

ITEM 3	PLANNING PROPOSAL – DERRIWONG ROAD AND OLD NORTHERN ROAD, DURAL (6/2024/PLP)
THEME:	SHAPING GROWTH
MEETING DATE:	23 JULY 2024
	COUNCIL MEETING
GROUP:	SHIRE STRATEGY
	MANAGER – FORWARD PLANNING
AUTHOR:	NICHOLAS CARLTON
RESPONSIBLE OFFICER:	GROUP MANAGER – SHIRE STRATEGY MARK COLBURT

PURPOSE

The planning proposal applicable to land at Derriwong Road and Old Northern Road, Dural (6/2024/PLP) is being reported to Council for a decision on whether or not the application should proceed to Gateway Determination.



Figure 1
Planning Proposal Status and Timeline

RECOMMENDATION

The planning proposal for land at Derriwong Road and Old Northern Road, Dural (6/2024/PLP) be submitted to the Department of Planning, Housing and Infrastructure for Gateway Determination in accordance with Option 1 of this Report.

IMPACTS

Financial

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

Strategic Plan - Hills Future

The planning proposal, if supported, would contribute to the Shire's housing needs and has the potential to secure public benefits for the surrounding Dural Public School.

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 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 DPHI for Gateway Determination in accordance with Sections 3.33 and 3.34 of the Act.

PROPONENT

Urbis on behalf of Legacy Property

OWNERS

LegPro 73 Pty Ltd

Mr Joseph Moussa

Mrs Josephine Moussa

POLITICAL DONATIONS

None disclosed

EXECUTIVE SUMMARY

The planning proposal seeks to rezone rural land to facilitate a 110-lot low density residential subdivision surrounding the Dural Public School and a new collector road along the northern boundary of the school that intersects with Old Northern Road.

The planning proposal is unique as it encompasses all of the land immediately surrounding the Dural Public School and has the opportunity to provide significant public benefits for the School. It would also result in a fully contained and serviced residential development surrounding the catchment of the Public School, which SINSW has confirmed has capacity to accommodate additional student numbers, unlike many other schools within urban areas of The Shire. The provision of larger lots around the periphery of the site will assist in transitioning back into the rural character of the surrounding RU6 Transition land.

The planning proposal would secure a portion of a possible alignment of a potential future bypass corridor between Annangrove Road and Old Northern Road. However, at this time based on the feedback and position of TfNSW, it appears unlikely that this will fulfil Council's

regional transport objectives in this locality without significant investment and commitment from Council in the future to design, identify and acquire the road corridor and fund the construction of the bypass corridor. Irrespective of this, it remains open to Council to accept the portion of the corridor through this site at this time in order to retain this as an option in the future, in the knowledge that if a bypass corridor is not ultimately achieved at this location, this road would then simply serve as a local collector road servicing this development and the school site.

It is noted that essentially the same proposal has been considered by Council previously in February 2023, where Council resolved not to proceed. This previous decision of Council placed determinative weight on the inconsistency of the proposal with the Region Plan, District Plan and LSPS, having regard to the treatment of land within the Metropolitan Rural Area and noting that in the absence of any commitment from Government to the progression of a regional bypass corridor, achievement of this strategic transport objective of Council would be reliant on significant funding input from Council. It also reflected that despite the strong site-specific merit demonstrated by the proposal, the Region Plan has not been updated to identify any urban development on this land and the consideration of site-specific merit is only a relevant factor once a proposal has first satisfied the strategic merit test. This previous decision of the Council was upheld by the Sydney Central City Planning Panel through a rezoning review process.

A new planning proposal for essentially the same outcome has now been lodged, with the Proponent seeking Council’s reconsideration of the proposal.

5. HISTORY / PREVIOUS PLANNING PROPOSALS

The site has been the subject of two previous planning proposals, which were ongoing for a combined duration of approximately 7 years. Ultimately both proposals did not proceed.

Council’s most recent consideration of the previous proposal was in February 2023, where Council resolved that the planning proposal should not proceed. The Proponent subsequently lodged a rezoning review application however was unsuccessful, with the Sydney Central City Planning Panel upholding Council’s decision in July 2023.

The subject planning proposal is essentially the same as the previous planning proposal.

A detailed history of the past planning proposals is provided below.

May 2016	A planning proposal was lodged with Council (23/2016/PLP) incorporating the subject site, as well as additional land further south opposite the Dural Service Centre.
December 2016	Council resolved to hold the planning proposal in abeyance until the wider Dural Investigation Area planning is completed to enable a more cohesive development and infrastructure outcome and provide a clear boundary to urban development.
February 2017	A rezoning review was lodged with the Department of Planning and Environment. The Sydney West Central Planning Panel determined that the planning proposal should not proceed to Gateway Determination.
March 2019	The Phase 1 Urban Capacity and Capability Assessment for the Dural locality was completed. The Assessment concluded that while some land is environmentally capable of accommodating development, there is insufficient infrastructure capacity to facilitate development uplift in the Dural locality at this time.

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

- June 2019** The Local Planning Panel considered the planning proposal and advised that the application should not proceed to Gateway Determination.
- July 2019** Council considered the planning proposal and resolved to forward the application to the Department for Gateway Assessment to determine State Government agency views on the merits of the planning proposal.
- April 2020** DPE issued a Gateway Determination that the planning proposal should not proceed.
- September 2020** The Proponent initiated a Gateway Determination Review and DPE referred the matter to the Independent Planning Commission (IPC) for advice on whether the Gateway Determination should be altered. The IPC advised that the planning proposal should not proceed to Gateway Determination.
- November 2020** DPE advised Council that it had not yet determined whether to alter the Gateway Determination in light of the IPC's advice. DPE invited Council to submit a revised planning proposal if Council was satisfied that it could address the concerns raised by the IPC and DPE's Gateway Determination.
- February 2021** Council resolved to submit a revised planning proposal to DPE for Gateway Assessment, commence negotiations with the Proponent to prepare a draft VPA to secure local infrastructure contributions and consider a further report on the draft VPA and a draft DCP prior to any public exhibition of the planning proposal. The revised planning proposal related only to the "Northern Site" (surrounding Dural Public School), which is generally the same area as the current proposal. The "Southern Site" (opposite Dural Service Centre) was removed from the proposal at this time.
- July 2021** A Gateway Determination was issued by DPE authorising the planning proposal to proceed, subject to a number of conditions including public agency consultation prior to public exhibition. The planning proposal could not proceed to public exhibition unless a letter of support was provided by TfNSW.
- Agency consultation was undertaken with RFS, TfNSW and SINSW. TfNSW objected to the proposal and advised that it would not accept the land or reserve other land for a regional bypass corridor at this time. As such, Council was unable to meet the condition of the Gateway Determination to obtain a letter of support from TfNSW.
- August 2021 – March 2022** Consultation continued to occur between Council Officers, DPE (including the Planning Delivery Unit), TfNSW, SINSW and the Proponent. Council Officers sought advice from DPE on the next steps of the proposal in the absence of being able to satisfy the Gateway conditions that would enable the proposal's progression to public exhibition.
- April 2022** A Gateway Alteration was issued by DPE that deleted all conditions of the Gateway Determination and stated that the planning proposal should *not* proceed.

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

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

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

September 2022

A new planning proposal was lodged with Council (2/2023/PLP). This was generally similar to the original proposal (23/2016/PLP), with the following changes:

- The site was expanded to include one additional property at 614 Old Northern Road;
- Average lot sizes were adjusted to include a greater number of 600m² lots and 1,000m² lots. Previously proposed 700m² lots were removed;
- The proposal sought to achieve 110 lots compared to the previously proposed 101 lots;
- The proposed public park changed to a more central location within the site adjoining Derriwong Road and Dural Public School; and
- The alignment and location of the proposed bypass corridor was changed to run north along the western boundary of the site and then east along the northern boundary of Dural Public School.

December 2022

The Local Planning Panel considered the planning proposal (2/2023/PLP) and advised that the proposal had not yet satisfied the strategic merit test, but should proceed to Gateway Determination in order to resolve the following issues with State Government agencies that would enable the proposal to demonstrate strategic merit:

- The road corridor can be delivered in the proposed location and function as a bypass with an intersection at Old Northern Road;
- The road to be dedicated is a regional corridor width; and
- The issues raised by SINSW can be addressed without compromising the function of the future bypass road.

February 2023

Council considered the planning proposal (2/2023/PLP) and resolved that it should not proceed to Gateway Determination on the basis of the proposal's technical inconsistencies with the Region Plan, District Plan and LSPS having regard to the treatment of land within the Metropolitan Rural Area.

The decision reflected that despite the site-specific merit demonstrated by the proposal, the Region Plan does not identify any urban development on this land and the consideration of site-specific merit is only a relevant factor once a proposal has first satisfied the strategic merit test.

The decision also reflected that despite the contribution of this proposal, the ultimate provision of a regional bypass corridor is contingent on a number of

	factors that are becoming increasingly uncertain or unlikely, therefore presenting a speculative risk or financial burden to Council.
April 2023	Rezoning Review request lodged by Proponent with the Department of Planning and Environment.
June 2023	The Sydney Central City Planning Panel advised Council Officers that Department Staff had directed the Panel to be more flexible when considering applications where the potential for housing creation exists, in response to the Government's priorities to deliver more housing.
July 2023	The Sydney Central City Planning Panel considered the Rezoning Review request and determined that the planning proposal (2/2023/PLP) should not proceed to Gateway Determination because it has not demonstrated strategic merit.
August 2023	Council received correspondence from the Minister for Planning regarding the housing crisis and prioritisation of housing supply in the assessment of rezoning applications (provided as Attachment 4 to this report). An updated Local Environmental Plan Making Guideline was subsequently released by the Department of Planning.
February 2024	Pre-lodgement meeting held with Proponent. Council officers noted during the meeting that the new application seeks essentially the same outcomes as the previously lodged planning proposal (2/2023/PLP) and as such, the findings from the previous assessment of the proposal are expected to remain consistent.
March 2024	New subject planning proposal (6/2024/PLP) lodged with Council. The proposal is essentially the same as the previously lodged application in September 2022 (2/2023/PLP).

6. THE SITE

The site has a total area of approximately 12.88 hectares and comprises five (5) individual land parcels known as 614, 618 and 626 Old Northern Road and 21 and 27 Derriwong Road, Dural. It is located to the north of Round Corner Town Centre, bound by Old Northern Road to the east and Derriwong Road to the south and west. The subject land surrounds Dural Public School. Old Northern Road forms the boundary between The Hills Shire Council and Hornsby Shire Council Local Government Areas.

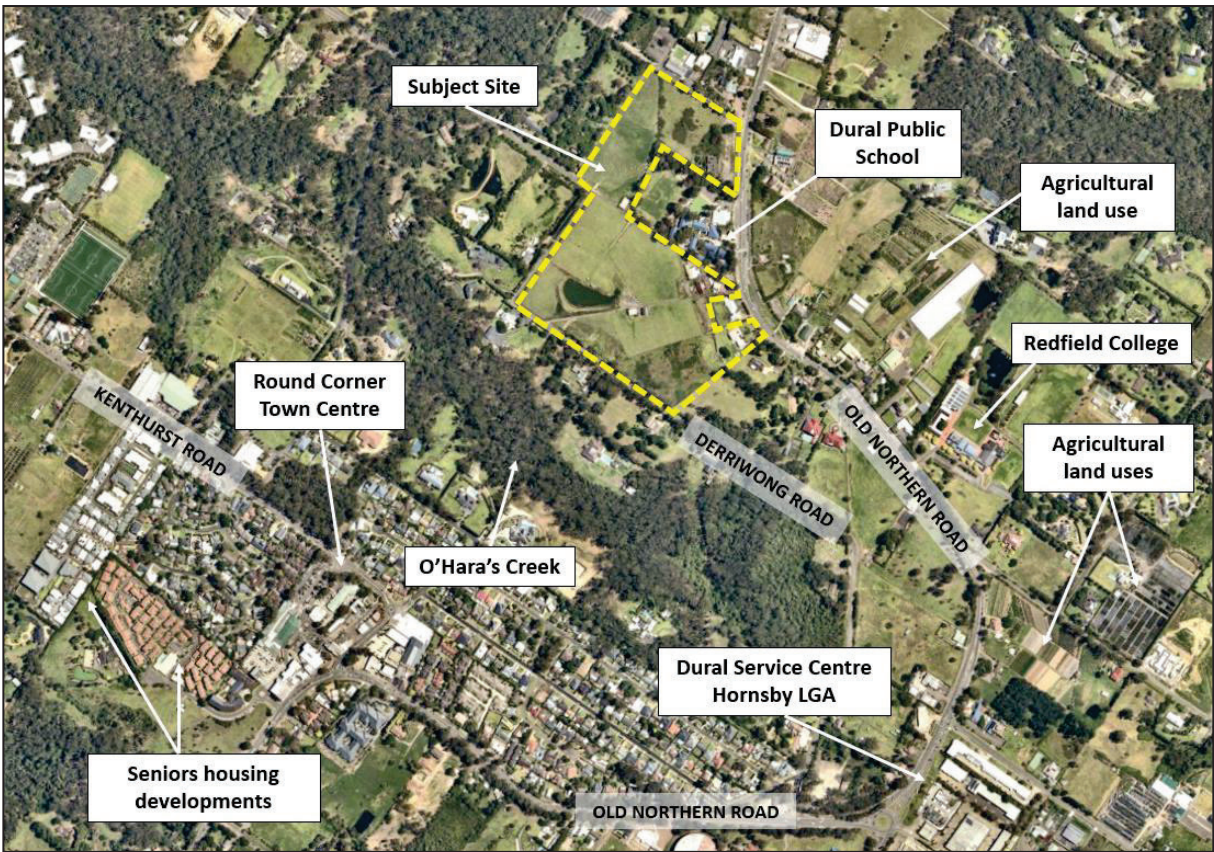


Figure 2
Subject site and aerial view of surrounding locality

The site comprises large lot rural residential development, including a dam. It is predominantly cleared of substantial vegetation though some patches of vegetation remain. There are a number of surrounding land uses including Dural Public School, agricultural land uses (in Hornsby LGA) and Redfield College.

7. DESCRIPTION OF PLANNING PROPOSAL

The planning proposal was lodged on 15 March 2024. It seeks to achieve generally the same outcomes as the previous proposal considered by Council and the Sydney Central City Planning Panel in February 2023 and July 2023 respectively.

The proposal seeks to rezone land from RU6 Transition to R2 Low Density Residential and SP2 Infrastructure (Local Road) and make associated amendments to the maximum building height and minimum lot size requirements to facilitate a low density subdivision comprising approximately 110 lots. A comparison between the existing and proposed controls under LEP 2019 is provided in the table below.

Planning Control	Existing	Proposed
Land Zone	RU6 Transition SP2 Infrastructure (Classified Road)	R2 Low Density Residential SP2 Infrastructure (Local Road) SP2 Infrastructure (Classified Road) (retained)
Height of Building	10m	9m
Floor Space Ratio	N/A	No change
Minimum Lot Size	2 hectares	600m ² , 1,000m ² and 2,000m ²
Local Provision	N/A	Limit yield to a maximum of 110 residential lots

Table 1
Existing and proposed development controls under LEP 2019

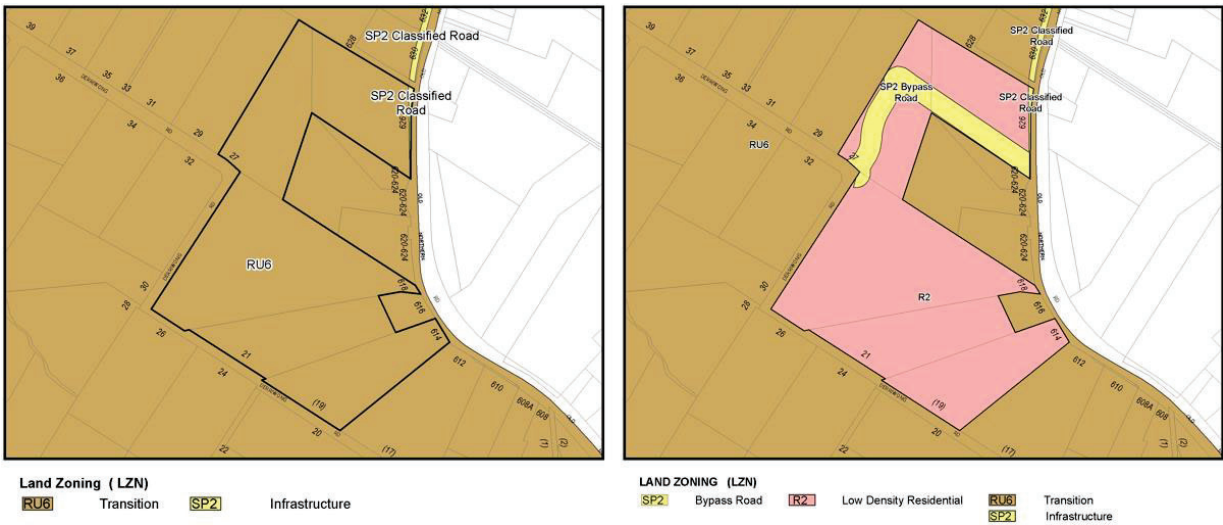


Figure 3
Existing (left) and Proposed (right) Land Zone Map



Figure 4
Existing (left) and Proposed (right) Height of Building Map

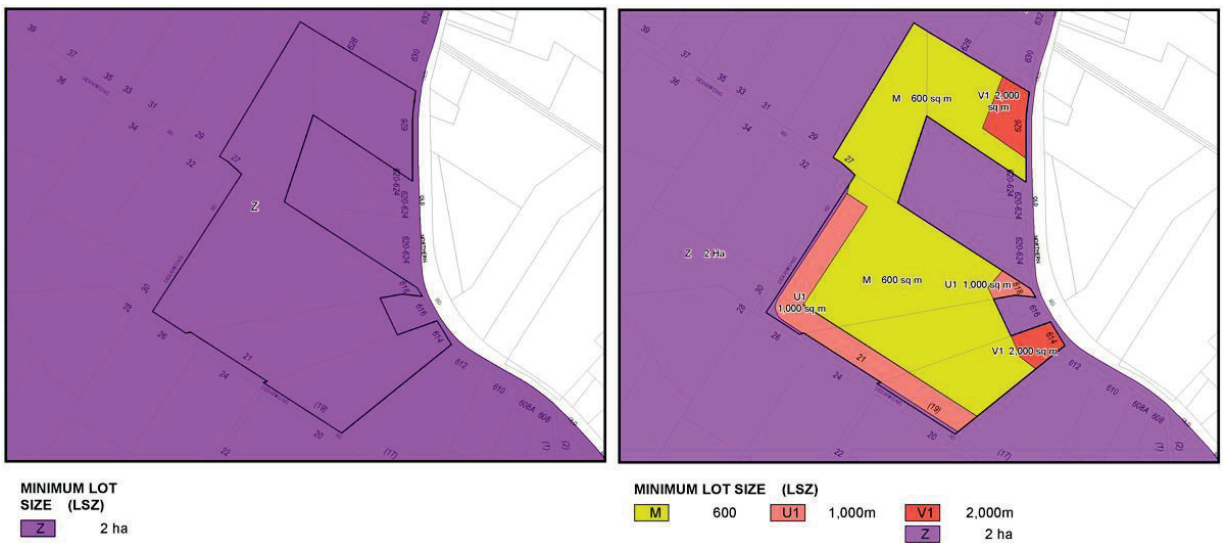


Figure 5
Existing (left) and Proposed (right) Minimum Lot Size Map

TO STRIVE FOR BETTER THINGS

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



Figure 6
Proposed Concept Plan

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

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

The draft VPA letter of offer seeks to secure monetary contributions to be allocated towards local infrastructure provision. The preliminary offer comprises the following items:

- Embellishment and dedication of 4,000m² of land for the purpose of a new local park;
- Embellishment and dedication of 141m² of land for the purpose of a pedestrian link;
- Works and land dedication associated with a portion of a future Rouse Corner bypass road (approx. 13,223m² forming a 32m road reservation and 21.5m wide collector road);
- Embellishment and dedication of two stormwater detention basins;
- Active open space monetary contribution of \$363,305.80; and
- Community facilities monetary contribution of \$101,242.90.

The Proponent has valued the above land, works and monetary items at \$19,032,389, which would equate to \$173,000 per lot. These items are proposed to be in addition to the already applicable Section 7.12 Contributions Plan, which levies development at a rate 1% of the cost of development.

It is noted that as part of these local infrastructure works and the broader master plan concept, there are proposed benefits to State Government infrastructure as follows:

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

8. LOCAL PLANNING PANEL ADVICE

On 19 June 2024, the planning proposal was presented to the Local Planning Panel (LPP) for advice. A copy of the Council Officer's Assessment Report and Meeting Minutes are provided as Attachments 1 and 2 of this report, respectively.

The Panel issued the following advice with respect to the subject planning proposal:

The planning proposal should not proceed to Gateway Determination.

