 dwellings ²	No change	185 dwellings

Notes:
¹ While considered as part of the broader investigation areas surrounding Castle Hill and Cherrybrook Metro Station, the site is outside of the area identified as suitable for change under the Local Strategic Planning Statement, Housing Strategy, NWRL Corridor Strategy (2013), The Hills Corridor Strategy (2015), Cherrybrook Place Strategy and Castle Hill Precinct Plan (recently adopted by Council on 11 June 2024).
² Subdivision application (DA No. 1089/2006/ZA) approved 8 August 2006 and physically commenced before 8 August 2011.

Table 1
Comparison between planning proposal and outcomes envisaged under the planning framework

The proposed LEP map amendments are shown in the following figures.

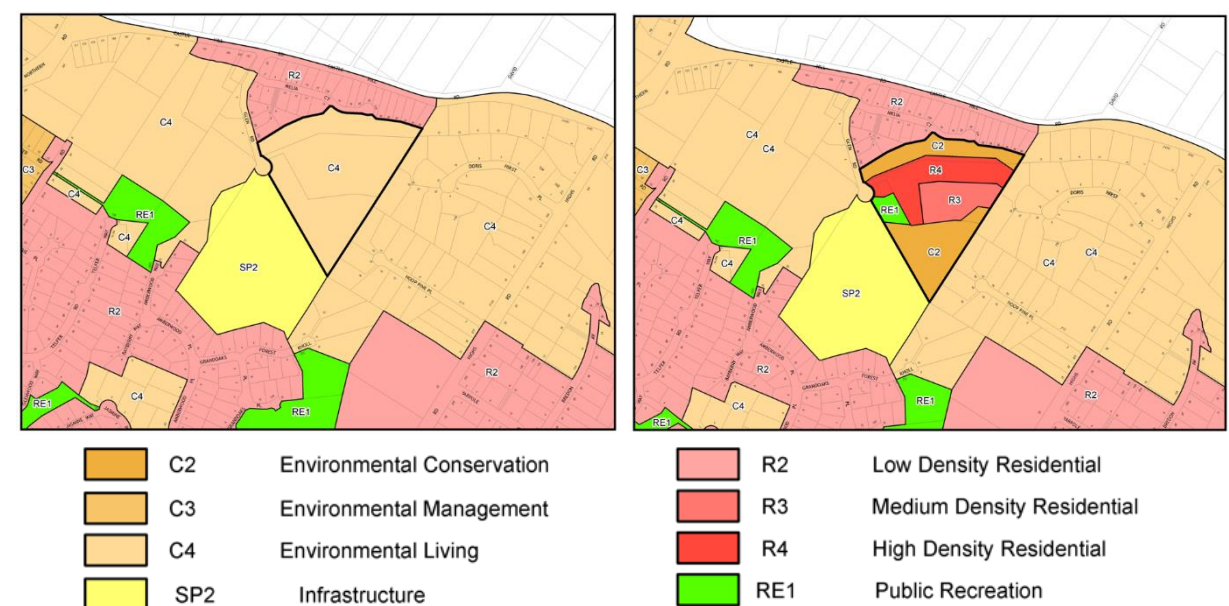


Figure 6
Existing (left) and proposed (right) land use zone maps

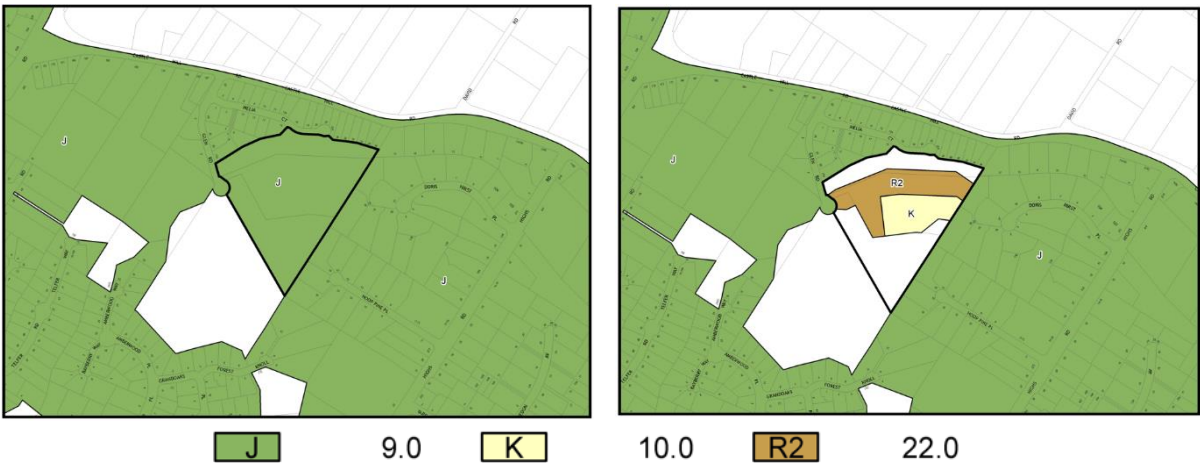


Figure 7
Existing (left) and proposed (right) maximum height of building maps

b) Planning Agreement

The planning proposal is accompanied by a letter of offer to enter into a Planning Agreement. The letter of offer includes preliminary details of infrastructure and public benefits the developer intends to deliver in association with the development. The letter of offer includes:

- The delivery of a future public park around 2,000m² in size that features play equipment, landscaping and areas for passive recreation. The letter indicates the Proponent's intent for the ownership to be transferred to Council.
- 15% of the total floor area to be used as affordable rental housing for at least 15 years from the date of occupation and managed by a registered community housing provider.
- Regeneration of some of the bushland.
- Construction of a new footpath along Glen Road through to Castle Hill Road.

At this stage, the Proponent has not provided a total monetary value of the proposed works, land and monetary contributions.

4. LOCAL PLANNING PANEL

On 15 May 2024, the planning proposal was presented to the Local Planning Panel, who issued the following advice:

1. *The planning proposal is inconsistent with the objectives and priorities of the Greater Sydney Region Plan, Central City District Plan, Section 9.1 Ministerial Directions, North West Rail Link Corridor Strategy, The Hills Corridor Strategy, Cherrybrook Station Precinct Place Strategy, Council's Local Strategic Planning Statement and draft Castle Hill Precinct Plan, as these documents relate to providing for housing supply in the right locations, creating great places, protecting areas of environmental significance and balancing growth with suitable levels of infrastructure.*
2. *The site is not identified as being suitable for development uplift within any of the relevant aforementioned strategies or plans which identify locations for medium to higher density development to occur in closer proximity to Cherrybrook or Castle Hill Metro Stations (within the walkable catchment from the station).*
3. *The proposed outcome is inappropriate having regard to the environmental constraints of the site including steep topography, landslide risk, hydrological constraints and endangered ecological communities. The location, design, scale and form of the proposed development does not adequately consider or respond to the scenic or biodiversity values of the site. A lower scale and density of development with a smaller footprint, reduced vegetation clearing*

and reduced cut and fill would more appropriately respond to the site constraints, similar to the outcomes within the surrounding area.

4. *The traffic and parking impacts generated by the proposed uplift have not been suitably considered or addressed.*
5. *The proposed planning mechanisms sought to be implemented by the planning proposal would enable a broad range of potential outcomes and do not provide certainty that the outcomes illustrated in the concept plans will be delivered.*
6. *The proposal does not adequately address the demand for infrastructure likely to be generated by the proposal or provide any tangible public benefits.*

A copy of the Council Officer's Assessment Report and Meeting Minutes are provided as Attachments 1 and 2 to this report, respectively.

5. MATTERS FOR CONSIDERATION

A detailed technical assessment of the planning proposal is contained within the Council Officer Assessment Report to the Local Planning Panel, dated 15 May 2024 and provided as Attachment 1 to this report. A summary and discussion of the key technical considerations associated with the planning proposal is provided below.

a) Strategic Context

When assessing a planning proposal, Council is required to first determine whether a planning proposal has 'strategic merit', having regard to the applicable strategic planning framework and policies. If a proposal does not demonstrate 'strategic merit' then it should not proceed. The determination of 'site specific' merit is only relevant as the second phase of the assessment process, if strategic merit has first been demonstrated.

The planning proposal is inconsistent with the objectives and priorities of the Greater Sydney Region Plan, Central City District Plan, Section 9.1 Ministerial Directions, North West Rail Link Corridor Strategy, The Hills Corridor Strategy, Cherrybrook Station Precinct Place Strategy, Council's Local Strategic Planning Statement and Castle Hill Precinct Plan, as these documents relate to providing for housing supply in the right locations, creating great places, protecting areas of environmental significance and balancing growth with suitable levels of infrastructure.

Under the current policy framework, including current Government reforms and priorities, high-density infill development opportunities are to be focussed within the walkable catchment areas immediately surrounding transport hubs (such as Metro Stations) or well serviced centres with a range of amenities and services, in accordance with the principles of transit-oriented development. This transit oriented approach is also reflected in local planning policies.

In this regard, the subject site has been previously considered as part of broader investigations areas associated with precinct planning processes following the announcement and delivery of the Sydney Metro Northwest (in particular around the Castle Hill and Cherrybrook Metro Stations). As part of these processes, it was determined that the current controls are appropriate for the site and it would not be suitable for any development uplift at this location, particularly given the environmental constraints, distance from the Metro Stations and distance from essential services (such as schools, local shopping centres). This land was not 'excluded' from the investigations which were completed. Rather, it was investigated, considered and deemed unsuitable for uplift by both State Government and Council in the relevant strategies, with local strategies considered as recently as May 2024.

The Proponent's material identifies the subject site as being within 800m – 1000m walking distance of a Metro Station. However, this is not the case and the site is well outside the 800m walking catchment from both stations. Specifically, the site is around 1.5km walking distance from Cherrybrook Metro Station and 1.7km walking distance from Castle Hill Metro Station. This is nearly a 20 minute walk, which is exacerbated by steep topography and limited connectivity at this distance from the station, as shown in Figure 8.

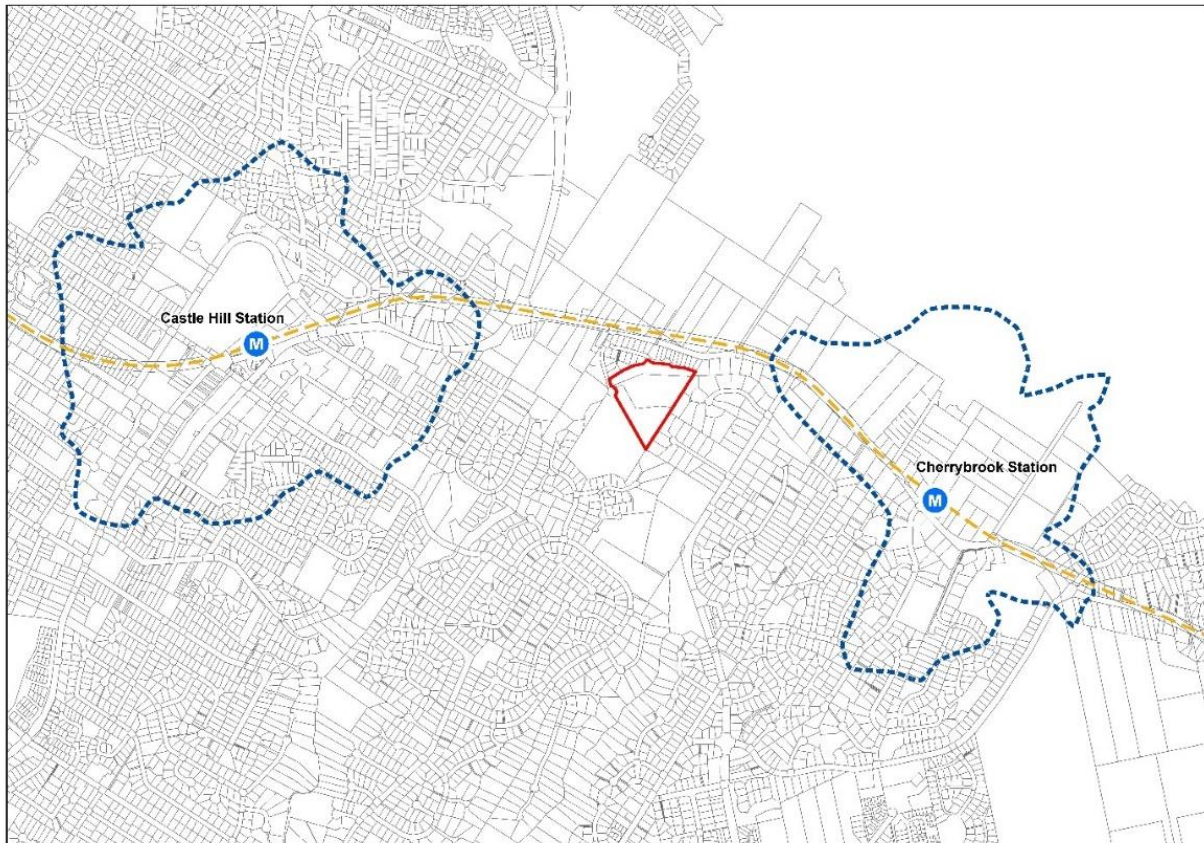


Figure 8
800m Walkability Catchments from Nearby Metro Stations
(Subject sites outlined in red, 800m walkability catchments shown as dashed blue line)

The planning proposal does not align with objectives for the increased supply of housing in the right locations. It is noted that the site would not even appear to satisfy the criteria for the recently exhibited Government reforms relating to diverse and well-located housing (low and mid-rise housing), noting it is outside of the catchment of the transport hub or Metro station.

The proposal does not respond to any new infrastructure, changing circumstances or changing population or demographic trends. Outcomes on this site were already considered as part of the broader investigation areas and planning processes in response to the provision of the Sydney Metro Northwest. The supply of housing in this location at the density and built form proposed is not warranted, noting the significant areas which are already identified as suitable for residential uplift in closer proximity to centres and transport infrastructure and without the significant environmental issues that are present on the subject site.

The State Government's Local Environmental Plan Making Guideline clearly indicates that it is encouraged that where a planning proposal fails to adequately demonstrate strategic merit the relevant PPA is unlikely to progress the proposal. Therefore, it is recommended that the planning proposal *not* progress given its fundamental inconsistencies with the strategic planning framework and inability to demonstrate strategic merit, as detailed above.

During the pre-lodgement and scoping phases, prior to lodgement of the planning proposal, the Proponent was clearly advised by Council officers of these fundamental strategic merit issues which were extremely unlikely to be able to be resolved (refer Attachments 3 and 4).

b) Site-Specific Considerations

Notwithstanding that the proposal fails to satisfy the strategic merit test, a summary and discussion of the site-specific considerations is also provided below.

Key Consideration	Comment
Suitability of the Proposed Density and Visual Impact	<p><u>Proposed Density</u></p> <p>The locality is characterised by low (to very low) density residential developments and environmental living. The site and surrounds form an important ‘environmental spine’ along Castle Hill Road, noting that Castle Hill Road is located on a prominent ridgeline. These features led to the application of an environmental living zone to this area to preserve views, vegetation and land affected by geotechnical constraints.</p> <p>The proposed development seeks to deliver a medium to high density development (around 88 dwellings per hectare) that does not align with the well-established local character. This scale of development is inconsistent with the surrounding character of the area and the objectives of the C4 Environmental Living Zone. It is more consistent with higher density development that is typically considered to be appropriate in the 800m walkable catchment of Metro Station Precincts. This is further discussed in Section 5(a) of the Council Officer Assessment Report to the Local Planning Panel (Attachment 1).</p> <p><u>Visual Impact</u></p> <p>The Proponent has submitted a Visual Impact Assessment prepared by Audax Urban, which concluded the following:</p> <ul style="list-style-type: none">Some of the views were found to have nil or negligible view impacts – including View 1 (end of the cul-de-sac at Doris Hirst Place), View 2a (panoramic view from Melia Court) View 2b (framed view from Melia Court) and View 5 (within the site near the eastern boundary).View 4 was found to be fully within the site and the report concluded it has no aesthetic and scenic qualities visible from the locality.The proposed development was found to have a high level of visibility when viewed from Glen Road (View 3), but claimed the visual catchment is limited and the built form will be well screened by the proposed vegetation. <p>With respect to the view from Glen Road, it is questioned how the proposed development would be appropriately screened when viewed from Glen Road noting the substantial amount of vegetation proposed to be removed. The accuracy of the view assessment from Melia Court is also questioned, particularly given the view assessment is undertaken from the opposite side of Melia Court (furthest away from the proposed development), which would likely understate the extent of the visual impacts. It remains the view of Council officers that the proposal will significantly impact the scenic landscape of this locality, particularly when viewed from Glen Road and Melia Court.</p>

