

Greater Sydney, Place and Infrastructure

IRF20/3004

Plan finalisation report

Local government area: The Hills Shire Council

1. NAME OF DRAFT LEP

The Hills Local Environmental Plan Amendment (Sydney Region Growth Centres – The Hills Growth Centre Precincts) 2020. The draft written instrument is at **Attachment LEP**.

2. SITE DESCRIPTION

The proposal relates to land at 15Z Nelson Road, Box Hill being Lot 1 in DP 136174. The site has an area of 3,724m² and adjoins 17 Nelson Road, Box Hill (Figure 1). The site contains a small community hall, utilised by the Box Hill and Nelson Progress Association, an outbuilding and at-grade car parking. The community hall offers 130m² of function space with a maximum seating capacity of 100 persons. The subject site's property title does not identify 'public reserve' as an interest applying to this site (**Attachment A04**).

The land was acquired by Council in 1986 for public purposes and was classified as 'community' land in 2008. This was prior to the land being zoned under *SEPP (Sydney Region Growth Centres) 2006*.



Figure 1 – Site and surrounds

The site is zoned B2 Local Centre under *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP) – *Appendix 11 The Hills Growth Centre Precincts Plan* and is part of Nelson Road Village in the Box Hill Precinct (Figure 2). Box Hill and Box Hill Industrial precincts were rezoned in 2013.