The planning proposal fails the strategic merit test based on the current state and local policies that apply and would create an undesirable precedent for further ad hoc rezoning requests in the locality. The Panel also raises concern with respect to the ability for the proposed bypass corridor to function as an arterial road at this location, adjoining the school, noting the requirements of Schools Infrastructure regarding traffic management measures and safety.

The Panel acknowledges that the proposal may have some appeal in terms of local planning objectives, including securing part of a possible bypass route, improved access for the public school and provision of local open space. In that regard, the Panel recognises that in the absence of the Greater Cities Commission, the Gateway process may be a mechanism to secure clarification from State agencies.

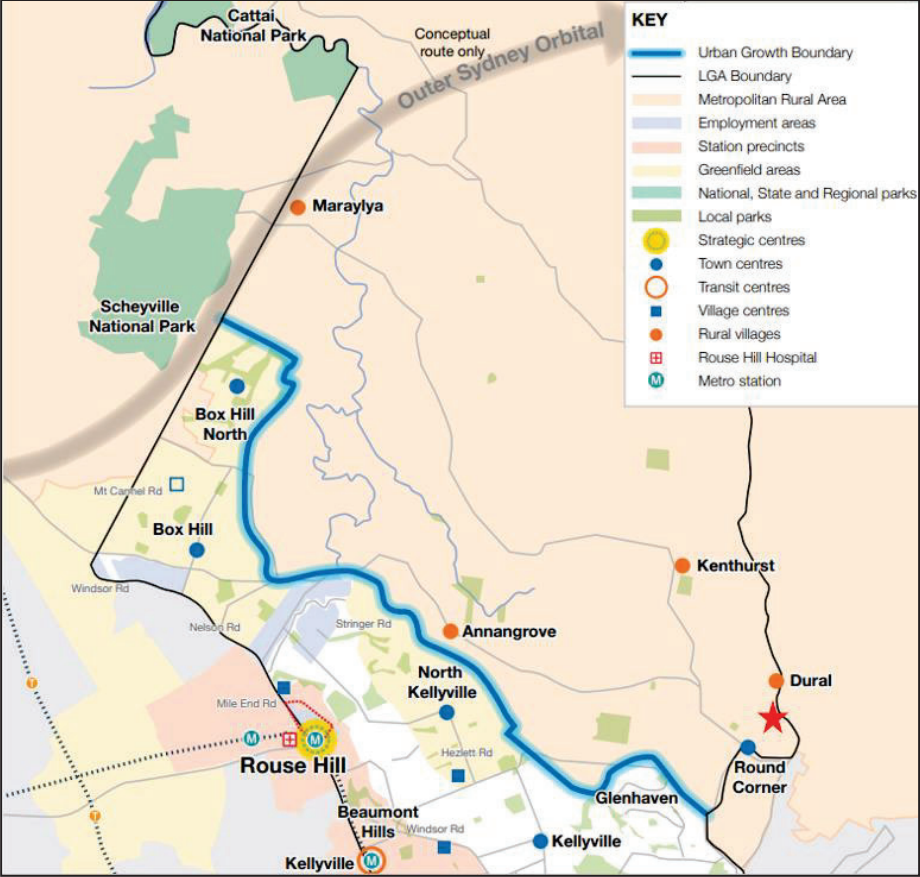
While the Local Planning Panel did not agree with the Council officer recommendation that the planning proposal *should* proceed to Gateway Determination, the advice of the Panel acknowledges the benefits of the proposal in achieving a number of local planning objectives. It also acknowledges also the opportunity to resolve matters through the proposal's progression to Gateway Determination. It remains open to the elected Council to form a view on whether to prioritise these local planning objectives or to place greater weight on the strict technical application of the strategic planning framework.

9. MATTERS FOR CONSIDERATION

A summary and discussion of the key technical matters that should be considered by Council in determining whether or not the planning proposal should proceed to Gateway Determination is provided in the table below. The full technical assessment of the proposal, as reported to the LPP in June 2024, is contained within Attachment 1.

Key Consideration	Comment
Strategic Merit	<div><div>▪ <u>The Greater Sydney Region Plan and the Central City District Plan</u></div><p>The Plans acknowledge the essential retail and community services provided by rural villages and towns, however, does not advocate for them to become part of the urban area. The Plan states that maintaining and enhancing the distinctive rural village character is a high priority and that further rural residential or urban development is generally not supported.</p><p>This is also consistent with Council’s vision for and implementation of an Urban Growth Boundary within the LSPS and LEP 2019. It should be noted that the RU6 Transition zone applied to land at the interface between urban and rural areas is <i>not</i> an indication of land that is earmarked to transition to urban development. Rather, it is an area intended to provide a buffer between urban development and rural areas.</p><p>The planning proposal seeks to rezone land within the Metropolitan Rural Area to permit urban development and as such, is technically inconsistent with the Priorities and Actions of the Region and District Plans as they relate to the management of rural land.</p><p>However, the Proponent submits that the planning proposal is a natural extension of the Dural village (which is also consistent with the Independent Planning Commission’s advice, discussed further below) and would provide an opportunity for a walkable catchment surrounding the State Government public school within a fully contained and serviced residential development.</p><p>The proposal is separate to the Dural Village and Round Corner town centre and is focused around the Dural Public School. It is not indicative of a broader extension of the Dural Village or Round Corner town centre, as it seeks to provide a transition of lot sizes around the periphery of the site which transitions back into an appropriate character adjoining the rural land zoned RU6 Transition.</p><p>While the planning proposal varies from the blanket policy position within the Greater Sydney Region Plan relating to the Metropolitan Rural Area and rezoning for urban purposes, this does not preclude Council’s discretion to ultimately consider the merit of an individual proposal on balance and having consideration to the full range of relevant assessment factors, as well as other key objectives and outcomes within the strategic framework.</p><p>The Greater Cities Commission, who originally prepared the Region and District Plans, were undertaking a review of the plans which may or may not have altered the current policy positions. The review of the Region and District Plans was due for release in late 2023. However, in late 2023 the Greater Cities Commission Act was abolished and the strategic planning functions of the Greater Cities Commission were transferred to the Secretary of the Department of Planning, Housing and Infrastructure. Since this time, there has been no further update on the Government’s intention to update the Region and District Plans or timeframes for this to occur. It is not clear whether the review of these plans is still being undertaken or whether any review would result in change to the policy position regarding rural land.</p></div>

Key Consideration	Comment
	<p>The planning framework established by the NSW Government facilitates the ability for any person to lodge a planning proposal, regardless of its technical alignment with the current strategic policies of Government or Council. Once lodged, Council is then required to then consider such an application having regard to the applicable framework and policies as well as all strategic and site-specific merit factors in each individual case.</p> <ul style="list-style-type: none"> ▪ <u>Section 9.1 Ministerial Directions</u> <p>Direction 9.1 Rural Zones seeks to protect the agricultural production value of rural land. The direction requires that a planning proposal must not contain provisions that will rezone land from rural to residential or that will increase the permissible density of development within a rural zone. The Direction requires that Council not permit residential intensification of rural land unless justified by a strategy or study.</p> <p>Similarly, Direction 9.2 Rural Lands also seeks to protect the agricultural production value of rural land, facilitate orderly and economic use and development of rural lands for rural purposes, promote the social and economic values of rural lands and ensure their ongoing agricultural viability, and minimise potential land fragmentation or land use conflicts in rural areas, particularly between residential and other rural uses.</p> <p>The Direction states that a planning proposal may be inconsistent with these objectives if justified by a study that has been approved by the Planning Secretary and is in force, which identifies the subject land and gives consideration to the objectives of this Direction, or is otherwise considered to be of minor significance.</p> <p>The studies that have been completed and submitted by the Proponent indicate that the land subject to this planning proposal is capable of accommodating urban development in the form proposed, following the resolution of outstanding infrastructure servicing issues (as discussed further within this report). It is noted however that these studies have not been endorsed by the Planning Secretary and as such, if the Planning Proposal was to progress to Gateway Assessment, it would be necessary for the Planning Secretary to consider the status of these studies in considering whether or not the inconsistency with the Ministerial Direction is justified in the circumstances of this case. Council's Local Strategic Planning Statement would also be a relevant factor, which is discussed further below.</p> <ul style="list-style-type: none"> ▪ <u>Hills Future 2036 – Local Strategic Planning Statement & Rural Strategy</u> <p>Council's LSPS comprises an action to implement an Urban Growth Boundary to limit residential growth to within the existing and planned urban areas of the Shire. This reflects the policy set out in the District and Region Plan by Government and acknowledges that Council has enough land zoned and planned for within the existing urban area to meet its identified housing targets to 2036 and beyond. The site is located above the Urban Growth Boundary, within the Metropolitan Rural Area of Greater Sydney, as shown in the figure below.</p>

Key Consideration	Comment																				
	<div><p>Figure 7 LSPS Urban Growth Boundary (blue) and subject site (red star)</p><p>The LSPS also includes an action to investigate opportunities for limited residential expansion in rural villages in line with the criteria recommended in the Rural Strategy. This criteria is as follows:</p><table><tr><th colspan="2">Table 1: Planning proposal criteria for rural village expansion</th></tr><tr><th>Criteria</th><th>New proposals must demonstrate</th></tr><tr><td>1. Infrastructure provision</td><td>Timely provision of utilities, transport, open space and communication infrastructure</td></tr><tr><td>2. Access</td><td>Access to a range of transport options that allow efficient travel between homes, jobs and services</td></tr><tr><td>3. Housing diversity</td><td>Provision of a range of housing types</td></tr><tr><td>4. Employment lands</td><td>Provision of employment opportunities or access to employment areas</td></tr><tr><td>5. Avoidance of risks</td><td>Land use conflicts are avoided and safe evacuation routes are available (flood and bushfire)</td></tr><tr><td>6. Natural resources</td><td>Responsible use of natural resources and minimisation of development footprint</td></tr><tr><td>7. Environmental protection</td><td>Protection and enhancement of biodiversity, air quality, heritage and waterways</td></tr><tr><td>8. Quality and equity in services</td><td>Access to health, education and other essential services</td></tr></table><p>Figure 8 Extract of LSPS – Rural village expansion criteria for planning proposals</p></div>	Table 1: Planning proposal criteria for rural village expansion		Criteria	New proposals must demonstrate	1. Infrastructure provision	Timely provision of utilities, transport, open space and communication infrastructure	2. Access	Access to a range of transport options that allow efficient travel between homes, jobs and services	3. Housing diversity	Provision of a range of housing types	4. Employment lands	Provision of employment opportunities or access to employment areas	5. Avoidance of risks	Land use conflicts are avoided and safe evacuation routes are available (flood and bushfire)	6. Natural resources	Responsible use of natural resources and minimisation of development footprint	7. Environmental protection	Protection and enhancement of biodiversity, air quality, heritage and waterways	8. Quality and equity in services	Access to health, education and other essential services
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Key Consideration	Comment
	<p>The LSPS envisages rural village expansion will occur in a coordinated manner on larger consolidated lots surrounding a centre, to create scope to plan for a larger area, rather than on a site-by-site basis. This allows for efficient infrastructure provision, environmental protection and avoidance of bushfire risk. Notably, a coordinated infrastructure approach allows for fair apportionment of contributions, with all required upgrades being known in advance of rezoning.</p> <p>The Proponent submits that the subject planning proposal illustrates the logical extension of the Dural village and satisfies the rural village expansion criteria as the proposal consolidates five (5) existing lots into one amalgamated site.</p> <p>The structure plan within Council's LSPS identifies the upgrade of Annangrove Road to arterial status and the provision of a Round Corner bypass as a regional transport priority for The Hills. There is also an action within the LSPS to advocate for State Government support for these regional road upgrades.</p> <p>The strategic merit of previous iterations of the planning proposal was heavily linked with the ability to secure a portion of a potential regional bypass corridor to fulfil Council's strategic objectives for the area. Past decisions of Council sought to progress these discussions with the relevant public agencies such as TfNSW as part of the consultation that would occur through the Gateway Determination process.</p> <p>However, based on the consultation processes which have occurred in association with previous iterations of the planning proposal, TfNSW has clearly advised that there are no current plans, funding or investigations into the provision of a regional bypass corridor in this location.</p> <p>As such, while the proposal may secure a small portion of one of the possible future alignments of a potential regional bypass corridor, the delivery of this overall strategic outcome would be extremely uncertain and the proposal could present a speculative risk or financial burden to Council. When Council considered the previous version of the planning proposal in February 2023, it resolved not to progress with the previous planning proposal on this basis.</p>

Key Consideration	Comment
	<div data-bbox="443 309 1342 1198"> </div> <p data-bbox="869 1205 965 1232">Figure 9</p> <p data-bbox="587 1232 1246 1258">Extract of LSPS – Council's Regional Transport Priorities</p> <ul data-bbox="443 1294 1091 1321" style="list-style-type: none"> ▪ <u>Dural Urban Capacity & Capability Assessment</u> <p data-bbox="443 1357 1390 1489">An Urban Capacity and Capability Assessment was commissioned by Council in 2019 for the Dural/Round Corner Locality. This is discussed in more detailed in Section 4d) of the Council Officer's Report to the Local Planning Panel (Attachment 1).</p> <p data-bbox="443 1525 1390 1686">In summary, the Assessment established that while there may be some <i>physical</i> capacity for development uplift in the locality, at this time, local and regional infrastructure issues are an impediment to orderly urban development and the resolution of these issues would likely require significant Government investment.</p> <p data-bbox="443 1722 1390 1883">The environmental capability of the land is identified in the figure below. The subject site is identified as "Land Capable of Development". The figure below also indicates the potential location of a future bypass corridor (referred to as the "Kenthurst Bypass" and shown as a yellow and black dotted line), which goes through the site.</p> <p data-bbox="443 1919 1390 2016">This Figure also shows the broader corridor that would need to be secured and constructed to achieve a future bypass road, in addition to the small portion through the planning proposal subject site (outlined in yellow below).</p>

Key Consideration	Comment
	<div data-bbox="477 309 1396 936"> </div> <p data-bbox="732 938 1139 994">Figure 10 Outcomes of Environmental Study</p> <p data-bbox="448 1032 1425 1211">On 26 March 2019, Council considered a report on the outcomes of the Dural Urban Capacity and Capability Assessment and resolved that Council discontinue investigations with respect to rezoning of rural land for urban development in Dural. Council also resolved that any future planning proposals to rezone land in Dural must be able to demonstrate that they can deliver the required local and regional infrastructure upgrades at no cost to Council.</p> <ul data-bbox="448 1245 1310 1274" style="list-style-type: none"> ▪ <u>Regional Bypass Corridor – Annangrove Road to Old Northern Road</u> <p data-bbox="448 1308 1425 1547">Previous iterations of the planning proposal applicable to the site proposed the reservation of a 32m wide regional road bypass. Council's expectation at that time was that this corridor would be delivered at no cost to Council and would form part of the arterial road corridor owned and managed by the State Government. In this respect, the first version of the planning proposal was consistent with Council's resolution relating to the Dural Urban Capacity and Capability Assessment, subject to further discussions and a commitment from State Government as part of the Public Agency consultation phase.</p> <p data-bbox="448 1581 1425 1917">The proposed regional bypass corridor was then the subject of extensive consultation with State Government as part of the Gateway Determination process for the first planning proposal application (23/2016/PLP). This consultation involved Council Officers, the Department of Planning and Environment (DPE), Transport for NSW (TfNSW), Schools Infrastructure NSW (SINSW) and the Planning Delivery Unit (PDU). These discussions are outlined in greater detail within Section 5(a) of the Council Officer technical report to the Local Planning Panel (Attachment 1). In summary, it was concluded that TfNSW do not have any proposals, investigations or long term plans for a regional bypass road in this locality and as a result, there is no funding or commitment from State Government for the delivery of a regional bypass road. This planning proposal application ultimately did not proceed.</p> <p data-bbox="448 1951 1425 2065">The second planning proposal application (2/2023/PLP) proposed the delivery of a local collector road, that would be dedicated to Council. The intention was that this local collector road would be provided within a 32m wide road reservation corridor. As such, notwithstanding the advice of TfNSW, the proposal retained the potential</p>

Key Consideration	Comment
	<p>for this to form part of a bypass corridor in the longer term future. However, the achievement of a bypass road, as envisaged in Council's LSPS, would remain contingent upon one of the following circumstances occurring:</p> <ul style="list-style-type: none"> ▪ If the State Government was to change its position with respect to the regional bypass corridor and reclassification of Annangrove Road and agree to fund the acquisition and construction of the full corridor between the subject site and Annangrove Road as part of the arterial road network; or ▪ If Council was to accept and maintain the 32m road reservation (containing a 21.5m wide local collector road) as an interim arrangement, with the expectation that at some point in the future, the State Government will change its position and commit to funding the acquisition and construction of the full corridor between the subject site and Annangrove Road as well as the reclassification of Annangrove Road; or ▪ If the State Government does not change its position at any point in the future, Council could seek to fund the acquisition and construction of the full corridor as a local bypass corridor between the subject site and Annangrove Road (although it is noted that this scenario would not align with earlier decisions of Council relating to the Dural Urban Capacity and Capability Assessment – namely, that the necessary regional infrastructure upgrades would be at no cost to Council). <p>Ultimately, Council resolved not to proceed to Gateway Determination for the second planning proposal application in acknowledgement of the uncertainty surrounding the bypass road, which presented a speculative risk or financial burden to Council.</p> <p>The current planning proposal (6/2024/PLP) which is the subject of this report is identical with respect to the proposal to include a local collector road within a 32m wide road reservation corridor on the northern side of Dural Public School.</p> <p>Council has made submissions and resolutions to reaffirm the need for the NSW Government to recognise the regional function of Annangrove Road to the North West Growth Centre and beyond and to resolve regional traffic issues impacting on Round Corner Village. To date, there has been no commitment from the NSW Government on these matters.</p> <ul style="list-style-type: none"> ▪ <u>Advice of the Independent Planning Commission</u> <p>As detailed within the History section of this report, the first version of planning proposal (submitted in May 2016) was referred to the Independent Planning Commission (IPC) by the Department of Planning and Environment. This was in response to the lodgement of a Gateway Determination Review by the Proponent, in response to the Department's initial Gateway Determination in April 2020 which determined that the planning proposal would not proceed.</p> <p>The IPC issued a Gateway Determination Advice Report in September 2020. While this related to the first version of the proposal, the current proposal remains similar in many respects and as such, the advice of the IPC remains relevant to consideration of the proposal. It is noted that the current proposal generally relates to the area referred to as the "Northern Site" within the IPC advice.</p> <p>A copy of the IPC's Advice Report is provided as Attachment 3 to this report.</p>

Key Consideration	Comment
	<p>With respect to Strategic Merit, the IPC concluded as follows:</p> <ul style="list-style-type: none"> <i>The Commission notes that one of the Department's core functions is to implement the District Plans and ensure that Local Strategic Planning Statements are generally consistent. Consequently, the Commission accepts that given the strategic context of the Planning Proposal, the Department's Gateway Determination that the Planning Proposal lacks strategic merit was the right decision. While the Commission accepts that at this stage the Planning Proposal should not proceed, it does consider that the merits of including the Northern Site in a future housing strategy warrants investigation.</i> <p>The Commission was of the view that the proposal had considerable site specific merit, however ultimately recommended that <i>"the planning proposal should not proceed past Gateway Determination"</i>. The Commission stated that:</p> <ul style="list-style-type: none"> <i>The Commission accepts that a Planning Proposal must demonstrate strategic merit before site specific merit warrants serious consideration. However, given the benefits associated with the Planning Proposal, the Commission recommends that the Site, in the particular the Northern Site, be seriously considered for urban development and inclusion in the Central City District Plan when it is reviewed and updated in 2023, and that any subsequent update of Council's Local Strategic Planning Statement and Council's Housing Strategy reflect this position.</i> <p>The advice of the IPC is extremely unique, in that it concludes that the planning proposal should not proceed, having regard to technical application of the current framework, however effectively then goes on to identify the merits and benefits of the proposal and ultimately recommends that Government reconsider the position with respect to allowing urban development on this land as part of their review of the Central City District Plan.</p> <p>A review of the Region and District Plans was due to be completed by the Greater Cities Commission in late 2023. The Proponent's material advises that:</p> <p><i>Legacy Property engaged with the former Greater Cities Commission to progress the IPC's recommendation that the site be identified in the District Plan for future urban development. In November 2023, the Greater Cities Commission advised that:</i></p> <p><i>"...the Greater Cities Commission is currently reviewing the Greater Sydney Region Plan 2018 and Central City District Plan and preparing a new draft Six Cities Region Plan and draft Central River City Plan... The IPC advice will be considered in the preparation of these plans in the context of broader planning for the region".</i></p> <p>Having regard to this, the Proponent is of the view that:</p> <p><i>The merit of the future residential development of the site appears to have been acknowledged by the Greater Cities Commission.</i></p> <p>However, the Greater Cities Commission was subsequently abolished in late 2023 and their strategic planning functions were transferred to the Secretary of the NSW Department of Planning, Housing and Infrastructure. Other than the advice of the Proponent pertaining to the nature of their discussions with the Greater Cities Commission, Council has not received any written evidence or advice from the (then) Greater Cities Commission or Department with respect to their intent or</p>

