

**ANGEL PLACE  
LEVEL 8, 123 PITT STREET  
SYDNEY NSW 2000**

URBIS.COM.AU  
Urbis Pty Ltd  
ABN 50 105 256 228

29 May 2020

Ms Catherine Van Laeren  
Executive Director, Central River City and Western Parkland City  
Department of Planning, Industry, and Environment  
12 Darcy St,  
Parramatta NSW 2150

Dear Catherine,

## **GATEWAY REVIEW | PLANNING PROPOSAL | DERRIWONG ROAD & OLD NORTHERN ROAD, DURAL (PP\_2019\_THILL\_005\_00)**

### **EXECUTIVE SUMMARY**

This request for a Gateway review has been prepared by Urbis Pty Ltd on behalf of Dural Land Holdings Pty Ltd, the proponent of PP\_2019\_THILL\_005\_00 (**the Planning Proposal**). The Planning Proposal relates to multiple allotments, generally comprised of a 'northern site' and a 'southern site' at Derriwong Road and Old Northern Road, Dural.

The Planning Proposal was submitted to The Hills Shire Council (**the Council**) on 19 May 2016. On 9 July 2019 the Council resolved to submit the Planning Proposal to the Department of Planning, Industry and Environment (**DPIE**) for Gateway assessment. On 19 April 2020 the delegate of the Minister for Planning and Public Spaces (**the Minister**) issued a Gateway determination that the Planning Proposal should not proceed.

This request for a Gateway review has been initiated by the proponent of the Planning Proposal, though is supported by the Council as evidenced in the letter prepared by the Council staff at **Attachment A**.

The Gateway determination and Gateway assessment report has noted the local benefits offered by the Planning Proposal, but has ultimately recommended the Planning Proposal not proceed on the grounds that the Planning Proposal does not give effect to the Central City District Plan, unresolved inconsistencies with the Section 9.1 Directions, the lack of government plans or funding to increase capacity on the surrounding road network, and potential land use conflict.

This Gateway review request responds to the five reasons provided by the DPIE to not support the Planning Proposal. The justification for the Gateway review against these five matters is summarised as follows.

1. The Planning Proposal gives effect to the Central City District Plan as:
  - *Priority 1 Planning for a City Supported by Infrastructure:* The Planning Proposal delivers population growth aligned with new infrastructure investment not only to support the proposed development, but to equitably enhance the amenity, services, and infrastructure of the existing community. The proposal to permit low density residential dwellings within an area of high accessibility to existing cultural, health, transport, and social infrastructure is entirely appropriate and supports the priority to maximise the use of existing infrastructure.
  - *Priority 5 Providing housing supply, choice and affordability, with access to jobs and services:* The proposal for new low-density residential dwellings on the sites is supported by

infrastructure. 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 demographic groups. The low-density scale of development is appropriate in a peri-urban locality that is transitioning from adjacent higher density zones to rural transition areas north of the Dural neighbourhood centre. The scale of development proposed also provides an affordable housing choice in the local housing market which features a plurality of large lot residential and new apartment development.

- *Priority 18 Better managing rural areas:* The Planning Proposal offers a place-based planning solution by proposing a scale of development that can deliver significant public benefits, though in a density that is commensurate with surrounding local areas and is not in conflict with a desired transition to rural lands north of Dural. The sites are located within a logical boundary bookended by urban uses and will not adversely impact on economically viable agricultural lands in the area, which are currently impacted by buffer zones to existing sensitive human receptors.
2. The Planning Proposal does not contain unresolved inconsistencies with the Section 9.1 Directions that are not otherwise capable of being determined through the finalisation of the Planning Proposal process. Where departing from the Section 9.1 Directions, the Planning Proposal is justifiable in the circumstances of the case and in accordance with the objectives and actions contained within the Central City District Plan.
  3. The Planning Proposal does not rely upon plans or funding to increase capacity on the surrounding road network to facilitate development on the sites. This is evidenced by the minor augmentation to the road network proposed to support the indicative subdivision, the limited increase in traffic generated by the Planning Proposal and the negligible impact of this traffic on the road network and key intersections compared to background traffic volumes. Should the Minister or Independent Planning Commission have concerns regarding the capacity of the surrounding road network, it is reiterated that the applicant proposed to the DPIE in February 2020 that the Planning Proposal could be amended to contain the 'northern site' only, reducing the proposed residential yield to 99 dwellings (and commensurate reduction in traffic generation).
  4. The Planning Proposal makes a sufficient contribution toward improving State infrastructure, as the proposal does not rely upon any improvement to the State or regional road network. Notwithstanding, the proposal includes a contribution towards improving the conditions of traffic flow on the regional road network specifically by removing pick-up and drop-off movements from Old Northern Road, and by delivering the first stage of a future Regional Road (Annangrove Road Bypass) to improve traffic flows from the north west growth centres through to the eastern city.
  5. The Planning Proposal has demonstrated that the sites have no economically viable potential to accommodate significant agricultural uses under its current zoning, and due to the existing site context and surrounding properties, land use conflict will not arise as a result of the Planning Proposal.

This letter and the enclosed documentation present a robust justification of the proposed amendment of *The Hills Shire Local Environmental Plan 2012* (superseded by the now relevant *The Hills Shire Local Environmental Plan 2019*) to support the delivery of more affordable residential allotments whilst maintaining the context character of Dural while delivering low-density housing.



## 1. INTRODUCTION

This request for a Gateway review has been prepared by Urbis Pty Ltd on behalf of Dural Land Holdings Pty Ltd, the proponent of PP\_2019\_THILL\_005\_00 (**the Planning Proposal**). The Planning Proposal relates to multiple allotments, generally comprised of a 'northern site' and a 'southern site' (**the sites**) at Derriwong Road and Old Northern Road, Dural.

The Planning Proposal was submitted to The Hills Shire Council (**the Council**) on 19 May 2016. On 9 July 2019 the Council resolved to submit the Planning Proposal to the Department of Planning, Industry and Environment (**DPIE**) for Gateway assessment. On 19 April 2020 the delegate of the Minister for Planning and Public Spaces (**the Minister**) issued a Gateway determination that the Planning Proposal should not proceed.

This request for a Gateway review has been initiated by the proponent of the Planning Proposal, though is supported by the Council as evidenced through the letter prepared by the Council staff at **Attachment A**.

This request has been prepared in accordance with Section 6.4 of '*A guide to preparing local environmental plans*'. This request is accompanied by the following documentation:

- A completed Gateway review application form (**Attachment B**);
- A copy of the Planning Proposal and supporting documentation as submitted for the Gateway determination including supplementary information submitted to DPIE in support of the Planning Proposal to address changes in circumstances that occurred following the Council resolution to forward the Planning Proposal for Gateway determination and the Council's determination (**Attachment C**); and
- Justification for why an alteration of the Gateway determination is warranted, including responses to the stated reasons as to why the Planning Proposal should not proceed and a Strategic Bushfire Strategic Study against the current bushfire protection guidelines (**this letter** and **Attachment D**).

## 2. THE SITES

The land to which the Planning Proposal relates is comprised of multiple allotments that are broadly divided into a 'northern site' and a 'southern site'. The location of these two sites is illustrated within **Figure 1** and the legal description of each allotment is outlined in **Table 1**.

The sites are bookended by urban development, including the local centre of Round Corner to the south and the Dural Neighbourhood Centre to the north both of which are presently being expanded by recent approvals for development and rezoning applications that will have transformative influences on built form character and density.

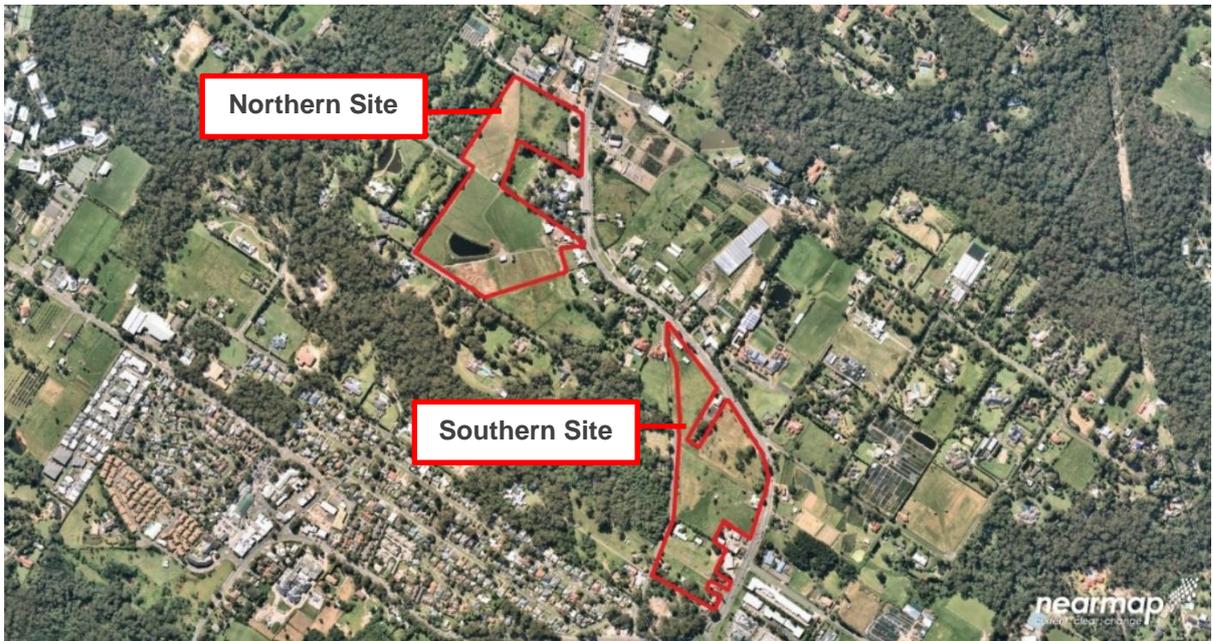
Further, the surrounding site context features sites the subject of rezoning and development applications which have further increased urban development in the locality, notably including:

