

## **LAND RELEASE AND HOUSING SUPPLY IN NEW SOUTH WALES**

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5 September 2017

Mr Jai Rowell MP  
Chair - Committee on Environment and Planning  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Our Ref: FP99

Dear Mr Rowell,

**Parliamentary Inquiry into Land Release and Housing Supply in New South Wales**

I refer to the Legislative Assembly Committee on Environment and Planning's inquiry into land release and housing supply in New South Wales. Thank you for providing the opportunity to make a submission on the matter and respond to policy issues. This submission has been drafted having regard to previous resolutions of the Hills Shire Council. This submission itself has not been reported to Council.

Whilst not explicit within the Terms of Reference it is noted that developing affordable housing is a key driver of the inquiry as set out in the media release announcing the inquiry on 27 June 2017. Council has sought to provide useful comments on the Terms of Reference, however these terms do not consider the full range of factors which impact on housing affordability.

Much of the housing affordability discussions over the past 12 months has focused predominately on supply of housing as the key driver of affordability. It is recognised that supply is a crucial factor, however the focus on supply alone will not recognise or meaningfully address other factors that contribute. If a solution is to be developed, a broader focus is needed that responds to:

- The shortage of skilled tradespersons. The Department of Employment released statistics earlier this year indicating that all construction trades occupations assessed are in shortage in New South Wales for the second consecutive year. A shortage of skilled construction workers and suppliers is a cause of delay and higher prices for labour and materials;
- The obvious financial incentive for developers (and financiers) to control supply and release product to the market in stages to retain high demand and obtain the highest possible return on investment. Of relevance, The Hills Shire Council approves substantially more dwellings than actually built, with developers appearing to 'land bank' approvals that often don't eventuate;
- The current tax and subsidy arrangements (such as stamp duty, grants and negative gearing provisions) which significantly impact on the affordability of housing products once released to the markets; and
- Requirements of the Australian Prudential Regulation Authority (APRA) for banks and other lending institutions that, whilst well intentioned, are delaying the commencement of construction. These requirements seek to ensure these institutions are well placed to withstand a severe downturn in the property market, particularly the residential sector. The

funding barriers faced by developers today, compared to prior to the global financial crisis, include more stringent limitations on the maximum loan available, a lower proportion of the total project cost able to be funded by debt and a larger proportion of pre sales required prior to drawing down the loan.

The Hills Shire has consistently achieved its housing targets under successive Metropolitan Plans by successive Governments and has enough land zoned for housing to exceed our stated targets (without including substantial future growth around the Sydney Metro North West). This Council is playing its part to accommodate Sydney's population growth and in responding to the exhibition of the draft West Central District Plan has recommended, in part, that metropolitan rural lands be included as part of the planning and meeting the growth of Sydney. A copy of Council's submission in March 2017 on this matter is attached for your information.

In addition to increasing the supply of zoned land, the delivery of housing to the market relies on the coordination of land use planning, the taxation system, the construction industry, financing constraints and the developer's timing for releasing products to the market. Foreign investment and immigration are also factors contributing to the demand and affordability of housing in NSW.

In addition to the issues raised above, comments on the Terms of Reference are provided in the attached submission. The submission brings together concerns that have been raised by Council in response to planning reforms, metropolitan and district planning. They draw upon Council's recent experience with State Government in planning for growth centres and for urban renewal along the corridor of the Sydney Metro Northwest. The submission also incorporates the funding constraints experienced by the development industry as articulated in correspondence to Council.

A summary of the key issues is provided below:

- Lack of communication between teams within the Department, specifically the Chief Planner NSW, Urban Renewal Team and Sydney West Region Team, causing delays in precinct planning and subsequent rezoning;
- Delays in 'endorsement' of Contributions Plans by IPART and the NSW Government, as well as the imposed 'cap' on developer contributions which has serious ramifications for orderly development and threatens Council's ability to fund and deliver key infrastructure required to support the supply of new housing;
- The role of UrbanGrowth in the master planning of priority precincts within the Sydney Metro Northwest Corridor resulting in significant delays in finalising precinct plans and rezoning land (and raising serious concerns with respect to probity);
- The need for a clear State led process for identification of new release areas that provides for detailed investigation of urban capability and the coordination of servicing and infrastructure upgrades;
- Failure of the Department of Planning and Environment to provide Council with key information (including traffic modelling and studies undertaken for priority and station precincts) which consequently delays rezoning applications and Council's ability to complete precinct planning; and
- The repeated reduction of Council's decision making role despite its proven ability to determine applications expeditiously and transparently. Timeframes are substantially less than those achieved (or likely to be achieved) by independent assessment panels such as IHAP and Sydney West Central Planning Panel.

In terms of the land use planning framework Council, in responding to the exhibition of planning legislative updates in February this year, has articulated 10 key measures that could be implemented to restore public confidence in the States planning system, improve efficiency,

provide accountability and be effective. A copy of this submission is also attached for your information and the measures are outlined in the relevant terms of reference.

The Hills Shire Council has a strong record of delivering on housing, over a sustained length of time. It has real 'hands on' experience in the operation of the planning system to be well placed to advise what works and what does not work. I urge you to consider the full range of factors which impact on housing supply and affordability that could make a real difference to restoring confidence in the planning system.

I would be happy to speak at the Inquiry to discuss this matter further. Should you require any further information, please contact me on [REDACTED] or Council's Acting Group Manager Strategic Planning Stewart Seale on [REDACTED].

Yours faithfully



**Michael Edgar**  
**GENERAL MANAGER**

ATTACHMENTS:

1. Additional submission paper to the Legislative Assembly Committee on Environment and Planning Inquiry into Land Release and Housing Supply.
2. Council submission of 20 March 2017 on Draft Amendments to the Environmental Planning & Assessment Act 1979
3. Council submission of 31 March 2017 on a Plan for Growing Sydney and Draft West Central District Plan



# Inquiry into Land Release and Housing Supply in NSW

Submission to the Legislative Assembly Committee on Environment and Planning  
The Hills Shire Council  
September 2017



**THE HILLS**  
Sydney's Garden Shire

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## 1. INTRODUCTION

The Hills Shire is experiencing an unprecedented population growth which requires housing and jobs to grow similarly. A number of projects including the development in the North West Growth Centre (North Kellyville and Box Hill) as well as growth within the Sydney Metro Northwest Corridor Precincts (Cherrybrook, Castle Hill, Hills Showground, Norwest, Bella Vista, Kellyville, and Rouse Hill) will see The Hills Shire continue to be a dynamic place which is changing and growing.

The Hills Shire Council has a population of 157,243 residents and is made up predominately of couple families with children. At the 2016 Census couple families with children was the most common household type in the Hills at 53% of households. This household type also saw the highest rate of growth (11% increase from 2011). This makes dwelling structure a key issue for the Hills, ensuring we provide family friendly dwellings at a range of sizes and price points. The Sydney Metro Northwest will predominately service the southern portion of the shire and is forecast to commence operation in 2019.

The Hills Shire Council have completed extensive demographic research and created a policy relating to apartment size and mix that secures the delivery of apartments that will suit the needs of Shire residents into the future. The Hills Shire has a largely family oriented demographic profile that indicates larger apartments are needed to cater for family households.

## 2. HOUSING SUPPLY IN THE HILLS

The Hills Shire has considerable experience and expertise in both release of land in growth centres and urban renewal having successfully over many years implemented policy, strategies, regulations and delivery to support housing and jobs growth for greater Sydney. Council in its current planning instruments has sufficient land zoned to exceed its target of 36,000 homes by the year 2036. Over the past three years alone, the Hills Shire has processed applications to produce over 7,500 home sites and approved many more homes in the form of apartments. All this work and activity has been carried out under the current planning system and Council does have expertise to indicate what works and what does not work.

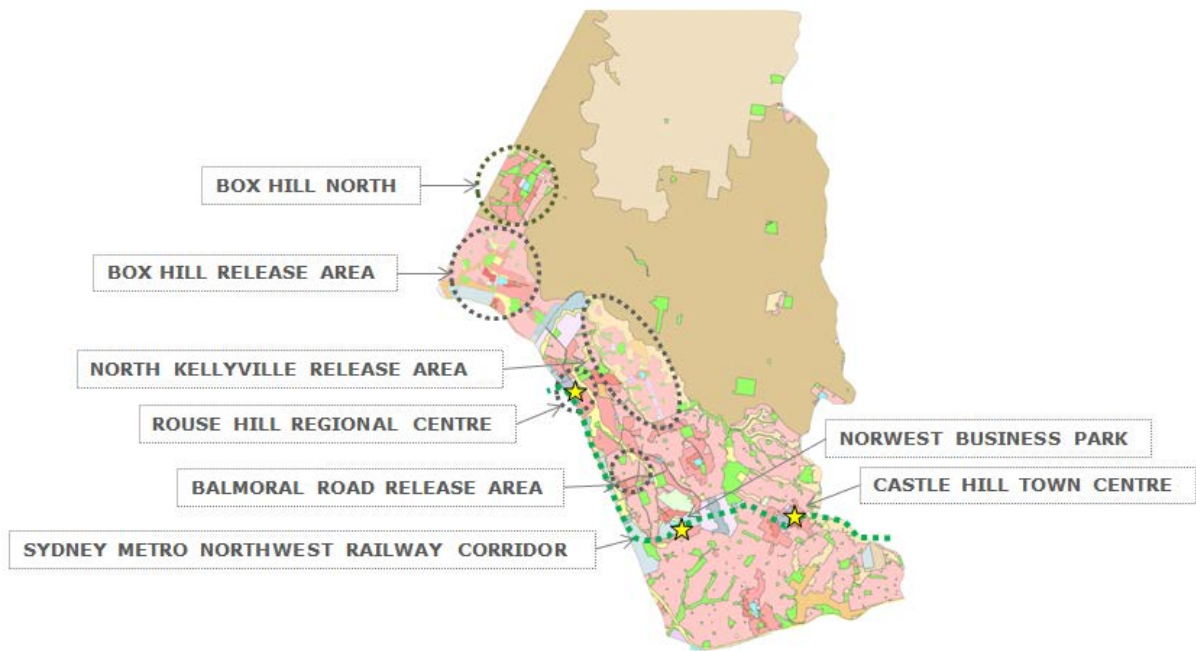
### 2.1 Housing Targets

In The Hills Shire, under existing controls and zoning there is approximately 1,555ha of land zoned to accommodate an additional 28,394 dwellings (not including further opportunities for at least 16,050 additional dwellings above and beyond this as a result of future rezoning within the Sydney Metro Northwest Corridor). These opportunities are made up of the following:

- Low Density Opportunities: 9,684 dwellings;
- Medium Density Opportunities: 8,136 dwellings;
- High Density Opportunities: 10,217 dwellings;
- **Total (Current Opportunities): 28,394 dwellings**
- Sydney Metro Northwest Additional Uplift: 16,050 dwellings;
- **Total (Current + Rail Uplift): 44,444 dwellings**

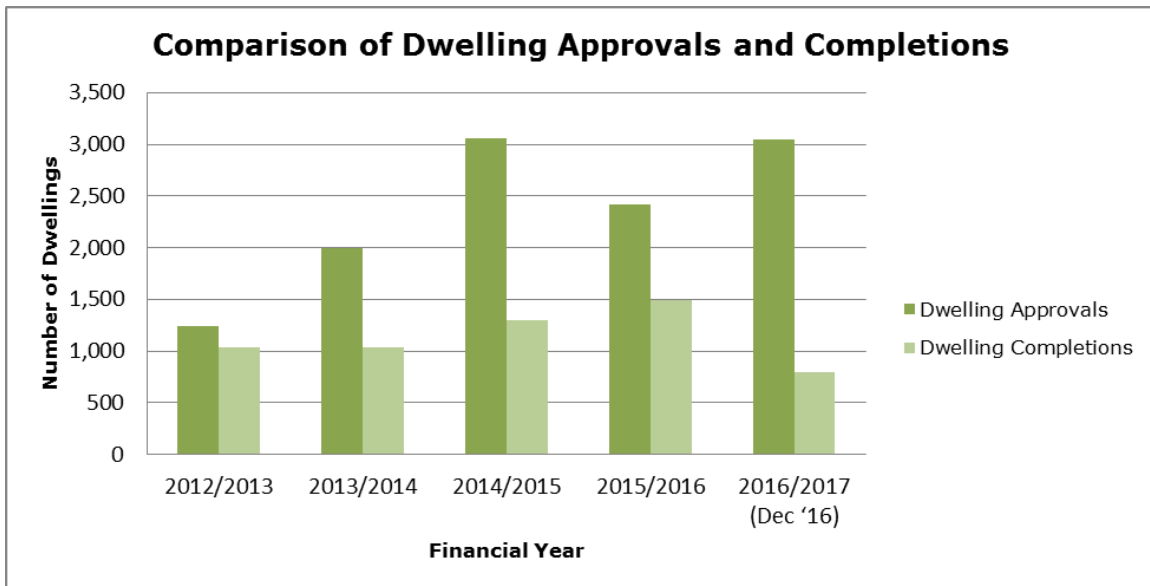
In addition to these opportunities, Council is currently undertaking investigations into urban capability and capacity in the Dural locality, situated on the rural-urban fringe.





**Figure 1**  
Map of housing capacity in The Hills Shire Local Government Area

In addition to a significant supply of zoned land, Council has consistently approved between 2,000 and 3,000 dwellings each year. However, as demonstrated below (Figure 2), the number of dwellings completed each year has been significantly less, indicating that factors other than availability of land and the approvals process are influencing the delivery of housing.



**Figure 2**  
Comparison of Dwelling Approvals and Completions



The availability of significant and approved opportunities to develop zoned and serviced land is not always translating to increases in the supply of housing to the market. This indicates that blockages to the delivery of housing exist elsewhere in the system and any further 'reform' to the planning system (including development approval process) is unlikely to significantly impact on levels of dwelling supply (especially to the extent required to dramatically reduce housing prices given the high demand for housing within the market).

## **2.2 Current Housing Supply Process**

Basic 'demand and supply' economics suggest that removing barriers to supply will lead to an increase in the amount of 'product' in the market, which would subsequently reduce competition in the market and in turn, lower the value of the product (therefore making housing more affordable). This principle has led to a strong focus on the local regulatory and planning framework as providing the answer to housing affordability. Whilst improvements in efficiency are supported, more is needed to bring housing to the market and improve housing affordability.

Any efforts to reduce development assessment time is a non-issue and ultimately does not impact affordability, due in part to a shortage of skilled trades persons and the financial incentive for developers to control the supply of product to the market. It is important to note that irrespective of the extent of opportunities for new housing, developers (and banks that finance development) influence the supply of housing to the market. The financial decisions of these parties (and ability/willingness to increase the supply of housing) can be influenced by a number of factors including:

- Development feasibility (influenced by a developer's cost of land, cost and availability of financing, taxes, construction costs and required profit margin);
- Unwillingness to increase supply and consequently place downward pressure on prices and profitability;
- Inability to obtain finance/investment in projects with lower profitability (it is unlikely that financial institutions would be willing to actively fund projects which increase the supply of housing to the market to the extent that they place downward pressure on sale values and profitability and directly reduce the return on their financial investment); and
- Commercial decisions to stage the release of new housing to the market to avoid oversupply and ensure that the highest sale value (and profitability) is achieved.

In addition to the role of developers and financial institutions in influencing supply to ensure development/financial feasibility, it is noted that current tax and subsidy arrangements (such as stamp duty, grants and negative gearing provisions) also impact on the affordability of housing products once released to the markets, especially for first-home buyers seeking to enter the market.

The delivery of housing to the market relies on the coordination of land use planning, the financial and taxation system, construction industry and importantly, without Government intervention, relies on the will of developers to increase supply to the market to create a more affordable product.

### **3. TERMS OF REFERENCE A - THE RESOURCES AND SUPPORT NEEDED WITHIN THE DEPARTMENT OF PLANNING AND ENVIRONMENT**

The Hills has experienced significant growth over the last decade, with this growth anticipated to continue in the upcoming years. This growth has increased the exposure that The Hills has with the Department of Planning and Environment with liaison required with a number of different officers and teams including:

- Land Release team
- Sydney Region West team
- Urban Renewal team
- Transport and Strategic Infrastructure Planning team
- Chief Planner NSW

An overview of these experiences is provided below:

#### **3.1 Priority Precincts**

The Bella Vista, Kellyville and Showground station precincts were nominated as Priority Precincts by Council in October 2013, having capacity to accommodate regionally significant growth in housing and jobs. As priority precincts, the Department of Planning and Environment became the responsible authority for the precinct planning process and progression of the rezoning of these precincts.

After nearly 4 years, the precincts have not yet been rezoned. To enable the finalisation of the Precinct Planning, Council officers provided the Department with a complete package of legislative amendments (draft SEPP and associated Maps) in October 2016 which would have allowed for the rezoning of the Bella Vista and Kellyville Priority Precincts. A similar package was provided to the Department in April 2017 with respect to the Showground Priority Precinct.

Importantly, the packages provided by Council sought to facilitate more than 20,000 new dwellings across these precincts, as opposed to the 13,400 dwellings originally anticipated and publicly exhibited by the NSW Government.

Unfortunately, instead of proceeding with these packages (which achieved Council's desired outcomes as well as nearly 7,000 dwellings more than originally anticipated by the NSW Government) the Department has proceeded to dispute with Council over policy issues relating to unit mix and sizes, which had already been resolved and reflect agreements reached between Council and the Chief Town Planner on behalf of the Minister for Planning.

The Department has ultimately prevented the rezoning of these precincts and substantially delayed the supply of 20,000 new dwellings, contrary to NSW Government policy objectives. While Council and the Department may have disagreed on a number of minor issues, it is extremely disappointing that the Department has been unable to accept and proceed with a viable and reasonable solution which met and exceed the housing objectives of both Council and the NSW Government and would provide for a diversity of housing consistent with wider policy objectives.

It is unclear where the system has failed and whether this is due to resourcing levels, structure of the Department or simply strict adherence to policy. From our viewpoint

part of the issue has been the engagement with different teams and officers of the Department. For example the Sydney Region West team worked with Council and the Chief Planner NSW to develop an agreed methodology to incentivise a better mix of apartments for planning proposals however this policy unfortunately did not translate to the work being done by the Urban Renewal team for the Priority Precincts.

It is noted that as part of the package of measures announced by Government in June 2017 to improve housing affordability, the expansion of the Priority Precincts Program is proposed. Our experience provides no evidence that the Priority Precincts program will deliver on the objective of fast tracking the delivery of new homes. Local Government has the capacity and experience to sort out issues and State resources would be better directed to assist councils to continue with their work in supporting housing growth.

### **3.2 Box Hill Contributions Plan and IPART role**

As a result of the NSW Government imposed 'cap' on development contributions (\$30,000 per lot/dwelling), Council is only able to collect sufficient funds to provide approximately 50% of the local infrastructure required to service development within the Box Hill Precinct (as identified by the Department). In response to this, the NSW Government committed to funding the deficit (the difference between the 'capped' amount of \$30,000 per lot/dwelling and the full contribution rate established under the applicable Contributions Plan – approximately \$70,000 per lot/dwelling) through the "Local Infrastructure Growth Scheme".

Due to the significant delay in IPART reviewing the Contributions Plans and for the Minister to consider the outcomes of IPART's review, more than 5 years has passed since the rezoning of the Precinct, and Council does not have an endorsed Contributions Plan which provides certainty to Developers, Council and the community that the local infrastructure required to support the development can be delivered.

Council has adopted a revised Contributions Plan that addresses amendments required by the Minister and we are awaiting final endorsement. However, overall the IPART review process is onerous and time consuming and more rigour is needed to facilitate better coordination and funding of enabling infrastructure.

### **3.3 State Infrastructure Planning**

The underpinning infrastructure such as water, sewer and power has a huge impact on the ability to bring housing to the market, which is one of the elements where the District Plan should guide coordination. Council's own experience has shown development occurs not when land is zoned, but when it is serviced, so more often than not it is the timing and delivery of sewer, water and power that influences supply.

In all submissions on the draft District Plan and EP&A planning reforms, Council has strongly urged State Government to develop a meaningful and strategic Infrastructure Plan, covering schools, roads and transport considering additional infrastructure needs beyond committed projects and including a map showing locations and high priorities to guide infrastructure agencies in planning for growth.

The Greater Sydney Commission is currently developing a series of mechanisms to better align strategic land use planning with infrastructure and investment. One

mechanism proposed by the Commission is the Growth Infrastructure Compact which will ideally pair and time infrastructure with the additional housing and employment in high growth areas. This concept and mechanism is proposed to be embedded into State Government policies to achieve the direction of 'a city supported by infrastructure'. It is noted that this mechanism is still in the initial planning stages, further consultation will be required once the criteria for the Growth Infrastructure Compact has been developed to determine its efficacy.

### **3.4 Process for release of land for urban purposes**

Historically there has been a State led process or framework for the identification of new urban release areas. In 2005 Sustainability criteria for new land release were included in the Metropolitan Strategy, clearly articulating the thresholds required for listing of land on the Metropolitan Development Program. In 2006, the Growth Centres Commission and Growth Centres State Policy provided for a coordinated approach to land release in collaboration with local government.

The land owner nominated sites process initiated by the Department of Planning 2011/2012 invited landowners to identify larger sites in appropriate locations that would increase dwelling production in the short term. The assessment included viability of housing delivery in the short term, the physical and environmental capability of the land, importance of the land for other purposes and importantly the ability to provide infrastructure and services for new communities in a timely manner at no additional cost to government.

Since this time there has not been a clearly articulated process for land release and the consideration of individual planning proposals seeking rezoning of rural land for urban purposes is not precluded. On Tuesday 13 December 2016, a planning proposal to rezone land at Derriwong Road and Old Northern Road, Dural was reported to Council and it was resolved in part that the planning proposal be held in abeyance until the wider Dural investigation area planning is completed to enable a more cohesive development and infrastructure outcome and provide a clear boundary to urban development.

Council at its meeting of 11 April 2017 resolved to allocate funds for the preparation of Phase 1 Urban Capability and Capacity Assessment of the Dural locality, including the potential use of rural lands in the urban housing mix. Phase 1 investigations will require environmental studies, infrastructure capacity investigations and preparation of an indicative structure plan. If the studies conclude that the area is able to sustain urban land use an approach will be needed to State government to endorse the approach and obtain commitment to funding infrastructure and required services for a potential release area. Phase 2 will involve more detailed precinct planning.

Council has committed to Phase 1 investigations in the absence of a clear State Government land release process. However, depending on the outcomes of such investigations, a coordinated approach with State Government and other Agencies will be needed to ensure the land is adequately serviced and that infrastructure upgrades will be delivered. The Department of Planning could play a more meaningful and important role in the land release process as has occurred in the past.

### **3.5 Recommended Solutions**

As indicated in Section 2, The Hills Shire Council has a strong record of delivering on housing, over a sustained length of time. It has real 'hands on' experience in the operation of the planning system to be well placed to advise what works and what does not work.

