



THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL
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16 April 2021

Ms Jane Grose
Director, Central (Western)
Place, Design and Public Spaces
Department of Planning, Industry and Environment
Level 4, 10 Valentine Avenue
PARRAMATTA NSW 2150

Our Ref: 5/2021/PLP

Dear Ms Grose,

PLANNING PROPOSAL SECTION 3.34 NOTIFICATION

Proposed State Environmental Policy (Sydney Growth Region Centres) 2006 (Amendment No (#)) – to reclassify a portion of the subject site within the North Kellyville Precinct from “community” land to “operational” land

Pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), it is advised that a planning proposal has been prepared for the above amendment. The Planning Proposal seeks to promote orderly development outcomes for the subject site and surrounds by enabling the consolidation of 66m² of surplus Council-owned land into the adjoining residential subdivision and the construction of an important local road link (Serpentine Avenue) by the adjoining developer.

Section 9.1 Ministerial Direction, Local Planning Panels Direction - Planning Proposals (2018) requires all planning proposals prepared after 1 June 2018 to be referred to the Local Planning Panel for advice unless the Council's General Manager determines that the planning proposal relates to:

- a) *The correction of an obvious error in a local environmental plan,*
- b) *Matters that are of a consequential, transitional, machinery or other minor nature, or*
- c) *Matters that the council's general manager considers will not have any significant adverse impact on the environment or adjoining land.*

Council's General Manager has determined that the planning proposal meets all the above criteria and therefore the proposal is not required to be referred to the Local Planning Panel for advice. Specifically, the planning proposal would correct an error whereby the portion of the subject land which is zoned R2 Low Density Residential was classified as “community” land despite never being intended to be used for open space or a community purpose. The current classification prevents the achievement of the development and precinct planning outcomes envisaged for the land under the Growth Centres SEPP, North Kellyville DCP and Contributions Plan No.13 to be achieved and the planning proposal simply seeks to rectify this.

The proposal will not result in any adverse impacts on the environment or adjoining land (noting also that any future development on the adjoining land will be subject to a separate development assessment process).

Please find enclosed the information required in accordance with the guidelines '*A guide to preparing planning proposals*' issued under Section 3.33(3) of the EP&A Act and LEP Practice Note PN 16-001 '*Classification and reclassification of public land through a local environmental plan*'. The planning proposal and supporting material is enclosed with this letter for your consideration.

Following receipt by Council of the Department's written advice, Council will proceed with the planning proposal. Any future correspondence in relation to this matter should quote reference number 5/2021/PLP.

Should you require further information please contact Laura Moran, Senior Town Planner on 9843 0581.



Megan Munari
PRINCIPAL COORDINATOR FORWARD PLANNING

Attachment 1: Section 3.34 Planning Proposal (5/2021/PLP) incorporating:

- Attachment A** Assessment against State Environment Planning Policies
- Attachment B** Assessment against Section 9.1 Local Planning Directions
- Attachment C** Council Report and Minute, 23 March 2021
- Attachment D** Title Search on Lot 11 DP 843578
- Attachment E** Information checklist for proposals to reclassify public land through a SEPP

PLANNING PROPOSAL

LOCAL GOVERNMENT AREA: The Hills Shire Council

NAME OF PLANNING PROPOSAL: Proposed State Environmental Policy (Sydney Growth Region Centres) 2006 (Amendment No (#)) – to reclassify a portion of the subject site within the North Kellyville Precinct from “community” land to “operational” land.

STATUS: Pre-Gateway

ADDRESS OF LAND: Part of Lot 11 DP 843578, Barry Road, North 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

* The proposal will not directly result in the delivery of additional dwellings. However, if following reclassification the land is subdivided and sold to an adjoining landowner it would be incorporated into the adjoining residential subdivision. The delivery of Serpentine Avenue will also unlock the development of residential land to the north.

SUPPORTING MATERIAL:

Attachment A	Assessment against State Environment Planning Policies
Attachment B	Assessment against Section 9.1 Local Planning Directions
Attachment C	Council Report and Minute, 23 March 2021
Attachment D	Title Search on Lot 11 DP 843578
Attachment E	Information checklist for proposals to reclassify public land through a SEPP

BACKGROUND AND THE SITE:

The subject property is known as Lot 11 DP 843578, Barry Road, North Kellyville. The parcel has a total area of 11,810m². The parcel was acquired by Council in June 2010, along with land required for the Stringer Road Sports Complex, located on Stringer Road within the North Kellyville Precinct.



Figure 1

Aerial of Subject Site and Stringer Road Sports Complex

The majority of the parcel is zoned RE1 Public Recreation, however a small portion of the site (403m²) is zoned R2 Low Density Residential (outlined in blue in Figure 2 below).

