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**URBIS**

# **PLANNING PROPOSAL - REQUEST FOR REZONING REVIEW (PP- 2024-450)**

Derriwong Road, Dural

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Report Number	Final

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# EXECUTIVE SUMMARY

On behalf of Legacy Property (**the Proponent**), we are seeking a Rezoning Review of a Planning Proposal (PP-2024-450) submitted to the Hills Shire Council (**the Council**) on 26 March 2024, pertaining to land at 614 Old Northern Road, 618 Old Northern Road, 626 Old Northern Road, 21 Derriwong Road, and 27 Derriwong Road, Dural (**the site**).

The primary intent of the Planning Proposal is to rezone the site from RU6 Transition to part R2 Low Density Residential and part SP2 Infrastructure (Local Road) to permit the delivery of low-density residential development that meets local housing demand in the locality involving land that is no longer suitable or viable for agricultural use.

The outcome of the Planning Proposal is to provide a limited amount of additional housing within the walking catchment surrounding the Dural Public School and alleviate existing safety issues associated with the current school drop-off/pick-up arrangements on Old Northern Road. The additional local housing will support the local community by providing a range of suitable housing typologies for families with young children.

The proposal has previously been considered under the policy settings for the Metropolitan Rural Area (**MRA**) within the Central City District Plan (**District Plan**). The District Plan is now significantly outdated and has not been updated in accordance with the legislated review timing. Importantly, the Minister for Planning and Public Spaces (**Minister**) (refer **Attachment B**) has acknowledged that the current strategic planning framework for Sydney has failed to adequately to meet the housing supply needs of Sydney:

***it's clear to me that past strategic plans didn't anticipate or account for the scale of housing crisis we now face.'***

*(Minister for Planning and Public Spaces, letter to The Hills Shire Council, 5 August 2023)*

The Minister has explicitly directed councils and planning panels to consider the housing crisis and prioritise housing supply:

***'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.'***

An earlier iteration of the Planning Proposal was considered by the Independent Planning Commission (**IPC**) through a Gateway Review. While the IPC acknowledged strategic inconsistency with the MRA at the time, the IPC clearly acknowledged the overarching merit of the proposal:

***The Commission finds that the Proposal has considerable site specific merit....The Commission recommends that the Site...be seriously considered for urban development and inclusion in the Central City District Plan when it is reviewed and updated in 2023.***

Further, the Department of Planning, Housing and Infrastructure (**the Department**) recognised the inherent merit of that proposal in issuing a Gateway Determination for the prior planning proposal to proceed. As part of its determination, the Department acknowledged that it was appropriate to:

***'consider limited growth in the Metropolitan Rural Area where the proposal is otherwise consistent with the District Plan and will result in a good planning outcome and public benefit.'***

The Proponent has been waiting four years for the IPC recommendation to be implemented through a revision of the District Plan to provide certainty for a land use outcome on the site. Given the Region Plan and District Plan have not been updated, and there is ongoing uncertainty about timeframes for reviews and updates, it is appropriate that consideration of this Rezone Review request considers and is guided by the Minister's clear statement of priorities for housing supply:

***'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'***

***'The Strategic Merit Test...exists for such times and provides a framework for responding to a change in circumstances'***

It is acknowledged that essentially an identical proposal was considered by a Regional Planning Panel in July 2023 and the Panel did not support the proposal proceeding to Gateway Determination. In considering the proposal, the Panel identified the varied and changing land use character of the area and concluded:

*'The Panel understands that the Greater Sydney Region Plan and the Central City District Plan are currently undergoing review by the Greater Cities Commission. The Panel recommends that as part of this review process the transitional nature of the area should be acknowledged and managed through comprehensive area-wide strategic planning that takes into account infrastructure requirements, including transport infrastructure, for the district.'*

This decision was taken under the previous policy framework for the MRA and prior to the Minister's communication to councils and planning panels in August 2023. The outdated District Plan policy setting must now be considered in light of the Minister's clear request to prioritise housing supply.

While the idea of broader, area-wide strategic planning may have some logic, the Proponent argues that this should not drive a conclusion that the Planning Proposal be deferred until such study is carried out in light of the Minister's clear priorities for housing supply and given that the fundamental merit of the proposal has previously been recognised by the IPC and the Department, and consistently supported by the Council staff.

## PROPOSED LEP CHANGES

The intended outcome of the Planning Proposal is to amend THLEP 2019 as follows:

- Change the zoning of the land from RU6 Transition to part R2 Low Density Residential and part SP2 Infrastructure (local road).
- Reduce the minimum lot size requirement from two hectares to between 600m<sup>2</sup> and 2,000m<sup>2</sup>.
- Reduce the maximum height of building control from 10 metres to nine metres.

## STRATEGIC AND SITE SPECIFIC MERIT

Merit assessment, and especially strategic merit, must now be considered through the State Government's clear priorities for housing supply as outlined in the Minister's correspondence (refer **Attachment B**).

This change in circumstances, combined with the outdated District Plan and MRA policy framework, provide a compelling basis to support the proposal for appropriate local housing supply supported by significant public benefits and local infrastructure.

The IPC, Department and Council staff have all at various stages acknowledged the inherent merit of the proposal, which is now further amplified in response to the Government's policy priorities.

The assessment of the Planning Proposal by Council staff in the report to Council provides a comprehensive and balanced assessment and conclusion that the Planning Proposal ***has*** strategic and site-specific merit as outlined below and demonstrated throughout this report:

- The Planning Proposal provides a logical outcome to deliver new housing supply and choice that meets local demand in accordance with the Local Housing Strategy (**LHS**) and which is consistent with the 2019 Hills Shire Rural Strategy (**Rural Strategy**) which allows for limited residential expansion in rural villages such as Dural. The Planning Proposal is consistent with the eight criteria for rural village expansion outlined in the Rural Strategy in that it:
  - Facilitates the timely provision of utilities, transport, open space and communication infrastructure across the site.
  - Includes access to a range of transport options that allow efficient travel between homes, jobs and services.
  - Facilitates the delivery of a range of housing types, including the provision of low-density housing which is desired by the local market.
  - Avoids land use conflicts by positioning new housing adjacent to existing urban uses in the RU6 Transition zone, on land that is currently already precluded from agricultural uses.
  - Adopts appropriate bushfire mitigation measures through the implementation of asset protection zones.

- Represents the reasonable use of natural resources, and efficient use of land.
  - Does not adversely impact biodiversity, air quality, heritage items, or waterways.
  - Provides housing with access to education and other essential services.
- The application of a local 'place-based planning focus' should prevail over the District Plan's outdated MRA boundary. The Planning Proposal presents a scale of development in a low-density configuration that is commensurate with surrounding residential areas and is not in conflict with a desired transition to and retention of the viable agricultural rural lands north of Dural. This residential accommodation will be delivered with and supported by a range of public benefits.
  - The Planning Proposal does not seek to play a role in meeting any Regional or District scale demand for residential growth. Rather, this Planning Proposal seeks to facilitate the ongoing planning and management of Dural and provides a response to local demand for housing without detracting from the local character of Dural and the surrounding landscape. The proposal is appropriately characterised as a small-scale 'greenfield infill site' which seeks to cater for local demand, consistent with the LHS.
  - The District Plan acknowledged the need that limit changed is required in rural towns and villages, and that *'...limited growth of residential development could be considered where there are no adverse impacts on the amenity of the local area and where the development provides incentives to maintain and enhance the environmental, social and economic values of the MRA'*.
  - The infrastructure facilitated by the Planning Proposal is site-specific and responds to the needs of the existing and future community. The Planning Proposal is consistent with the Dural Urban Capacity and Capability Assessment (**DUCCA**) which states that where land is environmentally capable of accommodating urban development, and where the Proponent is able to demonstrate that they can deliver the required local and regional infrastructure upgrades at no cost to Council – a Planning Proposal for rezoning can be considered.
  - The Region Plan and the District Plan were prepared in 2017. The background studies that informed the establishment of the MRA within these documents predate this. It is acknowledged that these strategic documents are currently under review by the Department. The outcome of the review is unknown, however, it would be reasonable to assume that the review will consider and be informed by local planning studies including the DUCCA, LHS, the Local Strategic Planning Statement (**LSPS**) and Rural Strategy.
  - The District Plan identifies a need to provide important rural industries within the MRA with certainty and ensure their operation can continue without encroachment from incompatible land uses and to support the protection of biodiversity and secure the rehabilitation of exhausted resource extraction areas. The Planning Proposal does not conflict with these objectives given the distance and separation. The site is not located proximate to productive rural, mineral, or extractive industry land uses, these are located to the north and north-east in Maroota, Middle Dural, Galston and Arcadia. The immediate site context is characterised by a range of education, commercial and residential developments.
  - At a District scale the rural lands generally support or contribute to habitat and biodiversity, productive agriculture, provide mineral and energy resources and sustain local rural towns and villages. The site however is largely unproductive vacant land with a few scattered rural dwelling houses and does not support biodiversity, productive agriculture nor contain mineral and energy resources. In its present state the site does not support the Dural Village. However, the site if able to be developed sensitively as detailed in the Urban Design Report, will support economically and socially the Dural Village and the local school community.
  - The Planning Proposal meets housing local demand and will facilitate housing diversity in accordance with the LHS and Rural Strategy, which allows for limited residential expansion in rural villages such as Dural. The minor increase in residential occupation and development will not detract from the distinctive character of the village and will not impose upon the broader rural vistas and landscape of the locality. The Planning Proposal provides a unique opportunity to allow for some additional housing within the catchment surrounding the Dural Public School, without creating a precedent elsewhere.
  - The Planning Proposal aligns with Council's transport objectives (in securing a portion of a future Round Corner bypass corridor).
  - The site has not been used for agricultural purposes for a significant period of time and the potential use of the site for agricultural purposes is commercially unviable. In addition, intensive and other agricultural

pursuits if sought to be undertaken on the site would present a land use conflict with existing sensitive land uses such as the Dural Public School and the ability to provide necessary buffers is limited. The Planning Proposal facilitates the orderly and economic use of land that is otherwise under-utilised. The subdivision layout is an urban design outcome for the site that can incorporate complementary landscape and open space elements.

The Planning Proposal has both strategic and site-specific merit as:

- The Planning Proposal will not dilute the importance of adjacent urban centres or result in ribbon development along Old Northern Road.
- The rezoning of the site reflects a minor extension of the existing urban village and is unique in its relationship to the Dural Public School and the opportunity to deliver local open space and strategic road infrastructure through the reservation of part of a future bypass road connection from Annangrove Road to Old Northern Road.
- The proposed residential density responds to demographic trends of the Dural area, providing choice for existing residents to downsize (from large rural residential properties) and continue to live within their existing community and enable younger families to enter the market in an area that is differentiated from the medium and higher density living options elsewhere in The Hills Shire.
- The Planning Proposal will promote the viability of the Dural rural village and nearby Round Corner local centre.
- The Planning Proposal will facilitate the delivery of key infrastructure upgrades and extensions aimed at alleviating existing traffic constraints and improve road safety around Dural Public School through the inclusion of well-designed and safe drop off zones replacing the congested access on Old Northern Road currently servicing the school.

An alternative outcome to the Planning Proposal is to retain the existing zoning, representing a 'no change' outcome. In this scenario:

- The site will remain as largely unoccupied rural lots with no productive agricultural activity.
- There would be no contribution to meeting the local housing needs or broader housing choice and diversity.
- There would be no public benefits arising for the Dural Public School including the provision of additional open space, the connection of sewer infrastructure up to the boundary of school, the undergrounding of overhead powerlines across the school site, and the inclusion of safe pick up and drop off zones.
- Existing road and pedestrian safety issues adjacent to the Dural Public School on Old Northern Road would remain unresolved.
- The opportunity to reserve part of the future bypass corridor would be lost.
- The existing consolidated land holding would be sold off, returning the site to fragmented ownership and foregoing the opportunity for a master planned outcome.

**In light of the IPC recommendation and clear communication of the Minister's housing priorities, there is a clear justification to determine that the Proposal has strategic and site specific merit, and should proceed to Gateway Determination.**

The Planning Proposal complies with the relevant local environment plan making provisions under the *Environmental Planning & Assessment Act 1979*.

## COMMUNITY BENEFITS OF THE PLANNING PROPOSAL

The Planning Proposal is supported by a meaningful public benefit offer to enter into a Voluntary Planning Agreement (VPA) with the Council to deliver contributions towards local infrastructure. This includes the provision of a local park, additional pedestrian links to provide permeability for residents, a monetary contribution to Council towards regional active open space and community facilities, works in kind for the delivery of a local road and road corridor, and the delivery of local stormwater management facilities.

The range of benefits that are proposed for Dural Public School are particularly significant, noting that there is currently no allocated funding to address these existing issues. The benefits include:



- Provision of a 160m Kiss N Drop zone located on the new collector/bypass road, off Old Northern Road, to help alleviate the significant existing congestion and safety issues
- Provision for connection to sewer, allowing removal of the existing septic system servicing the school (which currently overflows after heavy rainfall events)
- Removal of the overhead powerlines and associated easement that traverse the school oval. The physical removal of the powerlines provides a visual benefit and reduces potential exposure to electromagnetic radiation, while removal of the easement will increase future flexibility for uses of this area.

These direct benefits to Dural Public School are complemented by the provision of new, public open space directly adjoining the school (with potential for a direct connection), along with the provision of a new residential catchment to support future enrolments.

# 1. INTRODUCTION

## 1.1. OVERVIEW

This Rezoning Review request has been prepared on behalf of Legacy Property (**the Proponent**) in relation to a Planning Proposal submitted to The Hills Shire Council (**the Council**) on 26 March 2024, pertaining to land at 614 Old Northern Road, 618 Old Northern Road, 626 Old Northern Road, 21 Derriwong Road, and 27 Derriwong Road, Dural (**the site**).

This request for a Rezoning Review has been prepared in accordance with Section 5.1 of 'A guide to preparing local environmental plans'.

The primary intent of the Planning Proposal is to rezone the site from RU6 Transition to part R2 Low Density Residential and part SP2 Infrastructure (Local Road) to permit the delivery of low-density residential development that meets local housing demand in the locality involving land that is no longer suitable or viable for agricultural use.

The rezoning of the site for urban purposes would permit redevelopment of currently underutilised and poor-quality rural land for low-density residential development. The objectives of the Planning Proposal align with broad direction and intent of Metropolitan Rural Area (**MRA**) within the Central City District Plan (**District Plan**), and with The Hills Shire Council Local Housing Strategy (**LHS**) and The Hills Shire Rural Strategy 2019 (**Rural Strategy**) which seek to facilitate the modest expansion of rural villages.

Further, as outlined in **Attachment B**, the Minister has explicitly directed all councils and planning panels to consider the housing crisis and prioritise housing supply as part of merit considerations. There is an acute housing crisis in Sydney and government must not wait for a new Region Plan and District Plan to be released prior to granting approval for projects what will deliver new housing in a location that has demonstrable merit.

The Planning Proposal will deliver a modest expansion to the Dural village with a maximum of 110 residential lots proposed. This will meet the housing needs of the local community on a site which is longer suitable or viable for agricultural land uses.

Significant work has been completed between 2016 and 2024 to support the rezoning of the site. In preparing the Planning Proposal, the Proponent has responded to the previous advice of the Department of Planning, Housing and Infrastructure (the **Department**) and the Independent Planning Commission (**IPC**), Schools Infrastructure and Transport for NSW whilst maintaining the key components of the previous proposals that demonstrated site-specific and strategic merit.

The Council assessment report prepared for the Council meeting on 23 July 2024 recommended the Planning Proposal proceed to Gateway, however this was not supported by the elected Councillors who resolved that the Planning Proposal not proceed to Gateway Determination.

## 1.2. SUMMARY OF THE PLANNING PROPOSAL

The intended outcome of the Planning Proposal is to amend *The Hills Local Environmental Plan 2019* (**THLEP 2019**) as follows:

- Change the zoning of the site from RU6 Transition to part R2 Low Density Residential and part SP2 Infrastructure (Local Road).
- Reduce the minimum lot size control applying to the site from two hectares to between 600m<sup>2</sup> and 2,000m<sup>2</sup> with the larger lots being adjacent to Old Northern Road
- Reduce the maximum height of building control from 10 metres to nine metres.

The amendments to THLEP 2019 reflect the positive urban design outcomes developed for the site and the locality which have been influenced by several key factors including:

- The orderly and economic use of the land that is otherwise under-utilised and unsuitable for agricultural purposes.
- Limited environmental attributes and constraints within the site.
- Delivery of a range of public benefits at no-cost to Council or government.

- Consistency with the LHS and Rural Strategy, in that it will deliver a modest expansion to the existing village of Dural and a variety of housing typologies which supports local housing demand.
- The Planning Proposal does not create an undesirable precedent of development of land within the MRA identified within the District Plan.
- A subdivision design that has been informed by a consideration of market demands and needs, the physical characteristics of the land, and measures to minimise visual impacts from key road corridors and ridgelines. The proposed subdivision layout includes large lot sizes on the periphery of the site, fronting Old Northern Road, and provision of new local open space adjacent to the Dural Primary School.

The Planning Proposal is accompanied by a draft site-specific development control plan (**DCP**) and a public benefit offer to enter into a Voluntary Planning Agreement (**VPA**) with the Council to deliver key public benefits including:

- Dedication and embellishment of 4,000m<sup>2</sup> of land for use as a local park.
- Dedication and embellishment of 141m<sup>2</sup> of land for use as a pedestrian link to provide permeability for residents.
- Provision of a monetary contribution to Council of \$363,305.80 towards active regional open space.
- Land dedication towards a Round Corner bypass road and works in kind for the delivery of a local collector road.
- Provision of a monetary contribution to Council of \$101,242.90 towards community facilities.
- Delivery of stormwater management facilities.

Further the subdivision concept facilitates the delivery of improvements to the local and regional road network by proposing a drop-off and pick-up facility for the adjoining Dural Public School within the new road network adjacent to the school relocating this function away from Old Northern Road. Formalisation of arrangements away from Old Northern Road will remove conflicts between vehicle movements (dropping off and collecting children), and bus stops along Old Northern Road that currently cause delays and congestion, and safety concerns along Old Northern Road. The proposal will also facilitate sewer connection to the school and the relocation of power lines.

Refer to **Figure 1** an extract of the Indicative Layout Plan. Further details of the Planning Proposal are contained within **Attachment A Planning Proposal Report prepared by Urbis**.

