

PLANNING PROPOSAL

LOCAL GOVERNMENT AREA: The Hills Shire Council

NAME OF PLANNING PROPOSAL: The Hills Local Environmental Plan 2012 (Amendment No.) – Reclassification of Lot 601 DP 1083182, 5 Jackson Place, Kellyville from "Community" to "Operational"

ADDRESS OF LAND: Lot 601 DP 1083182 known as 5 Jackson Place, Kellyville

SUMMARY OF HOUSING AND EMPLOYMENT YIELD:

	EXISTING	PROPOSED	TOTAL YIELD
Dwellings	N/A	N/A	N/A
Jobs	N/A	N/A	N/A

SUPPORTING MATERIAL:

Attachment A Evaluation against 117 Directions
Attachment B Evaluation against SEPPs
Attachment C Council Report and Minute – 25 November 2014

THE SITE:

The site is Lot 601 DP 1083182, 5 Jackson Place, Kellyville. It is a 421.9m² parcel of land currently zoned R2 Low Density Residential and classified as 'community' land (Figure 1).

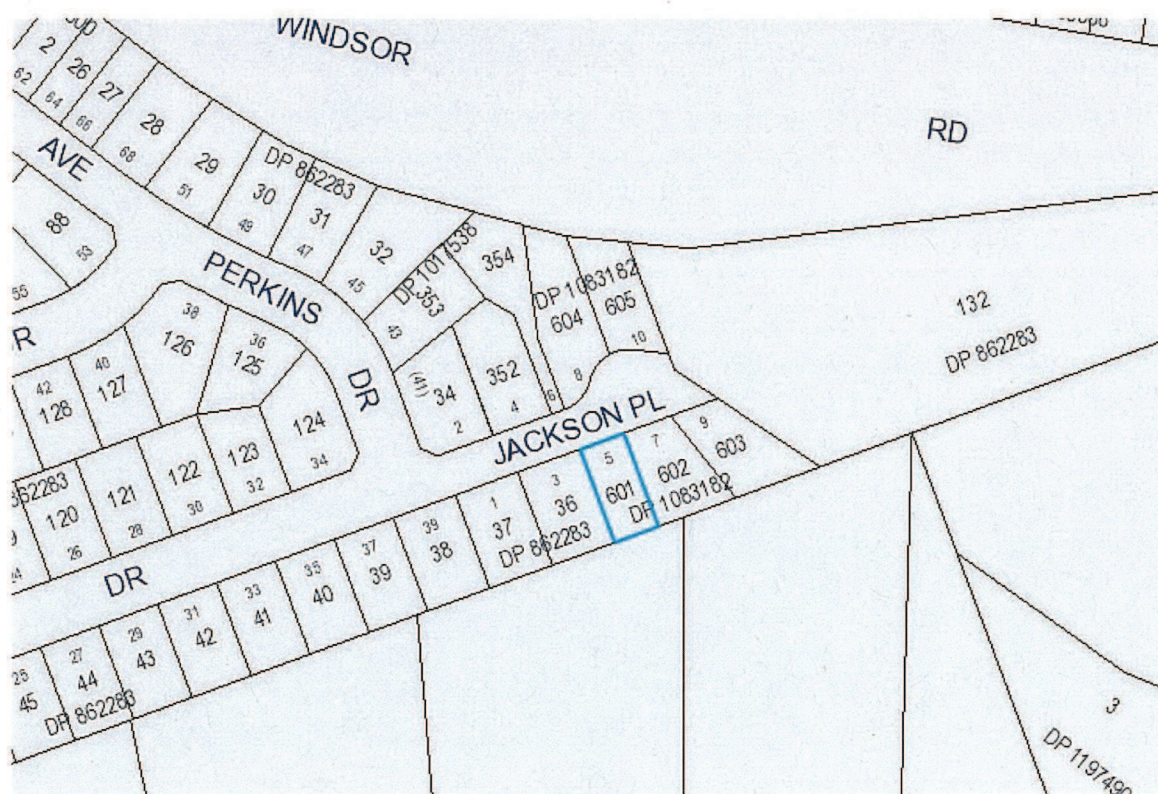


Figure 1
Locality map

BACKGROUND:

The property adjoins the future Arnold Avenue Sports Complex. It was purchased by Council on 14 June 2006 with the intent of providing a connection to the cycleway network that links Arnold Avenue Sporting Fields with the Greenway Link between Bella Vista Farm and Rouse Hill (Figure 2).



Figure 2

Site and surrounds (including existing planned cycleway through site)

An agreement with Sydney Water has enabled Council to build cycleway infrastructure on trunk drainage land in this area, negating the need for a link through 5 Jackson Place. Reclassification to operational land will facilitate the sale of the land as a residential lot.