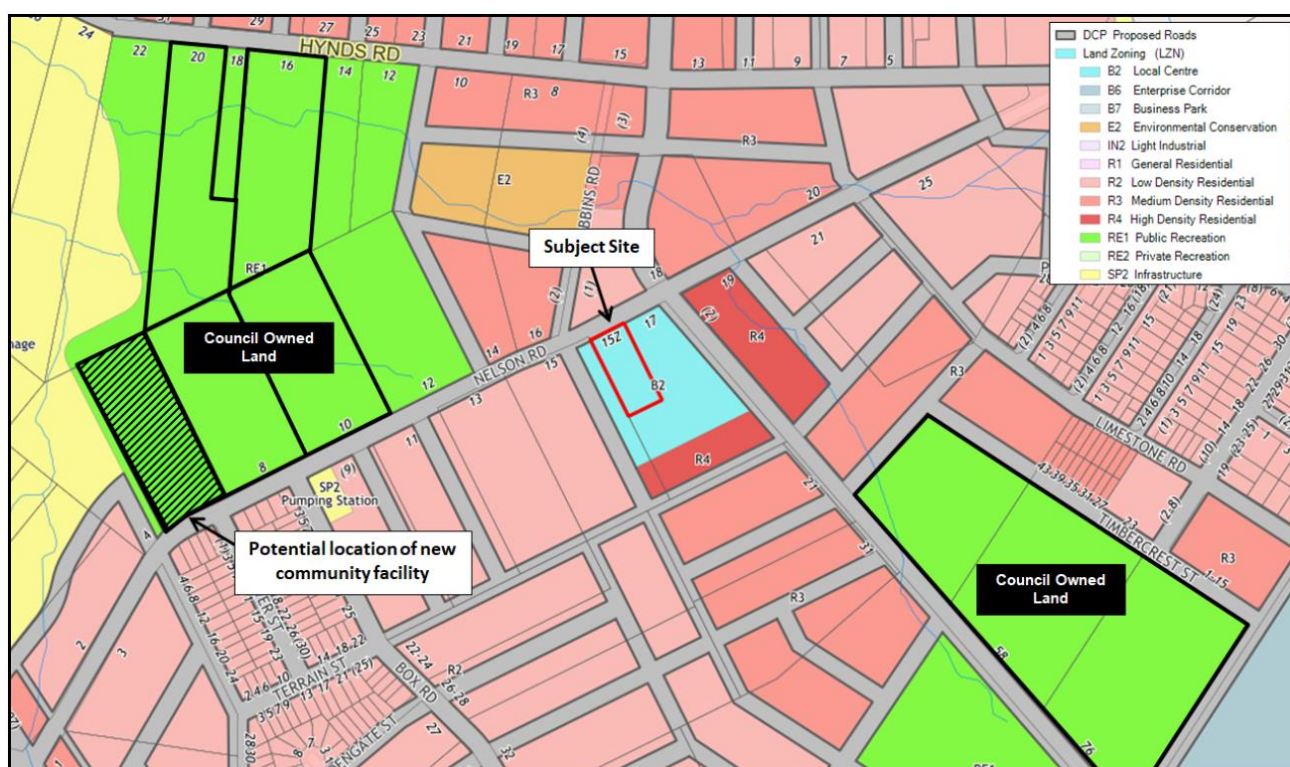


Figure 2 – Subject site land use zone and surrounds

3. PURPOSE OF PLAN

The draft LEP (**Attachment LEP**) seeks to reclassify land at 15Z Nelson Road, Box Hill from 'community' to 'operational' land to enable Council to sell the property. This is proposed through amending *Part 1 Land Classified, or reclassified, as operational land – no interests changed of Schedule 4 Classification and reclassification of public land of Appendix 11 The Hills Growth Centre Precincts Plan* within the *SEPP (Sydney Region Growth Centres) 2006*.

On 12 March 2019, Council resolved to initiate a planning proposal to reclassify the land as 'operational' to enable the potential sale of this land to the land owner of 17 Nelson Road to promote orderly development outcomes for the Nelson Road Village Centre (**Attachment A02**). It would also assist with the provision of a new and superior community centre to service the anticipated future population of Box Hill.

On 28 April 2020, Council resolved that, should the sale of the site occur, all proceeds (less Council costs) are to be placed in an internal reserve fund for exclusive use towards the provision of a new community centre, replacing the existing community hall, servicing the Box Hill and Nelson areas (**Attachment A07**).

There is an opportunity for a new facility to be located within the future Bligh Reserve sporting complex which is in close proximity to the existing site (see Figure 2). Detailed designs have not been prepared for the future sporting complex however preliminary concepts indicate that there is adequate space to co-locate a community centre in this location.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Caste Hill State Electorate. Mr Raymond Williams MP is the State Member.

The site falls within the Mitchell Federal Electorate. Hon Alex Hawke MP is the Federal Member.

To the planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION

The Gateway determination issued on 14 September 2019 (**Attachment B**) determined that the proposal should proceed subject to conditions.

An independently chaired public hearing was required to be held in accordance with the *Local Government Act 1993*, *Environmental Planning and Assessment Act* and Gateway determination. The public hearing was held on 27 February 2020 and the Independent Consultation Report (**Attachment A06**) was provided to Council on 6 March 2020 and made publicly available on 9 March 2020.

The finalisation date for this proposal expired on the 14 June 2020 but the LEP can be validly made without extending the Gateway. Council's request to the Department to finalise the planning proposal was made on 11 May 2020 prior to the due date.

The Department is now satisfied the planning proposal is adequate for finalisation and Council has met the conditions of the Gateway determination.

Council resolved to initiate a planning proposal to facilitate reclassification of the subject land at its meeting on 12 March 2019. The planning proposal was considered by the Local Planning Panel on 17 April 2019 and determined the proposal should proceed to Gateway determination (**Attachment A03**).

6. PUBLIC EXHIBITION

The planning proposal was publicly exhibited between 29 October 2019 and 13 December 2019. Council received 11 submissions, of which two were an objection to the proposal and the remaining nine either offered support or conditional support. The key issues raised in these submissions and responses are discussed further in the report. All issues have been adequately addressed in the planning proposal (**Attachment A01**) and Council's post-exhibition report (**Attachment A07**).