Figure 1 Indicative Layout Plan



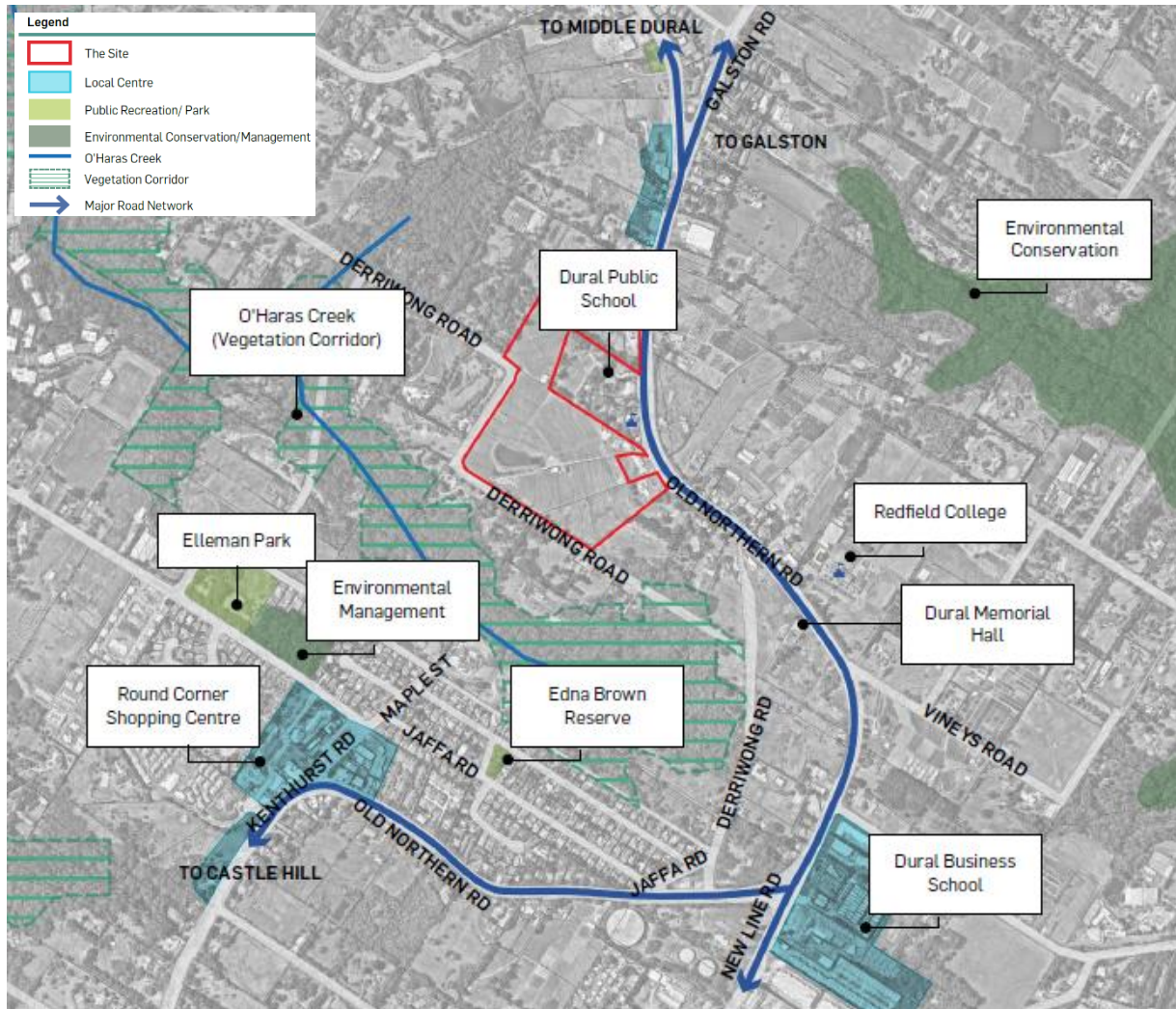
Source: Urbis 2024

## 2. SITE AND SURROUNDING CONTEXT

### 2.1. SITE DESCRIPTION

The site is made up of multiple individual land parcels with the location shown in **Figure 2**. A summary of the property details is included in **Table 1**. **Figure 3** also identifies other key land uses and characteristics in the locality.

**Figure 2** Aerial View of Site and Surrounding Context



Source: Urbis 2024

**Table 1** Summary of Landholdings

Address	Allotment
626 Old Northern Road, Dural	Lot 2 in DP 541329 (2.023 hectares)
27 Derriwong Road, Dural	Lot 9 in DP 237576 (2.025 hectares)
618 Old Northern Road, Dural	Lot X in DP 501233 (4.777 hectares)
21 Derriwong Road, Dural	Lot 2 in DP 567995 (2.023 hectares)
614 Old Northern Road, Dural	Lot Y2 in DP 91653
	<b>Total area: 12.88 hectares (128,790m<sup>2</sup>)</b>



## 2.2. PHOTOGRAPHIC REVIEW

Photographs of the site and surrounding context are provided in **Figure 3**.

**Figure 3** Site photographs



Picture 1 – View towards the south-west of the site



Picture 2 – Dural Public School – southern boundary



Picture 3 – Bushland along eastern site boundary



Picture 4 – View towards the north of the site



Picture 5 – Old Northern Road

*Source: Urbis 2024*



Picture 6 – Aerial view of the site



## 2.3. ACCESS AND MOVEMENT

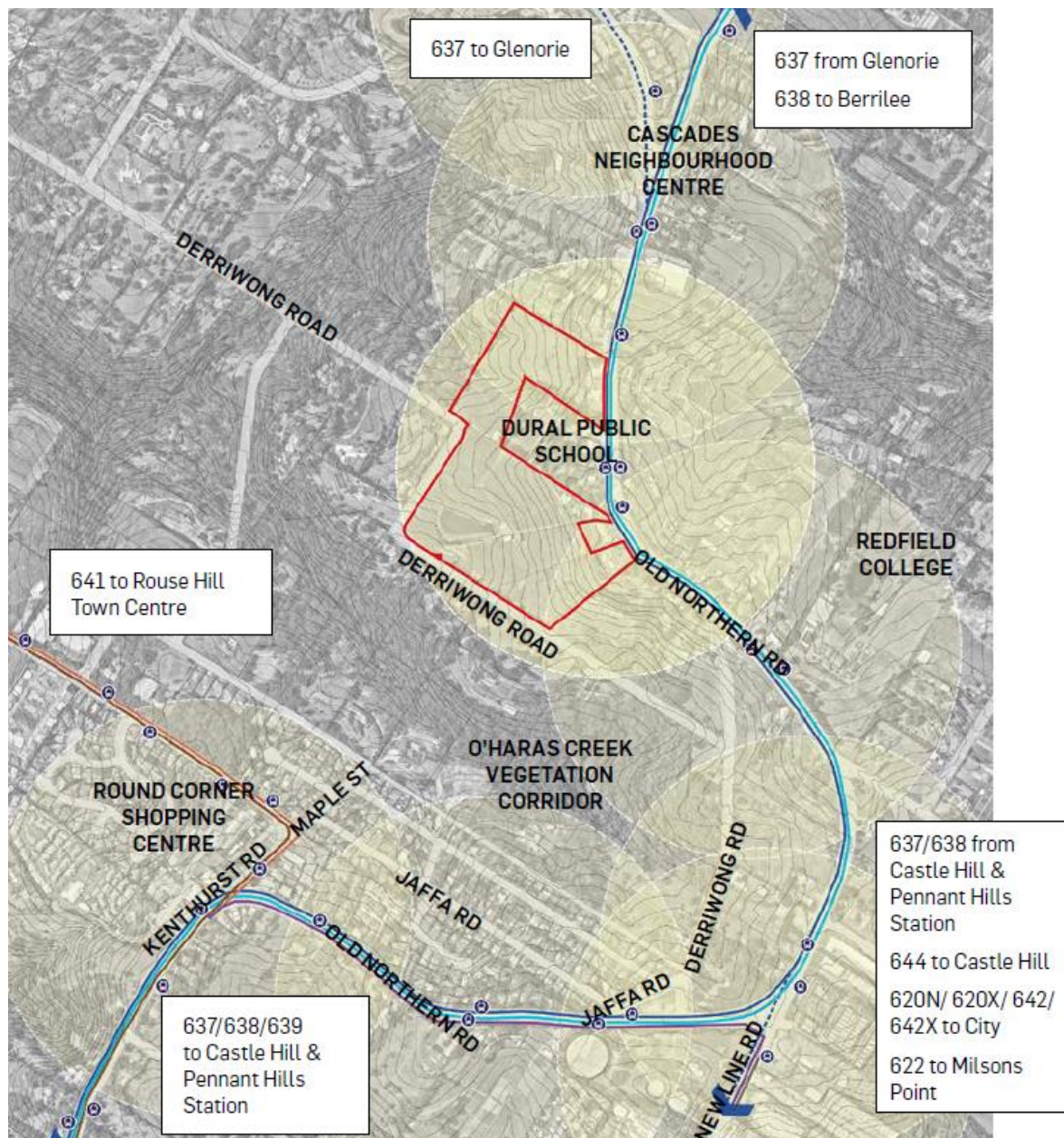
### 2.3.1. Public Transport

The site is readily accessible via public transport, with regular bus services available along Old Northern Road. These bus services provide connections south to Castle Hill and Cherrybrook Metro stations as well as Pennant Hills train station.

Pennant Hills train station is located on the T9 Northern Line which provides connections to Sydney CBD. The 620X and 642X bus routes provide alternative connections for commuters travelling to Sydney CBD including Wynyard and Town Hall. These services provide excellent connections for residents to access essential services, jobs and education.

The location of bus stops along Old Northern Road in relation to the site are shown in **Figure 4** while **Figure 7** provides an overview of the regional public transport networks available.

**Figure 4** Public Transport Connections and Bus Routes Servicing the Site

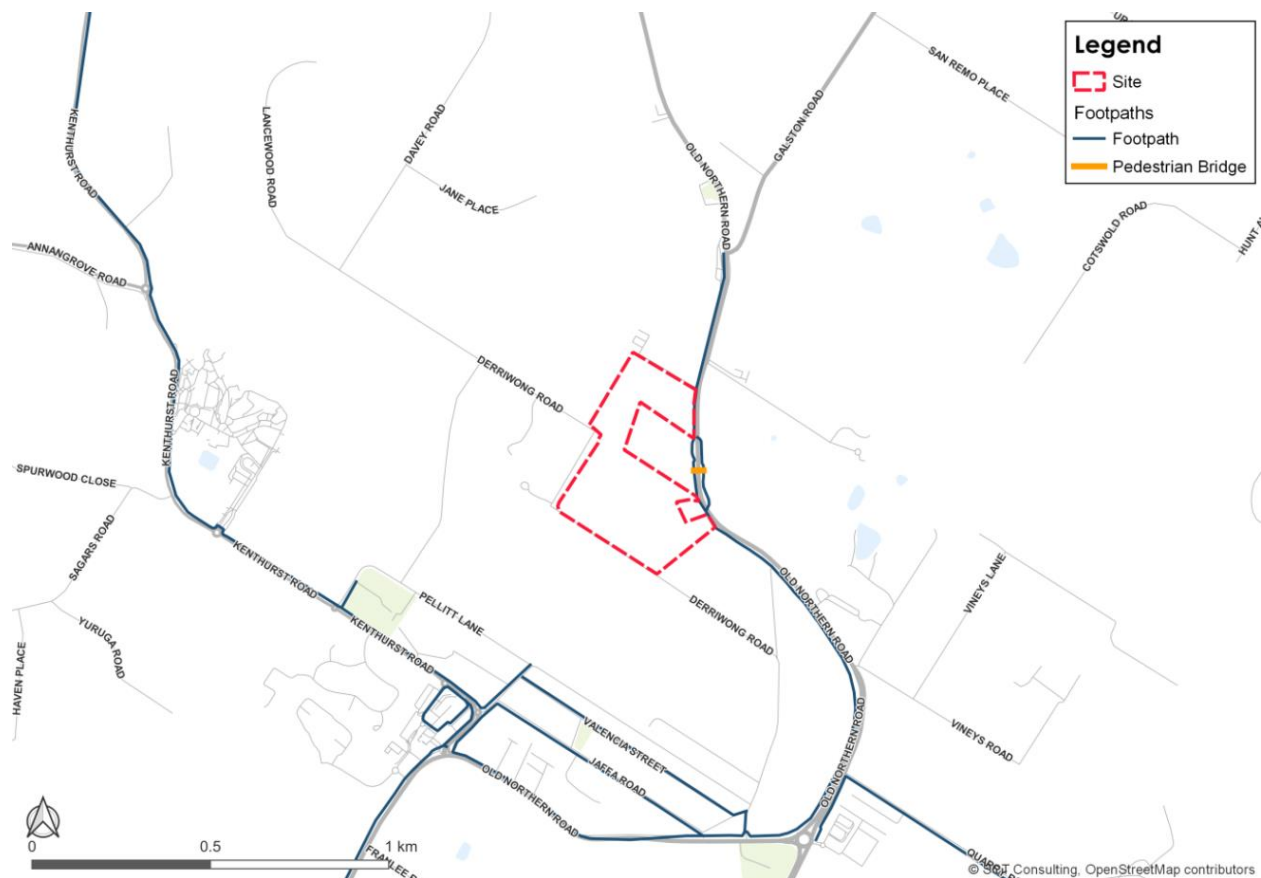


Source: Urbis 2024

### 2.3.2. Pedestrian and Cycleway Access

Formal pedestrian footpaths are provided along both sides of Old Northern Road, with a pedestrian bridge connecting Dural Public School to the eastern side of Old Northern Road. There is currently no footpath provision on Derriwong Road.

**Figure 5** Pedestrian Network Map



Source: STC 2022

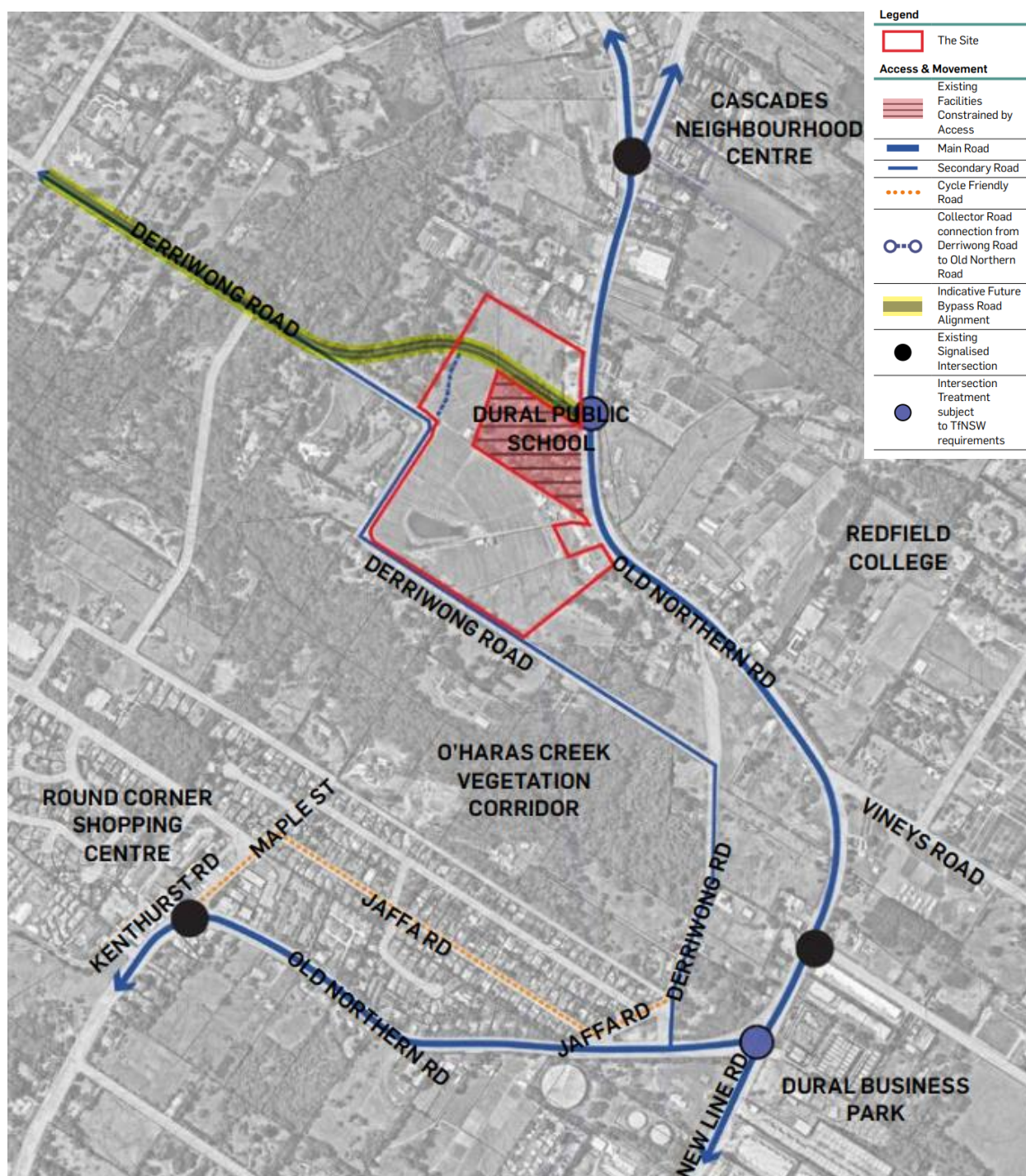
### 2.3.3. Vehicle Access

The existing local road network currently supports the following vehicle access, egress and movements:

- Old Northern Road/New Line Road: A two-way, classified road, serving and the main vehicle movement route into and out of Dural and connecting the site to Round Corner and Dural Centres.
- Derriwong Road is a minor two-way collector/local road to the west of the site that is accessed via Old Northern Road.



**Figure 6** Existing and Future Road Network



Source: Urbis 2024

## 2.4. SOCIAL INFRASTRUCTURE

The site is located between two urban centres, Round Corner to the south and the Dural Village to the north. These centres offer a range of services including:

- Banking institutions (Commonwealth Bank Branch);
- A post office;
- A range of specialty retail premises; and
- A supermarket.