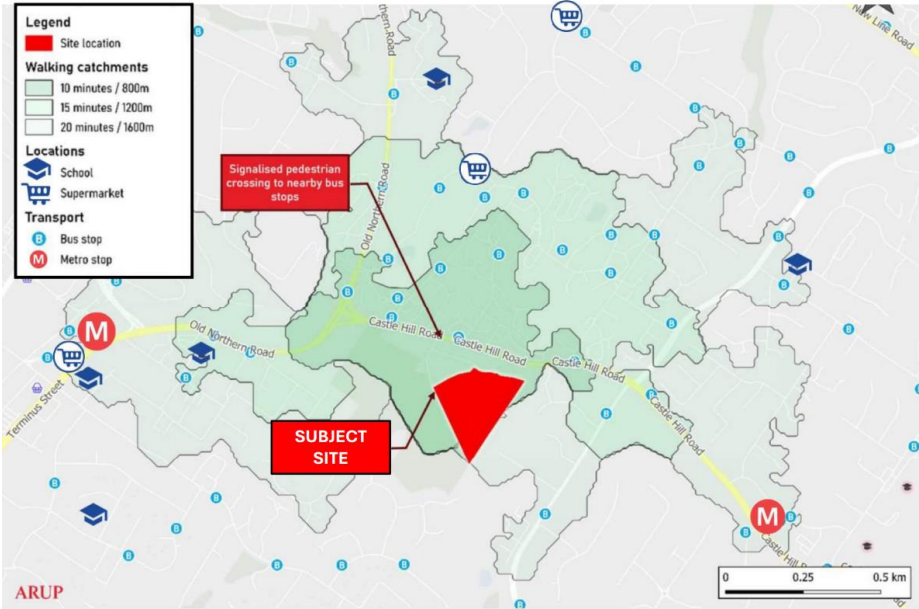
Key Consideration	Comment
Appropriateness of Proposed Planning Mechanisms	<p><u>Land Zone</u></p> <p>The C4 Environmental Living zone (existing zoning) has typically been used within The Hills Shire to retain natural drainage channels, protect vegetation, scenic views, topographical features and to reduce the risk of geotechnical hazards. Its application is most effective when applied to a large contiguous area. Approving the planning proposal in its current form poses a potential risk of setting a precedent for applications seeking a similar outcome, which could in turn compromise the integrity of the continuous C4 Environmental Living zoned land in this locality and further impact biodiversity values.</p> <p>The proposed R3 Medium Density Residential and R4 High Density Residential zoning is not supported as it would allow for a significant overdevelopment of the site in a manner which does not align with the character or objectives for development within this locality and which is not appropriate having regard to the site specific constraints applicable to the land.</p> <p>The proposed RE1 Public Recreation and C2 Environmental Conservation zones are not supported, as these may trigger an acquisition liability for Council. Irrespective of the acquisition liability risks, the areas proposed for these zoned are not suitable for public recreation in any case due to the size, location and environmental characteristics.</p> <p><u>Height of Building Control</u></p> <p>The proposal seeks to increase the maximum height of building controls varying between 10m and 22m to facilitate a built form outcome ranging from three to six storeys. The proposed height of buildings is inconsistent with the character and objectives for development within the locality, noting the low density residential and environmentally sensitive nature of the area.</p> <p><u>Maximum Floor Space Ratio Control</u></p> <p>No FSR controls are currently applicable to the subject site and the proposal, as submitted, does not seek to apply any FSR controls. In the absence of such controls, Council has no real certainty or control over the future density or scale on this site, or the number of dwellings that could ultimately be delivered. The proposed planning controls would not give certainty that the outcome within the Proponent's development concepts would not be exceeded on the land. This is not appropriate and should the proposal proceed in any form, an FSR control would be required.</p> <p><u>Housing Mix and Diversity</u></p> <p>The Proponent has not indicated if they seek to apply Council's housing diversity clause, which requires at least 30% of new apartments to be suitable for families. Should the proposal proceed, it is expected it would need to be amended to achieve consistency with this clause for the apartment component of the proposed development.</p> <p><u>Development Control Plan (DCP)</u></p> <p>Should the proposal proceed, a site-specific DCP would be required to manage future development outcomes on the site. However, Council officers are of the view the fundamental issues with the proposal are beyond those which could be resolved through site-specific development controls.</p>

Key Consideration	Comment
	Refer to Section 5b of the Council Officer Assessment Report to the Local Planning Panel (Attachment 1).
Environmental Considerations	<p><u>Biodiversity</u></p> <p>The <i>Biodiversity Conservation Act 2016</i> includes mandatory requirements for biodiversity assessment and reporting and requires proponents to demonstrate appropriate and sufficient steps have been taken to avoid and minimise impacts to areas identified and mapped as containing biodiversity values. The subject site is mapped on the State Government’s sensitive biodiversity values map, as shown below.</p> <div data-bbox="509 672 1418 1303"></div> <div data-bbox="533 1330 762 1377"><p>Legend</p><p> Biodiversity Values Map</p></div> <p style="text-align: center;">Figure 9 Sensitive Biodiversity Values Map</p> <p>The Proponent has submitted a Biodiversity Development Assessment Report (BDAR) which identifies that approximately 2.5 hectares of Blue Gum High Forest (an entity that is at risk of serious and irreversible impacts) is present on the site, primarily on the southern portion. Two threatened species of fauna, the Powerful Owl and Grey-Headed Flying-Fox, were detected (vocalisations) during surveys of the subject land. While the Dural Land Snail was not detected on site, it has been previously recorded in the locality and as such, it assumed that it is present as a precautionary measure.</p> <p>The location and design of the proposed development has not been adequately informed by the biodiversity values. Further, the extent of earthworks and the asset protection zone has not been accurately considered as part of the assessment and are expected to result in additional impacts not quantified or reflected in the material submitted.</p> <p>The historic (commenced) subdivision consent which allows for 22 residential lots was considered against the legislative framework that was in force at that time (2006). Since this time, biodiversity assessment requirements have</p>

Key Consideration	Comment
	<p>become more robust, particularly with the implementation of the <i>Biodiversity Conservation Act 2016</i>. The current legislation requires detailed consideration of entities at risk of serious and irreversible impact and where a proposal is determined to have such impacts, the relevant decision-maker is prevented from granting planning approval for the proposed development.</p> <p>Importantly, any new development application would be assessed in full under the current requirements, irrespective of the previous subdivision consent or the extent of clearing which it may allow. New development under the current legislation would need to demonstrate appropriate and sufficient steps have been taken to firstly avoid and then secondly minimise impacts to areas identified and mapped as containing biodiversity values. It is expected that impacts on biodiversity values are avoided by restricting the location of development, including asset protection zones, to areas that are lacking biodiversity values and areas clear of native vegetation.</p> <p>The development as proposed is considered highly likely to result in serious and irreversible impacts to the Blue Gum High Forest. A lower scale and density development with a smaller footprint and reduced need for vegetation clearing and cut and fill would be a more appropriate response, similar to the outcomes within the surrounding area. This is further discussed in Section 5(c) of the Council Officer Assessment Report to the Local Planning Panel (Attachment 1).</p> <p><u>Tree Removal</u></p> <p>The Proponent has submitted an Arboricultural Impact Assessment Report which indicates that the subject site is partially cleared and there are thicker sections of bushland towards the northern and southern ends. It also indicates the native bushland around the clearing is mapped as Blue Gum High Forest.</p> <p>In summary, the Proponent's Arboricultural Impact Assessment Report recommends the removal of at least 209 trees. Of these trees, 72 are of high retention value (including 69 Sydney Blue Gum Trees). The Proponent's material estimates that this impact is relatively similar to that which has already been approved under the current Development Approval (as amended). However, as detailed above, it is not certain that this same extent of clearing and development would be approved under the current biodiversity legislation. Furthermore, it is likely that additional trees beyond this will require removal as the Proponent's report has not fully considered the impacts of the proposed earthworks or asset protection zones in their entirety with respect to tree removal. Factoring in the removal of these additional trees, it is likely that the planning proposal would result in more environmental impacts compared to the original subdivision approval (as amended).</p> <p><u>Geotechnical and Landslide Risk</u></p> <p>Under Clause 7.6 – Landslide Risk of LEP 2019, the site is identified and mapped as susceptible to landslide risk. This clause seeks to limit development to the commensurate underlying geotechnical conditions and to restrict development on unsuitable land. An initial Geotechnical Assessment Report and a Structural Report were submitted with the proposal.</p> <p>The current development consent that facilitates 22 residential lots on the subject site (1089/2006/ZA/C) proposed stabilisation of the site by a "big dig" methodology which involves construction of retaining walls around the</p>

Key Consideration	Comment
	<p>boundaries of the site and removal and replacement of landslide material in the central part of the site.</p> <p>The Proponent's report indicates that the future cost of landslide mitigation measures was found to be uneconomical for conventional low density residential housing development. It notes that the ground conditions across the site comprise a deep soil creep landslide over shale bedrock and landslip issues arise when excess groundwater enters the soil underlying the development after prolonged periods of rainfall.</p> <p>The Proponent's reports identify various landslide management and construction strategies as part of the current planning proposal. It concludes that the proposed development is considered feasible from a geotechnical perspective, noting that appropriate additional site investigation, design assessments and construction monitoring normally associated with this type of development would need to be carried out. The initial assessments have not included a comprehensive assessment of the site in its entirety, rather the inferred preliminary geotechnical model and recommendations are based on limited subsurface investigations at discrete locations and notes that additional detailed investigations and monitoring would be required.</p> <p>Overall, the Proponent's report is fairly high level in nature and does not include any discussion on how the vegetation constraints will be addressed and managed in conjunction with the geotechnical works that would also be required to facilitate this scale of development. Notwithstanding the Proponent's comments around the costs of geotechnical stabilisation, this does not warrant the approval of a scale and extent of development that is inconsistent with the prevailing environmental and low density character of the surrounding area. The Proponent's report has not demonstrated that the proposal is acceptable from a geotechnical risk perspective.</p> <p>It is not recommended that the planning proposal proceed given the fundamental strategic merit issues and the range of site specific matters. However, if the proposal was to proceed in any form, it is critical that further investigations be required to properly assess the suitability of the site for this scale of proposed development, including a full risk assessment of potential landslip events. It is also recommended that Council would need to engage an expert consultant (from Council's Geotechnical Review Panel) to undertake an independent peer review of the Proponent's reports and assessments and advise Council directly on the implications and risks of developing on the land, as it relates to topography, potential instability and erosion. As noted above, given the range of other fundamental issues with the proposal which have led to the conclusion that the proposal should not proceed, this additional work has not been undertaken at this time.</p> <p><u>Stormwater Management</u></p> <p>The proposal is supported by a Stormwater Management Strategy as set out in the Proponent's Civil Engineering Assessment. Part of the strategy proposes a swale running from east to west sitting at the northern boundary of the site to service upstream flows. However, concern is raised that runoff from the north-eastern corner of the site will likely bypass the swale behind the shoring wall. Once flows hit the shoring wall, they can potentially end up as concentrated flows that may potentially end up in the adjoining site at 23 Doris Hirst Place.</p>

Key Consideration	Comment
	<p>A number of additional concerns are raised with the proposed onsite detention (OSD) and structural measures including the location of OSD tanks and the proposed connections, noting the site's steep topography and the presence of significant trees. It is considered that the planning proposal has not adequately addressed stormwater management. This is further discussed in Section 5c of the Council Officer Assessment Report to the Local Planning Panel (Attachment 1).</p>
Traffic and Parking	<p><u>Traffic</u></p> <p>The Proponent submitted a Transport Impact Assessment which indicates that the road network near the subject site is expected to operate at a 'good' level of operation in 2023 and 2033 (both with and without the proposed development). However, the accuracy of these results is questioned and further information is required on which roads have been included within this assessment. This is discussed in further detail in Section 5(d) of the Council Officer Assessment Report to the Local Planning Panel (Attachment 1).</p> <p>The proposed uplift is likely to increase traffic generation and contribute to existing traffic congestion along Castle Hill Road, in addition to the growth that is also expected to occur close to Castle Hill and Cherrybrook Metro Stations. Given the site is outside of the walkable catchment of these stations, it is expected that residential dwellings at this location would have a relatively high traffic generation given the need for residents to rely on private vehicles.</p> <p>While no traffic or transport infrastructure upgrades have been identified by the Proponent (aside from parking signage), if the proposal was to proceed, intersection upgrades would be required at the Glen Road and Castle Hill Road intersection for a designated right turn lane. Additional road widening would also be required along Glen Road from Castle Hill Road to Melia Court to facilitate the increased traffic flow. Given these upgrades have not been identified in the current contributions framework (being Council's Section 7.12 Contributions Plan), it is anticipated that these upgrades would need to form part of a VPA or assessment of a future development application should the proposal proceed.</p> <p><u>Parking</u></p> <p>Having regard to the yields proposed, the proposal will result in insufficient parking when assessed against the requirements of The Hills DCP 2012. This would require additional site work to accommodate the additional parking spaces, that would result in additional environmental impacts. There is limited rationale for allowing reduced parking provision on this site, given it is outside of the walkable catchment of the Castle Hill and Cherrybrook Metro Stations. This is discussed in further detail in Section 5(d) of the Council Officer Assessment Report to the Local Planning Panel (Attachment 1).</p>
Infrastructure Demand	<p>As previously discussed in Section 3(b) of this report, the Proponent has submitted a letter of offer to enter into a Planning Agreement. The offer does not adequately address the increased demand for infrastructure that would be required to support the proposed development, is substantially less than any comparable contributions plans that levy high density residential development and does not provide any tangible public benefits for the community. Detailed comments regarding the proposed offer are provided in Section 5(e) of the</p>

Key Consideration	Comment
	<p>Council Officer Assessment Report to the Local Planning Panel (Attachment 1).</p> <p>While it may well be possible for the Proponent to amend the infrastructure offer to better meet the increased demand resulting from the proposed development, there would be limited utility in continued infrastructure negotiations and expending further resources by either party given that the proposal to date has not been able to demonstrate strategic or site-specific merit.</p> <p>As shown in the following figure that was prepared and submitted by the Proponent, the subject sites are not in close proximity to any essential services, such as nearest shops and schools.</p> <div></div> <p>Figure 10 Proximity to Schools, Public Transport and Supermarkets (Source: Proponent's Briefing Material)</p> <p>Additionally, the majority of the schools that are shown within this figure are already at or over capacity and will be required to accommodate further increases in student numbers as a result of the significant residential growth that has been strategically identified in more suitable locations.</p> <p>Of relevance, a recent article by the Sydney Morning Herald indicated that schools in North West Sydney are already operating at double or triple their enrolment caps, pushing some campuses to exceed their official capacity by 1000 students. An analysis of the capacity of public schools nearby to the subject site is provided in Table 2.</p>

Key Consideration	Comment			
	School	2024 Students	2024 Cap	% Over Cap
	Oakhill Drive Public School	762	370	206%
	Castle Hill Public School	1013	624	162%
	Cherrybrook Public School	923	509	181%
	Castle Hill High School	1883	840	224%
	Cherrybrook Technology High School	2060	1580	130%
	Table 2 Planned Capacity and Enrolment Numbers for Nearby Schools (Source: Sydney Morning Herald) As shown above, the enrolment numbers for nearby schools are substantially exceeding the planned capacity. It is <i>not</i> the case that this site has good access to school infrastructure with capacity to accommodate growth. Given these critical infrastructure shortfalls, it would be inappropriate to approve uplift of this scale in the proposed location, particularly noting the substantial growth already projected in other locations (such as in Release Areas and in Station Precincts). This would only further exacerbate the issues Government is currently experiencing in providing sufficient school places to service growth that is underway and strategically identified.			

Table 3
Overview of Matters for Consideration

6. OPTIONS

Option 1– Not Proceed to Gateway Determination (Recommended)

1. The recommendation of this report is that the planning proposal *not* proceed to Gateway Determination, on the basis that the planning proposal has not demonstrated either strategic or site specific merit.

Comment:

A decision to progress to Gateway Determination would place greater weight on the current objectives and priorities of the Government to increase housing supply, irrespective of the inconsistencies with the existing state and local policy documents and notwithstanding that the majority of the Government’s reforms appear to be promoting increased housing outcomes in highly serviced urban areas, rather than environmentally sensitive areas. If the planning proposal was to progress, it would also need to overcome some significant remaining site specific issues.

While the below is considered to be an option, this is not the recommendation of Council officers, given the current policy settings against which the planning proposal has been assessed and significant environmental considerations. If the Council was to resolve that the proposal should

proceed to Gateway Determination, it is recommended that the following matters should form part of any resolution of Council.

Option 2 – Proceed to Gateway Determination

1. The planning proposal applicable to land at Melia Court and Glen Road Castle Hill be amended to:
 - a) Provide a revised concept of a lower scale and density with a smaller footprint and reduced vegetation clearing that clearly demonstrates that the development does not result in serious and irreversible impacts to the Blue Gum High Forest. The location of development, including asset protection zones, should be in areas lacking biodiversity and areas clear of native vegetation.
 - b) Include updated biodiversity, geotechnical, bushfire and stormwater reports that address the revised concept. These are to ensure they properly assess the suitability of the site for the scale of development including a full risk assessment of landslip events.
 - c) Apply an alternative zone to the RE1 Public Recreation and E2 Environmental Conservation for environmentally sensitive areas together with a mechanism that provides for ongoing protection and management, without creating an acquisition liability for Council.
 - d) Apply an appropriate floor space ratio and a reduced height control (based on design work that also resolves other matters within this resolution).
2. Council engage an expert consultant from its Geotechnical Review Panel to undertake an independent review of the proponents reports and assessments and advise Council directly of the implications and risks of developing on the land to the scale and density proposed as it relates to topography, potential instability and erosion.
3. Following these amendments, Council consider a further report with respect to:
 - a) The suitability of the revised concept and planning proposal;
 - b) A revised draft Voluntary Planning Agreement, which clarifies the issues identified with the Letter of Offer submitted by the Proponent identified in this report and secures appropriate development contributions in association with future development of the land.
 - c) A site-specific draft Development Control Plan and revised development concepts, which resolve the site-specific issues referred to within this Report.

CONCLUSION

This report recommends that the planning proposal *not* proceed to Gateway Determination, on the basis that the planning proposal has not demonstrated either strategic or site specific merit. The strategic planning framework encourages housing in the right locations and the protection of the environment. The planning proposal is not able to meet the key objectives to deliver on these outcomes.

The environmental constraints of the site are significant and the proposal has not demonstrated that these constraints can be overcome to deliver an appropriate development outcome, in the context of environmentally sensitive land where no uplift is anticipated within the strategic planning framework. The proposed outcomes are beyond the capacity of the site and are not supported.

ATTACHMENTS

1. Council Officer Assessment Report to the Local Planning Panel, 15 May 2024 (32 pages)
2. Local Planning Panel Meeting Minutes, 15 May 2024 (2 pages)
3. Council Officer Pre-lodgement Feedback Letter (November 2021) (3 pages)
4. Council Officer Scoping and Pre-lodgement Feedback Letter (June 2023) (8 pages)

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ITEM-1	LOCAL PLANNING PANEL - PLANNING PROPOSAL – MELIA COURT AND GLEN ROAD, CASTLE HILL (5/2024/PLP)	Attachment 1
THEME:	Shaping Growth	
MEETING DATE:	15 MAY 2024	
	LOCAL PLANNING PANEL	
GROUP:	SHIRE STRATEGY GRADUATE TOWN PLANNER	
AUTHOR:	ERIKA JUAN STRATEGIC PLANNING COORDINATOR JESSIE WISEMAN	
RESPONSIBLE OFFICER:	MANAGER FORWARD PLANNING NICHOLAS CARLTON	

PURPOSE

This report presents the planning proposal for land at Melia Court and Glen Road, Castle Hill (5/2024/PLP), to the Local Planning Panel (LPP) for advice, in accordance with Section 2.19 of the *Environmental Planning and Assessment Act 1979*.