It is recommended the following key measures be implemented to restore public confidence in the State's planning system, improve efficiency, provide accountability and be effective:

- a. Work with Council's to agree on housing and jobs growth areas and enable coordinated and fixed focus on these areas across all relevant agencies. This will allow the attraction of investment in the right areas and focus the efforts of government, Council and the communities in the identified areas that matter. This will improve confidence and certainty. Consideration of spot rezoning outside these areas ultimately detracts from Council and Government ability to plan and roll out development in strategically identified areas, for minimal benefit in terms of housing supply and affordability.
- b. Provide meaningful State infrastructure plans to cover schools, roads and transport to support the agreed growth areas in the Local Government Area. These Plans are to identify timeframes and funding sources that are committed.
- c. Develop a 20 year physical model of the built form of greater Sydney for the next 20 years. Many other sophisticated Cities around the world have done this and at any time a developer, community member or agency can view the model to guide their respective decisions. It is one clear way to inform the wider community about what they can expect over the 20 year timeframe.
- d. Apply legislative timeframes for the Department of Planning and Environment to consider Contributions Plans to provide certainty to Council the community with respect to what local infrastructure can be provided.
- e. Allow Council's to deliver additional housing in a form which responds to local characteristics and demographics.
- f. Provide for more frequent and responsive review of growth centres planning framework, to promptly address issues related to housing and infrastructure delivery.
- g. Establish a clear State led process for investigation of new urban release areas that is strategic and coordinated to ensure potential growth addresses environmental, social and economic criteria and can be feasibly serviced by necessary utilities, roads, transport, stormwater, recreation and other social infrastructure.



#### **4. TERMS OF REFERENCE B - DELIVERY MECHANISMS FOLLOWING THE REZONING OF LAND THROUGH TO CONSTRUCTION**

As discussed, there is ample land zoned for residential redevelopment in the market and a pool of approved residential developments that have not been constructed, demonstrating that there are greater barriers to housing supply than rezoning land and reducing assessment times. Council has been advised by developers of the greatest barriers to delivering housing that they face. Additionally, Council's issues with the current delivery mechanisms to promote housing supply, as well as recommended solutions, are outlined below.

##### **4.1 Funding Barriers**

A prominent developer in The Hills provided Council with advice as to what they believe is the greatest barrier to housing supply in New South Wales. The Australian Prudential Regulation Authority (APRA) have imposed additional requirements on Australian Authorised Deposit-Taking Institutes (ADIs – banks, building societies, credit unions etc.) to ensure they are well placed to withstand a severe downturn in the property market, specifically with residential developments.

Developers were previously able to borrow amounts in excess of \$100m from any one bank whereas now it is generally considered that the maximum loan available from any Australian bank for a single project is not more than \$100m. When combined with Sydney's significant appreciation in median house prices and construction costs, this has significantly impacted the size of projects that can be funded by any one bank.

Where projects require more than one bank to fund them, which is more commonplace these days, the time taken to obtain the finance and meet the additional funding conditions (each bank typically has different requirements) has substantially delayed the commencement of these projects, causing concerns for purchasers about the project being completed on time, if at all.

The table below is a simple example of the some of the limiting metrics to funding project developments and these are summarised as:

	<b>Previous Limit</b>	<b>Current Limit</b>
Total Cost of Project Funded by Debt	80%	60%
Loan to Security Ratio	70%	55%

Within the above assessment levels, the banks would have allowed the developer to reassess the land value to take account of the successful Development Approval. This would often equate to a substantial increase in valuation which would be included in the developer's equity contribution to the project, allowing them to commence projects expediently.

Today, whilst also being very selective of who they lend to, some banks are discounting any increase in land valuation if the land was purchased in the last 24 months. This practice, along with the changed limits above, makes it prohibitively difficult for developers to commence projects in a timely fashion.

Financers are also requiring that a larger proportion of pre-sales are secured prior to lending, with banks now requiring pre-sales to secure 120% of the loan amount.

Additionally, deposits required have increased from 5% to 10% and there are now more stringent laws surrounding foreign investment which has impacted the speed in which pre-sales are sold. It has been noted that the market has become more perceptive to the quality and amenity of developments, including apartment mix. Where a development does not cater for market demand, projects have been delayed in their commencement, primarily due to a lack of pre-sale interest.

For the reasons outlined above, developments are generally taking longer to secure the required level of pre-sales, delaying the commencement of construction, further exacerbating the concerns of prospective purchasers that the development won't commence on time if at all. The changing lending environment has, in part, impacted developer's ability to deliver housing in a timely fashion.

#### **4.2 The Role of the Planning Panels**

Council has previously written to the Minister for Planning to express its concerns about the conduct, operation and decisions of the Sydney West Central Planning Panel. It appears as though the Panel members do not understand the entire local context and the greater strategic issues and are singularly focused on the need to provide more housing for Sydney.

The involvement of Planning Panels for many applications is unnecessary and adds time and cost to the process of development assessment. They add at least one month to what a normal processing time would take. Councils are best equipped to deal with all development proposals other than major infrastructure and special projects. The majority of development applications determined by the West Central Panel relate to residential or mixed use developments that are not regionally significant.

#### **4.3 Mandatory Independent Hearing and Assessment Panels**

The recent introduction of mandatory Independent Hearing and Assessment Panels (IHAPs) for all councils in Sydney is another measure that will create additional bureaucracy but will add no benefit in terms of assessment or approval times. The Hills Council has an effective system in place where the majority of applications are determined under delegation by Council staff, with the remainder determined by Council's Development Assessment Unit and a minimal number determined at a meeting of Council.

The requirement for all development applications with a value of more than \$5 million to go to an IHAP will mean that a significant number of DAs currently efficiently determined by Council will be referred to IHAPs adding time and complexity to the process.

#### **4.4 Complying Development code and Role of Private Certifiers**

Council has continually raised concern with respect to any reform of the planning system which seeks to broaden complying development criteria to potentially contentious development types as this will significantly increase the role of private certifiers. The private certification system has been a constant problem since its introduction in 1998. The inherent conflicts of interest, problems with accreditation and the lack of responsive investigation and enforcement by the Building Professionals Board have led to a lack of confidence in the system.

There are fundamental flaws in having privately commissioned individuals perform tasks on behalf of the public interest. In many instances building companies force their chosen certifier on home owners which whilst unlawful appears to be common place. This is a system which can harbour complacency and at worst corrupt practices. There is a need to ban developers/builders hiring their own certifiers to ensure that the quality of outcomes is not compromised.

Private certification of building approvals and inspections continue to raise concerns, particularly where Council staff becomes involved in an enforcement role created by non-compliance by private certifiers. It is the Councils who bear the costs of dealing with private certification going wrong and the responsibility of resolving the issues. State Government should be careful to balance the push for increasing the role of Private Certifiers with the need to achieve appropriate development, amenity and liveability outcomes.

Proposals to broaden complying development (the missing middle) and increase the role of private certifiers simply add to the above concern and greater focus is needed on ensuring the quality of housing outcomes not just the supply.

#### **4.5 Approval Pathways**

Prior to private certification, the planning system rarely required development consent for dwellings, dwelling additions or outbuildings. Instead these kinds of development were the subject of a building application assessed and determined under the Local Government Act. Assessment under this Act mirrored considerations for consent under the Environmental Planning and Assessment Act and even taking into account the landowner notification process, generally resulted in faster approval and certainty of requirements. Importantly these decisions also involved consideration of merit but because Councils could only undertake that role with any impartiality applications were determined having regard to the relevant procedures, policies and development standards. The planning and building regulation system was efficient and accountable.

With the 1998 reforms all development handled by building applications became local development requiring development consent that, whilst not doubt unintended, has added weight and complexity to the system. There is considered to be a place for a fourth stream of Development Approval that deals with applications that sit just outside complying development that could be modelled on the building application process that existed prior to the 1998 reforms.

#### **4.6 Recommended Solutions**

To allow Council's to apply local knowledge and make better planning decisions for their residents, it is recommended that the Department of Planning and Environment diminish the role and ambit of Planning Panels. There are too many applications being determined by Planning Panels that are not of regional significance. Planning Panels must comprise a maximum of four (4) members to reduce costs and of those four, the Government and Council be represented by 2 appointed members each. The Chairperson has the right to a casting vote. Planning Panels should only be utilised for the following:

- a. Developments that exceed \$100M in the metropolitan area.
- b. Involve significant State or Local infrastructure.

- c. Involve significant (over \$1M) applications that relate to Local Council's Operational land.
- d. Involve rezoning of Council operational land for purposes other than open space or recreation.
- e. To determine differences between State agency requirements on significant matters.

The recent mandatory requirement for Independent Hearing and Assessment Panels should also be amended to apply only to those councils that are underperforming.

Council also recommends that the Department introduce a fourth stream of Development Approval to deal with Class 1a (for example single dwellings or attached dwellings, separated by a fire-resisting wall) and 10 (non-habitable structure such as sheds, garages) on land that is zoned urban and fully serviced.

The new stream should be for proposals that fit between a Development Application and a Complying Development Certificate. A Development Application process is too onerous for these kinds of buildings and structures on these lands and a merit based application for Building Permission issued by Council would reduce delays and costs. An application for Building Permission should only require plans and specifications demonstrating compliance with the Building Code of Australia and local development standards and should only involve limited neighbour notification.

## 5. TERMS OF REFERENCE C - THE COMPLEMENTARY ROLES OF STATE AUTHORITIES, LOCAL COUNCILS AND UTILITIES

The current planning system has resulted in competing interests of planning authorities and stakeholders at both State and Local Government levels as well as private industry, in both strategic and statutory realms of planning. The issues faced as a result of this over-complicated planning system as well as recommended solutions have been outlined below:

Level	Strategic Planning	Statutory Planning
<b>State</b>	Department of Planning and Environment Teams: <ul style="list-style-type: none"> <li>• Land Release and Housing</li> <li>• Regional Teams</li> <li>• Infrastructure</li> <li>• Policy</li> <li>• Urban Renewal (Priority Precincts)</li> </ul> Public Authorities <ul style="list-style-type: none"> <li>• Transport for NSW</li> <li>• Roads and Maritime Services</li> <li>• Office of Environment and Heritage</li> <li>• NSW Rural Fire Service</li> <li>• Department of Education and Communities</li> <li>• Sydney Water</li> <li>• Endeavour Energy</li> <li>• Office of Water</li> <li>• Department of Family and Community Services</li> <li>• NSW Police Force</li> </ul> West Central Planning Panel New Independent Hearing and Assessment Panel IPART Urban Growth	Public Authorities <ul style="list-style-type: none"> <li>• Transport for NSW</li> <li>• Roads and Maritime Services</li> <li>• Office of Environment and Heritage</li> <li>• NSW Rural Fire Service</li> <li>• Department of Education &amp; Communities</li> <li>• Sydney Water</li> <li>• Endeavour Energy</li> <li>• Office of Water</li> <li>• Department of Family and Community Services</li> <li>• NSW Police Force</li> </ul> West Central Planning Panel New Independent Hearing and Assessment Panel
<b>Local</b>	Council Councillors	Council Councillors
<b>Private</b>	Proponent Land Owner Community Lobby Groups Industry Groups	Proponent Land Owner Community

**Table 1**  
Stakeholders in Planning Outcomes



### **5.1 The role of Urban Growth**

Urban Growth has been involved in the master planning of priority precincts within the Sydney Metro Northwest Corridor. This has resulted in significant delays in finalisation of precinct plans and subsequent rezoning as the Department of Planning attempt to satisfy Urban Growth's desired outcomes. This is of major concern from both a timing and probity perspective and appropriateness of a "developer" driving strategic planning outcomes through the Department is extremely questionable.

### **5.2 The coordination role of the Department of Planning and Environment**

The Department of Planning and Environment have yet to provide Council with a copy of traffic modelling and studies undertaken for priority and station precincts which consequently delays rezoning applications and Council's ability to undertake precinct planning.

Recently, Council resolved to hold a planning proposal in abeyance so that the proponent could undertake further traffic work. Council had requested a copy of the existing conditions report for the Transport for NSW traffic and transport plan in an email to Department on 12 May 2015. A subsequent letter was sent to the Department on 1 June 2017 requesting that the Department provide Council with copies of the Strategic Transport and Traffic modelling, analysis and studies completed for the Sydney Metro Northwest. This data has not yet been received and the Department of Planning and Environment are disclaiming responsibility in providing it, despite being the lead agency.

### **5.3 Delays in planning proposals due to late submissions from public authorities**

Consultation with public authorities is required under Section 56(2)(d) of the Environmental Planning and Assessment Act 1979. A list of which public authorities are required to be consulted is included as a condition of Gateway Determination for any planning proposal with a timeframe of how long they are to be given to provide comments (usually 21 days). Often, public authorities do not provide their comments within this timeframe which impacts Council's ability to report back to Council and delays the final stages of the planning proposal process.

This delay in feedback is experienced at both Strategic and Statutory Planning stages, with consultation periods prolonging the time taken to make a determination on a development application.

It is noted that part of the package of measures announced by Government in June 2017 to improve housing affordability includes the establishment of a specialist team to accelerate council rezonings. Council is mindful of its responsibilities in accommodating population growth and where proposals have strategic merit rezonings are referred for Gateway Determination without delay. In 2016/2017 12 planning proposals to deliver an additional 1,200 dwellings were finalised and another 23 proposals to deliver a further 13,700 dwellings are under consideration. It is important that the new team focus on impediments created by public authorities and not hinder Council in the work it is already doing to deliver on housing.

### **5.4 Recommended solutions**

It is recommended that the Department of Planning require all State Agencies to commit to maximum timeframes to provide comments, concurrence and responses to development matters and concerns. Twenty eight (28) days is the suggested

maximum as the forty (40) day maximum is the statutory timeframe before an application is deemed to be refused.

Additionally, it is recommended that developers, whether they State operated such as Urban Growth or otherwise, be excluded from strategic planning to ensure transparency and reduce delays.

## **6. TERMS OF REFERENCE D - THE DIFFERENT CHARACTERISTICS OF GREATER SYDNEY AND NON-METROPOLITAN NSW**

In an attempt to simplify the planning system to increase supply, recent policies at a State Government level seem to be lacking an acknowledgement of diversity within the Greater Sydney area. A discussion on this is included below.

### **6.1 Diversity within Greater Sydney Metropolitan Area**

Given the diverse range of land uses and physical constraints and opportunities within the Greater Sydney region, it is considered unreasonable for these areas to be treated the same. There needs to be further guidance to inform the planning for the rural locations including very clear parameters on how the urban rural fringe will be considered in the face of competing priorities for conversion of rural land to residential.

Clear guidance is required to resolve competing priorities between biodiversity and urban growth and rural resource lands and urban growth to provide some certainty for landowners in the rural area. A detailed mechanism from a State Government level is required to address land capability and infrastructure capacity, to assist evaluation of proposals for urban expansion. Making piecemeal planning decisions in these areas adversely utilises resources away from focus on delivery outcomes in areas that have already been strategically identified for growth.

### **6.2 Recommended Solutions**

Local knowledge should be considered to be an asset not a barrier. The Department of Planning and Environment have repeatedly reduced Council's decision making role and their ability to secure the right outcomes for individual communities. It is recommended that the Department and the Planning Panels work better with Council in determining the right outcomes.

## **7. TERMS OF REFERENCE E – OTHER RELATED MATTERS**

As raised in the covering letter, it is considered that the terms of reference do not consider the full range of factors which impact on housing affordability and if a solution is the desired outcome of the inquiry, it is Council's opinion that the Committee should broaden its focus. Section 2 of this submission and covering letter outline some suggested additional areas of focus.

### **7.1 Shortage of Skilled Trades Persons**

The shortage of skilled trades persons and obvious financial incentive for developers (and financiers) to control supply and release product to the market in stages to retain high demand and obtain the highest possible return on investment. Of relevance, The Hills Shire Council approves substantially more dwellings than actually built, with developers 'land banking' approvals that often don't eventuate. The Department of Employment Labour Economics Office New South Wales released statistics earlier this year indicating that all construction trades occupations assessed are in shortage in New South Wales for the second consecutive year. Demand for construction trades continues to be evident in New South Wales, driven by strong building activity which has increased over the year with some employers surveyed indicated they were declining additional work due to a lack of available tradespersons.

Overall, in New South Wales grants of 457 temporary skilled migration visas to primary applicants in 2015-16 were a moderate source of new workers for the construction trades. Construction occupations were relatively important as a source of new supply included Wall and Floor Tiler, Bricklayer, Painter and Fibrous Plasterer.

### **7.2 Recommended Solutions**

TAFE NSW website states that *"there has never been a better time to be a tradie since there is currently a skill shortage of qualified tradesmen across NSW and Australia."* It is recommended that State Government work with TAFE NSW to develop ways of encouraging young people to enter into a trade to address this shortage.

**THE HILLS SHIRE COUNCIL**

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ABN No. 25 034 494 656

20 March 2017

Secretary – Ms Carolyn McNally  
NSW Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

Our Ref: FP95

Dear Ms McNally,

**Draft amendments to the Environmental Planning & Assessment Act, 1979**

Thank you for the opportunity to provide feedback on the proposed amendments to the Environmental Planning and Assessment Act, 1979. Council considered a report at its Ordinary Meeting of 28 February 2017 in relation to the proposed Planning Legislation Updates. It has recommended the following key measures be implemented to restore public confidence in the State's planning system, improve efficiency, provide accountability and be effective:

1. Complete the District Plans and resource the completion of actions identified in them. There is also a need to provide frameworks to resolve competing priorities in the various different sections of the Plans.
2. Work with Council's to agree the housing and jobs growth areas and agree the areas not to change. This will allow the attraction of investment in the right areas and focus the efforts of government, Council and the communities in the identified areas that matter. This will improve confidence and certainty.
3. Provide meaningful State infrastructure plans to cover schools, roads and transport to support the agreed growth areas in the Local Government Area. These Plans are to identify timeframes and funding sources that are committed.
4. Develop a 20 year physical model of the built form of greater Sydney for the next 20 years. Many other sophisticated Cities around the world have done this and at any time a developer, community member or agency can view the model to guide their respective decisions. It is one clear way to inform the wider community about what they can expect over the 20 year timeframe.
5. Require the Office of Environment and Heritage to undertake a holistic biodiversity certification process of greater Sydney. Areas outside the retained biodiversity areas can then be developed without the need to consider environmental legislation any further and will result in the right environmental outcome with faster, less complex development assessment times.
6. Diminish the role and ambit of Planning Panels. There are too many applications being determined by Planning Panels that are not of regional significance. Planning Panels must comprise a maximum of four (4) members to reduce costs and of those four, the



Government and Council be represented by 2 appointed members each. The Chairperson has the right to a casting vote. Planning Panels should only be utilised for the following;

- a. Developments that exceed \$100M in the metropolitan area.
  - b. Involve significant State or Local infrastructure.
  - c. Involve significant (over \$1M) applications that relate to Local Council's Operational land.
  - d. Involve rezoning of Council operational land for purposes other than open space or recreation.
  - e. To determine differences between State agency requirements on significant matters.
7. Require all State Agencies to commit to maximum timeframes to provide comments, concurrence and responses to development matters and concerns. Twenty eight (28) days is the suggested maximum as the forty (40) day maximum is the statutory timeframe before an application is deemed to be refused.
  8. Implement a pre-lodgement system for State Agencies for significant rezoning and development applications.
  9. Introduce a fourth stream of Development Approval to deal with Class 1a (for example single dwellings or attached dwellings, separated by a fire-resisting wall) and 10 (non-habitable structure such as sheds, garages) on land that is zoned urban and fully serviced. The new stream should be for proposals that fit between a DA and a Complying Development Certificate. A DA process is too onerous for these kinds of buildings and structures on these lands and a merit based application for Building Permission issued by Council would reduce delays and costs. An application for Building Permission should only require plans and specifications demonstrating compliance with the Building Code of Australia and local development standards and should only involve limited neighbour notification.
  10. Continue to repeal duplicated State Environmental Planning Policies that should be incorporated in Local Environmental Plans.

The Hills Shire Council has a strong record of delivering on housing and jobs, over a sustained length of time. It has real 'hands on' experience in the operation of the planning system to be well placed to advise what works and what does not work. The above ten points are not addressed in the exhibition material but warrant detailed consideration if the government is truly serious about improving the performance of the States Planning System. I urge you to consider these additional measures that could make a real difference to restoring confidence in the planning system.

Please find attached a copy of the recommendations relating to the exhibited material and Council's report on this matter which form part of the submission to the Exhibition of Planning Legislation Updates. Thank you for the opportunity to comment on the proposed changes. Should you have any enquiries, please contact Cynthia Dugan, Strategic Planning Coordinator on [REDACTED]

Yours faithfully

[REDACTED]

**Dave Walker**  
**GENERAL MANAGER**

Attachment 1: Recommendations in response to the exhibition of draft planning legislation updates

Attachment 2: Council Report and Minutes 28 February 2017

## **Attachment 1: Recommendations in response to the exhibition of draft planning legislation updates**

### **RECOMMENDATIONS**

#### **1. Objects**

- 1.1 The new object to promote good design is supported however clear guidelines are needed on how this is defined and how this is achieved, particularly for proposed expansion of complying development.
- 1.2 An additional object is needed to maintain the emphasis on the coordination, planning and delivery of essential infrastructure in line with housing and employment growth.
- 1.3 More thought is needed on how competing priorities are resolved. As suggested in part A of this report this could be established under the District Plan framework, by working with Councils to agree areas subject to growth and change, by providing meaningful state infrastructure plans and by requiring Office of Environment and Heritage to identify corridors for preservation.

#### **2. Community Participation**

- 2.1 The requirement for community participation plans is supported in principle, however, the provisions should also include mandatory exhibition periods for State Environmental Planning Policies and Voluntary Planning Agreements to ensure a consistent and accountable approach applies to all levels of government and all strategic documents.
- 2.2 Minimum public exhibition requirements for all local development of 14 days is not supported as this will delay timeframes for assessment of low impact developments that comply with Council's development controls such as rural sheds , tennis courts and fencing.
- 2.3 Strategic plans need to contain sufficient details and certainty of future development outcomes so that buying into new communities can be an informed choice. To this end the strategic outcomes established under District and Local Strategic Plans should be included in plain English in planning certificates.
- 2.4 Consideration should also be given to developing a 20 year physical model of the built form of greater Sydney manufactured by the State Government to enable a graphic representation of what Sydney will look like to assist investment and decision making by developers, community members or agencies.
- 2.5 The principle that suggests the proponent consult the community prior to making application is only supported if detailed guidelines are provided to demonstrate how such a process will be managed to ensure probity, accuracy and accountability.
- 2.6 The new requirements for public notification of statement of reasons for decision and how community views have been considered is not supported given it does not materially add to existing processes undertaken, it will add cost to the process and could infringe privacy of adjoining neighbours.
- 2.7 The provision of up to date engagement tools is supported in principle subject to Council retaining ownership and management of planning data given the need for local knowledge and timely maintenance of records.

### **3. Strategic Planning Framework**

- 3.1 The Local Strategic Planning Statement is supported in principle as like Council's Local Strategy it provides a critical link between the District Plans and zoning and development control measures. It is important that the District Plans are crafted in a clear and unambiguous way to assist the preparation of the Local Strategic Statement. There also needs to be consistent State wide performance indicators established, rather than separate indicators for each LGA so that there is appropriate monitoring of progress. It is recommended that these be "rolled up" into the Integrated Planning and Department requirements of the Local Government Act.
- 3.2 Regular, five year Local Environmental Plan checks are supported as the initiative would respond to the changes envisaged within the Hills Local Government Area over the next few decades.
- 3.3 A standardised model DCP format is supported as this would improve consistency in structure and content and simplify user navigation for customers. It is requested that Council representatives have the opportunity to be involved in workshops to develop model provisions.
- 3.4 There is a need for duplicated State Policies to continue to be repealed and the State Policies not be relied upon for specific development types such as child care centres. The framework of the Standard Instrument allows for incorporation of changes and another layer of legislation is unnecessary and does not allow for response to local circumstances and conditions.