Beyond the two centres, the site is well located with respect to local schools including Dural Public School, Redfield College, The Hills Grammar and Pacific Hills Christian School.

## 2.5. SERVICES AND UTILITIES

Preliminary investigations into the availability of services and utilities have been undertaken by Group Development Services detailed in the Planning Proposal (refer to **Attachment A**). The investigations identified the following:

- Water services are available within the area to service the site.
- The land is not presently serviced by sewer mains, existing services south of the site will need to be extended (and potentially) upgraded to support the new residential development.
- Electricity is available to the site; the utility can be upgraded to meet anticipate additional loads.
- Gas is currently available within the area, by Jemena.
- Telecommunications cables are currently available.

## 2.6. SURROUNDING LOCALITY

### 2.6.1. Regional Context

The site is located the north-western region of Greater Sydney, adjacent to the urban fringe in The Hills Shire local government area (**LGA**), approximately 30 kilometres from the Sydney CBD.

The Hills Shire LGA covers an area of approximately 40km<sup>2</sup> and is home to approximately 191,876 people (ABS, 2021), reflecting a population density of 498.3 persons per square kilometre. The predominant character of residential development across the LGA is low density housing, comprising separate houses with at least three or four bedrooms.

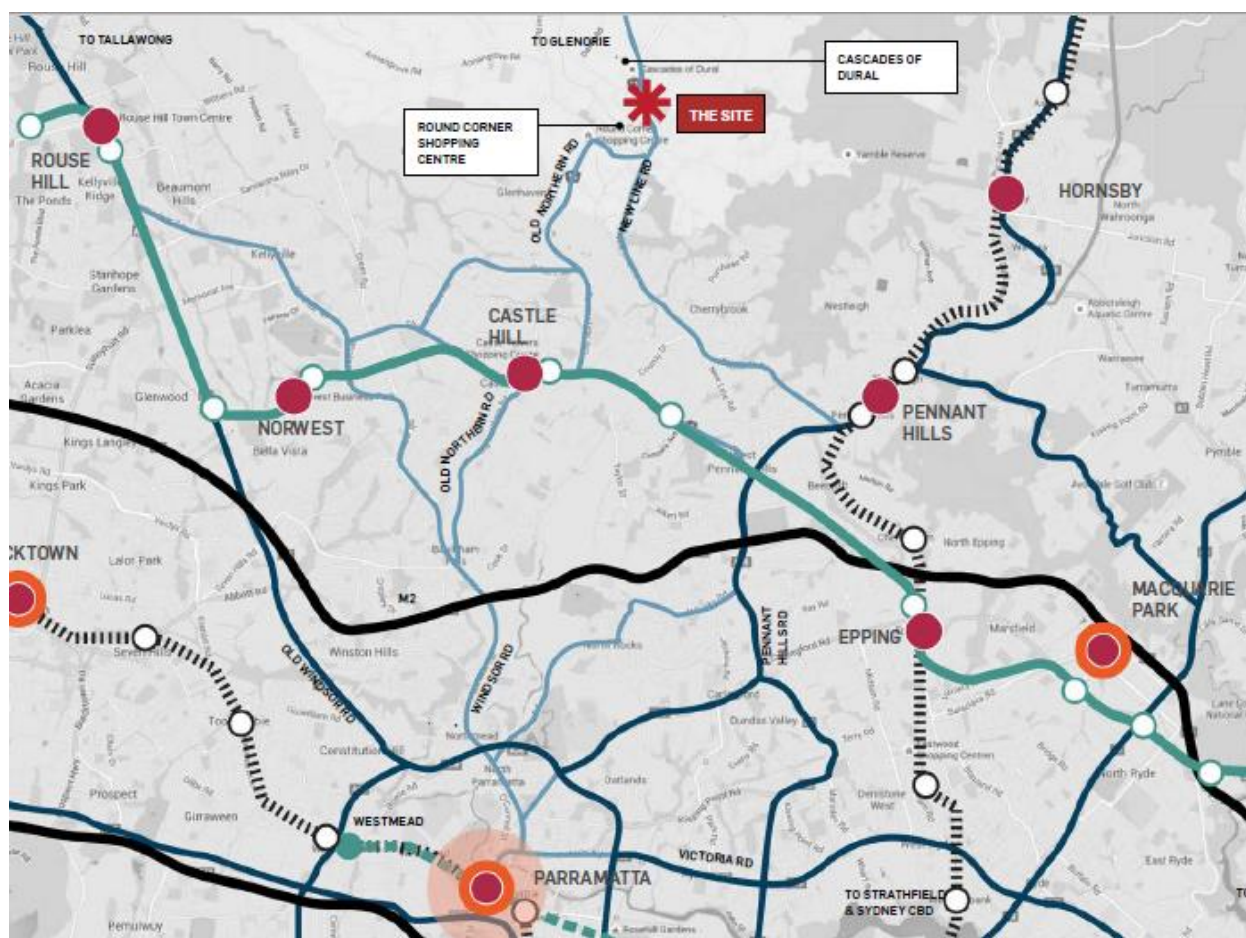
While the ABS (2021) reported growth in high and medium density housing over the period of 2011 to 2021, single dwellings are still preferred, accounting for 58% of housing growth in the LGA, a high percentage of which (77%) are owner occupied.

This is likely to change given the completion of Sydney Metro Northwest, which has encourage increased densities within the established centres and around key future transport nodes.

In 2021, The Hills Shire LGA had a higher proportion of children (under 18), younger workforce (25 to 34) and parents and homebuilders (35 to 49) than Greater Sydney. As with many areas throughout Sydney and NSW, there is a significant aging population, with approximately 20% of residents aged between 60 and 85+.

Population growth in The Hills Shire LGA over the past year was 3.39%. Between 2016 and 2036, the population for The Hills Shire LGA is forecast to increase by 88,446 persons (54.42% growth), at an average annual change of 2.20%. The number of dwellings in The Hills Shire LGA is forecast to grow from 52,391 in 2016 to 82,571 in 2036.

**Figure 7 Regional Context of the Site**



Source: Urbis 2024

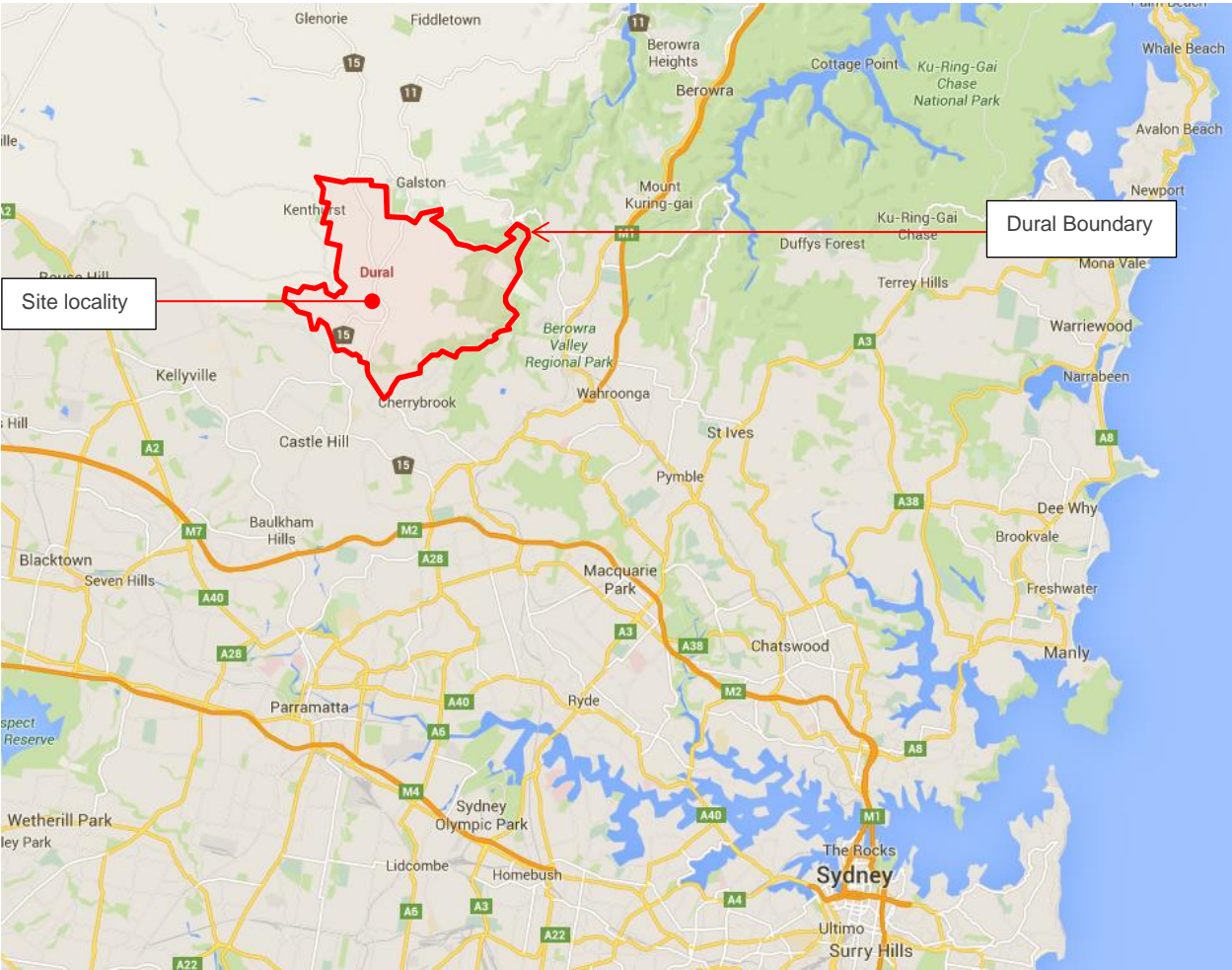
## 2.6.2. Local Context

Dural covers an area of approximately 1,462 hectares (or 15km<sup>2</sup>) and in 2021 was home to an estimated 3,322 residents with a population density of 227.2 persons per square km. In general, the population of Dural has remained relatively stable since 2001 due to the limited residential land stock and release. Approximately 76% of residents in Dural are private owner/occupiers.

In 2021, Dural had a lower proportion of children (under 18) and a higher proportion of persons aged 60 or older than the average for The Hills Shire LGA. Rural land with the LGA is used mainly for hobby farms, nurseries and orchards, especially citrus fruits.



Figure 8 Dural Locality Map

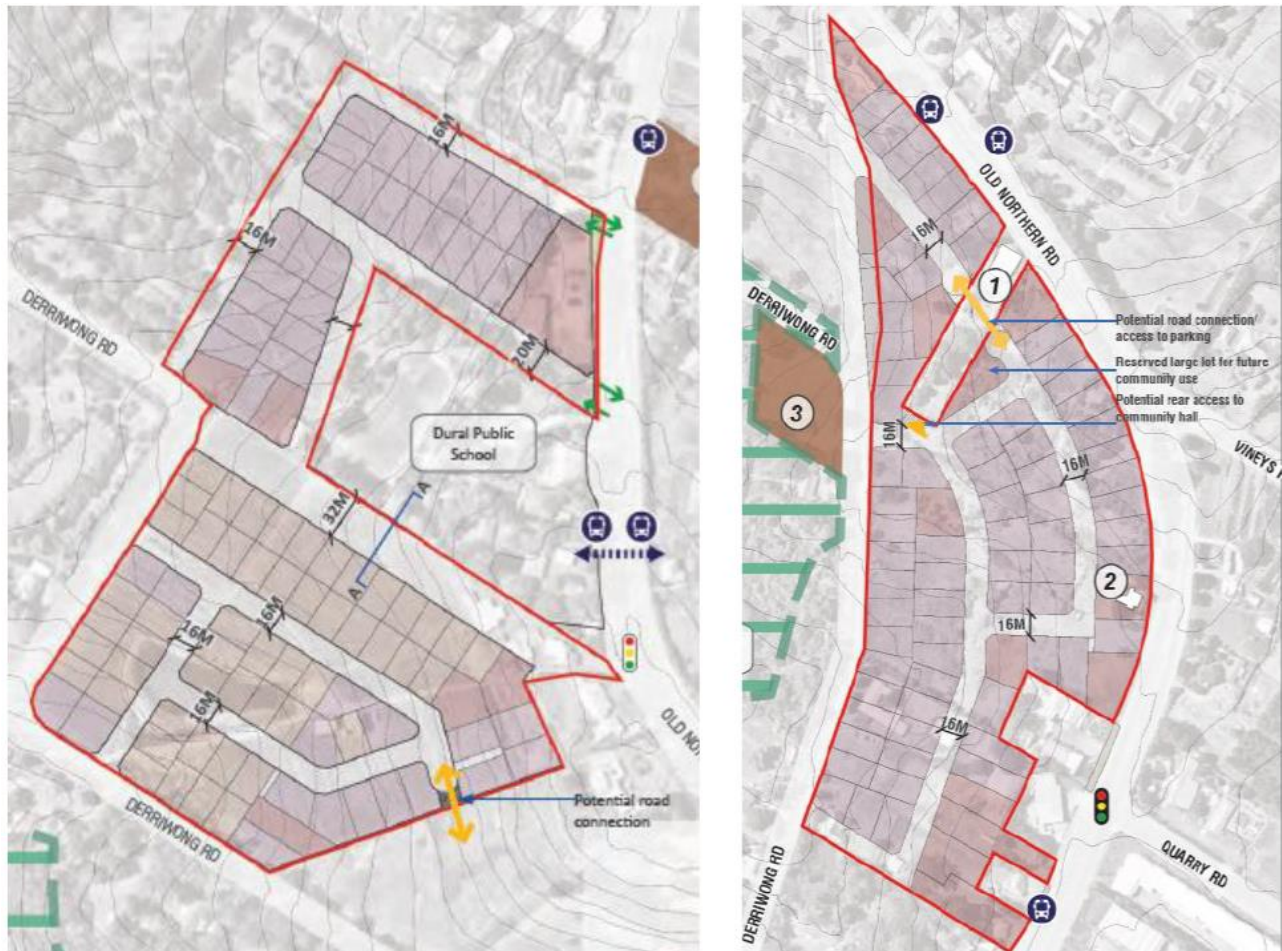


Source: Urbis 2024

### 3. BACKGROUND TO PLANNING PROPOSAL

On 19 May 2016, Planning Proposal (23/2016/PLP) was submitted to the Council seeking the rezoning of the majority of the site to R2 Low Density Residential and amendments to the minimum lot size and maximum building height development standards. The 2016 Planning Proposal included a northern and a southern site which would yield a total of approximately 181 residential allotments (refer to **Figure 9**). It should be noted that the current Planning Proposal relates to the northern site with a slightly expanded boundary.

**Figure 9** 2016 Concept Plan



Source: Urbis 2016

After some four years of review and consideration, this original proposal was considered by the Independent Planning Commission through a Gateway Review.

On 4 September 2020, the IPC provided its advice, and while concluding that the proposal could not demonstrate strategic merit due to the District Plan, it determined that the proposal did demonstrate significant merit and recommended that the Site:

*'be seriously considered for urban development and inclusion in the Central City District Plan when it is reviewed and updated in 2023.'*

On 9 July 2021, a Gateway Determination was issued by the Department of Planning subject to conditions. The Department at the time recognised it was not appropriate for the proponent to wait for a future updated of the District Plan. In preparing the current Planning Proposal, the Proponent has responded to the conditions of the 2021 Gateway Determination as outlined in **Table 2**. Importantly, the current Planning Proposal is supported by a meaningful public benefit offer that provides appropriate contributions towards local infrastructure whilst still maintaining the key components of the 2016 Planning Proposal that demonstrated both site-specific and strategic merit in the grant of the Gateway Determination.