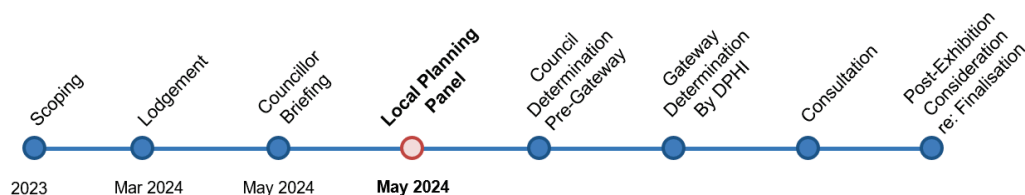


Figure 1
Timeline of Indicative Process to Date

RECOMMENDATION

1. The planning proposal does not satisfy either the strategic or site specific merit test and should *not* proceed to Gateway Determination, on the basis that:
 - a. The planning proposal is inconsistent with the objectives and priorities of the Greater Sydney Region Plan, Central City District Plan, Section 9.1 Ministerial Directions, North West Rail Link Corridor Strategy, The Hills Corridor Strategy, Cherrybrook Station Precinct Place Strategy, Council's Local Strategic Planning Statement and draft Castle Hill Precinct Plan, as these documents relate to providing for housing supply in the right locations, creating great places, protecting areas of environmental significance and balancing growth with suitable levels of infrastructure.
 - b. The site is not identified as being suitable for development uplift within any of the relevant aforementioned strategies or plans which identify locations for medium to higher density development to occur in closer proximity to Cherrybrook or Castle Hill Metro Stations (within the walkable catchment from the station).

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- c. The proposed outcome is inappropriate having regard to the environmental constraints of the site including steep topography, landslide risk, hydrological constraints and endangered ecological communities. The location, design, scale and form of the proposed development does not adequately consider or respond to the scenic or biodiversity values of the site. A lower scale and density of development with a smaller footprint, reduced vegetation clearing and reduced cut and fill would more appropriately respond to the site constraints, similar to the outcomes within the surrounding area.
- d. The traffic and parking impacts generated by the proposed uplift have not been suitably considered or addressed.
- e. The proposed planning mechanisms sought to be implemented by the planning proposal would enable a broad range of potential outcomes and do not provide certainty that the outcomes illustrated in the concept plans will be delivered.
- f. The proposal does not adequately address the demand for infrastructure likely to be generated by the proposal or provide any tangible public benefits.

Proponent	EINV Group Pty Ltd
Owner	Castle Hill Glen Pty Ltd
Location	Lot 1020 in DP 876671 Melia Court, Castle Hill Lot 2021 in DP 876671 Melia Court, Castle Hill Lot 2 in DP 576773 Glen Road, Castle Hill
Arboriculture Consultant	H2O Consulting Group Pty Ltd
Architecture / Urban Design Consultant	DKO Architecture (NSW) Pty Ltd
Biodiversity and Vegetation Management Consultant	Fraser Ecological Consulting
Bushfire Consultant	Blackash Bushfire Consulting
Civil Engineering, Services, Flood Impact and Structural Consultant	Northrop Consulting Engineers
Community and Economic Needs Consultant	Hill PDA Consulting
Contamination and Geotechnical Consultant	Tetra Tech Coffey
Communication Consultant	Urban Concepts
Heritage Consultant	Weir Phillips Heritage and Planning
Landscape Architecture Design Consultant	Land And Form Studios Pty Ltd
Planning Consultant	Paro Consulting (Paro Planning Pty Ltd)
Quantity Surveyor Consultant	MBM

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Survey Consultant	Chadwick Cheng
Transport Consultant	ARUP Australia Pty Ltd
Visual Impact Consultant	Audax Urban Pty Ltd
Site Area	45,024m ²
List of Relevant Strategic Planning Documents	Greater Sydney Region Plan Central City District Plan North West Rail Link Corridor Strategy Cherrybrook Station Precinct Place Strategy The Hills Corridor Strategy Local Strategic Planning Statement and Supporting Strategies Section 9.1 Ministerial Directions Draft Castle Hill Precinct Plan
Political Donation	Nil Disclosed

1. THE SITE

The subject site is located at 1020 Melia Court, Castle Hill and comprises three separate torrens title lots under single ownership (Lot 1020 in DP 876671, Lot 1021 in DP 876671 and Lot 2 in DP 576773). It is triangular in shape and has a cumulative site area of approximately 45,024m². It has frontages to both Glen Road and Melia Court, with vehicular access currently only available from Glen Road.



Figure 2
Aerial view of subject site and surrounds

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The site is currently vacant and includes grassed areas and vegetation, in particular Blue Gum High Forest which is listed as a Critically Endangered Ecological Community. The site features a steep topography, sloping from north to south with a change in elevation of approximately 60m across the site.

It is surrounded by Rogans Hill Reservoir and environmental land to the west, low density residential areas to the north and environmental living areas to the east. It is located approximately 1.5km and 1.7km walking distance from Cherrybrook and Castle Hill Metro Stations, respectively.

2. BACKGROUND

08/08/2006 A Subdivision application (DA No. 1089/2006/ZA) was approved for the subject site. The subdivision consent facilitates 1 community lot, 22 residential lots (742m² to 1,193m²) and a new cul-de-sac (extract below). Physical works were commenced on the subject site prior to 8 August 2011 and therefore the consent remains active for the developer to progress.

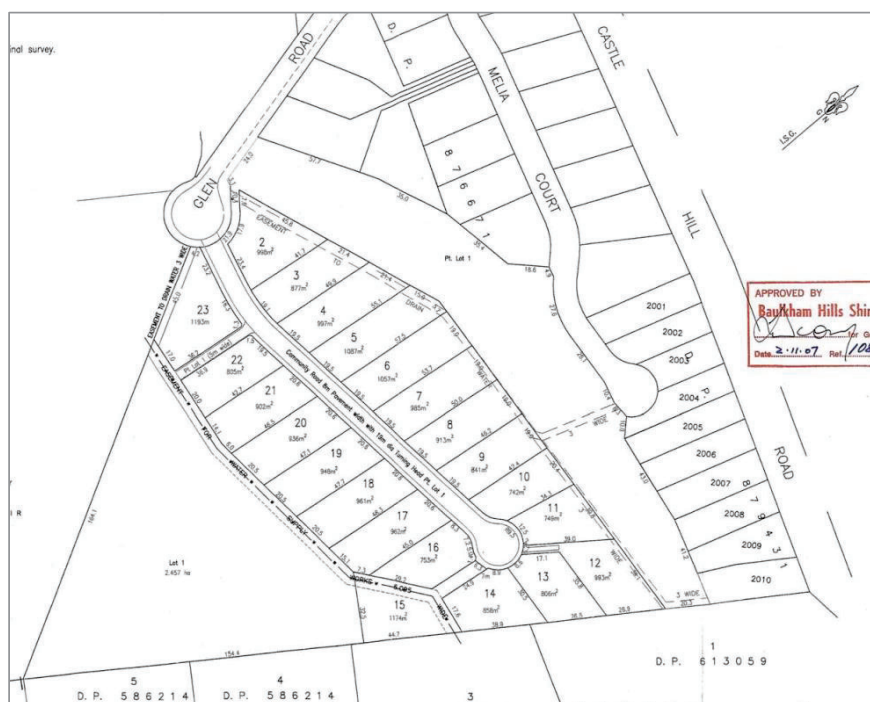


Figure 3
Extract of Approved Subdivision Plan

- 25/01/2018** Modification of Development Consent 1089/2006/ZA/C was approved, subject to conditions. The modification primarily related to amending the landslide risk stabilisation methodology.
- 07/10/2021** Pre-lodgement meeting held with Council officers for a proposal to rezone the land to R3 Medium Density Residential to facilitate approximately 64 townhouses on the site.
- 03/11/2021** Council Officer Pre-lodgement Feedback Letter provided to Proponent (Attachment 1). Concerns were raised regarding inconsistency with

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surrounding development, impact on scenic and district views, site not within walking catchment of a centre, environmental constraints, access and traffic impacts, questionable benefit of proposed public park and built form outcomes. It was advised that, based on the information provided, it would be difficult for Council officers to conclude that a planning proposal to facilitate medium density development demonstrates strategic and site specific merit.

01/06/2023 Pre-lodgement meeting held with Council officers for a Scoping Proposal for a potential planning proposal application that would seek to facilitate a residential development comprising residential flat buildings and terrace style units, facilitating 191 dwellings on the site.

14/06/2023 Council Officer Pre-lodgement Feedback Letter provided to Proponent (Attachment 2). The feedback identified a number of inconsistencies with the strategic framework, site specific concerns and included preliminary views of public authorities (Sydney Water, Endeavour Energy, Transport for NSW and NSW Environment and Heritage Group). The letter recommended that the Proponent strongly reconsider the lodgement of a planning proposal for this site, having regard to the substantial strategic and site-specific merit issues detailed.

04/03/2024 Planning proposal lodged with Council.

07/05/2024 Proponent presented the planning proposal at a Councillor Briefing session.

3. DESCRIPTION OF PLANNING PROPOSAL

The planning proposal seeks to facilitate a high density residential development on the site comprising 185 dwellings within six residential buildings (3-6 storeys in height with 147 apartments) and 38 terraces (2-3 storeys in height). The proposal also identifies a proposed publicly accessible park, nature corridors, a nature reserve and a central loop road with a single entrance to the site via Glen Road.

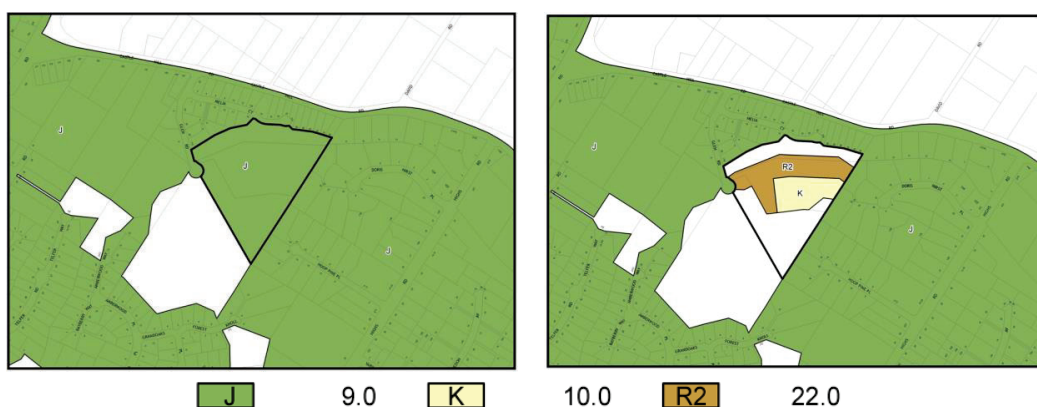
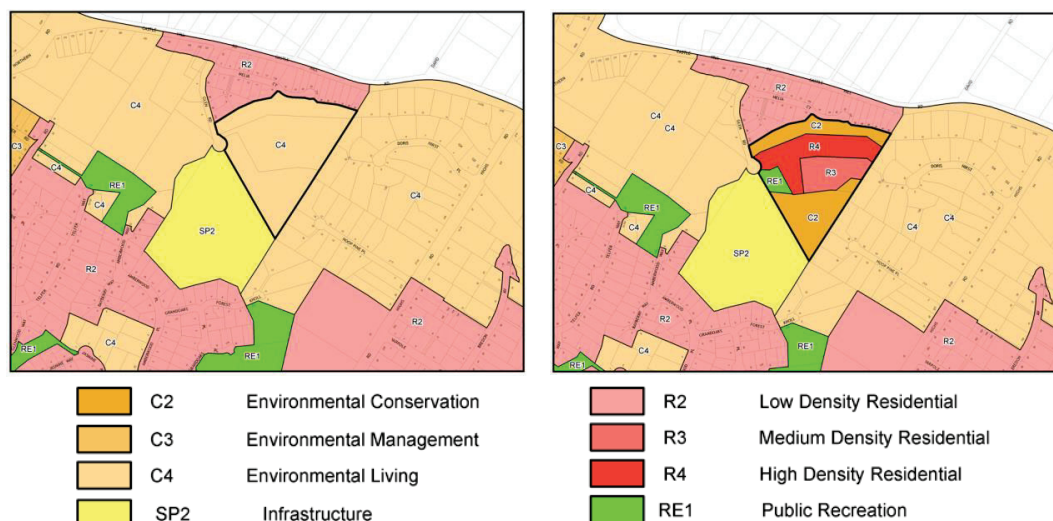
To enable this outcome, the proposal seeks to amend The Hills LEP 2019 to:

- Rezone the site from C4 Environmental Living to R3 Medium Density Residential, R4 High Density Residential, C2 Environmental Conservation and RE1 Public Recreation.
- Increase the maximum height of building control from 9m to a range of 10m to 22m.

The proposed LEP map amendments are shown in the figures below.

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A comparison between the outcomes envisaged under the strategic planning framework, The Hills Local Environmental Plan (LEP) 2019 and the planning proposal is provided in the following table.

Planning Control	LEP 2019	Strategic Policies ¹	Planning Proposal
Land Zone	C4 Environmental Living	No change	C2 Environmental Conservation R3 Medium Density Residential R4 High Density Residential RE1 Public Recreation
Height of Building	9m (2 storeys)	No change	10m - 22m (3-6 storeys)
Minimum Lot Size	2,000sqm	No change	No change
Floor Space Ratio	N/A	No change	No change
Residential yield	22 dwellings ²	No change	185 dwellings

Notes:
¹ The site is outside of any areas identified for change under the Local Strategic Planning Statement, Housing Strategy, NWRL Corridor Strategy, The Hills Corridor Strategy, Cherrybrook Place Strategy and Draft Castle Hill Precinct Plan.
² Subdivision application (DA No. 1089/2006/ZA) approved 8 August 2006 and physically commenced before 8 August 2011.

Table 1

Comparison between planning proposal and outcomes envisaged under the planning framework

The proposed master plan and extracts of the development concepts submitted by the Proponent in support of the planning proposal are shown in the following figures.

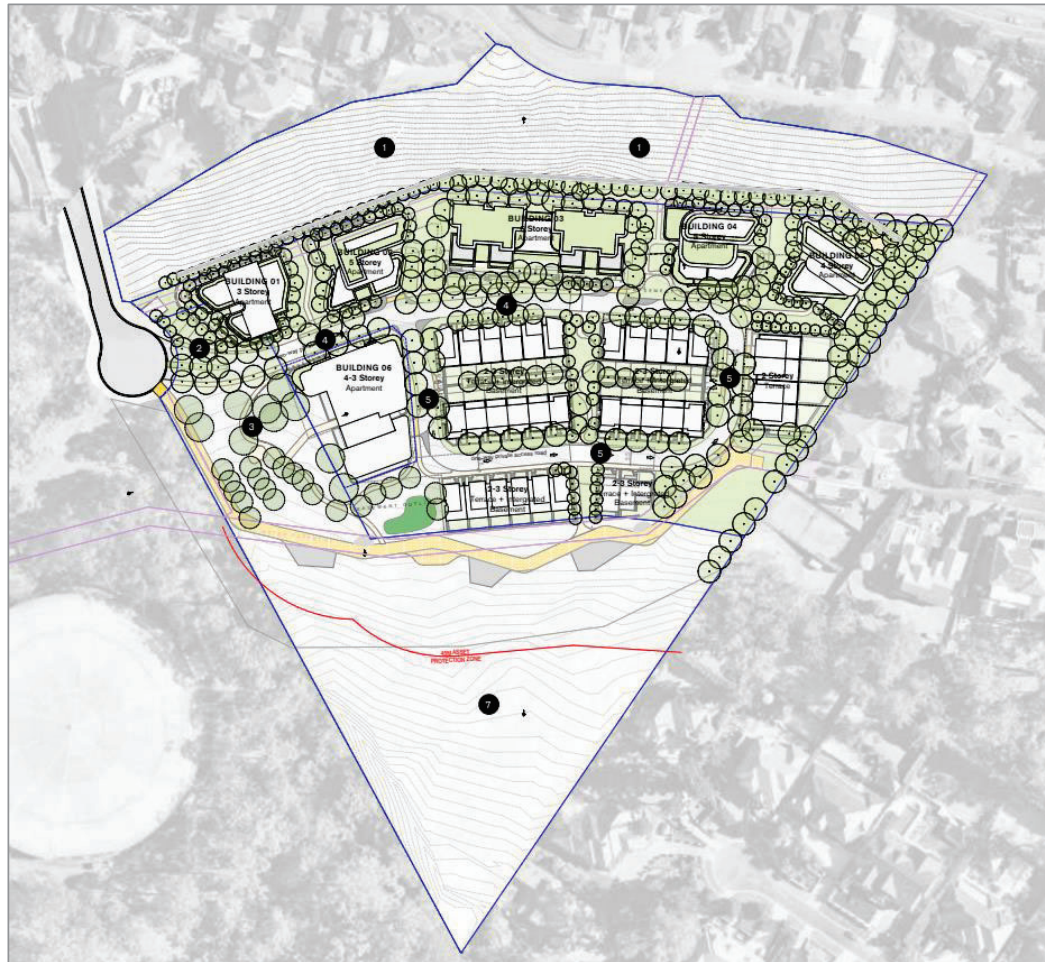


Figure 6
Proposed Master Plan



Figure 7
View of proposed townhouse typology



Figure 8
Aerial view of the site

Planning Agreement Offer

The Proponent submitted a letter of offer to enter into a Voluntary Planning Agreement, which would include:

- Embellishment and dedication of a public park around 2,000m² in size with play equipment, landscaping and areas for passive recreation, with ownership to be transferred to Council.
- 15% of the total floor area to be used as affordable rental housing for at least 15 years from the date of occupation and managed by a registered community housing provider.