The matter was reported at an Ordinary Council Meeting on 25 November 2014 and Council resolved:

1. *A planning proposal be forwarded to the Department of Planning and Environment for a Gateway Determination to reclassify 5 Jackson Place from 'community' to 'operational' land in accordance with the Local Government Act 1993.*
2. *Amendment to Development Control Plan 2012 Part D Section 5 – Kellyville/Rouse Hill to reflect the revised cycleway route and remove the 'open space' notation from 5 Jackson Place, Kellyville be exhibited concurrently with the planning proposal.*

PART 1 OBJECTIVES OR INTENDED OUTCOME

Reclassification of the subject land from 'community' to 'operational' will facilitate the sale of the land as a residential lot.

PART 2 EXPLANATION OF THE PROVISIONS

The proposed outcome will be achieved by reclassifying a parcel of land owned by Council being Lot 601 DP 1083182, 5 Jackson Place, Kellyville from 'Community' to 'Operational' land.

Two (2) restrictions applying to the land will be removed as part of the planning proposal. Both of these relate to restricting the use of the land for residential purposes unless the prior approval of Council has been obtained. Removal of these restrictions is appropriate because the land is no longer required for a public purpose and retaining this restriction may limit a future landowner from undertaking complying development (which can be approved through a prior certifier rather than Council).

The proposal does not include the extinguishment of any other interests in the land.

The land will be identified in Part 2 of Schedule 4 of the LEP to reflect the removal of the above restrictions. It is envisaged the table would appear as below, however this may be subject to further refinement should the planning proposal proceed to finalisation and legal drafting.

Column 1 Locality	Column 2 Description	Column 3 Any trusts etc not discharged
5 Jackson Place, Kellyville	Lot 601 DP 1083182	Reservations and Conditions in the Crown Grant(s) Easement to drain water 2m wide burdening Lot 601 as noted in Certificate of Title Folio Identifier 601/1083182 Easement to drain water 2m wide benefiting Lot 601 as noted in Certificate of Title Folio Identifier 601/1083182 Restrictions on the use of land referred to and numbered 3 and 4 in the Section 88B Instrument for DP1083182

No other amendments to the LEP are proposed.

PART 3 JUSTIFICATION

SECTION A - REASONS FOR THE PROPOSAL

The site was originally acquired with the intent of providing a connection to the cycleway network. However, an agreement with Sydney Water will now allow Council to build cycleway infrastructure on trunk drainage land in this area, which enables direct pedestrian and cycle access from Arnold Avenue Sporting Complex across Strangers Creek and under Windsor Road via an existing underpass. A concept plan of the new access path is shown in Figure 3.



Figure 3
Concept plan showing revised cycleway route

Given the land is no longer required for its intended public purpose, it is appropriate that the land be reclassified to 'operational' and sold as a residential lot, consistent with its current R2 Low Density Residential zoning and development on surrounding land.

The sale of the land will also assist with providing funds for the provision of open space and recreation opportunities in this area.

SECTION B – CONSISTENCY WITH S117 DIRECTIONS

The consistency of the planning proposal with the S.117 Ministerial Directions is detailed within Attachment A. A discussion on the consistency of the proposal with each relevant Direction is provided below.

- **Direction 3.1 – Residential Zones**

This direction aims to encourage housing to provide for future housing needs, make efficient use of infrastructure and services, and minimise the impact of residential development on the environment and resource lands.

The proposal will not involve any rezoning of the site from its current R2 Low Density Residential zoning. By providing for the sale of the land, the proposed reclassification will encourage provision of additional housing in an appropriate location supported infrastructure and services.

- **Direction 3.3 – Home Occupations**

The purpose of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.

Home occupations are permissible for land where residential uses are permitted.

- 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 and to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

The subject land is no longer required for its intended purpose as a cycleway connection. The revised route will provide a better outcome for the public by providing more direct access from Arnold Avenue Sporting Complex to the wider cycleway network. The sale of the land will also assist with funding improvements to the open space network in this area.

- Direction 7.1 – Implementation of the Metropolitan Plan for Sydney 2036

The strategic plan prepared by the NSW Government titled the Metropolitan Plan for Sydney 2036 aims to integrate land use and transport planning to provide a framework for the growth and development of the Sydney region to 2036.

The planning proposal is consistent with the key policy settings of the Metropolitan Plan, specifically the delivery of housing, recreation and sustainable travel options. The planning proposal will contribute to housing supply in an area which is planned for residential development. The revised cycleway route will also enhance recreation outcomes by efficiently linking Arnold Avenue Sporting Complex to the surrounding cycleway network. In turn, this will encourage public recreation and active transport opportunities.

SECTION C – DIRECTOR GENERAL REQUIREMENTS

The following specific matters are addressed in accordance with Director General specific requirements for planning proposals that seek to classify or reclassify public land.