**Table 2** Gateway conditions

2021 Gateway Conditions	Comment
<p>1) <i>Prior to public exhibition, the planning proposal is to be updated to:</i></p> <p>(a) <i>Update all supporting studies to refer solely to land subject to this proposal</i></p>	<p>The supporting studies have been appropriately updated to reflect the land subject to the Planning Proposal. Notably this includes the previously referred to 'northern site' plus one additional allotment identified as 614 Old Northern Road, Dural.</p>
<p>(b) <i>Preparation of a development control plan to support the development including any outcomes from specialist reports and consultation with agencies</i></p>	<p>The preparation of a draft site-specific DCP provided at <b>Attachment A</b> has been informed by consultation with Transport for NSW, the Council and Schools Infrastructure NSW.</p>
<p>(c) <i>Amend the Minimum Lot Size map to consider minimum lot size of 1,000m<sup>2</sup>-2,000m<sup>2</sup> on the periphery of the site and along the Old Northern Road ridgeline</i></p>	<p>The proposed minimum lot size map includes three minimum lot sizes across the site, 600m<sup>2</sup> through the centre of the site, 1,000m<sup>2</sup> on the periphery of the site, and 2,000m<sup>2</sup> along the ridge line of Old Northern Road.</p>
<p>(d) <i>Give further consideration to how the local infrastructure demands generated by the proposal will be met</i></p>	<p>The Planning Proposal includes the delivery of a new neighbourhood park with a minimum area of 4,000m<sup>2</sup>. The Planning Proposal will also facilitate delivery of stormwater and sewerage infrastructure upgrades across the site, including the provision of a sewer service up to the adjacent public-school boundary. Further, the Planning Proposal includes local and regional road network upgrades and benefits by proposing 'drop-off and pick-up' car parking spaces adjacent to the school (relocating the drop off/pick up from Old Northern Road reducing congestion on the road), and a 32m wide corridor through the site to connect Old Northern Road to Derriwong Road, as part of a Council's strategic plan to connect to Annangrove Road.</p> <p>The Public Benefit Offer also includes monetary contributions towards community facilities and active open space.</p>
<p>(e) <i>Include a letter of support for the broader road upgrades being proposed from Transport for NSW</i></p>	<p>Consultation with Transport for NSW occurred in early 2022 and no objection was raised to the concept of a local (not regional) bypass road through the site. The Council staff have supported the provision of a local bypass through the site to enable the future realisation of Council's objective to deliver an Annangrove Road bypass to alleviate traffic impacts in the local area from development in the North West Growth Area. This local bypass road is detailed in the Planning Proposal.</p>

2021 Gateway Conditions	Comment
<p>(f) <i>Give further consideration as to consistency with the objectives, actions and priorities for the Metropolitan Rural Area in the District plan, and a response to matters raised in Section 4.1.3 of this report.</i></p>	<p>The Planning Proposal has been assessed against the objectives, actions, and priorities of the Greater Sydney Region Plan – A Metropolis of Three Cities and the Central City District Plan in <b>Section 5.1.1</b>.</p>
<p>2) <i>Prior to public exhibition, consultation is required with Transport for NSW And Schools Infrastructure NSW. Both agencies must provide certainty regarding the infrastructure requirements as outlines in the Assessment Report (Section 6.2). If this is not provided, the proposal cannot proceed to exhibition.</i></p>	<p>Consultation was undertaken with TfNSW and SINSW.</p>
<p>3) <i>Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:</i></p> <p>(a) <i>the planning proposal must be made publicly available for a minimum of 28 days; and</i></p> <p>(b) <i>the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment, 2018).</i></p>	<p>The 2016 Planning Proposal did not reach the stage of satisfying this Gateway Determination condition. It is anticipated that this Planning Proposal will be the subject of similar Gateway Determination conditions.</p>
<p>4) <i>Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions</i></p> <ul style="list-style-type: none"> <li>▪ <i>NSW Rural Fire Service</i></li> <li>▪ <i>Public utility providers such as Sydney Water, Endeavor Energy</i></li> </ul> <p><i>Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.</i></p>	<p>The 2016 Planning Proposal did not reach the stage of satisfying this Gateway Determination condition. It is anticipated that this Planning Proposal will be the subject of similar Gateway Determination conditions.</p> <p>It is noted that an updated Bushfire Strategic Study and Preliminary Infrastructure Review (refer to <b>Attachment A</b>) have been prepared, which have been informed by previous consultation with the relevant public authorities.</p>
<p>5) <i>A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example,</i></p>	<p>The 2016 Planning Proposal did not reach the stage of satisfying this Gateway Determination condition. It is anticipated that this Planning Proposal will be the subject of similar Gateway Determination conditions.</p>



2021 Gateway Conditions	Comment
<i>in response to a submission or if reclassifying land).</i>	
6) <i>The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:</i>  (a) <i>the planning proposal authority has satisfied all the conditions of the Gateway determination;</i>	The 2016 Planning Proposal did not reach the stage of satisfying this Gateway Determination condition. It is anticipated that this Planning Proposal will be the subject of similar Gateway Determination conditions.
(b) <i>the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and</i>	The 2016 Planning Proposal did not reach the stage of satisfying this Gateway Determination condition; however, it is noted that the Planning Proposal is consistent with the relevant section 9.1 Directions as outlined in Planning Proposal report provided at <b>Attachment A</b> .
(c) <i>there are no outstanding written objections from public authorities.</i>	The 2016 Planning Proposal did not reach the stage of satisfying this Gateway Determination condition. It is anticipated that this Planning Proposal will be the subject of similar Gateway Determination conditions.

- **5 April 2022** – the Department amended the Gateway Determination for the planning proposal to not proceed to exhibition, on the basis that the timeframe to meet the determination conditions had not been met and due to ongoing consultation with Transport for NSW and Schools Infrastructure NSW.

Importantly, the issues/conditions that were unresolved at the time have now been progressed and resolved in the intervening period.

- **20 September 2022** – A new Planning Proposal (PP-2022-3364) for the site was submitted on behalf of the Proponent, Legacy Property.
- **18 July 2023** - The Sydney Central City Planning Panel recommended that the planning proposal (PP-2022-3364) not be submitted for a Gateway Determination as in their view it did not demonstrate strategic merit. In outlining its reasoning for the recommendation, the Panel conceded *‘that the land use appears to be undergoing transition rather than being preserved as a buffer zone’*. Further the Panel noted at that time that the Greater Sydney Regional Plan (**Region Plan**) and District Plan was undergoing review by the GCC. The primary reasons for the Panel recommendation were as follows:
  - The Region and District Plans encourage maintain and enhancing the rural village character. In particular the Region Plan identifies the land as Metropolitan Rural Area and states that urban development is not consistent with the value of the Metropolitan Rural Area.
  - The LEP identifies RU6 Transition zone as a buffer between urban rural areas. The site is located within this buffer zone.
  - The LSPS seeks to establish an urban growth boundary to limit residential growth to within existing and planned Council urban areas. The site is outside of this boundary.

The above matters have been addressed in the current Planning Proposal and are reiterated again in **Section 5.1** of this report. The review of the District and Region Plans referenced by the Planning Panel were never finalised and there is no clarity as to a current review timeframe for the Plans.

- **26 March 2024** – The current Planning Proposal (PP-2024-450) for the site was lodged on 26 March 2024 on behalf of the Proponent, Legacy Property. In preparing this Planning Proposal request, the



Proponent has noted the previous advice of the Department and the IPC and has maintained the key components of the previous proposals that demonstrated site-specific and strategic merit.

- **19 June 2024** - The Hills Local Planning Panel (**LPP**) considered the Planning Proposal and recommended it not proceed to Gateway Determination however noted:

*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.*

It should be noted that the issues raised by State agencies in relation to securing part of a possible bypass route, improved access for the public school and provision of local open space have been addressed as acknowledged in the Council's assessment report on the Planning Proposal.

- **23 July 2024** - After assessing the Planning Proposal, Council's assessing officers prepared a report recommending support to proceed to Gateway. Councils' resolution was, in part, to "*proceed with Option 1 as set out in this Report.*" For reference, "Option 1" was:

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

- The Council officer's recommendation to proceed to Gateway was based on the following:
  - The Planning Proposal is extremely unique and will not create a precedent for similar rezoning in the MRA, 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.
  - The Planning Proposal will contribute to the current objectives and priorities of the Government to increase housing supply.
- **23 July 2024** - Contrary to the recommendation by Council planning officers that the Planning Proposal proceed to Gateway, the elected Councillors resolved to proceed with *Option 2 – Not Proceed to Gateway Determination.*

## 4. SUMMARY OF THE PLANNING PROPOSAL

The purpose of the Planning Proposal is to amend THLEP 2019 and rezone existing rural transition zoned land for urban purposes to allow future development for residential use.

The Urban Design Study submitted as part of the Planning Proposal at **Attachment A** demonstrates that the rezoning and development of the site:

- Delivers a new centrally located local park that is accessible by the community.
- Provides a mix of residential lot types of average 600m<sup>2</sup>, 1,000m<sup>2</sup> and 2,000m<sup>2</sup> lot sizes.
- Improves Dural Public School access and school operational activities during school hours.
- Provides the 32m wide road reserve that can accommodate the future bypass road.
- Improves vehicular and pedestrian permeability between Derriwong Road and Old Northern Road.

An extract of the Concept Plan is provided at **Figure 1**.

The Planning Proposal is also accompanied by a draft site specific DCP (refer to **Attachment A**).

### 4.1. DETAILS OF PROPOSED LEP AMENDMENTS

The Planning Proposal seeks amendments to both the written instrument and supporting planning maps of THLEP 2019 to facilitate the delivery of low-density residential development, improvements to the local road network and delivery of open space.

#### 4.1.1. Mapping Amendments

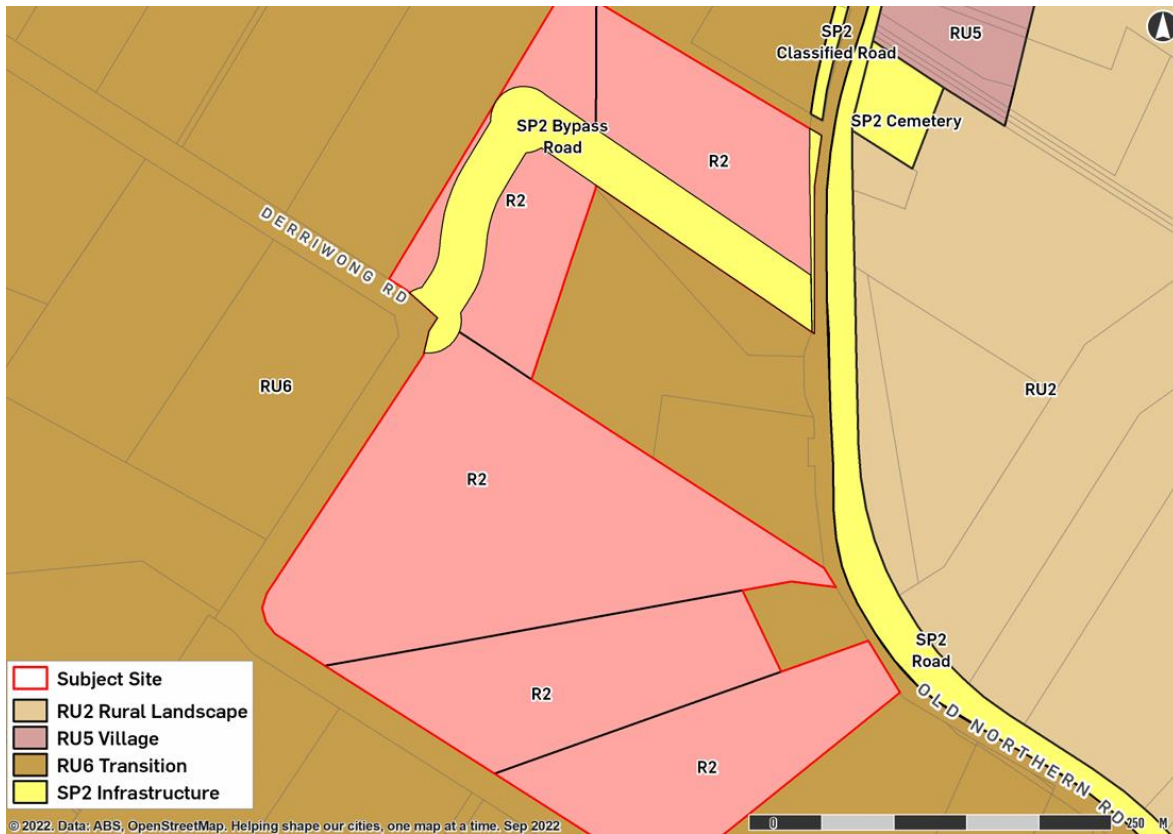
The proposed amendments to the adopted planning maps are set out in **Table 3**.

**Table 3** Summary of the Planning Proposal

	Existing	Proposed
<b>Zone</b>	RU6 Transition	Part R2 Low Density Residential and part SP2 Infrastructure (Local Road) zone.
<b>Minimum Lot Size</b>	20,000m <sup>2</sup> (2 ha)	The proposed minimum lot sizes across the site are vary between 600m <sup>2</sup> , 1,000m <sup>2</sup> , and 2,000m <sup>2</sup> under the subdivision layout plan. The proposed 600m <sup>2</sup> minimum lot sizes are consistent with the minimum lot size adopted under the provision of THLEP 2019 for residential land within the Dural neighbourhood centre and R2 Low Density Residential zoned land at Round Corner. The larger 1000m <sup>2</sup> and 2000m <sup>2</sup> minimum lot sizes are both in response to Council's previous requests for larger lots on the permitter and to provide a variety of lot sizes.
<b>Height of Buildings</b>	10 metres	9 metres. The 9-metre height of building control is consistent with the adopted development standards for residential development at Round Corner.

The Proponent has prepared the necessary planning maps. Extracts of the proposed LEP mapping is provided at **Figure 10 - Figure 12**.

**Figure 10 Proposed Zoning Map**



Source: Urbis, 2024

**Figure 11 Proposed Height of Buildings Map**



Source: Urbis, 2024

**Figure 12** Proposed Minimum Lot Size Map



#### 4.1.2. Amendments to the Written Instrument

It is proposed that a site-specific clause is inserted in THLEP 2019 to limit residential development on the site to a maximum 110 residential lots, which is the yield achieved based on the proposed subdivision configuration detailed in the urban design report. This provides some certainty of outcome to Council and achieves a diversity of sized lots. The Proponent will work with the Council on the precise wording to be included in the THLEP 2019 to limit the maximum lot yield for the site.

### 4.2. SITE SPECIFIC DCP

The Planning Proposal is accompanied by a draft site specific DCP which seeks to guide future development of the site for residential development.

The objectives of the draft site specific DCP are to:

- Provide detailed design and environmental standards for the development of the Site.*
- Enable a low-density residential development outcome on the Site.*
- Ensure that any development on the Site is appropriate to the Site's context and enhances the surrounding natural and scenic characteristics of the locality.*
- Facilitate the provision of a suitable road reserve to accommodate a future bypass corridor.*
- Encourage a variety of choice and housing types within the locality to provide for existing and future housing needs.*
- Encourage a transition from rural land to the north and east of the Site to urban form south of the Site.*
- Provide a local park offering amenity for existing and future residents in the area.*
- Minimise land use conflict with adjoining rural land and ensure future development is sympathetic with the surrounding low density rural residential character.*

The site's primary frontage is to Old Northern Road to the east, and secondary frontage is to Derriwong Road to the south and west. The site is at the interface of the boundary between The Hills Shire and Hornsby Shire LGAs, along Old Northern Road. The site is surrounded by large rural residential properties, Dural Public School, Redfield College, and various commercial uses.

The site is contained precinct suitable for urban development around Dural Public School and immediately south of the Dural village. The land opposite the site is zoned RU2 Rural Landscape within the adjoining Hornsby Shire LGA (under the Hornsby Local Environmental Plan 2013). Land in the broader locality is being used for rural residential and low intensity agricultural uses.

The draft DCP provides a series of detailed development controls in relation to:

- Subdivision of land
- Road network improvements
- Vehicle access
- Public open space and landscaping
- Bushfire hazard management
- Stormwater management
- Utilities provision and location
- Dwelling design and siting

### **4.3. PUBLIC BENEFIT OFFER**

The Planning Proposal is supported by a public benefit offer to deliver community and physical infrastructure to support the proposed residential neighbourhood and the wider community. The following benefits to the community are proposed:

- The provision of the local collector road which includes a drop off and pick up facility adjacent to Dural Public School and 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 pedestrian connectivity and access to the school via the park.
- Pedestrian pathways to the school site's frontage and northern edge to mitigate potential impacts on existing pedestrian entrances.
- Provision of a new signalised intersection at Old Northern Road to support improved traffic distribution within the locality in north-south movements and more broadly around the school.

The public benefit offer was submitted with the Planning Proposal (refer to **Attachment A**) to enter into a VPA with the Council to deliver:

- Dedication and embellishment of 4,000m<sup>2</sup> of land for use as a local park.
- Dedication and embellishment of 141m<sup>2</sup> of land for use as a pedestrian link to provide permeability for residents.
- Provision of a monetary contribution to Council of \$363,305.80 towards active open space.
- Land dedication towards a Round Corner bypass road and works in kind for the delivery of a local collector road.
- Provision of a monetary contribution to Council of \$101,242.90 towards community facilities.
- Delivery of stormwater management facilities to the site and school.

## 5. JUSTIFICATION FOR THE REZONING REVIEW

Section 5.1 of *A guide to preparing local environmental plans* outlines the test in determining whether the Planning Proposal has merit and should be submitted for a determination under section 3.34 of the EP&A Act (Gateway Determination). The Planning Proposal must demonstrate both strategic merit and site-specific merit.

As identified by Council staff in the assessment report presented to the LPP and Council, the site and accompanying Planning Proposal has strategic and site-specific merit as demonstrated in the following sections of this report.

### 5.1. STRATEGIC MERIT

Strategic merit must be considered through the State Government's clear priorities for housing supply as outlined in the Minister's correspondence (refer **Attachment B**).

This change in circumstances, combined with the outdated District Plan and MRA policy framework, provide a compelling basis to determine that the Proposal has strategic merit.

Notwithstanding the outdated District Plan, the Council staff assessment report provides justification that the Proposal has strategic merit within the existing strategic planning framework:

- The Planning Proposal provides a logical outcome to deliver new housing supply and choice that meets local demand in accordance with the LHS and which is consistent with the 2019 Rural Strategy which allows for limited residential expansion in rural villages such as Dural. The Planning Proposal is consistent with the eight criteria for rural village expansion outlined in the Rural Strategy in that it:
  - Facilitates the timely provision of utilities, transport, open space and communication infrastructure across the site.
  - Includes access to a range of transport options that allow efficient travel between homes, jobs and services.
  - Facilitates the delivery of a range of housing types, including the provision of low-density housing which is desired by the local market.
  - Avoids land use conflicts by positioning new housing adjacent to existing urban uses in the RU6 Transition zone, on land that is currently already precluded from agricultural uses.
  - Adopts appropriate bushfire mitigation measures through the implementation of asset protection zones.
  - Represents the reasonable use of natural resources, and efficient use of land.
  - Does not adversely impact biodiversity, air quality, heritage items, or waterways.
  - Provides housing with access to education and other essential services.
- The application of a local 'place-based planning focus' should prevail over the District Plan's outdated MRA boundary. The Planning Proposal presents a scale of development in a low-density configuration that is commensurate with surrounding residential areas and is not in conflict with a desired transition to and retention of the viable agricultural rural lands north of Dural. This residential accommodation will be delivered with and supported by a range of public benefits.
- The Planning Proposal does not seek to play a role in meeting any Regional or District scale demand for residential growth. Rather, this Planning Proposal seeks to facilitate the ongoing planning and management of Dural and provides a response to local demand for housing without detracting from the local character of Dural and the surrounding landscape. The proposal is appropriately characterised as a small-scale 'greenfield infill site' which seeks to cater for local demand, consistent with the LHS.
- The District Plan acknowledged the need that limit changed is required in rural towns and villages, and that '*...limited growth of residential development could be considered where there are no adverse impacts on the amenity of the local area and where the development provides incentives to maintain and enhance the environmental, social and economic values of the MRA*'.