Key Consideration	Comment
	<p>otherwise to deal with outcomes on this particular site differently as part of the review of the Region and District Plan.</p> <p>There has been no updates or revisions to the Region Plan or District Plan since this time.</p> <p>At the time of completing this assessment of the planning proposal, there have been no changes flagged to the existing strategic planning framework in response to the IPC's advice at either State or Local level through a review of the District Plan, Council's LSPS and Housing Strategy. Accordingly, the assessment has been completed against the applicable strategic planning framework and policies as they exist and apply at this time.</p> <p>Clearly, there are different views and objectives within the applicable layers of the strategic planning framework which are somewhat conflicting in this instance. While the planning proposal does not align with the blanket policy position in the Region Plan relating to the Urban Growth Boundary, there are nonetheless logical grounds to consider an exception in this specific instance, having regard to the unique opportunity to allow for some additional housing within the catchment surrounding the Dural Public School, without creating a precedent of similar outcomes within the rural area.</p> <p>While the IPC's advice from September 2020 has not resulted in any changes to the applicable strategic framework or policies at this time, this tension between competing objectives and merits is clearly reflected in the IPC's advice.</p> <ul style="list-style-type: none"> ▪ <u>Housing Supply Crisis</u> <p>Over the past 12 months, the NSW Government has announced that addressing the housing supply crisis is a key Government priority. Subsequent draft and legislated amendments to the planning framework have been released with the aim of boosting housing supply, particularly in the short term. The Minister has written to Councils and consent authorities and requested that they prioritise actions that contribute to housing supply and associated changes were made to the Local Environmental Plan Making Guidelines which allow for greater weight to be given to the current objectives and priorities of Government as a matter of relevant in determining strategic merit of a planning proposal. The correspondence received from the Minister for Planning is provided as Attachment 4 to this report.</p> <p>While the planning proposal would contribute to increased housing supply, the proposed housing supply is located within the Metropolitan Rural Area. To date, Government messaging and policy announcements have related primarily to boosting housing supply within existing urban areas, namely around major transport hubs and centres that are well located and supported by existing infrastructure. Currently, there has been no indication from Government that there is an intent to extend policy changes to boost housing supply within the Metropolitan Rural Area of Greater Sydney. Accordingly, while the ability for the proposal to contribute to additional housing is undoubtedly a relevant factor, it is not considered to be the determinative factor in applying the strategic merit test in this instance.</p> <p>It should also be noted that the previous (second) planning proposal was partially considered and determined within this changing planning context. Specifically, the Sydney Central City Planning Panel's consideration of the Rezoning Review application was <i>after</i> the directions given by Department staff to the Planning Panel to be more flexible in their consideration of applications where the potential for housing creation exists. Even in the context of this direction from the Department,</p>

Key Consideration	Comment
	the Panel determined that the previous planning proposal should not proceed to Gateway Determination as it had not demonstrated strategic merit.
Traffic and Transport	<p>▪ <u>Regional Road Network</u></p> <p>The current regional road network for west-east vehicle movement between the growing North West Growth Centre and the localities of Pennant Hills and Hornsby follows Annangrove Road, Kenthurst Road, Old Northern Road and New Line Road. This route bisects the Round Corner town centre and traffic volumes are expected to increase as development continues within the North West Growth Centre. Council has requested that the State Government consider re-classifying Annangrove Road to a classified State road as a result of current and expected future traffic volumes. To date there has been no commitment from the State Government to reclassify Annangrove Road or in relation to its extension to Old Northern Road as a bypass of Round Corner.</p> <p>The Urban Capacity and Capability Assessment included detailed traffic analysis of the existing road network in the Dural locality. The Assessment concluded that road capacity and traffic issues are already being experienced in Dural, with further delays to be expected as planned development occurs within the North West Growth Centre, unless upgrade works are undertaken to cater for increased demand.</p> <p>The planning proposal would facilitate development in addition to this planned growth and as such, the additional traffic would likely exacerbate (albeit to a very small extent) the existing traffic issues, in the absence of any firm commitment from Government for the funding of the required road upgrades.</p> <p>The completion of any major road upgrades in Dural will come at a significant cost to Government as a consequence of high property values, difficult topography and other environmental constraints. In 2018, Transport for NSW (TfNSW) estimated that the upgrading of Old Northern Road and New Line Road alone would exceed \$300 million. It is expected that this cost would have increased substantially since the time of this estimation in line with construction cost escalations. A Federal Grant of \$10 million was allocated in the 2019/2020 Federal Budget to fund a major project business case to investigate the potential upgrade of new Line Road to a four lane divided carriageway. It is understood that the investment from the Australian Government was on a 50/50 basis with the NSW Government, bringing the total government investment in the project to \$20 million. However, the extent of this investigation comprises the length of New Line Road between Castle Hill Road and Old Northern Road, and therefore does not extend as far north along Old Northern Road as the subject site or potential connection point for any future bypass corridor.</p> <p>Business cases are used by the Australian Government to manage the priority of various projects nationwide and remain informed on the appropriate investments required to support future development. Business case planning occurs in the preliminary stages of a project, many years prior to full funding commitments for projects or detailed planning and construction (if justified by the business case). The inclusion of business case funding with respect to the upgrade of New Line Road does indicate some movement at a Federal level towards securing the necessary upgrades to New Line Road and the preparation of a business case for the upgrade of this regional road is supported.</p> <p>The Proponent's Traffic Impact Assessment includes traffic counts of existing traffic conditions along Old Northern Road, which were collected by the Proponent's traffic</p>

Key Consideration	Comment
	<p>consultant outside Dural Public School on Thursday 18 August 2022 during both the AM and PM peak periods.</p> <p>Peak traffic volume in the AM peak travelled southbound along Old Northern Road and totalled 973 trips. Peak traffic volumes in the PM peak travelled northbound along Old Northern Road and totalled 981 trips. The Proponent's traffic report states that <i>"in both peak periods, the traffic volume in the peak direction approaches 1,000 vehicles per hour, indicating that Old Northern Road is currently close to capacity"</i>.</p> <p>The Proponent's Traffic Impact Assessment states that 105 trips will be generated by the proposed development in the AM peak (with 67% of these trips distributed to Old Northern Road) and 109 trips generated in the PM peak (with 75% of these trips distributed to Old Northern Road). Given the proposed residential land use, these trips are predominantly leaving the site in the AM peak and accessing the site in the PM peak.</p> <p>With respect to the proposed signalised intersection of the new local collector road at its junction with Old Northern Road, this will require further consultation and approval from TfNSW as Old Northern Road is a State road. It is noted that without this approval from TfNSW, the bypass corridor would be unable to function in this location.</p> <ul style="list-style-type: none"> ▪ <u>Bypass Corridor and State Government Agency Views</u> <p>The planning proposal seeks to contribute to the resolution of regional traffic issues through the proposed dedication of land for a portion of a future bypass corridor. As mentioned earlier in this report, Council's understanding when supporting a previous iteration of the planning proposal on the site was that this would be in the form of a regional bypass corridor to be owned and managed by the State Government as part of the arterial road network.</p> <p>Following extensive consultation and in response to submissions from TfNSW, the previously lodged planning proposal was amended to include the construction of a local collector road and dedication of a wider corridor to Council so that there is potential for future expansion and upgrade of the road if it does form part of a bypass corridor in the future. However, Council resolved not to support this proposal on the basis that it presented a speculative risk and financial burden to Council with the potential for a regional bypass corridor becoming increasingly uncertain and unlikely, noting the position of TfNSW.</p> <p>The bypass corridor has been the subject of extensive consultation with TfNSW and SINSW, both as part of a previous planning proposal Gateway process and separately initiated by the Proponent during pre-lodgement phases. Further discussion on the views of each agency is included within Section 5(a) of the Council Officer's technical assessment report to the Local Planning Panel (Attachment 1).</p> <p>Transport for NSW Views</p> <p>In summary, TfNSW advised that it has no current plans, proposals or investigations for a regional bypass road that connects Annangrove Road to Old Northern Road. Therefore, there is no funding or commitment to the delivery of a regional bypass road, including corridor design, alignment and future reservation. TfNSW has no current proposals or long term plans to re-classify Annangrove Road to a classified State road.</p>

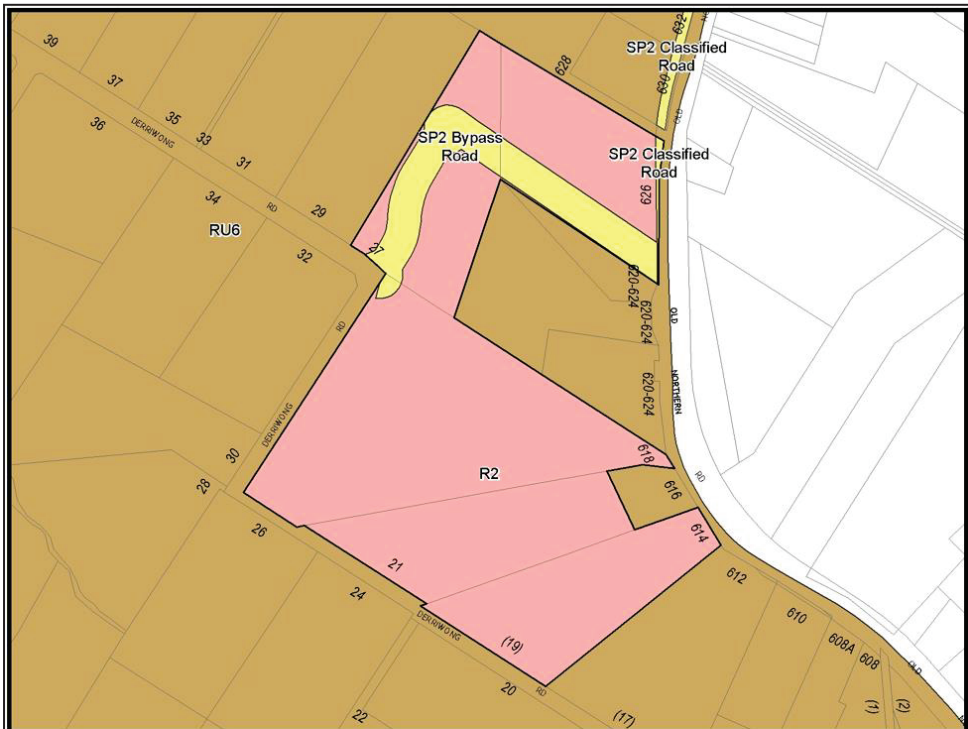
Key Consideration	Comment
	<p>TfNSW recommended that should Council determine to deliver a future <i>local</i> bypass, Council would need to be satisfied through its own studies and technical work with respect to the appropriate width and alignment. This should be undertaken by Council, not the Proponent. TfNSW encouraged, but does not require, this assessment to be undertaken prior to Gateway Determination, however advised that it should be undertaken prior to finalisation of the LEP amendments. TfNSW requires a level of assurance that the proposed corridor design and reservation for the southern section of the corridor (located on the Proponent's site) has been appropriately assessed taking into account future land use and traffic growth along the entire corridor.</p> <p>TfNSW was of the view that the currently proposed local bypass alignment is preferable to the previous scheme (which ran along the southern boundary of the school) as it would improve sight distances and allow better opportunity to widen Old Northern Road. However, widening of Old Northern Road will likely be necessary to accommodate the optimal ultimate layout for traffic signals.</p> <p>Submissions received from TfNSW have remained firm and consistent in their views with respect to no commitment, funding or future investigations into the delivery of a regional bypass road in this locality or the reclassification of Annangrove Road. Each submission received from TfNSW has placed the onus on Council with respect to decisions around a <i>local</i> bypass road and the responsibility for any design, acquisition, construction and funding of the road.</p> <p>Notwithstanding the advice from TfNSW, it remained open for Council to accept the dedication of this land as a local collector road, with a long-term intention to negotiate and continue advocating for TfNSW to change its position in the future with respect to the provision of the broader regional bypass road and reclassification of Annangrove Road. As part of the previous planning proposal application, Council resolved not to accept the dedication of this land and not proceed with the planning proposal to Gateway Determination. The local collector road and wider land reservation corridor proposed as part of this subject planning proposal application remains the same in terms of location, alignment and width as the previous application that Council resolved not to support in February 2023.</p> <p>School Infrastructure NSW Views</p> <p>SINSW advised in submissions that The Department of Education's existing primary and secondary school facilities are anticipated to have capacity to accommodate the demand resulting from the proposal. SINSW requested that the road corridor be located to the northern boundary of the school site in order to accommodate kiss and drop and/or bus bay facilities. A fine grain review of the proposed kiss and drop zone will be required to ensure this area is adequate for the school's use.</p> <p>Given that the local collector road will be a high pedestrian activity area in the future, SINSW requested that transport planning for the proposal include traffic calming measures to physically reduce speeds at this location and improve safety for students, such as kerb outstands, pavement texture, slow points or speed cushions. SINSW also requested that the Proponent funds an annual traffic safety education program for future residents of the development around the school site.</p> <p>SINSW advised it will conduct separate discussions with TfNSW regarding the application of the 30km/hr speed zone around school sites and should development be further intensified in the study area, SINSW will advocate for the application of a 30km/hr speed limit, which has been successfully tested at other school sites. SINSW also noted that the provision of 25 kiss and drop spaces on the new local</p>

Key Consideration	Comment
	<p>collector road with a signalised intersection at the junction of Old Northern Road would provide a significant reduction in crash risk overall, as well as providing additional connectivity across Old Northern Road.</p> <p>It is noted that potential traffic management measures aimed at physically reducing vehicle speeds at this location, as requested by SINSW, would not be conducive to the provision of a regional bypass road, where the primary function would be to prioritise vehicular movements to improve traffic flow and accommodate larger through-traffic volumes at higher speeds. This has been a longstanding consideration in the appropriateness of the bypass location adjacent to the Dural Public School and while there appears to be some progress in discussions with SINSW, this is not yet fully resolved.</p> <p>Should these measures ultimately be required by SINSW and/or TfNSW, it is expected that the road would function largely as a local collector road. The road upgrades and traffic calming measures would improve circulation and safety around the school and would increase access to development within the subject site, however would be unlikely to allow for this road to function effectively as a bypass road or satisfy Council's strategic transport objectives for a bypass corridor. Notwithstanding this, the 32m wide road reservation corridor does not preclude the ability to spatially accommodate upgrading the local collector road to a bypass road in future.</p> <ul style="list-style-type: none"> ▪ <u>Local Road Network</u> <p>The Proponent's Traffic Impact Assessment concludes that the planning proposal would generate 105 - 109 vehicle trips in the AM and PM peak periods respectively. The Proponent's assessment concludes that the additional trips generated by the proposal will have negligible impact on existing traffic conditions.</p> <p>The Traffic Impact Assessment however does not account for drivers conducting illegal right turns into the indented bus bay at Jaffa Road to access the Round Corner Town Centre. This matter would need to be addressed further if the planning proposal was to progress to Gateway Determination.</p> <p>Further detailed discussion of the proposal's traffic and transport impacts is discussed within the Council Officer's Assessment Report to the Local Planning Panel, provided as Attachment 1 to this report.</p>
Local Infrastructure Demand and Public Benefit Offer	<p>Based on the 110 dwellings proposed (approximately 352 persons) the following local infrastructure would be required using current benchmark rates:</p> <ul style="list-style-type: none"> ▪ 6% of a local community centre; ▪ 1% of a branch library; ▪ 18% of an active open space facility (playing field); and ▪ 5,702m² of passive open space (based on 1.62 hectares per 1,000 people). <p>The provision of 6% of a local community centre or 18% of a playing field would be difficult in isolation, especially in the absence of any broader critical mass of urban development within the locality. Accordingly, the Proponent has submitted a Voluntary Planning Agreement (VPA) offer to Council, which includes the following items:</p>

Key Consideration	Comment	
	Item	Comment
	1. Embellishment and dedication to Council of 4,000m ² of land for use as a local park.	Public benefit.
	2. Embellishment and dedication to Council of 141m ² of land for use as a pedestrian link (north east corner of the site).	The pedestrian pathway does not link to a broader pedestrian network and is considered to be of minimal public benefit. Crossing Old Northern Road at this location is not permeable for pedestrians and the proposed through site link appears to be provided in isolation from broader pedestrian movements in the locality.
	3. Dedication of a maximum of 13,223m ² of land forming a 32 metre road reservation through the site for the future Round Corner Bypass.	Potential public benefit. The road reservation has the potential to accommodate a regional bypass road however, as detailed above, the achievement of this bypass corridor would ultimately be contingent on a number of other factors external to this proposal. These factors have been tested as part of previous planning proposal applications for this site and are becoming increasingly uncertain and unlikely.

Key Consideration	Comment
	<p>4. Construction of a 21.5m wide collector road within the road reservation, including two roundabouts, kiss and drop lane adjacent to Dural Public School and widened verges to accommodate future expansion.</p> <p>Potential public benefit. The widened verges have the potential to accommodate a regional bypass road, however the offer does not secure works or funding for any future upgrade of the road that would be necessary, beyond the 21.5m wide local collector road.</p> <p>It is also unclear whether Council or the Proponent would be responsible for funding the construction of intersection upgrade works where the local collector road connected to Old Northern Road (any intersection at this location would be subject to TfNSW approval). The planning proposal material references the provision of a signalised intersection at the junction of Old Northern Road, however it is not an item proposed within the VPA.</p> <p>The local road in isolation from its potential regional status is not required to improve the existing local road network and would primarily service the Proponent's development.</p> <p>There are however benefits to the Dural Public School and as such, this would represent a public benefit to regional infrastructure.</p>
	<p>5. Embellishment and dedication to Council of two stormwater detention basins</p> <p>The stormwater infrastructure is required to service the proposed development and does not provide a broader public benefit to the community.</p>
	<p>6. Monetary contribution to Council of \$363,305.80 towards active open space</p> <p>Public benefit.</p>
	<p>7. Monetary contribution to Council of \$101,242.90 towards community facilities</p> <p>Public benefit.</p>
	<p>8. Section 7.12 monetary contribution to Council (estimated at a <i>minimum</i> of \$550,000)</p> <p>Neutral. This Plan is already applicable to the subject site however does not plan or cater for the extent of uplift proposed through this proposal.</p>

Key Consideration	Comment
	<div><div>Table 2</div><div>Proponent's Preliminary VPA Offer</div><p>The location of the proposed items offered are shown in the figure below.</p><div><div><div><div></div><div>Public Open Space / Pedestrian Link</div></div><div><div></div><div>SP2 Infrastructure Zone (Existing)</div></div><div><div></div><div>Stormwater Detention Basin</div></div><div><div></div><div>Local Road Corridor</div></div></div><div><div>Figure 11</div><div>Location of items proposed to be dedicated to Council</div></div><p>The Proponent has valued their offer at \$19,032,389. This comprises approximately \$465,000 of monetary contributions, \$8.6 million of works and \$10 million in land values based on the Proponent's valuation of \$500/m². Council Officers are continuing to assess the appropriateness of the preliminary offer.</p><p>A significant portion of the public benefit value relates to the dedication of land for a future bypass corridor. However, as detailed throughout this report, realising any</p></div></div>

Key Consideration	Comment
	<p>public benefit associated with the bypass corridor would be contingent upon a number of related factors external to this proposal and Council previously formed the view that the previous planning proposal should not proceed on this basis. Unless a bypass corridor is ultimately delivered, the land associated with the bypass corridor would essentially be a local road to service this development and the school.</p> <p>It is also noted that the Proponent’s preliminary offer indicates that the bypass road (and associated upgrades to the school frontage including the kiss and drop zone) would be delivered as part of Stage 2 works on the site. Stage 1 of the development would see the delivery of approximately 85 of the total 110 lots within the development. Should Council determine to proceed with the proposal, the public benefits within Stage 2 would need to be developed in association with <i>any</i> residential development on the land and will therefore be required as part of Stage 1 works.</p>
Proposed Land Zoning	<div><div><div>▪ <u>SP2 Infrastructure (Bypass Road)</u></div><div>The Proponent has proposed to zone the land to be dedicated to Council as a 21.5m local collector road within a 32m wide road reservation corridor as SP2 Infrastructure, as shown in the figure below.</div><div><div><div>LAND ZONING (LZN)</div><div><div><div>SP2</div><div>Bypass Road</div></div><div><div>R2</div><div>Low Density Residential</div></div><div><div>RU6</div><div>Transition</div></div><div><div>SP2</div><div>Infrastructure</div></div></div></div></div></div></div>
	<div><div><div>Figure 12</div><div>Proposed Land Zone Map with bypass road in yellow</div></div><div><p>The Department of Planning, Housing and Infrastructure has released two relevant Practice Notes with respect to zoning for infrastructure, being <i>PN 11-002 Preparing LEPs using the Standard Instrument: standard zones</i> and <i>PN 10-001 Zoning for Infrastructure in LEPs</i>.</p></div></div>

Key Consideration	Comment
	<p>The Practice Notes state that where land is reserved for public infrastructure purposes, the land is to be outlined and annotated on the Land Reservation Acquisition Map, with the relevant acquisition authority required to be identified within the LEP. There is concern that the use of this zone could create an acquisition liability for Council, if the associated VPA which seeks to dedicate this land (and the construction of a 21.5m local collector road within it) to Council at no cost are not concurrently progressed. Further, the Practice Note states that with respect to road infrastructure (which is a type of infrastructure that is permitted on all land irrespective of the LEP zoning), this should be zoned the same as the adjoining land (R2 Low Density Residential in this instance). This approach also avoids the need for spot rezonings where roads are closed, or where the alignment of roads change, which can commonly occur in rural and release areas.</p> <p>It is considered reasonable that should the planning proposal proceed to Gateway Determination, the 32m wide road reservation corridor should be zoned R2 Low Density Residential. Further consultation with TfNSW is still required with respect to the road's junction with Old Northern Road and as such, the final design, location and alignment is currently unknown. The zoning of the proposed road as R2 Low Density Residential would align with the Practice Note requirements for zoning road infrastructure and would also prevent any acquisition liabilities to Council. The associated draft Voluntary Planning Agreement would be the appropriate mechanism to identify and secure the dedication of this land to Council.</p> <ul style="list-style-type: none"> ▪ <u>RE1 Public Recreation</u> <p>It is noted that the public park proposed to be dedicated to Council is proposed to be zoned R2 Low Density Residential. While this would typically be identified as RE1 Public Recreation to align with the intended use of the land for the purpose of a public park, it is considered premature to identify the park on the Proposed Land Zone Map until such time as Council has considered whether the planning proposal should progress to Gateway Determination, and subsequent consideration of a further report on the items offered within the draft Voluntary Planning Agreement.</p> <p>Following this, it may be appropriate to identify the extent of any land to be dedicated to Council as a public park as RE1 Public Recreation, as a post exhibition amendment to the planning proposal, should the matter progress to this stage.</p>
Infrastructure Capacity (Utilities)	<p>As part of the Urban Capacity and Capability Assessment, preliminary infrastructure capacity investigations were undertaken with respect to drinking water, wastewater, gas and electricity supply within the broader Dural locality and instances where augmentation is required. The following conclusions were made:</p> <ul style="list-style-type: none"> ▪ Gas Services: Jemena's policy is to extend gas mains to all developments wherever possible, depending upon economic viability; ▪ Electrical Infrastructure: Endeavour Energy has no long term plans to increase capacity as the Dural locality has not been identified by the State Government as a growth area. The Dural Load Area has existing capacity to supply small developments of 175 to 230 small/medium sized lots before requiring network upgrades; and ▪ Potable and Waste Water: the potable water reservoirs and sewage pumping stations in the study area do not have sufficient spare capacity to accommodate development in the study area. Development in the area would require installation of trunk water and sewer networks, including new water reservoir/s, sewer pump stations and potentially a new treatment plant or upgrades to an existing plant.