- The former timber yard site;
- Dural Service Centre;
- 3-5 Pellitt Lane seniors living development; and
- The Cascades development.

Notably the northern site shares three boundaries with the Dural Public School. The road network immediately fronting the site and the Dural Public School experiences congestion during school peak drop-off and pick-up times. The congestion appears to be in part resulting from buses blocking or partially blocking the vehicle carriageway of Old Northern Road, through insufficient layover length and

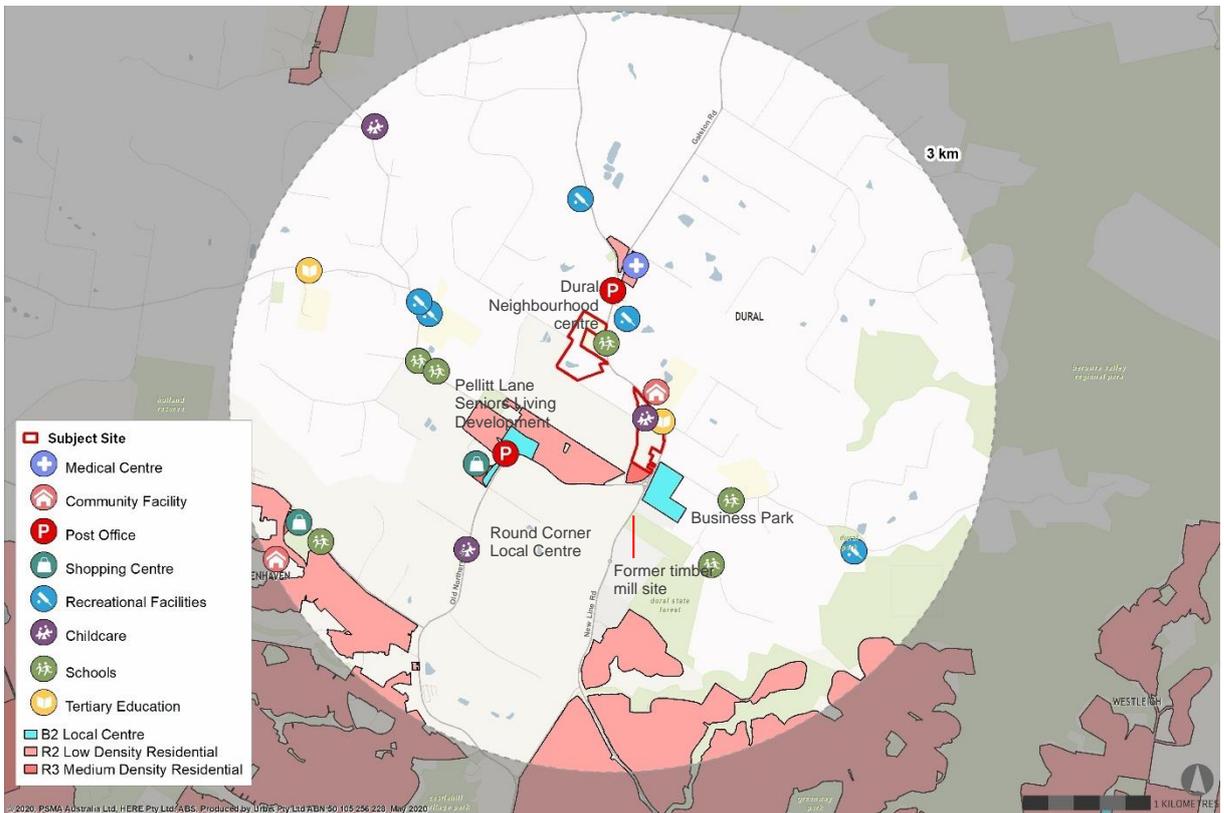
colocation of existing parking and drop-off zones, as evidenced through photos and videos sent to the DPIE on 11 March 2020. The surrounding urban context of the site is illustrated in **Figure 2**.

Figure 1 Aerial of subject site(s)



Source: Nearmap May 2020

Figure 2 Surrounding urban context of the site

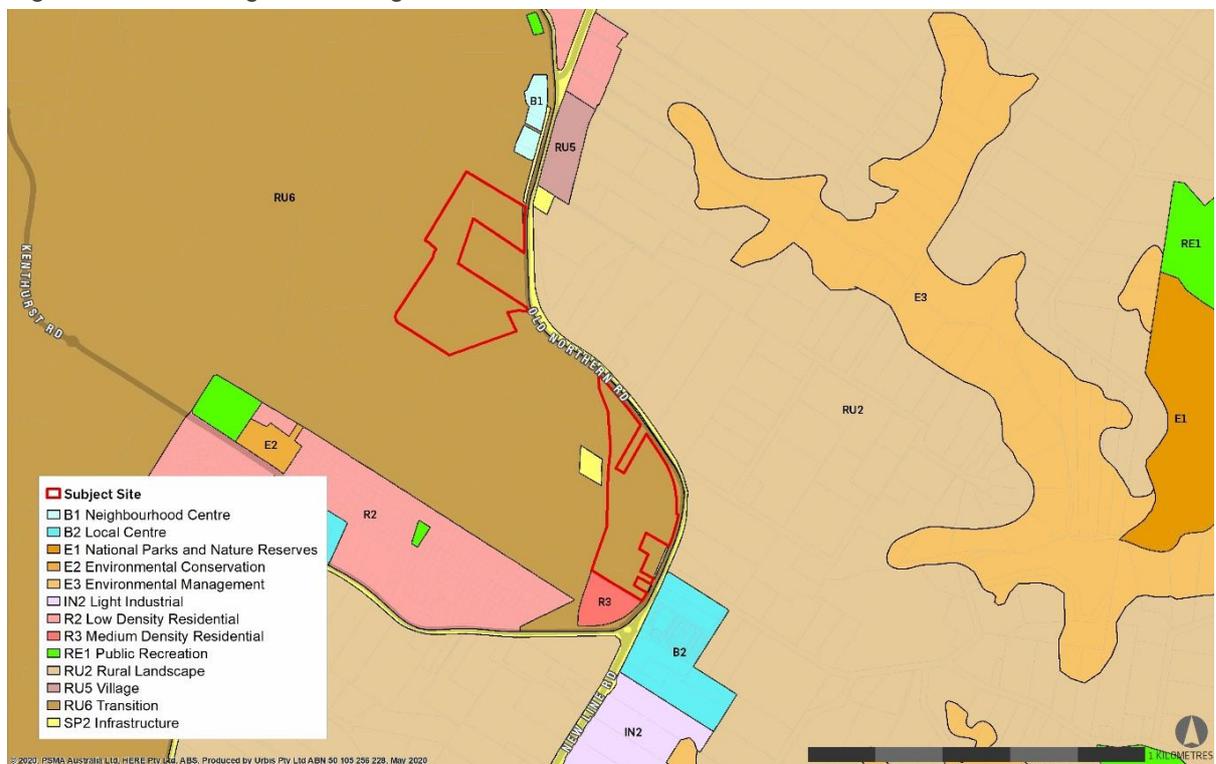


Source: Urbis

Located immediately to the south of the sites, the former timber yard is zoned for R3 Medium Density Residential under *The Hills Shire Local Environmental Plan 2019*. The northern site is immediately south of B1 Neighbourhood Centre zoned land. While the eastern side of Old Northern Road is located in the Hornsby Shire local government area (LGA), it is noted that the northern site is opposite and south of land zoned SP2 Infrastructure – Cemetery, RU5 Village, and R2 Low Density Residential. This proximate zoning is illustrated in **Figure 3**.