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- Regeneration of some of the bushland within the proposed C2 Environmental Conservation zone in accordance with a future vegetation management plan.
- Construction of a new footpath along Glen Road through to Castle Hill Road.

At this stage, the Proponent has not provided a total monetary value of the proposed works, land and monetary contributions. An assessment of the proposed letter of offer (based on the information available) is provided in further detail in Section 5 of this report.

4. STRATEGIC MERIT CONSIDERATIONS

The planning proposal has been assessed having regard to the following strategic merit considerations:

- a) Greater Sydney Region Plan and Central City District Plan
- b) Section 9.1 Ministerial Directions
- c) The Hills Future 2036 – Local Strategic Planning Statement
- d) The Hills Corridor Strategy
- e) Draft Castle Hill Precinct Plan

a) Greater Sydney Region Plan and Central City District Plan

Objective 6 of the Region Plan and Planning Priority C3 of the District Plan relate to services and social infrastructure to meet people's changing needs. The District Plan notes that growth increases demand on existing services and infrastructure. While the Proponent has submitted a proposed letter of offer to enter into a Planning Agreement, the planning proposal is inconsistent with this objective as the proposed offer does *not* provide any tangible public benefits and fails to provide an appropriate infrastructure solution to cater for the proposed uplift. This is discussed in further detail in Section 5 of this report.

Objective 7 of the Region Plan and Planning Priority 4 of the District Plan seek to ensure that communities are healthy, resilient and socially connected. The District Plan articulates the characteristics of places with high concentrations of social connectors which include access to high frequency public transport, walkable town centres, high provision of social infrastructure (such as community and neighbourhood hubs, sports fields, clubs) and access to education and learning. Noting the planning proposal is outside the walkable catchment of Metro Stations and seeks to provide high density residential development outside of a defined local or strategic centre or walkable catchment from these services and facilities, it is unlikely to enhance physical activity and social connection.

Objectives 10 and 11 of the Region Plan and Planning Priority C5 of the District Plan seek to encourage provision of greater housing supply that is diverse and affordable with access to jobs, services and public transport. While the planning proposal broadly contributes to the supply of housing, Council is well on track to meet and exceed the housing targets set out in the District Plan for The Hills Shire, with future growth anticipated in Station Precincts and Release Areas that are better located to be serviced by amenities and public transport. The Region Plan also acknowledges that more intensive urban renewal is not suitable in instances where sites are challenged by topographic or other characteristics. Given the location of the site, the surrounding local character and the significant constraints impacting development of the land, this area is not considered to be the right location for more dense forms of housing as proposed.

The Region Plan sets locational criteria for urban renewal investigation opportunities. However, the planning proposal is inconsistent with the criteria, primarily due to its distance from the stations of the Sydney Metro Northwest. Generally, the walkable catchment correlates with how far the average person could walk in 10 minutes and how far someone will

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be willing to walk between their origin or destination and a transport node (with a focus on land that is within 800 metres of a transport node).

The Proponent's material identifies the subject site as being within 800m – 1000m walking distance of a Metro Station, however this is not the case. The subject site is located well outside the 800m walking catchment and is around 1.5km walking distance from Cherrybrook Metro Station and 1.7km walking distance from Castle Hill Metro Station. This is nearly a 20 minute walk that is exacerbated by steep topography and limited connectivity at this distance from the station. The feedback received from Transport for NSW as part of the scoping process identified that the site is *not* within an easy walking distance (e.g. 800m walking catchment) of a Metro Station.

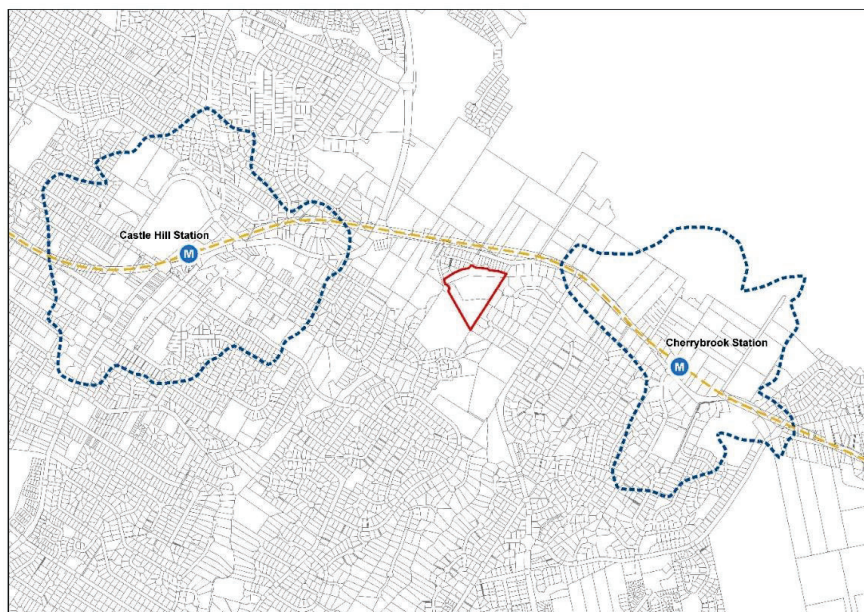


Figure 9

800m Walkability Catchments from Nearby Metro Stations
(Subject sites outlined in red, 800m walkability catchments shown as dashed blue line)

The planning proposal does not align with objectives for supply of housing in the right locations. Furthermore, it would not even meet the criteria for the recently exhibited Government reforms relating to diverse and well located housing (noting its distance from a transport hub or Metro stations extends beyond this). The proposal does not respond to any new infrastructure, changing circumstances or changing population or demographic trends. The supply of housing in this location at the density and built form proposed, is not warranted, noting the areas already identified as suitable for residential uplift in proximity to centres and transport infrastructure and the prevailing environmental issues at the subject location.

Objectives 27 and 28 of the Region Plan and Planning Priority C15 of the District Plan seek to protect and enhance bushland, biodiversity and scenic and cultural landscapes. The proposal is inconsistent with these objectives as it does not seek to adequately protect and enhance areas of critically endangered Blue Gum High Forest. This is further discussed in Section 5 of this report.

Objective 31 of the Region Plan and Planning Priority C17 of the District Plan seek to encourage high quality open space areas that can be enjoyed by the community. While the planning proposal includes an open space area, the functionality and usability of the proposed

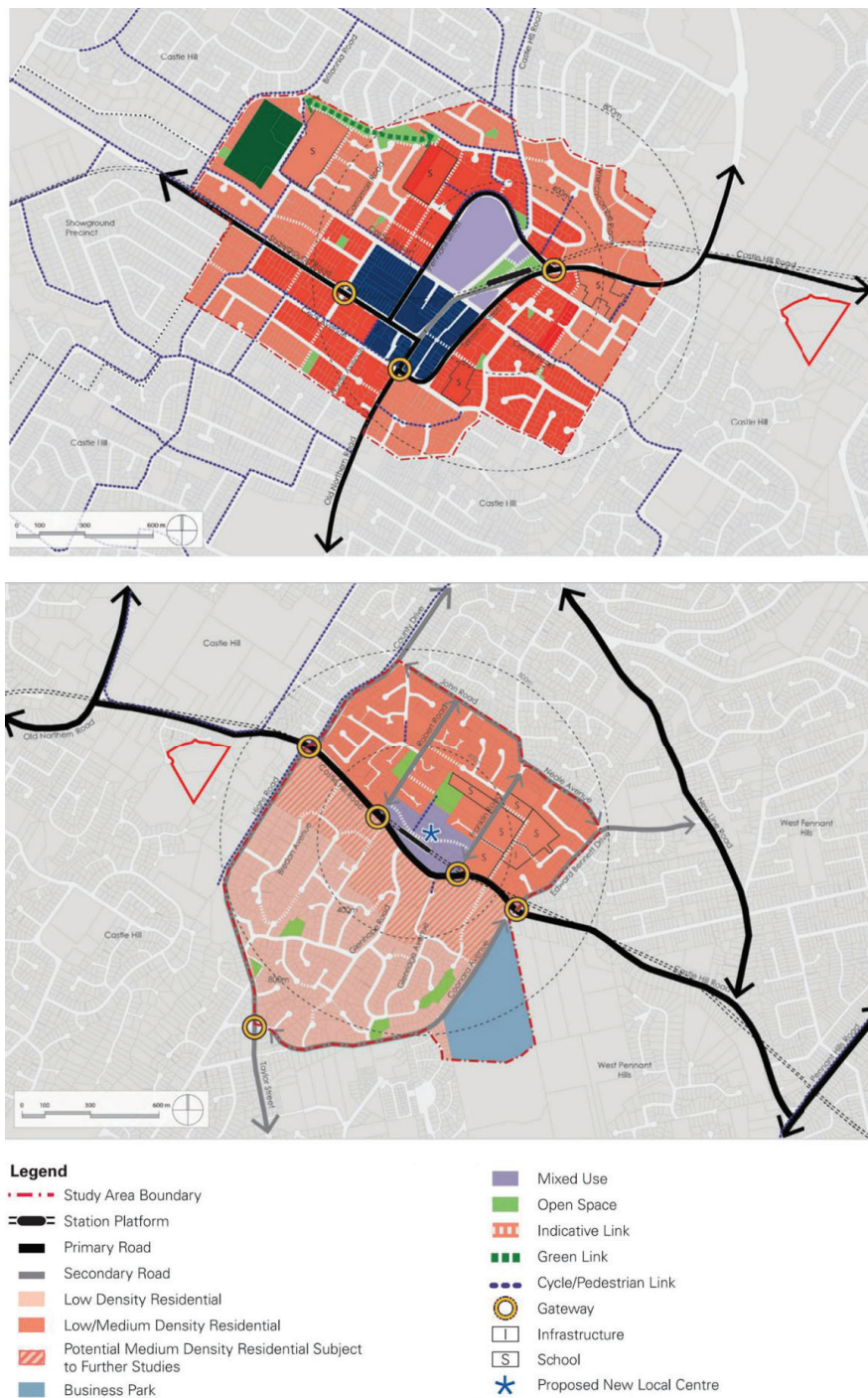
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public open space is questioned, given its size, location and the type of vegetation present on the site. This proposed open space area would primarily service this individual development, noting the site is not easily accessible for surrounding any surrounding residential catchment and would essentially be an isolated pocket of high density development separate from any centralised public transport nodes or services.

b) Section 9.1 Ministerial DirectionsDirection 1.16 North West Rail Link Corridor Strategy

Direction 1.16 promotes transit-oriented development and requires planning proposals within the Sydney Metro North West Corridor to give effect to the objectives, growth projections and proposed future character for each Precinct as set out in the NWRL Corridor Strategy.

The site is not identified as being suitable for development uplift within the Strategy. Rather, consistent with the principles of transit oriented development, it identifies land in closer proximity to stations (within the walkable catchment from each station) as more suitable areas for medium and high density development to occur. The planning proposal is inconsistent with this direction.

**Figure 10**

Structure Plan – North West Rail Link Corridor Strategy – Castle Hill (above) and Cherrybrook (below)

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Direction 1.22 Implementation of the Cherrybrook Station Place Strategy

The objectives of this direction are to facilitate development within the Cherrybrook Station Precinct that is consistent with the Cherrybrook Station Precinct Place Strategy. It also seeks to actively support the consistent delivery of objectives in the District Plan and Greater Sydney Region Plan.

The site is located outside the Cherrybrook Station Precinct, as defined by the Place Strategy, which generally aligns with the 800-metre walkable catchment from the station. The Strategy identifies land within the 400-metre walkable catchment as suitable for medium density.

The State Government has commenced the implementation of the Place Strategy recommendations and further investigations through a state-led rezoning process. While the details regarding the state-led rezoning process have not been made available, it is anticipated that rezoning would remain consistent with the Place Strategy and this Ministerial Direction and be focused to land within the 400-metre walkable catchment, in accordance with the Place Strategy. The planning proposal is inconsistent with this Direction with respect to facilitating higher density development in close proximity to the station.



Figure 11
Structure Plan – Cherrybrook Place Strategy

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Direction 3.1 Conservation Zones

The objective of this direction is to protect and conserve environmentally sensitive areas. It also states that a planning proposal must not reduce the environmental protection standards that apply to land identified for environment conservation purposes in a LEP (including by modifying development standards that apply to the land).

The current C4 Environmental Living zone aims to provide for low-impact residential development in areas with special ecological, scientific or aesthetic values, to ensure residential development does not have an adverse effect on those values. The only residential development permitted in this zone are dwelling houses and attached dual occupancies. Multi dwelling housing and residential flat buildings are prohibited.

In the context of Castle Hill Road, which is located on a prominent ridgeline, the C4 Environmental Living zone is an appropriate response that recognises the scenic views, topography, vegetation and land affected by geotechnical constraints. The land zoning, larger minimum lot size requirements and other associated development controls (such as maximum site coverage) all seek to reduce the scale of permissible development in this particular area. The zone and controls perform an important function in maintaining the integrity of the scenic and environmental characteristics and Council's Housing Strategy indicates the commitment to continuing this approach.

The proposed introduction of the R3 Medium Density Residential and R4 High Density Residential zones will diminish the protection offered by the C4 Environmental Living zone. The Proponent's consultant reports and Council's internal mapping indicate that there are critically endangered ecological community areas on the site, that would be removed as a result of the Proposal. The planning proposal seeks to apply a C2 Environmental Conservation zone to some portions of the site. Whilst this zone offers a higher level of protection to smaller portions of the site, it is a highly restrictive zone that is generally only applied where public ownership is intended and would not offset the overall detrimental impact of permitting medium and high density across the remainder of the site.

The site is heavily constrained by various environmental factors, including steep topography, landslide risk and the presence of Blue Gum High Forest, which is listed as a Critically Endangered Ecological Community under the federal *Environment Protection and Biodiversity Conservation Act 1999* and an Endangered Ecological Community under the NSW *Biodiversity Conservation Act 2016*.

Whilst the historic (commenced) subdivision consent allows for 22 residential lots (DA1089/2006/ZA), the original consent was granted nearly 20 years ago and was considered against the legislative framework that was in force at that time. Since this time, the legislative framework has become more robust, particularly with the introduction of the *Biodiversity Conservation Act 2016*. The current legislation requires detailed consideration of entities at risk of serious and irreversible impact and where a proposal is likely to have such impacts on biodiversity values, consent is not able to be granted at the development application stage.

A critically endangered ecological community (Blue Gum High Forest) is present on the subject site and the planning proposal seeks to remove a significant area of the critically endangered ecological community, which is an entity at risk of serious and irreversible impact. It is extremely unlikely that the environmental issues which underpin the C4 Environmental Living zoning and associated controls in this location, can be suitably resolved. Therefore, the planning proposal is considered to be inconsistent with this Ministerial Direction.

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Direction 3.2 Heritage Conservation

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. A planning proposal must contain provisions that facilitate the conservation of items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area. Any Aboriginal areas, objects, places or landscapes must also be conserved.

The subject site is located within the vicinity of several heritage items listed under The Hills LEP 2019 and the Hornsby Local Environmental Plan 2013, as shown in Figure 12. The Proponent has submitted a Heritage Impact Statement prepared by Weir Phillips Heritage and Planning (dated January 2024) to assess the potential impacts of the proposal on the nearby heritage items. The heritage items consist of single storey residences, a gate and gate posts and a retirement village. A detailed list of heritage items is provided in Attachment 19.

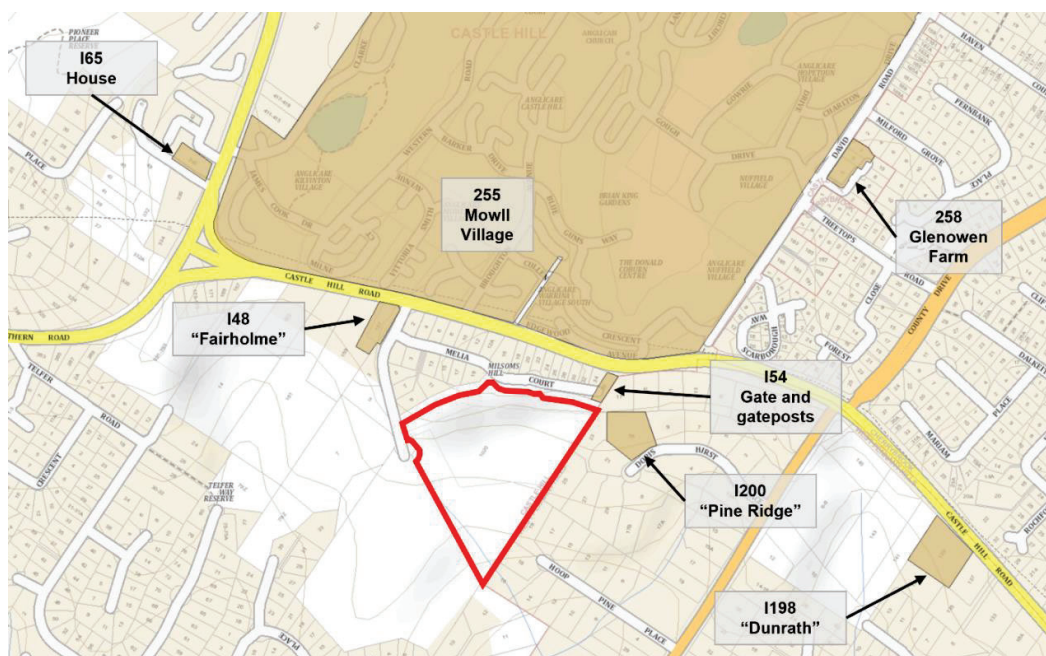


Figure 12
Location of Nearby Heritage Items

The Proponent's Heritage Impact Statement concludes that the proposed works will not impact on the fabric of any of the nearby heritage items or block existing significant view corridors to or from them. It notes the proposal will be concealed within the immediate setting of all the items, except for the outbuildings once part of the Pine Ridge Homestead. It also notes that these outbuildings are not visible from the public domain and do not rely on the character of their setting to explain their significance. The proposal is considered consistent with this direction.