- The infrastructure facilitated by the Planning Proposal is site-specific and responds to the needs of the existing and future community. The Planning Proposal is consistent with the DUCCA which states that where land is environmentally capable of accommodating urban development, and where the Proponent is able to demonstrate that they can deliver the required local and regional infrastructure upgrades at no cost to Council – a Planning Proposal for rezoning can be considered.
- The Greater Sydney Region Plan and the District Plan were prepared in 2017. The background studies that informed the establishment of the MRA within these documents predate this. It is acknowledged that these strategic documents are currently under review by the Department. The outcome of the review is unknown, however, it would be reasonable to assume that the review will consider and be informed by local planning studies including the DUCCA, LHS, the LSPS and Rural Strategy.
- The District Plan identifies a need to provide important rural industries within the MRA with certainty and ensure their operation can continue without encroachment from incompatible land uses and to support the protection of biodiversity and secure the rehabilitation of exhausted resource extraction areas. The Planning Proposal does not conflict with these objectives given the distance and separation. The site is not located proximate to productive rural, mineral, or extractive industry land uses, these are located to the north and north-east in Maroota, Middle Dural, Galston and Arcadia. The immediate site context is characterised by a range of education, commercial and residential developments.
- At a District scale the rural lands generally support or contribute to habitat and biodiversity, productive agriculture, provide mineral and energy resources and sustain local rural towns and villages. The site however is largely unproductive vacant land with a few scattered rural dwelling houses and does not support biodiversity, productive agriculture nor contain mineral and energy resources. In its present state the site does not support the Dural Village. However, the site if able to be developed sensitively as detailed in the Urban Design Report, will support economically and socially the Dural Village and the local school community.
- The Planning Proposal meets housing local demand and will facilitate housing diversity in accordance with the LHS and Rural Strategy, which allows for limited residential expansion in rural villages such as Dural. The minor increase in residential occupation and development will not detract from the distinctive character of the village and will not impose upon the broader rural vistas and landscape of the locality. The Planning Proposal provides a unique opportunity to allow for some additional housing within the catchment surrounding the Dural Public School, without creating a precedent elsewhere.
- The Planning Proposal aligns with Council's transport objectives (in securing a portion of a future Round Corner bypass corridor).
- The site has not been used for agricultural purposes for a significant period of time and the potential use of the site for agricultural purposes is commercially unviable. In addition, intensive and other agricultural pursuits if sought to be undertaken on the site would present a land use conflict with existing sensitive land uses such as the Dural Public School and the ability to provide necessary buffers is limited. The Planning Proposal facilitates the orderly and economic use of land that is otherwise under-utilised. The subdivision layout is an urban design outcome for the site that can incorporate complementary landscape and open space elements.

The Planning Proposal has both strategic and site-specific merit as:

- The Planning Proposal will not dilute the importance of adjacent urban centres or result in ribbon development along Old Northern Road.
- The rezoning of the site reflects a logical minor extension of the existing urban village and is unique in its relationship to the Dural Public School and the opportunity to deliver local open space and strategic road infrastructure through the reservation of part of a future bypass road connection from Annangrove Road to Old Northern Road.
- The proposed residential density responds to demographic trends of the Dural area, providing choice for existing residents to downsize (from large rural residential properties) and continue to live within their existing community and enable younger families to enter the market in an area that is differentiated from the medium and higher density living options elsewhere in The Hills Shire.
- The Planning Proposal will promote the viability of the Dural rural village and nearby Round Corner local centre.



- The Planning Proposal will facilitate the delivery of key infrastructure upgrades and extensions aimed at alleviating existing traffic constraints and improve road safety around Dural Public School through the inclusion of well-designed and safe drop off zones replacing the congested access on Old Northern Road currently servicing the school.

The alternative outcome to the Planning Proposal is to retain the existing zoning, representing a 'no change' outcome. In this scenario:

- The site will remain as largely unoccupied rural lots with no productive agricultural activity.
- There would be no contribution to meeting the local housing needs or broader housing choice and diversity.
- There would be no public benefits arising for the Dural Public School including the provision of additional open space, the connection of sewer infrastructure up to the boundary of school, the undergrounding of overhead powerlines across the school site, and the inclusion of safe pick up and drop off zones.
- Existing road and pedestrian safety issues adjacent to the Dural Public School on Old Northern Road would remain unresolved.
- The opportunity to reserve part of the future bypass corridor would be lost.
- The existing consolidated land holding would be sold off, returning the site to fragmented ownership and foregoing the opportunity for a master planned outcome.

The *Planning Proposal Report* prepared by Urbis (refer to **Attachment A**) provides a detailed assessment and demonstrates the strategic planning merit of the Planning Proposal, against each of the criteria established by the Department. A summary is provided in the following sub sections of this report.

### 5.1.1. Consistency with relevant District Plan within the Greater Sydney Region

This section of the report has been prepared for completeness as called for by the Guidelines however as directed in the Minister's letter (refer **Attachment B**) the Planning Proposal has merit.

#### Greater Sydney Regional Plan

In March 2018, the GSC finalised the Region Plan, as the NSW Government's metropolitan plan for Sydney.

The Region Plan repositioned Sydney as a metropolis of three cities, being the Western Parkland City, Central River City (within which The Hills Shire LGA is located), and Eastern Harbour City. The Region Plan presented a strategy for managing growth, change, and infrastructure and established policy directions to achieve identified goals and principles, with each direction underpinned by actions. Consistency of the Planning Proposal with the 2018 directions and actions of the Region Plan are provided in **Table 4**.

**Table 4** Assessment against Greater Sydney Region Plan

Greater Sydney Region Plan	Planning Proposal Response
<b>Direction 1: A city supported by infrastructure</b>	
<i>Objective 2: Infrastructure aligns with forecast growth</i>	The Planning Proposal maximises the use of existing infrastructure by co-locating housing in close proximity to existing infrastructure and supporting the longevity of that infrastructure (e.g., utilising existing capacity at Dural Public School).
<i>Objective 4: Infrastructure use is optimised</i>	The Planning Proposal does not rely on infrastructure upgrades of roads, electricity, water and sewer by the Council or State government. It proposes and will deliver localised upgrades to support development of the site and improve access to local open space, local traffic conditions, access to Dural Public School, deliver sewer to the school and underground power lines for improved urban design outcome and school functionality.



Greater Sydney Region Plan	Planning Proposal Response
	<p>The Planning Proposal seeks to permit low density residential dwellings within an area of high accessibility to existing cultural, health, transport, and social infrastructure, which is appropriate and supports the priority to maximise the use of existing infrastructure. Permitting residential development on the site will maximise the use of this infrastructure, and in the case of retail and business premises that provide services to the local community, improve their long-term viability.</p> <p>The Planning Proposal will deliver a range of infrastructure to the future residential neighbourhood as well as to the Dural Public School Specifically, the public benefit offer proposes a sewerage connection to the boundary of the Dural Public School, currently unfunded by the school or the NSW Department of Education. This benefit removes a potential health and safety hazard to the school and will improve access to and useability of open space within the school site.</p> <p>The Planning Proposal delivers new public open space (4,000m<sup>2</sup>) fronting Derriwong Road directly adjacent to the Dural Public School which would be available to both the school as well as the broader community with ease of access from Derriwong Road.</p> <p>The improvements to the local road network around the public school which will facilitate a future bypass of The Round Corner local centre, incorporate a new drop-off and pick-up zone for the public school to alleviate road congestion along Old Northern Road, provide for a new supporting improved traffic distribution north and south to improve traffic flow in the locality generally and around the school specifically.</p> <p>The Planning Proposal will deliver a range of residential dwellings that will be connected to local services and infrastructure. The low-density residential development will be accompanied by the augmentation to water, sewerage and electricity services to meet the needs of the proposed 110 allotments.</p> <p>The Planning Proposal also facilitates the undergrounding of overhead powerlines across the Dural Public School site representing additional community benefit. The infrastructure facilitated by the Planning Proposal is site-specific and responds to the needs of the existing and future community.</p> <p>The Planning Proposal has demonstrated that existing infrastructure can with the augmentation as proposed support the proposed residential development on the site. This is documented in the following assessments which accompanied the Planning Proposal as follows:</p> <ul style="list-style-type: none"> <li>▪ Preliminary Infrastructure Review</li> <li>▪ Traffic Impact Assessment</li> </ul> <p>The Planning Proposal will deliver housing that caters for local housing demand, and which is supported by new infrastructure investment not only to meet demands of the future residents, but to enhance the existing services and infrastructure within the existing community.</p> <p>The Planning Proposal includes delivery of part of a longer-term solution to road infrastructure challenges in the District. This is achieved through the reservation of</p>

Greater Sydney Region Plan	Planning Proposal Response
	<p>an appropriate corridor that supports immediate local traffic upgrades as well as the proposed Round Corner Bypass identified by Council. This will be the first stage of a long-term strategic road corridor to alleviate existing and future traffic from the north-west growth centre to Sydney's Central City. The first stage of this strategic project is to be delivered by the Proponent at no cost to government and avoids a future land acquisition requirement to connect the corridor to Old Northern Road.</p>
<b>Direction 4: Housing the City</b>	
<p><i>Objective 10: Greater housing supply</i></p> <p><i>Objective 11: Housing is more diverse and affordable</i></p>	<p>The NSW Government has identified a need for 725,000 additional homes by 2036 to meet demand based on current population projections of an additional 1.7 million people in Greater Sydney. As part of this an unprecedented level of supply, including a range of housing types, tenures, and price points will be needed to meet demand.</p> <p>The Central City District was targeted to be the fastest growing District with The Hills Shire expected to grow by 125,350 additional people by 2036. The Central District was required to deliver 207,500 additional homes. It was anticipated that the majority of these dwellings would be located proximate to existing urban centres in medium and high-density design configuration.</p> <p>Notwithstanding the above, <b><u>this Planning Proposal does not seek to play a role in meeting any Regional or District scale demand for residential growth.</u></b> Rather, the Planning Proposal is for a modest expansion of additional dwellings to an existing rural village (Dural) in a well-serviced location adjacent to existing essential services and which responds to local housing demand in Dural.</p> <p>The Planning Proposal seeks to facilitate the ongoing planning and management of Dural and the need to respond to local demand for residential accommodation, the local character of Dural and the surrounding landscape and rural activities. The Indicative Layout Plan as shown in <b>Figure 1</b> can appropriately be regarded 'greenfield infill' development which seeks to cater for local demand that is consistent with Council's LHS.</p> <p>Despite the existing land use zoning, the character of the site and locality is peri-urban which supports a range of land uses including large lot rural residential and local service uses. The site's physical characteristics make it suitable to support low density residential development that is able to maximise use of existing and augmented infrastructure.</p> <p>With the majority of the growth under the Region Plan in the Central City District focused on medium and high rise development in easing urban centres, the Planning Proposal presents an opportunity to deliver lower density housing alternatives meeting a local demand enabling families with established connections to stay in the locality.</p> <p>The Planning Proposal will deliver new housing that meets local demand for different housing types and price points, and preferred locations. The District Plan states that while persons per household and household sizes are set to reduce,</p>

Greater Sydney Region Plan	Planning Proposal Response
	<p>households comprised of couples with children will remain the highest proportion of households in the District.</p> <p>The proposed R2 Low Density Residential zoning and minimum lot sizes will provide a scale of development which is aligned with the nearby residential neighbourhood, and existing smaller lot sizes within the RU5 Village zoned land to the immediate north-east of the site, and of the R2 Low Density Residential and R3 Medium Density Residential zoned land to the south and south-west of the site.</p>
<b>Direction 5: A city of great places</b>	
<i>Objective 12: Great places that bring people together</i>	<p>It is noted that <i>To create great places, the mechanisms for delivering public benefits need to be agreed early in the planning process.</i> The Planning Proposal is consistent with this objective, as it has taken a local place-based approach to planning, reviewing the actual local characteristics and infrastructure needs of a local place, and proposing mechanisms to secure needed public benefits of the community early, while respecting the desired low-density character of the area.</p> <p>The submitted public benefit offer has been the subject of detailed conversations with Council in terms of quantum of open space, design and location of the local road bypass corridor and contribution towards open space and community facilities.</p>

## Central City District Plan (2018)

The site is located within the Central City District of Greater Sydney. The District Plan was adopted in March 2018 and set out a 20-year vision to manage growth in the context of economic, social, and environmental matters relevant at that time. The District Plan contained strategic directions and planning priorities that implement the objectives of the Region Plan. The District Plan identified key centres, economic and employment locations, land release and urban renewal areas, and existing and planned transport infrastructure to deliver future growth.

The District Plan identified a housing target of an additional 207,500 dwellings by 2036. Consistency of the Planning Proposal with the relevant provisions of the District Plan is discussed in **Table 5**.

**Table 5** Assessment against the Central District Plan

Central District Plan	Consistency
<p><b>Planning Priority C1 –</b> Planning for a city supported by infrastructure</p> <p><b>Planning Priority C1 –</b> Providing services and social infrastructure to meet people's changing needs</p>	<p>Planning Priority C1 is underpinned by the notion of delivering the right infrastructure, in the right location, at the right time. It responds to objectives of the Region Plan that infrastructure use is optimised, that infrastructure aligns with growth, and that infrastructure adapts to meet future needs. Planning Priority C1 states that aligning land use and infrastructure planning will maximise the use of existing infrastructure. The Planning Proposal maximises the use of existing infrastructure sustainably by co-locating housing in proximity to existing infrastructure and supporting the longevity of that infrastructure (e.g. sewerage upgrades, road upgrades).</p>

Central District Plan	Consistency
	<p>Planning Priority C1 identifies that planning decisions need to support new infrastructure in each city – including cultural, education, health, community and water infrastructure – to fairly balance population growth with infrastructure investment. Decisions are required to equitably enhance local opportunities, inclusion and connection to services.</p> <p>The Planning Proposal will deliver a range of infrastructure and infrastructure upgrades that will support both the proposed residential neighbourhood and the surrounding broader community. Essential services and community facilities will be augmented into delivery of housing on the site and in doing so will provide upgrades which will benefit the wider community.</p> <p>The Planning Proposal will deliver new public open space (4,000m<sup>2</sup>) fronting Derriwong Road directly adjacent to the Dural Public School which would be available to both the school as well as the broader community. The improvements to the local road network around the school and will facilitate a future bypass of The Round Corner local centre, incorporate a new drop-off and pick-up zone for the school to ease road congestion along Old Northern Road.</p> <p>The water and sewer infrastructure will be augmented to support the proposed residential development on the site. This is documented in the servicing assessments which accompanied the Planning Proposal.</p> <p>The Planning Proposal will deliver modest population growth that caters for local housing demand, and which is supported by private infrastructure investment to meet demands from the proposed development. This will improve services and infrastructure within the existing community. This infrastructure investment is specific to the Planning Proposal and is aligned to support the proposed growth and the community.</p>
<p><b>Planning Priority C5--</b>  <i>Providing housing supply, choice and affordability with access to jobs, services and public transport</i></p>	<p>Planning Priority C5 responds to the District Plan objectives to deliver greater housing supply and housing that is more diverse and affordable. Planning Priority C5 seeks new housing to be delivered in the right places that are supported by or coordinated with infrastructure, to meet demand for different housing types, tenure, price points, preferred locations and design.</p> <p>The Planning Proposal will facilitate the deliver of up to 110 dwellings which will need a need in the local community which is not suitable or viable for agricultural use. The Planning Proposal is not transformational. Rather it is modest in scale and not intended to facilitate 'regional or district-scale demand for residential growth'.</p> <p>The character and land use zoning of the site and locality is peri-urban which supports a range of land uses including large lot rural residential and local service uses.</p> <p>Due to the site location on the peri-urban fringe, access to broader jobs and services within the Central River City basin is readily accessible. It is</p>

Central District Plan	Consistency
	<p>considered that the site is able to deliver the right housing in the right location.</p> <p>The District Plan states that <i>Councils are in the best position to investigate and confirm which parts of their local government areas are suited to additional medium density opportunities</i>. In this respect, the Planning Proposal is consistent with Council's DUCCA prepared in 2019 which states that where land is environmentally capable of accommodating urban development, and where the Proponent is able to demonstrate that they can deliver the required local and regional infrastructure upgrades at no cost to Council – a Planning Proposal for rezoning can be considered.</p> <p>The delivery of housing under the Planning Proposal is assessed against the guidance contained within the District Plan states that as part of the investigations for the inclusion of new infill housing as outlined below:</p> <ul style="list-style-type: none"> <li>▪ <b>transitional areas between urban renewal precincts and existing neighbourhoods.</b></li> </ul> <p>The site is located between two existing neighbourhoods (Round Corner to the south and Dural village to the north) that each feature urban land uses. The scale of future development on the site, being for low density residential housing maintains a transition from the E1 Local Centre and R2 Low Density Residential zoned land to the south and the RU5 Village and R2 Low Density Residential zoned land to the north.</p> <ul style="list-style-type: none"> <li>▪ <b>residential land around local centres where links for walking and cycling help promote a healthy lifestyle.</b></li> </ul> <p>The site is located within walking distance of a number of local services and proposed infrastructure including new open space as outlined earlier, promoting a healthy lifestyle in proximity to existing local centres.</p> <ul style="list-style-type: none"> <li>▪ <b>areas with good proximity to regional transport where more intensive urban renewal is not suitable due to challenging topography or other characteristics.</b></li> </ul> <p>The site is readily accessible via public transport, with regular bus services available along Old Northern Road. These bus services provide connections south to Castle Hill and Cherrybrook Metro stations as well as Pennant Hills train station. Pennant Hills train station is located on the T9 Northern Line which provides connections to Sydney CBD. The 620X and 642X bus routes provide alternative connections for commuters travelling to Sydney CBD including Wynyard and Town Hall. These services provide excellent connections for residents to access essential services, jobs and education.</p> <p>The site has a gentle slope away from Old Northern Road which will provide topographic interest and an outlook to the mountains beyond in any future residential subdivision. The site does not have any physical characteristics that would make it unsuitable for the low-density</p>