Key Consideration	Comment
	<p>The Proponent has submitted a Preliminary Infrastructure Review in support of the planning proposal to ascertain the extent utilities servicing available to the site and the potential need to upgrade, extend or alter services to accommodate the additional growth proposed.</p> <p>The Proponent has demonstrated that the site can be serviced with the required utilities infrastructure through a combination of existing capacity or extension and augmentation of such facilities. The viability of doing so is a commercial matter for the Proponent to consider should the matter progress. Without adequate provision of sewer, power and water, the development would fail in its current form. The infrastructure capacity is discussed in greater detail within the Council Officer Assessment Report to the Local Planning Panel (Attachment 1).</p>
Vegetation	<p>The site is largely cleared of existing vegetation though there are some remaining patches. The Proponent's material indicates the presence of Northern Foothills Blackbutt Grassy Forest and Sydney Turpentine Ironbark Forest (STIF), which are endangered and critically endangered ecological communities respectively under the Biodiversity Conservation Act 2016 (BC Act).</p> <p>The Proponent's material indicates that attempts will be made at the development application stage to retain areas mapped as STIF, which is predominantly along the site's frontage to Derriwong Road. While it is prudent to ensure early consideration of impacts to this vegetation community, it is noted that the Proponent's development concept proposes larger minimum lot sizes of 1,000m² at this location, which could likely be capable of retaining and avoiding this vegetation as part of future built form applications.</p> <p>The proposed lot size of 1,000m² in this location is a <i>minimum</i> size requirement and actual resulting lot sizes may naturally vary above this minimum number following completion of surveys and the creation of a detailed subdivision plan. Further, the lot sizes may need to be increased in this location to address impacts to STIF vegetation once more detailed planning and ecological investigations have been completed at the DA stage. This potential outcome should be incorporated into controls within the draft site specific DCP.</p> <p>Parts of the adjoining Dural Public School are also listed on the Biodiversity Values Map and therefore the adjoining development must consider the potential for Serious and Irreversible Impact ("SAIL"). Should the planning proposal progress, further surveys and ecological reporting would be required to be undertaken by the Proponent to verify the Biodiversity Values Map, ascertain the exact extent to which threatened species are present on the land and demonstrate that the proposed development does not constitute a SAIL. This would include detailed surveys and consideration of potential clearing on the school site as part of the proposed kiss and drop road works and the broader local road corridor works.</p> <p>It is also recommended that a 10m vegetated buffer be provided where development lots adjoin the Dural Public School, to reduce the potential for impacts on high value biodiversity areas. The site specific DCP should also include provisions with respect to cut and fill, provision of utilities services and stormwater infrastructure that minimise impacts on these areas that are at risk of creating SAIL.</p> <p>While this would likely be a sufficient planning response for proposed residential lots along the southern boundary of the Dural Public School, there may be implications for the ability to deliver the bypass road within the reservation corridor proposed by the Proponent. The image below illustrates the extent of the Biodiversity Values Map.</p>

Key Consideration	Comment
	<div data-bbox="509 304 1358 1068"> </div> <p data-bbox="743 1070 1129 1128">Figure 13 Biodiversity Values Map (purple)</p> <p data-bbox="448 1162 1426 1346">Should the planning proposal progress to Gateway Determination and if consensus is reached with TfNSW with respect to the design of the proposed road infrastructure, it is anticipated that consultation would also be required with the NSW Department of Climate Change, Energy, the Environment and Water (DCCCEW) to determine the appropriate response required to this small portion of land north of the school that is identified on the Biodiversity Values Map.</p>
<p data-bbox="201 1379 355 1496">Potential Impacts on Agricultural Land</p>	<p data-bbox="448 1379 1426 1682">The RU6 Transition Zone is used in special circumstances to provide a transition between more intensive rural land uses such as intensive agriculture and extractive industries and other areas supporting more intensive settlement. Guidance provided by the Department of Planning and Environment indicates that the zone is not to be used to identify future urban land. The zone provides an appropriate buffer between urban land and rural areas and allows the rural areas to develop and grow without restriction from residential uses in close proximity. Whilst the land uses permitted within the zone do not lead to high land values, the RU6 Transition Zone is necessary to protect existing rural enterprises and encourage future investment in these and other rural lands.</p> <p data-bbox="448 1715 1426 1957">On the opposite side of Old Northern Road, within the Hornsby Shire Council area, the rural land is zoned RU2 Rural Landscape, which permits intensive livestock agriculture. Intensive livestock agriculture requires substantial buffers from residential areas (up to 1km for poultry sheds and waste storage). While no Odour Assessment has been submitted by the Proponent, the proposal would permit urban development within 1km of these permissible rural uses, creating potential for land use conflict and diminishing the ability of these areas to accommodate productive rural uses.</p> <p data-bbox="448 1991 1426 2045">Existing planning controls and Council policies have generally confined new development to within close proximity of centres. There is currently a clear</p>

Key Consideration	Comment
	<p>distinction between the Shire's semi-rural villages and the surrounding rural zoned land which reduces land use conflict and gives the Shire's rural areas a positive identity. The Proponent seeks to integrate new development into the existing character of the locality through the provision of larger minimum lot sizes at the peripheries of the site. This would assist in minimising potential character impacts and land use conflict within the surrounding rural area.</p>
Potential for Seniors Housing	<p>As part of a previous planning proposal on the site, seniors housing could be permitted on rural land in instances where rural sites adjoined urban zoned land, subject to the issue of a Site Compatibility Certificate from the Department of Planning and Environment or Sydney Central City Planning Panel. At the time of Council's consideration of the first planning proposal (23/2016/PLP), the proposed rezoning to urban land therefore had the potential to facilitate a proliferation of seniors housing developments on adjoining rural land not subject to the proposal. This is no longer a potential impact of the current planning proposal, as the State policy has since been amended to remove the Site Compatibility Certificate planning pathway.</p> <p>While there is no longer a potential impact to surrounding land, there remains potential to create new seniors housing development opportunities within the subject site, if the land is rezoned. Seniors housing is currently prohibited on the land given its rural zoning of RU6 Transition. However, the R2 Low Density Residential zone is a 'prescribed zone' under <i>State Environmental Planning Policy (Housing) 2021</i>. Should the planning proposal proceed, seniors housing would therefore become permitted with consent on the land.</p> <p>While the Proponent has submitted a development concept indicating a low density residential subdivision, the planning proposal relates to the land use zoning and primary development standards and does not secure a specific development outcome (as this would be the subject of a future development application). As such, it cannot be guaranteed that parts of the land rezoned to R2 would in fact be developed for the illustrated purpose. However, it is anticipated that the draft site-specific development control plan would provide detailed guidance on ensuring the proposed development outcome is achieved on the site, which includes establishment of the local road pattern as part of Stage 1 works on the site.</p>
Heritage	<p>The site does not comprise any heritage items, however it is in the vicinity of a number of locally listed items, including Old Northern Road, which is an archaeological item of environmental heritage. More detail on the specific location of heritage items is contained within Section 5(h) of the Council Officer's Assessment Report to the Local Planning Panel (Attachment 1).</p> <p>The Proponent has submitted a Heritage Impact Statement in support of the proposal. Broadly, the proposal will not diminish the values or views of the surrounding heritage items as there is appropriate separation between the items and the subject site. The provision of larger lot sizes at the periphery of the sites will assist in integrating with the low density rural character of the locality. No physical works are proposed to the heritage items, with the exception of Old Northern Road.</p> <p>The Heritage Impact Statement submitted by the Proponent notes that the intersection treatment of the proposed bypass road with Old Northern Road is subject to further discussions and direction from TfNSW. The Proponent recommends that an Historical Archaeological Impact Assessment (HAIA) be prepared by a suitably qualified archaeological consultant prior to the submission of a development application in association with any impacts to Old Northern Road. It is anticipated that Heritage NSW will be consulted on this matter should the planning proposal progress to Gateway Determination.</p>

Key Consideration	Comment

OPTIONS

With respect to determining whether the planning proposal should proceed to Gateway Determination, it is noted that there are competing strategic planning objectives and historical advice from the Department of Planning and the Independent Planning Commission.

The following potential options have been identified having regard to the assessment of the proposal and the full range of relevant factors:

Option 1 – Proceed to Gateway Determination

A decision to progress to Gateway Determination would place greater weight on the public benefits to regional infrastructure associated with the planning proposal’s proximity to Dural Public School and the supporting upgrades offered through the planning proposal, such as kiss and drop facilities, improved pedestrian and vehicular access and provision of new sewer and electrical infrastructure to the school. It would also attribute significant weight to the current objectives and priorities of the Government to increase housing supply, notwithstanding that the majority of the Government’s reforms appear to be promoting these outcomes in highly serviced urban areas, rather than the Metropolitan Rural Area.

The planning proposal is unique and would not necessarily create a precedent for similar rezonings in the Metropolitan Rural Area, noting it relates to the land area immediately surrounding the Dural Public School and has the opportunity to provide significant public benefits for the School. It would also result in a fully contained and serviced residential development surrounding the catchment of the Public School, which SINSW has confirmed has capacity to accommodate additional student numbers, unlike many other schools within urban areas of The Shire. The provision of larger lots around the periphery of the site will assist in transitioning back into the rural character of the surrounding RU6 Transition land.

The planning proposal would secure a portion of a possible alignment of a potential future bypass corridor, however at this time it does appear unlikely that this will fulfil Council’s regional transport objectives in this locality, without significant investment and commitment from Council in the future to design, identify and acquire the road corridor and fund the construction of the bypass corridor. Irrespective of this, it remains open to Council to accept the portion of the corridor through this site at this time, in the knowledge that if a bypass corridor is not ultimately achieved at this location, this road would then simply serve as a local collector road servicing this development and the school site.

As detailed throughout this report, it is recommended that should the planning proposal progress to Gateway Determination, the proposed Land Zone Map should be amended to remove the identification of the 32m wide road reservation corridor as SP2 Infrastructure. The road corridor should instead be identified as proposed R2 Low Density Residential zone and secured as an outcome through the associated VPA.

Under this Option, the planning proposal would progress to Gateway Determination as follows:

- 1. Amend the Land Zone Map to retain the current SP2 Infrastructure (Classified Road) and rezone the remainder of the site from RU6 Transition to R2 Low Density Residential.

2. Amend the Maximum Height of Building Map from 10m to 9m.
3. Amend the Minimum Lot Size Map from 2 hectares to 600m², 1,000m² and 2,000m².
4. Introduce a local provision limiting the yield to a maximum of 110 residential lots on the site.

Under this Option, a further report would also be considered by Council with respect to the draft site specific Development Control Plan and draft Voluntary Planning Agreement.

Option 2 – Not Proceed to Gateway Determination

While Option 1 acknowledges the unique circumstances of this site and the regional infrastructure benefits offered by the proposal particularly in relation to Dural Public School, Option 2 places greater weight on the inconsistency of the proposal with the Region Plan, District Plan and LSPS, having regard to the treatment of land within the Metropolitan Rural Area and that the proposal does not technically satisfy the strategic merit test.

It would reflect that despite the strong site-specific merit demonstrated by the proposal and the advice of the IPC with respect to the previous proposal, the Region Plan has not been updated to identify any urban development on this land and the consideration of site-specific merits of a proposal is only a relevant factor once a proposal has first satisfied the strategic merit test.

A key driver of merit of previous iterations of the planning proposal related to the potential to secure a portion of a future bypass corridor having regard to Council's strategic transport objectives for a bypass corridor between Annangrove Road and Old Northern Road. However, the views and likelihood of State Government support being provided to secure Council's regional transport objectives in this locality have been tested as part of previous proposals for this land and the reservation of part of a regional bypass corridor is contingent on a number of factors that are becoming increasingly uncertain or unlikely, therefore presenting a speculative risk or financial burden to Council. For this reason, Council has previously determined not to proceed with the previous version of this same proposal.

ATTACHMENTS

1. Council Officer Technical Assessment Report to the Local Planning Panel, 19 June 2024 (39 pages)
2. Local Planning Panel Advice, 19 June 2024 (2 pages)
3. Independent Planning Commission Advice, 4 September 2020 (12 pages)
4. Letter from Minister for Planning regarding Housing Crisis, August 2023 (2 pages)

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ITEM-1 LOCAL PLANNING PANEL – PLANNING PROPOSAL –
DERRIWONG ROAD AND OLD NORTHERN ROAD, DURAL
(6/2024/PLP)

THEME: Shaping Growth

MEETING DATE: 19 JUNE 2024

LOCAL PLANNING PANEL

GROUP: SHIRE STRATEGY

MANAGER FORWARD PLANNING

AUTHOR: NICHOLAS CARLTON

RESPONSIBLE GROUP MANAGER – SHIRE STRATEGY
OFFICER: MARK COLBURT

PURPOSE

This report presents the planning proposal for land at Derriwong Road and Old Northern Road, Dural (6/2024/PLP) to the Local Planning Panel for advice, in accordance with Section 2.19 of the *Environmental Planning and Assessment Act 1979*.



RECOMMENDATION

The planning proposal be submitted to the Department of Planning, Housing and Infrastructure for Gateway Determination.

Proponent	URBIS ON BEHALF OF LEGACY PROPERTY
Owners	LEGPRO 73 PTY LTD MR JOSEPH MOUSSA MRS JOSEPHINE MOUSSA
Planning Consultant & Urban Designer	URBIS

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Traffic Consultant	SCT CONSULTING
Ecology Consultant	ECO LOGICAL CONSULTANTS AUSTRALIA
Bushfire Consultant	ECO LOGICAL CONSULTANTS AUSTRALIA
Economic Analysis	URBIS
Heritage Consultant	URBIS
Site Investigation Consultant	JBS&G AUSTRALIA
Infrastructure Services Consultant	GROUP DEVELOPMENT SERVICES
Surveyor	LAND PARTNERS
Acoustic Consultant	RODNEY STEVENS ACOUSTICS
Aboriginal Heritage Consultant	KELLEHER NIGHTINGALE CONSULTING
School Safety Assessment	ARRB
Site Area	12.88 HECTARES
List of Relevant Strategic Planning Documents	GREATER SYDNEY REGION PLAN CENTRAL CITY DISTRICT PLAN SECTION 9.1 MINISTERIAL DIRECTIONS LOCAL STRATEGIC PLANNING STATEMENT AND SUPPORTING STRATEGIES
Political Donation	NONE DISCLOSED

1. THE SITE

The site has a total area of approximately 12.88 hectares and comprises five (5) individual land parcels known as 614, 618 and 626 Old Northern Road and 21 and 27 Derriwong Road, Dural. It is located to the north of Round Corner Town Centre, bound by Old Northern Road to the east and Derriwong Road to the south and west. The subject land surrounds Dural Public School. Old Northern Road forms the boundary between The Hills Shire Council and Hornsby Shire Council Local Government Areas.

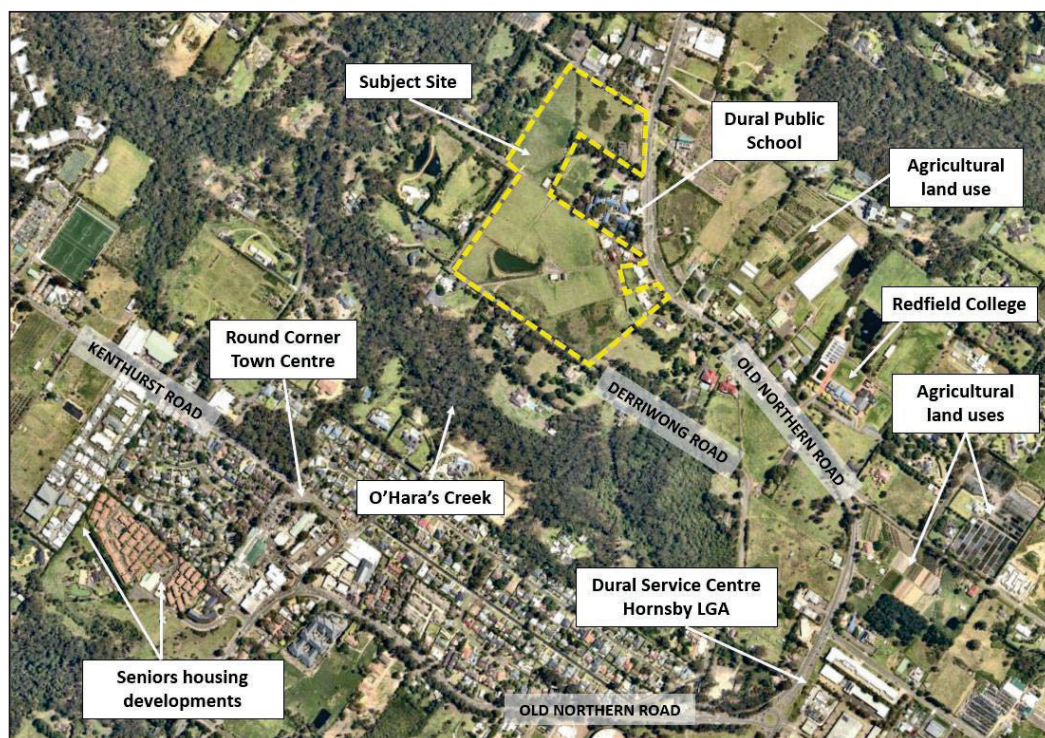


Figure 1
Subject site and aerial view of surrounding locality

The site comprises large lot rural residential development, including a dam. It is predominantly cleared of substantial vegetation though some patches of vegetation remain. There are a number of surrounding land uses including Dural Public School, agricultural land uses (in Hornsby LGA) and Redfield College.

2. HISTORY / PREVIOUS PLANNING PROPOSALS

The site has been the subject of two previous planning proposals, which were ongoing for a combined duration of approximately 7 years. Ultimately both proposals did not proceed.

Council's most recent consideration of the previous proposal was in February 2023, where Council resolved that the planning proposal should not proceed. The Proponent subsequently lodged a rezoning review application however was unsuccessful, with the Sydney Central City Planning Panel upholding Council's decision in July 2023.

The subject planning proposal is essentially the same as the previous planning proposal.