Direction 4.1 Flooding

The purpose of this Direction is to ensure that planning proposals are consistent with the Government's flood related policies. It also seeks to ensure that planning proposals that apply to flood prone land are commensurate with flood behaviour and consider potential flood impacts both on and off the subject land. The Direction applies to all planning proposals that seek to create, alter or remove a zone or provision affecting flood prone land.

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The Proponent's Planning Proposal report indicates that the land is not identified as being flood affected on Council mapping for the purpose of Clause 5.21 *Flood Planning* of The Hills LEP 2019. Whilst Clause 5.21 of the LEP does not include mapping of the flood planning area, based on a preliminary review, various flood affectations have been identified on (and surrounding) the subject site. It is located within the Excelsior Creek Catchment, with a tributary and overland flow path traversing the western boundary (towards the southern end of the site). The southern portion of the subject site is identified as land that is subject to flood related development controls under The Hills Development Control Plan (DCP) 2012. A map showing some of the high level flood affectations is shown in Figure 13.

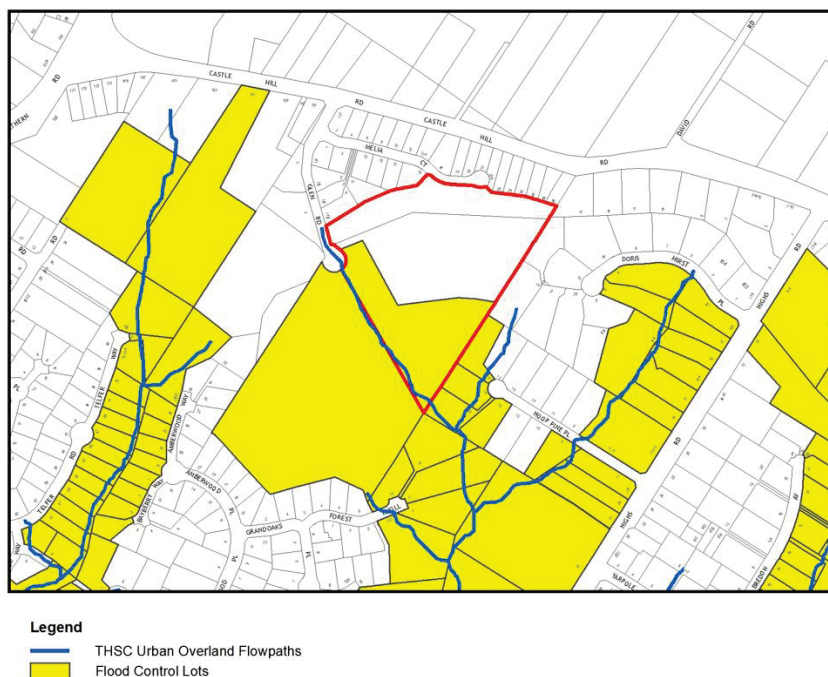


Figure 13
High Level Flood Affectations

In recognition of the flooding and stormwater constraints of the site, a Flood Impact and Risk Assessment (prepared by Northrop dated 19 November 2023) was submitted with the proposal (provided as Attachment 17 to this report). The proposal is also supported by a Stormwater Management Strategy as set out in the Proponent's Civil Engineering Assessment (prepared by Northrop dated 31 January 2024).

The Flood Impact and Risk Assessment indicates that several drainage easements run through the northern part of the site from Melia Court and a water supply easement runs through the middle of the site. It identifies that flooding is limited to within the drainage gully to the west of the site and that the site is marginally affected by local overland flow from Glen Road and the upstream Melia Court. It is indicated that the proposed development generally complies with the Ministerial Direction. Council officers have not been able to confirm the veracity of the flood modelling outcome at this stage and should the proposal proceed to Gateway Determination a revised report would be required that provides further details of the modelling for further assessment of the site and the engineering response in its entirety.

Based on the information submitted, Council officers are not yet satisfied that potential flood risks have been overcome or that the associated stormwater management strategy is satisfactory. This may be able to be resolved subject to additional work by the Proponent,

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however this has not been requested at this time given the range of fundamental issues with the proposal which have led to the conclusion that the proposal should not proceed to Gateway Determination.

Direction 4.4 Remediation of Contaminated Land

This direction seeks to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities. The Proponent submitted a Preliminary Site Investigation prepared by Tetra Tech Coffey Pty Ltd (dated 17 November 2023) to identify potential contamination issues which may pose a constraint to site development and to determine whether additional site investigation or assessment would be required to support the development assessment process.

While it did not identify significant indications of contamination, it did identify potential contamination risks that would need to be resolved. Should the proposal proceed, further investigations would be required to demonstrate that contamination risks can be suitably addressed.

Direction 5.1 Integrated Land Use and Transport

This Direction aims to improve access to housing, jobs and services by walking, cycling and public transport. It also seeks to reduce travel demand and dependence on cars, support the efficient viable operation of public transport services and provide for the efficient movement of freight. The Planning Proposal is inconsistent with the objectives of this Direction as the site is not within the walking catchments of the Metro Stations (either Cherrybrook or Castle Hill) and as such will likely increase dependence on cars, noting that the area is not well serviced by the Sydney Metro Northwest. This is further discussed in Section 5 of this report.

Direction 6.1 Residential Zones

The objectives of this direction are to encourage a variety and choice of housing types, make efficient use of infrastructure and prevent the reduction of permissible residential density on land. Under the current provisions, the C4 Environmental Living zoning and minimum lot size control of 2,000m² would allow for limited development to occur, with the existing subdivision application likely representing the maximum yields that could be reasonably be accommodated on the subject site. The subject site has not been identified in Council's strategic plans as an area for additional residential development, principally due to the significant environmental constraints on the site and its distant location from both Castle Hill and Cherrybrook Metro Stations. The existing controls are considered appropriate and no additional uplift is warranted.

c) Local Strategic Planning Statement

Council's Local Strategic Planning Statement: *Hills Future 2036* (LSPS) outlines the 20-year vision for land use planning, population, housing, economic growth and environmental management for The Hills Shire. Accompanying the LSPS are key strategies that outline guiding principles, of which the Housing Strategy and Environment Strategy is of relevance to the proposal.

Council's LSPS seeks to provide housing in the right locations, close to transport and to protect biodiversity and scenic landscapes. It envisages the majority of future residential uplift will occur in Station Precincts and Release Areas. The LSPS articulates there is sufficient land zoned or identified for future uplift to meet the Shire's housing targets to 2036 and beyond, with there already being zoned capacity for approximately 50,000 additional dwellings within The Hills Shire and a further 10,000 strategically identified additional dwellings that Council is working towards unlocking as part of detailed precinct planning processes. Council

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is also on track to meet and exceed its housing targets, with more than 22,600 dwellings being approved since 2016 (as at June 2023) and nearly 15,600 dwellings completed in this same period (as at June 2023). As such, there is limited justification for providing additional housing outside of areas already identified as being suitable for uplift, where recent infrastructure investment can be readily capitalised on to enable transit oriented development outcomes.

The site is not located within the walkable catchment of either the Castle Hill or Cherrybrook Metro Stations. The proposal seeks to provide medium and high density residential development on a site that is identified as containing critically endangered ecological communities, in a location that has not been planned to accommodate this level of uplift and in an area which has been specifically identified for low-impact residential only to protect and maintain the environmental, aesthetic and scenic qualities of the locality. Given this, the planning proposal does not demonstrate consistency with the vision and priorities articulated within Council's LSPS.

d) The Hills Corridor Strategy

The Hills Corridor Strategy was adopted by Council in November 2015 and articulates Council's vision for future growth for Station Precincts within The Hills Shire. The site is not identified as being suitable for development uplift within this Strategy. Land in closer proximity to stations (within the walkable catchment from each station) has been identified as more suitable areas for high density development to occur.

While the subject sites are not identified on the opportunities map for either Castle Hill or Cherrybrook (given they were considered suitable for development uplift), they are shown on the constraints mapping completed for the broader locality, as shown below. This mapping indicates the subject site features significant vegetation and a watercourse. The Strategy states that any future development on private land, in close proximity to this vegetation will need to be guided by a flora and fauna assessment and will need to avoid, mitigate and/or offset impacts to any threatened entities found on sites.

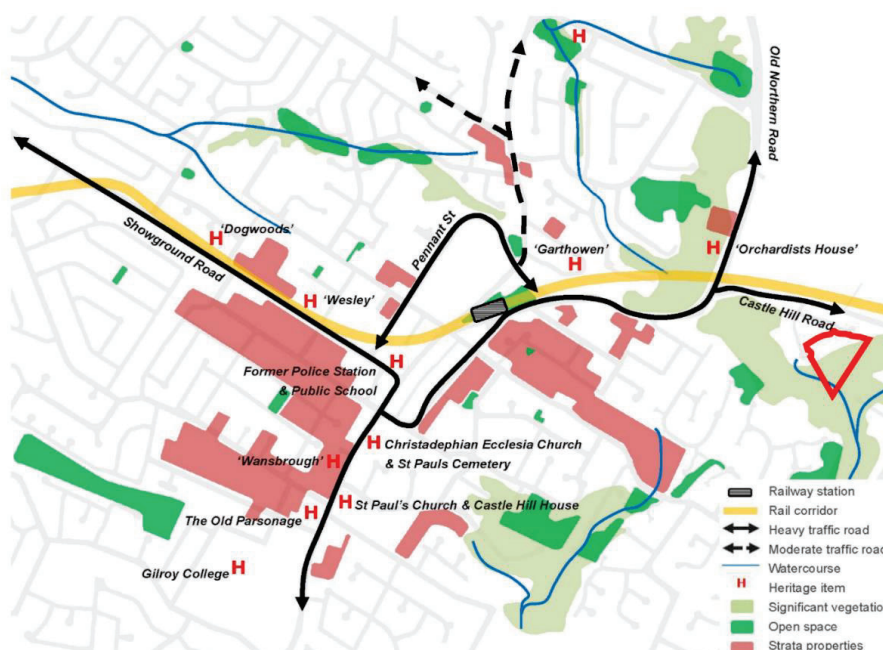


Figure 14
Constraints – The Hills Corridor Strategy – Castle Hill

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e) Draft Castle Hill Precinct Plan

In mid-2023, Council exhibited a Draft Precinct Plan for the Castle Hill Strategic Centre. It sets a 20-year vision for Castle Hill that builds on the high-level outcomes envisaged within previous strategic planning documents and draws on a range of technical studies. The Plan articulates how the strategic objectives and outcomes for Castle Hill will be implemented over the next 20 years, drilling down into finer grain, site specific detail to inform future development and potential changes to planning controls and the infrastructure contributions framework.

The site is not identified as being suitable for development uplift within this draft Plan, nor is it identified within the Strategic Centre. Land in closer proximity to the station (within the walkable catchment from the station) has been identified as a more suitable area for medium and high density development to occur. Areas towards the periphery of the strategic centre are expected to remain unchanged or develop under the existing controls, especially those areas subject to significant constraints (such as geotechnical matters and critically endangered vegetation).

5. SITE SPECIFIC MERIT CONSIDERATIONS

The planning proposal requires consideration of the following site-specific matters:

- a) Suitability of the Proposed Density and Visual Impact
- b) Appropriateness of Proposed Planning Mechanisms
- c) Environmental Considerations
- d) Traffic and Parking
- e) Infrastructure Demand

a) Suitability of the Proposed Density and Visual Impact

The locality is characterised by low (to very low) density residential developments and environmental living. The site and surrounds form an important 'environmental spine' along Castle Hill Road, noting that Castle Hill Road is located on a prominent ridgeline. Therefore, an environmental living zone has been applied to preserve views, vegetation and land affected by geotechnical constraints. The proposed development seeks to deliver a medium to high density development that would be significantly out of alignment with the well-established local character, representing and entirely different built form outcome and significant increase in building heights and density. Densities in the surrounding area generally range from around 3 dwellings per hectare to 11 dwellings per hectare.

A density calculation has been undertaken for the proposed development. When looking at the 2.1 hectare portion of the site that is proposed for development, the proposed density is approximately 88 dwellings per hectare. This scale of development is inconsistent with the surrounding character of the area and the objectives of the C4 Environmental Living Zone. It is more consistent with higher density development that is typically considered to be appropriate in the 800m walkable catchment of Metro Station Precincts, rather than in low density neighbourhoods that are constrained by environmental values and identified for low-impact development which protects environmental, aesthetic and scenic values. Further the proposed mechanisms do not provide any certainty as to the density outcomes noting that no floor space ratio control has been proposed (this is further discussed in the following section). Therefore, the proposed built form and density it is not considered appropriate for the subject site.

The Proponent has submitted a Visual Impact Assessment prepared by Audax Urban (dated February 2024) (Attachment 25) to assess the visual effects of the proposal on the existing

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views within the site's surrounding residential context with special regard to aesthetic scenic qualities of the locality and surrounding vantage points. It concluded the following:

- Some of the views were found to have nil or negligible view impacts – including View 1 (end of the cul-de-sac at Doris Hirst Place), View 2a (panoramic view from Melia Court) View 2b (framed view from Melia Court) and View 5 (within the site near the eastern boundary).
- View 4 was found to be fully within the site and the report concluded it has no aesthetic and scenic qualities visible from the locality.
- The proposed development was found to have a high level of visibility when viewed from Glen Road (View 3), but claimed the visual catchment is limited and the built form will be well screened by the proposed vegetation.

With respect to the view from Glen Road, it is questioned how the proposed development would be appropriately screened when viewed from Glen Road noting the substantial amount of vegetation proposed to be removed. The accuracy of the view assessment from Melia Court is also questioned, particularly given the view assessment is undertaken from the opposite side of Melia Court (furthest away from the proposed development), which would likely understate the extent of the visual impacts. It remains the view of Council officers that the proposal will significantly impact the scenic landscape of this locality, particularly when viewed from Glen Road and Melia Court.

b) Appropriateness of Proposed Planning MechanismsLand Zone

The planning proposal seeks to rezone the site from C4 Environmental Living to C2 Environmental Conservation, R3 Medium Density Residential, R4 High Density Residential and RE1 Public Recreation.

The C4 Environmental Living zone has typically been used within The Hills Shire to retain natural drainage channels, protect vegetation, scenic views and topographical features and to reduce the risk of geotechnical hazards. Its application is most effective when applied to a large contiguous area. Approving the planning proposal in its current form poses a potential risk of setting a precedent for applications seeking a similar outcome, which could in turn compromise the integrity of the continuous C4 Environmental Living zone land in this locality and further impact biodiversity values.

The proposed R3 Medium Density Residential and R4 High Density Residential zoning is not supported as it would allow for a significant overdevelopment of the site in a manner which does not align with the character or objectives for development within this locality and which is not appropriate having regard to the site specific constraints applicable to the land.

The proposed RE1 Public Recreation and C2 Environmental Conservation zones are not supported, as these may trigger an acquisition liability for Council. Irrespective of the acquisition liability risks, the areas proposed for these zones are not suitable for public recreation in any case due to the size, location and environmental characteristics. Should the Proponent proceed with the existing consent for the land, a Vegetation Management Plan (VMP) and a Section 88B restriction are required to protect significant vegetation on the site.

Maximum Height of Building

The planning proposal seeks to apply maximum height of building controls to the subject land, varying between 10m and 22m to facilitate a built form outcome ranging from three to six storeys (as shown in Figure 15). The proposed height of buildings is inconsistent with the character and objectives for development within the locality, noting the low density residential and environmentally sensitive nature of the area.

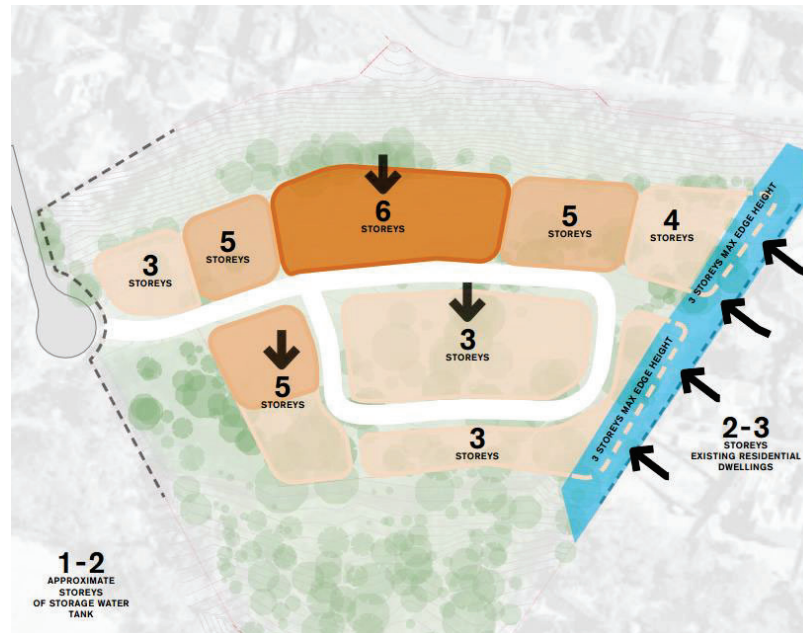


Figure 15
Indicative Built Form Outcomes
(Source: Proponent's Urban Design Report, DKO)

Maximum Floor Space Ratio Control

No FSR controls are currently applicable to the subject site and the proposal, as submitted, does not seek to apply any FSR controls to the site. In the absence of such controls, Council would be reliant upon the maximum height of building controls to guide future built form outcomes and as such, has no real certainty or control over the future bulk and scale on this site, or the number of dwellings that could ultimately be delivered on the site. This is not appropriate and should the proposal proceed in any form, a FSR control would be required.

Housing Mix and Diversity

The Proponent has not indicated if they seek to apply Council's housing diversity clause, which requires at least 30% of new apartments to be suitable for families in response to the demographics of the Shire. Should the proposal proceed, it is expected that proposal would need to be amended to achieve consistency with the housing diversity clause for the apartment component of the proposed development.

Development Control Plan (DCP)

Should the proposal proceed, a site-specific DCP would be required to deal with future development outcomes on the site to ensure that the intended built form outcome that supports the planning proposal is delivered. It is anticipated that at a minimum, development controls would relate to matters such as streetscape, character, setbacks, access to the site, vegetation management, waste management, parking and the preservation of vegetated setbacks.