Central District Plan	Consistency
	<p>residential development proposed. The proposed 110 dwellings will be supported by the local infrastructure.</p> <p>The Planning Proposal does not represent a precedent for the ongoing expansion of urban land uses within the MRA. Specifically, the geographic boundaries of the site are limited to the east by Old Northern Road, to the north by the Dural Neighbourhood Centre, and to the west by environmental features including steep topography and vegetation buffers to fire prone land.</p> <p>Any future planning proposal for the rezoning of RU6 Transition Land would be required to demonstrate site-specific and strategic merit and demonstrate in accordance with the Council endorsed recommendation that new residential zoned land would be delivered at no-cost to Government. The Planning Proposal does not create an undesirable precedent of rezoning RU6 Transition Zone land within the LGA to urban uses, as there are limited opportunities geographically and for proposals that can deliver equivalent required public benefits as the current proposal.</p> <p>The Planning Proposal will deliver new housing supply, choice, and affordability within a readily accessible area that accommodates jobs and services that can support various demographic groups. The Planning Proposal is consistent with the Planning Priority 5 of the District Plan.</p>
<p><b>Planning Priority C6 -</b>  <i>Creating and renewing great places and local centres, and respecting the District's heritage</i></p>	<p>Planning Priority C6 notes that <i>Greater Sydney's cities, centres and neighbourhoods each have a unique combination of local people, history, culture, arts, climate, built form and natural features creating places with distinctive identities and functions. Great places build on these characteristics to create a sense of place that reflects shared community values and culture.</i></p> <p>Planning Priority C6 also notes that <i>To create great places, the mechanisms for delivering public benefits need to be agreed early in the planning process.</i></p> <p>The Planning Proposal is consistent with these statements, as it has taken a place-based approach to planning, reviewing the actual local characteristics and infrastructure needs of a local place, and proposing mechanisms to secure needed public benefits of the community early, while respecting the desired low-density character of the area.</p> <p>The District 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. The District Plan identifies 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>However, the benefits of strengthening rural villages and ensuring that these areas grow with the rural communities should also be considered, noting that the Planning Proposal enables some limited residential</p>

Central District Plan	Consistency
	<p>development to occur surrounding Dural Public School, close to the Dural village. The Planning Proposal would promote the viability of Dural rural village and the nearby Round Corner local centre and contribute to the resolution of some regional infrastructure issues, through the reservation of part of a future bypass road connection from Annangrove Road to Old Northern Road.</p>
<p><b>Planning Priority C18 -</b> <i>Better managing rural areas</i></p>	<p>Priority C18 notes that the 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.</p> <p>As outlined in this Planning Proposal, there is a demand for low density housing specifically in Dural which is anticipated to grow generally at a lower-than-average rate than Greater Sydney given a lack of development opportunities. While it is acknowledged that rural towns and villages are not targeted to play a role in meeting regional or district scale demand for residential growth, they also should not be left to decline and/or sit idle. The District Plan states that <i>'limited growth of residential development could be considered where there are no adverse impacts on the amenity of the local area and where the development provides incentives to maintain and enhance the environmental, social and economic values of the Metropolitan Rural Area'</i>.</p> <p>Planning Priority C18 notes that planning for local centres within the MRA is required to be 'design-led place-based planning' to ensure the appropriate management of the local environmental, social and economic values of the land, maximise the productive use of land, and incentivise biodiversity protection for remnant vegetation.</p> <p>When considering the actual identity, character and function of the land surrounding the site, it is not appropriate to characterise the site as having a rural character nor as viable agricultural land. As evidenced through the DUCCA (prepared for the Council) and the technical assessments submitted with this Planning Proposal, the site is physically and environmentally capable of accommodating low density housing.</p> <p>The District Plan, prepared in 2017 is an outdated plan, pre-dates the DUCCA, and while it is under review (as required under the relevant planning framework) the current provisions are not reflective of recent local strategic studies and should be given lesser weight when considering the strategic merit of the Planning Proposal.</p> <p>The objectives and outcomes of the Planning Proposal are consistent with the broad objectives set out in the District Plan as the residential development that will be facilitated by the Planning Proposal is a small-scale development and can be viewed as a logical expansion of Dural Village.</p> <p>The Planning Proposal represents a logical land use outcome responding to the attributes of the site and its context and the fundamental merit of</p>

Central District Plan	Consistency
	<p>allowing urban development on the site has been consistently recognised. In particular:</p> <ul style="list-style-type: none"> <li>▪ The IPC recognised the benefits of a 2016 Planning Proposal and recommended that the site should be identified for urban development in the District Plan.</li> <li>▪ The Department issued a Gateway Determination for the prior Planning Proposal to proceed, and importantly established a framework to 'consider limited growth in the MRA where the proposal is otherwise consistent with the District Plan and will result in a good planning outcome and public benefit.'</li> <li>▪ Council staff and the Local Planning Panel both recommended that 2023 Planning Proposal should proceed to Gateway Determination.</li> </ul> <p>In the Gateway Determination Report prepared by the Department, it is stated that while the site is not located within an 'urban investigation area' in the District Plan, it is important to look at the policy hierarchy holistically. In this regard the Department considered limited growth in the MRA supportable, where the Planning Proposal is otherwise consistent with the District Plan and will result in a good planning outcome and public benefit.</p> <p>Specifically, the Department noted that a proposal for urban land within the MRA may be supportable if the local planning policy framework provides strategic merit for the Planning Proposal in the following documents:</p> <ul style="list-style-type: none"> <li>▪ <i>An endorsed Local Strategic Planning Statement;</i></li> <li>▪ <i>A Council-endorsed Local Housing Strategy, that identifies the need for housing outside of the Urban Area, and investigates infrastructure required to support that growth.</i></li> <li>▪ <i>A Council-endorsed Rural Lands Strategy that finds that the area is no longer required or not viable for agricultural uses, or does not have sufficient environmental, local, social or heritage significance to warrant its inclusion in the MRA.</i></li> </ul> <p>The Hills Shire Rural Strategy (2019) prepared by Council outlines eight criteria for rural village expansion. The Planning Proposal is consistent with these eight criteria as it:</p> <ul style="list-style-type: none"> <li>▪ Facilitates the timely provision of utilities, transport, open space and communication infrastructure across the site.</li> <li>▪ Includes access to a range of transport options that allow efficient travel between homes, jobs and services.</li> <li>▪ Facilitates the delivery of a range of housing types, including the provision of low-density housing which is desired by the local market.</li> </ul>



Central District Plan	Consistency
	<ul style="list-style-type: none"> <li>▪ Avoids land use conflicts by positioning new housing adjacent to existing urban uses in the RU6 Transition zone, on land that is currently already precluded from agricultural uses.</li> <li>▪ Adopts appropriate bushfire mitigation measures through the implementation of APZs.</li> <li>▪ Represents an efficient use of land.</li> <li>▪ Does not adversely impact biodiversity, air quality, heritage items, or waterways.</li> <li>▪ Provides housing with access to education and other essential services.</li> </ul> <p>Further, the Planning Proposal:</p> <ul style="list-style-type: none"> <li>▪ Is consistent with all other relevant priorities and actions of the District Plan,</li> <li>▪ Delivers targeted environmental, social and economic outcomes that are specific to the needs and characteristics of the local area,</li> <li>▪ Through a diversity of lot sizes, and a sensitive subdivision pattern, the Planning Proposal will have no adverse impacts on the amenity of the local area, and</li> <li>▪ The Planning Proposal will deliver a modest expansion of the Dural village with a maximum of 110 residential lots proposed to be delivered, representing limited growth.</li> </ul> <p>As recommended by the District Plan, the application of a local 'place-based planning focus' should prevail over the District Plan's nominated MRA boundary. The Planning Proposal proposes a scale of development that can deliver significant public benefits, in a low-density configuration that is commensurate with surrounding rural villages and landscapes and is not in conflict with a desired transition to and retention of the viable agricultural rural lands north of Dural.</p> <p>The Central City District's broader rural areas to the north and west of the site contribute to habitat and biodiversity, support productive agriculture, provide mineral and energy resources, and sustain local rural towns and villages. They are part of the larger MRA and are not located proximate to the site and will not be prejudiced by this Planning Proposal.</p> <p>The District Plan identifies that <i>Given the proximity to nearby townships, the southern parts of the Dural rural area that do not contain areas of ecological significance and are not capable of supporting viable agriculture activity should be investigated by the Council for opportunities to support limited residential development. Land with demonstrated ecological significance or subject to a conservation agreement is to be excluded from investigations.</i></p>

Central District Plan	Consistency
	<p>The District has two agricultural clusters: a multiuse cluster horticulture (vegetable and tree fruits) at Maroota; and part of the multi-use cluster horticulture (vegetable and tree fruits) at Middle Dural, Galston and Arcadia (within the North District). These productive clusters are a priority to be protected and enhanced for their environmental, social or economic values. The Planning Proposal will not threaten the viability of these areas.</p> <p>In identifying investigation areas, the District Plan identifies that it must be demonstrated that future rural residential or residential development will have no adverse impacts on the local area and that the outcomes will maintain and enhance the environmental, social and economic values of the broader MRA.</p> <p>The Planning Proposal is consistent with this priority as it represents small-scale development as a logical expansion of Dural Village that is not meeting regional or district-scale housing demand. The Planning Proposal is not transformational for the character of the broader Dural area and does not create a precedent for broader expansion of the urban boundary.</p>

### 5.1.2. Consistency with a relevant local Council strategy that has been endorsed by the Department

The Planning Proposal is consistent with the following endorsed local strategic plans:

- *Hills Future 2036: Local Strategic Planning Statement* (as detailed in **Table 6**)
- *Housing Strategy – The Hills Shire Council* (as detailed in **Table 7**)

**Table 6** Consistency with Hills Future 2036

Planning Priority	Consistency
P4: Retain and manage the Shire's rural productive capacity	<p>Planning Priority 4 aims to give effect to the District Plan Priority 18 – 'Better manage rural areas' and seeks to maintain the desired character of rural lands when considering future rural subdivision and dwellings. The site does not have rural productive capacity. Specifically, the Economic Impact Analysis supporting the Planning Proposal states the following regarding the agricultural capacity of the site:</p> <ul style="list-style-type: none"> <li>▪ The site is relatively small in scale for agriculture at 12.8 hectares.</li> <li>▪ The historic agricultural use of much of the site was as a peach orchard, which ceased operation in mid-2014.</li> <li>▪ As shown in <b>Figure 13</b>, the site is not located in close proximity to any existing productive land to the north and west. The Planning Proposal will not threaten the viability of these areas.</li> <li>▪ Topography and slope maps show that the site does not have a uniform slope (with some slopes over a 20% gradient), while also comprising strong crossfall ridgelines. When compared to adjacent land, the site has the most</li> </ul>

Planning Priority	Consistency
	<p>significant crossfalls and as such stands out as a site not suitable for agricultural production.</p> <ul style="list-style-type: none"> <li>When assessed against the NSW land classifications the site does not uniformly fit into Classes 1 to 3, which are the more suitable classes for agricultural uses. It instead mostly aligns with Class 4 which fits into the broader category of land not being capable of being regularly cultivated.</li> <li>The potential gross margins per hectare (GM/Ha) of the site (as per the NSW DPI) indicate the potential agriculture uses on the site (which are at the lower range of indicative gross margins) are not financially sustainable.</li> <li>The site is not suitable for agricultural purposes due to its location adjacent to an existing primary school and rural residential dwellings. Sensitive land uses and human receptors are present within a 1km radius of the site, such that they already restrict agricultural uses as per the interim guideline for 'Buffer Zones to Reduce Land Use Conflict with Agriculture' on the land zoned RU2 within Hornsby LGA and on the sites themselves.</li> <li>Other key barriers to agricultural pursuits include climate change (rising temperatures and lower rainfall) and the protected vegetation of surrounding landholdings preventing the possibility of the site expanding its size to achieve a larger land holding to facilitate a form of agriculture production.</li> </ul>
<p>P6: Plan for new housing to support Greater Sydney's growing population</p> <p>P7: Plan for new housing in the right locations</p> <p>P8: Plan for a diversity of housing</p>	<p>Planning Priority 6, 7 and 8 aim to give effect to the District Plan Priority 5 – 'Providing housing supply, choice and affordability, with access to jobs, services and public transport'. Consistency with the District Plan is addressed in <b>Table 5</b>.</p>
<p>P9: Renew and create great places</p>	<p>Planning Priority 9 aims to give effect to District Plan priority B6 – 'Creating and renewing great places and local centres and respecting the District's heritage.'</p> <p>The Planning Proposal respects and will not impact upon items of local heritage in proximity to the site. The Urban Design report includes a master planned subdivision layout that reflects the site opportunities, that integrates into the landscape and locality and will provide an economic boost to the Dural village and introduce new population base to support the adjacent Durl Public school which has capacity to accommodate increased student number. The masterplan has taken a site-specific approach to planning, reviewing the actual local characteristics and infrastructure needs of the place, and proposing mechanisms to secure needed public benefits of the community early, while respecting the desired low-density character of the area.</p>

Planning Priority	Consistency
P11: Plan for convenient, connected and accessible public transport	<p>Planning Priority 11 seeks to give effect to the District Plan priority C1 – ‘Planning for a city supported by infrastructure’ and respond to the Region Plan with growth and adapts to meet future needs.</p> <p>The site is readily accessible via public transport, with regular bus services available along Old Northern Road. These bus services provide connections south to Castle Hill and Cherrybrook Metro stations as well as Pennant Hills train station. Pennant Hills train station is located on the T9 Northern Line which provides connections to Sydney CBD. The 620X and 642X bus routes provide alternative connections for commuters travelling to Sydney CBD including Wynyard and Town Hall. These services provide excellent connections for residents to access essential services, jobs and education.</p>
P15: Provide new and upgraded passive and active open spaces	<p>The Planning Proposal delivers new public open space (4,000m<sup>2</sup>) fronting Derriwong Road directly adjacent to the Dural Public School which would be available to both the school as well as the broader community given its location immediately adjacent to the Dural neighbourhood centre. In addition, the public benefit offer includes a contribution towards the provision of active regional open space facilities.</p>
P16: Manage and protect the rural/ urban interface	<p>Planning Priority 16 aims to give effect to Plan Priority C18 of the District Plan – ‘Better managing rural areas.’</p> <p>As shown in <b>Figure 13</b>, the site is not located near any existing productive land. The District has two agricultural clusters: a multiuse cluster horticulture (vegetable and tree fruits) at Maroota; and part of the multi-use cluster horticulture (vegetable and tree fruits) at Middle Dural, Galston and Arcadia (within the North District). The Maroota productive cluster is located approximately 30km north of the site while the closest cluster (Middle Dural) is located approximately 7km north of the site. The Planning Proposal will not threaten the viability of these areas.</p> <p>The Planning Proposal is not transformational. Rather it is modest in scale and not intended to facilitate ‘regional or district-scale demand for residential growth’. When considering the character and function of the land surrounding the site, it is not appropriate to characterise the locality being of high ecological value nor one that supports active or intensive agricultural land uses.</p> <p>The Planning Proposal supports this priority of the District Plan, by proposing a scale of development that can deliver significant public benefits in a low-density configuration that does not conflict with a desired transition to and retention of the viable agricultural rural lands north of Dural.</p>

**Table 7** Consistency with Housing Strategy – The Hills Shire Council

Planning Priority	Consistency
<b>Plan for new housing to support Greater</b>	<p>This Planning Priority identifies the challenge of matching housing growth with infrastructure as current funding mechanisms do not allow upfront delivery of local facilities. The Planning Proposal provides a unique</p>

Planning Priority	Consistency
<b>Sydney's growing population</b>  <i>Relating to Planning Priority 6 in Hills Future 2036</i>	<p>opportunity for infrastructure improvements in proximity to the Dural Public School and existing village centres.</p> <p>The Planning Proposal will deliver small scale in fill housing adjacent to Dural Village which caters for local housing demand. The proposal addresses the need for infrastructure to support housing growth through a public benefit offer which includes delivering new public open space (4,000m<sup>2</sup>) fronting Derriwong Road directly adjacent to the Dural Public School which would be available to both the school as well as the broader community. The public benefit offer also proposes improvements to the local road network around the public school which will facilitate a future bypass of The Round Corner local centre and incorporates a new drop-off and pick-up zone for the public school. The low-density residential development will also be accompanied by the provision of or augmentation to water, sewerage and electricity services to meet the needs of the proposed 110 allotments and sewer services will be extended to the school site boundary enabling the school to connect at a future time.</p>
<b>Plan for new housing in the right locations</b>  <i>Relates to Planning Priority 7 in Hills Future 2036</i>	<p>The Planning Priority states that “<i>creating capacity for new housing in the right locations is about optimising existing infrastructure and maximising investment in new infrastructure.</i>” As outlined above, the Planning Proposal seeks to invest in infrastructure improvements to create capacity for new housing.</p> <p>The site's physical characteristics being peri-urban, make it suitable to support low density residential development that is able to maximise use of existing infrastructure and proposed infrastructure improvements as part of the Planning Proposal.</p>
<b>Plan for diversity of housing</b>  <i>Relates to Planning Priority 8 in Hills Future</i>	<p>The Planning Priority states that planning for housing needs to consider the type of dwellings required to respond to expected changes in household structures and demographics. The Planning Proposal 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 local demographic groups. The proposed 110 lot subdivision is supported by the market with the larger lots to fill a gap in the market for larger residential lots for local families.</p>
<b>Renew and create great places</b>  <i>Relates to Planning Priority 9 in Hills Future</i>	<p>The site is identified as RU6 Transition Land and is located beyond the Urban Growth Boundary. However, the residential nature which characterises the surrounding locality and the separation to agricultural land uses some 30 km to the north of the site supports a change from the existing RU6 Transition zoning.</p> <p>The proposed R2 Low Density Residential zoning and minimum lot sizes will provide a scale of development which is aligned with Rural Strategy 2019 and the existing surrounding context, including lot sizes within the RU5 Village zoned land to the immediate north east of the site.</p>
<b>Provide social infrastructure and retail</b>	<p>The site is uniquely positioned adjacent to the existing Dural Public School. The proposed residential lots, along with the infrastructure improvements that</p>



Planning Priority	Consistency
<b>services to meet resident' needs.</b>  <i>Relates to Planning Priority 10 in Hills Future</i>	directly benefit the school, will encourage and social interaction within the locality. Adequate retail services are available to meet the need of the incoming population.

### 5.1.3. Responding to a change in circumstances that has not been recognised by the existing strategic planning framework

Planning Circular PS 22-003 sets out three possible tests to demonstrate that a Planning Proposal has strategic merit and should proceed to Gateway. These tests require the Proponent to demonstrate consistency with one of the following criteria:

- *Give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or*
- *Demonstrate consistency with the relevant local strategic planning statement or strategy that has been endorsed by the Department or required as part of a regional or district plan or local strategic planning statement; or*
- *Respond to a change in circumstances that has not been recognised by the existing strategic planning framework.*

Whilst the Planning Proposal has demonstrated consistency with the first and second strategic merit test as demonstrated in **Section 5.1.1** and **Section 5.1.2** of this report, it is also consistent with the third strategic merit test, in responding to a change in circumstances that has not been recognised by the existing strategic planning framework.