A detailed history of the past planning proposals is provided below.

May 2016 A planning proposal was lodged with Council (23/2016/PLP) incorporating the subject site, as well as additional land further south opposite the Dural Service Centre.

December 2016 Council resolved to hold the planning proposal in abeyance until the wider Dural Investigation Area planning is completed to enable a more cohesive development and infrastructure outcome and provide a clear boundary to urban development.

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February 2017	A rezoning review was lodged with the Department of Planning and Environment. The Sydney West Central Planning Panel determined that the planning proposal should not proceed to Gateway Determination.
March 2019	<p>The Phase 1 Urban Capacity and Capability Assessment for the Dural locality was completed. The Assessment concluded that while some land is environmentally capable of accommodating development, there is insufficient infrastructure capacity to facilitate development uplift in the Dural locality at this time.</p> <p>Council resolved to receive the outcomes of this Assessment, discontinue further investigations with respect to rural rezoning in the locality and further lobby the State Government with respect to regional road upgrades and reclassification along Annangrove Road, Old Northern Road and New Line Road to address existing road capacity problems. Council also resolved to consider the merits of any future planning proposal, where it can be demonstrated that required local and regional infrastructure upgrades can be delivered at no cost to Council.</p>
June 2019	The Local Planning Panel considered the planning proposal and advised that the application should not proceed to Gateway Determination.
July 2019	Council considered the planning proposal and resolved to forward the application to the Department for Gateway Assessment to determine State Government agency views on the merits of the planning proposal.
April 2020	DPE issued a Gateway Determination that the planning proposal should not proceed.
September 2020	The Proponent initiated a Gateway Determination Review and DPE referred the matter to the Independent Planning Commission (IPC) for advice on whether the Gateway Determination should be altered. The IPC advised that the planning proposal should not proceed to Gateway Determination.
November 2020	DPE advised Council that it had not yet determined whether to alter the Gateway Determination in light of the IPC's advice. DPE invited Council to submit a revised planning proposal if Council was satisfied that it could address the concerns raised by the IPC and DPE's Gateway Determination.
February 2021	Council resolved to submit a revised planning proposal to DPE for Gateway Assessment, commence negotiations with the Proponent to prepare a draft VPA to secure local infrastructure contributions and consider a further report on the draft VPA and a draft DCP prior to any public exhibition of the planning proposal. The revised planning proposal related only to the "Northern Site" (surrounding Dural Public School), which is generally the same area as the current proposal. The "Southern Site" (opposite Dural Service Centre) was removed from the proposal at this time.
July 2021	A Gateway Determination was issued by DPE authorising the planning proposal to proceed, subject to a number of conditions including public agency consultation prior to public exhibition. The planning proposal could not proceed to public exhibition unless a letter of support was provided by TfNSW.

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

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

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

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

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

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

September 2022 A new planning proposal was lodged with Council (2/2023/PLP). This was generally similar to the original proposal (23/2016/PLP), with the following changes:

- The site was expanded to include one additional property at 614 Old Northern Road;
- Average lot sizes were adjusted to include a greater number of 600m² lots and 1,000m² lots. Previously proposed 700m² lots were removed;
- The proposal sought to achieve 110 lots compared to the previously proposed 101 lots;
- The proposed public park changed to a more central location within the site adjoining Derriwong Road and Dural Public School; and
- The alignment and location of the proposed bypass corridor was changed to run north along the western boundary of the site and then east along the northern boundary of Dural Public School.

December 2022 The Local Planning Panel considered the planning proposal (2/2023/PLP) and advised that the proposal had not yet satisfied the strategic merit test, but should proceed to Gateway Determination in order to resolve the

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following issues with State Government agencies that would enable the proposal to demonstrate strategic merit:

- The road corridor can be delivered in the proposed location and function as a bypass with an intersection at Old Northern Road;
- The road to be dedicated is a regional corridor width; and
- The issues raised by SINSW can be addressed without compromising the function of the future bypass road.

February 2023	<p>Council considered the planning proposal (2/2023/PLP) and resolved that it should not proceed to Gateway Determination on the basis of the proposal's technical inconsistencies with the Region Plan, District Plan and LSPS having regard to the treatment of land within the Metropolitan Rural Area.</p> <p>The decision reflected that despite the site-specific merit demonstrated by the proposal, the Region Plan does not identify any urban development on this land and the consideration of site-specific merit is only a relevant factor once a proposal has first satisfied the strategic merit test.</p> <p>The decision also reflected that despite the contribution of this proposal, the ultimate provision of a regional bypass corridor is contingent on a number of factors that are becoming increasingly uncertain or unlikely, therefore presenting a speculative risk or financial burden to Council.</p>
April 2023	Rezoning Review request lodged by Proponent with the Department of Planning and Environment.
June 2023	The Sydney Central City Planning Panel advised Council Officers that Department Staff had directed the Panel to be more flexible when considering applications where the potential for housing creation exists, in response to the Government's priorities to deliver more housing.
July 2023	The Sydney Central City Planning Panel considered the Rezoning Review request and determined that the planning proposal (2/2023/PLP) should not proceed to Gateway Determination because it has not demonstrated strategic merit.
August 2023	Council received correspondence from the Minister for Planning regarding the housing crisis and prioritisation of housing supply in the assessment of rezoning applications. An updated Local Environmental Plan Making Guideline was subsequently released by the Department of Planning.
February 2024	Pre-lodgement meeting held with Proponent. Council officers noted during the meeting that the new application seeks essentially the same outcomes as the previously lodged planning proposal (2/2023/PLP) and as such, the findings from the previous assessment of the proposal are expected to remain consistent.
March 2024	New subject planning proposal (6/2024/PLP) lodged with Council. The proposal is essentially the same as the previously lodged application in September 2022 (2/2023/PLP).

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3. DESCRIPTION OF PLANNING PROPOSAL

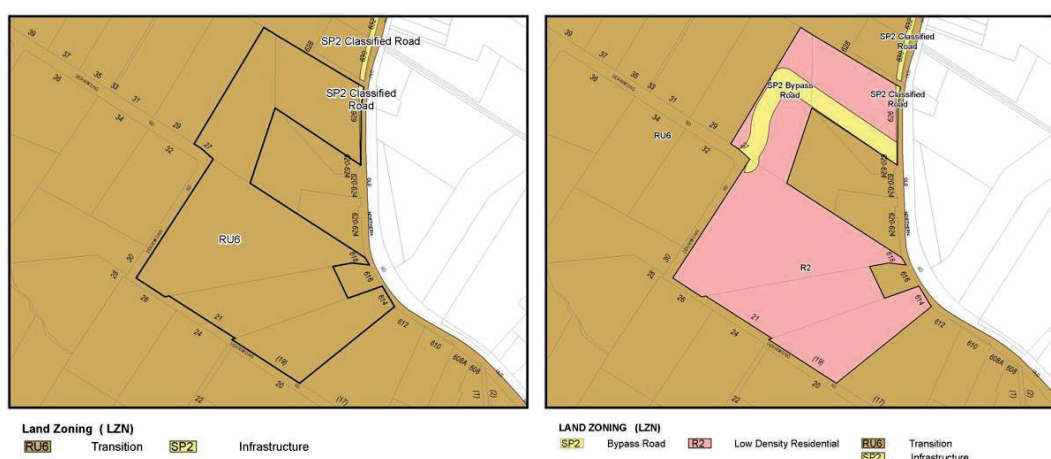
The planning proposal was lodged on 15 March 2024. It seeks to achieve generally the same outcomes as the previous proposal considered by Council and the Sydney Central City Planning Panel in February 2023 and July 2023 respectively.

The proposal seeks to rezone land from RU6 Transition to R2 Low Density Residential and SP2 Infrastructure (Local Road) and make associated amendments to the maximum building height and minimum lot size requirements to facilitate a low density subdivision comprising approximately 110 lots. A comparison between the existing and proposed controls under LEP 2019 is provided in the table below.

Planning Control	Existing	Proposed
Land Zone	RU6 Transition SP2 Infrastructure (Classified Road)	R2 Low Density Residential SP2 Infrastructure (Local Road) SP2 Infrastructure (Classified Road) (retained)
Height of Building	10m	9m
Floor Space Ratio	N/A	No change
Minimum Lot Size	2 hectares	600m ² , 1,000m ² and 2,000m ²
Local Provision	N/A	Limit yield to a maximum of 110 residential lots

Table 1

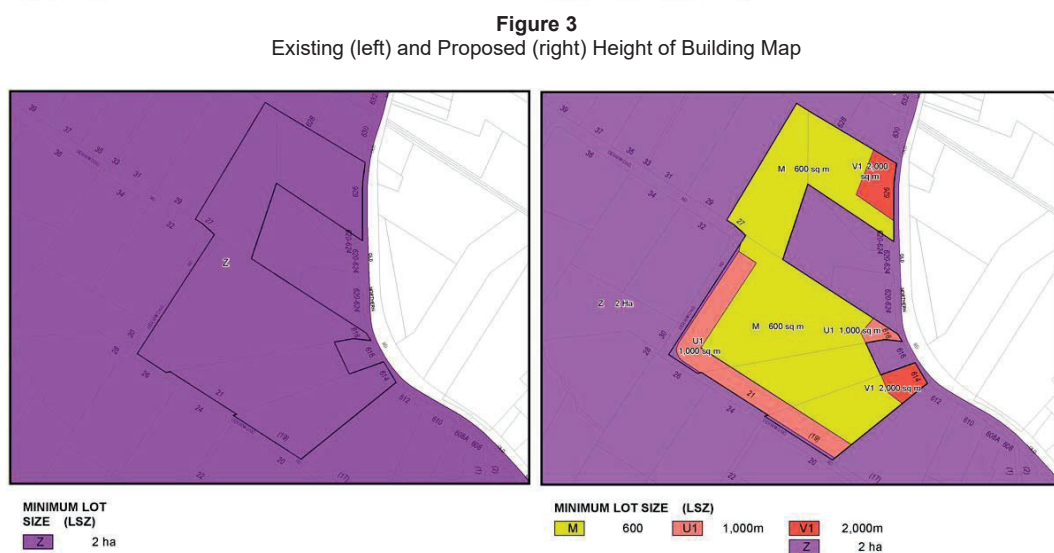
Existing and proposed development controls under LEP 2019

**Figure 2**

Existing (left) and Proposed (right) Land Zone Map

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

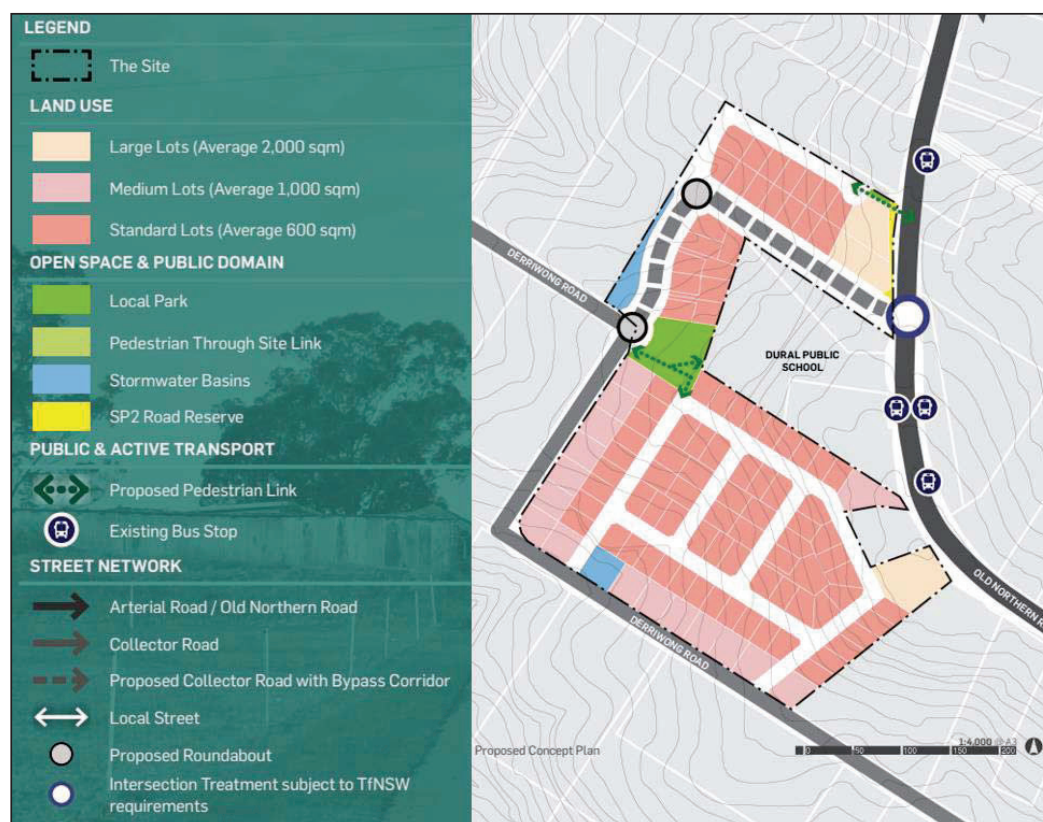


Figure 5
Proposed Concept Plan

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

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

The draft VPA letter of offer seeks to secure monetary contributions to be allocated towards local infrastructure provision. The preliminary offer comprises the following items:

- Embellishment and dedication of 4,000m² of land for the purpose of a new local park;
- Embellishment and dedication of 141m² of land for the purpose of a pedestrian link;
- Works and land dedication associated with a portion of a future Rouse Corner bypass road (approx. 13,223m² forming a 32m road reservation and 21.5m wide collector road);
- Embellishment and dedication of two stormwater detention basins;
- Active open space monetary contribution of \$363,305.80; and
- Community facilities monetary contribution of \$101,242.90.

The Proponent has valued the above land, works and monetary items at \$19,032,389, which would equate to \$173,000 per lot. These items are proposed to be in addition to the already applicable Section 7.12 Contributions Plan, which levies development at a rate 1% of the cost of development.

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It is noted that as part of these local infrastructure works and the broader master plan concept, there are proposed benefits to State Government infrastructure as follows:

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

4. STRATEGIC MERIT CONSIDERATIONS

a) Greater Sydney Region Plan and Central City District Plan

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

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

The Plan acknowledges the essential retail and community services provided by rural villages and towns, but does not advocate for them to become part of the urban area, which is consistent with Council's vision for and implementation of an Urban Growth Boundary within the LSPS (discussed in further detail in Section 4(c)). The Plan states that maintaining and enhancing the distinctive rural village character is a high priority and that further rural residential or urban development is generally not supported. The planning proposal seeks to rezone land within the Metropolitan Rural Area to permit urban development and as such, is inconsistent with these Planning Priorities and actions.

The Proponent submits that the planning proposal is a natural extension of the Dural village and would provide an opportunity for a walkable catchment surrounding the State Government public school within a fully contained and serviced residential development.

However, in the view of Council officers, the proposal is not indicative of a broader extension of either the Dural or Round Corner town centres as it is disconnected from both of these centres by RU6 Transition land. The separation of this land from either centre has necessitated the provision of larger lot sizes around the periphery of the site in order to transition back into an appropriate character adjoining the surrounding rural land zoned RU6 Transition. The remaining rural land between the subject site and the Round Corner village (to the south of the site) is expected to be retained and protected as rural zoned land.

Notwithstanding this, it is also acknowledged that this individual proposal is not indicative of a broader precedent for the release of rural land for urban development at this location, given the extremely unique circumstances of this land, in that it encompasses all of the landholdings surrounding the Dural Public School and provides the opportunity to secure regional public

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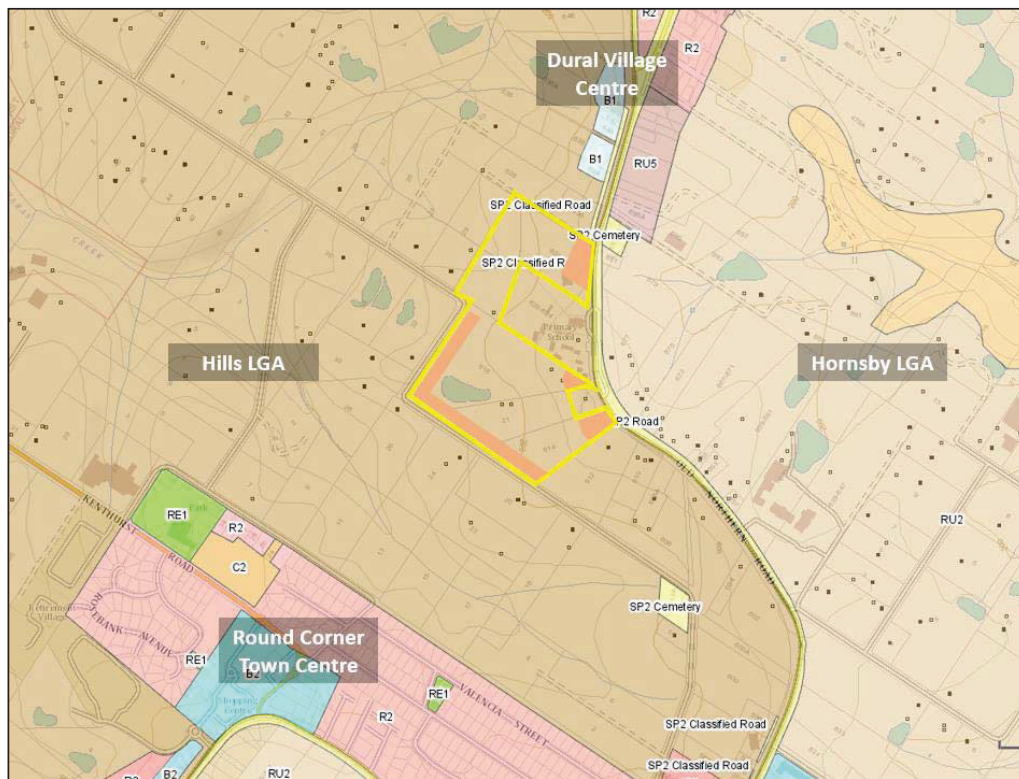
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benefits for the school including new drop off and pick up facilities, sewer infrastructure, connectivity to a new local park, pedestrian pathways along the school site's frontage and surrounding traffic works.

The images below demonstrates the area of the proposal, as a contained cluster around the Dural Public School.



Figure 6
Subject land surrounding Dural Public School

**Figure 7**

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

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

The Greater Cities Commission, who originally prepared the Region and District Plans, were undertaking a review of the plans which may or may not have altered the current policy positions. The review of the Region and District Plans was due for release in late 2023. However, in late 2023 the Greater Cities Commission Act was abolished and the strategic planning functions of the Greater Cities Commission were transferred to the Secretary of the Department of Planning, Housing and Infrastructure. Since this time, there has been no further update on the Government's intention to update the Region and District Plans or timeframes for this to occur. It is not clear whether the review of these plans is still being undertaken or whether any review would result in change to the policy position regarding rural land.

The planning framework established by the NSW Government facilitates the ability for any person to lodge a planning proposal, regardless of its technical alignment with the current strategic policies of Government or Council. Once lodged, Council is then required to then consider such an application having regard to all strategic and site-specific merit factors in each individual case.

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b) Section 9.1 Ministerial Directions

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

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

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

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

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

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

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

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

The LSPS comprises an action to implement an Urban Growth Boundary to limit residential growth to within the existing and planned urban areas of the Shire. This reflects the policy set out in the District and Region Plan by Government and acknowledges that Council has enough land zoned and planned for within the existing urban area to meet its identified

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housing targets to 2036 and beyond. The site is located above the Urban Growth Boundary, within the Metropolitan Rural Area of Greater Sydney, as shown in the figure below.