There are a number of concerns with the design of the proposal shown in the concept plans that would need to be amended in order to meet standard DCP requirements. In particular, the accommodation of waste collection vehicles in basements and the presentation of bins on the street with enough space for collection is not demonstrated. It is considered overall however that the fundamental issues with the proposal are beyond those which could be resolved through site specific development controls, as the overall development outcome would be out

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of context and inappropriate for the locality and having regard to the site specific constraints and characteristics.

c) Environmental Considerations

Biodiversity

The *Biodiversity Conservation Act 2016* includes mandatory requirements for biodiversity assessment and reporting and requires proponents to demonstrate appropriate and sufficient steps have been taken to avoid and minimise impacts to areas identified and mapped as containing biodiversity values. The subject site is mapped on the State Government's sensitive biodiversity values map, as shown in the figure below.

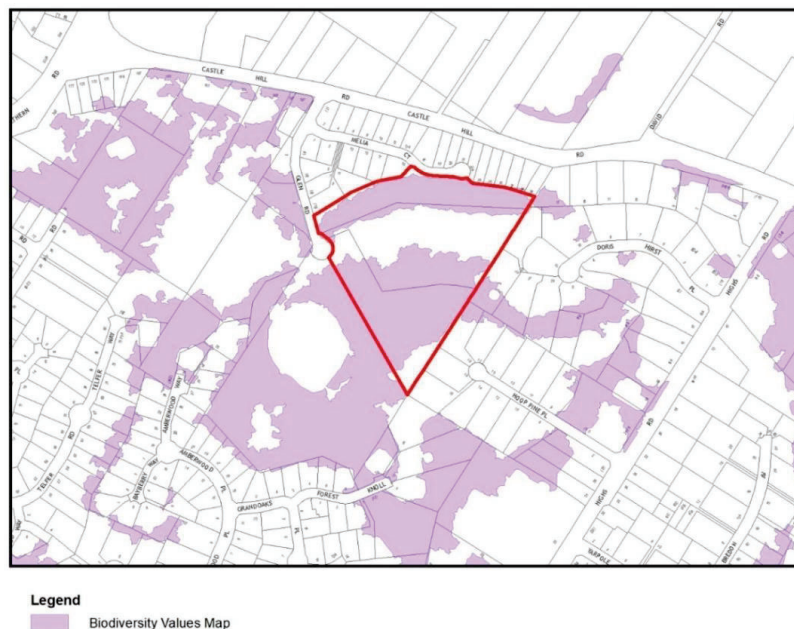


Figure 16
Sensitive Biodiversity Values Map

The Proponent has submitted a Biodiversity Development Assessment Report (BDAR) prepared by Fraser Ecological Consulting (dated 6 February 2024 and provided as Attachment 12). The BDAR identifies that approximately 2.5Ha of Blue Gum High Forest is present on the site, primarily on the southern portion. It indicates that the vegetation along the northern boundary does not constitute Blue Gum High Forest and is dominated by weeds and the central part of the site contains introduced grasses and weeds. Two threatened species of fauna, the Powerful Owl and Grey-Headed Flying-Fox, were detected (vocalisations) during surveys of the subject land. It also noted that while the Dural Land Snail was not detected on site, it has been previously recorded in the locality and as such, it is assumed that there it is present as a precautionary measure.

The BDAR identifies that Blue Gum High Forest is an entity that is at risk of serious and irreversible impacts and has identified some mitigation measures. However, the location and design of the proposed development has not been adequately informed by the biodiversity values. Further, the extent of earthworks and the asset protection zone has not been accurately considered as part of the assessment. Therefore, the development as proposed is considered highly likely to result in serious and irreversible impacts to the Blue Gum High

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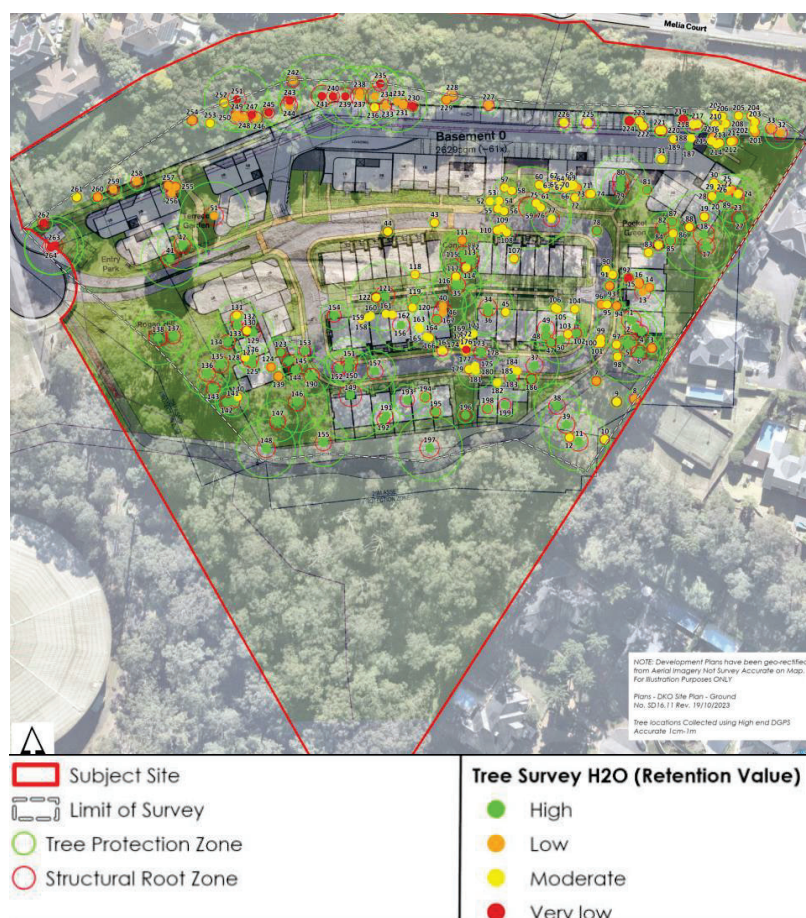
Forest. A lower scale and density development with a smaller footprint and reduced need for vegetation clearing and cut and fill would be a more appropriate response, similar to the outcomes within the surrounding area.

It is recommended that the proposal in its current form *not* proceed to Gateway Determination as it is an inappropriate environmental outcome that has not had proper regard to the biodiversity values of the land, has not been designed to adequately protect vegetation and is unlikely to satisfy the relevant requirements of the *Biodiversity Conservation Act 2016*.

Tree Removal

The Proponent has submitted an Arboricultural Impact Assessment Report that was prepared by H2O Consulting Group (dated 30 January 2024), which is provided as Attachment 11 to this report. The Arboricultural Impact Assessment Report indicates that the subject site is partially cleared and there are thicker sections of bushland towards the northern and southern ends. It also indicates the native bushland around the clearing is mapped as Blue Gum High Forest of the Sydney Basin Bioregion, which is listed as a Critically Endangered Ecological Community under the federal *Environment Protection and Biodiversity Conservation Act 1999* and an Endangered Ecological Community under the NSW *Biodiversity Conservation Act 2016*.

The report stated a tree survey had been undertaken, which indicated 263 trees were located within approximately 10m of the proposed building footprint on the subject site. It found the trees consisted of various canopy forming species that align with locally occurring native vegetation along with a number of exotic and potential species. Of the trees surveyed, the tree health ranged from poor to excellent, with the majority displaying fair to good structure. The indicative location and retention value of these trees are shown in the following figure.



The Arboricultural Impact Assessment indicates that there are 187 trees located within the proposed building footprint that will require removal. This includes 66 ecologically significant Sydney Blue Gum trees, most of which (60) are of High Retention Value. A total of 63 High Retention Value Trees are located within the proposal footprint and will require removal to make way for construction works.

The Arboricultural Impact Assessment notes that the proposal is also expected to have a major encroachment into the TPZ of an additional 22 trees, including nine trees of High Retention Value (Sydney Blue Gum trees). Given the extensive excavation works that will be required to establish the underground carparks, and considerable amounts of overhead works to construct the buildings, none of these trees are expected to remain viable, thus have been recommended for removal.

In summary, the Proponent's Arboricultural Impact Assessment Report recommends the removal of at least 209 trees. Of these trees, 72 are of high retention value (including 69 Sydney Blue Gum trees). However, it is likely that additional trees beyond this will require removal as the report has not properly considered the proposed earthworks or asset protection zones in their entirety.

Geotechnical and Landslide Risk

Under Clause 7.6 – Landslide Risk of LEP 2019, the site is identified and mapped as susceptible to landslide risk. This clause seeks to limit development to the commensurate underlying geotechnical conditions and to restrict development on unsuitable land. An extract of the Landslip Risk Map from LEP 2019 is shown in Figure 18 below.

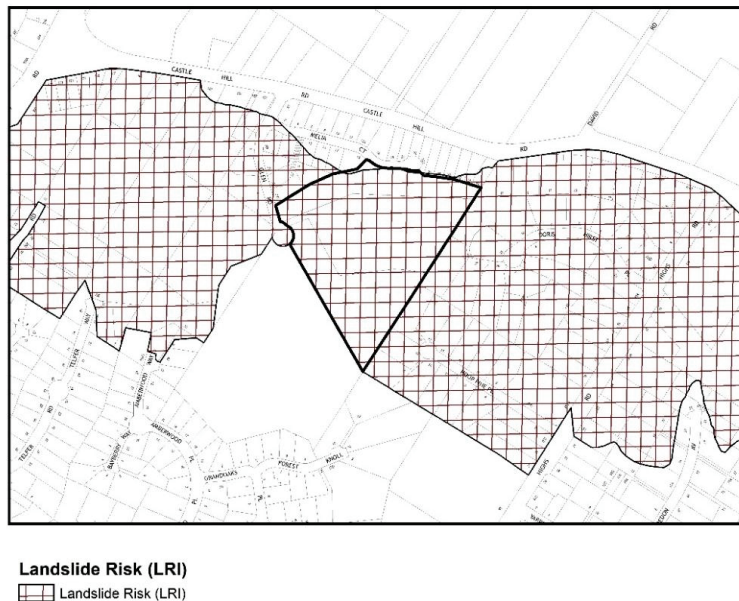


Figure 18
Landslide Risk Map – LEP 2019 (subject site outlined in black)

In recognition of the geotechnical constraints of the site, an Initial Geotechnical Assessment Report (prepared by Tetra Tech Coffey dated 8 November 2023) was submitted with the proposal (provided as Attachment 18). The purpose of the Proponent's report is to review geotechnical information that is currently available for this site as a basis for comment on the perceived feasibility of this development, together with discussion on potential geotechnical design strategies for the construction the proposed development on this landslide site. The proposal is also supported by a Structural Report, prepared by Northrop dated 1 February 2024 (provided as Attachment 22 to this report). The purpose of this report is intended to assist with assessment of safety of the build as well as understanding the structural systems proposed for use.

By way of background, the current development consent that facilitates 22 residential lots on the subject site (1089/2006/ZA/C) proposed stabilisation of the site by a “big dig” methodology which involves construction of retaining walls around the boundaries of the site and removal and replacement of landslide material in the central part of the site. Following consideration by the Geotechnical Review Panel, the site stabilisation strategy was approved in concept with further site investigation, geotechnical reporting and peer review required as part of the conditions of consent. This included requirements for all structures to be located within the site and the approval not relying on anchoring under the adjoining properties to the east.

The Proponent's report indicates that the future cost of landslide mitigation measures for the site was found to be uneconomical for conventional low density residential housing development. It notes that the ground conditions across the site comprise a deep soil creep

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landslide over shale bedrock and landslip issues arise when excess groundwater enters the soil underlying the development after prolonged periods of rainfall.

The following landslide management and construction strategies are identified as part of the current planning proposal:

- i. Installing a permanent anchored shoring wall at the northern edge of the site which will act to retain the hillside above the development and also act as a cutoff drain to reduce the amount of water entering the development from uphill.
- ii. In areas that have basements which are close to the slip plane, over-excavating down to the slip plane, installing a drainage layer and building back up with site won engineered fill.
- iii. In areas that don't have basements or where the basement level is well above the slip plane, installing a series of drainage channels in the soil to remove excess water from the soil.
- iv. All proposed structures will be designed as suspended structures supported on bored piers/ piles (or equivalent) to limit surcharge loading on the ground material.

The report concludes that the proposed development is considered feasible from a geotechnical perspective. It also notes that appropriate additional site investigation, design assessments and construction monitoring normally associated with this type of development would need to be carried out. The initial assessments have not included a comprehensive assessment of the site in its entirety, rather the inferred preliminary geotechnical model and recommendations are based on limited subsurface investigations at discrete locations. Specifically, the report notes additional detailed investigations and monitoring would be required including:

- Borehole drilling in the northern third of the site to characterise ground conditions for retaining wall design and the installation of groundwater observations wells.
- Rock core borehole drilling in the central part of the site to fully assess the strength and nature of defects within the slightly weathered to fresh shale and laminite, this will be required for building and retaining wall footing/socket design.
- Excavation of deep test pits near the top of the slope with the aim of identification of existing slide planes, and if found, sampling and laboratory shear box testing should be carried out to better assist its peak and residual shear strengths.
- Ongoing groundwater levels monitoring and comparison with rainfall records to assess current site groundwater levels, fluctuations and flow directions for detailed design groundwater modelling.

Overall, the Proponent's report is fairly high level in nature and does not include any discussion on how the vegetation constraints will be addressed and managed in conjunction with the geotechnical works that would also be required to facilitate this scale of development. The report also provides limited detail on alternate land uses that would be permissible if the proposed land use zones are applied (for example, seniors living, shop top housing, neighbourhood shops, centre-based child care facilities etc.) and whether different forms of slope stabilisation are required for these different land uses (notwithstanding that these are not the intended development outcome as submitted by the Proponent). Notwithstanding the Proponent's comments around the costs of geotechnical stabilisation, this does not warrant the approval of a scale and extent of development that is inconsistent with the prevailing environmental and low density character of the surrounding area. The Proponent's report has not demonstrated that the proposal is acceptable from a geotechnical risk perspective.

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Stormwater Management

The proposal is supported by a Stormwater Management Strategy as set out in the Proponent's Civil Engineering Assessment (prepared by Northrop dated 31 January 2024).

Part of the strategy proposes a swale running from east to west sitting at the northern boundary of the site to service upstream flows. The swale is proposed to run at a minimum of 1% and connect into existing stormwater pit at Glen Road, subject to approval and internal sizing calculations. However, concern is raised that runoff from the north eastern corner of the site will likely bypass the swale behind the shoring wall. Once flows hit the shoring wall, they can potentially end up as concentrated flows that may potentially end up in the adjoining site at 23 Doris Hirst Place.

A number of additional concerns are raised with the proposed onsite detention (OSD) and structural measures:

- Stage 1 OSD tank and filtration system to be located within Basement Level 1 will present several issues including dirty road runoff in a confined space that can cause unpleasant odours, difficulty in accessing the detention/filtration system for maintenance and the requirement for deep pits and pipes to drain the water out.
- Stage 2 OSD tank located under the western leg of the loop road may not be ideal noting the steep grade of the road and the need for the tank to have horizontal base and top for maximum storage.
- The bioretention basin is connected to the third OSD tank may not be possible due to the presence of significant trees. Further, recessing the area intended for the bioretention basin can be challenging considering the steep topography of the site.
- Due to site's steep topography, it may not be possible for the third OSD tank to be fully in-ground which requires further consideration of safety and aesthetics.
- There could be developed areas that will bypass the OSD and water quality provisions for the site. Sizing the OSD tank and stormwater quality treatment devices needs to overcompensate for these bypassing areas.
- The installation of drainage layers or channels as part of structural measures requires consideration of how they are incorporated in the stormwater management strategy.

The planning proposal has not adequately addressed stormwater management.

d) Traffic, Active Transport and ParkingTraffic

The Proponent submitted a Transport Impact Assessment (prepared by ARUP and dated 30 January 2024), provided as Attachment 23 to this report. It indicates that the road network near the subject site is expected to operate at a 'good' level of operation in 2023 and 2033 (both with and without the proposed development), as shown in the following figure. However, the accuracy of these results is questioned, noting that Castle Hill Road already experiences delays in the AM and PM peak periods under current conditions. The traffic modelling undertaken has not considered the potential traffic generations from the surrounding approved and planned developments, such as the proposed subdivisions west of Glen Road. Therefore, further information is required on which roads have been included within this assessment (to

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THE HILLS SHIRE

ensure that it also considers other intersections in the broader locality that will be impacted by the proposed development).

Peak Period	Scenario	DoS	Average delay (s)	Level of Service	Max. queue (m)
AM Peak	Existing 2023	0.71	5	A	140m (east approach)
	2023 with proposal	0.72	6	A	145m (east approach)
	Future 2033 without proposal	0.78	6	A	175m (east approach)
	Future 2033 with proposal	0.79	7	A	180m (east approach)
PM Peak	Existing 2023	0.75	4	A	190m (east approach)
	2023 with proposal	0.77	5	A	205m (east approach)
	Future 2033 without proposal	0.83	5	A	255m (east approach)
	Future 2033 with proposal	0.85	6	A	270m (east approach)

Figure 19

Traffic Modelling Results Castle Hill Road and Glen Road Intersection
(Source: Proponent's Transport Impact Assessment)

The Proponent's Transport Impact Assessment indicates that access to and from the site is provided via Glen Road. Unrestricted parking is currently permitted on both sides of Glen Road and is used by existing residents. The Proponent's Transport Impact Statement notes that the road carriageway of Glen Road is generally narrow and vehicles are unable to pass each other where there are vehicles parked on both sides of the road (noting existing traffic volumes are quite low). It recommends that kerbside restrictions (such as 'no parking' restrictions) be considered at regular intervals on both sides of Glen Road to allow vehicles to pass each other. Given the proposed development will result in additional traffic generation, the proposed signage mechanism is not considered an appropriate solution, and the road would need to be widened to accommodate the increased traffic flows.