The proposal has previously been considered under the policy settings for the MRA within the District Plan. The District Plan is now significantly outdated and has not been updated in accordance with the legislated review timing. Importantly, the Minister has acknowledged that the current strategic planning framework for Sydney has failed to adequately to meet the housing supply needs of Sydney:

***it's clear to me that past strategic plans didn't anticipate or account for the scale of housing crisis we now face.'***

*(Minister for Planning and Public Spaces, letter to The Hills Shire Council, 5 August 2023)*

The Minister has explicitly directed councils and planning panels to consider the housing crisis and prioritise housing supply (refer **Attachment B**):

***'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.'***

An earlier iteration of the Proposal was considered by the IPC through a Gateway Review. While the IPC acknowledged strategic inconsistency with the MRA at the time, the IPC clearly acknowledged the overarching merit of the proposal:

***The Commission finds that the Proposal has considerable site specific merit....The Commission recommends that the Site...be seriously considered for urban development and inclusion in the Central City District Plan when it is reviewed and updated in 2023.***

Further, the Department recognised the inherent merit of the proposal in issuing a Gateway Determination for the prior planning proposal to proceed. As part of its determination, the Department acknowledged that it was appropriate to:

***'consider limited growth in the Metropolitan Rural Area where the proposal is otherwise consistent with the District Plan and will result in a good planning outcome and public benefit.'***

The Proponent has been waiting four years for the IPC recommendation to be implemented to provide certainty for a land use outcome on the site. Given the Region Plan and District Plan have not been updated as required, and there is ongoing uncertainty about any timeframe for updates, it is incumbent on the Regional Planning Panel to be guided by the Minister's clear statement of priorities for housing supply:

***'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'***

***'The Strategic Merit Test...exists for such times and provides a framework for responding to a change in circumstances'***

It is acknowledged that essentially an identical proposal was considered by a Regional Planning Panel in July 2023 and this Panel did not support the proposal proceeding to Gateway Determination. However, the Panel identified the varied and changing land use character of the area and concluded:

*'The Panel understands that the Greater Sydney Region Plan and the Central City District Plan are currently undergoing review by the Greater Cities Commission. The Panel recommends that as part of this review process the transitional nature of the area should be acknowledged and managed through comprehensive area-wide strategic planning that takes into account infrastructure requirements, including transport infrastructure, for the district.'*

This decision was taken under the previous policy framework for the MRA and prior to the Minister's communication to councils and planning panels in August 2023. The outdated District Plan policy setting must now be considered in light of the Minister's clear request to prioritise housing supply.

While the idea of broader, area-wide strategic planning may have some logic, the Proponent argues that such a view can no longer be justified to defer a sensible outcome for this site in light of the Minister's clear priorities for housing supply and given that the fundamental merit of the proposal has previously been recognised by the IPC and the Department, and consistently supported by the Council staff.

## **Demographic and Land Use Trends**

Unlike most areas of Sydney and The Hills, the population of Dural has not grown since 2001. As identified in the Economic Impact Assessment submitted as part of the Planning Proposal (refer to **Attachment A**), Dural is expected to grow from 8,077 residents to 8,429 residents, equating to an increase of 352 residents (or an average of 0.3% p.a.) from 2021 to 2036. This slow forecast population growth is reflective of there being limited residential development opportunities in Dural due to limited zoned land that is for the most part fully developed. The proposed development of the site is an opportunity to strengthen and deliver local population growth across Dural.

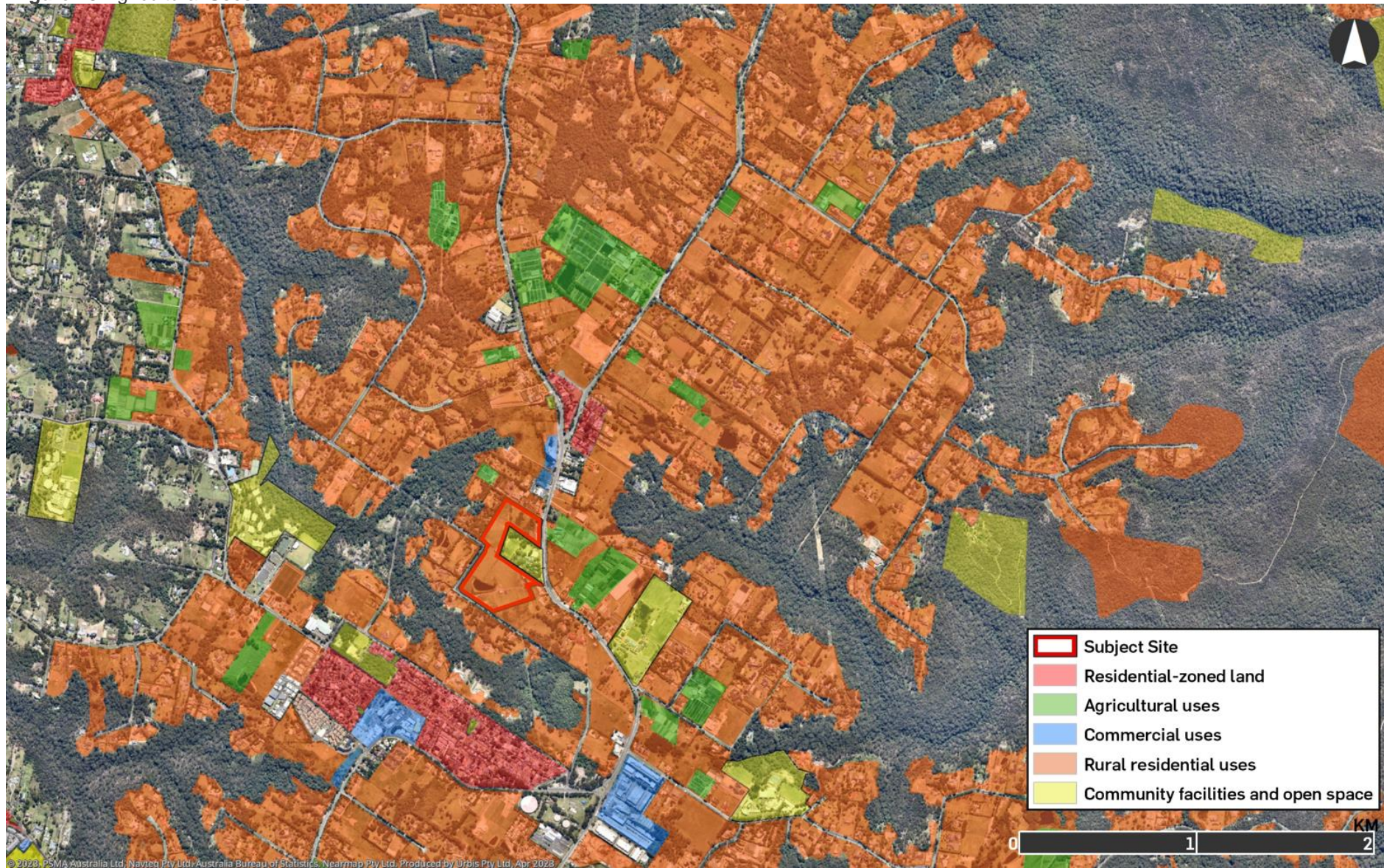
The average household size in the catchment is projected to fall from 3.1 in 2021 to 3.0 in 2036 due to the increase of couple only and lone person households. These changes mean that more dwellings are required per additional resident in the catchment, and as such the change in demographics is expected to create an increased need for additional dwellings to cater for the expected population growth across the catchment.

The dominance of large lot rural residential blocks serves as a barrier to young families or couples looking to enter the market and older people looking to downsize. Notwithstanding the limited availability of stock and homogeneity, Dural is a high demand suburb with housing market platforms indicating a 33 per cent higher demand than other properties in the Sydney Metropolitan Region.

As demonstrated in **Figure 13**, the site is not located near any productive agricultural land and the Planning Proposal will not threaten the viability of these areas. The use of land for agricultural purposes is limited in the region with most blocks primarily used for rural residential living. Limited rural pursuits including hobby farms, nurseries and orchards occur in sporadically in some restricted locations however the region is generally characterised as rural-residential with limited agricultural activity occurring.



**Figure 13 Agricultural Uses**



Source: Urbis 2024



## Housing Demand

Local demographics and the housing market have changed considerably since the preparation of the current planning controls. Council's residential strategy 'Residential Direction' was adopted by Council on 10 June 2008, which informed the preparation of the former *Hills Shire Local Environmental Plan 2012*. The Hill's Shire LHS replaced this document and was scheduled for review in 2023.

A Residential Market Assessment was prepared as part of the Economic Impact Assessment submitted as part of the Planning Proposal (refer to **Attachment A**) to identify current housing trends. The assessment found:

- Between 2022 and 2036, Dural is shown to experience very limited population growth, which is mostly below the Greater Sydney average. From 2021-2036, Dural is expected to grow from 8,077 residents to 8,429 residents, equating to an increase of 352 residents (or an average of 0.3% p.a.).
- This slow forecast population growth is reflective of there being limited residential development opportunities in Dural due to inadequate zoning. The proposed development at the subject site is an opportunity to strengthen population growth across Dural.
- The projected population growth across the catchment from around 183,900 residents 2021 to around 267,600 residents by 2036 reflects an average annual growth rate of 2.5% per annum. This growth is well above the expected growth in Dural and the Greater Sydney average.
- Population growth in the catchment will largely be driven by several greenfield release areas and station precincts (around the new metro stations) which are outlined in The Hills Shire Council Housing Strategy.
- Through an increase in children from 28,600 in 2021 to 50,800 in 2036, there is expected to be strong demand from young families, a key demand driver of separate houses in new estates.

The Planning Proposal will rezone land and satisfy the local housing demand in a constrained local market that is dominated by a homogenous rural residential typology.

## Suitability and Demand for Agricultural Land

The site is zoned RU6 Transition under THLEP 2019. While land to the east of Old Northern Road, in the Hornsby LGA, is a mix of RU5 Rural Village; R2 Low Density Residential; B2 Local Centre and RU2 Rural Landscape.

The intent of the RU6 Transition zone under the THLEP 2019 is to provide a buffer between agricultural practices and residential land uses. Dominant uses within the locality are rural residential and the nearest intensive agricultural uses are located to the north beyond Glenorie and Maroota approximately 30 kilometres away.

Urbis has undertaken an assessment of agricultural viability for the site, as part of the Economic Impact Assessment submitted as part of the Planning Proposal (refer to **Attachment A**), to determine the potential impact of the use of the land for residential purposes. Consideration has also been given to the potential for residential development to affect any nearby agricultural uses.

The outcome of the above reviews suggest that the site could only be suitable low yield agricultural uses due to landform and proximity to established urban land uses would contribute to amenity impacts. As such, based on the current zoning the site would continue to be used primarily for rural residential purposes or remain vacant.

The "agricultural" uses identified on **Figure 13** close to the site include commercial nurseries, a Christmas tree farm and a flower farm. These uses do not present any potential significant amenity or health risks to future residents on the site. There are no dairy or poultry sheds located within proximity to the site and the buffers required for these land uses mean that they are unlikely to be established due to the proximity of existing residential properties and the urban fringe.

The future use of the site for rural purposes is considered limited due to the following key considerations:

- The site is bookended by urban development. The "infill" of this area reflects a logical extension of existing urban areas on land that has otherwise been deemed unsuitable for meaningful agricultural purpose.

- The topography of the site limits the nature of agricultural uses which could be applied to the site. This environmental factor may reduce any potential income generated, putting into question the viability of operating the property as an agricultural enterprise.
- The proximity of the site to adjacent sensitive land uses such as the Dural Public School impacts on the useable areas available within the site for agricultural purposes.
- There is demand for additional housing in the Dural area and there is an identified market gap for “downsizers” and young families who do not want to leave the Dural area. The Planning Proposal will facilitate a modest level of residential development to meet local demand and increase local housing choice.
- During the preparation of the original Planning Proposal, Council indicated that a new bypass road running east-west through the site would reduce existing traffic congestion through Round Corner. Infrastructure upgrades such as this would not only alleviate existing traffic issues but would service any future residential activities on the site. That concept forms part of the Planning Proposal and master planned layout the design of which has been endorsed by Schools Infrastructure.

As a consequence of established urban land uses to the north, south and east of the site there is limited viability for rural uses within the area and the site is unlikely to constrain or threaten any operating intensive agricultural uses due to distance and separation.

## 5.2. SITE-SPECIFIC MERIT

As well as demonstrating consistency with established strategic planning objectives and directions under the strategic merit test, a Proponent seeking a Rezoning Review must also establish that the Planning Proposal demonstrates site specific merit in relation to the following matters:

- *the natural environment on the site to which the proposal relates and other affected land (including known significant environmental areas, resources or hazards).*
- *existing uses, approved uses, and likely future uses of land in the vicinity of the land to which the proposal relates.*
- *services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.*

Each of the identified site-specific merit tests are addressed in the following sections.

### 5.2.1. The natural environment on the site to which the proposal relates and other affected land (including known significant environmental areas, resources, hazards).

The Planning Proposal provides comprehensive consideration to the site’s environmental values and constraints. Site investigations have been undertaken to inform the Planning Proposal with regards to the following key considerations:

- Hydrology and water quality;
- Site Contamination;
- Bushfire;
- Ecology; and
- Bushfire.

#### Hydrology and Water Quality

The Planning Proposal is unlikely to have adverse effects on local or catchment level water quality. Future redevelopment of the site would involve the integration of WSUD elements in accordance with the local development controls and connection of the land to reticulated sewer and stormwater systems.

The combination of these measures would feasibly improve water quality in relation to the removing sources of ground water contaminants (such as on-site effluent disposal systems) and reduce sediment and nutrient loads of run off reaching O’Hara’s Creek.

Detailed design of water quality measures would be undertaken as part of a development application following gazettal of the Planning Proposal.

## Site Contamination

JBS&G Australia Pty Ltd has undertaken Detailed Site Investigations (**DSI**) for all the individual title lots that make up the site of the subject of this Planning Proposal.

JBS&G recommends that a Hazardous Building Materials Survey (**HBMS**) be completed for all buildings at the site such that appropriate controls can be implemented to prevent contamination during future demolition. A Remedial Action Plan (**RAP**) should also be developed in accordance with the relevant regulatory requirements to address the identified impacts under the proposed land use. It is further recommended that an Asbestos Management Plan (**AMP**) is developed for the site to manage potential asbestos risks consistent with WHS Regulations until such time as the risks are removed.

The DSI concludes that there is an absence of gross or widespread contamination and therefore, the requirements of the DUAP/EPA (1998) for this type of rezoning are considered to have been satisfied and can proceed, provided that measures are in place to ensure that the potential for contamination and the suitability of the land for any proposed use are assessed once detailed proposals are made.

## Ecology

Kingfisher Australia undertook a Flora and Fauna Assessment (refer to **Attachment A**) of the site and broader locality, including an on-ground survey that took place on 1 August 2022, to determine the likelihood, presence and absence of critical habitat, threatened species or populations or ecological communities or their habitats.

The ecological assessment was based on preliminary desktop searches and follow-up site surveys that confirmed the presence of the following surrounding the site:

- Two plant community types (**PCT**) were identified, including:
  - Northern Foothills Blackbutt Grassy Forest, listed as an Endangered Ecological Community (**EEC**) under the Biodiversity Conservation Act 2016
  - Sydney Turpentine Ironbark Forest listed as an Endangered Ecological Community (**EEC**) under the *Biodiversity Conservation Act 2016* and critically endangered under the *Environmental Protection and Biodiversity Conservation Act 1999*.
- Due to the lack of important habitat features (i.e. hollow-bearing trees and intact native vegetation) the subject site is unlikely to support significant habitat for threatened fauna species.
- No threatened flora species were recorded within the subject site during the field surveys. Furthermore, threatened flora are considered unlikely to occur within the subject site, due to its predominately disturbed nature and thereby lack of potential habitat.
- The potential for the following fauna species to be present:
  - Highly mobile micro bats and bird species; and
  - The potential presence within the study area of a threatened invertebrate *Pommerhelix duralensis* (Dural land snail)

The distribution of the two plant community types (**PCTs**), combined with broader vegetation mapping for the sites and the broader locality is shown in the assessment.

It is evident from the vegetation map that the surveyed areas of ecological sensitivity are small patches that are highly fragmented and located within large and expansive areas of highly modified and altered landscapes dominated by exotic vegetation species. Kingfisher Australia has concluded that both **EECs** surveyed on site are in "poor condition".

An attempt will be made for trees and vegetation along Derriwong Road to be retained. This can be worked with at the time of development application submission.

Removal will be restricted to include only the trees which are affected by the development footprint. Trees are typical of the community PCT 3250 and PCT 3262 and thus part of the Endangered Community. The potential impact on these trees would be assessed under a biodiversity assessment report at development



application stage. That report may either follow the lines of a scattered tree assessment or the assessment of the patch of trees and land under the standard biodiversity assessment method.

Kingfisher recommend that offset planting occur on site post development and species should be selected from the local PCTs. A vegetation management plan would accompany the development application.

Based on the assessment the potential for the rezoning and future redevelopment to adversely affect fauna species is considered low, owing to the limited habitat value of the site.

The survey of the site identified extensive and dominant presence of exotic flora species combined with a lack of structural complexity within the vegetation surveyed (i.e., no canopy, mid and ground cover storey) reducing the availability of faunal habitat in the form of hollow bearing trees, leaf litter and woody debris.

Fauna identified as present or likely to be present by Kingfisher is unlikely to be adversely affected by the Planning Proposal, on the basis of the following:

- The site does not contain forest habitat to support the presence of the *Meridolum Cornerovirens* (Cumberland Plain Land Snail) and *Pommerhelix duralensis* (Dural land snail) and it is therefore considered unlikely to be present within the site.
- Roosting or foraging by highly mobile micro bats and birds is potentially limited by the significantly low number of trees present on the site. Particularly when viewed in the context of the large expanse of continuous trees and habitat to the south and southwest of the site along O'Hara Creek.

It is reasonable to conclude that where the potential for impact has been identified that there are suitable means and options for managing and potentially overcoming the effects of future redevelopment.

## Bushfire

ELA has undertaken a Bushfire Strategic Study (refer to **Attachment A**) identifying all potential bushfire constraints to the future urban development within the study area, classification of hazard and planning requirements to ensure appropriate management and future asset protection.