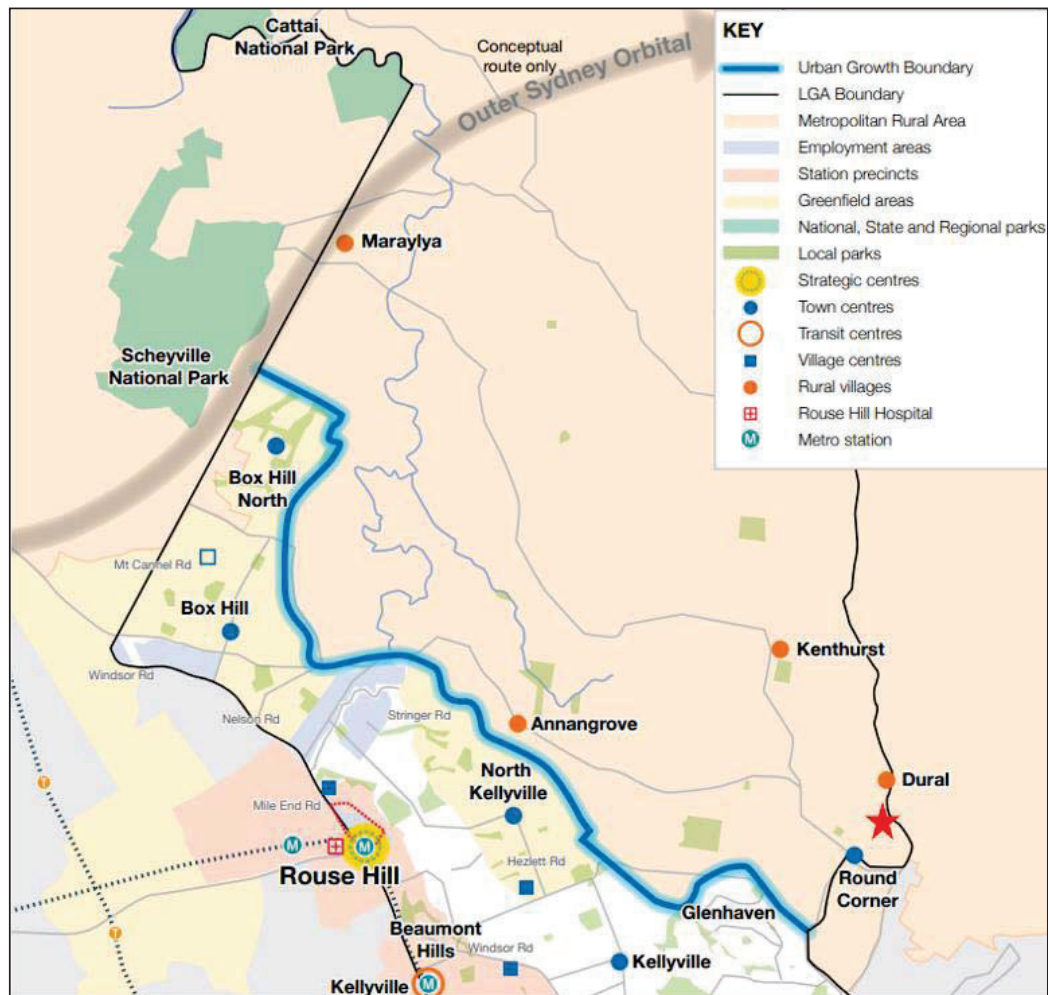


Figure 8

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

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

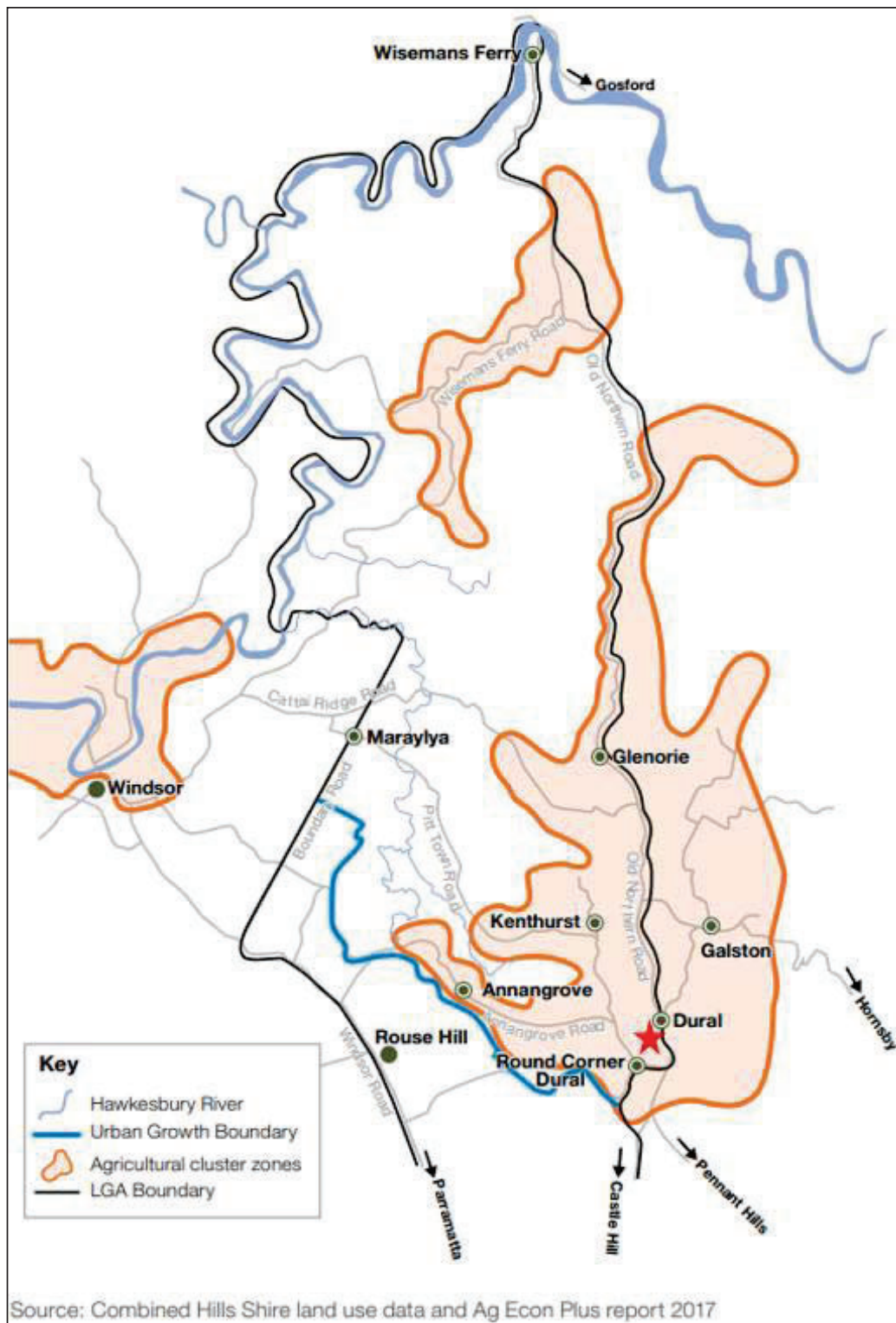


Figure 9
LSPS Agricultural Clusters within The Hills Shire and subject site (red star)

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

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

Figure 10

Extract of LSPS – Rural village expansion criteria for planning proposals

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

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

The structure plan within Council's LSPS identifies the upgrade of Annangrove Road to arterial status and the provision of a Round Corner bypass as a regional transport priority for The Hills. There is also an action within the LSPS to advocate for State Government support for these regional road upgrades.

The strategic merit of previous iterations of the planning proposal was heavily linked with the ability to secure a portion of a potential regional bypass corridor to fulfil Council's strategic objectives for the area. Past decisions of Council sought to progress these discussions with the relevant public agencies such as TfNSW as part of the consultation that would occur through the Gateway Determination process.

However, based on the consultation processes which have occurred in association with previous iterations of the planning proposal, TfNSW has clearly advised that there are no

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current plans, funding or investigations into the provision of a regional bypass corridor in this location.

As such, while the proposal may secure a small portion of one of the possible future alignments of a potential regional bypass corridor, the delivery of this overall strategic outcome would be extremely uncertain and the proposal could present a speculative risk or financial burden to Council. When Council considered the previous version of the planning proposal in February 2023, it resolved not to progress with the previous planning proposal on this basis.

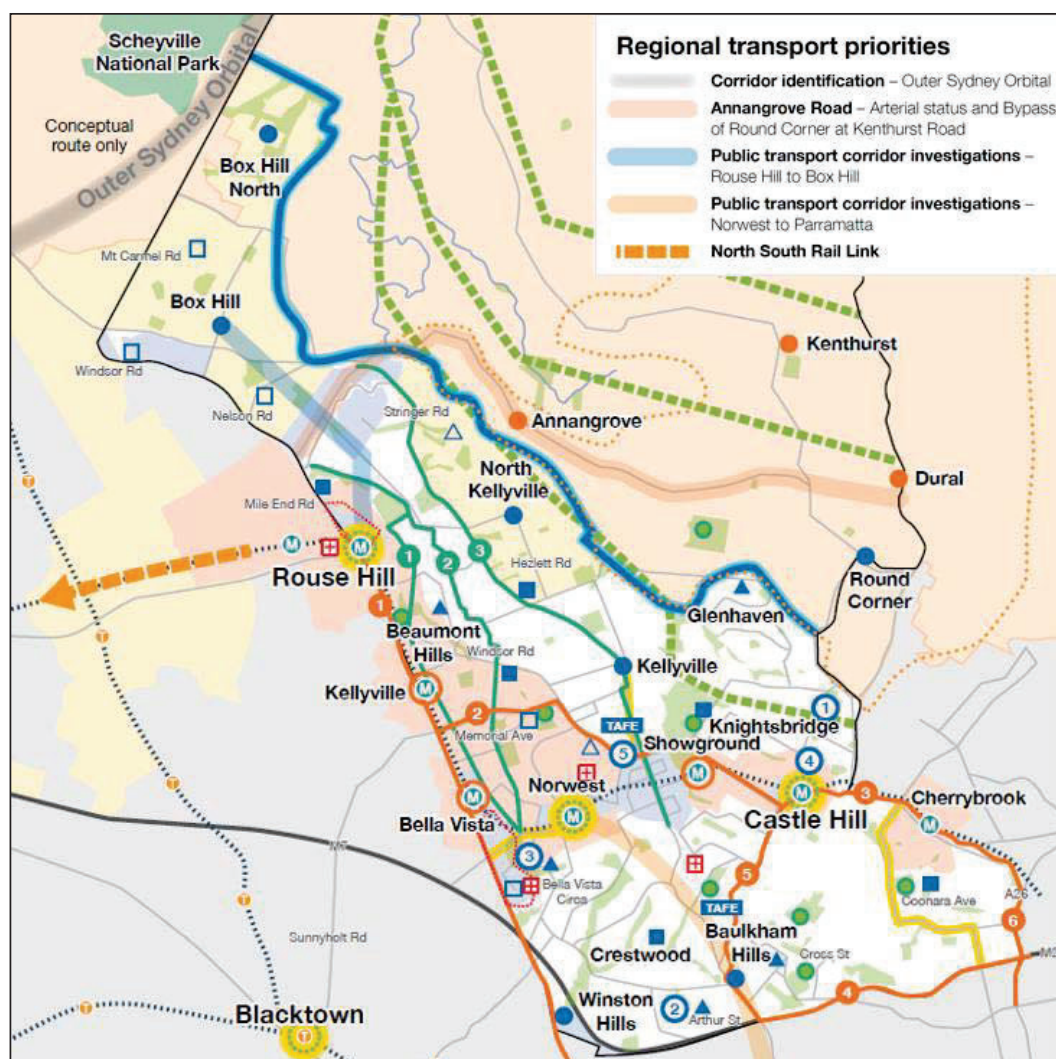


Figure 11
Extract of LSPS – Council's Regional Transport Priorities

d) Dural Urban Capacity & Capability Assessment

In 2019, Council commissioned an Urban Capacity and Capability Assessment for the Dural/Round Corner locality. The need for this assessment arose, in part, due to a number of landowner-initiated planning proposals, which were submitted to Council in the absence of any holistic or coordinated approach to planning for the area. The previous planning proposal

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applicable to this site was held in abeyance pending the outcome of these strategic investigations, following which Council determined to submit the proposal to DPE for Gateway Assessment.

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

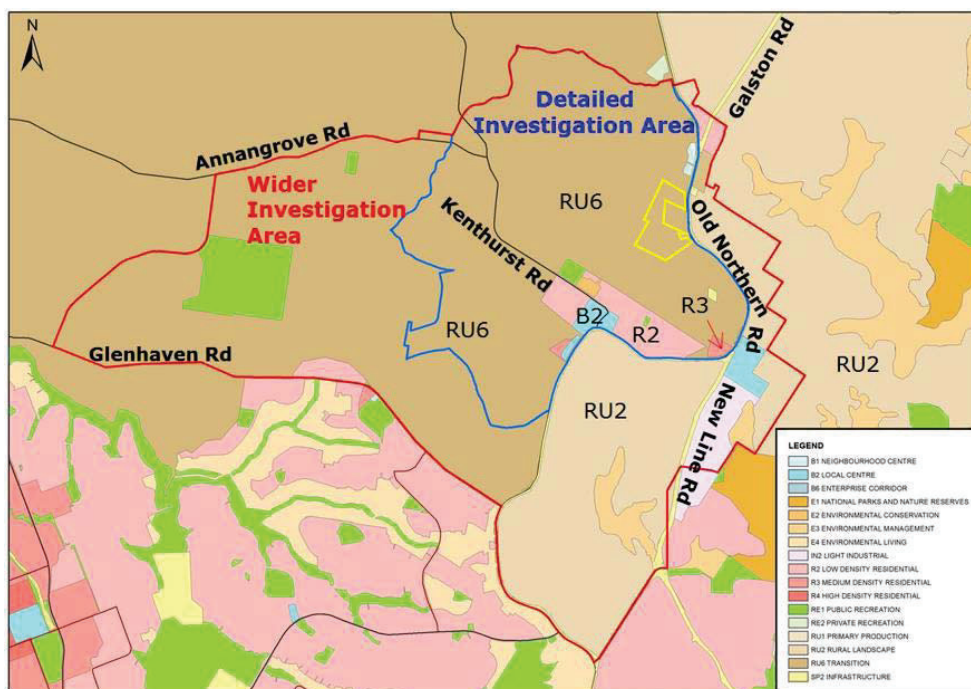


Figure 12

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

The Assessment reached the following conclusions about the Investigation Area:

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

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

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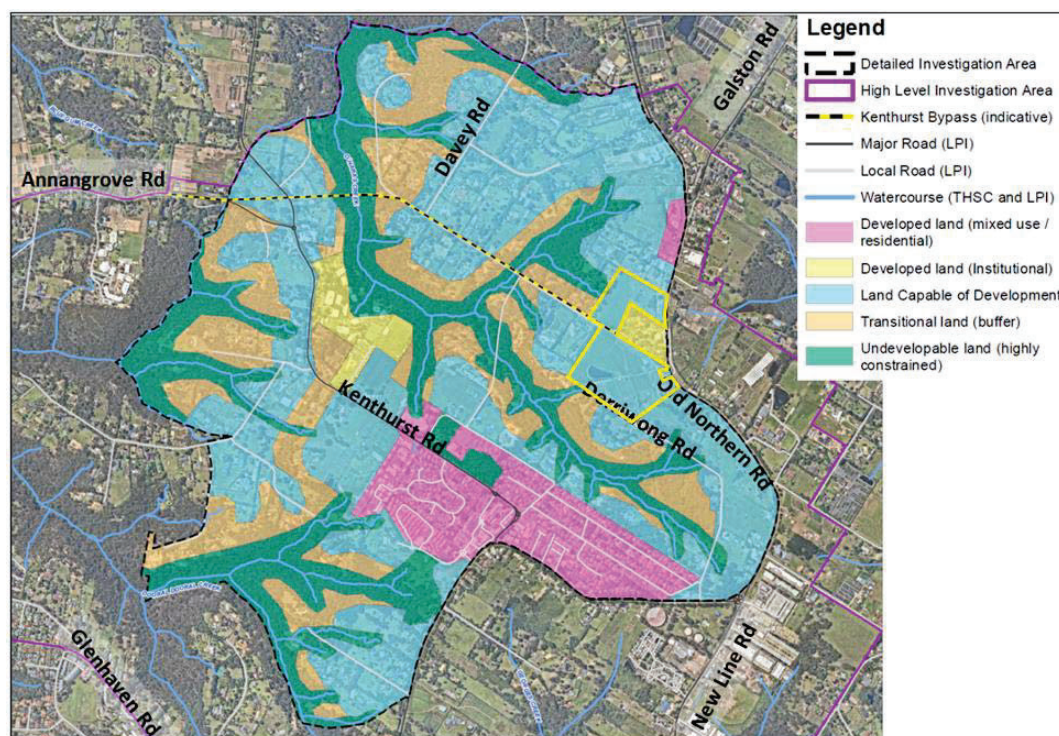


Figure 13
Outcomes of Environmental Study

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

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

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To date there has been no commitment from the State Government to reclassify Annangrove Road or secure funding or a commitment to deliver its extension to Old Northern Road as a bypass of Round Corner. In contrast, advice from TfNSW has clearly advised that there are no current plans, funding or investigations into the provision of a regional bypass corridor in this location.

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

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

The proposed regional bypass corridor was then the subject of extensive consultation with State Government as part of the Gateway Determination process for the first planning proposal application (23/2016/PLP). This consultation involved Council Officers, the Department of Planning and Environment (DPE), Transport for NSW (TfNSW), Schools Infrastructure NSW (SINSW) and the Planning Delivery Unit (PDU). These discussions are outlined in greater detail within Section 5(a) of this report. In summary, it was concluded that TfNSW do not have any proposals, investigations or long term plans for a regional bypass road in this locality and as a result, there is no funding or commitment from State Government for the delivery of a regional bypass road. This planning proposal application ultimately did not proceed.

The second planning proposal application (2/2023/PLP) proposed the delivery of a local collector road, that would be dedicated to Council. The intention was that this local collector road would be provided within a 32m wide road reservation corridor. As such, notwithstanding the advice of TfNSW, the proposal retained the potential for this to form part of a bypass corridor in the longer term future. However, the achievement of a bypass road, as envisaged in Council's LSPS, would remain contingent upon one of the following circumstances occurring:

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

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Ultimately, Council resolved not to proceed to Gateway Determination for the second planning proposal application in acknowledgement of the uncertainty surrounding the bypass road, which presented a speculative risk or financial burden to Council.

The current planning proposal (6/2024/PLP) which is the subject of this report is identical with respect to the proposal to include a local collector road within a 32m wide road reservation corridor on the northern side of Dural Public School.

Council has made submissions and resolutions to reaffirm the need for the NSW Government to recognise the regional function of Annangrove Road to the North West Growth Centre and beyond and to resolve regional traffic issues impacting on Round Corner Village. To date, there has been no commitment from the NSW Government on these matters.

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

f) Changing Strategic Context

- Previous Advice of the Independent Planning Commission (IPC)

As detailed within the History section of this report, the first version of planning proposal (submitted in May 2016) was referred to the Independent Planning Commission (IPC) by the Department of Planning and Environment. This was in response to the lodgement of a Gateway Determination Review by the Proponent, in response to the Department's initial Gateway Determination in April 2020 which determined that the planning proposal would not proceed.

The IPC issued a Gateway Determination Advice Report in September 2020. While this related to the first version of the proposal, the current proposal remains similar in many respects and as such, the advice of the IPC remains relevant to consideration of the proposal. It is noted that the current proposal generally relates to the area referred to as the "Northern Site" within the IPC advice.

A copy of the IPC's Advice Report is provided as Attachment 2 to this report.

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

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

The Commission also advised that:

- *The Commission finds that the proposal has considerable site-specific merit, particularly the northern site as:*
 - *It would secure a key contribution to Council's Round Corner bypass;*
 - *It would provide a number of key economic and social improvements by delivering local infrastructure improvements benefiting the school and the local community;*

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- *The capability of the subject land to be used for agricultural pursuits is compromised by the proliferation of uses in the area and along Old Northern Road;*
- *The northern site is generally contiguous with the Dural Neighbourhood Village and if developed would provide additional housing, choice, and affordability and would likely support the Dural Neighbourhood Village Centre with access to jobs and services;*
- *The view and vista impacts particularly on the Northern Site can be overcome with site-specific design and planning; and*
- *The development of the Northern Site is unlikely to have a significant impact on the local and regional road network.*

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

However, the Commission also stated that:

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

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

A review of the Region and District Plans was due to be completed by the Greater Cities Commission in late 2023. The Proponent’s material advises that:

Legacy Property engaged with the former Greater Cities Commission to progress the IPC’s recommendation that the site be identified in the District Plan for future urban development. In November 2023, the Greater Cities Commission advised that:

“...the Greater Cities Commission is currently reviewing the Greater Sydney Region Plan 2018 and Central City District Plan and preparing a new draft Six Cities Region Plan and draft Central River City Plan... The IPC advice will be considered in the preparation of these plans in the context of broader planning for the region”.

Having regard to this, the Proponent is of the view that:

The merit of the future residential development of the site appears to have been acknowledged by the Greater Cities Commission.

However, the Greater Cities Commission was subsequently abolished in late 2023 and their strategic planning functions were transferred to the Secretary of the NSW Department of Planning, Housing and Infrastructure. Other than the advice of the Proponent pertaining to the nature of their discussions with the Greater Cities Commission, Council has not received any written evidence or advice from the (then) Greater Cities Commission or Department with respect to their intent or otherwise to deal with outcomes on this particular site differently as part of the review of the Region and District Plan.

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There has been no updates or revisions to the Region Plan or District Plan since this time.

At the time of completing this assessment of the planning proposal, there have been no changes flagged to the existing strategic planning framework in response to the IPC's advice at either State or Local level through a review of the District Plan, Council's LSPS and Housing Strategy. Accordingly, the assessment has been completed against the applicable strategic planning framework and policies as they exist and apply at this time.

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

While the IPC's advice from September 2020 has not resulted in any changes to the applicable strategic framework or policies at this time, this tension between competing objectives and merits is clearly reflected in the IPC's advice.