As such while the site is currently zoned for rural transition, the locality surrounding the site is not characterised as predominantly rural land, and instead features a mix of existing urban and services uses, educational establishments, residential dwellings and infrastructure.

Figure 3 Surrounding land zoning



Source: Urbis

Table 1 Summary of landholdings

Northern Site	Southern Site
626 Old Northern Road, legally described as Lot 2 in DP 541329 (2.023 hectares)	606 Old Northern Road, legally described as Lot 1 in DP73652 (1.622 hectares)
27 Derriwong Road, legally described as Lot 9 in DP237576 (2.025 hectares)	602 Old Northern Road, legally described as Lot 1 in DP 656036 (1.967 hectares)
618 Old Northern Road, legally described as Lot X in DP 501233 (4.777 hectares)	600A Old Northern Road, legally described as Lot 101 in DP713628 (6,331m <sup>2</sup> )
21 Derriwong Road, legally described as Lot 2 in DP567995 (2.023 hectares)	600 Old Northern Road, legally described as Lot 100 in DP 713628 (2.211 hectares)



Northern Site	Southern Site
	5 Derriwong Road (also described as 586 Old Northern Road), legally described as Lot 11 DP866560 (6,024m <sup>2</sup> ).
	7 Derriwong Road, legally described as Lot 12 in DP 866560 (1.211 ha)
	590 Old Northern Road, legally described as Lot D in DP38097 and Lot D in DP39261 (859.9m <sup>2</sup> )
	584 Old Northern Road, legally described as Lot 1 DP660184 (746.1m <sup>2</sup> )
<b>Total area: 10.848 hectares (108,480m<sup>2</sup>)</b>	<b>Total area: 10.617 hectares (106,171m<sup>2</sup>)</b>

### 3. BACKGROUND

An overview of the background and timeframe of the Planning Proposal to date is provided below in **Table 2**.

Table 2 Planning Proposal Background

Date	Event
19 May 2016	The Planning Proposal was lodged with the Council.
28 June 2016	The Council resolved to undertake a land use study for the Dural Round Corner Precinct. The deferral of the Planning Proposal was discussed with the Proponent.
13 December 2016	The Council resolved that the Planning Proposal be held in abeyance until wider Dural area investigations were completed.
10 February 2017	A Rezoning Review was lodged on the basis that the Council had failed to indicate its support for the Planning Proposal after 90 days.
20 April 2017	<p>The Sydney West Central Planning Panel (the Regional Panel) considered the Rezoning Review and determined that the Planning Proposal should not proceed. The Regional Panel found that the Planning Proposal was consistent with a number of aspects of 'A Plan For Growing Sydney' and the draft District Plan, especially meeting the demand for larger lot residential land in a rural setting.</p> <p>However, the overall strategic context, particularly the demand for and supply of the physical and social infrastructure needed to support this development and other development in the LGA and the adjoining LGA, and the implications for the urban-rural interface were in the view of the Regional Panel unresolved.</p>



Date	Event
	The Regional Panel considered that the Planning Proposal was premature and should not proceed before completion of the strategic study programmed for the area, which the Regional Panel anticipated would be completed by the end of 2017.
March 2018	The consultant Cardno was engaged by the Council to prepare the 'Dural Urban Capacity and Assessment'.
15 March 2019	The Council led 'Dural Urban Capacity and Capability Assessment' Phase 1 ( <b>the Assessment</b> ) was completed. The report documented the outcomes of an environmental study and consequent urban capability analysis of land in Dural. The Assessment found that some areas within the broader Dural locality (including the sites the subject of this Planning Proposal) were environmentally capable of accommodating development, although there was insufficient infrastructure capacity to facilitate substantial development uplift.
26 March 2019	The Council determined that if the proponent of any future planning proposal is able to demonstrate that they can deliver the required local and regional infrastructure upgrades at no cost to the Council, the Council would consider such a planning proposal and review its position with respect to rezoning within the Dural locality at that time.
19 June 2019	The Council report to the Local Planning Panel recommends that the Planning Proposal be forwarded to DPIE for consideration and assessment for a Gateway determination.
9 July 2019	<p>The Council resolved that the Planning Proposal should be submitted to the DPIE for Gateway assessment. Some of the key reasons for which the Council gave a positive recommendation are:</p> <ul style="list-style-type: none"> <li>▪ Council studies have indicated that the land subject of the Planning Proposal is capable of accommodating urban development in the form proposed.</li> <li>▪ The proposal provides for an expansion of Round Corner with compatible development surrounding Dural Public School and within a close proximity to the Dural neighbourhood village.</li> <li>▪ The proposal includes a significant public benefit offer, including open space, road reservation and infrastructure improvements and provision.</li> <li>▪ The proposal will contribute to the resolution of regional infrastructure issues.</li> <li>▪ The proposal includes the reservation and delivery of a portion of the proposed new "Round Corner Bypass" at no cost to the Council.</li> <li>▪ The bypass would enable better east-west access from the growth areas to jobs and services to the east.</li> </ul>

Date	Event
	<ul style="list-style-type: none"> <li>▪ The bypass would improve the operation of Round Corner through the reduction of traffic and congestion.</li> <li>▪ The bypass would form part of the arterial road network and would be under control of RMS.</li> <li>▪ The progression of the Planning Proposal to Gateway assessment would enable meaningful consultation to occur between the DPIE, Greater Sydney Commission and RMS.</li> </ul> <p>The Council acknowledged notwithstanding the strict application of the strategic planning framework assessment; Council positively considered the merit in the progressing of the Planning Proposal to Gateway assessment.</p>
5 February 2020	<p>The proponent wrote to the DPIE advising a willingness to accept a conditional Gateway determination of the Planning Proposal. In effect it would excise the Southern Parcel from the Planning proposal, until such time as the more certainty is provided regarding the upgrade to the New Line Road, if this was a factor holding up a positive determination of the Planning Proposal.</p> <p>Proposing such a condition in the Gateway Determination would enable the development outcome of the Northern Parcel only in the short-medium term. This would reduce the overall indicative dwelling yield from 181 to 99 dwellings. Furthermore, this would result in less vehicle trips to be generated from approximately 161 to 85 during the PM (max.) peak hour. This option has not been given any meaningful consideration in the Gateway assessment.</p>
19 April 2020	<p>The delegate of the Minister issued a Gateway determination that outlined that the Planning Proposal should not proceed.</p>
7 May 2020	<p>Urbis formally informs the DPIE of the intention to submit a Gateway review application.</p>

## 4. SUMMARY OF PLANNING PROPOSAL

The intended overall outcome for the Planning Proposal is to facilitate the redevelopment of the site to accommodate low density residential dwellings which will meet local housing demand and contribute to the orderly economic development of the sites while respecting the natural environment.

As identified in Section 2 of this letter, the rezoning of the sites represents a logical extension of two local centres. The sites are bound by logical precinct borders of urban uses to the north and south, Old Northern Road to the east, and natural features to the west.

In preparing the Planning Proposal, the applicant and the Council have carefully considered the potential interface of the Planning Proposal with the surrounding locality, and combined with appropriate development controls to be established prior to a development application being determined, will ensure the proposal is compatible with the urban fringe and peri-urban nature of the sites.

In summary the Planning Proposal seeks to enable residential development including an approximate yield of 181 low density dwellings and open space provision. It proposes to amend *The Hills Shire Local Environment Plan 2012* to seek the following:

- Rezoning the sites from RU6 Transition to R2 Low Density Residential;
- Reducing the maximum height of building from 10 metres to 9 metres;
- Reducing the minimum lot size from 2 hectares to 700m<sup>2</sup>;
- Introducing a local provision enabling a minimum lot size of 600m<sup>2</sup> on the northern site, with a yield capped at 101 dwellings;
- Include an additional clause to Part 7 of *The Hills Shire Local Environmental Plan 2012* to facilitate the delivery of part of a new road connection between Annangrove and Old Northern Roads.

As recognised in the Council resolution of 9 July 2019, the proponent also accepts the inclusion of a mechanism to ensure that the proposed LEP amendments would not facilitate a proliferation of seniors housing development proposals on adjoining rural land.