### **4. Process for Local Development**

- 4.1 Neighbourhood consultation prior to the lodgement of a development application is supported in principle as this may reduce the number of submissions received for a development application and may reduce timeframes for development assessment. However, concerns are raised with regards to the type of mechanisms to be utilised to encourage neighbourhood consultation and how the applicant can demonstrate that they have actively resolved issues. Detailed guidelines are provided to demonstrate how such a process will be managed to ensure probity, accuracy and accountability.
- 4.2 Step-in power for the Secretary of the Department of Planning and Environment to reduce agency delays and resolve conflicts is supported in principle. It is recommended that all State Agencies commit to maximum 28 day timeframes to provide comments, concurrence and responses to development matters and concerns. Furthermore introduction of a pre-lodgement system for State agencies for significant rezoning and development applications would assist in addressing delays and providing clarity for applicants on what is needed.
- 4.3 Statements of reasons for development application and Section 96 application determinations are not supported as they will not lead to an improved result and would add time and cost to the process. All applications are the subject of an assessment report that articulates the reasons for the decision.
- 4.4 The expansion of complying development to include larger scaled developments including medium density development under draft medium density housing code is not supported as this is beyond the scope of what complying development currently permits, which is straight forward, permissible development with minimal environmental impacts. Whilst the restriction of Council Accredited Certifiers to assess more complex complying development is supported, these applications are

more suited to a merit based assessment and consideration of local character, amenity and environmental considerations which are ordinarily addressed by way of a development application.

## **5. Infrastructure Delivery**

- 5.1 The extension of concurrence requirements to Part 5 activities and development within future infrastructure corridors is supported as this would ensure that appropriate development would occur within a corridor. This would provide consistency for all developments within infrastructure corridors and has the potential to alleviate problems which may occur during the construction of the infrastructure.

## **6. Planning Agreements**

- 6.1 The issuing of Directions which provide guidance with respect to the process and framework for VPAs and the key considerations a planning authority should have regard to, is supported. However this should not extend to Directions which may limit the extent and value of public benefits which could be obtained through an individual VPA as this ultimately limits Council's ability to secure the best outcome for the community.

## **7. Decision-Making**

- 7.1 The introduction of local planning panels is not supported as this undermines the role of council as decision makers and does not recognise the extensive delegations already provided.
- 7.2 The operation of Planning Panels should be reviewed so that they comprise a maximum of four (4) members to reduce costs and of those four, the Government and Council be represented by 2 appointed members each. The Chairperson has the right to a casting vote. Planning Panels should only be utilised for the following:
- Developments that exceed \$100M in the metropolitan area.
  - Involve significant State or Local infrastructure.
  - Involve significant (over \$1M) applications that relate to Local Council's Operational land.
  - Involve rezoning of Council operational land for purposes other than open space or recreation.
  - To determine differences between State agency requirements on significant matters.
- 7.3 The Minister's power to require that a greater number of planning functions are carried out by council staff under delegation is not supported. Delegations should be a matter for individual Councils.
- 7.4 Expanding the scope of internal reviews to include decisions about integrated development is supported as this allows reconsideration of decisions in the same matter as non-integrated development applications.

## **8. Building Provisions**

- 8.1 The proposed change to weaken the legal status of construction certificates is supported as the amendment moves the consistent test from the Regulation into the Act, gives the Court the ability to deem a Construction Certificate invalid if it is not consistent with the DA and changes the focus of consistent test at the CC stage from being "not inconsistent" to "consistent" with the DA.

- 8.2 The three month period to be introduced where proceedings can be brought to deem a CC invalid is not supported because this timeframe is unrealistic as non-compliances are ordinarily identified several months or years after the issue of the CC.

## **9. The Role of Design**

- 9.1 The role of design to deliver better outcomes to the urban environment by enhancing amenity, preserving a neighbourhood's identity and the use and enjoyment of public places and spaces is supported as it is consistent with the Draft District Plans and *A Plan for Growing Sydney*. However more detail is to be provided to develop specific initiatives to promote good design.

## **10. The Enforcement Framework**

- 10.1 Temporary Stop Work orders are supported as a seven day suspension to complying development work, would allow council officers sufficient time to investigate the compliance matter.
- 10.2 A regulatory service levy to support Councils in their role in enforcing Complying Development standards is supported in principle. However, the fee structure and model for the levy has not been determined and will be introduced as part of future amendments to The Regulation. It is also suggested that the levy may be extended to Development Applications. Review of these details is required prior to make an informed comment on this initiative.
- 10.3 Clarification of the validity of Complying Development Certificates is supported as this would allow Council to bring proceedings to challenge the validity of a Complying Development Certificate and enable the Court to objectively determine whether the certificate complies with the relevant standards.

## **11. An Expanded Development Stream**

- 11.1 Introduce a fourth stream of Development Approval to deal with Class 1a (for example single dwellings or attached dwellings, separated by a fire-resisting wall) and 10 (non-habitable structure such as sheds, garages) on land that is zoned urban and fully serviced. The new stream should be for proposals that fit between a DA and a Complying Development Certificate. A DA process is too onerous for these kinds of buildings and structures on these lands and a merit based application for Building Permission issued by Council would reduce delays and costs. An application for Building Permission should only require plans and specifications demonstrating compliance with the Building Code of Australia and local development standards and should only involve limited neighbour notification.



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**MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 28 February 2017**

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**ITEM-3 EXHIBITION OF PLANNING LEGISLATIVE UPDATES (FP95)**

A MOTION WAS MOVED BY COUNCILLOR HARTY OAM AND SECONDED BY COUNCILLOR PRESTON THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

**69 RESOLUTION**

A submission be forwarded to the Department of Planning and Environment in response to the exhibition of draft planning legislation updates with recommendations as detailed in this report and also suggesting the following key measures that could be implemented to restore public confidence in the States planning system, improve efficiency, provide accountability and be effective:

1. Complete the District Plans and resource the completion of actions identified in them. There is also a need to provide frameworks to resolve competing priorities in the various different sections of the Plans.
2. Work with Council's to agree the housing and jobs growth areas and agree the areas not to change. This will allow the attraction of investment in the right areas and focus the efforts of government, Council and the communities in the identified areas that matter. This will improve confidence and certainty.
3. Provide meaningful State infrastructure plans to cover schools, roads and transport to support the agreed growth areas in the Local Government Area. These Plans are to identify timeframes and funding sources that are committed.
4. Develop a 20 year physical model of the built form of greater Sydney for the next 20 years. Many other sophisticated Cities around the world have done this and at any time a developer, community member or agency can view the model to guide their respective decisions. It is one clear way to inform the wider community about what they can expect over the 20 year timeframe.
5. Require the Office of Environment and Heritage to undertake a holistic biodiversity certification process of greater Sydney. Areas outside the retained biodiversity areas can then be developed without the need to consider environmental legislation any further and will result in the right environmental outcome with faster, less complex development assessment times.
6. Diminish the role and ambit of Planning Panels. There are too many applications being determined by Planning Panels that are not of regional significance. Planning Panels must comprise a maximum of four (4) members to reduce costs and of those four, the Government and Council be represented by 2 appointed members each. The Chairperson has the right to a casting vote. Planning Panels should only be utilised for the following;
  - a. Developments that exceed \$100M in the metropolitan area.
  - b. Involve significant State or Local infrastructure.
  - c. Involve significant (over \$1M) applications that relate to Local Council's Operational land.

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**MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 28 February 2017**

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- d. Involve rezoning of Council operational land for purposes other than open space or recreation.
  - e. To determine differences between State agency requirements on significant matters.
7. Require all State Agencies to commit to maximum timeframes to provide comments, concurrence and responses to development matters and concerns. Twenty eight (28) days is the suggested maximum as the forty (40) day maximum is the statutory timeframe before an application is deemed to be refused.
8. Implement a pre-lodgement system for State Agencies for significant rezoning and development applications.
9. Introduce a fourth stream of Development Approval to deal with Class 1a (for example single dwellings or attached dwellings, separated by a fire-resisting wall) and 10 (non-habitable structure such as sheds, garages) on land that is zoned urban and fully serviced. The new stream should be for proposals that fit between a DA and a Complying Development Certificate. A DA process is too onerous for these kinds of buildings and structures on these lands and a merit based application for Building Permission issued by Council would reduce delays and costs. An application for Building Permission should only require plans and specifications demonstrating compliance with the Building Code of Australia and local development standards and should only involve limited neighbour notification.
10. Continue to repeal duplicated State Environmental Planning Policies that should be incorporated in Local Environmental Plans.

*Being a planning matter, the Mayor called for a division to record the votes on this matter*

**VOTING FOR THE MOTION**

Clr Keane  
Clr Preston  
Clr Dr M R Byrne  
Clr Thomas  
Clr Hay OAM  
Clr Harty OAM  
Clr Taylor MP  
Clr A N Haselden  
Clr Dr Gangemi  
Clr Tracey

**VOTING AGAINST THE MOTION**

None

**ABSENT**

Clr Dr Lowe

**CALL OF THE AGENDA**

A MOTION WAS MOVED BY COUNCILLOR HARTY OAM AND SECONDED BY COUNCILLOR PRESTON THAT Items 4, 5, 6, 8 and 10 be moved by exception and the recommendations contained in the reports be adopted.

THE MOTION WAS PUT AND CARRIED.

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**ORDINARY MEETING OF COUNCIL**

**28 FEBRUARY, 2017**

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<b>ITEM-3</b>	<b>EXHIBITION OF PLANNING LEGISLATIVE UPDATES (FP95)</b>
<b>THEME:</b>	Balanced Urban Growth
<b>OUTCOME:</b>	7 Responsible planning facilitates a desirable living environment and meets growth targets.
<b>STRATEGY:</b>	7.2 Manage new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations.
<b>MEETING DATE:</b>	<b>28 FEBRUARY 2017</b> COUNCIL MEETING
<b>GROUP:</b>	<b>STRATEGIC PLANNING</b> <b>STRATEGIC PLANNING COORDINATOR</b> CYNTHIA DUGAN
<b>AUTHOR:</b>	<b>PRINCIPAL PLANNER</b> JANELLE ATKINS
<b>RESPONSIBLE OFFICER:</b>	<b>MANAGER – FORWARD PLANNING</b> STEWART SEALE

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**EXECUTIVE SUMMARY**

Successive NSW Governments have made changes to the Environmental Planning and Assessment Act (EP&A Act) over many years. There have been over 150 changes to the Act and late last year a suite of further changes were exhibited for comment. The stated purpose of these latest changes is to promote confidence in our States planning system and to complement other policy, operational and legislative changes that have been made such as the Greater Sydney Commission, Regional and District Plans, ePlanning and enhanced enforcement.

This report recommends that a submission be forwarded to the Department of Planning and Environment on draft amendments to the *Environmental Planning and Assessment Act, 1979*. In so doing, The Hills Shire can rightfully be proud of its work over many years developing and just as importantly implementing policy under the EP&A Act. The Hills Shire has for many years contributed greatly to the growth of Sydney in terms of housing, jobs and economic output and will continue to do so.

The key areas of the proposed reforms seek to enhance community participation, improve upfront strategic planning to guide growth and development, promote better processes for local development and State significant development, facilitate infrastructure delivery, promote fair and consistent planning agreements and build community confidence through improving transparency in the planning system. The proposed objects of the draft legislation provide a greater emphasis on community participation, design and sustainable development in the built environment, as well as promoting housing choice and affordable housing.



The Hills Shire has considerable experience and expertise in the States Planning System having successfully over many years implemented policy, strategies, regulations and delivery to support housing and jobs growth for greater Sydney. The record of The Hills Shire is a proud one. Council in its current planning instruments has sufficient land zoned to exceed its target of 36,000 homes and 47,000 jobs by the year 2036. Over the past two years alone, the Hills Shire has processed applications to produce over 4,000 home sites and approved many more homes in the form of apartments. Due to the financial system and construction timetables, apartments take longer to bring to market than single lot housing meaning there are many more apartments approved than constructed. The average completion time for apartments is about 18 months compared with 6 for a detached dwelling and 9 for townhouses. Apart from the housing and jobs growth, The Hills Shire Council undertook an extensive study including a peer review, into its rural lands and implemented plans and policy to manage these parts comprehensively. That policy is still as relevant today as it has essentially been endorsed in the District Plans. All this work and activity has been carried out under the current planning system and Council does have expertise to indicate what works and what does not work in the planning system.

The submission, as recommended, generally supports the overall principles of the reform as no one could argue about the need for an efficient, accountable and effective planning system. Currently there are areas of duplication that should be eliminated, bodies with no accountability to the community making big decisions in the local area and there is a need to improve assessment for housing and structures associated with housing. There is also a need to better manage the role and performance of the building certification system, state agencies (especially where concurrence is required) and a change in how the metropolitan areas biodiversity is managed. Whilst an increased focus on community participation is supported for decision making, concern is raised regarding the effectiveness of upfront community engagement with developments such as large lot subdivisions, priority precincts and growth areas where existing land owners are unlikely to become the occupants of future development.

There is a real need to provide an engagement platform such as a physical model, to represent Sydney's growth over the next 20 years and just as importantly what is expected to stay the same. The resources and costs associated with increased community participation, particularly in the early stages of planning for these types of developments are considerable and are likely to be of little benefit to Council as it is targeted at the existing population that has very different needs and concerns to the future 100,000 people expected to call the Hills home over the next 20 years.

In relation to strategic planning, the intent of the proposed amendments to set a clear vision and context for local level planning is supported as this would complete the strategic framework under the Act, subject to the finalisation of the six draft district plans developed by the Greater Sydney Commission for the Greater Sydney Region as required under *A Plan for Growing Sydney*. The initiative of a local strategic statement is supported however, it should be part of the existing Local Government Integrated Planning and Reporting requirements rather than duplicate with an additional set of documents. Council has previously advocated for this. A local strategic statement would provide a critical link between the District Plans and zoning and development control measures. It is important that the District Plans are crafted in a clear and unambiguous way to assist the preparation of the Local Strategic Statement. There also needs to be consistent State wide performance indicators established, rather than separate indicators for each LGA so that there is appropriate monitoring of progress. There are also great benefits through the logical provision of utilities, major roads and other such infrastructure to be a catalyst to support take up of zoned land.

In relation to development assessment, many of the draft amendments relate to substantial modifications to development assessment without providing sufficient detail in terms of operation and process. The related documents to the draft bill indicate that further detail would be nominated in future amendments in the *Environmental Planning and Assessment Regulations 2000* (The Regulations). In this regard, informed comment cannot be provided prior to the exhibition of the proposed amendments to The Regulations.

In relation to building regulation and certification, the initiative of enforceable undertakings which give the Regulation greater power to improve compliance outcomes is supported however concern is raised as to the role of private certifiers and the expansion of complying development codes. In particular, minimal detail of implementation is prescribed for complying development under the proposed amendments with more regulations and guidance to be prescribed under future amendments to The Regulations.

### **BACKGROUND**

On the 9 January 2017, the NSW Government released a consultation draft of a bill to amend the *Environmental Planning and Assessment Act, 1979* known as the *Environmental Planning and Assessment Amendment Bill 2017*. The draft bill follows the failure of the *Planning Bill 2013* and *Planning Administration Bill 2013* in 2014 by NSW Parliament. A review in 2016 revisited some of these proposed reforms.

The Draft Government Bill seeks to build greater confidence in the planning system by removing unnecessary complexity and refocus on delivering transparent processes that enable best practice planning outcomes. The objects of the draft legislation provide a stronger emphasis on community participation, design and sustainable development in the built environment, as well as housing choice and affordable housing. Feedback on the Draft Bill is invited until 10 March 2017.

### **HISTORY**

- |                      |   |
|----------------------|---|
| <b>08/11/2011</b>    | Council considered a report on the Review of the <i>Environmental Planning and Assessment Act</i> and resolved that a submission be forwarded to the Planning System Review Panel for consideration.  |
| <b>14/02/2012</b>    | Council considered a report on the <i>Issues Paper of the NSW Planning System Review</i> and resolved that a submission be forwarded to the Planning System Review Panel detailing responses to the questions raised in the Issues Paper and highlighting recommended changes to the planning system to improve matters of importance to the Shire. |
| <b>28/08/2012</b>    | Council considered a report on <i>Planning System for NSW - Green Paper</i> and resolved that a submission be forwarded to the Department of Planning and Infrastructure providing comments on a number of matters.   |
| <b>15/06/2013</b>    | Council considered a report on <i>A New Planning System for NSW - White Paper</i> and resolved that a submission be forwarded to the Department of Planning and Infrastructure.   |
| <b>November 2013</b> | NSW Government did not proceed with the <i>Planning Bill 2013</i> and associated <i>Planning Administration Bill 2013</i> following amendments by the Legislative Council.  |



- 27/01/2016** Commencement of the *Greater Sydney Commission Act 2015*
- November 2016** Consultation Draft Amendment to *A Plan for Growing Sydney* and draft District Plans released.
- 09/01/2017** NSW Government released draft amendments for public exhibition to the *Environmental Planning and Assessment Act, 1979* under *Environmental Planning and Assessment Amendment Bill 2017*.

## **REPORT**

The purpose of this report is to describe the fundamental changes proposed to the planning system under the *Environmental Planning and Assessment Amendment Bill 2017* and provide recommendations for a submission to the Department of Planning and Environment.

The report forms two parts, the first considers the performance under the current planning system in the first instance and then looks at the detail of the exhibited package of planning legislation updates.

### **A. PERFORMANCE UNDER PLANNING SYSTEM IN CONTEXT**

Much is being said about the need to lift the production of housing in Greater Sydney to meet expected population growth. This is not new information however, State Government estimates suggest the population growth of Sydney is higher than expected. In many ways, the planning system has been identified as an impediment to this objective. Experience suggests that assertion may be over emphasised and there are other more critical elements that affect supply of housing. The rate of housing growth is clearly a function of many factors most of which are beyond the planning system itself such as economic cycles, the financial system, taxation system, fragmented land ownership, selling price expectations, the way in which sewer, power and water are provided in new release areas and community attitudes in urban renewal areas. None of these factors are related to the EP&A Act but have a significant impact on the take up and conversion of zoned land.

Notwithstanding, there are some systems and processes that the planning system has allowed that do cause delays and dissatisfaction. Council has continually pointed out the inherent flaws in the private certification system; has seen State planning policy override local policy undermining community confidence and standards; and has seen decisions on major development being made by bodies that are unfamiliar with the local context and have no direct accountability to the public. The advent of Planning Panels has led to delays in processing times and led to decisions incongruent to local context being made by members who outnumber local council representatives and deliberate mostly behind closed doors out of view of the public. This is in direct contrast to Council, which decides such planning matters in a public meeting with the press and public receiving the benefit of the Council officers report, the debate and the decision. Unlike the appointed planning panel members, Councillors are held to account for their decisions by the public. The Planning Panels have authorised development in our Shire that is inconsistent with the densities and standards originally proposed for our growth suburbs such as North Kellyville and Box Hill and more recently the rural urban fringe.

None of the reforms touch on the performance and accountability of the NSW Department of Planning. The NSW Department of Planning is slow to prepare and implement changes that the Minister has suggested are reasonable. The Department has not been able to resolve the Box Hill s94 Plan for over two years and have not resolved inherent conflicts between IPART, the essential works list and their own precinct plans. The Department has also been unable to respond to glaring problems in their precinct

plans where the controls permit densities four to five times higher than the Indicative Layout Plans and using development standards that are inadequate for the size and scale of these developments. The Department has been aware of these issues for many years yet has not been able to respond to them.

Based on the stated goals of the reforms and Council's considerable experience, Council can suggest a number of measures that could be implemented that would restore public confidence in the States planning system, improve efficiency, provide accountability and be effective. At the very least the reforms should consider the following:

1. Complete the District Plans and resource the completion of actions identified in them. There is also a need to provide frameworks to resolve competing priorities in the various different sections of the Plans.
2. Work with Council's to agree the housing and jobs growth areas and agree the areas not to change. This will allow the attraction of investment in the right areas and focus the efforts of government, Council and the communities in the identified areas that matter. This will improve confidence and certainty.
3. Provide meaningful State infrastructure plans to cover schools, roads and transport to support the agreed growth areas in the Local Government Area. These Plans are to identify timeframes and funding sources that are committed.
4. Develop a 20 year physical model of the built form of greater Sydney for the next 20 years. Many other sophisticated Cities around the world have done this and at any time a developer, community member or agency can view the model to guide their respective decisions. It is one clear way to inform the wider community about what they can expect over the 20 year timeframe.
5. Require the Office of Environment and Heritage to undertake a holistic biodiversity certification process of greater Sydney. Areas outside the retained biodiversity areas can then be developed without the need to consider environmental legislation any further and will result in the right environmental outcome with faster, less complex development assessment times.
6. Diminish the role and ambit of Planning Panels. There are too many applications being determined by Planning Panels that are not of regional significance. Planning Panels must comprise a maximum of four (4) members to reduce costs and of those four, the Government and Council be represented by 2 appointed members each. The Chairperson has the right to a casting vote. Planning Panels should only be utilised for the following;
  - a. Developments that exceed \$100M in the metropolitan area;
  - b. Involve significant State or Local infrastructure;
  - c. Involve significant (over \$1M) applications that relate to Local Council's Operational land;
  - d. Involve rezoning of Council operational land for purposes other than open space or recreation; and
  - e. To determine differences between State agency requirements on significant matters.
7. Require all State Agencies to commit to maximum timeframes to provide comments, concurrence and responses to development matters and concerns. Twenty eight days is the suggested maximum as the forty day maximum is the statutory timeframe before an application is deemed to be refused.



8. Implement a pre-lodgement system for State Agencies for significant rezoning and development applications.
9. Introduce a fourth stream of Development Approval to deal with Class 1a (for example single dwellings or attached dwellings, separated by a fire-resisting wall) and 10 (non-habitable structure such as sheds, garages) on land that is zoned urban and fully serviced. The new stream should be for proposals that fit between a DA and a Complying Development Certificate. A DA process is too onerous for these kinds of buildings and structures on these lands and a merit based application for Building Permission issued by Council would reduce delays and costs. An application for Building Permission should only require plans and specifications demonstrating compliance with the Building Code of Australia and local development standards and should only involve limited neighbour notification.
10. Continue to repeal duplicated State Environmental Planning Policies that should be incorporated in Local Environmental Plans.

## **B. EXHIBITED PACKAGE OF REFORMS**

The draft amendments to the Environmental Planning and Assessment Act 1979 relate to:

1. Objects of the Act
2. Community Participation
3. The Strategic Planning Framework
4. Processes for Local Development
5. Infrastructure Delivery
6. Planning Agreements
7. Decision-Making
8. Building Provisions
9. The Role of Design
10. Enforcement Framework

This report will present the changes, make comments about them and provide recommendations to all form part of a submission from The Hills Shire Council.

### **1. OBJECTS**

The primary purpose of the draft amendments to the Environmental Planning and Assessment Act, 1979 is to build community confidence in the State's planning system. To achieve this goal, the following objects have been included in the draft legislation:

- (a) To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.*
- (b) To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) To promote the timely delivery of business, employment and housing opportunities (including for housing choice and affordable housing),*
- (d) To protect the environment, including the conservation of threatened and other species of native animals and plants,*
- (e) To promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (f) To promote good design in the built environment,*



- (g) To promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (h) To provide increased opportunity for community participation in environmental planning and assessment.*

**Comment:**

The change in the objectives between the existing Act and the proposed new legislation is pivotal as they are often used as a reference point for decision-makers at all levels of the planning system. Both the existing and proposed legislation seek to promote protection of the environment and conservation of resources, public participation and the sharing of responsibility. However, the Draft Bill includes greater emphasis on community participation, sustainable management of built and cultural heritage, good design in the built environment and promotes housing choice and affordable housing.