- Housing Supply Crisis

Over the past 12 months, the NSW Government has announced that addressing the housing supply crisis is a key Government priority. Subsequent draft and legislated amendments to the planning framework have been released with the aim of boosting housing supply, particularly in the short term. The Minister has written to Councils and consent authorities and requested that they prioritise actions that contribute to housing supply and associated changes were made to the Local Environmental Plan Making Guidelines which allow for greater weight to be given to the current objectives and priorities of Government as a matter of relevant in determining strategic merit of a planning proposal.

While the planning proposal would contribute to increased housing supply, the proposed housing supply is located within the Metropolitan Rural Area. To date, Government messaging and policy announcements have related primarily to boosting housing supply within existing urban areas, namely around major transport hubs and centres that are well located and supported by existing infrastructure. Currently, there has been no indication from Government that there is an intent to extend policy changes to boost housing supply within the Metropolitan Rural Area of Greater Sydney. Accordingly, while the ability for the proposal to contribute to additional housing is undoubtedly a relevant factor, it is not considered to be the determinative factor in applying the strategic merit test in this instance.

It should also be noted that the previous (second) planning proposal was partially considered and determined within this changing planning context. Specifically, the Sydney Central City Planning Panel's consideration of the Rezoning Review application was *after* the directions given by Department staff to the Planning Panel to be more flexible in their consideration of applications where the potential for housing creation exists. Even in the context of this direction from the Department, the Panel determined that the previous planning proposal should not proceed to Gateway Determination as it had not demonstrated strategic merit.

5. SITE SPECIFIC MERIT CONSIDERATIONS

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

- a) Traffic and Transport;
- b) Local Infrastructure Demand and Public Benefit Offer;

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- c) Proposed Land Zoning;
- d) Infrastructure Capacity (Utilities);
- e) Vegetation;
- f) Potential Impacts on Agricultural Land;
- g) Potential for Seniors Housing; and
- h) Heritage.

a) Traffic and Transport

- Regional Road Network

The current regional road network for west-east vehicle movement between the growing North West Growth Centre and the localities of Pennant Hills and Hornsby follows Annangrove Road, Kenthurst Road, Old Northern Road and New Line Road. This route bisects the Round Corner town centre and traffic volumes are expected to increase as development continues within the North West Growth Centre.

Council has been advocating for the State Government to re-classify Annangrove Road to a classified State road as a result of current and expected future traffic volumes. To date there has been no commitment from the State Government to reclassify Annangrove Road or extend the road from Kenthurst Road to Old Northern Road as a bypass of Round Corner.

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

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

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

Business cases are used by the Australian Government to manage the priority of various projects nationwide and remain informed on the appropriate investments required to support future development. Business case planning occurs in the preliminary stages of a project, many years prior to full funding commitments for projects or detailed planning and construction (if justified by the business case). The inclusion of business case funding with respect to the upgrade of New Line Road does indicate some movement at a Federal level towards securing the necessary upgrades to New Line Road and the preparation of a business case for the upgrade of this regional road is supported.

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The Proponent seeks to dedicate a local collector road within a 32m wide road reservation corridor that would allow for the potential future conversion of the road into a bypass road. However, the resolution of the existing regional infrastructure issues will ultimately require significant further funding by Government, following the completion of the business case planning process. Based on Government agency views to date, there is no commitment to provision of a bypass of Round Corner Town Centre from Annangrove Road at this time.

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

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

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

With respect to the proposed signalised intersection of the new local collector road at its junction with Old Northern Road, this will require further consultation and approval from TfNSW as Old Northern Road is a State road. It is noted that without this approval from TfNSW, the bypass corridor would be unable to function in this location.

- Bypass Corridor and State Government Agency Views

The planning proposal seeks to contribute to the resolution of regional traffic issues through the proposed dedication of land for a portion of a future bypass corridor. As mentioned earlier in this report, Council's understanding when supporting a previous iteration of the planning proposal on the site was that this would be in the form of a regional bypass corridor to be owned and managed by the State Government as part of the arterial road network.

Following extensive consultation and in response to submissions from TfNSW, the previously lodged planning proposal was amended to include the construction of a local collector road and dedication of a wider corridor to Council so that there is potential for future expansion and upgrade of the road if it does form part of a bypass corridor in the future. However, Council resolved not to support this proposal on the basis that it presented a speculative risk and financial burden to Council with the potential for a regional bypass corridor becoming increasingly uncertain and unlikely, noting the position of TfNSW.

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

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

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- Future Transport Strategy 2056, NSW Infrastructure Strategy 2018-2038, Greater Sydney Region Plan, Central City District Plan and TfNSW Road Network Plans have not identified a strategic merit / need for a regional bypass road connecting Annangrove Road to Old Northern Road. TfNSW is of the view that the strategic justification for the bypass road has not been fully or appropriately assessed.
- TfNSW has no current proposals or long term plans to re-classify Annangrove Road to a classified State road.
- TfNSW is investigating options to upgrade New Line Road between Quarry Road and Castle Hill Road to improve safety and cater for future growth in the area.
- Should Council determine to deliver a future *local* bypass, Council would need to be satisfied through its own studies and technical work with respect to the appropriate width and alignment. These studies would include regional traffic studies, strategic road designs and survey plans, a strategic level scoping report on environmental constraints and a regional land use and transport assessment that considers and assesses all future development uplift and its cumulative traffic impacts in the Dural locality, culminating in a precinct-scale Structure Plan for Dural. This is to be undertaken by Council, not the Proponent. TfNSW encourages, but does not require, this assessment to be undertaken prior to Gateway Determination, however it should be undertaken prior to finalisation of the LEP amendments.
- TfNSW has concerns that the future corridor design and reservation is being identified only within the subject site and as a separate exercise to the remaining corridor. Council should work to identify a corridor design and reservation for the entirety of the corridor. TfNSW will need a level of assurance that the proposed corridor design and reservation for the southern section of the corridor (located on the Proponent's site) has been appropriately assessed taking into account future land use and traffic growth along the entire corridor.
- The currently proposed local bypass alignment is the preferred of three options that were previously put forward by the Proponent as it would improve sight distances and allow better opportunity to widen Old Northern Road. The methodology for Council to determine an appropriate corridor width for the local bypass is ultimately a matter for Council.
- Widening of Old Northern Road will likely be necessary to accommodate the optimal ultimate layout for traffic signals. TfNSW expressed concern with the ultimate form of the bypass' intersection with Old Northern Road.
- The Dural Public School Drop Off and Pick Up zone on the Hornsby side of Old Northern Road should be relocated to within the proposed local side roads of the development to reduce unsafe and illegal vehicle movements along this section of Old Northern Road.
- Additional technical advice was provided with respect to the traffic signal design guide, turning paths and traffic volume assessment.

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

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Notwithstanding the advice from TfNSW, it remained open for Council to accept the dedication of this land as a local collector road, with a long-term intention to negotiate and continue lobbying TfNSW to change its position in the future with respect to the provision of the broader regional bypass road and reclassification of Annangrove Road. As part of the previous planning proposal application, Council resolved not to accept the dedication of this land and not proceed with the planning proposal to Gateway Determination. The local collector road and wider land reservation corridor proposed as part of this subject planning proposal application remains the same in terms of location, alignment and width as the previous application that Council resolved not to support in February 2023.

Submissions have been received from SINSW on three (3) occasions, being 22 October 2021, 11 April 2022 and 7 November 2022. There have also been a number of meetings between Council Officers, the Proponent and SINSW over this period and most recently, the Proponent has initiated their own pre-lodgement consultation with SINSW, which has culminated in a further submission received from SINSW on 3 July 2023 and provided as Attachment 21 to this report. The further submission provides a review of the School Safety Assessment Report prepared by the Proponent and provided as Attachment 20 to this report.

The views of SINSW expressed within submissions on previous planning proposals are summarised as follows:

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

Following further discussions between the Proponent and SINSW, the Proponent prepared a "Safe Systems Assessment" and provided a copy of this to SINSW. The Proponent then received further advice from SINSW in July 2023, which stated that support from SINSW for the bypass corridor proposal would be subject to:

- *The Proponent installs Local Area Traffic Management Measures on all proposed intersections and roads to physically reduce speeds at this location and improve safety for students. This could include kerb outstands, pavement texture, slow points or speed cushions; and*
- *Noting the reports commentary on the low utility of imposing a 30km p/h speed limit along the proposed collector road (and that final approval and application of any alternate speed limits lies with the road authority), SINSW request that the proponent funds an annual 'traffic safety education programme' for future residents of the*

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development, which addresses 'pedestrian, passenger and wheels' safety around the existing school site.

SINSW advised that it “will conduct separate discussions with TfNSW regarding the application of the 30km/hr speed zone around school sites” and “should development be further intensified in the study area, SINSW will advocate for application of the above speed limit (30km/hr), which has been successfully tested at other school sites”. SINSW also noted that the provision of 25 kiss and drop spaces on the new collector road with a signalised intersection at the junction of Old Northern Road would provide a significant reduction in crash risk overall, as well as providing additional connectivity across Old Northern Road.

It is noted that Traffic Management Measures aimed at physically reducing vehicle speeds at this location, as requested by SINSW, would not be conducive to the provision of a regional bypass road, where the primary function would be to prioritise vehicular movements to improve traffic flow and accommodate larger through-traffic volumes at higher speeds. This has been a longstanding consideration in the appropriateness of the bypass location adjacent to the Dural Public School and while there appears to be some progress in discussions with SINSW, this is not yet fully resolved.

Should these Measures ultimately be required by SINSW and/or TfNSW, it is expected that the road would function largely as a local collector road. The road upgrades and traffic calming measures would improve circulation and safety around the school, however would be unlikely to allow for this road to function effectively as a bypass road. Notwithstanding this, the 32m wide road reservation corridor does not preclude the ability to spatially accommodate upgrading the local collector road to a bypass road in future.

- Local Road Network

The Proponent's Traffic Impact Assessment concludes that the planning proposal would generate 105 - 109 vehicle trips in the AM and PM peak periods respectively. The Proponent's assessment concludes that the additional trips generated by the proposal will have negligible impact on existing traffic conditions, representing less than 1% of current traffic demands. The Traffic Impact Assessment reiterates the proposed benefits of the proposal with respect to the local collector road and the relocation of the kiss and drop facilities at Dural Public School.

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



Figure 14
Illegal vehicular movements to access Round Corner Town Centre

b) Local Infrastructure Demand and Public Benefit Offer

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

- 6% of a local community centre;
- 1% of a branch library;
- 18% of an active open space facility (playing field); and
- 5,702m² of passive open space (based on 1.62 hectares per 1,000 people).

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

Item	Comment
1. Embellishment and dedication to Council of 4,000m ² of land for use as a local park.	Public benefit.
2. Embellishment and dedication to Council of 141m ² of land for use as a pedestrian link (north east corner of the site).	The pedestrian pathway does not link to a broader pedestrian network and is considered to be of minimal public benefit. Crossing Old Northern Road at this location is not permeable for pedestrians and the proposed through site link appears to be provided in isolation from broader pedestrian movements in the locality.

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

Table 2
Proponent's Preliminary VPA Offer

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

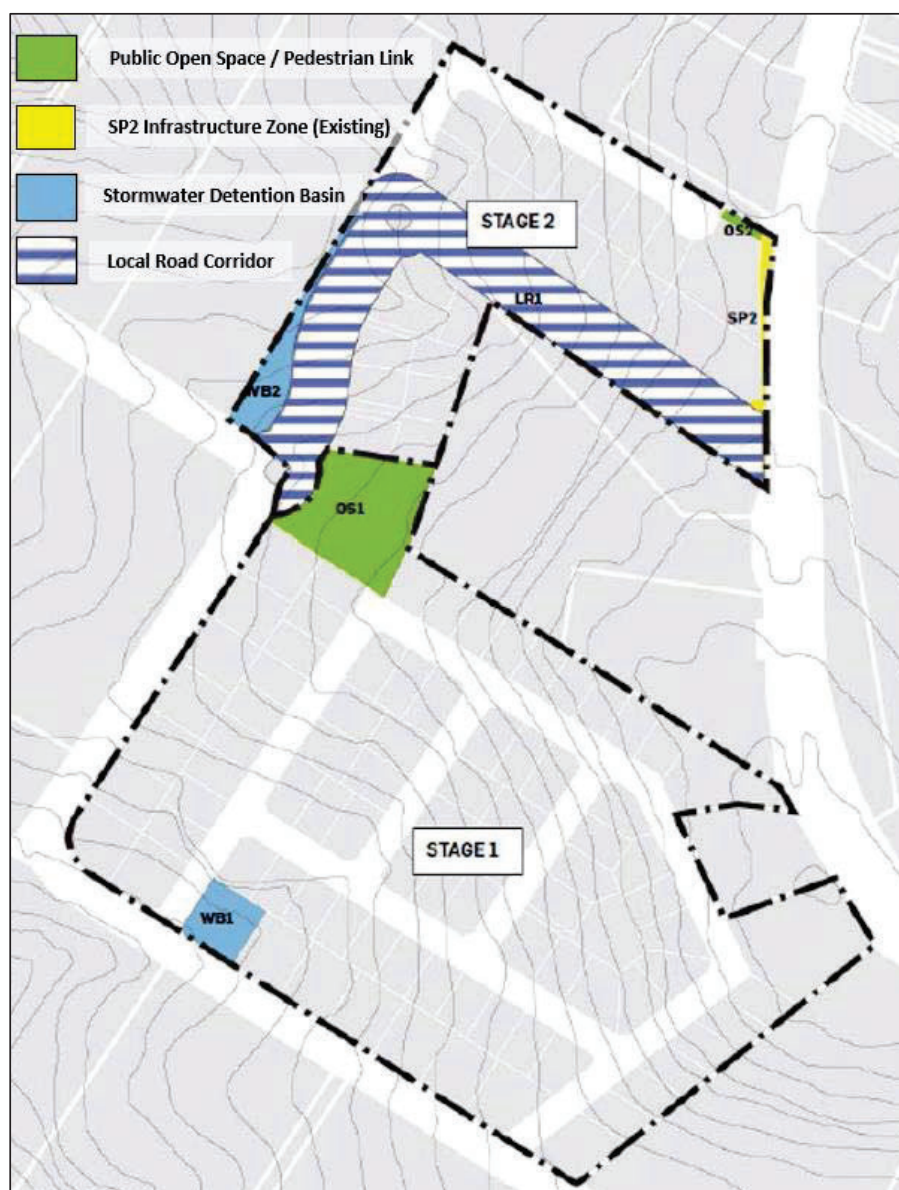


Figure 15

Location of items proposed to be dedicated to Council

The Proponent has valued their offer at \$19,032,389. This comprises approximately \$465,000 of monetary contributions, \$8.6 million of works and \$10 million in land values based on the Proponent's valuation of \$500/m². Council Officers are continuing to assess the appropriateness of the preliminary offer.

A significant portion of the public benefit value relates to the dedication of land for a future bypass corridor. However, as detailed throughout this report, realising any public benefit associated with the bypass corridor would be contingent upon a number of related factors external to this proposal and Council previously formed the view that the previous planning proposal should not proceed on this basis. Unless a bypass corridor is ultimately delivered, the land associated with the bypass corridor would essentially be a local road to service this development and the school.

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

c) Land Zoning

▪ SP2 Infrastructure (Classified Road)

The Proponent has proposed to zone the land to be dedicated to Council as a 21.5m local collector road within a 32m wide road reservation corridor as SP2 Infrastructure, as shown in the figure below.

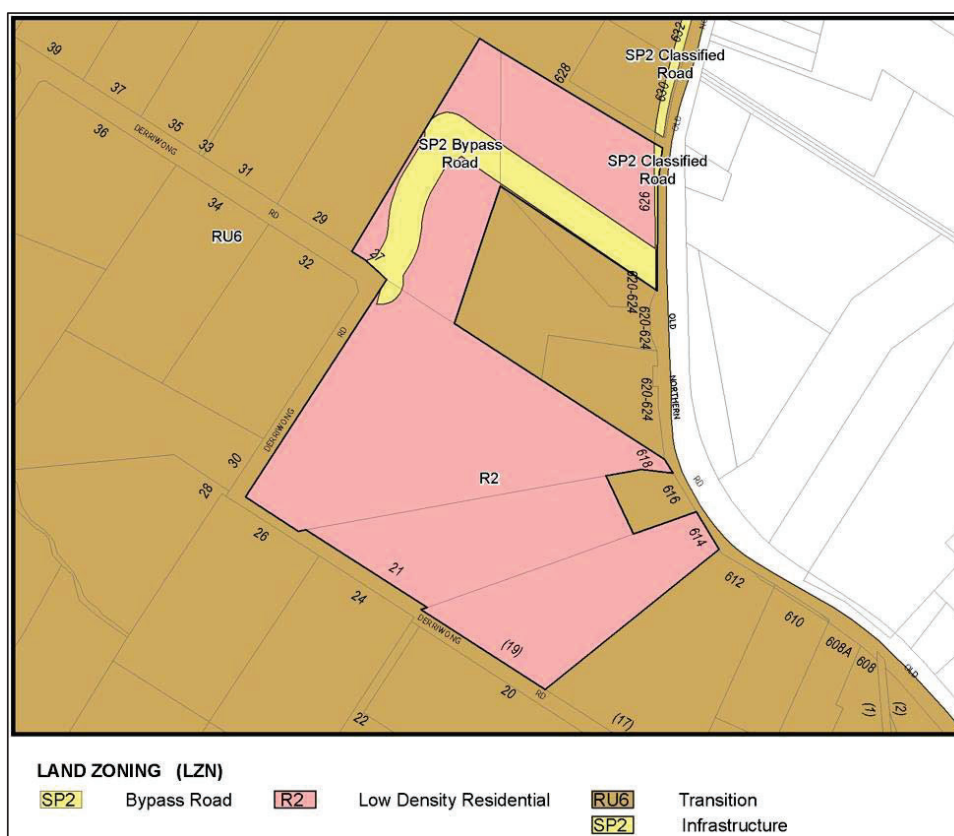


Figure 16
Proposed Land Zone Map with bypass road in yellow

The Department of Planning, Housing and Infrastructure has released two relevant Practice Notes with respect to zoning for infrastructure, being *PN 11-002 Preparing LEPs using the Standard Instrument: standard zones* and *PN 10-001 Zoning for Infrastructure in LEPs*.

The Practice Notes stated that where land is reserved for public infrastructure purposes, the land is to be outlined and annotated on the Land Reservation Acquisition Map, with the relevant acquisition authority required to be identified within the LEP. There is concern that the use of this zone could create an acquisition liability for Council when the planning proposal

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seeks to dedicate this land (and the construction of a 21.5m local collector road within it) to Council at no cost as part of the associated Voluntary Planning Agreement. Further, the Practice Note states that with respect to road infrastructure (which is a type of infrastructure that is permitted on all land irrespective of the LEP zoning), this should be zoned the same as the adjoining land (R2 Low Density Residential in this instance). This approach also avoids the need for spot rezonings where roads are closed, or where the alignment of roads change, which can commonly occur in rural and release areas.

It is considered reasonable that should the planning proposal proceed to Gateway Determination, the 32m wide road reservation corridor should be zoned R2 Low Density Residential. Further consultation with TfNSW is still required with respect to the road's junction with Old Northern Road and as such, the final design, location and alignment is currently unknown. The zoning of the proposed road as R2 Low Density Residential would align with the Practice Note requirements for zoning road infrastructure and would also prevent any acquisition liabilities to Council. The associated draft Voluntary Planning Agreement would be the appropriate mechanism to identify and secure the dedication of this land to Council.

- RE1 Public Recreation

It is noted that the public park proposed to be dedicated to Council is proposed to be zoned R2 Low Density Residential. While this would typically be identified as RE1 Public Recreation to align with the intended use of the land for the purpose of a public park, it is considered premature to identify the park on the Proposed Land Zone Map until such time as Council has considered whether the planning proposal should progress to Gateway Determination, and subsequent consideration of a further report on the items offered within the draft Voluntary Planning Agreement.

Following this, it may be appropriate to identify the extent of any land to be dedicated to Council as a public park as RE1 Public Recreation, as a post exhibition amendment to the planning proposal, should the matter progress to this stage.

d) Infrastructure Capacity (Utilities)

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

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

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

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

The Proponent has demonstrated that the site can be serviced with the required utilities infrastructure through a combination of existing capacity or extension and augmentation of such facilities. The viability of doing so is a commercial matter for the Proponent to consider should the matter progress.

e) Vegetation

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

The Proponent's material indicates that attempts will be made at the development application stage to retain areas mapped as STIF, which is predominantly along the site's frontage to Derriwong Road. While it is prudent to ensure early consideration of impacts to this vegetation community, it is noted that the Proponent's development concept proposes larger minimum lot sizes of 1,000m² at this location, which could likely be capable of retaining and avoiding this vegetation as part of future built form applications.