The Planning Proposal is accompanied by an offer to enter into a Voluntary Planning Agreement (VPA) with the Council where appropriate for the following public benefits:

**Part A - Northern site:**

- Excise of approximately (subject to survey detail) 9,900sqm of land area from the site and dedication to the Council for the purposes of **a new regional road** with a 32m wide road reserve.
- Excise of approximately (subject to survey detail) 3,364sqm of land area from the site and dedication to the Council for an additional **drop-off/pick-up parking** facility to service the adjacent Dural Public School.
- **Connection of the northern site and the adjacent Dural Public School to the existing Sewerage Pumping Station** via a pressure sewerage system as indicatively proposed within 'Old Northern Road, Dural – Precinct 1 Sewerage and Water Supply Strategy', prepared by ARUP, dated 21 December 2017. No upgrades are required to the potable water supply to service the Planning Proposal, or the sewage pumping station and pressure main on the northern site.
- Dedication of approximately 4,000sqm land area within the northern site to the Council for the purpose of **local open space**. Alternatively, local developer contributions will be payable to the Council as per the relevant local developer contributions plan at the time of the approval of relevant development application for the purposes of local open space.
- Construction of the civil works required to deliver the new regional road including but not limited to footpaths, landscape islands, kerb and gutter, asphalt roads, line markings, and road and street signage.
- Physical works required to connect the new regional road to Derriwong Road and the new regional road to Old Northern Road via non-signalised intersections, where possible within the northern site boundary and land owned by the Council.
- Provision of services within the boundaries of the site including cut and fill, excavation, concrete pipework, backfill, connection to existing main, surcharge inlet pits, street lighting to be connected into existing grid in consultation with the Council.
- Remediation of the entire subject site in accordance with the recommendations of the relevant Remedial Action Plan, where required. All land to be dedicated to the Council will be remediated prior to the dedication.
- Construction of a signalised intersection at the eastern boundary of the site and Old Northern Road.

- Stormwater management measures for the northern site including dual-function water quality and detention basis, swales, and rain gardens as indicatively proposed within 'Old Northern Road, Dural – Precinct 1 Stormwater Management Strategy', prepared by ARUP, dated 22 December 2017.

#### **Part B - Southern site:**

- Excise of approximately (subject to survey detail) 1,000sqm of land area from the site adjacent to the Dural Memorial Hall for the purposes of community use.
- Provision of services within the boundaries of the site including cut and fill, excavation, concrete pipework, backfill, connection to existing main, surcharge inlet pits, street lighting to be connected into existing grid in consultation with the Council.
- Stormwater management measures for the southern site including dual-function water quality and detention basis, swales, and rain gardens as indicatively proposed within 'Old Northern Road, Dural – Precinct 1 Stormwater Management Strategy', prepared by ARUP, dated 22 December 2017.
- Upgrade of the existing Sewerage Pumping Station and pressure main as required to service the southern site indicatively proposed within "Old Northern Road, Dural – Precinct 1 Sewerage and Water Supply Strategy", prepared by ARUP, dated 21 December 2017. No upgrades are required to the potable water supply to service the proposal on the southern site.
- All works proposed under Part A are to be completed prior to the release of a subdivision certificate for any residential lots on the southern site to ensure public benefit works are completed in full prior to the increase in residential density facilitated by the Planning Proposal on the southern site.

The public benefits that would be delivered through the Planning Proposal not only support and service the development of the sites, but also significantly benefits the existing and future community. The proposed drop-off and pick-up zone for Dural Public School will offset traffic impacts resulting from the Planning Proposal in the short-term, and the provision of a regional road corridor across the site which will deliver long-term regional traffic improvements.

The connection of the public school to the sewerage system and the provision of a drop-off and pick-up zone will alleviate existing safety and amenity concerns of the school community, in the absence of any government funded solution to resolve these existing issues. Furthermore, the Planning Proposal presents the opportunity to deliver new local open space.

## **5. JUSTIFICATION FOR GATEWAY REVIEW**

### **5.1 RESPONSE TO THE GATEWAY DETERMINATION**

The Gateway determination and Gateway assessment report have noted the local benefits offered by the Planning Proposal, but has ultimately recommended the Planning Proposal not proceed on the grounds that the Planning Proposal does not give effect to the Central City District Plan, unresolved inconsistencies with the Section 9.1 Directions, the lack of government plans or funding to increase capacity on the surrounding road network, and potential land use conflict.

Firstly, it is noted that the Planning Proposal was lodged in 19 May 2016, the Central City District Plan was finalised in March 2018. The documentation supporting the Planning Proposal the subject of this Gateway review application demonstrates that the Planning Proposal is however consistent with the Central City District Plan for the reasons outlined in the following subsections.

### 5.1.1 Gateway determination reason for refusal 1(a)

*“1. The proposal does not give effect to the Central City District Plan, in particular:  
(a) Priority 1 Planning for a City Supported by Infrastructure”*

Priority 1 is underpinned by the notion of delivering the right infrastructure, in the right location, at the right time. It responds to objectives of *A Metropolis of Three Cities* that infrastructure use is optimised, that infrastructure aligns with growth, and that infrastructure adapts to meet future needs. The Gateway determination does not support these objectives, or Priority 1 of the Central City District Plan, as it fails to recognise how the Planning Proposal optimises and maximises the use of existing infrastructure and delivers new infrastructure to support the existing community in addition to aligning with growth.

Priority 1 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, patrons for health facilities). The sites are located between two local centres, in walking distance to public transport, local shops, restaurants, a medical centre, a pharmacy, a primary school, a secondary school, a business park with multiple business and retail premises, recreation space, and community centres. The proposal to permit low density residential dwellings within an area of such high accessibility to existing cultural, health, transport, and social infrastructure is entirely appropriate and supports the priority to maximise the use of existing infrastructure. Permitting residential dwellings on the sites 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.

Priority 1 states 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.

The Planning Proposal delivers infrastructure that is specifically required by the existing local community and enhances local opportunities, inclusion and connection to services. Specifically, the public benefit offer delivers improved sewerage connection to the local public school, currently unfunded by the school or the Department of Education. This benefit removes a health and safety hazard of the school and improves potential future sewerage connections of nearby existing dwellings.

The Planning Proposal delivers new public open space (4,000sqm) fronting Old Northern Road directly adjacent to the public school to be available to the community immediately adjacent to the Dural neighbourhood centre. The public benefit offer also delivers a new drop-off and pick-up zone for the public school to alleviate road congestion along Old Northern Road, in the absence of a longer-term solution to perceived insufficiencies with the regional road network.

The Planning Proposal delivers opportunities for the existing community and future residents to be connected to local services and infrastructure. The low-density residential dwellings proposed to be permitted on the sites delivers this infrastructure, not to meet the needs of the proposed maximum 181 dwellings, but to provide equitable access to services for the existing community. The Gateway determination does not support the delivery of new infrastructure and does not recognise that the proposed population growth is fairly balanced with infrastructure investment. The Gateway determination does not equitably enhance local opportunities, inclusion and connection to services as without the proposed new services, traffic and sewerage upgrades remain unfunded for this community.

Priority 1 notes that by balancing population growth with infrastructure investment, infrastructure provision can move from a focus on network-based services to a place-based service approach. The Gateway determination does not consider a place-based service approach and has instead placed unreasonable emphasis and weight on perceived insufficiencies with regional road infrastructure to not

support the Planning Proposal. The infrastructure proposed is directly supported by place-based planning, strengthening the role of the local centres within the community and providing infrastructure to improve the amenity of the locality.

The Gateway determination does not support Priority 1 as it claims existing infrastructure cannot support the proposed additional dwellings, even though this has been demonstrated within the Planning Proposal as follows:

- **Sewerage and water:** *Sewerage and Water Supply Strategy*, Arup, Rev 2, 21 December 2017
- **Stormwater:** *Stormwater Management Strategy*, Arup, Rev 1, 22 December 2017
- **Traffic and Transport:** *Traffic Impact Assessment*, Aecom, Rev F, 22 November 2016 and *Traffic Advice on Revised Planning Proposal*, Aecom, 19 March 2020
- **Electrical and Gas Supply:** *Engineering Advice Note – Services Connections Feasibility*, Arup, 11 October 2016
- **Communications:** *Engineering Advice Note – Services Connections Feasibility*, Arup, 11 October 2016

As such the Planning Proposal delivers population growth appropriately with new infrastructure investment not only to support the proposed development, but to equitably enhance the amenity, services, and infrastructure of the existing community. This infrastructure investment is specific to the place affected by the Planning Proposal and is aligned to support the proposed growth.

Further, it is noted that the public benefit offer also contributes to a longer-term solution to potential road infrastructure challenges in the District by dedicating part of an east to west connection (Annangrove Road Bypass) at the request of the Council, as 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 eastern city. The first stage of this road corridor is to be provided by the proponent at no cost to government in lieu of a likely future land acquisition requirement to deliver this corridor. The Planning Proposal offers infrastructure provision not only to support the existing local community but also offers new infrastructure provision to forward plan for long-term growth within the District.

As demonstrated above, the Planning Proposal gives effect to the Central City District Plan and particularly *Priority 1 Planning for a City Supported by Infrastructure* and the Gateway determination claim that it does not give effect to this priority is not well founded.