1. Is the planning proposal a result of any strategic study or report

No. The planning proposal is not a result of any strategic study or report. However, the land is no longer required for its intended purpose and it is considered appropriate to facilitate the sale of the land for residential purposes.

2. Is the planning proposal consistent with the council's community plan, or other local strategic plan?

Yes. The planning proposal is consistent with Council's Community Strategic Plan.

The Hills Future Community Strategic Direction articulates The Hills Shire community's and Council's shared vision, values, aspirations and priorities with reference to other local government plans, information and resourcing capabilities. It is a direction that creates a picture of where the Hills would like to be in the future. The direction is based on community aspirations gathered throughout months of community engagement and consultation with members of the community.

The planning proposal will contribute to housing stock in the area and will generate funds for the provision open space improvements.

3. If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished should be provided.

Certificate of Title Folio Identifier 601/1083182 identifies a number of restrictions applying to the subject land. One restriction relates to the parent parcel of the subject land (Lot

131 DP 862283) and states that no residential development of the lot burdened will be undertaken until such is re subdivided in accordance with the requirements of Council. The purpose of this restriction was to ensure the land was redeveloped in accordance with Council's open space requirements.

A further restriction on the subject land requires that no residential development shall be constructed or permitted to remain on the land without the prior approval of Council. This restriction was created to reflect the intended use of the land as a cycleway link.

Removal of the above restrictions is appropriate because the land is no longer required to provide the cycleway connection and retaining this restriction may limit a future landowner from undertaking complying development.

The proposal does not include the extinguishment of any other interests in the land.

4. *The concurrence of the landowner, where the land is not owned by the relevant planning authority.*

Council is the landowner.

SECTION D – COUNCIL INTEREST IN THE LAND

This site was purchased by Council in 2006 with the intent of providing a cycleway connection in association with the Arnold Avenue Sports Reserve. To reflect this intention, two (2) restrictions currently apply to the site for which Council is the beneficiary. These were created to ensure the land is not developed for residential purposes without the prior approval of Council.

Removal of the above restrictions is appropriate because the land is no longer required to provide the cycleway connection and retaining this restriction may limit a future landowner from undertaking complying development.

Under Chapter 6 of the Local Government Act 1993 all public land must be classified as either 'community' or 'operational'. In accordance with the Local Government Act 1993, the land was classified as community land by virtue of the fact that it was not classified within three (3) months after Council's purchase of the land.

SECTION E – RETENTION OF OTHER INTERESTS

Certificate of Title Folio Identifier 601/1083182 identifies the following further restrictions applying to the subject land:

- An easement to drain water;
- Restriction on fencing, carports, motor vehicle weight and advertisement signage; and
- Restriction on cut and fill and floor levels of buildings, dwellings and garages; and

The property also benefits from one (1) restriction being:

- An easement to drain water.

Apart from the removal of the two (2) restrictions requiring Council approval prior to undertaking residential development, this amendment will not remove any of the trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land.

PART 4 COMMUNITY CONSULTATION

The planning proposal would be advertised in local newspapers and on display at Council's administration building located at 3 Columbia Court, Baulkham Hills, Castle Hill Library

located at the corner of Castle Street and Pennant Street, Castle Hill and Vinegar Hill Memorial Library located at 29 Main Street, Rouse Hill Town Centre, Rouse Hill. In addition, letters will be issued to adjoining property owners advising them of the planning proposal.

A public hearing would be held consistent with the requirements of the EP&A Act.

PART 5 PROJECT TIMELINE

Stage	Date
Commencement Date (Gateway Determination)	February 2015
Exhibition of Planning Proposal	March – April 2015
Public Hearing	May 2015
Post exhibition report to Council	July 2015
Request finalisation of LEP amendment	August 2015
Notification of LEP amendment on NSW Government website	September 2015

ATTACHMENT A: Evaluation against 117 Directions

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
1. Employment and Resources				
1.1	Business and Industrial Zones	NO	-	-
1.2	Rural Zones	NO	-	-
1.3	Mining, Petroleum Production and Extractive Industries	NO	-	-
1.4	Oyster Aquaculture	NO	-	-
1.5	Rural Lands	NO	-	-
2. Environment and Heritage				
2.1	Environment Protection Zone	NO	-	-
2.2	Coastal Protection	NO	-	-
2.3	Heritage Conservation	YES	NO	-
2.4	Recreation Vehicle Area	YES	NO	-
3. Housing, Infrastructure and Urban Development				
3.1	Residential Zones	YES	YES	CONSISTENT
3.2	Caravan Parks and Manufactured Home Estates	YES	NO	-
3.3	Home Occupations	YES	YES	CONSISTENT
3.4	Integrating Land Use and Transport	YES	NO	-
3.5	Development Near Licensed Aerodromes	NO	-	-
3.6	Shooting Ranges	NO	-	-
4. Hazard and Risk				
4.1	Acid Sulfate Soils	NO	-	-
4.2	Mine Subsidence and Unstable Land	NO	-	-
4.3	Flood Prone Land	NO	-	-
4.4	Planning for Bushfire Protection	NO	-	-
5. Regional Planning				
5.1	Implementation of Regional Strategies	NO	-	-
5.2	Sydney Drinking Water Catchment	NO	-	-
5.3	Farmland of State and Regional Significance on the SNW Far North Coast	NO	-	-
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	NO	-	-
5.8	Second Sydney Airport: Badgerys Creek	NO	-	-
5.9	North West Rail Link Corridor	NO	-	-