Right turns are not currently permitted from Castle Hill Road to Glen Road on weekdays during peak hours, noting that there are significant safety issues associated with making right turns in this location. While the Proponent's Transport Impact Assessment recommends that traffic be diverted to utilise a detour that is approximately 3 kilometres long with an estimated travel time of 6 minutes (via Robert Road, John Road, County Drive and back onto Castle Hill Road) this is not considered an appropriate or suitable option. This will place increased pressure on the broader road network. It is also likely that road users will ignore the right turn restrictions, continuing to make the right turn across Castle Hill Road into Glen Road, despite it being prohibited. This poses a significant road safety issue for road users.

Given the foregoing, the proposal is unable to demonstrate an acceptable and safe traffic management solution to support the proposal.

Parking

The site is subject to the minimum parking requirements as set out in The Hills Development Control Plan (DCP) 2012. The Proponent's Transport Impact Assessment indicates that given the site is located within the Sydney Metro Northwest Corridor (as defined by the NSW Government and shown in Figure 20), the minimum parking rates for residential developments

LOCAL PLANNING PANEL MEETING 15 MAY 2024

THE HILLS SHIRE

within the Corridor are applicable to the subject site (being 1 space per unit and 1 visitor space per 5 units). The proposed parking rates are detailed in Figure 21.

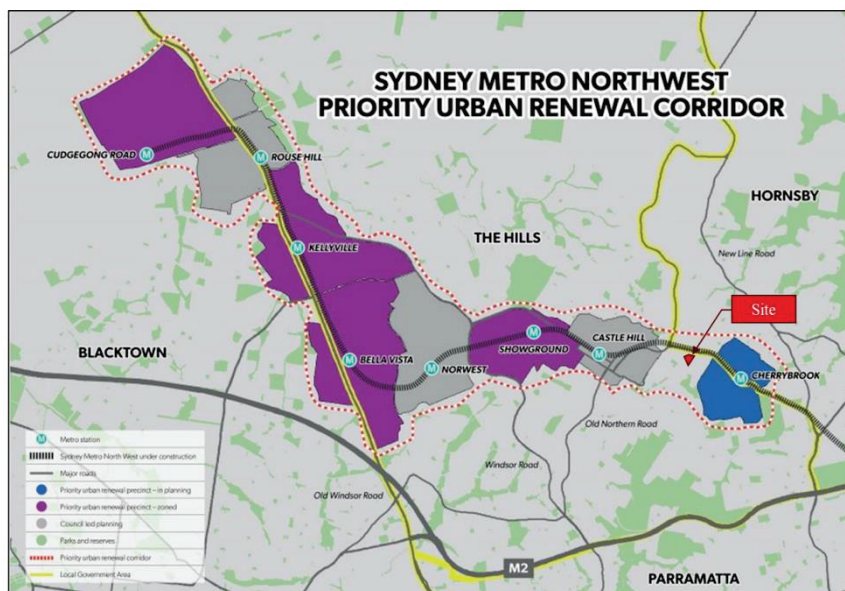


Figure 20

Sydney Metro Northwest Corridor (Source: Proponent's Transport Impact Assessment)

Building type	Yield	Required car parking spaces	Required visitor car parking spaces	Total required car parking spaces	Proposed parking spaces
1 bedroom unit	44	44	30	177	189
2 bedroom unit	73	73			
3 bedroom unit	30	30			
Terraces	38	38	8	46	76
Total		185	38	223	265

Figure 21

Proposed Parking Rates (Source: Proponent's Transport Impact Assessment)

The subject site is not located within any of the identified Station Precincts and it is not considered reasonable for the proposed development to solely rely on the reduced parking rates within Council's DCP, noting that the site is outside of walkable catchment of the stations and residents will be heavily reliant on private vehicles given the substantial distance from the Metro Stations.

Council's parking rates for residential flat buildings, shop top housing and multi-dwelling housing as identified in Part C Section 1 Parking of The Hills DCP would apply to the subject site, which includes the following provisions:

- 1 space per 1 bedroom unit
- 2 spaces per 2 or 3 bedroom unit
- 2 visitor spaces per 5 units

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Having regard to the yields proposed, the proposal will result in insufficient parking (a shortfall of approximately 144 parking spaces) when assessed against the requirements of The Hills DCP 2012. This is detailed below in Table 4.

Parking Requirement	Number of Dwellings	Number of Parking Spaces
1 space per 1 bedroom unit	35	35
2 spaces per 2 or 3 bedroom units	150	300
2 visitor spaces per 5 units	-	74
Total	185	409

Table 4
Comparison of DCP Parking Rates

This would require additional site work to accommodate the additional parking spaces and would result in additional environmental impacts, noting that the proposed density is excessive and already cannot be suitably accommodated with the developable site almost completely taken up by basement car parking structures and landslip remediation. This is not in keeping with the principles of ecological sustainable design.

e) Infrastructure Considerations

Local Infrastructure Demand

It is critical that any future development is matched by appropriate infrastructure to serve the growing population of residents and workers, including playing fields, local parks, community facilities, drainage facilities and transport infrastructure. The proposed uplift of 185 dwellings (and approximately 370 people) will generate demand for approximately:

- 9% of a new sports field;
- 9% of a local park;
- 9% of a netball court;
- 9% of a tennis court; and
- 3% of a local community centre.

The proposed uplift sought as part of this planning proposal is significantly higher than what was expected under the existing strategic framework, noting that no uplift (beyond the current approved large lot subdivision) was identified for this site. Accordingly, it has not been planned or catered for under the applicable contributions plan, being Council's Section 7.12 Contribution Plan, which only envisaged incremental development within established urban areas. Therefore, it is not an appropriate mechanism for levying the proposed development.

The Proponent has submitted a letter of offer to enter into a Planning Agreement (provided as Attachment 7 to this report). The letter of offer prepared by Paro Consulting (dated 16 February 2024) includes preliminary details of infrastructure and public benefits the developer intends to deliver in association with the development. The letter of offer includes:

- The delivery of a future public park around 2,000m² in size that features play equipment, landscaping and areas for passive recreation. The letter indicates the Proponent's intent for the ownership to be transferred to Council.
- 15% of the total floor area to be used as affordable rental housing for at least 15 years from the date of occupation and managed by a registered community housing provider.
- Regeneration of some of the bushland, within the proposed C2 Environmental Conservation zone in accordance with a future vegetation management plan.
- Construction of a new footpath along Glen Road through to Castle Hill Road.

LOCAL PLANNING PANEL MEETING 15 MAY 2024**THE HILLS SHIRE**

At this stage, the Proponent has not provided a total monetary value of the proposed works, land and monetary contributions. Notwithstanding the absence of this information, a preliminary review of the offer has been undertaken by Council Officers (using assumptions where required).

The following comments are raised with respect to the proposed offer:

- Given the size, location and environmental characteristics of the land, the proposed park is not considered functional or usable. The park is smaller than the minimum criteria of 5,000m² in the Recreation Strategy, is not in a location where the Recreation Strategy identifies that additional parks are required, the land is constrained by the presence of Blue Gum High Forest, steep topography, landslide risk and a drainage gully along the western boundary. The survey plan also indicates that a sewer line runs through the proposed location of the park. This park would primarily be accessible by, and in service to, residents of this development rather than providing any public benefit for the broader community.
- With respect to the proposed affordable rental housing, noting Council has not entered into an affordable housing contributions scheme (with investigations currently underway) and does not administer any affordable housing accommodation, there is no mechanism to attribute the contribution towards affordable housing. This part of the proposal should be considered as part of any future residential component of development on the site or through a separate arrangement with an organisation which is able to provide such housing.
- The proposed environmental conservation works and footpath along Glen Road are not considered to be a public benefit as such works would likely be required by way of a condition of development consent as part of any future development application process.
- The offer does not include any consideration of the demand created by the development for active open space facilities or traffic and transport infrastructure.

The offer does not adequately address the increased demand for infrastructure that would be required to support the proposed development, is substantially less than any comparable contributions plans that levy high density residential development and does not provide any tangible public benefits for the community.

CONCLUSION

This report recommends that the planning proposal *not* proceed to Gateway Determination, on the basis that the planning proposal has not demonstrated either strategic or site specific merit. The strategic planning framework encourages housing in the right locations and the protection of the environment. The planning proposal is not able to meet the key objectives to deliver on these outcomes.

The environmental constraints of the site are significant and the proposal has not demonstrated that these constraints can be overcome to deliver an appropriate development outcome, in the context of environmentally sensitive land where no uplift is anticipated within the strategic planning framework. The proposed outcomes are beyond the capacity of the site and are not supported.

LOCAL PLANNING PANEL MEETING 15 MAY 2024**THE HILLS SHIRE**

ATTACHMENTS (PROVIDED UNDER SEPARATE COVER)

1. Council Officer Pre-lodgement Feedback Letter (November 2021) (4 pages)
2. Council Officer Scoping and Pre-lodgement Feedback Letter (June 2023) (8 pages)
3. Planning Proposal Report (82 pages)
4. Urban Design Report (44 pages)
5. Concept Architectural Drawings (10 pages)
6. Survey Plan (2 pages)
7. Public Benefit Offer (2 pages)
8. Quantity Surveyor's Report (6 pages)
9. Landscape Drawings (14 pages)
10. Landscape Architecture Design Report (46 pages)
11. Arboricultural Impact Assessment (54 pages)
12. Biodiversity Development Assessment Report (160 pages)
13. Bushfire Study (90 pages)
14. Civil Engineering Assessment and Feasibility Report (16 pages)
15. Communication Plan (54 pages)
16. Community and Economic Needs Assessment (36 pages)
17. Flood Impact and Risk Assessment (42 pages)
18. Geotechnical Assessment (20 pages)
19. Heritage Impact Statement (36 pages)
20. Preliminary Site Investigation (56 pages)
21. Services Infrastructure Report (18 pages)
22. Structural Report (8 pages)
23. Transport Impact Assessment (54 pages)
24. Vegetation Management Plan (74 pages)
25. Visual Impact Assessment (32 pages)

LOCAL PLANNING PANEL – THE HILLS SHIRE COUNCIL

DETERMINATION OF THE LOCAL PLANNING PANEL ON 15 MAY 2024

PRESENT:

Pamela Soon	Chair
Glennys James	Expert
Jeremy Swan	Expert
Tony Chahine	Community Representative

DECLARATIONS OF INTEREST:

NIL

COUNCIL STAFF:

The Panel were briefed by the following Council Staff on 15 May 2024:

Megan Munari	-	Principal Coordinator, Forward Planning
Jessie Wiseman	-	Strategic Planning Coordinator
Erika Juan	-	Graduate Town Planner

ITEM 1: LOCAL PLANNING PANEL - PLANNING PROPOSAL – MELIA COURT AND GLEN ROAD, CASTLE HILL (5/2024/PLP)**COUNCIL OFFICER'S RECOMMENDATION:**

The planning proposal should not proceed to Gateway Determination.

PANEL'S ADVICE:

1. The planning proposal is inconsistent with the objectives and priorities of the Greater Sydney Region Plan, Central City District Plan, Section 9.1 Ministerial Directions, North West Rail Link Corridor Strategy, The Hills Corridor Strategy, Cherrybrook Station Precinct Place Strategy, Council's Local Strategic Planning Statement and draft Castle Hill Precinct Plan, as these documents relate to providing for housing supply in the right locations, creating great places, protecting areas of environmental significance and balancing growth with suitable levels of infrastructure.
2. The site is not identified as being suitable for development uplift within any of the relevant aforementioned strategies or plans which identify locations for medium to higher density development to occur in closer proximity to Cherrybrook or Castle Hill Metro Stations (within the walkable catchment from the station).
3. The proposed outcome is inappropriate having regard to the environmental constraints of the site including steep topography, landslide risk, hydrological constraints and endangered ecological communities. The location, design, scale and form of the proposed development does not adequately consider or respond to the scenic or biodiversity values of the site. A lower scale and density of development with a smaller footprint, reduced vegetation clearing and reduced cut and fill would more appropriately respond to the site constraints, similar to the outcomes within the surrounding area.
4. The traffic and parking impacts generated by the proposed uplift have not been suitably considered or addressed.
5. The proposed planning mechanisms sought to be implemented by the planning proposal would enable a broad range of potential outcomes and do not provide certainty that the outcomes illustrated in the concept plans will be delivered.
6. The proposal does not adequately address the demand for infrastructure likely to be generated by the proposal or provide any tangible public benefits.

VOTING:

Unanimous



THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL
3 Columbia Court, Norwest NSW 2153
PO Box 7064, Norwest 2153
ABN 25 034 494 656 | DX 9966 Norwest

3 November 2021

Knight Frank Australia Pty Ltd
L 22 Angel Place
123 Pitt Street
SYDNEY NSW 2000

Attention: Ms Amy Vaughan

Via Email: Amy.Vaughan@au.knightfrank.com

Our Ref: FP35

Dear Ms Vaughan

PRE-LODGEEMENT FEEDBACK – MELIA COURT AND GLEN ROAD, CASTLE HILL

I refer to our pre-lodgement meeting held on 7 October 2021 and thank you for presenting your plans for the site. It is understood that you are seeking to rezone the land to R3 Medium Density Residential to facilitate approximately 64 townhouses on the site. The following information is provided as Officer-level feedback for your consideration.

▪ **Strategic Merit**

The proposed R3 Medium Density Residential zoning is inconsistent with surrounding development in the locality, which is typically characterised by larger lots with single dwellings. The site also forms part of an important corridor of land zoned E4 Environmental Living. Strategically, this corridor largely reflects the significant landslide risk and geotechnical constraints for land south of Castle Hill Road. The E4 corridor also reinforces the importance of maintaining scenic and district views along the ridgeline of Castle Hill Road, which is a planning priority within the Central City District Plan. The proposed R3 Medium Density Residential zoning would appear to be contrary to these aims.

Typically, the R3 Medium Density Residential zoning is most appropriately used within The Hills Shire in locations where the principles of transit-oriented development can be demonstrated. Proximity to a local centre and supporting services, including public transport is a key strategic priority in terms of accommodating additional density. This site is not located within a reasonable walking catchment of a centre.

While it is acknowledged that the proposed development seeks to provide additional housing supply and increase diversity of housing choice, other critical elements of the strategic planning framework discussed above are also key considerations and inconsistencies with these may be difficult to overcome. Notably, Council's Local Strategic Planning Statement (LSPS) identifies sufficient land along the Sydney Metro Northwest Corridor and greenfield precincts of North Kellyville and Box Hill in order to meet the Shire's housing needs to 2036 and beyond.

- **Environmental Constraints**

In addition to maintaining the scenic views to the ridgeline as mentioned above, the site is heavily constrained by a number of environmental factors, including steep topography, landslide risk and Blue Gum High Forest, which is listed as a Critically Endangered Ecological Community under the Biodiversity Conservation Act 2016. Parts of the site are also identified on the Biodiversity Values Map and there is potential for development and associated clearing on the site to trigger the Biodiversity Offset Scheme. Consideration should be given to any potential clearing, given that Council cannot grant consent to development that would result in a Serious and Irreversible Impact. Further, the ability to provide the proposed public benefit of walking tracks throughout the site is questioned, given the critically endangered nature of the vegetation.

With respect to landslide risk, it is acknowledged that such geotechnical constraints have been considered extensively in granting consent for the existing Community Title subdivision approval. However, the resulting lot size under the current consent would not circumvent the existing minimum lot size of 2,000m². The proposed development would result in a substantial increase in density and smaller resulting lot sizes. The development's ability to overcome the landslide risk on the site is questioned, as the proposed development outcome would potentially result in increased landslide risk. Please note that the application would need to peer reviewed through to Council's Geotechnical Review Panel at the cost of the Proponent.

Additionally, the steep slope of the site presents further challenges with respect to the level difference of new dwellings and the interface with existing dwellings adjoining the site. The proposed density increase will also have implications for stormwater drainage to the south of the site. A future planning proposal application will need to demonstrate that these issues can be appropriately resolved.

- **Access, Traffic and Infrastructure Demand**

Access to and from the site is currently provided via Glen Road. The proposed density increase is likely to contribute to existing traffic impacts along Castle Hill Road, which already experiences delays in the AM and PM peak periods under current conditions. While the planning proposal would result in increased housing supply, the strategic planning framework emphasises the provision of housing in the right locations, where such impacts are minimised or appropriately addressed through infrastructure upgrades.

Council's LSPS states that there is sufficient land zoned to meet residential supply targets, though the challenge for The Hills is the ability to service the new planned growth with appropriate infrastructure. The uplift sought through this planning proposal is unplanned and therefore uncatered for within Council's existing local Contributions framework. A mechanism will be required to ensure that the local infrastructure demand generated by the proposal can be adequately funded. Additionally, consultation will be required with Transport for NSW as part of the planning proposal process, to determine the impact on regional infrastructure and the need for any upgrades.

- **Proposed Public Park**

The preliminary planning submission indicates the construction and dedication of a public park to Council. It is noted that the site is largely isolated in a location that is not widely known to be accessible to the public. As such, the benefit of providing a public park in this location is questioned.

- **Technical Matters and Built Form Outcome**

From a review of the preliminary planning submission, it is difficult to establish the proposed LEP mechanisms, particularly with respect to the proposed minimum lot size. Further, the future

medium density dwelling typology and associated subdivision titling arrangements is unclear, given that the R3 Medium Density Residential zone would permit a range of dwelling types. This includes multi dwelling housing, attached dwellings and small lot housing (integrated housing). Any future planning proposal application would need to clearly stipulate the proposed LEP amendments, subdivision arrangement and dwelling typology and built form outcome. The proposed dwelling arrangement appears to represent a multitude of gun barrel arrangements and a garage-dominant streetscape. The development concept should give further consideration to internal amenity of the proposed built form, having consideration Part B Section 9 – Small Lot Housing (Integrated Housing) and Part B Section 10 – Medium Density Residential (Terraces) of The Hills DCP 2012. These controls may be an appropriate foundation for the development of a site specific DCP to guide built form outcomes on the site, if all other strategic and site specific issues identified in this letter could be overcome.

Based on the information provided it would be difficult for Council officers to conclude that a planning proposal to facilitate medium density development on this site demonstrates strategic and site specific merit. However, should you wish to progress with lodging a planning proposal application with Council, the applicable fee would be the 'Major' fee, being **\$70,620**. Please contact me on 9843 0404 if you wish to discuss the matter further.