The proposed lot size of 1,000m² in this location is a *minimum* size requirement and actual resulting lot sizes may naturally vary above this minimum number following completion of surveys and the creation of a detailed subdivision plan. Further, the lot sizes may need to be increased in this location to address impacts to STIF vegetation once more detailed planning and ecological investigations have been completed at the DA stage. This potential outcome should be incorporated into controls within the draft site specific DCP.

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

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

While this would likely be a sufficient planning response for proposed residential lots along the southern boundary of the Dural Public School, there may be implications for the ability to

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deliver the bypass road within the reservation corridor proposed by the Proponent. The image below illustrates the extent of the Biodiversity Values Map.

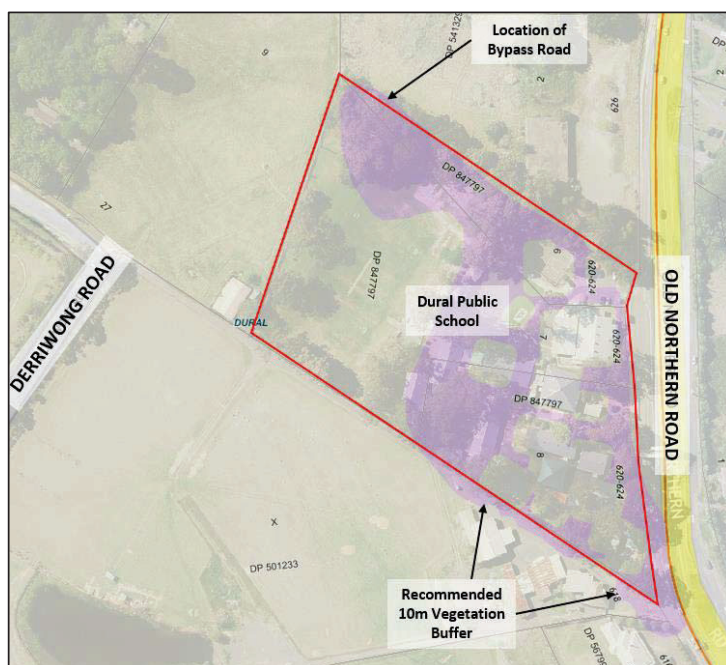


Figure 17
Biodiversity Values Map (purple)

Should the planning proposal progress to Gateway Determination and if consensus is reached with TfNSW with respect to the design of the proposed road infrastructure, it is anticipated that consultation would also be required with the NSW Department of Climate Change, Energy, the Environment and Water (DCCCEEW) to determine the appropriate response required to this small portion of land north of the school that is identified on the Biodiversity Values Map.

f) Potential Impacts on Agricultural Land

The objectives of the RU6 Transition zone are as follows:

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

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

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and other areas supporting more intensive settlement. Whilst the permitted land uses do not lead to high land values, the RU6 Transition Zone is necessary to protect existing rural enterprises and encourage future investment in these and other rural lands.

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

On the opposite side of Old Northern Road, within the Hornsby Shire Council area, the rural land is zoned RU2 Rural Landscape, which permits intensive livestock agriculture. Intensive livestock agriculture requires substantial buffers from residential areas (up to 1km for poultry sheds and waste storage). While no Odour Assessment has been submitted by the Proponent, the proposal would permit urban development within 1km of these permissible rural uses, creating potential for land use conflict and diminishing the ability of these areas to accommodate productive rural uses.

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

The Proponent seeks to integrate new development into the existing character of the locality through the provision of larger minimum lot sizes at the peripheries of the site. This would assist in minimising potential character impacts and land use conflict within the surrounding rural area.

g) Potential for Seniors Housing

As part of a previous planning proposal on the site, seniors housing could be permitted on rural land in instances where rural sites adjoined urban zoned land, subject to the issue of a Site Compatibility Certificate from the Department of Planning and Environment or Sydney Central City Planning Panel. At the time of Council's consideration of the first planning proposal (23/2016/PLP), the proposed rezoning to urban land therefore had the potential to facilitate a proliferation of seniors housing developments on adjoining rural land not subject to the proposal. This is no longer a potential impact of the current planning proposal, as the State policy has since been amended to remove the Site Compatibility Certificate planning pathway.

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

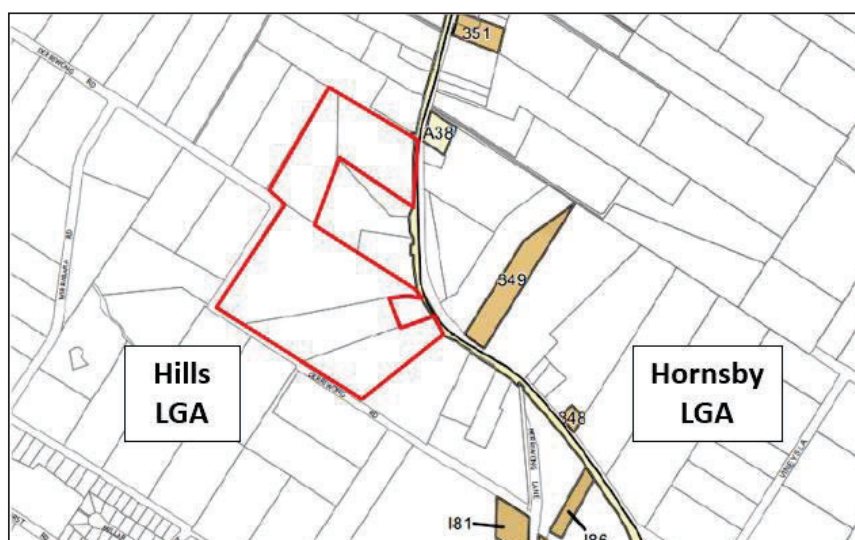
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While the Proponent has submitted a development concept indicating a low density residential subdivision, the planning proposal relates to the land use zoning and primary development standards and does not secure a specific development outcome (as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

h) Heritage

The site does not comprise any heritage items, however it is in the vicinity of a number of locally listed items, including Old Northern Road, which is an archaeological item of environmental heritage. The image below shows the location of surrounding heritage items. Those located on the eastern side of Old Northern Road are within Hornsby LGA and are therefore listed as heritage items under Hornsby Local Environmental Plan 2013.

**Figure 18**

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

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

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

The development concept indicates a proposed pedestrian through site link immediately to the south of the cemetery located within Hornsby Shire LGA. It is anticipated that works associated with this through site link would be located within the site's boundaries and would not extend across Old Northern Road. As such, it is anticipated that the provision of this link would not impact on the heritage listed cemetery.

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

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

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

CONCLUSION

With respect to determining whether the planning proposal should proceed to Gateway Determination, it is noted that there are competing strategic planning objectives and historical advice from the Department of Planning and the Independent Planning Commission.

A decision to progress to Gateway Determination would place greater weight on the public benefits to regional infrastructure associated with the planning proposal's proximity to Dural Public School and the supporting upgrades offered through the planning proposal, such as kiss and drop facilities, improved pedestrian and vehicular access and provision of new sewer and electrical infrastructure to the school. It would also attribute significant weight to the current objectives and priorities of the Government to increase housing supply, notwithstanding that the majority of the Government's reforms appear to be promoting these outcomes in highly serviced urban areas, rather than the Metropolitan Rural Area.

The planning proposal is extremely unique and would not create a precedent for similar rezonings in the Metropolitan Rural Area, noting it encompasses all of the land immediately surrounding the Dural Public School and has the opportunity to provide significant public benefits for the School. It would also result in a fully contained and serviced residential development surrounding the catchment of the Public School, which SINSW has confirmed has capacity to accommodate additional student numbers, unlike many other schools within urban areas of The Shire. The provision of larger lots around the periphery of the site will assist in transitioning back into the rural character of the surrounding RU6 Transition land.

The planning proposal would secure a portion of a possible alignment of a potential future bypass corridor, however at this time it does appear unlikely that this will fulfil Council's regional transport objectives in this locality, without significant investment and commitment from Council in the future to design, identify and acquire the road corridor and fund the construction of the bypass corridor. Irrespective of this, it remains open to Council to accept the portion of the corridor through this site at this time, in the knowledge that if a bypass corridor is not ultimately achieved at this location, this road would then simply serve as a local collector road servicing this development and the school site.

As detailed throughout this report, it is recommended that should the planning proposal progress to Gateway Determination, the proposed Land Zone Map should be amended to remove the identification of the 32m wide road reservation corridor as SP2 Infrastructure. The road corridor should instead be identified as proposed R2 Low Density Residential zone.

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The planning proposal would progress to Gateway Determination as follows:

1. Amend the Land Zone Map to retain the current SP2 Infrastructure (Classified Road) and rezone the remainder of the site from RU6 Transition to R2 Low Density Residential.
2. Amend the Maximum Height of Building Map from 10m to 9m.
3. Amend the Minimum Lot Size Map from 2 hectares to 600m², 1,000m² and 2,000m².
4. Introduce a local provision limiting the yield to a maximum of 110 residential lots on the site.

A further report would also be considered by Council with respect to the draft site specific Development Control Plan and draft Voluntary Planning Agreement.

ATTACHMENTS (UNDER SEPARATE COVER)

1. Previous Proposal Local Planning Panel Advice, 21 December 2022 (2 pages)
2. Previous Proposal Council Report and Minute, 21 February 2023 (104 pages)
3. Previous Proposal Sydney Central City Planning Panel Rezoning Review Record of Decision, 18 July 2023 (4 pages)
4. Proponent's Planning Proposal Report (113 pages)
5. Landowners consent (2 pages)
6. Appendix A Urban Design Report (42 pages)
7. Appendix B Traffic Impact Assessment (66 pages)
8. Appendix C Ecological Assessment (58 pages)
9. Appendix D Bushfire Hazard Report (40 pages)
10. Appendix E Economic Impact Assessment (51 pages)
11. Appendix F Heritage Impact Statement (30 pages)
12. Appendix G Detailed Site Investigation Report (448 pages)
13. Appendix H Infrastructure Services Report (63 pages)
14. Appendix I Survey Plan (3 pages)
15. Appendix J Acoustic Assessment (34 pages)
16. Appendix K Proponent's LEP Mapping (3 pages)
17. Appendix L Draft Site Specific Development Control Plan (17 pages)
18. Appendix M Public Benefit Offer (10 pages)
19. Appendix N Aboriginal Heritage Assessment Report (25 pages)
20. Appendix O School Safety Assessment (28 pages)
21. Appendix P School Infrastructure NSW Correspondence (2 pages)

LOCAL PLANNING PANEL – THE HILLS SHIRE COUNCIL

DETERMINATION OF THE LOCAL PLANNING PANEL ON 19 JUNE 2024

PRESENT:

Pamela Soon	Chair
Chris Young	Expert
Lindsay Fletcher	Expert
Kaavya Karunanithi	Community Representative

DECLARATIONS OF INTEREST:

NIL

COUNCIL STAFF:

The Panel were briefed by the following Council Staff on 19 June 2024:

Mark Colburt	-	Group Manager – Shire Strategy
Nicholas Carlton	-	Manager - Forward Planning
Megan Munari	-	Principal Coordinator, Forward Planning
Kayla Atkins	-	Strategic Planning Coordinator

**ITEM 1: LOCAL PLANNING PANEL – PLANNING PROPOSAL –
DERRIWONG ROAD AND OLD NORTHERN ROAD, DURAL
(6/2024/PLP)**

COUNCIL OFFICER'S RECOMMENDATION:

The planning proposal should proceed to Gateway Determination.

PANEL'S ADVICE:

The planning proposal should not proceed to Gateway Determination.

The planning proposal fails the strategic merit test based on the current state and local policies that apply and would create an undesirable precedent for further ad hoc rezoning requests in the locality. The Panel also raises concern with respect to the ability for the proposed bypass corridor to function as an arterial road at this location, adjoining the school, noting the requirements of Schools Infrastructure regarding traffic management measures and safety.

The Panel acknowledges that the proposal may have some appeal in terms of local planning objectives, including securing part of a possible bypass route, improved access for the public school and provision of local open space. In that regard, the Panel recognises that in the absence of the Greater Cities Commission, the Gateway process may be a mechanism to secure clarification from State agencies.

VOTING:

Unanimous

ATTACHMENT 3



New South Wales Government
Independent Planning Commission

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

Gateway Determination Advice Report

Chris Wilson (Chair)
Soo-Tee Cheong

4 September 2020

1 INTRODUCTION

1. On 3 August 2020, the NSW Independent Planning Commission (**Commission**) received a referral from the NSW Department of Planning, Industry and Environment (**Department**) seeking advice pursuant to section 2.9(1)(c) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).
2. The request for advice relates to a Planning Proposal (the **Planning Proposal**) and Gateway Determination (the Gateway Determination) for land known as 584, 586, 590, 600, 600A, 602, 606, 618 and 626 Old Northern Road and 7, 11, 21 and 27 Derriwong Road, Dural (the **Site**) within The Hills Shire Council Local Government Area (**LGA**).
3. On 19 May 2016, the Proponent lodged the Planning Proposal with The Hills Shire Council (**Council**) seeking to amend The Hills Shire Council LEP 2019 (**HLEP**) to:
 - rezone the Site from RU6 Transitional Zone to a mixture of R2 Low Density Residential, RE1 Private Recreation, and RE2 Public Recreation;
 - include a site-specific clause in Schedule 1 permitting Seniors Housing, Health Services Facility and ancillary retail associated with the Health Services Facility;
 - amend the maximum height of buildings from 10m to a mixture of 9m and 12m and insert a new site-specific provision within Clause 4.3A to permit the land subject to the 9m maximum building height control to be redeveloped up to 12m in height where development is for the purposes of Seniors Housing; and
 - amend the minimum lot size standard from 2ha to 700m².
4. On 13 December 2016, Council resolved that the Planning Proposal be held in abeyance until further investigations relating to urban capacity in Dural were finalised.
5. On 26 July 2019, Council submitted the Planning Proposal to the Department which included additional amendments to the HLEP Land Zone Map, Height of Building Map, Minimum Lot Size Map and the introduction of a local provision for land at Derriwong Road and Old Northern Road, Dural.
6. On 19 April 2020, the delegate for the Minister for Planning and Public Spaces' (**Minister**) issued a Gateway Determination that the Planning Proposal did not have strategic or site-specific merit and should not proceed.
7. On 29 May 2020, Dural Land Holdings Pty Ltd (**Proponent**) wrote to the Department requesting a review of the Gateway Determination.
8. The matter was referred by the Department (as the Minister's delegate) to the Commission for advice. The letter accompanying the referral requested that the Commission "review the planning proposal and prepare advice concerning the merits of the review request. The advice should include a clear and concise recommendation to the Minister's delegate confirming whether, in its opinion, the Gateway determination issued on 19 April 2020 should be overturned and given a Gateway to proceed or not."
9. Mr Peter Duncan AM, the then Acting Chair of the Commission, nominated Chris Wilson (Chair) and Soo-Tee Cheong to constitute the Commission Panel to review the Gateway determination and provide the advice as requested.

1.1 Site and Locality

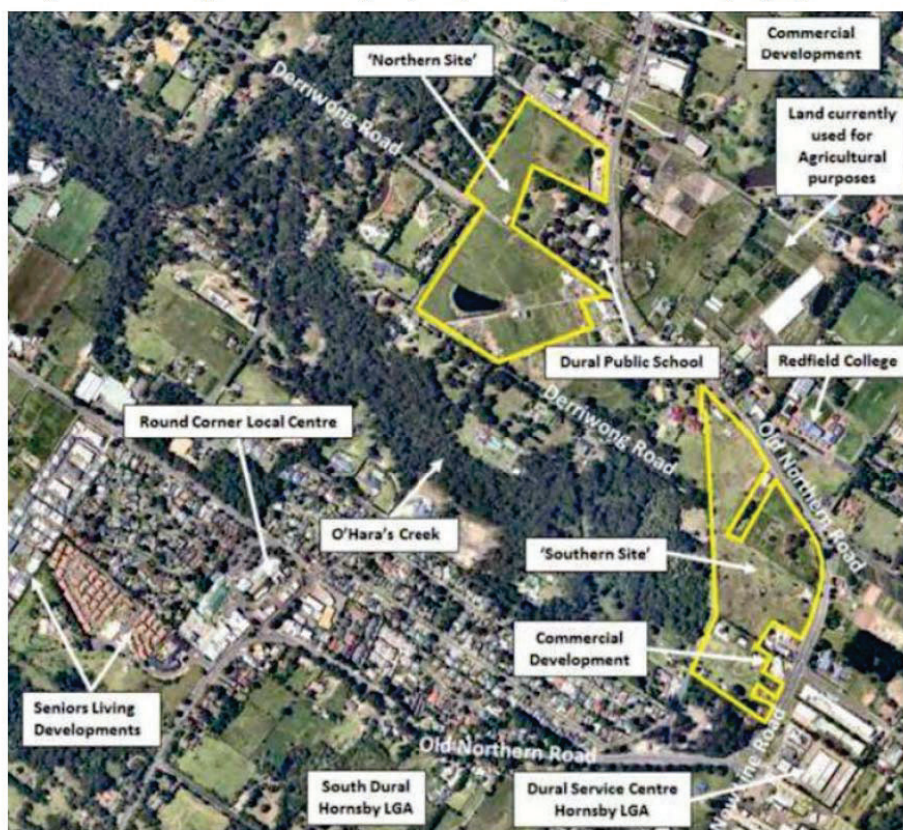
10. The 'Site' for the purposes of this Advice Report is defined as 584, 586, 590, 600, 600A, 602, 606, 618 and 626 Old Northern Road and 7, 11, 21 and 27 Derriwong Road, Dural (Lot 1 DP 660184, Lot 11 DP 866560, Lot D DP 38097, Lot 11 and 101 DP 713628, Lot 1 DP 656036, Lot 1 DP 73652, Lot X DP 501233,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

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

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

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

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



1.2 The Planning Proposal

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

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

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

1.3 History of the Planning Proposal and Gateway Determination

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

Table 1 - History of the Planning Proposal and Gateway Determination

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

1.4 The Gateway Determination

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

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

1.5 The Proponent's Position

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

1.6 The Council's Position

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

1.7 The Department's Position

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

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

2 THE COMMISSION'S CONSIDERATION

2.1 The Commission's Meetings

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

Table 2 – Commission's Meetings

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

2.2 Material considered by the Commission

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

2.3 Strategic Merit

Planning for a City Supported by Infrastructure

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

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

Managing Rural Areas

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

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

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

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

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

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

Conclusion

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

2.4 Site Specific Merit

Social

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

Section 9.1 Directions

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

Agricultural Viability

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

Views and Vistas

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

Local Road Network

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

3 CONCLUSION: THE COMMISSION'S ADVICE

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



Chris Wilson (Chair)

Member of the Commission



Soo-Tee Cheong

Member of the Commission

The Hon Paul Scully MP
Minister for Planning and Public Spaces

ATTACHMENT 4



Ref: IRF23/1420

Clr Peter Gangemi
Mayor
The Hills Shire Council
PO Box 7064
NORWEST NSW 2153
[Via: council@thehills.nsw.gov.au](mailto:council@thehills.nsw.gov.au); Mayor.Gangemi@thehills.nsw.gov.au

Dear Clr Gangemi,

We have a shared responsibility to address the housing crisis and meet the goals of the National Housing Accord, and I want to thank you for the collaborative effort you have made and continue to make on behalf of the communities you represent.

The urgency is real — as we return to strong population growth in challenging market conditions, we are seeing housing pressures impacting housing supply, diversity and diminishing housing choice.

Delivering a fair distribution of housing, jobs, and social and economic infrastructure for the people of NSW is going to take effort from all levels of government.

Our decisions, whether at state or council level, need to be supported by a planning system that makes decisions based on current needs, circumstances, and priorities.

While governments at all levels have undertaken substantial work to implement strategic plans and deliver housing targets, it's clear to me that past strategic plans didn't anticipate or account for the scale of the housing crisis we now face.

The immediate need is for us to make sure the planning system presents no impediment to dwelling approvals and construction in appropriate locations.

I am asking councils and planning panels to factor this into their decision-making and prioritise the delivery of housing when assessing development applications and rezoning schemes, so that the entire planning system is geared to addressing the housing shortfall.


While I await the publication of updated region and cities plans by the Greater Cities Commission, I ask that you and your council teams prioritise the opportunity to deliver homes as part of merit considerations where, on balance, dwelling numbers may warrant a scale or built form that is different to or greater than the outcome originally anticipated.

The [Strategic Merit Test](#) (referenced in the [Local Environmental Plan Making Guideline](#)) exists for such times and provides a framework for responding to a change in circumstances, such as the investment in new infrastructure or changing population and demographic trends.

I do not deny this is a difficult and challenging time, but it is critically important we undertake this shared responsibility and work together to meet that challenge. I look forward to working with each of you to create cities and regions that deliver fair opportunities for all.

Should you have any questions, Malcolm McDonald, Executive Director, Local and Regional Planning, at the Department of Planning and Environment can be contacted on 02 9274 6267.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Paul Scully', is written over the typed name.

Paul Scully MP

Minister for Planning and Public Spaces

5/8/23