As mentioned under Section 5 of the report above, an independently chaired Public Hearing was held in February 2020. An Independent Consultation Report provided key details about the Public Hearing, included a 'Chair's Summary' of the community feedback and summarised key points of individual presentations. Within the 'Chair's Summary', the following is noted:

- The Box Hill and Nelson Community Centre has been the focus for community life within the area for a long time. Many individuals have contributed to its creation, these contributions and the community's connection should be recognised;

- It is recognised that as the surrounding areas grow, the facility as it presently stands may not be adequate for changing community needs;
- Some people expressed preferences for a new facility, if it was to be changed. In addition, the community wants to be consulted on the design, function and purpose so it is suitable for current and future needs of the community; and
- Proceeds from the sale of the land should be used to provide a new facility.

6.1 Loss of the community facility and existing community ties to the hall

Submissions raised concern about the loss of community facilities resulting from the reclassification and sale of land. The existing community hall has sentimental value to the local community and is regularly utilised by local associations, groups, businesses, and residents. There was strong community support for a new community facility to be named the 'Box Hill and Nelson Community Centre' and the land be named the 'Anthony Skarratt Reserve'.

Council response:

Council's report (**Attachment A07**) notes the existing facility has been suitable to service the areas of Box Hill and Nelson which have historically been rural or semi-rural areas. However, the rezoning of Box Hill Precinct will provide at least 10,000 additional dwellings and create significant additional demand that cannot be adequately met by this facility. In addition, the Hills Future 2036: Local Strategic Planning Statement states that it is critical to provide the right types of social and cultural infrastructure in high growth areas in order to create great places.

The reclassification of land and potential resale of the site would likely result in the loss of this community facility but would contribute partial funding for the delivery of a new facility with greater capacity to accommodate the expected demand. A new community facility would not be financially viable without the funds generated by the sale of the land, as funding is not available for community facilities through Contributions Plan No.15 – Box Hill Precinct.

Department comment:

Council resolved at its meeting on 28 April 2020 (**Attachment A07**) to:

- Commence a process to rename "Bligh Reserve" by publicly exhibiting a proposal to name the Future Sports Oval Complex "Anthony Skarratt Reserve";
- Name the community hall 'Box Hill and Nelson Community Centre';
- Investigate options for how the history of the current hall and connection to the Box Hill and Nelson Progress Association is to be displayed or maintained in a new community hall.

6.2 Impacts on local businesses

Concern was raised about impacts on local businesses resulting from the reclassification and potential closure of the existing hall, including funds already invested into equipment and advertising specifically relating to the existing hall. It was also raised that there would be no alternative venues available while the new facility is under construction.

Council response:

The planning proposal (**Attachment A01**) acknowledges that the closure of the existing facility may cause some disruptions for regular hirers and the local community. However, the potential sale of the land would generate funds to deliver a new and superior community facility to service the Box Hill Precinct.

To assist with the transition for regular hirers, Council may be able to work with this group to assist in any temporary relocation of businesses or services. Other Council operated venues will continue to be available to hire and can accommodate regular hirers during the construction of any new community facility.

The potential sale of the land, closure of the facility and the future provision of a community centre will be considered separately by Council following the finalisation of the draft LEP.

Department comment:

Council resolved at its meeting on 28 April 2020 (**Attachment A07**) to:

- Investigate opportunities to avoid or minimise any transitional period between the closer of the existing community centre and the opening of a new community centre servicing the Box Hill and Nelson including maintaining continued access of the current Hall where possible; and
- Review existing Council landholdings within Box Hill to identify where temporary facilities can be provided within Box Hill and surrounding areas for existing hall users.

6.3 Design and consultation

Concerns were raised that the future development of the Nelson Road Village Centre would diminish the rural character of Box Hill, in particular the area surrounding the existing hall. It was requested that the community be involved in the design of a new facility. Concerns were also raised with the proposed location of the potential new community facility that it would negatively impact on the proposed recreational open space provided at the future Bligh Reserve sporting complex.

Council response:

While the design of the community facility will be the subject of a separate process in the future, the planning proposal identifies the following in response:

- An option being investigated is to provide the new facility within Bligh Reserve, ensuring the facility maintains an open space setting. It is expected that the future Bligh Reserve will have sufficient space to co-locate a community facility to service the Box Hill Precinct whilst still accommodating the required number of fields under Contribution Plan No.15.
- Detailed design plans for any new community centre are yet to be considered by Council or publicly exhibited and the design of the new facility cannot be confirmed at this stage. Any design will be subject to further community consultation.