### **5.1.2 Gateway determination reason for refusal 1(b)**

1. *The proposal does not give effect to the Central City District Plan, in particular:*
  - (b) *Priority 5 Providing housing supply, choice and affordability, with access to jobs and services*

Priority 5 responds to *A Metropolis of Three Cities* objectives to deliver greater housing supply and housing that is more diverse and affordable. Priority 5 ensures that new housing is 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.

As outlined in Section 5.1.1 of this letter, the proposal for new low-density residential dwellings on the sites is supported by infrastructure. Notwithstanding the existing land zoning, the character of the locality is peri-urban and features local services and is suitable to support low density residential development that maximises existing infrastructure.

As for delivering new housing that meets demand for different housing types, price points, and preferred locations, we note that the Central City District Plan states that while persons per household and household sizes are set to reduce, households comprised of couples with children will remain the highest proportion of households in the District.

Within the Dural locality and within release precincts in the District, there is a plurality of new development between large houses on large lifestyles lots, and high density residential dwellings near new metro stations. While each of these dwelling types may be appropriate in their context, there remains a demand for smaller residential allotments for residents desiring a low density and rural lifestyle, that can be delivered in a more affordable manner to suit the demographic trends noted in the Central City District Plan. Further demographic data is provided at the Rezoning Review Request prepared by Urbis at Section 3.1.1.

Dural is referenced within the Central City District Plan as being a key housing preference market area for the District. While across the District and Metropolitan Area housing targets are purported to be able to be met within existing 'urban boundaries', the question of delivering suitable, affordable housing cannot be claimed by government to be resolved.

The proposed R2 Low Density Residential zoning and minimum lot sizes will provide a scale of development which is aligned with the existing surrounding context, noted by the precedent of smaller lot sizes within the RU5 Village zoned land to the immediate north east of the northern site, and of the R2 and R3 zoned land to the south of the southern site.

As noted earlier in this letter, the two sites are located within close proximity of the Round Corner shops providing access to local jobs, and services. The northern site is located south of the Dural medical centre, a post office, chemist, restaurants and local shops. The sites are located within walking distance of the Dural Public School, Redfield College and the Pacific Hills Christian School. Due to the sites being located on the urban fringe, access to broader jobs and services within the Sydney basin is readily accessible. As such the location of the proposed housing is consistent with Priority 5 to deliver the right housing in the right locations.

It is further noted that the Central City District Plan states that "*Councils are in the best position to investigate and confirm which parts of their local government areas are suited to additional medium density opportunities.*"

While low-density residential is proposed in lieu of medium-density on the sites given the overall character of the Dural and Round Corner local centres, it would follow that the Council is in the best position to confirm which parts of their LGA are suited to the form of development proposed (low density detached dwellings) in the Planning Proposal. The Council supports this Planning Proposal to deliver new housing in an area supported by existing and new infrastructure. The Council supports this proposal to deliver new housing that is designed to meet the demands of the local housing market. The Central City District Plan notes that the various housing markets within the District mean that providing supply in one market demand area may not satisfy demand in another. As such, meeting local housing needs within this local housing market is appropriate and consistent with the Central City District Plan, and has been considered in the Council resolution.

It is noted that guidance contained within the Central City District Plan states that as part of their investigations for the inclusion of new infill housing councils should consider:

- *transitional areas between urban renewal precincts and existing neighbourhoods*

Response: The sites are located between two existing neighbourhoods that each feature urban land uses and R2 Low Density Residential zoned land. The scale of development maintains a transition from the business and R3 Medium Density Residential zoning to the south and towards the rural character north of the Dural neighbourhood centre.

- *residential land around local centres where links for walking and cycling help promote a healthy lifestyle*

Response: The Planning Proposal is located within walking distance of a number of local services and infrastructure as outlined earlier within this section, promoting a healthy lifestyle and not expanding limitless residential subdivisions.

- *areas with good proximity to regional transport where more intensive urban renewal is not suitable due to challenging topography or other characteristics*

Response: The Planning Proposal provides a suitable density that can be supported by the local infrastructure, without undermining the low density and transitioning to rural character of the local area.

- *lower density parts of suburban Greater Sydney undergoing replacement of older housing stock*

Response: Not relevant to this Planning Proposal.

- *areas with existing social housing that could benefit from urban renewal and which provide good access to transport and jobs.*

Response: Not relevant to this Planning Proposal.

While the Planning Proposal is not identified within the relevant local housing strategy prepared by the Council, we understand that this is due to restrictions within the ‘assurance review’ process whereby the Greater Sydney Commission would not support any consideration of additional urban uses within the Metropolitan Rural Area (**MRA**), notwithstanding any local contextual considerations as presented in the Planning Proposal.

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 demographic groups. For these reasons above the Planning Proposal is consistent with the **Planning Priority 5** of the District Plan.

### **5.1.3 Gateway determination reason for refusal 1(c)**

- 1. The proposal does not give effect to the Central City District Plan, in particular:  
(c) Priority 18 Better managing rural areas*

The Central City District Plan at Priority 18 notes that Dural is increasingly under pressure for urban development. This is logical where in the southern portion of the locality it is currently characterised by urban features, and local centres within the MRA are zoned for urban uses and medium density housing.

Priority 18 notes that the towns and villages such as Dural and Glenorie in the District’s MRA offer essential retail and community services within rural settings, however we dispute that the locality is characterised as a rural setting. Notwithstanding, the proposed low-density zoning can be designed to be compatible with a rural setting. Notably, the large lot sizes (600sqm-1,000sqm) proposed in the Planning Proposal deliver new dwellings in a low-density environment, notably in a subdivision pattern that facilitates significant setbacks to Old Northern Road.

Further the Planning Proposal provides a low density zoning and lot sizes within a logical boundary bookended by urban uses, that can accommodate existing and continued demand for residents who are looking to downsize from acreages and large properties within The Hills Shire LGA. This demand and the desired character of large lot residential as proposed within this Planning Proposal was recognised by the Council in resolving to support the Planning Proposal for Gateway assessment.

The District Plan 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.

As evidenced through the Cardno Dural Urban Capacity and Capability Assessment and the technical assessment submitted with the Planning Proposal, the sites are environmentally capable of accommodating low density housing including consideration of bushfire protection, ecology and biodiversity, slope, and geotechnical and contamination constraints.



We support the application of 'place-based planning' to development around local centres to ensure the unique identity, character and function of these centres is maintained and enhanced. When considering the actual identity, character and function of the land surrounding the sites, it is not appropriate to claim that rural character and viable agricultural land would be undermined by the Planning Proposal. The existing urban uses already preclude the use of economically viable agricultural land in the locality, while more intensive operations are already precluded from operation in the locality by the existence of schools, residential dwellings (including heritage-listed dwellings), and commercial businesses in the locality.

As such, the application of 'place-based planning' should prevail, and a strategic planning solution considered. The Planning Proposal offers this solution, by proposing a scale of development that can deliver significant public benefits, though in a density that is commensurate with surrounding local areas and is not in conflict with a desired transition to rural lands north of Dural.

#### **5.1.4 Gateway determination reason for refusal 2**

*2. The proposal contains unresolved inconsistencies with the Section 9.1 Directions 1.2 Rural Zones, 2.3 Heritage Conservation, 3.1 Residential Zones, 4.4 Planning for Bushfire Protection, and 6.3 Site Specific Provisions.*

##### **Direction 1.2 Rural Zones**

Direction 1.2 Rural Zones states a proposal can be inconsistent with the Direction provided that the inconsistency is justified by a strategy or the Central City District Plan.

The Planning Proposal is supported by the Cardno 'Dural Urban Capacity and Capability Assessment'. The assessment documented the outcomes of an environmental study and consequent urban capability analysis of land in Dural. The Assessment found that some areas within the broader Dural locality (including the sites the subject of the Planning Proposal) were environmentally capable of accommodating development, although there is insufficient infrastructure capacity to facilitate substantial development uplift. As a result, the Planning Proposal was amended to clarify that the proposal delivered the infrastructure required to support the development at no cost to Government and as such was consequently supported by the Council (refer **Attachment C**, Part 4).

The Council were not able to include the Planning Proposal within their recent Local Strategic Planning Statement as they were advised by the Greater Sydney Commission that it would not be consistent with the 'assurance review' process. It is not appropriate or good strategic planning to mandate that no development occur within the MRA at a metropolitan level, without providing an opportunity to study the local needs and character of existing centres within the MRA or permit the relevant Council to conduct such studies.

Notwithstanding, as outlined earlier in this Gateway review request, the proposed inconsistency with Direction 1.2 Rural Zones (by rezoning a rural zone) is also supported by the Central City District Plan through a place-based planning outcome supported by infrastructure, meeting the needs of the community.