Of note is that the provision and maintenance of public space, community facilities and services, communication and utility services are no longer included in the objects. The planning and delivery of infrastructure is crucial to the effective delivery of housing, business and employment opportunities and warrants inclusion in the objects to ensure the focus is maintained on ensuring infrastructure is aligned with growth.

As has been raised in previous Council submissions, it is the management of inevitable competing interests between economic development and environmental protection where there is a need for clear policy and direction. In a growth centre location such as the Hills Shire with the pressures to respond to population and employment growth and to make efficient use of planned infrastructure, the draft legislation does not provide a clear strategic direction. It would assist implementation if more detailed policy is made available on the interpretation of the objects and how they are used in both the strategic planning and development assessment processes. This would facilitate the resolution of competing priorities particularly in the finalisation of district plans.

The object of promoting 'good design' in the built environment, whilst supported, contradicts with the approach to expand the role of complying development for larger scale developments such as multi-unit housing developments and the subdivision of greenfield sites. Complying development certificates do not contain development standards which necessarily promote 'good design' and results in inconsistency with the underlying goals of the Act.

**Recommendation:**

- 1.1 The new object to promote good design is supported however clear guidelines are needed on how this is defined and how this is achieved, particularly for proposed expansion of complying development.
- 1.2 An additional object is needed to maintain the emphasis on the coordination, planning and delivery of essential infrastructure in line with housing and employment growth.
- 1.3 More thought is needed on how competing priorities are resolved. As suggested in part A of this report this could be established under the District Plan framework, by working with Councils to agree areas subject to growth and change, by providing meaningful state infrastructure plans and by requiring Office of Environment and Heritage to identify corridors for preservation.

**2. COMMUNITY PARTICIPATION**

This is a key focus for the draft amendments with initiatives proposed including community participation plans, community participation principles, statement of reasons for decisions and new engagement tools. Clearly this reform is aimed at addressing

delays and community opposition to changes in urban form. The community once informed is generally supportive of the need for growth particularly around areas of high amenity and transport that are properly supported with infrastructure upgrades to ensure it makes sense. The most controversial projects are those that are unanticipated and appear out of context, character and beyond the capacity of existing roads, schools, open spaces and the environment.

**a) Community Participation Plans**

Planning authorities will be required to prepare a community participation plan to explain how the community will be engaged to participate and access information relating to plan-making and development decisions. It will need to be prepared in accordance with the requirements in the Regulation and exhibited for public comment. Once made, the plan can only be challenged within three months of its publication.

Minimum public exhibition periods are nominated for community participation plans (28 days), regional or district plans (45 days), planning proposals (28 days unless different in a gateway determination), development control plans (28 days), contribution plans (28 days), application for development consent (14 days), applications for state significant development or designated development (28 days) and environmental impact statements (28 days).

***Comment:***

The formulation of Community Participation Plans based on Department guidelines is appropriate and is currently within Council's DCP. This will allow for a plan to be tailored to local demographics and conditions. Likewise the exhibition of the plan is considered appropriate and will ensure community engagement in the formulation of the Plan, not only through its implementation. The availability of information on participation opportunities for all kinds of planning activities, from plan making to development assessment, will provide an easily accessible reference for the community. As Community Participation Plans are to be published on the NSW portal, one generic plan with local variations could ensure State-wide consistency.

It is noted that councils will not be required to prepare a separate Community Participation Plan if their community engagement strategy made under the Local Government Act includes all of the required matters. In this regard Council's Community Engagement Policy will require updating to consolidate all requirements within a single document. That initiative is sensible as it should not duplicate existing policy and structure.

Of note there is no exhibition periods specified for the exhibition of State Environmental Planning Policies (SEPPs). There appears to be an increasing reliance on State Policies rather than the previous White Paper approach that advocated a small number of NSW Planning Policies for core planning issues of significance such as housing supply, economic growth and biodiversity conservation. Recent examples include the draft Coastal Management State Policy and the draft Educational Establishments and Child Care Facilities State Policy. Given this increasing reliance it is imperative that minimum consultation requirements be included for State Policies so that the community can be confident that a consistent and accountable approach applies to all levels of government.

The proposed minimum public exhibition requirements for all local development to a minimum of 14 days is not supported as this is likely to delay timeframes in development assessment. Currently Councils have some discretion over whether to exhibit such applications and there are a number of low impact developments within the Hills Shire that are not required to be publicly notified including rural sheds, fencing and tennis courts that comply with Council's development controls. Mandatory notification



for fully compliant low impact developments is considered arbitrary and would delay assessment timeframes. The reforms could instead require the Community Participation Plan to outline circumstances whereby consultation will not occur.

The proposed amendment to the Act does not require community consultation for voluntary planning agreements which is not consistent with the intent of such agreements and should be included consistent with the requirement for contributions plans (28 days).

**b) Community Participation Principles**

When preparing community participation plans, planning authorities will need to have regard to the community participation principles that will be set out in the Act. These principles have been developed from the community participation charter that was proposed in 2013.

***Comment:***

As with the community participation charter proposed in 2013 under the White Paper and Exposure Bills, the community participation principles are generally supported as set out in the subject amendment to the Act. The principles of providing early, effective, on-going opportunities for community participation represent best practice and continue to be supported for the majority of planning decisions however are ineffective for certain developments such as large lot subdivisions and priority precincts where the community to be consulted at the initial stage would not represent the future community envisaged for the area. In these instances, early consultation will be costly in terms of correspondence, mail outs, advertising, community workshops and staff time - and is likely to reap little benefit to Council.

Involving the community at strategic planning level can be challenging for a number of reasons. In urban release areas, the new residents most affected by longer term change would not have the upfront opportunity to have a say in how their area develops and grows. Therefore strategic plans would need to contain sufficient details and certainty of future development outcomes so that buying into new communities can be an informed choice. To this end the strategic outcomes should be included in plain English in planning certificates so that new residents are adequately informed. It is likely that 3 dimensional modelling of outcomes will be needed to enable all stakeholders to understand the implications of longer term future proposals.

The draft principles point to applicants for development consent or other approvals under this Act undertaking community consultation in relation to their applications before an application is made. Further detail on this initiative is required, particularly in relation to how the applicant would verify they have undertaken community consultation, listened to the community and addressed their concerns. The issue of gaining community support to a development proposal that contravenes council's development standards needs to be addressed.

**c) Statement of Reasons for Decisions**

Planning authorities will be required to prepare and make public a statement of reasons for decisions and how community views are addressed. This would apply to development applications and applications for a modification to development consent. The complexity of the statement of reasons will depend on the scale and impact of the proposed development.

***Comment:***

On the surface this change appears to be of little value and will quickly resort to "standardised" responses that add nothing to the process. More details are required with regard to how the notification of development consents and modifications are to be undertaken and the purpose of publishing these statements. In relation to determinations made at an ordinary Council meeting, it is not practical for the meeting to be adjourned whilst a statement of reasons is drafted for each planning decision made. Additionally, publishing statements in the local newspapers will be expensive. Council's current procedures require that all concerns raised in formal submissions are addressed in detail in either a delegated or Council report and letters are sent to each objector notifying how their concerns have been addressed in the assessment of a development application.

The new proposed requirements are not supported given the adequacy of the existing approach which is targeted to individual objectors. The new process will not materially add to existing processes but will add cost and time to the process and could potentially infringe the privacy of adjoining neighbours.

**d) Up-to-date engagement tools**

The release of new community consultation guidelines are proposed to improve the suite of tools available to planning authorities to improve community engagement. This has been proposed in light of technologically advanced approaches such as social media, online campaigns and the NSW Planning Portal.

***Comment:***

The release of up-to-date engagement tools including community consultation guidelines is supported in principle. A one stop electronic online State-wide service would improve access to information and increase opportunities for the public to engage in various aspects of the planning process. This is consistent with Council's approaches to online submissions for planning proposals and development applications and trial electronic lodgements.

To achieve a database that is reliable, accurate and timely there will need to be a high degree of collaboration between State and Local Government to ensure existing Council and customer expectations can continue to be met. Council ownership and management of planning data should be retained in the establishment of the planning portal given the need for local knowledge and timely maintenance of records. The Electronic Housing Code provides a good example of a central portal that has been established to enable the lodgement of Complying Development Certificates that meet land based exemption criteria of the Codes SEPP. The data provided by Councils is uploaded on a daily basis and checked against the Land and Property Information property database for completeness.

***Recommendations:***

- 2.1 The requirement for community participation plans is supported in principle, however, the provisions should also include mandatory exhibition periods for State Environmental Planning Policies and Voluntary Planning Agreements to ensure a consistent and accountable approach applies to all levels of government and all strategic documents.
- 2.2 Minimum public exhibition requirements for all local development of 14 days is not supported as this will delay timeframes for assessment of low impact developments that comply with Council's development controls such as rural sheds, tennis courts and fencing.
- 2.3 Strategic plans need to contain sufficient details and certainty of future development outcomes so that buying into new communities can be an



- informed choice. To this end the strategic outcomes established under District and Local Strategic Plans should be included in plain English in planning certificates.
- 2.4 Consideration should also be given to developing a 20 year physical model of the built form of greater Sydney manufactured by the State Government to enable a graphic representation of what Sydney will look like to assist investment and decision making by developers, community members or agencies.
- 2.5 The principle that suggests the proponent consult the community prior to making application is only supported if detailed guidelines are provided to demonstrate how such a process will be managed to ensure probity, accuracy and accountability.
- 2.6 The new requirements for public notification of statement of reasons for decision and how community views have been considered is not supported given it does not materially add to existing processes undertaken, it will add cost to the process and could infringe privacy of adjoining neighbours.
- 2.7 The provision of up to date engagement tools is supported in principle subject to Council retaining ownership and management of planning data given the need for local knowledge and timely maintenance of records.

### 3. STRATEGIC PLANNING FRAMEWORK

The Planning legislation updates seek to strengthen strategic planning by setting a clear vision and context for local level planning through community collaboration. This would complete the strategic framework under the Act, subject to the finalisation of the six draft district plans developed by the Greater Sydney Commission for the Greater Sydney Region as required under the *Plan for Growing Sydney*. The initiatives proposed include a Local Strategic Planning Statement, regular Local Environmental Plan checks and standardised Development Control Plan formats.

The exhibited package of reforms does not include any proposal to reduce the reliance on State Planning Policies as was previously proposed. Of late there has been an increased reliance on State Policies for matters that could be considered under the Standard Instrument Local Environmental Plan. This use of State Policies is not considered to be consistent with the goals of reforms, creating an unnecessary layer on complexity to the system and undermining planning for local conditions.

#### a) Local Strategic Planning Statement

Planning authorities will be required to publish local strategic planning statements every 5 years which explain the strategic context within which the Local Environmental Plan (LEP) has been developed and explain the reasons for zones and controls. The statement is also required to relate to the strategic priorities at the regional and district level and incorporate land use objectives and priorities identified through Council's Community Strategic Plan process.

The statement must include or identify the following:

- a. *The basis for strategic planning in the area, having regard to economic, social and environmental matters;*
- b. *The planning priorities for the area that consist with any strategic plan applying to the area and any applicable community strategic plan under section 402 of the local government act 1993;*
- c. *The actions required for achieving those planning priorities; and*
- d. *The basis on which the council is to monitor and report on the implementation of those actions.*

*The planning secretary may issue requirements with respect to the preparation and publication of local strategic planning statements.*

**Comment:**

The requirement for a local strategic statement is supported in line with Council's previous submission that have advocated for this missing link between State strategies and Local plans. Essentially Council's Local Strategy and supporting Directions would fulfil the role of the Local Strategic Statement. The Local Strategy is under review and will address the actions identified under *A Plan for Growing Sydney*, the draft West Central District Plan as well as local strategic priorities so that it can continue to be a critical component of Council's local planning tools.

A report on the draft District Plan is to be provided to Council prior to the close of the exhibition period. It will be important that the draft District Plans are formulated clearly and unambiguously to assist the formulation of the Local Strategic Statement.

The Government is seeking input from Councils and Stakeholders on what statements should look like and contain. They have also indicated they will provide guidance and model statements. It is suggested that a clear baseline for housing population and jobs be established from the 2016 census. State Government could then assist monitoring and reporting by development of a consistent methodology across all Local Government Areas in relation to housing and job targets. Care is also needed to avoid unnecessary costs and inefficiencies by duplicating the existing Local Government Integrated Planning and Reporting requirements. The existing framework could be adapted to incorporate the Local Strategic Statement.

**b) Regular Local Environmental Plan checks**

Up to date, relevant Local Environmental Plans (LEPs) are integral in achieving best planning outcomes for the local community. The Act currently requires regular review of LEPs however does not specify the timeframe for this. The Department states that currently, LEPs in NSW are remade every seven years. With the draft amendments, the Act will require that LEPs are checked by Planning Authorities every five years against set criteria as prescribed under Schedule 3.1(3) of the Draft Bill, to determine if review is needed.

**Comment:**

This initiative is supported in principle as the Hills Shire contains a number of growth centres, Sydney Metro priority precincts and new urban release areas which would be likely to result in significant changes to demographics, infrastructure and services.

**c) Standard Development Control Plan format**

The proposed amendments to the Act would require standardised model DCP provisions to be developed to provide State-wide consistency and reduce complexity for all local government areas within NSW. This could result in cost and time savings for planning system users by improving user navigation. Each standardised DCP would be made available on the NSW Planning Portal. In addition, a working group would develop an online library of model provisions that could be used on an optional basis.

**Comment:**

The initiative of a standardise DCP format with local content is supported in principle. Whilst the format will be made consistent, the content of DCP provisions will be a matter for councils.



**Recommendations:**

- 3.1 The Local Strategic Planning Statement is supported in principle as like Council's Local Strategy it provides a critical link between the District Plans and zoning and development control measures. It is important that the District Plans are crafted in a clear and unambiguous way to assist the preparation of the Local Strategic Statement. There also needs to be consistent State wide performance indicators established, rather than separate indicators for each LGA so that there is appropriate monitoring of progress. It is recommended that these be "rolled up" into the Integrated Planning and Department requirements of the Local Government Act.
- 3.2 Regular, five year Local Environmental Plan checks are supported as the initiative would respond to the changes envisaged within the Hills Local Government Area over the next few decades.
- 3.3 A standardised model DCP format is supported as this would improve consistency in structure and content and simplify user navigation for customers. It is requested that Council representatives have the opportunity to be involved in workshops to develop model provisions.
- 3.4 There is a need for duplicated State Policies to continue to be repealed and the State Policies not be relied upon for specific development types such as child care centres. The framework of the Standard Instrument allows for incorporation of changes and another layer of legislation is unnecessary and does not allow for response to local circumstances and conditions.

**4. PROCESSES FOR LOCAL DEVELOPMENT****a) Neighbour Consultation**

The proposed planning legislation updates include the requirement for applicants to consult with neighbours prior to lodging a development application. This is to circumvent issues to the proposal which would ordinarily be addressed after an application has been lodged with Council. Tools to facilitate early conversation and incentive mechanisms are currently being explored under this initiative.

**Comment:**

Neighbour consultation prior to development application lodgement is supported in principle as this would result in a more efficient assessment process. Current delegations at the Hills Shire Council require all development applications with more than one submission and variations to the controls to be determined at a Development Assessment Unit meeting which occurs weekly. More than ten submissions to a development application require a conciliation conference. The additional protocols to address community concerns could be reduced if neighbour concerns are addressed prior to the lodgement of a development application. However as set out in Section 2 of this report, detailed guidelines are needed to demonstrate how the process will be managed to ensure probity, transparency and accountability. Some neighbours are unwilling to provide their objective comment or objections and instead would prefer to be able to comment with Councils as an independent agency and allow that agency to address their concerns. The process could be open to abuse with some proponents potentially intimidating neighbours to agree to a proposal that they otherwise would not support.

**b) State Agencies**

Changes are proposed for integrated development, concurrence and referral processes to make agencies more accountable and address delays in the system. For integrated development, the Secretary of the Department of Planning and Environment will be able to 'step in' to grant concurrence, provide advice or general terms of approval on behalf

of another agency if the agency has not provided the required advice, concurrence or general terms of approval within the required 40 day timeframe or if two or more agencies are in conflict.

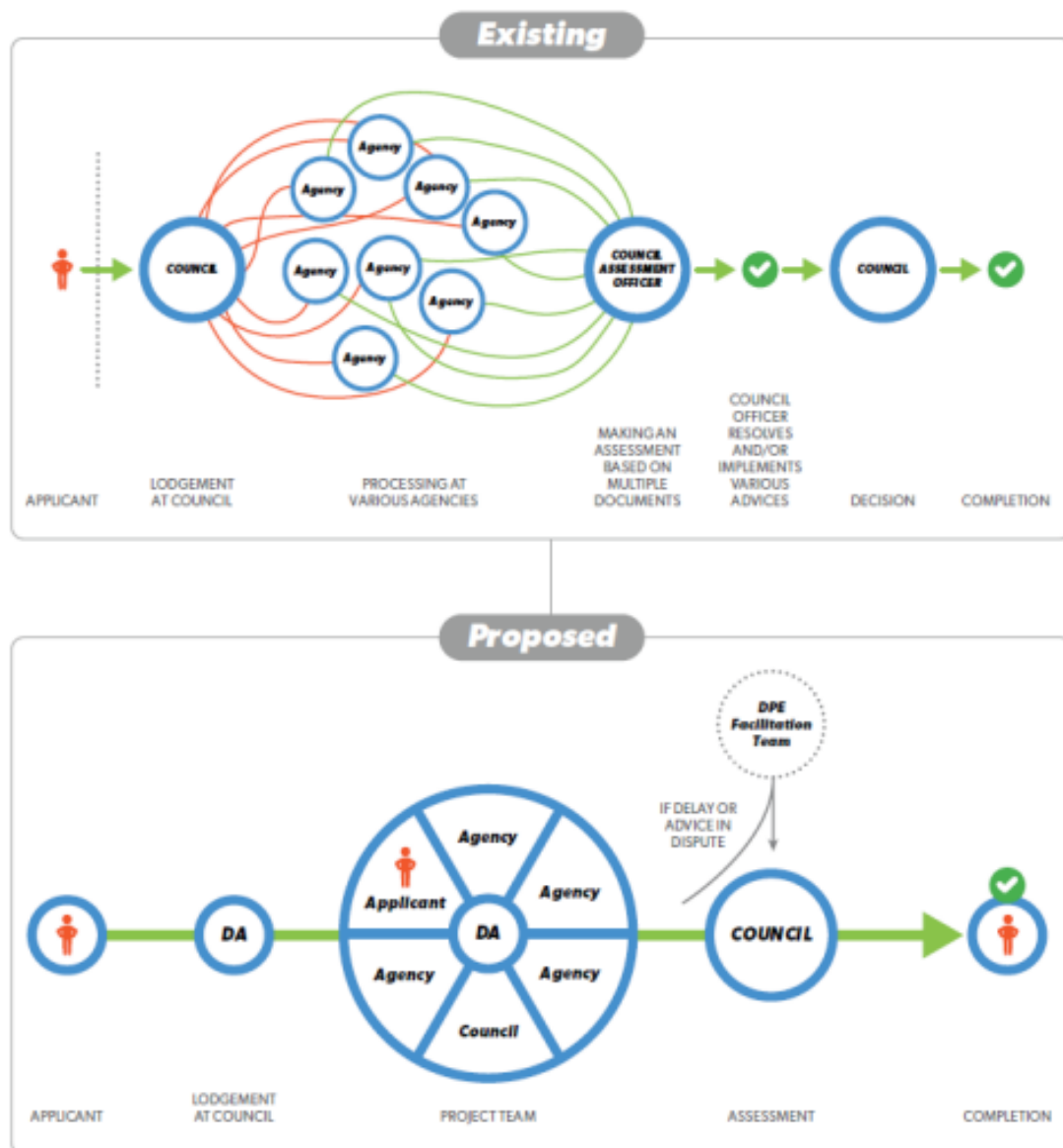


Figure 1

**The existing and proposed concurrence and referral workflows**

Source: Department of Planning and Environment, Summary of Proposals, January 2017.

**Comment:**

The 'step in' powers are supported, however agencies should not be given 40 days to respond. This is longer than the "deemed refusal" provision and reflects poorly on development application assessment times. Agencies should only be given 28 days before the Secretary steps in. A clear process of how this escalation will occur needs to be provided. Concurrence agencies should be encouraged to develop "pre-lodgement" processes to facilitate responses early in the design phase.



**c) Modification of Consent**

The purpose of Section 96 Modification of consents of the *Environmental Planning and Assessment Act* is to correct a minor error, misdescription or miscalculation and ensure that developments are built in accordance with how they were planned and approved. However, this principle has been eroded by the granting of retrospective Section 96 approvals for unauthorised development. In this regard, the proposed amendments to the Act prevent consent authorities, including the court to approve works that have already been completed. Under the proposed amendments to the Act, a statement of reasons for Section 96 modifications is required to demonstrate why those conditions were originally imposed and why they should be deleted or amended from the consent.

**Comment:**

The proposed initiative is supported in principle with the effect of the amendment being that unauthorised work will be subject to enforcement action such as demolition or require a building certificate. The statement of reasons for a decision is not supported as it will not lead to improved results but will add cost and time to the process.

**d) Complying Development**

As part of the proposed amendments to the Act, complying development would be expanded to include larger scale developments (draft medium density housing code). It will also allow complying development certificates to be issued for dwellings on lots within subdivisions that have been approved but not yet registered, by way of a deferred commencement complying development certificate.

**Comment:**

The expansion of complying development to encompass larger-scale developments (draft medium density housing code) is not supported as this could result in inconsistency with the envisaged character of the local area. There is minimal detail provided for the implementation of complying development. In this regard, more regulations and guidance is required.

Complying Development Certificates are issued by either a Council Accredited Certifier or private Accredited Certifier. The proposed amendments to the Draft Bill and the introduction of the draft Medium Density Code seek to expand the development types for complying development. The proposed amendments enable restrictions to be specified in the Regulation, where only certain categories of development, that have a greater potential to impact local values can only be considered by Council Accredited Certifiers. This restricts private Accredited Certifiers from issuing Complying Development Certificates on complex developments which may have a greater impact on the public if errors are made.

**Recommendations:**

- 4.1 Neighbourhood consultation prior to the lodgement of a development application is supported in principle as this may reduce the number of submissions received for a development application and may reduce timeframes for development assessment. However, concerns are raised with regards to the type of mechanisms to be utilised to encourage neighbourhood consultation and how the applicant can demonstrate that they have actively resolved issues. Detailed guidelines are provided to demonstrate how such a process will be managed to ensure probity, accuracy and accountability.
- 4.2 Step-in power for the Secretary of the Department of Planning and Environment to reduce agency delays and resolve conflicts is supported in principle. It is recommended that all State Agencies commit to maximum 28

day timeframes to provide comments, concurrence and responses to development matters and concerns. Furthermore introduction of a pre-lodgement system for State agencies for significant rezoning and development applications would assist in addressing delays and providing clarity for applicants on what is needed.