In accordance with the NSW Policy of Planning for Bushfire Protection 2019 (**BPB**), the predominant vegetation class and effective slope of the site as key indicators of bushfire threat have been determined to establish potential bushfire affectation and risk, expressed as "Bushfire Attack Levels" (**BAL**).

The land, subject of this proposal, has been identified to having a BAL of 29. Within this zone primary focus is given to the protection of buildings from ember attack and burning debris ignited by wind borne embers and radiant heat. Impact may be managed through the establishment of Asset Protection Zones (**APZs**) providing separation between a potential source of fire threat and development.

The findings of this study in relation to the strategic planning principles of PBP indicate that rezoning within the precinct:

- Does not trigger the "inappropriate development" exclusion requirements of PBP.
- That the Acceptable Solution bushfire protection measures within PBP can be met by the future development contemplated and that there is opportunity for protection measures beyond the minimum compliance under PBP.
- Compliance with PBP is not reliant on the intervention/response by emergency services or hazard management on adjoining land.
- The rezoning proposal will not adversely impact the bushfire safety of occupants of nearby existing development and wherever possible, will actually lower the risk.

It is concluded that the Planning Proposal is consistent with Ministerial Direction 4.3 (Planning for Bushfire Protection) issued under section 9.1(2) of the EP&A Act and the requirements of PBP.

## Aboriginal Archaeology

An Aboriginal Archaeology Assessment was undertaken by Kelleher Nightingale Consulting Pty Ltd (refer to **Attachment A**). A desktop search of AHIMS records and other databases, a review of previous archaeological investigations and an archaeological field survey was undertaken.

No Aboriginal objects (artefacts) or Aboriginal archaeological sites were identified within the study area. No significant Aboriginal cultural features were identified within the study area on the basis of background information review and heritage register searches.

An assessment of archaeological potential within the study area considered factors including landform context, slope gradient, erosion, solar aspect, distance to water and integrity of the ground surface / assessment of disturbance. The study area is considered to display low archaeological potential due to unsuitable landform (steep slopes) and a long history of land use disturbance. The Assessment concludes that the proposed development of the study area would not impact on any known Aboriginal archaeological heritage objects or sites, potential archaeological deposits or areas of Aboriginal archaeological sensitivity.

## Non-Aboriginal Heritage

The site is located within proximity to environmental heritage items listed under THLEP 2019 and the *Hornsby Local Environmental Plan 2013 (HLEP 2013)* as indicated in the heritage map extract at **Figure 16**.

The proposal will be in keeping with the existing development pattern in the district, whilst not obscuring the historic and rural character of the heritage properties in the vicinity of the site.

A Heritage Impact Statement (**HIS**) prepared by Urbis (refer to **Attachment A**) has considered the relationship of future built form of the land and relevant heritage items. The HIS addresses all heritage items within proximity to the site. These are summarised below

The Hills Shire	Hornsby Council
<b>Item A12 (Archaeological item):</b> Old Northern Road, between Dural and Wiseman's Ferry.	<b>Item 349:</b> Dwellings located at 873 Old Northern Road, Dural

The site also lies within the vicinity of Archaeological item A38, 'Old Northern Road'. However, it is assessed that the proposal would not impact the significance of A38 nor involve any direct works to this item.

The proposed development has been assessed to have no heritage impact on the pertinent heritage significance within the vicinity of the site. The assessment concludes the following:

- The proposed residential development in the vicinity of the listed item will not obscure the historic and rural character the heritage items. Furthermore, the proposed zoning for the area would be in keeping with the existing development pattern in the district.
- The allotments comprising the site were formed as a part of a series of subdivisions from the mid-late 20th Century. The current allotments do not reflect any heritage significant subdivision patterns. Further subdivision of these allotments would not alter any identified historic subdivision pattern.
- The structures and landscaping elements are remnant features from the mid-late 20th Century. A preliminary assessment of these elements indicates they are not of heritage significance.
- No physical works are proposed to any item of heritage significance. As such, there is no identified risk of harm to Old Northern Road, which is identified in part as an archaeological item under THLEP 2019.

### 5.2.2. The existing uses, approved uses, and likely future uses of land in the vicinity of the site

The Dural locality is undergoing predominantly used for residential purposes due to the unsuitability and unviability of the site for agricultural purposes that would be permitted within the zone. The prevailing residential use of the site and the ongoing transformation of the area by recent development approvals and rezonings are contributing to the urbanisation of the broader area.

The future use of the site for rural purposes is considered limited due to the following key considerations:

- The site is bookended by urban development. The "infill" of this area reflects a logical extension of existing urban areas on land that has otherwise been deemed unsuitable for meaningful agricultural purpose.

- As discussed within the Economic Impact Assessment submitted with the Planning Proposal (refer to **Attachment A**), the topography of the site limits the nature of agricultural uses which could be applied to the site. This environmental factor may reduce any potential income generated, putting into question the viability of operating the property as an agricultural enterprise.
- The proximity of the site from existing nearby residential uses impacts on the useable areas of the subject land for intensive agricultural purposes.
- There is demand for additional housing in the Dural Area and there is an identified market gap for “downsizers” and young families who do not want to leave the Dural area. The Planning Proposal will facilitate development which increases local housing choice.
- During the preparation of the Planning Proposal, Council indicated that a new bypass road running east-west through the site would reduce existing traffic congestion through Round Corner. Infrastructure upgrades such as this would not only alleviate existing traffic issues but would service any future residential activities on the site.

The increasing urbanisation of the area driven by demand, recent development approvals and proposed significant amendments to the zoning of adjacent land indicates that the likely future use of land immediately adjacent and surrounding the site is for urban purposes.

As a consequence of established urban land uses to the north, south and east of the site there is limited viability for rural uses within the area and the site is unlikely to constrain or threaten any operating intensive agricultural uses due to distance and separation.

The development of the indicative masterplan and broader zoning options were informed and are supported by a range of technical studies and an urban design study. The outcome of which supports the logical expansion of Dural rural village, demonstrating compatibility of future land use zones (on land not included in this request) and a suitable urban layout and form that accommodates future road connections.

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

The Planning Proposal demonstrates that there are sufficient services and infrastructure to meet the demands arising from the residential use of the site. The following key services and infrastructure are discussed below:

- Public transport;
- Pedestrian and cycle infrastructure;
- Road network and vehicle movement;
- Social infrastructure; and
- Services and utilities.

#### **Public Transport**

The site is accessible by regular bus services along Old Northern Road. South bound services connect to Pennant Hills and Castel Hill. North bound services connect to Glenorie. The site is immediately adjacent to the north bound service bus stop. The south bound stops are located on the opposite side of Old Northern Road accessible via the pedestrian over pass or traffic-controlled intersection.

The majority of future residential lots will be within the 400m catchment of current bus routes operating on Old Northern Road and New Line Road. Therefore, most of the residents will be within a 400m walking distance of an existing bus route linking to surrounding transport hubs.

It is also anticipated that the new bus connections to the NWRL stations will be established. As demonstrated within the Planning Proposal, the Local and Regional Road Infrastructure is capable of being upgraded to meet the increased demands of additional traffic flows.

#### **Pedestrian and Cycle Infrastructure**

The road network has been designed to integrate with existing and planned pedestrian and cycle infrastructure. Road reserves have nominated widths capable of safely accommodating pedestrian and cycle movements.

Formal pedestrian footpaths are currently provided along the western side of Old Northern Road, connecting the site to Round Corner in the south and the Memorial Hall and Dural Public School to the north. As detailed within the Traffic and Transport Assessment undertaken by SCT Consultants, internal pedestrian paths will be connected to existing footpaths allowing pedestrians to reach existing bus stops in the area. It is envisioned that the internal road network will allow for cyclists to share the roadways with general traffic.

## **Road Network and Vehicle Movement**

The primary point of access for vehicle movement is via Old Northern Road. Old Northern Road has a major role in the local context of the site, with its role as a high frequency bus corridor and provide direct connection towards major roads and motorway including New Line Road, Windsor Road and M2 Motorway further South.

Dural Public School is situated at Old Northern Road and currently restricted to one point of access and servicing. This results in traffic issues on school peak hours and special event days.

Derriwong Road is a local road that connects the site to the south-west of Old Northern Road, servicing primarily large lot residential west of the site and presents the potential to be a key access route to the site in order to divert traffic from Old Northern Road.

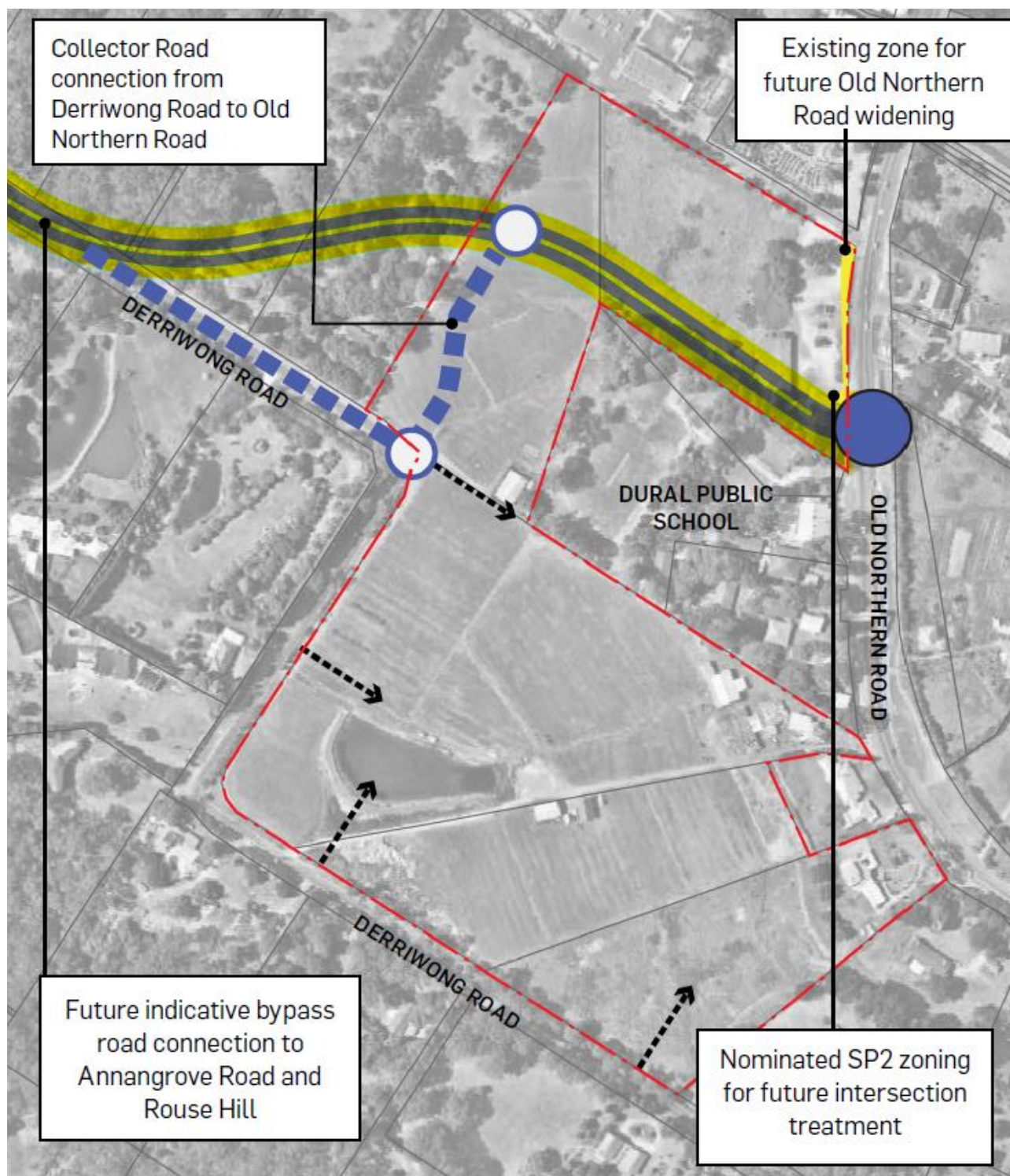
A design lead approach relating to site access and internal access has informed the preparation of the Planning Proposal. The road network has been designed to consider local traffic issues to minimise network congestion and improve local and regional permeability. As such, the Planning Proposal demonstrates that the site can accommodate new road infrastructure which will benefit the broader region.

## **Future Bypass Road Alignment**

Council has identified that a minimum 32m wide road reservation is required to accommodate the future bypass road providing connection between Old Northern Road and Annangrove Road to the West through Derriwong Road. This is proposed to run through Derriwong Road and the site along the northern boundary of Dural Public School, shown in **Figure 14**.

A new signalised intersection is proposed at Old Northern Road and future bypass road. Access from Old Northern Road will be provided from the new intersection subject to TfNSW requirements to the northeast corner of Dural Public School.

**Figure 14** Bypass Road Alignment



Source: Urbis 2022

## Infrastructure and Utilities

Preliminary investigations have been undertaken to determine available service connection points and identify potential service routes (where expended networks are required). These investigations have identified several options for the delivery of services to the land which are currently being discussed with service providers to confirm feasibility and support. The investigations identified the following:

- Water services are available within the area to service the site.

- The land is not presently serviced by sewer mains, existing services south of the site will need to be extended (and potentially) upgraded to support the new residential development.
- Electricity is available to the site; the utility can be upgraded to meet anticipate additional loads.
- Gas is currently available within the area, by Jemena.
- Telecommunications cables are currently available.

The Planning Proposal will therefore require the expansion, augmentation and upgrade to existing public infrastructure, including electricity, telecommunications, sewer and water. Group Development Services have concluded that all the land the subject of the Planning Proposal can be adequately serviced by the necessary infrastructure and utilities.

## **Social Infrastructure**

The Planning Proposal can facilitate the delivery of future open space, including:

- 4,000m<sup>2</sup> neighbourhood park to be dedicated to the Council; and
- Monetary contribution towards active open space as outlined in the Public Benefit Offer (refer to **Attachment A**).

The delivery of expanded recreational opportunities to the local and wider community is considered to make a positive social impact.



## 6. CONCLUSION

This Rezone Review request has been prepared in relation to the Proponent-initiated Planning Proposal pertaining to land at 614 Old Northern Road, 618 Old Northern Road, 626 Old Northern Road, 21 Derriwong Road, and 27 Derriwong Road, Dural.

The Planning Proposal seeks an amendment to THLEP 2019 to establish planning controls that would enable low-density residential development at the site.

Specifically, the intended outcome of the Planning Proposal is to amend the THLEP 2019 as follows:

- Change the zoning of the land from RU6 Transition to part R2 Low Density Residential and part SP2 Infrastructure (Local Road).
- Reduce the minimum lot size requirement from two hectares to between 600m<sup>2</sup> and 2,000m<sup>2</sup>.
- Reduce the maximum height of building control from 10 metres to nine metres.

The proposal central to the Planning Proposal has previously been considered under the policy settings for the MRA within the District Plan. The District Plan is now outdated and has not been reviewed or updated in accordance with the legislated review timing. Importantly, the Minister has acknowledged that the current strategic planning framework for Sydney has failed to adequately meet the housing supply needs of Sydney (refer **Attachment B**):

***it's clear to me that past strategic plans didn't anticipate or account for the scale of housing crisis we now face.'***

*(Minister for Planning and Public Spaces, letter to The Hills Shire Council, 5 August 2023)*

The Minister has explicitly directed councils and planning panels to consider the housing crisis and prioritise housing supply:

***'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.'***

An earlier iteration of the Proposal was considered by the IPC through a Gateway Review. While the IPC acknowledged strategic inconsistency with the MRA at the time, the IPC clearly acknowledged the overarching merit of the proposal:

***The Commission finds that the Proposal has considerable site specific merit....The Commission recommends that the Site...be seriously considered for urban development and inclusion in the Central City District Plan when it is reviewed and updated in 2023.***

Further, the Department recognised the inherent merit of the proposal in issuing a Gateway Determination for the prior planning proposal to proceed. As part of the determination, the Department acknowledged that it was appropriate to:

***'consider limited growth in the Metropolitan Rural Area where the proposal is otherwise consistent with the District Plan and will result in a good planning outcome and public benefit.'***

The Proponent has been waiting four years for the IPC recommendation to be implemented to provide certainty for a land use outcome on the site. Given the Region Plan and District Plan have not been updated and there is ongoing uncertainty about the timeframes for reviews and updates, the determination of this Rezone Review request should consider and be guided by the Minister's clear statement of priorities for housing supply:

***'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'***

***'The Strategic Merit Test...exists for such times and provides a framework for responding to a change in circumstances'***

It is acknowledged that an essentially identical proposal was considered by the Regional Planning Panel in July 2023 and the Panel did not support that planning proposal proceeding to Gateway Determination. However, the Panel acknowledged the varied and changing land use character of the area and concluded:

*'The Panel understands that the Greater Sydney Region Plan and the Central City District Plan are currently undergoing review by the Greater Cities Commission. The Panel recommends that as part of this review process the transitional nature of the area should be acknowledged and managed through comprehensive area-wide strategic planning that takes into account infrastructure requirements, including transport infrastructure, for the district.'*

This decision was taken under the previous policy framework for the MRA and prior to the Minister's communication to councils and planning panels in August 2023. The outdated District Plan policy setting must now be considered in light of the Minister's clear request to prioritise housing supply.

While the idea of broader, area-wide strategic planning may have some logic, the Proponent argues that this should not drive a conclusion that the Planning Proposal be deferred until such study is carried out in light of the Minister's clear priorities for housing supply and given that the fundamental merit of the proposal has previously been recognised by the IPC and the Department, and consistently supported by the Council staff.

**In light of the IPC recommendation and clear communication of the Minister's priorities, there is a clear justification to determine that the Proposal has strategic and site specific merit, and should proceed to Gateway Determination.**

This Planning Proposal does not seek to pre-empt any broader strategic planning review of the metropolitan area. The proposal relates to a unique site due to its proximity to both Dural Village and Dural Public School, and its ability to deliver significant public benefits, as such these outcomes will not create a precedent.

This Rezone Review request and the submitted Planning Proposal have demonstrated both strategic and site-specific merit of the proposal as outlined in "A Guide to Preparing Local Environmental Plans" and warrants the Planning Proposal being referred for Gateway Determination and then proceeding to public exhibition.

# DISCLAIMER

This report is dated 2 September 2024 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Ltd (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of Legacy Property (**Instructing Party**) for the purpose of Rezoning Review (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

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