The Planning Proposal seeks to rezone existing rural land which is not currently used for agricultural purposes. Urban design and agricultural economic investigations submitted with the Planning Proposal (Attachment A and Attachment C to the Planning Proposal respectively) have concluded that the potential for agricultural uses have been constrained due to the proximity of urban land and conflicting land uses and the potential for intensive agricultural uses to generate adverse environmental impacts. As such, the Planning Proposal does not undermine the viability of rural lands to contribute to the agricultural or industrial productive lands within the District.

##### **Direction 2.3 Heritage Conservation**

The DPIE states that there are insufficient assurances in place to demonstrate that the Planning Proposal would not enable development that may result in adverse impacts on surrounding heritage items and as such asserts that the Planning Proposal is inconsistent with the Direction.



The Planning Proposal does not seek any changes to the heritage listing of any items within the boundaries of the sites. A Heritage Impact Statement prepared by Urbis was submitted with the Planning Proposal at Appendix G. This Heritage Impact Statement supports the Planning Proposal and notably recommends that if developed, it is recommended that lower-scale residences (one to two storey) in the vicinity of the heritage items would be in keeping with other development in the area and would not impact on views and the heritage significance of the item. This scale of development is precisely proposed to be permitted by the Planning Proposal.

The Planning Proposal will not result in the removal of adverse impacts to existing heritage items within the surrounding context. The low-density nature of the proposal will not lead to development that is inconsistent with the surrounding locality. The Planning Proposal will not result in adverse impacts on views and the heritage significance of the items. The envisioned development in the vicinity of the items will respond appropriately and accordingly will be of an appropriate form and scale.

Further detailed development provisions, including recommended development control plan provisions, can be provided within the next stage of the planning process prior to exhibition of the Planning Proposal. As such there are no unresolved inconsistencies with Direction 2.3 Heritage Conservation.

### **3.1 Residential Zones**

The Planning Proposal seeks to rezone unviable agricultural land to support the orderly growth and economic development of the surrounding context through the provision of residential dwellings to support differing demographic groups.

The Gateway assessment claims that the Planning Proposal is inconsistent with this Direction as it increases consumption of land for housing and associated urban development on the urban fringe. The Planning Proposal is a well-considered and logical approach to the extension of the urban fringe within an area which has already transitioned to urban land.

The sites are bound by logical precinct borders of urban uses to the north and south, Old Northern Road to the east, and natural features to the west. As such, the Planning Proposal does not sprawl new housing beyond current logical boundaries of the urban area. The Planning Proposal delivers additional choice of dwelling and building types available in the local housing market, and makes efficient use of existing infrastructure and services, consistent with the Direction.

Notwithstanding, the Direction states a proposal can be inconsistent with the Direction provided that the inconsistency is justified by a strategy or is the Central City District Plan. As outlined earlier in this Gateway review request, the Planning Proposal is also supported by the Central City District Plan through a place-based planning outcome supported by infrastructure, meeting the needs of the community.

### **4.4 Planning for Bushfire Protection**

The sites include small portions of land that are impacted by the Vegetation Buffer on the 2019 Bush Fire Prone Land Mapping. The Gateway assessment states that a Planning Proposal may only be inconsistent with this Direction if the council has obtained written advice from the Commissioner of the NSW Rural Fire Service (**RFS**) that it does not object to the proposal.

The Planning Proposal was supported by a Bushfire Assessment (Appendix F) prepared by Ecological Australia which demonstrated how the proposed development can meet the requirements of Planning for Bush Fire Protection (**PBP**) and can therefore meet the requirements of the NSW RFS. The Council anticipates that NSW RFS will be consulted as a condition to any Gateway determination and as such the Planning Proposal can be readily made consistent with this Direction.

Since the preparation of the Planning Proposal, the relevant planning guidelines have been amended and as such a Strategic Bushfire Study is now required to be prepared to satisfy the NSW RFS that a Planning Proposal is supportable. To avoid any doubt that the Planning Proposal can be made

consistent with this Direction, a Strategic Bushfire Study is annexed to this Gateway review request letter (**Attachment D**) providing an assessment of the Planning Proposal against the latest planning legislation.

It is concluded in the Strategic Bushfire Study annexed that the Planning Proposal is consistent with Ministerial Direction 4.4 (Planning for Bushfire Protection) issued under section 9.1(2) of the EP&A Act and the requirements of PBP.

### **6.3 Site Specific Provisions**

The Gateway determination claims that by including a site-specific provision relating to allotment sizes that the Planning Proposal is inconsistent with Direction 6.3 Site Specific Provisions which seeks to discourage unnecessarily restrictive site-specific planning controls.

During the initial design phases of the preparation of the Planning Proposal, the proponent explored alternatives to the provision of site-specific provisions. Site specific lot sizes have been based on market trends and the need for such sizes by various demographics, in addition to providing the Council certainty and clarity that a mix of lot sizes will be provided across the sites.

The amendment proposed is the best outcome for development on site which will result in well planned residential subdivision which has high amenity for the future residents and community. The inclusion of site-specific provisions in this instance is supportable to ensure a mix of lot sizes is delivered across the sites.

### **5.1.5 Gateway determination reason for refusal 3**

*3. There are no plans or funding to increase capacity on the surrounding road network to facilitate this proposal*

The Planning Proposal does not rely upon any plans or funding to increase capacity on the surrounding road network. The Planning Proposal in its own right does not generate the need for any government funded road upgrades, and this proposal will deliver at no cost to government improvements to the road network as outlined below.

As demonstrated within the technical reports provided to support the Planning Proposal (Notably Appendix D and the updated traffic advice prepared by Aecom and submitted to the DPIE on 19 March 2020 – refer to **Attachment C**, Part 5 of this letter), the traffic generated by the Planning Proposal results in a negligible increase to the expected increase in background traffic projected to 2026.

The updated data provided by Aecom and submitted to the DPIE on 19 March 2020 notes that that average weekday PM peak hour traffic at Old Northern Road is showing a declining trend at an average rate of 5.1% per year. New Line Road on the other hand is following a relatively flat profile for the last four years but is expected to go downwards at an average rate of 0.15% per year. This suggests that the future background traffic during the PM peak hour is expected to be lower than the existing conditions.

The traffic assessments prepared to support the Planning Proposal indicate that the development is expected to cause minimal impacts on the study area intersections during the future year 2026. The proposal on the northern site for instance is anticipated by Aecom to increase traffic flows on Old Northern Road in the PM peak by about 1% in 2026. Further, the proposal for the northern site will result in a 3% or less increase in average delays at surrounding intersections.

In view of the above, it is concluded by Aecom that specifically the northern site offers significant benefits and opportunities for enhancing capacity of the road network and cause minimal negative impacts on the surrounding road network.

It is not considered a logical conclusion to not support the Planning Proposal, especially as it was proposed to be reduced to the northern site only, on the grounds of funding required to increase

capacity on the surrounding road network when this is not required to facilitate this proposal. While it is noted that the locality does have broader road infrastructure challenges, this proposal does not trigger any upgrades that are not already offered through the public benefit offer. Further, the Planning Proposal provides above and beyond the needs of the proposal by including road upgrades and a regional road reserve through the site to contribute to the long-term regional road network improvements to support the District.

In summary we note that the Planning Proposal has sought to improve the surrounding road network through the provision of the following:

- Road widening and road reserve (9,000m<sup>2</sup>) for future Regional Road (Annangrove Road Bypass) to be dedicated to the Council;
- New designated drop-off zone for the Dural Public School; and
- Construction of signalised traffic intersection on Old Northern Road;

The traffic generated by the Planning Proposal will have a minimal impact on the surrounding road network and does not in its own right trigger any additional road infrastructure upgrades in order to be supported.

#### **5.1.6 Gateway determination reason for refusal 4**

*4. Although the proposal does offer some local benefits such as (...) it makes an insufficient contribution toward improving State infrastructure as the site in isolation cannot adequately secure the scale of improvement required in the road network.*

The Gateway determination report states that Transport for NSW (Roads and Maritime Services) have identified that substantial upgrades to Old Northern Road and New Line Road would be required prior to any significant development occurring in the area. This is not a response in relation to the traffic specifically generated by this Planning Proposal. Rather the figures quoted for State road upgrades were prepared in relation to the South Dural Planning Proposal (c3000 new dwellings), an undeniably different scale of development compared to the Planning Proposal.

The scale of the Planning Proposal does not trigger the demand for improvements to the State road infrastructure. There is no nexus of a 'sufficient contribution' between the proposed increase in housing delivered by the Planning Proposal and a requirement for upgrades to State road infrastructure. Rather, the Planning Proposal will alleviate some of the existing stresses on the existing State road infrastructure through the provision of the drop-off and pick-up zone and future Regional Road reserve.

The Planning Proposal establishes the planning pathway to provide infrastructure provision to support the surrounding road network and provide critical infrastructure to support the community above that required to support the proposed development yield. The Planning Proposal offers short-term improvements to State road infrastructure through the drop-off and pick up zone that will result in upstream benefits of alleviating traffic congestion on Old Northern Road related to the operation of the Dural Public School.