- 4.3 Statements of reasons for development application and Section 96 application determinations are not supported as they will not lead to an improved result and would add time and cost to the process. All applications are the subject of an assessment report that articulates the reasons for the decision.
- 4.4 The expansion of complying development to include larger scaled developments including medium density development under draft medium density housing code is not supported as this is beyond the scope of what complying development currently permits, which is straight forward, permissible development with minimal environmental impacts. Whilst the restriction of Council Accredited Certifiers to assess more complex complying development is supported, these applications are more suited to a merit based assessment and consideration of local character, amenity and environmental considerations which are ordinarily addressed by way of a development application.

## **5. INFRASTRUCTURE DELIVERY**

For major infrastructure projects within infrastructure corridors, the Act requires concurrence of agencies such as Transport for NSW and Roads and Maritime Services. However this is not currently required for Part 5 activities under the Act. The proposed amendments seek to ensure strategic and cost effective delivery of major infrastructure by extending the requirement of concurrence or notification of public authorities to Part 5 activities within future infrastructure corridors to avoid inappropriate development.

### ***Comment:***

The extension of concurrence requirements to Part 5 activities within infrastructure corridors would result in a more consistent approach and alleviate potential issues during the construction of all development and activities within the corridors.

### ***Recommendation:***

- 5.1 The extension of concurrence requirements to Part 5 activities and development within future infrastructure corridors is supported as this would ensure that appropriate development would occur within a corridor. This would provide consistency for all developments within infrastructure corridors and has the potential to alleviate problems which may occur during the construction of the infrastructure.

## **6. PLANNING AGREEMENTS**

The proposed amendments seek to improve the policy framework for planning agreements as well as improve the infrastructure contributions system to enable the efficient, transparent and fair sharing of infrastructure costs and benefits for development. The amendments broaden the powers of the Minister for Planning to issue a Direction which instructs Council's how to determine the extent of public benefits to be made by a developer under a planning agreement.



***Comment:***

A draft Ministerial Direction, Practice Note and Planning Circular were exhibited in November 2016 which sought to control the use of value capture and ensure planning agreements were only utilised by Councils with a transparent strategic framework. It would appear that the proposed changes to the legislation relate to this same matter however the wording of this clause gives broad power to the Minister which could potentially, depending on the nature of any directions issues, remove flexibility and negotiation from the VPA process. This could be in the form of limiting what a Council can obtain through a VPA, ultimately to the benefit of developers rather than the community.

***Recommendation:***

- 6.1 The issuing of Directions which provide guidance with respect to the process and framework for VPAs and the key considerations a planning authority should have regard to, is supported. However this should not extend to Directions which may limit the extent and value of public benefits which could be obtained through an individual VPA as this ultimately limits Council's ability to secure the best outcome for the community.

**7. DECISION-MAKING****a) Planning Panels**

Under Section 76 A (8), the proposed amendments allow the Minister to direct a council to establish a local planning panel to determine development applications. This panel would grant the Minister power to address the timeliness or quality of Council's planning decisions, or manage conflicts of interest. The new power of direction replaces the existing provision that allows the Minister to appoint a planning administrator or panel to exercise planning functions for Council.

***Comment:***

The intent of this initiative of the use of independent planning panels and creation of a standard set of rules and responsibilities is to promote State wide consistency. Under this new model, the local government authority set the strategy, policy and standards for development, while decisions are made by independent experts. Local planning panels will be able to review council decisions on the request for the applicant, similar to existing section 82A reviews.

The introduction of local planning panels undermines the role of Council as decision makers and does not recognise the extensive delegations already provided. Experience to date suggests Government appointed members do not appear to give determinative "weight" to local policy and do not articulate their reasons why not. There is a trend that higher level housing goals are more determinative than Councils locally accepted and adopted policies. Local Council's Strategic direction and policies ought to be taken seriously and it should be rare that they be discarded.

The Hills Shire Council has established a Development Assessment Unit which functions in a more appropriate manner than an independent external hearing panel. Councils should be encouraged to convene weekly "internal Development Assessment Unit meetings" to fast track determinations. A local planning panel will not sufficiently fast track or streamline determination process or timeframes.

**b) Delegation to Council Staff**

The proposed amendments allow the Minister to grant more delegations to council staff. The justification for this is that council staff are knowledgeable about local planning strategies, have the technical expertise and would result in shorter processing times.

**Comment:**

Individual Councils should be able to set their own delegations. The elected Hills Shire Council currently determines less than 1% of all development applications.

**c) Thresholds for Regional Development**

The proposed amendments increase the thresholds for regional development from a Capital Investment Value of \$20 million to \$30 million for applications to be assessed by regional planning panels. The associated documentation indicates that all new schools would be treated as State Significant Development. In addition, there are proposed new thresholds for regionally significant developments including the following:

- Council related development investment greater than \$15 million for councils with a local planning panel.
- Private infrastructure and community facilities, ecotourism facilities greater than \$5 million (as per current threshold).
- Other development such as designated development for extractive industries, marinas and waste management facilities or works, and certain coastal subdivisions.

The following developments can also be determined by a Regional Panel:

- Developments greater than \$10 million but less than \$30 million undetermined within 120 days and at the applicant's request, unless the delay was caused by the applicant.
- Development designated by order where the council's development assessment is considered unsatisfactory.

**Comment:**

As with previous submissions with the White Paper in 2013, the position that mandating a role for Regional Planning Panels in the assessment and approval of development applications is not supported on the basis it is unnecessary and adds time and cost to the process of development assessment. Planning panels add at least 1 month to what a normal assessment processing time would take. It is considered that councils are best equipped to deal with all development proposals other than major infrastructure and special projects. The majority of development applications determined by the West Central Planning Panel relate to residential or mixed use developments which are not considered to be regionally significant. Planning panels should only be utilised for the following:

- a. Developments that exceed \$100M in the metropolitan area.
- b. Involve significant State or Local infrastructure.
- c. Involve significant (over \$1M) applications that relate to Local Council's Operational land.
- d. Involve rezoning of Council operational land for purposes other than open space or recreation.
- e. To determine differences between state agency requirements on significant matters.

Whilst the associated documentation indicates that all new schools would be treated as State Significant Development, it also indicates that educational facilities (including associated research facilities) that have a capital investment value of more than \$30 million are considered to be regionally significant development. This anomaly is required to be rectified.



**d) Conflict for Planning Panels**

The proposed amendments include a common approach to the conduct of members of planning bodies with the development of a model code of conduct to manage of conflicts of interest. The codes of conduct will be adopted by the Regulation and will be required to be incorporated by the Sydney District and Regional Planning Panels and Local Planning Panels.

**Comment:**

A proper considered approach to conflicts of interest is needed. As it stands, a Council appointed representative is almost always considered to have some conflict either due to council work activities or as a "colleague" to State appointed panel members. The only time a conflict ought to rule out a Council appointed representative is for a significant pecuniary interest only.

**e) Review of Decisions**

In addition to the existing applicant and merit objector appeal rights, internal reviews will be extended to include decisions about integrated development and State significant developments. However, reviews for State significant development which involve high-risk such as heavy industries, intensive livestock industries and mining operations are not available if the Independent Planning Commission has held a public hearing into the development.

**Comment:**

Expanding the scope of internal reviews to include decisions about integrated development is supported. This approach allows for a consistent approach for all approval pathways and will allow for reconsideration of decisions in the same matter as non-integrated development applications.

**Recommendation:**

- 7.1 The introduction of local planning panels is not supported as this undermines the role of council as decision makers and does not recognise the extensive delegations already provided.
- 7.2 The operation of Planning Panels should be reviewed so that they comprise a maximum of four (4) members to reduce costs and of those four, the Government and Council be represented by 2 appointed members each. The Chairperson has the right to a casting vote. Planning Panels should only be utilised for the following:
  - Developments that exceed \$100M in the metropolitan area.
  - Involve significant State or Local infrastructure.
  - Involve significant (over \$1M) applications that relate to Local Council's Operational land.
  - Involve rezoning of Council operational land for purposes other than open space or recreation.
  - To determine differences between State agency requirements on significant matters.
- 7.3 The Minister's power to require that a greater number of planning functions are carried out by council staff under delegation is not supported. Delegations should be a matter for individual Councils.
- 7.4 Expanding the scope of internal reviews to include decisions about integrated development is supported as this allows reconsideration of decisions in the same matter as non-integrated development applications.

## **8. BUILDING PROVISIONS**

Building regulation and certification ensures that building and subdivision standards are met by developers. The draft planning legislation has sought to respond to the submissions received on the White Paper, Green Paper, consultation on the Better Buildings Model, the Fire Protection Systems Working Party Final Report and the considerations of the NSW Building Regulation Working Party to improve the design, approval and certification of development, and the on-going management and compliance of buildings. The amendments aim to simplify and consolidate building provisions set out in the Act, allowing conditions on construction certificates and ensuring consistency with development approvals.

### ***Comment:***

When an Accredited Certifier assesses a Construction Certificate (CC) application, they must determine that the proposed plans are 'not inconsistent' with the approved plans in reference in the development consent. The supplementary exhibition material for the draft Bill refers to a recent case where a private Accredited Certifier issued a CC for a building in Burwood which had a substantially different façade to that which was approved with the Development Application. Burwood Council took the matter to Court and lost the case based on the Courts interpretation of 'not inconsistent'. It was deemed that the term 'not inconsistent' is a double negative which affords the Accredited Certifier the right to issue a CC which makes substantial changes to the development as long as they were not fundamental. In essence, this case enables developers to obtain development consent for a building and make substantial changes to the design at the CC stage without the need for a Section 96 application.

The proposed change moves the consistent test from the Regulation into the Act, gives the Court the ability to deem a CC invalid if it is not consistent with the DA and changes the focus of consistent test at the CC stage from being not inconsistent to consistent with the DA. It is also proposed that a three month period be introduced where proceedings can be brought before the Courts to deem a CC invalid. This may be a concern as issues are not normally identified until a complaint is received months or years after the CC was issued.

### ***Recommendation:***

- 8.1 The proposed change to weaken the legal status of construction certificates is supported as the amendment moves the consistent test from the Regulation into the Act, gives the Court the ability to deem a Construction Certificate invalid if it is not consistent with the DA and changes the focus of consistent test at the CC stage from being "not inconsistent" to "consistent" with the DA.
- 8.2 The three month period to be introduced where proceedings can be brought to deem a CC invalid is not supported because this timeframe is unrealistic as non-compliances are ordinarily identified several months or years after the issue of the CC.

## **9. THE ROLE OF DESIGN**

The legislation updates seek to promote better designed urban spaces which meet the needs of the growing population which is exemplified in the introduction of object (f) in the Act which seeks to promote good design in the built environment. In addition, a Design-Led Planning Strategy will be prepared by the Office of the Government Architect. This has been initiated with the draft Architecture and Design Policy for NSW which is intended to deliver good outcomes in the urban environment.



**Comment:**

The new object to promote good design in the built environment contradicts the expanding role of complying development and private certification which is also promoted within the draft amendments to the Act. Complying development certificates can be issued by private certifiers based on compliance with prescribed development standards such as setbacks, height and lot sizes and utilises a "tick the box" approach without much consideration of design or the strategic vision for the existing or envisaged area of the locality. If the role of design is to be an object under the amended Act, these contradictory agendas are required to be addressed. As the role of design is so subjective, more detail is required to ascertain how the draft Architecture and Design Policy for NSW and other initiatives are to be specifically applied to local development and local strategic planning outcomes.

**Recommendation:**

- 9.1 The role of design to deliver better outcomes to the urban environment by enhancing amenity, preserving a neighbourhood's identity and the use and enjoyment of public places and spaces is supported as it is consistent with the Draft District Plans and *A Plan for Growing Sydney*. However more detail is to be provided to develop specific initiatives to promote good design.

**10. THE ENFORCEMENT FRAMEWORK**

Enforceable undertakings in compliance actions will be introduced. Initiatives proposed include temporary stop work orders, a regulatory services levy and allows the court to objectively determine whether the certificate complies with the relevant standards.

**Comment:**

The introduction of an enforcement framework including temporary stop work orders, a regulatory services levy and clarifying objectives to determine a Complying Development Certificate invalid will allow council's development monitoring unit greater flexibility to improve compliance.

With regard to temporary stop work orders, the initiative to allow Council to suspend complying development work, while Council investigates for a period (7 days) is supported. This would allow reasonable time for council staff to investigate if the development meets the relevant standards. However, the power will be limited in scope to genuine complaints about building work not meeting the relevant Complying Development standards.

A Regulatory Services Levy may benefit Council as there is currently no mechanism to recoup the cost required to fulfil the regulatory role associated with Complying Development Certificates issued by private Accredited Certifiers. Currently, when an Accredited Certifier assesses a Complying Development Certificate, the applicant pays the Accredited Certifier an application fee. The only money paid to Council is the \$36 document registration for the registration of the approved plans and to ensure they are publically available. The proposed change seeks to establish a regulatory service levy to support Councils in their role in enforcing Complying Development standards. The fee structure and model for the levy has not been determined and will be introduced as part of future EP&A Regulation amendments. It is also suggested that the levy may be extended to Development Applications.

With regard to Complying Development Certificates, when an Accredited Certifier assesses a Complying Development Certificate, they must be satisfied that the proposed development complies with the relevant standards. There was a recent case where a private Accredited Certifier issued a number of Complying Development Certificates in Hornsby for the construction of a detached 'studio'. The approved plans showed the 'studios' were actually town houses, which were not permissible as Complying Development. Hornsby Council took the matter to Court to declare the Complying Development Certificates invalid. The case was decided on the basis of whether a reasonable Accredited Certifier would consider the development as Complying Development, rather than if the approved development complied with the relevant standards. This case showed that a non-compliance with the relevant development standards was not enough to deem the approval invalid but the Council would need to demonstrate the Accredited Certifier acted unreasonably. The proposed change recognises this case has opened a grey area and raised the burden of proof required for the Court to declare a Complying Development Certificates invalid. The proposed changes clarify in legislation that a person or Council can bring proceedings to challenge the validity of a Complying Development Certificate and enables the Court to objectively determine whether the certificate complies with the relevant standards.

***Recommendation:***

- 10.1 Temporary Stop Work orders are supported as a seven day suspension to complying development work, would allow council officers sufficient time to investigate the compliance matter.
- 10.2 A regulatory service levy to support Councils in their role in enforcing Complying Development standards is supported in principle. However, the fee structure and model for the levy has not been determined and will be introduced as part of future amendments to The Regulation. It is also suggested that the levy may be extended to Development Applications. Review of these details is required prior to make an informed comment on this initiative.
- 10.3 Clarification of the validity of Complying Development Certificates is supported as this would allow Council to bring proceedings to challenge the validity of a Complying Development Certificate and enable the Court to objectively determine whether the certificate complies with the relevant standards.

**11. AN EXPANDED DEVELOPMENT STREAM**

Council in previous submissions has raised the need for a new approval pathway that sits between development applications and complying development. This could be modelled on the Building Application process that existed in the Local Government Act prior to the reforms of 1998.

Prior to private certification, the planning system rarely required development consent for dwellings, dwelling additions or outbuildings. Instead, these kinds of developments were the subject of a Building Application assessed and determined under the Local Government Act. Assessment under this Act mirrored considerations for Consent under the EP&A Act and even taking into account the notification period to adjoining landowners, generally resulted in a certain and fast approval. Importantly, these decisions also involved consideration of merit but because only councils could undertake that role with any impartiality, applications were determined by Council having regard to the relevant procedures, policies and development standards of the local authority. Council had an efficient and accountable planning and building regulation system.



With the 1998 reforms, suddenly almost all development handled by Building Applications became "local" development requiring development consent that has added weight to the system. Private certification of merit considerations is not considered to be in the community interest and does not provide any confidence of impartiality. There is an opportunity to have four streams of development as follows:

Approval Pathway	Requirements
Exempt	No Development Application, no Construction Certificate
Complying	No Development Application, no Construction Certificate, but requires Complying Development Certificate
Local	Development Application and Construction Certificate
Proposed Local Building Permit	No Development Application, Conditional Construction Certificate issued by Council, Certification by private certifier or Council

The proposed Local Building Permit would be for Class 1a, 10a, 10b structures on urban zone and sewerage land. A Development Application ought not be required for Class 1a, 10a and 10b structure on zoned urban sewerage land. Such development also should not have to undergo Statement Environmental Effects or the rigorous requirements of a Development Application. This is not the same as Complying Development as it could involve merit (remove cut and fill, reduced setback, tree clearing etc).

#### **Recommendation:**

- 11.1 Introduce a fourth stream of Development Approval to deal with Class 1a (for example single dwellings or attached dwellings, separated by a fire-resisting wall) and 10 (non-habitable structure such as sheds, garages) on land that is zoned urban and fully serviced. The new stream should be for proposals that fit between a DA and a Complying Development Certificate. A DA process is too onerous for these kinds of buildings and structures on these lands and a merit based application for Building Permission issued by Council would reduce delays and costs. An application for Building Permission should only require plans and specifications demonstrating compliance with the Building Code of Australia and local development standards and should only involve limited neighbour notification.

#### **CONCLUSION**

The exhibition of the draft amendments to the *Environmental Planning and Assessment Act, 1979* represents the next stage in the review of the planning system for NSW.

This report describes the new material provided on the planning reforms and comments on the implications for The Hills Shire and recommends that submission be made to the proposed Draft Bill in line with the comments contained within the report.

#### **IMPACTS**

##### **Financial**

This matter has no direct financial impact upon Council's adopted budget or forward estimates in the short term. However, a number of the proposed reforms could impact on Council financially in the long-term through resources required to undertake additional community consultation during the strategic planning process. It is

anticipated that these initial costs will be recouped through efficiencies and cost savings over time.

**The Hills Future - Community Strategic Plan**

The formulation of a submission on the planning legislation updates seeks to ensure that growth and development is effectively governed and managed at the local level to facilitate outcomes for the community in line with the Community Strategic Plan.

**RECOMMENDATION**

A submission be forwarded to the Department of Planning and Environment in response to the exhibition of draft planning legislation updates with recommendations as detailed in this report and also suggesting the following key measures that could be implemented to restore public confidence in the States planning system, improve efficiency, provide accountability and be effective:

1. Complete the District Plans and resource the completion of actions identified in them. There is also a need to provide frameworks to resolve competing priorities in the various different sections of the Plans.
2. Work with Council's to agree the housing and jobs growth areas and agree the areas not to change. This will allow the attraction of investment in the right areas and focus the efforts of government, Council and the communities in the identified areas that matter. This will improve confidence and certainty.
3. Provide meaningful State infrastructure plans to cover schools, roads and transport to support the agreed growth areas in the Local Government Area. These Plans are to identify timeframes and funding sources that are committed.
4. Develop a 20 year physical model of the built form of greater Sydney for the next 20 years. Many other sophisticated Cities around the world have done this and at any time a developer, community member or agency can view the model to guide their respective decisions. It is one clear way to inform the wider community about what they can expect over the 20 year timeframe.
5. Require the Office of Environment and Heritage to undertake a holistic biodiversity certification process of greater Sydney. Areas outside the retained biodiversity areas can then be developed without the need to consider environmental legislation any further and will result in the right environmental outcome with faster, less complex development assessment times.
6. Diminish the role and ambit of Planning Panels. There are too many applications being determined by Planning Panels that are not of regional significance. Planning Panels must comprise a maximum of four (4) members to reduce costs and of those four, the Government and Council be represented by 2 appointed members each. The Chairperson has the right to a casting vote. Planning Panels should only be utilised for the following;
  - a. Developments that exceed \$100M in the metropolitan area.
  - b. Involve significant State or Local infrastructure.
  - c. Involve significant (over \$1M) applications that relate to Local Council's Operational land.
  - d. Involve rezoning of Council operational land for purposes other than open space or recreation.
  - e. To determine differences between State agency requirements on significant matters.

7. Require all State Agencies to commit to maximum timeframes to provide comments, concurrence and responses to development matters and concerns. Twenty eight (28) days is the suggested maximum as the forty (40) day maximum is the statutory timeframe before an application is deemed to be refused.
8. Implement a pre-lodgement system for State Agencies for significant rezoning and development applications.
9. Introduce a fourth stream of Development Approval to deal with Class 1a (for example single dwellings or attached dwellings, separated by a fire-resisting wall) and 10 (non-habitable structure such as sheds, garages) on land that is zoned urban and fully serviced. The new stream should be for proposals that fit between a DA and a Complying Development Certificate. A DA process is too onerous for these kinds of buildings and structures on these lands and a merit based application for Building Permission issued by Council would reduce delays and costs. An application for Building Permission should only require plans and specifications demonstrating compliance with the Building Code of Australia and local development standards and should only involve limited neighbour notification.
10. Continue to repeal duplicated State Environmental Planning Policies that should be incorporated in Local Environmental Plans.

**ATTACHMENTS**

Nil

**THE HILLS SHIRE COUNCIL**

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ABN No. 25 034 494 656

31 March 2017

Greater Sydney Commission  
Draft District Plans  
PO Box 257  
Parramatta NSW 2124

[engagement@gsc.nsw.gov.au](mailto:engagement@gsc.nsw.gov.au)

Our Ref: FP25

Dear Sir/Madam

**Amendment to A Plan For Growing Sydney and Draft West Central District Plan**

Thank you for the opportunity to provide comment on the the Draft West Central District Plan and the update of *A Plan for Growing Sydney* titled *Towards our Greater Sydney 2056*. Council at its meeting of 28 March 2017 considered a report on the draft documents and resolved as follows:

- A. A submission be made the Greater Sydney Commission in response to the exhibition of the update of *A Plan for Growing Sydney* supporting the broad concept of three cities in principle, however requesting that in preparing the full update there needs to be clear actions and a Structure Plan that address at a minimum:
  - Reduced focus on Parramatta and the Olympic Peninsula and more focus on the economic and employment role of strategic centres such as Norwest and Castle Hill and the how they fit within the three city concept.
  - The location of housing and job growth, together with major transport and other infrastructure projects that will be needed to support growth to inform decisions on infrastructure priorities and funding.
  - Clear parameters on how the urban footprint will be set and maintained in the face of competing priorities for conversion of rural land to residential.
- B. A submission be made the Greater Sydney Commission in response to the exhibition of the Draft West Central District Plan suggesting the following improvements and providing a copy of the report as part of the submission:
  1. Purpose of the District Plan  
The implementation and weight of strategic plans could be improved by including the priorities and actions as matters for consideration in development decisions under s 79C of the EP&A Act and tightening the actions to be more specific and measurable.



## 2. Vision

- Review of the vision to better articulate the outcomes sought for centres, other than Greater Parramatta and Olympic Peninsula, and the desired outcome for the rural resource lands, noting that this land makes up a substantial portion of the district.
- Throughout the document redress the over emphasis on housing supply and diversity to the detriment of sustainability principles. More detail is needed on the reasons why zoned capacity is not being taken up in infill areas and how this can be solved. More is also needed on why supply is limited in release areas.
- The 30 Minute City goal should change the way the city is developed with the West Central District Plan nominating places for State, Federal in local investment in natural and cultural assets. It should clearly articulate actions to provide more desirability for homes and jobs and ensure it really does flow through the land use, transport, and cultural and natural asset delivery.

## 3. Structure and Useability

- Re-ordering of the chapters to elevate the sustainability priorities important to the management of substantial rural resource lands, to the front of the document.
- Summary table that links detailed priorities and actions to the overarching priorities and to the directions and actions in *A Plan for Growing Sydney*.
- A holistic District Structure Plan showing areas for growth, important centres and key proposed linkages within and external to the District.
- Elevating detailed Priorities, intended to inform strategic planning and assessment of planning proposals, to specific actions to be included at the front of the plan (where sufficient information is available).