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
	Strategy			
6. Local Plan Making				
6.1	Approval and Referral Requirements	YES	NO	-
6.2	Reserving Land for Public Purposes	YES	YES	CONSISTENT
6.3	Site Specific Provisions	YES	NO	-
7. Metropolitan Planning				
7.1	Implementation of the Metropolitan Plan for Sydney 2036	YES	YES	CONSISTENT

ATTACHMENT B: Evaluation against SEPPs

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)		APPLICABLE	RELEVANT ? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
No. 1	Development Standards	NO	-	-
No. 14	Coastal Wetlands	NO	-	-
No. 15	Rural Landsharing Communities	NO	-	-
No. 19	Bushland in Urban Areas	NO	-	-
No. 21	Caravan Parks	NO	-	-
No. 26	Littoral Rainforests	NO	-	-
No. 29	Western Sydney Recreation Area	NO	-	-
No. 30	Intensive Agriculture	NO	-	-
No. 32	Urban Consolidation (Redevelopment of Urban Land)	YES	NO	-
No. 33	Hazardous and Offensive Development	NO	-	-
No. 36	Manufactured Home Estates	NO		
No. 39	Spit Island Bird Habitat	NO	-	-
No. 44	Koala Habitat Protection	NO	-	-
No. 47	Moore Park Showground	NO	-	-
No. 50	Canal Estate Development	NO		
No. 52	Farm Dams and Other Works in Land and Water Management Plan Areas	NO	-	-
No. 55	Remediation of Land	YES	NO	-
No. 59	Central Western Sydney Regional Open Space and Residential	NO	-	-
No. 62	Sustainable Aquaculture	NO	-	-
No. 64	Advertising and Signage	YES	NO	-
No. 65	Design Quality of Residential Flat Development	NO	-	-
No. 70	Affordable Housing (Revised Schemes)	NO	-	-
No. 71	Coastal Protection	NO	-	-
Affordable Rental Housing (2009)		YES	NO	-
Building Sustainability Index: BASIX 2004		YES	NO	-
Exempt and Complying Development Codes (2008)		YES	NO	-
Housing for Seniors or People with a Disability (2004)		YES	NO	-
Infrastructure (2007)		YES	NO	-
Kosciuszko National Park – Alpine Resorts (2007)		NO	-	-
Kurnell Peninsula (1989)		NO	-	-
Major Development (2005)		YES	NO	-
Mining, Petroleum Production and Extractive Industries (2007)		YES	NO	-
Miscellaneous Consent Provisions (2007)		YES	NO	-
Penrith Lakes Scheme (1989)		NO	-	-

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)	APPLICABLE	RELEVANT ? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
Port Botany and Port Kembla (2013)	NO	-	-
Rural Lands (2008)	NO	-	-
SEPP 53 Transitional Provisions (2011)	NO	-	-
State and Regional Development (2011)	YES	NO	-
Sydney Drinking Water Catchment (2011)	NO	-	-
Sydney Region Growth Centres (2006)	NO	-	-
Three Ports (2013)	NO	-	-
Urban Renewal (2010)	NO	-	-
Western Sydney Employment Area (2009)	NO	-	-
Deemed SEPPs			
SREP No. 8 (Central Coast Plateau Areas)	NO	-	-
SREP No. 9 – Extractive Industry (No. 2 – 1995)	YES	NO	-
SREP No. 16 – Walsh Bay	NO	-	-
SREP No. 18 – Public Transport Corridors	NO	-	-
SREP No. 19 – Rouse Hill Development Area	NO	-	-
SREP No. 20 – Hawkesbury – Nepean River (No 2 – 1997)	YES	NO	-
SREP No. 24 – Homebush Bay Area	NO	-	-
SREP No. 25 – Orchard Hills	NO	-	-
SREP No. 26 – City West	NO	-	-
SREP No. 30 – St Marys	NO	-	-
SREP No. 33 – Cooks Cove	NO	-	-
SREP (Sydney Harbour Catchment) 2005	NO	-	-