The Planning Proposal also offers long-term improvements to State road infrastructure through the new Regional road reserve proposed through the site. Each of these improvements are not required by the yield generated by the Planning Proposal, but rather offers Government contributions towards State road infrastructure improvements.

As such it cannot be reasonably concluded that a 'sufficient contribution' to the improvement of State infrastructure has been provided given the scale of the proposed development (181 dwellings) especially as this infrastructure can predominantly be delivered as part of the northern site only (99 dwellings).

### 5.1.7 Gateway determination reason for refusal 5

5. *The proposal does not adequately demonstrate the site has no potential to accommodate agricultural uses under its current zoning and land use conflict will not arise as a result.*

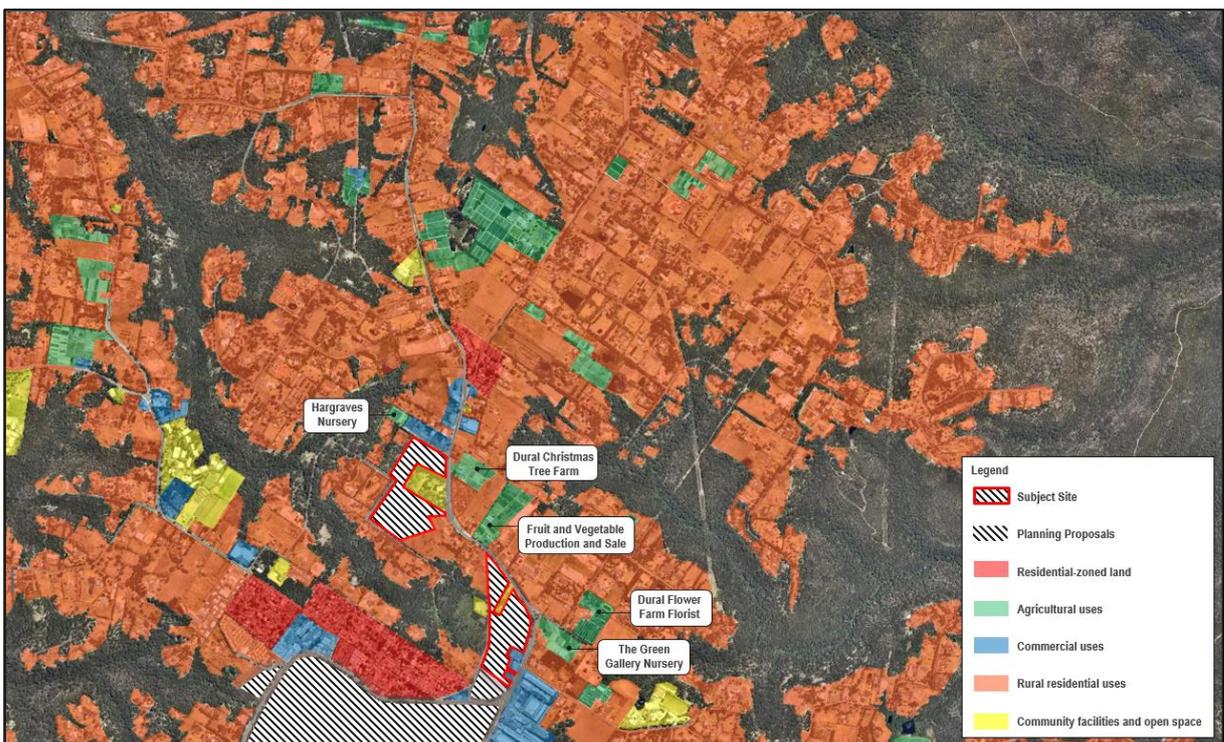
The Gateway assessment states that the Planning Proposal does not sufficiently demonstrate that the site has no potential to accommodate agricultural uses under its RU6 Transitional zoning. The Assessment of new Agricultural Viability prepared by Urbis and submitted with the Planning Proposal (Appendix C) includes an assessment of new agricultural viability for the site to determine the potential impact of its conversion from RU6 Transition zone to R2 Low Density Residential.

The outcome of the Economic Assessment suggest that the site could only be suitable low yield agricultural uses due to landform and proximity to established urban land uses. As such, based on the current zoning of the land, the sites would continue to be used primarily for rural residential purposes or would remain vacant. This outcome is not consistent with the actions of the Central City District Plan to optimise and maximise the use of existing infrastructure.

The Gateway assessment also notes that the site is within 1km of RU2 Rural Landscape zoned land which permits intensive livestock agriculture. The Gateway assessment claims that the Planning Proposal does not sufficiently address the extent or mitigation measures for land use conflict if residential uses of an urban scale were to be developed on the site and how they will be affected by noise, odour and servicing of potential nearby livestock agriculture uses.

The intent of the RU6 Transition zone is to provide a buffer between agricultural practices and residential land uses. A review of existing land uses within the RU6 Transition zoned land identifies that the predominant uses within the locality are rural residential and the nearest intensive agricultural uses are located to the north beyond the Glenorie in Maroota approximately 30km away as shown below.

Figure 4 – Agricultural uses



Source: Urbis, February 2017

The “agricultural” uses identified to be operating in closer proximity 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 the 500 metres and one-kilometre buffers required by these land uses and as indicated above, they are unlikely to establish due to the proximity of existing residential properties and the urban fringe. It is notable that the sites are within less than 500m of the following land uses:

- B1 Neighbourhood Centre;
- B2 Local Centre;
- R2 Low Density Residential;
- R3 Medium Density Residential; and
- IN2 Light Industrial.

The sites the subject of the Planning Proposal are separated from the Hornsby LGA by Old Northern Road. Within Hornsby LGA residential dwellings and Redfield College restrict any intensive agricultural land uses to operate within a close proximity to the subject sites. The Planning Proposal does not restrict less intensive agricultural land uses to continue to operate, or for land to be developed for less intensive agricultural purposes as is currently permitted within proximity to other dwellings or Redfield College.

The nature and intensity of agricultural uses surrounding the site suggests that the existing RU6 Transition zoning is not appropriate. This is consistent with the Council’s own findings as set out in the *Information Assessment and Recommendation Report* for the Rezoning Review for the Planning Proposal for the adjoining former timber mill site. In the review report the DPIE agreed with the relevant proponent that “*the proposed residential zone is more compatible with the surrounding and likely future land uses than the existing RU6 zoning and existing timber mill*”. The site adjoins the former timber mill site (Refer **Figure 2**) and shares the same context.

It is noted that since the preparation of the Planning Proposal, the NSW Department of Primary Industries has released an interim guideline for ‘Buffer Zones to Reduce Land Use Conflict with Agriculture’. This guideline establishes varying buffer zones for environmental assessment which may preclude certain agricultural uses on land located in proximity to existing sensitive land uses and sensitive human receptors. Sensitive human receptors include land uses such as private dwellings (not associated with the agricultural operation), schools, places of worship, public parks, and workplaces.

As is evidenced at **Figures 2-4** of this letter, and the site description contained at Section 2 of the Planning Proposal, existing sensitive land uses and human receptors exist commonly within a 1km radius of the sites, such that they already restrict agricultural uses on the land zoned RU2 within Hornsby LGA within 1km of the site. Further assessment against this Interim Guideline prepared by NSW Department of Primary Industries and released in January 2019 could readily be provided as a condition of a Gateway determination.

As such the Planning Proposal has demonstrated that the sites have no economically viable potential to accommodate significant agricultural uses under its current zoning, and due to the existing site context and surrounding properties, land use conflict will not arise as a result of the Planning Proposal.

## **5.2 SITE SPECIFIC AND STRATEGIC MERIT**

As outlined within Section 3.1.1 of the Rezoning Review Request prepared by Urbis, the Planning Proposal responds to demographic trends that have contributed to a string of recent strategic planning decisions to rezone land in the immediate locality and development approvals for urban development contributing to a change in character of the locality and a trend towards urbanisation.

The Planning Proposal demonstrates considerable strategic merit particularly in the context of the existing local planning controls which are based on background studies that are now outdated as a result of changing local and regional circumstances. Of note, the planning controls that applied to the site at the time of the preparation of the Planning Proposal were outdated especially the Council's Rural Lands Strategy 2003, which informed the preparation of *The Hills Local Environmental Plan 2012*, was 13 years old.

While since the lodgement of the Planning Proposal the Greater Sydney Commission was established, Regional and District Plans prepared and finalised, and the Local Strategic Planning Statement was prepared by the Council it is noted that the latest document was not able to be updated to take into consideration the Planning Proposal or the needs of the Dural locality as it was identified by the Greater Sydney Commission as being located within the MRA. A place-based planning review was not permitted to be considered by the Greater Sydney Commission for the locality, on the principle that no rural lands were to be rezoned for urban purposes.