## 4. Implementation of the Plan

- Removal of vague 'motherhood actions' that would be difficult to implement or measure progress against.
- Reviewing detailed Priorities, intended to inform strategic planning and assessment of planning proposals, to ensure sufficient information is available to guide Council's response to planning proposals and LEP preparation.
- More information on how the Green Grid can be provided across private land to assist the delivery of the identified Cattai and Caddies Creek corridors.
- Introduction of a very clear implementation plan that considers resourcing, timeframes and mechanisms for delivery.

## 5. Role of Norwest and Castle Hill

- Listing Council as a key agency for the development of the Central City economic development strategy to ensure there is a focus on the role and importance of strategic centres outside of Parramatta and its immediate surrounds.
- Elevation of Castle Hill to a strategic centre, including a specific action to grow economic activities in this centre given the opportunity presented by Sydney Metro Northwest and the identification of higher density employment outcomes in local and State rail strategies.

## 6. Approach for Infrastructure Planning and delivery

- Include a meaningful and strategic Infrastructure Plan for the district, covering schools, roads and transport considering additional infrastructure needs beyond committed projects and including a map showing locations and high priorities to guide infrastructure agencies in planning for growth.
- If Parramatta is to succeed there is a need for considerably improved connections to Parramatta for the substantial population growth in the nearby areas of Blacktown and The Hills. Relying upon the arterial road network such as Windsor and Old Windsor Roads will not suffice. Options of extending light rail options from Parramatta to Castle Hill, from Parramatta to Epping via Carlingford and grade separation of Windsor Road/Old Northern Road at

Baulkham Hills or the completion of the heavy rail link between Carlingford and Epping need to form part of the solution.

- Address current funding and delivery challenges with capping of S94 contributions and the IPART approval process which based on Council's experience with Box Hill significantly delays delivery of planned growth and supporting infrastructure.
- Include delivery of Rouse Hill Hospital as an action.

7. Job Locations and targets

- Include a breakdown of job targets for centres to identify the types of jobs sought, for example number of 'smart jobs' to be provided in Castle Hill.
- Review 2016 base job numbers upon release of 2016 Census figures to ensure progress against the targets can be accurately measured.
- Include district wide and LGA wide job capacity targets to ensure a focus on employment and economic growth in line with residential growth and to facilitate measurement of progress.
- Include actions that recognise the role and significance of other employment lands to the district particularly Castle Hill trading zone, Box Hill and Annangrove Road employment lands and dispersed activities such as schools, tourism, extractive industries and rural activities.

8. Housing Capacity and targets

- Include more detail on liveability and how design outcomes can be improved to make apartment living a real and attractive choice and how better quality of life can be achieved and measured including benchmarks for provision of recreation and community facilities.
- Provide more information and clarity on what the 8,850 five year target is based upon.
- Include a Structure Plan showing the growth locations and potential dwelling numbers in locations apart from Greater Parramatta and Olympic Peninsula, given the significance of the growth centres and the rail corridor in meeting the districts longer term targets.

9. Affordable housing targets

Council opposes the affordable housing targets due to their impact on design standards.

10. Approach for rural lands and urban growth pressures

The Sustainability Priorities 8, 9 and 10 as they deal with Metropolitan Rural Lands are not supported. The District Plan must include these lands as part of the planning and meeting the growth of Sydney.

Please find attached a copy Council's report and minute on this matter which forms part of the submission on the Draft West Central District Plan and the update of A Plan for Growing Sydney. Thank you for the opportunity to provide comments. Should you have any enquiries in relation to Council's submission please contact Janelle Atkins Principal Planner on [REDACTED].

Yours faithfully

[REDACTED]

**Stewart Seale**  
**MANAGER - FORWARD PLANNING**

Attachment: Council Report and Minute 28 March 2017

<b>ITEM-6</b>	<b>AMENDMENT TO A PLAN FOR GROWING SYDNEY AND DRAFT WEST CENTRAL DISTRICT PLAN (FP 25)</b>
<b>THEME:</b>	Balanced Urban Growth
<b>OUTCOME:</b>	7 Responsible planning facilitates a desirable living environment and meets growth targets.
<b>STRATEGY:</b>	7.2 Manage new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations.
<b>MEETING DATE:</b>	<b>28 MARCH 2017</b> COUNCIL MEETING
<b>GROUP:</b>	<b>STRATEGIC PLANNING</b>
<b>AUTHOR:</b>	<b>PRINCIPAL PLANNER</b> JANELLE ATKINS
<b>RESPONSIBLE OFFICER:</b>	<b>MANAGER – FORWARD PLANNING</b> STEWART SEALE

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### EXECUTIVE SUMMARY

This report recommends that a submission be made the Greater Sydney Commission in response to the exhibition of the Draft West Central District Plan and the update of *A Plan for Growing Sydney* titled *Towards our Greater Sydney 2056*.

The foreshadowed amendment of *A Plan for Growing Sydney* that reconceptualises Sydney as a metropolis of three cities, Eastern, Central and Western is supported in principle, however in order to better inform the finalisation of the District Plans and ultimately implementation at the local level more detailed actions and a Structure Plan will be needed. The submission as recommended highlights the need for *Towards our Greater Sydney 2056* to provide clarity on the location of housing and job growth, the infrastructure needed to support growth, how the urban footprint will be set, and the role of strategic centres such as Norwest and Castle Hill in the new concept.

In relation to the Draft West Central District Plan the submission, as recommended, suggests some changes to facilitate implementation and useability of the document, particularly as it is to be used to explain the strategic context and inform Council's Local Strategic Statement and Local Environmental Plan review.

The drivers that should underpin the District Plan must be around providing real housing affordability, creating housing diversity and ensuring the delivery of a 30 minute City. This policy should mean real changes to land use patterns in Greater Sydney and be a change supported openly by the Federal Government. Such a policy has real implications for how the forecast growth is managed.

The current focus on the supply of housing to drive affordability has obviously not achieved the desired result. This is because the delivery of housing to the market relies on more than just an excessive supply of zoned land. It relies on the coordination of the land use planning, the financial and taxation system, construction costs and the timing

by developers for bringing products to the market. The underpinning infrastructure such as water, sewer and power has a huge impact on the ability to bring housing to the market, which is one of the elements where the District Plan should guide coordination. Council's own experience has shown developers arrive not when land is zoned, but when it is serviced, so more often than not it's the timing and delivery of sewer water and power that influences supply.

A rich diversity of housing types and sizes is necessary to provide opportunities for all lifestyles and create a range of price entry points into the market for consumers. The creation of diversity would also help to provide resilience, particularly in the apartment market which is a long term building stock. Different unit typologies and unit sizes allow people at different stages in their life to choose an appropriate form of living to suit their lifestyle needs. If the 30 minute city is to be achieved, housing in station precincts cannot be characterised by units that are driven by the investor market. There is a real need to look at how these developments are financed as the list of requirements for an investor is very different to an owner occupier and too little of the apartment supply is owner occupier orientated to the detriment of real diversity in these precincts.

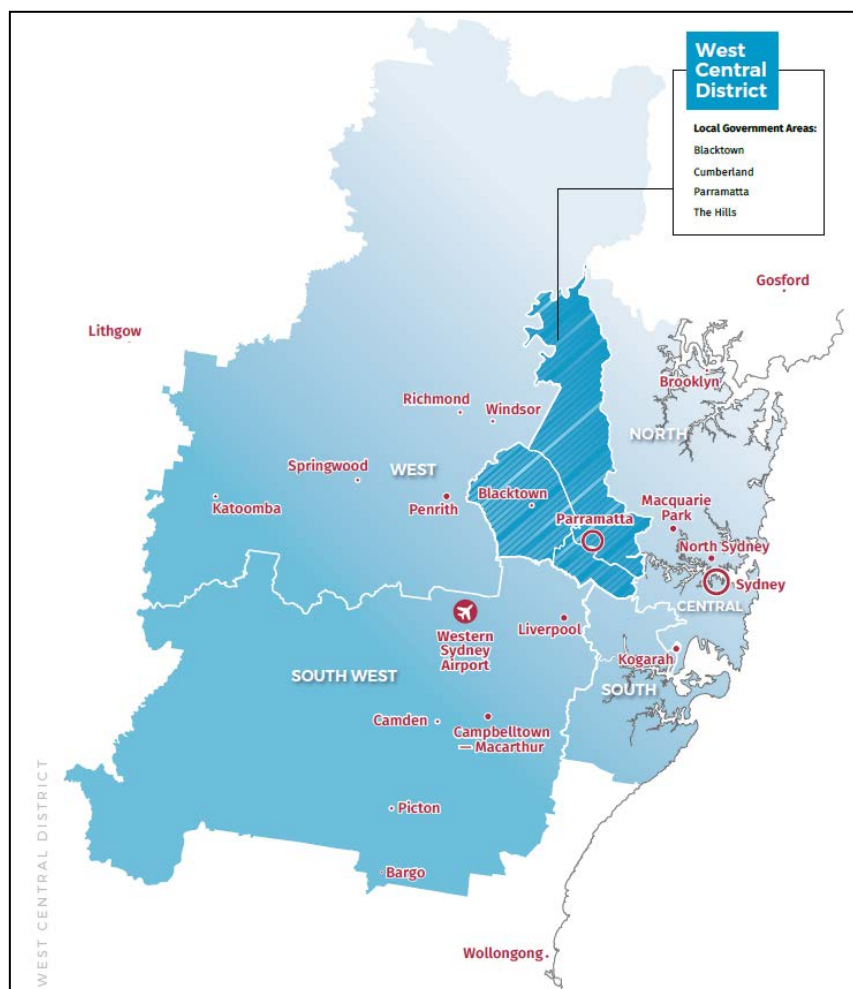
Development of a 30 minute City as a key concept has its genesis in quality of life for residents of Sydney. It requires focused policy on creating a more permeable city, where access via public and private transport and pedestrian connections need to be direct. This covers more than just manipulation of land use patterns, but a focused effort of transport and infrastructure agencies. Greater effort also needs to be focused on the creation of places that provide jobs, culture and leisure activities. These places do not happen, but require careful crafting through the application of good urban design principles to guide the transformation of urban renewal areas or the creation of new places in Greenfield locations. They also need solid Federal and State investment into environmental, cultural and landscape assets to improve the attractiveness of these places.

In relation to productivity, liveability and sustainability priorities, the specific matters for Council relate to the approach for The Hills Shire centres, implications of targets including affordable housing targets, approach for infrastructure planning and delivery and the approach for resolving competing land use conflicts. The submission as recommended suggests a number of areas where improvements could be made such as more detail on what infrastructure is needed to support growth, clearer job targets for the whole LGA rather than just centres and more specific actions for Norwest and Castle Hill so that Council can better respond to residential development pressures. Affordable housing targets are unclear, in particular the role of Council in management and are therefore not supported. It is also recommended that the District Plan needs to give consideration to the urban footprint in light of the pressures for growth at the urban rural fringe.

## **REPORT**

The six draft District Plans were released for public exhibition by the Greater Sydney Commission on Monday 21 November 2016. The District Plan for the West Central District includes The Hills, Parramatta, Blacktown and Cumberland council areas. Bankstown Council (now part of Canterbury-Bankstown), previously proposed as part of the West Central District, now forms part of the South District.





**Figure 1**  
West Central District

The draft District Plans will replace the previous Subregional Strategies which have remained draft since 2007. The draft North West Subregional Strategy contained the housing and job targets that have framed Council's local strategic direction over the past 8 years. The previous subregional planning framework, whilst providing a good link between the metropolitan strategy and local planning, was never finalised and was limited in legal weight to support land use decisions.

In November 2015, Part 3B was added to the *Environmental Planning and Assessment Act 1979* and introduced a hierarchy of strategic plans at the regional (metropolitan) and district level, giving greater weight to strategic planning. The Act requires councils to review their local environmental plans and prepare planning proposals as may be necessary to give effect to the District Plan. Such review must be done as soon as practicable after the District Plan is made.

Also on exhibition is a draft document titled *Towards our Greater Sydney 2056* which sets out a 40 year vision for Greater Sydney and foreshadows the comprehensive review of *A Plan for Growing Sydney*.

The draft District Plans and the update to *A Plan for Growing Sydney* are proposed to be finalised concurrently towards the end of 2017. Submissions are invited on the draft plans up until 31 March 2017.

The purpose of this report is to consider the implications of the draft documents for Council and make recommendations for a submission to the Greater Sydney Commission.

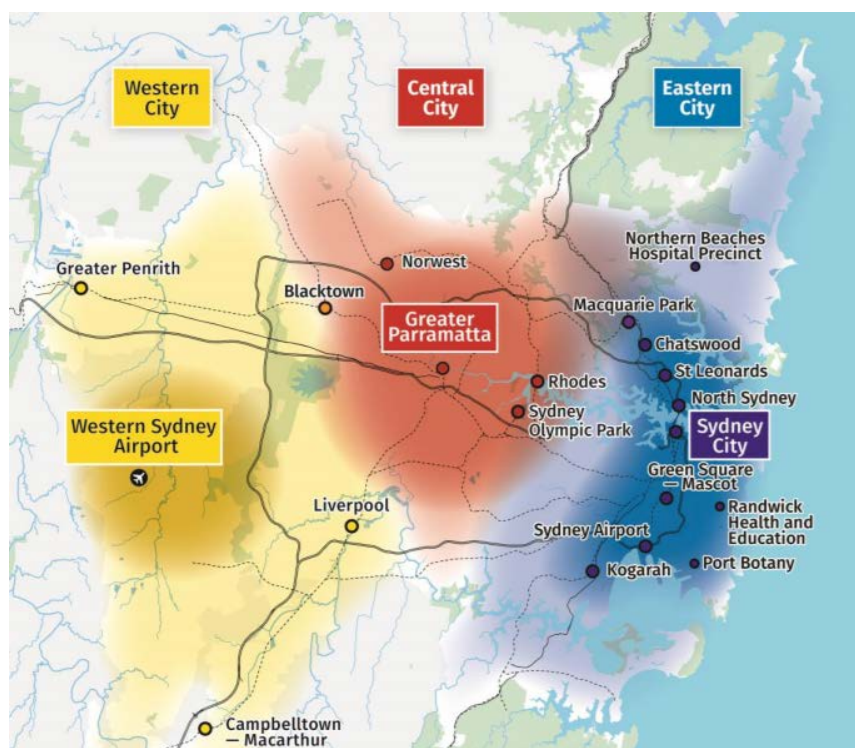
## A. TOWARDS OUR GREATER SYDNEY 2056

This document sets out the Commission's thinking on the review of *A Plan for Growing Sydney*. This plan is otherwise commonly referred to as the Metropolitan Plan. It does not at this stage intend to replace the legal status of *A Plan for Growing Sydney* as the current regional (metropolitan) plan for Greater Sydney.

Since the release of *A Plan for Growing Sydney* the projections for growth have been revised upwards. By 2036 a metropolitan priority for a growing city aims to support the generation of over 817,000 jobs, accommodate 1.74 million more people and more than 725,000 new homes.

The draft amendment reconceptualises Greater Sydney as a metropolis of 3 cities:

- Eastern – the established Sydney City and the economic corridors to its north through to Macquarie Park and south through Sydney Airport and Port Botany to Kogarah;
- Central – a developing area with Greater Parramatta Olympic Peninsular at its heart;
- Western - an emerging area focussed around the proposed Western Sydney Airport.



**Figure 2**  
The vision for a metropolis of three cities

The new concept is a major shift in thinking of Sydney as a place anchored by a single economically strong central business district and instead looks at the assets in three cities focussing on the regional significance of central and western Sydney. The major motivation for the approach is the planned investment in the Western Sydney Airport and the scale of expected growth in Western Sydney as a whole.

Reconceptualising Sydney as three cities seeks to elevate how the Central and Western Cities are considered in decision making and setting government priorities. West Central District and The Hills Shire are located within the Central City which is strongly focused on Greater Parramatta and Olympic Peninsula. By 2036 the area is envisioned as a health, education, administration and finance and business services hub with a diversity of housing opportunities, access to green spaces and cultural and entertainment facilities.

The Commission's visionary approach to how Sydney should be structured to better perform when compared against other leading global cities that have alternative centres of economic activity is supported. The broad approach and priorities are supported in principle, however in order to ultimately succeed, clear actions and a Structure Plan will be needed to ensure the plan is 'owned' by decision makers at State and local level and also by successive governments. This will also assist in informing the finalisation of the District Plans and ultimately implementation at the local level. There needs to be an authenticity to this Plan. It is important that the Plan clearly articulate why Sydney is expected to grow in population as suggested and why it is important to identify the jobs and employment growth and how that growth will be managed. There are constant community concerns about the growth and what it means for their quality of life, services, way of movement and open space. There is a danger of too much focus on targets and not enough on how it will be supported.

There is a need for the plan to identify the locations for housing and job growth, together with major transport and other infrastructure projects that will assist in achieving the metropolitan priorities such as a 30 minute city and an equitable polycentric city. There also needs to be further guidance to inform the planning for the rural locations including very clear parameters on how the urban footprint will be considered and maintained in the face of competing priorities for conversion of rural land to residential.

In terms of productivity, whilst the importance of Parramatta to Sydney's economic growth is not disputed, the amendment is high level and does not flag how Council's strategic centres fit within the new concept. Norwest has previously been identified as part of the extension of the global economic corridor linked to the CBD by the M2 motorway and the future Sydney Metro Northwest and therefore fulfilling an important role in economic activity and knowledge jobs. Castle Hill also formed part of this global economic corridor and is a prime location for a more significant commercial role as has been identified in both State and local rail corridor strategies. These centres are on the Sydney Metro Northwest and must be elevated in status and role. Clarity is needed of the envisaged role and function of Norwest and Castle Hill at the metropolitan level given the move away from the global economic corridor concept. These centres have an important role to fill and should not simply be considered as outlying to the Parramatta CBD.

## **B. DRAFT WEST CENTRAL DISTRICT PLAN**

The draft District Plan is based on the new vision for Greater Sydney and is grouped into three chapters addressing productivity, liveability and sustainability. It proposes actions for different levels of government including those that could influence how public and private investment decisions are made.

The draft plan includes a number of priorities and actions. A summary table of the actions and priorities is included in an attachment to the report (Attachment 1). The following sections of the report comment on the purpose, vision, structure and implementation of the plan and highlight key implications for Council relating to our centres, job and housing targets, affordable housing, infrastructure delivery and the approach for rural lands.

## **1. Purpose of District Plan**

In relation to local planning the draft plan indicates that it will:

- Inform the preparation of local environmental plans;
- Inform assessment of planning proposals;
- Guide strategic land use, transport and infrastructure planning across local government areas; and
- Inform infrastructure planning.

The draft plan indicates that local environmental plans will continue to determine permissibility of development and states *'Whilst a draft District Plan or District Plan is not a mandatory matter for consideration in the determination of a development application, a consent authority may decide to consider a draft District Plan or District Plan to the extent it relates to the objects of the EP&A Act'*.

The Plan in many ways re-states existing Government policy and it should have some determinative weight rather than be yet another 'shelf' document. More guidance is needed on the weight of the District Plan in the development application process. Given experience of Land and Environment Court decisions, very limited regard will be given to strategic documents where a development is permitted within a zone and mostly complies with relevant development standards, despite being a development that may not address strategic objectives. If it is to be used effectively to support development decisions, consideration should be afforded to whether it should form a matter for consideration under s79C of the Act, however the document would need to have more specific and measurable actions for this to occur.

## **2. Vision of District Plan**

The draft district plan is essentially a growth plan and seeks to provide a line of sight from the metropolitan plan through to local plans. The Plan is predicated on the population growth forecast under the Metropolitan Plan and represents the vision, priority and actions for each of the subregions.

The 20 year vision for West Central is to be at the core of Greater Sydney's Central City playing a pivotal role as an economic and employment powerhouse, a core hub for transport and services and the home of vibrant and diverse centres and communities. It focusses on Greater Parramatta and Olympic Peninsula (known as GPOP), noting that it will be supported by centres at Blacktown, Castle Hill, Epping, Marsden Park, Merrylands, Mount Druitt, Norwest and Rouse Hill.

The Draft West District Plan really does not introduce anything surprising, however it does give greater emphasis to Greater Parramatta and the Olympic Peninsula. On one hand, that is not a bad thing as GPOP will be an area of substantial growth meaning there should be less pressure on other areas to deliver housing and jobs outside of current known growth areas. The Hills Shire has enough zoned urban land to exceed its jobs and housing targets under the Metropolitan Plan with the only factors preventing take up is the capacity of industry and the roll out of sewer and water services.

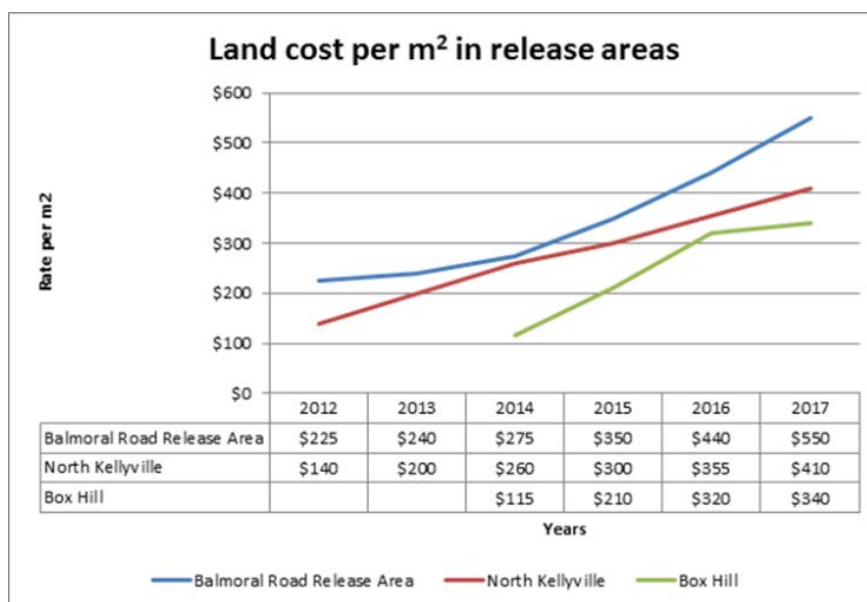


Under the draft District Plan Greater Parramatta Olympic Peninsular will contribute 74,500 to 90,400 additional jobs by 2036. By comparison, the Hills Shire has planned employment capacity for 46,000 additional jobs, with potential for a further 39,000 jobs within the Sydney Metro Northwest corridor - making a total contribution of 85,000 additional jobs. In terms of housing the Greater Parramatta Olympic Peninsular has potential for 47,000 new homes whilst within the Shire there is currently planned capacity for more than 30,000 additional dwellings within the Shire, with potential for at least another 16,000 dwellings within the Sydney Metro Northwest Corridor.