In respect of negatively impacting the proposed recreational open space, Council is on track to meet the recreational open space benchmark figures in the Box Hill Release Area. Precinct and Contributions Planning for Box Hill Precinct had anticipated that a community facility would be located at the future Bligh Reserve. As such, the dimensions and area of this future reserve are sufficient to accommodate this and accommodate the required number of fields under Contributions Plan No.15.

7. ADVICE FROM PUBLIC AUTHORITIES

In accordance with the Gateway determination, Council consulted with the following public authorities:

- Transport for NSW;
- Roads and Maritime Services (now part of Transport for NSW); and
- Sydney Water.

Submissions were received from all public authorities (**Attachment A08**). No objections or further comment were raised.

8. POST-EXHIBITION CHANGES

No post-exhibition changes were proposed by Council or are proposed by the Department.

9. ASSESSMENT

The draft LEP has strategic and site specific merit, as it enables the reclassification of land occupied by an existing community facility from 'community' land to 'operational' land as defined under the *Local Government Act 1993*. As discussed earlier in this report and summarised in the Information checklist for proposals to classify or reclassify public land through an LEP (**Attachment A05**), the draft LEP enables a community facility that has greater capacity to accommodate the anticipated demand created by the significant forecast population growth within the Box Hill Precinct. The draft LEP will also enable the orderly development of the Nelson Road Village Centre in accordance with the Box Hill Precinct Plan.

9.1 Section 9.1 Directions

The Gateway Determination referred to inconsistencies with Direction 6.2 – Reserving Land for a Public Purpose. The inconsistency was justified in accordance with the terms of the Direction at Gateway as demonstrated below.

Direction 6.2 – Reserving Land for a Public Purpose

The objectives of this Direction are to facilitate the provision of public services and facilities by reserving land for public purposes or to facilitate the removal of reservations where the land is no longer required for acquisition.

As discussed previously in this report, the existing facility will not be suitable to meet the needs of the planned new community in the Box Hill Precinct, and the site is already appropriately zoned to contribute to the development of the Village Centre. The proposed reclassification of land is considered to represent prudent management of Council's assets to meet the needs of a growing and changing community in the Box Hill area.

The inconsistency is justified in accordance with the terms of the Direction.

There were no unresolved Section 9.1 Directions.

9.2 State environmental planning policies

The draft LEP is consistent with all relevant SEPPs and deemed SEPPs.

9.3 State, regional and district plans

Central City District Plan

The Central City District is applicable to this planning proposal. The following key priorities are relevant:

- Planning Priority C1 – Planning for a city supported by infrastructure;
- Planning Priority C3 – Providing services and social infrastructure to meet people's changing needs; and
- Planning Priority C6 – Creating and renewing great places and local centres and respecting the District's heritage.

The LEP gives effect to the Central City District Plan in accordance with Section 3.8 of the *Environmental Planning and Assessment Act 1979*.

10. MAPPING

No maps are required to support the draft LEP.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment C**). Council confirmed on 31 July 2020 that the plan should be made (**Attachment D**).

12. PARLIAMENTARY COUNSEL OPINION

On 4 August 2020 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because it:

- Responds to the need for infrastructure to accommodate forecast population growth;
- Gives effect to the Central City District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*;
- Inconsistencies with Section 9.1 Direction 6.2 Reserving Land for a Public Purpose is justifiably inconsistent;
- Is consistent with other relevant Section 9.1 Directions and State Environmental Planning Policies; and
- Is consistent with the framework established by the *Local Government Act 1993* for the reclassification of land.



Elizabeth Kimbell
Place and Infrastructure Manager
(The Hills Shire and Hawkesbury)
Central (Western)



Jane Grose
Director
Central (Western)

Assessment officer: Angela Hynes
Senior Planning Officer
Central (Western)