The technical reports that form part of the Planning Proposal considered by the Council, identify that local characterisation of the area as rural lands is not appropriate.

Support for the proposed amendments to *The Hills Shire Local Environmental Plan 2019* is justified based on the following, as summarised from the Planning Proposal:

- The proposed rezoning is consistent with the emerging and anticipated urban character of the area and the existing pattern and density of development within adjacent urban centres.
- The sites are not currently used for agricultural purposes and the potential use of the sites for agricultural purposes is generally unviable. Thereby the Planning Proposal reflects the orderly and economic use of the sites that is otherwise under-utilised and undesirable for agricultural purposes.
- There are no additional or new impacts on the ecological sensitivities on the sites or the surrounding and adjacent land.
- The rezoning and future redevelopment of the sites would support the commercial viability of the of Round Corner local centre through increasing proximate residential yields.
- The proposal will not dilute the primacy of adjacent urban centres or result in ribbon development along Old Northern Road. Conversely the realisation of the Planning Proposal will reinforce and support the growth of existing centres through the increased residential density and worker populations within the retail catchments.
- The rezoning reflects a logical extension and infill of urban land uses, bookended between two existing centres that are the subject of continuing growth and development.
- The proposed density of residential land facilitated by the rezoning responds to demographic trends of the LGA and Dural area, providing choice for existing residents to down size within their existing community and/or younger families to enter the market in an area dominated by large lot residential land that is unaffordable.
- The proposed subdivision and development facilitated by the Planning Proposal has been informed by detailed site specific studies that respond to the natural physical characteristics of the sites, the urban design analysis contained within the design report (Appendix A of the Planning Proposal) demonstrates the redevelopment of the sites can achieve suitable streetscape and context consistency despite the change in density.
- The rezoning of the sites is supported by the Dural Urban Capacity and Capability Assessment prepared by Cardno and as noted by the Council in March 2019, an evidenced based environmental study prepared over the course of a year at the substantial cost to the Council.

- The Planning Proposal makes provision for a road corridor to accommodate the future east-west connection from Annangrove Road to Old Northern Road satisfying a strategic objective of the Council to improve permeability in the area and reduce traffic congestion within Round Corner.
- 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 safer drop off zones replacing the congested access now available on Old Northern Road.

Taking into consideration of the emerging character and trends towards urbanisation of land surrounding Round Corner, the request to rezone the site subject of this Planning Proposal is considered supportable.

Furthermore, 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
- Soil health
- Ecology
- Services and infrastructure
- Bushfire

The Planning Proposal outlines in detail the site-specific merit of the Planning Proposal. We understand that the site-specific merits of the Planning Proposal are understood by the DPIE as outlined in the Gateway assessment report with the exception of bush fire protection.

It is noted that the sites are partially located within a bush fire prone area and DPIE have noted that the Council has not demonstrated to the NSW RFS that the Planning Proposal could comply with Planning for Bush Fire Protection 2006, and site specific provisions. As there has been a recent legislation change related to Bush fire protection, we provide annexed to this request for Gateway review an updated bush fire strategic study to demonstrate that this legislation can be satisfied by the Planning Proposal.

## 6. CONCLUSION

In conclusion, this letter and the enclosed documentation are considered to justify the amendment of *The Hills Shire Local Environment Plan 2019* to support the delivery of more affordable allotments whilst maintaining the Dural and context character through the delivery of low-density housing.

This Gateway review request has provided appropriate justification for a Gateway review against the five reasons provided by the DPIE to not support the Planning Proposal as summarised below.

1. The Planning Proposal gives effect to the Central City District Plan as:
  - *Priority 1 Planning for a City Supported by Infrastructure:* The Planning Proposal delivers population growth aligned with new infrastructure investment not only to support the proposed development, but to equitably enhance the amenity, services, and infrastructure of the existing community. The Planning Proposal to permit low density residential dwellings within an area of high accessibility to existing cultural, health, transport, and social infrastructure is entirely appropriate and supports the priority to maximise the use of existing infrastructure.
  - *Priority 5 Providing housing supply, choice and affordability, with access to jobs and services:* The proposal for new low-density residential dwellings on the sites is supported by infrastructure. 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 demographic groups. The low-density scale of development is appropriate in a peri-urban locality that is transitioning from adjacent higher density zones to rural transition areas north of the Dural neighbourhood centre. The scale of development proposed also provides an affordable housing choice in the local housing market which features a plurality of large lot residential and new apartment development.

- *Priority 18 Better managing rural areas:* The Planning Proposal offers a place-based planning solution by proposing a scale of development that can deliver significant public benefits, though in a density that is commensurate with surrounding local areas and is not in conflict with a desired transition to rural lands north of Dural. The sites are located within a logical boundary bookended by urban uses and will not adversely impact on economically viable agricultural lands in the area, which are currently impacted by buffer zones to existing sensitive human receptors.
2. The Planning Proposal does not contain unresolved inconsistencies with the Section 9.1 Directions that are not otherwise capable of being determined through the finalisation of the Planning Proposal process. Where departing from the Section 9.1 Directions, the Planning Proposal is justifiable in the circumstances of the case and in accordance with the objectives and actions contained within the Central City District Plan.
  3. The Planning Proposal does not rely upon plans or funding to increase capacity on the surrounding road network to facilitate development on the sites. This is evidenced by the minor augmentation to the road network proposed to support the indicative subdivision, the limited increase in traffic generated by the Planning Proposal and the negligible impact of this traffic on the road network and key intersections compared to background traffic volumes. Should the Minister or Independent Planning Commission have concerns regarding the capacity of the surrounding road network, it is reiterated that the applicant proposed to the DPIE in February 2020 that the Planning Proposal could be amended to contain the 'northern site' only, reducing the proposed residential yield to 99 dwellings (and commensurate reduction in traffic generation).
  4. The Planning Proposal makes a sufficient contribution toward improving State infrastructure, as the Planning Proposal does not rely upon any improvement to the State or regional road network. Notwithstanding, the Planning Proposal includes a contribution towards improving the conditions of traffic flow on the regional road network specifically by removing pick-up and drop-off movements from Old Northern Road, and by delivering the first stage of a future Regional Road (Annangrove Road Bypass) to improve traffic flows from the north west growth centres through to the eastern city.
  5. The Planning Proposal has demonstrated that the sites have no economically viable potential to accommodate significant agricultural uses under its current zoning, and due to the existing site context and surrounding properties, land use conflict will not arise as a result of the Planning Proposal.

In our view, the Planning Proposal has clear strategic and site-specific merit to support a positive Gateway determination. In summary reasons for approval include:

- The Planning Proposal seeks to deliver more affordable allotments whilst maintaining the Dural and context character through the delivery of low-density housing.
- The proposed low density development will be designed to achieve a high level of design excellence and will contribute to the enhancement of the context.
- The Planning Proposal can be readily amended to limit the scope of development to the northern site only, which will yield 99 dwellings. This will allow the southern site to be further planned into the future.
- The Planning Proposal includes a number of public benefits including:



- New public open space (4,000m<sup>2</sup>) located along Old Northern Road to be dedicated to the Council;
- Road widening and road reserve (9,000m<sup>2</sup>) for future Regional Road (Annangrove Road Bypass) to be dedicated to the Council;
- New designated drop off area of the Dural Public School which in effect will alleviate congestion and public safety hazards along Old Northern Road;
- Construction of signalised traffic intersection on Old Northern Road; and
- Provision of civil infrastructure for Dural Public School allowing the school to be connected to a sewerage system.

It is reiterated for the benefit of the Independent Planning Commission and the Minister that the proponent wrote to the DPIE in February 2020 acknowledging that they would be willing to accept a conditional Gateway determination on the Planning Proposal, if merit is found in the proposal however concerns remained regarding the regional road network (refer **Attachment C**, Material provided in Gateway Assessment).

Such a conditional Gateway determination would enable the development outcome of the northern site in the short-medium term, and in effect excise the southern site from the Planning Proposal. This would reduce the overall indicative dwelling yield from 181 to 99 dwellings. Furthermore, this would result in less vehicle trips to be generated from approximately 161 to 85 during the PM (max.) peak hour whilst delivering all of the stated public benefits and safety issues surrounding the adjacent public school. This option has not been given any meaningful consideration in the Gateway assessment.

The Planning Proposal has clear strategic and site-specific merit to support a positive Gateway determination. It is therefore recommended that the Gateway determination is reviewed and amended to a positive outcome to support The Hills Shire community as soon as practical.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Clare Brown".

Clare Brown  
Director



- Attachment A** – Council letter to DPIE
- Attachment B** – Gateway Review Application Form
- Attachment C** – Planning Proposal and Additional Information submitted to DPIE
- Attachment D** – Bushfire Strategic Assessment