The District Plan introduces a number of competing priorities and actions. At the moment there is an over emphasis on providing more housing to the point where decisions are being made by planning panels that are not strategic but rather singularly focus on housing supply and diversity at the detriment of sustainability principles. The current policy priority of housing raises some concerns that the District Plan does *not* address:

- (i) It does not actually reflect the housing yields that currently exist within Council's zoning hierarchy nor does it reflect the diversity that hierarchy encourages. Council has rightly nominated areas for higher density outcomes near major towns and centres which reflects a radial pattern of progressively less density as distance from centres (where services, facilities and transport are located) increases. This is the right approach as the community has difficulty accepting higher densities in locations that are essentially single lot housing development patterns. It also makes no sense to allow higher densities in locations that do not have high amenity (water views, open space or the like) or the services provided by centres (transport, commerce and retail). What the district plan is not doing is delving into the reasons why the capacity in existing zoning is not been taken up. This may be due to a number of factors including:
  - The fragmented ownership;
  - The price expectation of existing landowners provides a barrier to consolidation;
  - The financial system whereby the larger higher density developments need a predominance of investor finance;
  - The need for medium and higher density developments to retrofit road and land use patterns that were based on very low densities (this is a massive barrier to high quality row or terrace housing that government wishes to see more of);
  - The capacity of existing utilities;
  - The current standards for higher density housing is not attracting owner occupiers; and
  - Green field areas are inadequately serviced and the forward programs are a barrier to investment (Box Hill had a 40 year horizon).
- (ii) Housing affordability is too often narrowly viewed through the prism of regulation and construction costs. In reality these are 'minor' elements in the overall budget as in recent decades the construction cost of housing has gone from 'double' the land cost to 'half' the land cost. In greenfield areas predominated by fragmented landowners and relative slow construction of utilities, the supply is restricted. To increase supply, aggregation of sites and faster servicing is required. The high cost of land is the predominate contributor to housing costs in the Shire and the size of land is not really an indicator of price, rather it's an indicator of density. Below is a table of land prices over the past 5 years for the Shires greenfield housing release areas. Further, there is no significant correlation which can be observed between reduced lot sizes and a proportionate reduction in the sale value of subdivided lots to the market. While smaller lots will produce greater

residential densities, it does not reduce the price of subdivided land for the market. Rather, due to the staged roll-out and release of lots controlled by developers it simply increases development profits by allowing for a greater number of lots to be produced which can essentially be sold at a higher value per m<sup>2</sup> than larger lots. In 5 years the land has over doubled in price.



**Figure 3**

5 Years Land Prices for the Shires Urban Release Areas

- (iii) The 30 Minute City concept is a great goal and if achieved will improve the quality of life of Sydneysiders through lower transport costs and less time away from home. Less travel time reduces risk and can create efficiency. It seems State and Federal Governments are promoting the benefits and if achieved will improve liveability and property values that might be contrary to affordability.

To achieve this goal requires significant investment from all levels of government. The obvious investment in regional and district corridors to improve travel times, more public transport options to improve travel times and more feeder services and long term car parking is required. However, it is more than that. To really achieve this goal, significant investment in centres throughout Sydney is required. These Centres must become places of interest, with cultural and natural assets enhanced to create a desire for people to want to live and work in them. More effort to improve the amenity and lifestyle of these centres is needed and it will require all tiers of government to focus on what they can do to contribute throughout greater Sydney. It must articulate improvements to road corridors that take travel time as distinct to safety alone into account. For example, the debate about upgrade to New Line Road highlights the absence of travel time as part of the cost/benefit analysis to attract funding. If the road experienced high injuries and deaths, it would attract funding. So a major rethink in policy is required if The 30 Minute City is to be achieved.

It would be wise for the West Central District Plan to nominate places for State, Federal in local investment in natural and cultural assets. It also needs to articulate actions to provide more desirability for homes and jobs.

The 30 Minute City goal should change the way the city is developed. It should clearly articulate where development should and should not happen and it must be part of all strategic decision making. The District Plan needs to make the goal clearer and ensure it really does flow through the land use, transport, and cultural and natural asset delivery.

It must also mean that throughout Sydney, any rezoning for land must be linked closer to transport improvement whether it be rail, bus, road networks. This has not occurred in the past but must in the future.

### **3. Structure and Useability of District Plan**

The draft West Central District Plan is a lengthy document and includes overarching priorities, detailed priorities and actions for each chapter. There is a lack of consistency across the three chapters and the overall vision for the *whole* of the district is not clearly articulated. There is a need for a holistic District Structure Plan showing areas for growth, important centres and key proposed linkages within and external to the District.

Within each of the Productivity, Liveability and Sustainability sections of the plan there are 35 additional priorities outlined which are intended to provide guidance for strategic planning or assessment of planning proposals (refer Attachment 1). These more detailed priorities are spread throughout the draft plan and therefore lack sufficient impact. Furthermore it is likely that Sustainability priorities, important to the management of Council's rural resource lands, managing the environment and overall air, water and quality of life, will be overlooked given their placement at the end of the document, behind Productivity and Liveability. Given that the main purpose of the plan is to guide strategic planning at the local level such priorities, where sufficient detail is provided, it should be clearly identified as actions and elevated to the action summary table at the front of the plan.

For example, of particular relevance to the Hills Shire is Productivity Priority 2 - Growing economic activities in Norwest Strategic Centre. This requires Council, in considering planning proposals, to demonstrate how planning has considered opportunities to retain and grow commercial capacity to achieve identified job targets, improve the public domain and connectivity and encourage complementary retail and services around the lake and station precinct. This approach is supported and setting it as an action will better assist Council in responding to pressure for commercial zoned lands to convert to residential.

Given the foregoing a number of recommendations are made to improve the vision, structure and therefore the useability of the plan.

### **4. Implementation of the Plan**

The draft District Plans and the draft update to *A Plan for Growing Sydney* are proposed to be finalised concurrently towards the end of 2017. Council will need to review its Local Strategy (which will essentially fulfil the role of the Local Strategic Statement under proposed amendments to the planning legislation) and also review LEP 2012 to give effect to the West Central District Plan.

It is important that the Draft District Plan is formulated clearly and unambiguously to assist the review of Council's Local Strategy. Council will need to relate priorities at the district and regional level to the local level to be able to explain the strategic context and the reasons for zones and controls. There is a need for a summary that links detailed priorities and actions to the overarching priorities and also to the directions and actions

in *A Plan for Growing Sydney*. There is also a need to remove vague 'motherhood actions' that would be difficult to implement or measure progress against.

Some of the priorities indicated for consideration at planning proposals stage duplicate identified actions, are short on detail, point to further work to be done or have little information on how they can be implemented. For example Liveability Action L4 requires the Department to develop a toolkit to support preparation of local housing strategies to encourage housing diversity. There is no timeframe for this action and, as has been the case over the last few years, it is likely that council will be largely on their own in responding to planning proposals and developing mechanisms to deliver housing diversity relevant to the needs of the existing and future housing market (Liveability Priority 2). If further work is required at State level this should be listed as an action for the relevant agency and a clear timeframe indicated. It's simply not good enough for high density development to be approved in low density or rural locations to respond to housing diversity.

Overall there is limited information on how and when identified actions will be implemented. For example The Greater Sydney Commission is identified as the lead agency for nine (9) of the Liveability actions, particularly those related to increasing affordable housing and coordinating infrastructure planning and delivery where the Commission needs to work with the Department, Councils or other agencies.

Where Council is identified as a lead agency or partner agency many of the actions are vague and will prove difficult to implement and measure, particularly when they point to further work to be done. For example the draft district plan contains 16 Sustainability actions (refer Attachment 1) of which councils are identified as one of the lead agencies to support the development of initiatives for a low carbon future which points to councils to identify areas that have potential to become low carbon - high environmental efficiency areas. Such an action is not specific and will be difficult to measure progress against.

Council is also listed as a partner for five Sustainability actions related to updating information on areas of environmental value, delivering on green grid priorities, identifying land for waste reuse and recycling, embedding NSW Climate Change Policy into local decisions and identifying high impact areas for noise and air pollution. More is needed on resourcing, timing and measures to implement. Of particular interest for Council is the Green Grid that shows Cattai and Caddies Creek corridors as opportunities for east west links, providing recreation and active transport. These initiatives are supported but more is needed on how the corridors can be delivered across private land.

To assist strategic planning there is a need for more specific actions and a very clear implementation plan that considers resourcing, timeframes and mechanisms for delivery.

## **5. Role of Norwest and Castle Hill**

The Productivity section of the draft Plan contains four (4) actions relating to: -

- Delivering Greater Parramatta and the Olympic Peninsula;
- Developing and implementing an economic development strategy for the Central City;
- Expanding health and education in Westmead; and
- Developing a better understanding of the value and operation of employment and urban services land.



The preparation of an economic development strategy by the Department of Industry is a new approach and, if of sufficient scope, could be of value in leveraging growth in Norwest in the types of jobs needed in the District. Council should be listed as key agency for this strategy.

The other actions convey a strong focus on Parramatta and the immediately surrounding area which is to the detriment of other strategic centres, which will have an important role to play in delivering on knowledge based jobs. Norwest is successful and can be leveraged further given its proximity to executive housing, a professional labour force and accessibility to road and future rail transport. Only the last of the listed actions, to develop an understanding of the value and operation of employment land, would involve this Council and, in pointing to further work to be done, is lacking in specifics to adequately inform a review of Council's Local Strategy and LEP.

The draft plan also redefines the approach to consider a hierarchy of centres ranging from strategic to district to local. Strategic centres have a higher proportion of knowledge economy jobs, the presence of major transport gateways and a major role in supporting increased economic activity. They tend to have over 20,000 jobs. District centres have retail activity generally over 50,000m<sup>2</sup>, the presence of health or education facilities, transport services and generally between 5,000 to 10,000 jobs.

Within the Shire, Norwest is identified as a strategic centre and Castle Hill and Rouse Hill as district centres. As the Shire's premier centre, set to accommodate significant additional housing and further job growth with the delivery of the Sydney Metro Northwest, it is considered that Castle Hill could benefit from being nominated as a strategic centre rather than a district centre. Under the Hills Corridor Strategy it is identified for more than 4,800 extra dwellings and 10,300 extra jobs. There has been a major investment in the retail centre with Castle Towers currently having gross leasable floor area of around 113,000m<sup>2</sup>. Current redevelopment plans would take the centre to over 193,000m<sup>2</sup> gross leasable floor area, at a cost of more than \$900 million, making it the second largest shopping centre in Australia (after Chadstone in Melbourne). Together with the pending rail delivery, high density residential growth and the availability of development sites, the investment in retail is likely to be a significant attractor for commercial growth. Nomination as a strategic centre would assist in promoting the area for both private and public investment and assisting its economic growth potential.

## **6. Approach for Infrastructure Planning and Delivery**

A key priority in the Productivity section of the draft plan is the 30 minute city concept with investment in infrastructure linked to the idea of the 30 minute city. In addition to existing infrastructure investments the plan lists initiatives being investigated by Transport for NSW to improve connections and access which includes the Parramatta light rail project, corridor for the Outer Sydney Orbital, road upgrades in the Northwest priority growth area and rapid bus routes. It is identified that these opportunities will be considered in further detail as part of the development of the Future Transport Strategy later in 2017.

The Draft District Plan needs to go further than listing current and possible future infrastructure projects being investigated by Transport for NSW. It should be the reference point clearly showing what is needed to support growth and connect centres both inside and outside the district. To this end a Structure Plan is needed so that key connections and linkages can be seen at a glance.

Based on the 2011 Census of the 117,870 local workers in the City of Parramatta 93,390 or 79.2% lived outside of the area, many of these from areas to the west and north west of Parramatta. In 2011 over 30,000 residents of The Hills, Blacktown, Hawkesbury and Hornsby LGAs travelled to work in the in the City of Parramatta. Department of Planning and Environment population projections indicate that by 2036 The Hills will be home to 125,350 more people. When combined with the projected population growth for Blacktown LGA the areas west and northwest of the City of Parramatta are growing by close to 300,000 people housing the majority of the West Central District population. This cannot be overlooked.

<b>LGA (new boundaries)</b>	<b>2016 Population</b>	<b>2036 Population</b>	<b>Growth (2016 – 2036)</b>
Parramatta	238,850	416,750	177,900
The Hills	165,550	290,900	125,350
Blacktown	349,050	521,450	172,400
Cumberland	217,450	292,450	75,000
<b>TOTAL</b>	<b>970,900</b>	<b>1,521,550</b>	<b>550,650</b>

Table 1

Comparison of population growth for LGAs in the West Central District

Source: Department of Planning and Environment Projections

Given the Government's objective of a '30 minute city', the importance of good linkages cannot be stressed enough. If Parramatta is to succeed there is a need for considerably improved connections to Parramatta for the substantial population growth in the nearby areas of Blacktown and The Hills. Relying upon the arterial road network such as Windsor and Old Windsor Roads will not suffice. Options of extending light rail options from Parramatta to Castle Hill, from Parramatta to Epping via Carlingford and grade separation of Windsor Road/Old Northern Road at Baulkham Hills or the completion of the heavy rail link between Carlingford and Epping need to form part of the solution.

The plan also does not mention the future Rouse Hill Hospital which will play an important role in facilitating jobs close to home and supporting the population growth in the growth centres. The hospital was announced in December 2014 with \$600 million to be reserved from the from the *Rebuilding NSW* initiative to contribute towards funding new health facilities, including growth hospital investment such as the north-west (Rouse Hill) and south west of Sydney.

For the Liveability section of the draft plan there is not adequate documentation of the infrastructure needed to support housing growth. It points to a need to coordinate infrastructure planning and delivery with growth and includes an action to develop a district recreation participation strategy and facility plan. It also has actions that seek to support planning for shared spaces and school facilities. There is essentially no argument for such strategies however a meaningful and strategic Infrastructure Plan is needed for the district, covering schools, roads and transport to support growth. This should consider what additional infrastructure is needed beyond current committed projects and include a map showing locations and high priorities to guide infrastructure agencies in their planning and delivery.

The plan also needs to address inherent challenges with infrastructure funding, particularly the difficulties faced with capping of section 94 contributions and the IPART approval process which, based on Council's experience with Box Hill, significantly delays the delivery of planned growth.

## 7. Job Locations and Targets

Under the draft District Plan targets are set only for strategic and district centres as shown in Table 2 below.

Centre	Centre Type	2016 Estimate	2036 Baseline Estimate	2036 Higher Estimate
Greater Parramatta Parramatta City Westmead	Strategic	96,500	156,000	170,500
Sydney Olympic Park	Strategic	30,100	45,000	46,500
Norwest	Strategic	32,400	49,000	53,000
Blacktown	Strategic	13,200	17,000	19,500
Castle Hill	District	9,800	16,000	19,500
Rouse Hill	District	4,200	10,000	11,000
Mount Druitt	District	6,700	8,000	8,500
Marsden Park	District	300	5,000	8,500

**Table 2**

West Central District job target ranges for strategic and district centres

The 2036 baseline estimates for Norwest, Castle Hill and Rouse Hill are broadly in line with the capacity identified within the Hills Corridor Strategy. Given the focus for the district on the knowledge economy it would be helpful if targets were broken down into job types, for example number of 'smart jobs' to be provided in Castle Hill. The 2016 base number of jobs for Norwest and Castle Hill is somewhat higher than would be expected for these locations. For Norwest, based on recent private economic assessment, the current employment in the business park is more in the order of 24,000 workers. The base figures in the district plan will require review upon release of 2016 Census figures to ensure progress against the targets can be accurately measured. There is no real substance in the Plan about what is needed to encourage and support growth in jobs. It is almost an assumption that it will just happen. As Council has witnessed with jobs growth to date, it is very dependent on a number of variables including housing for business owners/executives, road and transport infrastructure, government investment and the like.

Of note there is no district wide or LGA wide job capacity targets included within the draft plan. This is a significant omission compared to previous subregional strategies and is likely to continue the current emphasis on residential growth without supporting jobs, thereby undermining the 30 minute city concept and other actions that seek to facilitate employment and economic growth. There is also a limited focus on other employment land for the district economy; this includes light industrial lands at Castle Hill, Box Hill employment lands, Annangrove Road light industrial area and the contribution of dispersed activities and rural industries particularly extractive industries. Without district and LGA targets it will be difficult to measure progress on the 817,000 jobs identified as needed for the Greater Sydney region.

## 8. Housing Capacity and Targets

The draft district plan contains 19 Liveability actions which are also common across all districts, with the predominant focus being housing capacity; housing choice and affordable housing (refer Attachment 1). Councils are identified as the lead agencies for two (2) actions being L1 *Prepare local housing strategies* and L3 *Increase housing capacity across the District*.

Council is well versed in preparing and implementing local housing strategies to accommodate population growth and respond to changing housing needs as demonstrated by its 1997 Residential Development Strategy and its 2008 Residential Direction. This Direction informed the residential components of LEP 2012 and remains relevant today for strategic guidance, together with the 2015 Hills Corridor Strategy. No timeframe is indicated for the new strategy nor is there an indication of whether councils will be assisted with resources in preparing this strategy.

The listed requirements address capacity, diversity, affordability and market demand but there is limited detail on liveability and how design outcomes can be improved to make apartment living a real and attractive choice for owners looking to downsize or families seeking an alternative to the conventional single dwelling. Additionally, more focus is needed on quality of life indicators and benchmarks for provision of recreation and community facilities that contribute to quality of life such as access to district parks and playing fields, education, library, health and community centres.

Council reports on a range of quality of life indicators annually that are primarily based upon a customer satisfaction survey. The indicators include community satisfaction with quality of parks and gardens, ovals and sporting facilities, condition of road surfaces, footpaths/cycleways, community centres and halls, community events and the like. They also gauge whether residents feel they have easy access to sporting facilities, local shops, major shops and schools, if they feel safe in public places during the day. If real progress is to be made in enhancing liveability as district population grows and adapts to different housing options, there is a critical need to measure and monitor more than just progress against housing and job targets. There is a real need to develop relevant quality of life indicators that the success of our District can be measured against over time.

Specific actions relating to The Hills Shire in relation to housing capacity require Council to support the delivery of a five year housing target of 8,550 dwellings and work with State government to progress urban renewal opportunities around the Sydney Metro Northwest Corridor and investigate local opportunities to address demand and diversity in and around local centres and infill areas and areas with high accessibility. The five year target of 8,850 dwellings is the lowest growth rate identified within the District, particularly as it is based on the former LGA boundary (Table 3). The source of this figure is unclear but is said to consider the opportunities for housing that could be delivered under planning controls and active projects such as the priority precincts.

Local Government Area	2016-2021 Housing Target
Blacktown	13,950
Cumberland*	9,350
Parramatta*	21,650
The Hills*	8,550
West Central District Total	53,500

Source: Greater Sydney Commission, 2016 \*consistent with former LGA boundary

**Table 3**  
Five year housing targets for West Central District

Council is well placed to deliver (and exceed) this target with total capacity under current controls for more than 30,000 additional dwellings within the Shire, with potential for a further 16,000 plus dwellings within the Sydney Metro Northwest Corridor. In the current financial year, Council has approved over 2,000 housing lots and 2,400 apartments within The Hills and has either finalised or resolved to proceed with planning proposals that would facilitate an additional 6,580 dwellings. In 2016 The Hills had the second highest number of dwelling approvals within the District as shown in Table 4 below. Given the foregoing the five year housing target is likely to be achievable.

District Dwelling Approvals - 2016	
Blacktown	4549
The Hills	4307
Auburn	2595
Parramatta	2451
Holroyd	1777

**Table 4**

Comparison of dwelling approval numbers for the West Central District  
(Previous LGA boundaries)

The plan also includes a 20 year minimum housing target for the district of 202,500 dwellings which an action for the Greater Sydney Commission to work with councils and the Department to identify investigation areas for additional housing capacity to form part of a local strategy. The 20 year targets will be included in the final version of the District Plan. A capacity based approach is outlined highlighting the need for clear criteria as to where capacity needs to be located and the need to link growth to planning for and integration with new infrastructure and services. Opportunities of urban renewal, medium density and land release areas are identified.

The objectives of a capacity based approach are supported, however Council's recent experience with pre-gateway review for land at 582 -582A Old Northern Road demonstrates there is a need for clearer guidance on how pressures for urban growth at the urban rural fringe are considered, together with a detailed mechanism for evaluating proposals for urban expansion.

The plan would benefit from a district wide Structure Plan map showing growth locations apart from Greater just Parramatta and the Olympic Peninsula. This Structure Plan should include remaining potential dwellings in key locations particularly the North West Growth Centre, Box Hill North Precinct and Sydney Metro Corridor Precincts, given their significance to meeting short and long term housing supply.

## 9. Affordable Housing Targets

The draft District Plan nominates an affordable rental housing target of 5% to 10% of new floor space, subject to viability, in urban renewal and land release areas. It is indicated that it will be applied at the rezoning stage with dwellings to be secured by the relevant planning authority and passed onto a registered Community Housing Provider to manage. It is not clear how the scheme will be rolled out or implemented, how the rents will be set and for how long and the extent of Council involvement in 'securing' the dwellings.

The plan also distinguishes between affordable rental housing (for those on low and very low incomes) and housing affordability (challenges across a range of income groups). There is an action to address affordability more broadly - by working with councils, industry, financial institutions and State agencies to investigate new opportunities - this



action is short on detail and timeframes. The Draft Plan's predominant focus is on increasing supply and more is needed at State and Federal level to address the financial system and taxation system to favour ownership by occupiers rather than investors.

### **10. Approach for rural lands and urban growth pressures**

Given that the Hills LGA provides the vast majority of rural resource lands for the district, there is a need for the document to provide strong guidance on how this area will be planned and managed. The draft plan does not adequately address conflict between biodiversity and urban growth and rural resource lands and urban growth, as evidenced by recent planning proposals seeking gateway review, one of which has been supported for conversion of rural land to urban, without full consideration of the cumulative impacts.

Of note for Council Sustainability Priority 8 discourages urban development in the Metropolitan Rural Area and recognises that conversion of rural land to urban residential development is not necessary in the short to medium term given the supply of land for housing in other parts of Greater Sydney. The draft Plan requires that relevant planning authorities should not support planning proposals affecting rural land unless the land is identified in a regional plan or a district plan as an urban investigation area, and has been identified as a result of strategic planning, in accordance with Sustainability Priorities 9 and 10 of the draft Plan.

These priorities are strongly supported however more thought is needed on how they will be implemented apart from the ad hoc approach of responding to planning proposals on a piecemeal basis. There needs to be more focus on the varied role of rural resources land in our Shire, specific actions identified for protection of rural resources and a clearly detailed framework setting out what investigations are needed if urban growth is to be supported.

### **CONCLUSION**

As set out in the report, the draft West Central District Plan has a number of implications for Council primarily related to the role of our key centres, housing and job targets, infrastructure planning and delivery and responding to urban growth pressures.

Whilst the draft plan contains relevant and important information on the challenges to delivering growth in housing and jobs in the district, it does not go far enough in establishing very clear priorities, resources and timeframes for actions. A critical element that is missing across all of the Productivity, Liveability and Sustainability sections is a Structure Plan showing housing and employment growth locations and numbers, necessary infrastructure to support this growth and priorities. There is also no substantive guidance for how competing priorities are balanced, be it residential outcomes at the expense of employment outcomes or speculative investment eroding the value of rural lands, despite the recognition the draft plan gives to the environmental, social and economic values of the rural area.

Given the role the District Plan will play in Council's review of its Local Strategy and Local Environmental Plan a number of changes are recommended to improve the useability of the plan and also its effectiveness in guiding and responding to development and growth. Essentially, more is needed on delivering infrastructure in line with growth, providing employment outcomes and job targets for more than just centres, providing a focus on mechanisms other than housing supply to solve affordability and providing a mechanism for evaluating urban expansion proposals.

Likewise, the foreshadowed amendment of *A Plan for Growing Sydney*, needs clear actions and a Structure Plan to address the role of centres such as Norwest and Castle Hill within the new three city concept, the location of key growth locations and major transport connections to support growth and parameters for how the urban footprint will be set.