Yours faithfully



Kayla Atkins
STRATEGIC PLANNING COORDINATOR



THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL
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ABN 25 034 494 656 | DX 9966 Norwest

14 June 2023

Mr Basil Lim
Director
Env Group
Level 8, 100 Christie Street,
ST LEONARDS NSW 2065

Via Email: basil.lim@einv.com.au

Our Ref: 5/2023/PPLP

Dear Basil,

**SCOPING PROPOSAL & PRELODGEEMENT MEETING
MELIA COURT & GLEN ROAD, CASTLE HILL (5/2023/PPLP)**

I refer to the above matter and thank you for submitting a Scoping Report and attending the Pre-lodgement meeting held on 1 June 2023. This letter provides feedback on the Scoping Report and planning proposal, in accordance with the Department of Planning and Environment's *Local Environmental Plan Making Guideline*.

Please note that the comments contained within this letter are preliminary in nature and may be superseded following the submission and assessment of the planning proposal and supporting documentation, should you choose to progress with the lodgement of an application. These comments represent the views of Officers only based on a consistent application of the strategic planning framework and Council's adopted policy settings.

1. Preliminary Advice as to Whether the Proposal has Strategic and Site-Specific Merit

Preliminary commentary is provided below with respect to the potential for the proposal to satisfy the strategic and site-specific merit tests. Please note that these comments are preliminary officer level comments only, based on the scoping material submitted. The comments below do not represent the final views of Council officers, which can only be established following thorough assessment of your full application and supporting technical studies. Furthermore, these preliminary comments do not impact the discretion of the elected Council to form a different view with respect to the proposal, if lodged and reported to Council for Determination.

Strategic Merit

- Give effect to the relevant plans and demonstrate consistency with the relevant LSPS

Strategic Framework	Comment
Greater Sydney Region Plan and Central City District Plan	The Greater Sydney Region Plan and Central District Plan contain objectives that seek to protect and enhance biodiversity and scenic landscapes.

	<p>The proposal seeks to rezone land on a site identified as containing Blue Gum High Forest, which is a Critically Endangered Ecological Community under the Biodiversity Conservation Act 2016. It is unclear how the proposal will manage the development of the land in terms of protecting the critically endangered ecological community and facilitating the proposed development. Based on the information provided to date, it is considered unlikely that the proposal would be able to demonstrate consistency with these objectives.</p> <p>The current zoning of the site, C4 Environmental Living, contains objectives to maintain the scenic and district views (in this case along the ridgeline of Castle Hill Road) consistent with the Central City District Plan. The zone seeks to allow for low-impact residential development to protect ecological, scientific or aesthetic values and contribute to protecting biodiversity. The scale, density and yield of the proposed development would be well beyond what is considered “low-impact”, given the large building footprint and the level of earthworks and stabilisation works required to facilitate development. The planning proposal would appear to enable a built form that would be visible above the tree canopy on the ridgeline and that would detract from the significant district views.</p> <p>Under the current policy framework, high-density infill development opportunities are focussed within the walkable catchment immediately surrounding the new metro stations, in accordance with the principals of transit oriented development. The site is not within the walkable catchment of high frequency public transport or the Castle Hill Strategic Centre or Cherrybrook Metro Station. The planning proposal is therefore unlikely to be consistent with the Priorities and Actions of the Region and District Plans which seek to provide increased housing in the right locations within close proximity to jobs, services and public transport.</p> <p>Given these inconsistencies with the Greater Sydney Region Plan and Central City District Plan, it is the preliminary view of Council officers that it would be highly unlikely that the proposal would be capable of demonstrating strategic merit or consistency with the Region and District Plans.</p>
The Hills Local Strategic Planning Statement (LSPS)	<p>Council's LSPS seeks to provide housing in the right locations, close to transport and to protect biodiversity and scenic landscapes.</p> <p>The LSPS envisages the majority of future residential uplift to occur along the Sydney Metro Northwest Corridor and greenfield precincts of North Kellyville and Box Hill. There is sufficient land zoned or identified for future uplift in order to meet the Shire's housing targets to 2036 and beyond. Council is one of the only Metropolitan Council's that has met its 2016-2021 housing target and is on track to meeting its 2021-2026 housing target. As such, there is limited justification for providing additional housing outside of areas already identified as being suitable for uplift, where recent</p>

	<p>infrastructure investment can be readily capitalised on to enable transit oriented development outcomes.</p> <p>The site is not located within the walkable catchment of Castle Hill or Cherrybrook Metro Stations. The proposal seeks to provide high density residential development on a site that is identified as containing critically endangered ecological communities, in a location that has not been planned to accommodate this level of uplift and in an area which has been specifically identified for low-impact residential only in order to protect and maintain the environmental, aesthetic and scenic qualities of the locality. Given this, it is highly unlikely that the planning proposal would be able to demonstrate consistency with the vision and priorities articulated within Council's LSPS, which has been formally assured by the Greater Cities Commission.</p>
North West Rail Link Corridor Strategy	The site is not identified as being suitable for development uplift within this Plan. Land in closer proximity to stations (within the walkable catchment from each station) has been identified as more suitable areas for high density development to occur.
Cherrybrook Station Precinct Place Strategy	The site is not identified as being suitable for development uplift within this Plan. Land in closer proximity to the station (within the walkable catchment from the station) has been identified as a more suitable area for high density development to occur.
The Hills Corridor Strategy	The site is not identified as being suitable for development uplift within this Plan. Land in closer proximity to stations (within the walkable catchment from each station) has been identified as more suitable areas for high density development to occur.
Draft Castle Hill Precinct Plan	The site is not identified as being suitable for development uplift within this draft Plan. Land in closer proximity to the station (within the walkable catchment from the station) has been identified as a more suitable area for high density development to occur.
Section 9.1 Ministerial Directions	<p>Direction 3.1 Conservation Zones seeks to conserve environmentally sensitive areas. The direction states that planning proposals must not reduce the environmental protection standards that apply to land identified for environmental conservation purposes in an LEP (including modifying development standards that apply to the land). The Planning Proposal would appear to be inconsistent with this Ministerial Direction.</p> <p>The proposal would need to demonstrate consistency with Direction 4.1 Flooding which seeks to ensure that planning proposals consider the potential flood impacts both on and off the subject site. There is concern about the potential to achieve consistency with this direction, given the topography and landslip risk associated with the site, and the Sydney</p>

	Water easement that traverses the site. This is discussed further below.
--	--

- *Response to a change in circumstances that has not been recognised by the existing planning framework*

There has been no change in circumstances that has not been recognised by the existing planning framework. The existing planning framework has appropriately responded to the introduction of the Sydney Metro Northwest through the corresponding Corridor Strategies, Place Strategies and draft Precinct Plans, none of which identify the site as being suitable for development uplift. Under these plans, the focus of higher density development is in proximity to these Stations.

Site-Specific Merit

- *the natural environment on the site to which the proposal relates and other affected land (including known significant environmental areas, resources or hazards)*

The site is heavily constrained by a number of environmental factors, including steep topography, landslide risk and the presence of Blue Gum High Forest, which is listed as a Critically Endangered Ecological Community under the Biodiversity Conservation Act 2016. Under Clause 7.6 – Landslide Risk of LEP 2019, the site is identified and mapped as susceptible to landslide risk. This clause seeks to restrict development on unsuitable land to ensure that development is commensurate with the underlying geotechnical conditions.

The geotechnical engineering response that would likely be required to stabilise the land for the proposed development outcome would heavily conflict with the protection of environmental values (including critically endangered vegetation) on the site.

Any future planning proposal for the site would need to demonstrate that the development concept and required engineering works would not result in serious and irreversible impacts to the endangered ecological community on site. Considering the substantial clearing required to facilitate the proposal, the development would trigger the Biodiversity Offset Scheme. The NSW Environment and Heritage Group (EHG) stated in their submission, that the planning proposal in its current form does not meet requirements in relation to biodiversity assessment and floodplain risk management. EHG noted that the proposal is likely to have significant impact on the local biodiversity values given the extent of the proposed engineering works. Significant Biodiversity Assessment would be required to demonstrate the impact of the proposed development on the endangered ecological community. Further discussion on the issues raised by EHG are provided in the next section of this letter. The submission received from EHG is provided as Attachment 2.

The southern portion of the site is identified as a flood control lot. The proposed development is likely to redirect overland flow paths across the site, potentially impacting the adjoining properties. The proposed density increase would also have implications for stormwater drainage south of the site and would substantially increase the level of impervious surfaces. A Flooding Impact Assessment would be required to identify the potential flooding impacts of the proposed development and demonstrate that the proposal does not increase flood risk. It is noted that this matter was raised as a concern in the submission received from Sydney Water, which is discussed further in the next section of this letter. A copy of Sydney Water's submission is also provided as Attachment 5.

The planning proposal would be required to demonstrate how the required protection of biodiversity is balanced with the extensive engineering work required to mitigate landslide risks on the site and the proposed boardwalk through the Blue Gum Heigh Forest, especially during construction of the proposed development. In assessing the planning proposal Council would also be required to consider the risk of setting a precedent for applications seeking a similar outcome, which could in turn compromise the integrity of the continuous C4 Environmental Living zone land and further impact local biodiversity.

- *the built environment, social and economic conditions*

The proposed high density development is inconsistent with the character of surrounding low to very low density residential development. The site and surrounds form an important 'environmental spine' along Castle Hill Road. The bulk and scale of the proposed development is likely to detract from district scenic views along the ridgeline of Castle Hill Road.

The Scoping Proposal indicates that the resulting development density would be 42 dwellings per hectare. This is inconsistent with the surrounding character of the area and the objectives of the C4 Environmental Zone. Further, the density calculation has been undertaken across the whole site, much of which is undevelopable due to dense, critically endangered vegetation. The proposed development outcome is closer to a density of 83 dwellings per hectare when calculated based on the 2.3 hectare portion of the site that is proposed for development. This scale of development is consistent with high density development that is typically considered to be appropriate in the inner walkable catchment of Metro Station Precincts, rather than in low density neighbourhoods that are constrained by environmental values and identified for low-impact development only which protects environmental, aesthetic and scenic values.

The central park is unlikely to provide a substantial public benefit, considering the isolated location of the site. The central park is likely to only service the future residents of the proposed development. The stated benefit of allowing residents to enjoy recreational walks through the adjacent bushland also has the potential to impact on the flora and fauna habitats and seasonal behaviours and would need to be further considered.

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

The proposed density increase is likely to contribute to existing traffic impacts along Castle Hill Road. Right turn movements from Castle Hill Road onto Glen Road are currently prohibited during peak times. The proposal will need to consider the potential safety issues associated with this and the extent to which the development uplift would further exacerbate these issues.

It is unclear from the Scoping Proposal whether the proposed park is intended to be dedicated to Council. This is unlikely to be supported as it would require Council to own and maintain land for a public purpose, without any significant public benefit for the community, beyond servicing residents of development on this site.

Any proposal would need to consider and include an infrastructure mechanism to ensure the funding and delivery of any new or upgraded upgrades to local infrastructure required as a result of the proposed development.

2. Views of Public Authorities – Preliminary Consultation

As part of the Scoping and Pre-lodgement process, Council has undertaken consultation with the following State Government agencies to obtain their preliminary views on the proposal:

- Sydney Water;
- Endeavour Energy;
- Transport for NSW; and
- NSW Environment and Heritage Group (EHG).

A submission has been received from each of these authorities.

Endeavour Energy and Sydney Water confirmed that an augmentation of the existing local network would be required to service the proposed development. Additionally, Sydney Water noted a critical water main within an easement traverses the site. Sydney Water raised concerns with the soil

conditions and the slope stability of the site, as the proposed development has the potential to increase the risk to the watermain during water leak and break events.

Transport for NSW responded with no concerns or objections raised in relation to the proposed development, however provided recommendations for further consideration in the preparation of a traffic study.

The submission received from the NSW Environment and Heritage Group raised a number of issues and provided guidance for further technical studies that need to be undertaken. The critical concerns raised in their submission are summarised as follows:

- It is likely that the current proposal could have significant impacts on local biodiversity values given the extent of engineering works covers more than 55% of the site.
- Given the impacts to Serious and Irreversible Impact (SII) entities due to the proposed extent of the R3 zoning, the Proponent would be unlikely to be able to demonstrate how the proposal has avoided and minimised impacts to biodiversity values on the site.
- The proposal does not sufficiently identify threatened entities, nor provide adequate protection through appropriate zoning and ongoing management of avoided land with significant biodiversity values.
- Approval of the current rezoning proposal could lead to future DAs being refused given that section 7.16 of the Biodiversity Conservation Act states that a consent authority *must* refuse to grant consent if it is of the opinion that the proposed development is likely to result in a serious and irreversible impact on biodiversity values.

A copy of all submissions received from public authorities are provided as Attachments 2-5.

3. Recommendations and Changes to Scope of Proposal

It is recommended that you strongly reconsider the lodgement of a planning proposal for this site, having regard to the substantial strategic and site-specific merit issues detailed above. Based on a preliminary review of the Scoping Material submitted, it is considered extremely unlikely that a proposal of this nature would be capable of overcoming these matters and satisfying the strategic and site specific merit tests.

However, should you wish to proceed with lodging a formal application, the following amendments are recommended to ensure clarity and certainty on the outcomes depicted within the scoping proposal:

- a) The proposal would need to clearly identify where the proposed land zones would be mapped across the site. Additionally, the proposal would need to demonstrate where the increased height controls would apply across the site. It should be noted that the Scoping Proposal identifies a maximum 10m height limit but proposes a built form of 4-5 storeys, which would exceed this height limit. Consistency between planning proposal documentation and architectural plans is required to ensure clarity throughout the assessment process. If any land is proposed to be dedicated to Council, this should also be clearly stated in your planning proposal material.
- b) The proposal must clearly distinguish between tree retention, removal and proposed replanting of trees. Tree planting and retention must consider the presence and extent of any proposed basement parking or stormwater infrastructure to be provided.
- c) The proposal must clearly stipulate how the proposed native vegetation on the site will be managed into the future. Careful consideration is required with respect to how residents will or will not utilise this bushland area, having regard to the potential to create disturbance to native flora and fauna habitats and seasonal behaviours.

Please note that the suggested amendments above merely relate to the level of information required for Council to properly understand and assess the proposed planning outcome. They are not to be taken as an exhaustive list of amendments to the development outcome, nor are they matters that would resolve the strategic and site specific merit issues identified earlier in this letter. Consideration should also be given to the comments provided by State Agencies and the level of detail that would be required to enable their proper assessment of any proposal.

4. Nomination of the Planning Proposal Category & Council Assessment Fees

In accordance with the Local Environmental Plan Making Guideline the planning proposal falls within the category of 'Complex'. In accordance with the Hills Shire Council adopted fees and charges, a 'Complex' proposal will be subject to a lodgement fee of \$177,850 under the 2022/2023 Fees and Charges. Please note that any planning proposal application lodged on or after 1 July 2023 would likely be subject to a new fee following the adoption of Council's fees and charges for the 2023/2024 financial year.

5. Consultation Requirements and Assessment Timeframes

Council's Planning Proposal Policy is provided as Attachment 1 for your reference. This Policy identifies how the planning proposal process occurs, the stages at which you will have the opportunity to address the elected Council, and submission requirements for lodgement.

Should Council resolve to support a planning proposal and progress to Gateway Determination, it is anticipated that further formal consultation with government agencies will occur following the issue of a Gateway Determination, concurrent with public exhibition of the planning proposal. Public exhibition and consultation will occur in accordance with the Gateway Determination and for a minimum of 28 days should one be issued.

The Department of Planning and Environment has implemented its Planning Reform Action Plan, which seeks to fast track planning proposal assessment timeframes and provides minimal opportunity to obtain timeframe extensions. As such, Council is unable to defer consideration of critical elements such as infrastructure solutions or a draft development control plan to the post-Gateway stage. It is envisaged that these elements will be reported to the Local Planning Panel and Council concurrently with the planning proposal so please ensure that all required supporting material is submitted at the time of lodgement.

6. Recommended Investigations and Studies to Support the Proposal

If you choose to proceed with the lodgement of a planning proposal application, the following information should be submitted, at a minimum, as part of your planning proposal lodgement package:

- Application Form, Owners Consent and completed Political Donations forms;
- A Planning Proposal Report, which addresses the Department of Planning and Environment's *Local Environmental Plan Making Guideline*;
- Master Plan/Structure Plan/Urban Design Report;
- Full set of Architectural Plans;
- Environmental Constraints Reports (Biodiversity Development Assessment Report (BDAR) and detailed surveys, stormwater and flooding);
- Geotechnical Report;
- Heritage Assessment Report;
- Site Contamination Report (and a Remediation Plan if required);
- Traffic, Parking and Accessibility Report;
- Infrastructure Demand Analysis and Public Benefit Offer;
- Draft Development Control Plan; and
- Presentation material for Councillor briefing session in accordance with Council's Planning Proposal Policy (Attachment 1).

7. Infrastructure Solution

The current contributions framework applicable to the site does not plan or cater for the additional demand for infrastructure that would be generated from the planning proposal and as such a new infrastructure mechanism will be required to deliver the infrastructure necessary to support the uplift in development potential.

Any planning proposal should be accompanied by an infrastructure solution that will ensure the delivery of appropriate infrastructure contributions and outcomes to support the proposed development. Contributions (in the form of works or monetary contributions) towards active and passive open space, drainage infrastructure, traffic infrastructure will be necessary to support the proposal and a public benefit should be considered for the broader benefit of the community.

I trust this information is sufficient to assist you in considering whether to prepare and submit a planning proposal application. Should you require further information, please contact Emma Langan, Senior Town Planner on 9843 0243 or at elangan@thehills.nsw.gov.au.

Yours faithfully



Nicholas Carlton
MANAGER – FORWARD PLANNING

ATTACHMENT 1: THSC PLANNING PROPOSAL POLICY
ATTACHMENT 2: NSW ENVIRONMENT AND HERITAGE GROUP SUBMISSION
ATTACHMENT 3: ENDEAVOUR ENERGY SUBMISSION
ATTACHMENT 4: TRANSPORT FOR NSW SUBMISSION
ATTACHMENT 5: SYDNEY WATER SUBMISSION