It is envisaged that the District Plans will be finalised alongside the updated metropolitan strategy near the end of 2017 and Council will be required to give effect to the District plan as soon as practical after it is made. It is therefore recommended that a submission be made to the Greater Sydney Commission highlighting concerns and suggesting a number of improvements to better assist the local response to the strategic framework.

## IMPACTS

### Financial

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

### The Hills Future - Community Strategic Plan

The formulation of a submission on the Draft District Plan seeks to ensure a clear framework at State level to effectively and responsibly guide land use planning outcomes at local level that provide for balanced urban growth and desirable living environments.

## RECOMMENDATION

A. A submission be made the Greater Sydney Commission in response to the exhibition of the update of *A Plan for Growing Sydney* supporting the broad concept of three cities in principle, however requesting that in preparing the full update there needs to be clear actions and a Structure Plan that address at a minimum:

- Reduced focus on Parramatta and the Olympic Peninsula and more focus on the economic and employment role of strategic centres such as Norwest and Castle Hill and the how they fit within the three city concept.
- The location of housing and job growth, together with major transport and other infrastructure projects that will be needed to support growth to inform decisions on infrastructure priorities and funding.
- Clear parameters on how the urban footprint will be set and maintained in the face of competing priorities for conversion of rural land to residential.

B. A submission be made the Greater Sydney Commission in response to the exhibition of the Draft West Central District Plan suggesting the following improvements and providing a copy of the report as part of the submission:

#### 1. Purpose of the District Plan

The implementation and weight of strategic plans could be improved by including the priorities and actions as matters for consideration in development decisions under s 79C of the EP&A Act and tightening the actions to be more specific and measurable.

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## 2. Vision

- Review of the vision to better articulate the outcomes sought for centres, other than Greater Parramatta and Olympic Peninsula, and the desired outcome for the rural resource lands, noting that this land makes up a substantial portion of the district.
- Throughout the document redress the over emphasis on housing supply and diversity to the detriment of sustainability principles. More detail is needed on the reasons why zoned capacity is not being taken up in infill areas and how this can be solved. More is also needed on why supply is limited in release areas.
- The 30 Minute City goal should change the way the city is developed with the West Central District Plan nominating places for State, Federal in local investment in natural and cultural assets. It should clearly articulate actions to provide more desirability for homes and jobs and ensure it really does flow through the land use, transport, and cultural and natural asset delivery.

## 3. Structure and Useability

- Re-ordering of the chapters to elevate the sustainability priorities important to the management of substantial rural resource lands, to the front of the document.
- Summary table that links detailed priorities and actions to the overarching priorities and to the directions and actions in *A Plan for Growing Sydney*.
- A holistic District Structure Plan showing areas for growth, important centres and key proposed linkages within and external to the District.
- Elevating detailed Priorities, intended to inform strategic planning and assessment of planning proposals, to specific actions to be included at the front of the plan (where sufficient information is available).

## 4. Implementation of the Plan

- Removal of vague 'motherhood actions' that would be difficult to implement or measure progress against.
- Reviewing detailed Priorities, intended to inform strategic planning and assessment of planning proposals, to ensure sufficient information is available to guide Council's response to planning proposals and LEP preparation.
- More information on how the Green Grid can be provided across private land to assist the delivery of the identified Cattai and Caddies Creek corridors.
- Introduction of a very clear implementation plan that considers resourcing, timeframes and mechanisms for delivery.

## 5. Role of Norwest and Castle Hill

- Listing Council as a key agency for the development of the Central City economic development strategy to ensure there is a focus on the role and importance of strategic centres outside of Parramatta and its immediate surrounds.
- Elevation of Castle Hill to a strategic centre, including a specific action to grow economic activities in this centre given the opportunity presented by Sydney Metro Northwest and the identification of higher density employment outcomes in local and State rail strategies.

6. Approach for Infrastructure Planning and delivery

- Include a meaningful and strategic Infrastructure Plan for the district, covering schools, roads and transport considering additional infrastructure needs beyond committed projects and including a map showing locations and high priorities to guide infrastructure agencies in planning for growth.
- If Parramatta is to succeed there is a need for considerably improved connections to Parramatta for the substantial population growth in the nearby areas of Blacktown and The Hills. Relying upon the arterial road network such as Windsor and Old Windsor Roads will not suffice. Options of extending light rail options from Parramatta to Castle Hill, from Parramatta to Epping via Carlingford and grade separation of Windsor Road/Old Northern Road at Baulkham Hills or the completion of the heavy rail link between Carlingford and Epping need to form part of the solution.
- Address current funding and delivery challenges with capping of S94 contributions and the IPART approval process which based on Council's experience with Box Hill significantly delays delivery of planned growth and supporting infrastructure.
- Include delivery of Rouse Hill Hospital as an action.

7. Job Locations and targets

- Include a breakdown of job targets for centres to identify the types of jobs sought, for example number of 'smart jobs' to be provided in Castle Hill.
- Review 2016 base job numbers upon release of 2016 Census figures to ensure progress against the targets can be accurately measured.
- Include district wide and LGA wide job capacity targets to ensure a focus on employment and economic growth in line with residential growth and to facilitate measurement of progress.
- Include actions that recognise the role and significance of other employment lands to the district particularly Castle Hill trading zone, Box Hill and Annangrove Road employment lands and dispersed activities such as schools, tourism, extractive industries and rural activities.

8. Housing Capacity and targets

- Include more detail on liveability and how design outcomes can be improved to make apartment living a real and attractive choice and how better quality of life can be achieved and measured including benchmarks for provision of recreation and community facilities.
- Provide more information and clarity on what the 8,850 five year target is based upon.
- Include a Structure Plan showing the growth locations and potential dwelling numbers in locations apart from Greater Parramatta and Olympic Peninsula, given the significance of the growth centres and the rail corridor in meeting the districts longer term targets.

9. Affordable housing targets

- Clearer information on the affordable rental housing scheme how it will be implemented and the extent of Council involvement in 'securing' the dwellings.
- A more detailed and timely strategy response to housing affordability beyond the question of housing supply to address the financial system and taxation system to favour ownership by occupiers rather than investors.

10. Approach for rural lands and urban growth pressures

- Include clearer guidance to resolve competing priorities between biodiversity and urban growth and rural resource lands and urban growth to provide some certainty for landowners in the rural area.
- Include a detailed mechanism, addressing land capability and infrastructure capacity, to assist evaluation of proposals for urban expansion.

**ATTACHMENTS**

1. Summary of Draft District Plan Actions and Priorities (6 pages)



## ATTACHMENT 1

## SUMMARY OF DISTRICT PLAN PRIORITIES AND ACTIONS



Productivity

## OVERARCHING PRIORITIES

- Driving the growth of the Central City
- Planning for job target ranges for strategic and district centres
- Growing West Central Districts with smart jobs economy
- Improving access to a greater number of jobs and centres within 30 minutes
- Coordinating freight activities with land use planning
- Attracting employment and urban services activity

## ACTIONS

Action	Outcome	Lead agency	Partners
P1: Collaborate to create, own and deliver GPOP	Increase total jobs and dwellings, and increase the proportion of health and education and knowledge and professional services jobs	GSC	DPE, NSW Health, Council, Urban Growth NSW, SOPA
P2: Develop and implement an economic development strategy for the Central City	Increase total jobs and proportion of health and education and knowledge and professional services jobs	DoI	GSC, Jobs for NSW, AA
P3: Expand health and education activities in Westmead	Increase in total health and education and knowledge and professional services jobs	GSC	NSW Health
P4: Develop a better understanding of the value and operation of employment and urban services land	Increase in total jobs	GSC	Councils

## PLANNING PROPOSAL AND STRATEGIC PLANNING PRIORITIES

PP1: Integrate transport and land use planning

PP2: Support the growth of tourism infrastructure

PP3: Manage growth and change in strategic and district centres and, as relevant, local centres

PP4: Plan for a growing and vibrant Parramatta City

PP5: Expand health and education activities in Westmead

PP6: Grow economic activities in Blacktown strategic centre

PP7: Grow economic activities in Norwest strategic centre

PP8: Prioritise the provision of retail floor space in centres

PP9: Protect and support employment and urban services land



Liveability

**OVERARCHING PRIORITIES**

- Improving housing choice
- Improving housing diversity and affordability
- Coordinating and monitoring housing outcomes and demographic trends
- Creating great places
- Fostering cohesive communities
- Responding to people's need for services

**ACTIONS**

Action	Outcome	Lead agency	Partners
L1: Prepare local housing strategies	Increase in diversity of housing choice	Councils	–
L2: Identify the opportunities to create the capacity to deliver 20-year strategic housing supply targets	Creation of housing capacity	GSC	Councils, DPE
L3: Councils to increase housing capacity across the District	Creation of housing capacity and increase in diversity of housing choice	Councils	–
L4: Encourage housing diversity	Increase in diversity of housing choice	DPE	–
L5: Independently assess need and viability	Increase in affordable rental housing	GSC	Industry CHPs, DPE
L6: Support councils to achieve additional affordable housing	Increase in affordable housing	GSC	Councils, DPE
L7: Provide guidance on Affordable Rental Housing Targets	Increase in affordable rental housing	GSC	DPE, Councils, State agencies, CHPs
L8: Undertake broad approaches to facilitate affordable housing	Increase in affordable housing	GSC	Councils, Industry CHPs,
L9: Coordinate infrastructure planning and delivery for growing communities	Change in industry perceptions (surveyed)	GSC	DPE
L10: Provide data and projections on population and dwellings for local government areas across Greater Sydney	Contribute to more informed infrastructure investment decisions, strategic planning and plan making	DPE	–
L11: Provide design-led planning to support high quality urban design	Contribute to improved sustainability, productivity and liveability outcomes	OGA	GSC
L12: Develop guidelines for safe and healthy built environments	Contribute to improved health outcomes and increased walking and cycling	GSC	DPE
L13: Conserve and enhance environmental heritage including Aboriginal, European and natural	Identification and protection of heritage elements	OEH, DPE, AA	GSC, Councils
L14: Develop a West Central District sport and recreation participation strategy and sport and recreation facility plan	Contribute to informed decision making for sport and recreation infrastructure and increased participation	Office of Sport	Councils

Action	Outcome	Lead agency	Partners
L15: Support planning for shared spaces	Increase in the provision of community facilities, including open space	GSC, DEC	State agencies, organisation, providers
L16: Planning for school facilities	Improved education infrastructure decision making	DPE	NSW Property, DEC
L17: Support the provision of culturally appropriate services	Improved decision making on matters affecting the aboriginal community	GSC, AA	-
L18: Support planning for emergency services	Contribute to improved decision making for emergency services operators	DPE	-
L19: Support planning for cemeteries and crematoria	Improved decision making for new cemeteries	CCNSW	-

#### PLANNING PROPOSAL AND STRATEGIC PLANNING PRIORITIES

LP1: Deliver West Central District's five-year housing supply targets

LP2: Delivery of housing diversity

LP3: Implement the Affordable Rental Housing Target

LP4: Increase social housing provision

LP5: Facilitate the delivery of safe and healthy places

LP6: Facilitate enhanced walking and cycling connections

LP7: Conserve heritage and unique local characteristics

LP8: Foster the creative arts and culture

LP9: Share resources and spaces

LP10: Support innovative school planning and delivery

LP11: Support planning for emergency services

LP12: Support planning for cemeteries crematoria

**OVERARCHING PRIORITIES**

- Enhancing the West Central District in its landscape
- Protecting the District's waterways
- Protecting and enhancing biodiversity
- Delivering Sydney's Green Grid
- Managing the Metropolitan Rural Area
- Creating an efficient West Central District
- Planning for a resilient West Central District
- Managing flood hazards in the Hawkesbury Nepean Valley

**ACTIONS**

Action	Outcome	Lead agency	Partners
S1: Review criteria for monitoring water quality and waterway health	Improved water quality and waterway health	OEH	GSC
S2: Protect the South Creek environment and use development approaches to achieve excellent environment performance	Improved water quality and waterway health, and integration of South Creek into land use planning	GSC	EPA
S3: Develop a Strategic Conservation Plan for Western Sydney	Protection and management of areas of high environmental value	OEH, DPE	GSC
S4: Update information on areas of high environmental value	Protection and management of areas of high environmental value	OEH, DPE	Councils
S5: Use funding programs to deliver the West Central District Green Grid priorities	Delivery of the green grid priorities	GSC, TfNSW	Councils
S6: Develop support tools and methodologies for local open space planning	Improved utilisation of open space and increased provision of open space	GSC	–
S7: Create new recreational opportunities at Prospect Reservoir	Increased recreational opportunities at Prospect Reservoir	GSC, WSPT	Blacktown Council, SW, Water NSW
S8: Update the Urban Green Cover in NSW Technical Guidelines to respond to solar access to roofs	Protection of solar access to roofs	OEH, DPE	–
S9: Identify land for future waste reuse and recycling	Identification of land for waste management	EPA, DPE	Councils
S10: Embed the NSW Climate Change Policy Framework into local planning decisions	Contribute to energy efficiency, reduced emissions and improve environmental performance	GSC	Councils, OEH
S11: Support the development of initiatives for a sustainable low carbon future	Contribute to energy efficiency, reduced emissions and improve environmental performance	GSC, Councils, DPE	–
S12: Support the development of environmental performance targets and benchmarks	Contribute to improved environmental performance	GSC	NSW Climate Council, Australian Govt., utility providers

Action	Outcome	Lead agency	Partners
S13: Incorporate the mitigation of the urban heat island effect into planning for urban renewal projects and Priority Growth Areas	Contribute to reductions in ambient temperatures	DPE	-
S14: Review the guidelines for air quality and noise measures for development near rail corridors and busy roads	Improved land use and transport decision making	EPA, DPE	-
S15: Identify and map potential high impact areas for noise and air pollution	Improved land use and transport decision making	EPA	-
S16: Address flood risk issues in the Hawkesbury-Nepean Valley	Protection of life and property	DPE, INSW	GSC, Councils

#### PLANNING PROPOSAL AND STRATEGIC PLANNING PRIORITIES

SP1: Maintain and improve water quality and waterway health

SP2: Protect and conserve the values of the Parramatta River and Sydney Harbour

SP3: Enhance access to the Parramatta River and Sydney Harbour foreshore and waterways

SP4: Avoid and minimise impacts on biodiversity

SP5: Align strategic planning to the vision for the Green Grid

SP6: Protect, enhance and extend the urban canopy

SP7: Improve protection of ridgelines and scenic areas

SP8: Discourage urban development in the Metropolitan Rural Area

SP9: Consider environmental, social and economic values when planning in the Metropolitan Rural Area

SP10: Provide for rural residential development while protecting the values of the Metropolitan Rural Area

SP11: Support opportunities for District waste management

SP12: Mitigate the urban heat island effect urban heat

SP13: Integrate land use and transport planning to consider emergency evacuation needs

SP14: Use buffers to manage the impacts of rural activities on noise, odour and air quality

SP15: Assist local communities develop a coordinated understanding of natural hazards and responses that reduce risk



<b>Key:</b>			
AA	Aboriginal Affairs	INSW	Infrastructure NSW
CCNSW	Cemeteries and Crematoria NSW	OEH	Office of Environment and Heritage
CHP	Community Housing Providers	OGA	Office of Government Architect
DEC	Department of Education	SOPA	Sydney Olympic Park Authority
DoI	Department of Industry	SW	Sydney Water
DPE	Department of Planning and Environment	TfNSW	Transport for NSW
EPA	Environment Protection Authority	WSPT	Western Sydney Parkland Trust
GSC	Greater Sydney Commission		

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**MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 28 March 2017**

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Clr Dr Lowe  
Clr Hay OAM

**VOTING AGAINST THE MOTION**

None

**ABSENT**

Clr Haselden

8.53pm      *Councillor Tracey left the meeting and returned at 8.55pm during Item 6.*

**ITEM-6**

**AMENDMENT TO A PLAN FOR GROWING SYDNEY AND  
DRAFT WEST CENTRAL DISTRICT PLAN (FP 25)**

A MOTION WAS MOVED BY COUNCILLOR HAY OAM AND SECONDED BY COUNCILLOR HARTY OAM THAT the Recommendation contained in the report be adopted.

AN AMENDMENT WAS MOVED BY COUNCILLOR THOMAS AND SECONDED BY COUNCILLOR DR GANGEMI THAT the Recommendation contained in the report be adopted with the following changes to B. Items 9 and 10.

9.      *Affordable housing targets*

Council opposes the affordable housing targets due to their impact on design standards.

10.     *Approach for rural lands and urban growth pressures*

The Sustainability Priorities 8, 9 and 10 as they deal with Metropolitan Rural Lands are not supported. The District Plan must include these lands as part of the planning and meeting the growth of Sydney.

THE AMENDMENT WAS PUT AND CARRIED AND BECAME THE MOTION

*Being a planning matter, the Mayor called for a division to record the votes on this matter*

**VOTING FOR THE AMENDMENT**

Clr Keane  
Clr Preston  
Clr Dr Byrne  
Clr Thomas  
Clr Dr Gangemi

**VOTING AGAINST THE AMENDMENT**

Clr Tracey  
Clr Harty OAM  
Clr Hay OAM  
Clr Dr Lowe

**ABSENT**

Clr Haselden

THE MOTION WAS PUT AND CARRIED.

## **122 RESOLUTION**

- A. A submission be made the Greater Sydney Commission in response to the exhibition of the update of *A Plan for Growing Sydney* supporting the broad concept of three cities in principle, however requesting that in preparing the full update there needs to be clear actions and a Structure Plan that address at a minimum:

- Reduced focus on Parramatta and the Olympic Peninsula and more focus on the economic and employment role of strategic centres such as Norwest and Castle Hill and the how they fit within the three city concept.
- The location of housing and job growth, together with major transport and other infrastructure projects that will be needed to support growth to inform decisions on infrastructure priorities and funding.
- Clear parameters on how the urban footprint will be set and maintained in the face of competing priorities for conversion of rural land to residential.

- B. A submission be made the Greater Sydney Commission in response to the exhibition of the Draft West Central District Plan suggesting the following improvements and providing a copy of the report as part of the submission:

*1. Purpose of the District Plan*

The implementation and weight of strategic plans could be improved by including the priorities and actions as matters for consideration in development decisions under s 79C of the EP&A Act and tightening the actions to be more specific and measurable.

*2. Vision*

- Review of the vision to better articulate the outcomes sought for centres, other than Greater Parramatta and Olympic Peninsula, and the desired outcome for the rural resource lands, noting that this land makes up a substantial portion of the district.
- Throughout the document redress the over emphasis on housing supply and diversity to the detriment of sustainability principles. More detail is needed on the reasons why zoned capacity is not being taken up in infill areas and how this can be solved. More is also needed on why supply is limited in release areas.
- The 30 Minute City goal should change the way the city is developed with the West Central District Plan nominating places for State, Federal in local investment in natural and cultural assets. It should clearly articulate actions to provide more desirability for homes and jobs and ensure it really does flow through the land use, transport, and cultural and natural asset delivery.

*3. Structure and Useability*

- Re-ordering of the chapters to elevate the sustainability priorities important to the management of substantial rural resource lands, to the front of the document.
- Summary table that links detailed priorities and actions to the overarching priorities and to the directions and actions in *A Plan for Growing Sydney*.
- A holistic District Structure Plan showing areas for growth, important centres and key proposed linkages within and external to the District.
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**MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 28 March 2017**

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**4. Implementation of the Plan**

- Removal of vague 'motherhood actions' that would be difficult to implement or measure progress against.
- Reviewing detailed Priorities, intended to inform strategic planning and assessment of planning proposals, to ensure sufficient information is available to guide Council's response to planning proposals and LEP preparation.
- More information on how the Green Grid can be provided across private land to assist the delivery of the identified Cattai and Caddies Creek corridors.
- Introduction of a very clear implementation plan that considers resourcing, timeframes and mechanisms for delivery.

**5. Role of Norwest and Castle Hill**

- Listing Council as a key agency for the development of the Central City economic development strategy to ensure there is a focus on the role and importance of strategic centres outside of Parramatta and its immediate surrounds.
- Elevation of Castle Hill to a strategic centre, including a specific action to grow economic activities in this centre given the opportunity presented by Sydney Metro Northwest and the identification of higher density employment outcomes in local and State rail strategies.

**6. Approach for Infrastructure Planning and delivery**

- Include a meaningful and strategic Infrastructure Plan for the district, covering schools, roads and transport considering additional infrastructure needs beyond committed projects and including a map showing locations and high priorities to guide infrastructure agencies in planning for growth.
- If Parramatta is to succeed there is a need for considerably improved connections to Parramatta for the substantial population growth in the nearby areas of Blacktown and The Hills. Relying upon the arterial road network such as Windsor and Old Windsor Roads will not suffice. Options of extending light rail options from Parramatta to Castle Hill, from Parramatta to Epping via Carlingford and grade separation of Windsor Road/Old Northern Road at Baulkham Hills or the completion of the heavy rail link between Carlingford and Epping need to form part of the solution.
- Address current funding and delivery challenges with capping of S94 contributions and the IPART approval process which based on Council's experience with Box Hill significantly delays delivery of planned growth and supporting infrastructure.
- Include delivery of Rouse Hill Hospital as an action.

**7. Job Locations and targets**

- Include a breakdown of job targets for centres to identify the types of jobs sought, for example number of 'smart jobs' to be provided in Castle Hill.
- Review 2016 base job numbers upon release of 2016 Census figures to ensure progress against the targets can be accurately measured.
- Include district wide and LGA wide job capacity targets to ensure a focus on employment and economic growth in line with residential growth and to facilitate measurement of progress.
- Include actions that recognise the role and significance of other employment lands to the district particularly Castle Hill trading zone, Box Hill and Annangrove Road employment lands and dispersed activities such as schools, tourism, extractive industries and rural activities.

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**MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 28 March 2017**

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**8. Housing Capacity and targets**

- Include more detail on liveability and how design outcomes can be improved to make apartment living a real and attractive choice and how better quality of life can be achieved and measured including benchmarks for provision of recreation and community facilities.
- Provide more information and clarity on what the 8,850 five year target is based upon.
- Include a Structure Plan showing the growth locations and potential dwelling numbers in locations apart from Greater Parramatta and Olympic Peninsula, given the significance of the growth centres and the rail corridor in meeting the districts longer term targets.

**9. Affordable housing targets**

Council opposes the affordable housing targets due to their impact on design standards.

**10. Approach for rural lands and urban growth pressures**

The Sustainability Priorities 8, 9 and 10 as they deal with Metropolitan Rural Lands are not supported. The District Plan must include these lands as part of the planning and meeting the growth of Sydney.

**VOTING FOR THE MOTION**

Clr Keane  
Clr Preston  
Clr Dr Byrne  
Clr Thomas  
Clr Dr Gangemi  
Clr Dr Lowe

**VOTING AGAINST THE MOTION**

Clr Tracey  
Clr Harty OAM  
Clr Hay OAM

**ABSENT**

Clr Haselden

9.11pm      *Councillor Thomas left the meeting during Call of the Agenda and returned at 9.16pm during Item 10.*

**CALL OF THE AGENDA**

A MOTION WAS MOVED BY COUNCILLOR DR LOWE AND SECONDED BY COUNCILLOR HARTY OAM THAT Items 8, 9, 11, 12, 13, 15, 17 AND 18 be moved by exception and the recommendations contained in the reports be adopted.

THE MOTION WAS PUT AND CARRIED.

**123 RESOLUTION**

Items 8, 9, 11, 12, 13, 15, 17 and 18 be moved by exception and the recommendations contained in the reports be adopted.