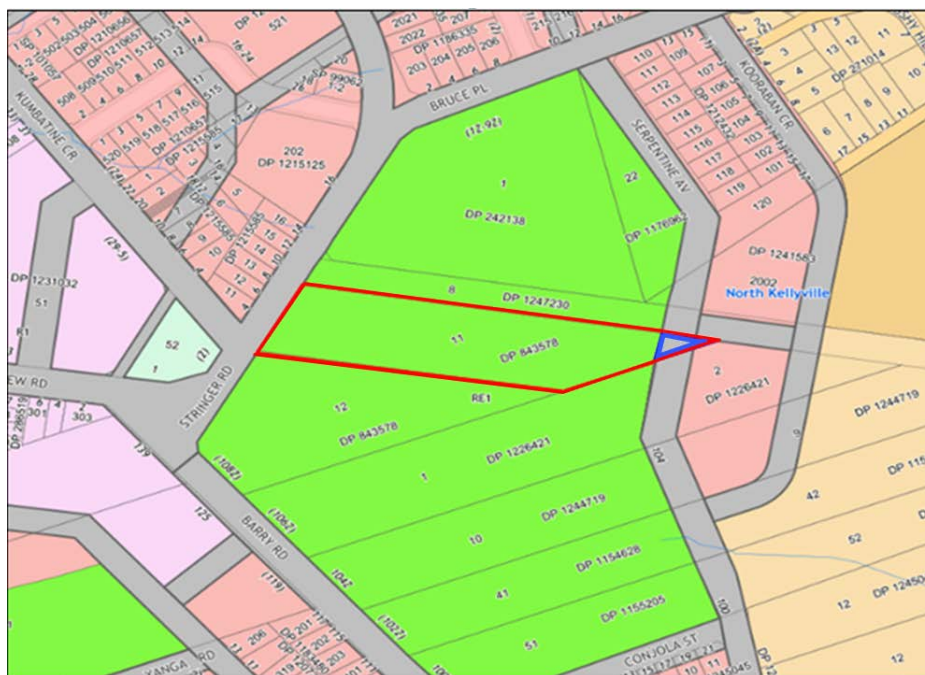


Figure 2
Subject Site with local road

At the time of purchasing the site, the entire lot was classified as 'community land' under the *Local Government Act 1993*. Classification as community land requires that the lot be reserved for a public purpose which is to be specified in a Council Plan of Management. Council's Sportsgrounds Plan of Management applies to the subject land (including both the RE1 and R2 portions) and as such, the entire lot can only be used for the purpose of a sportsground at this time.

The land which is proposed to be reclassified comprises the portion of the site zoned R2 Low Density Residential (outlined in blue in Figure 2). A planned local road (Serpentine Avenue) will traverse the site in a north-south direction and will occupy 337m² (approximately 82%) of the R2 zoned portion of the lot. This local road will leave approximately 66m² of residential land separated from the future reserve and in Council's ownership.

The R2 portion of the Council-owned land falls outside of the area identified or required for the Stringer Road Sports complex and as such, any reclassification and potential sale of the R2 zoned land would not result in any material loss for the community. Council's ability to deliver the Stringer Road Sports Complex as envisaged by the Precinct Planning, Contributions Plan and draft master plan will not be impacted by the reclassification of the R2 portion of the site.

The matter was reported to Council on the 23 March 2021 where it was resolved:

'A planning proposal be forwarded to the Department of Planning, Industry and Environment for Gateway Determination to amend State Environmental Planning Policy (Sydney Region Growth Centres) 2006, to reclassify part of Lot 11 DP 843578 (known as 104 Barry Road, North Kellyville) from 'community' to 'operational', in accordance with the Local Government Act 1993'.

Under the Ministerial *Local Planning Panels Direction – Planning Proposals (2018)*, planning proposals are required to be referred to the Local Planning Panel (LPP) for advice, unless the General Manager determines that the planning proposal relates to:

- (a) The correction of an obvious error in a local environmental plan,
- (b) Matters that are of a consequential, transitional, machinery or other minor nature, or

- (c) *Matters that council's general manager considers will not have any adverse impact on the environment or adjoining land.*

The planning proposal meets all the above criteria and was therefore not required to be forwarded to the LPP for advice. Specifically, the planning proposal would correct an error whereby the portion of the subject site which is zoned R2 Low Density Residential was inadvertently classified as 'community land' despite never being intended to be used for open space. The current classification prevents the achievement of the development and precinct planning outcomes envisaged for the land under the Growth Centres SEPP, North Kellyville DCP and Contributions Plan No.13 to be achieved and the planning proposal simply seeks to rectify this.

The information checklist within Practice Note 16-001 for proposals to classify or reclassify public land through an LEP is included as Attachment E to this planning proposal.

PART 1 OBJECTIVES OR INTENDED OUTCOME

The objective of the planning proposal is to promote orderly development outcomes by enabling the consolidation of 66m² of surplus Council-owned land into the adjoining residential subdivision and the construction of an important local road link (Serpentine Avenue) by the adjoining developer.

PART 2 EXPLANATION OF THE PROVISIONS

Reclassification of land would typically occur by way of listing the subject lot and DP under Schedule 4 – Classification and Reclassification of Public Land within Appendix 2 of the Growth Centres SEPP. However, as the subject proposal would only seek to reclassify a portion of the subject lot, this mechanism alone is not appropriate. Accordingly, a new map is proposed to identify the land which is proposed to be reclassified (referred to as the 'Land Reclassification (Part Lots) Map').

A draft of Schedule 4 is provided below. A draft Land Reclassification (Part Lots) Map is provided within Part 4 of this planning proposal.

Schedule 4 Classification and reclassification of public land

Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1

Locality

Barry Road, North Kellyville

Column 2

Description

Part of Lot 11 DP 843578, as shown edged heavy red on the Land Reclassification (Part Lots) Map

PART 3 JUSTIFICATION

SECTION A - NEED FOR THE PLANNING PROPOSAL

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

No, the subject land has not been identified for community use in any strategic plan and its current classification prevents its intended land use outcome from being achieved. As the subject land was never intended for community use or expected to form part of the Stringer Road Sports Complex, its classification as "community" land is an anomaly which requires correction.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, the current classification of the subject land prevents the achievement of the development and precinct planning outcomes envisaged under the Growth Centres SEPP, North Kellyville DCP and Contributions Plan No.13 to be achieved. A planning proposal to reclassify the site is the only available mechanism to rectify the issue, as under the current classification the land can only be used for the purpose of a sports field which is contrary to the outcomes envisaged under the precinct planning and relevant planning instruments.

SECTION B - RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Yes, a discussion of consistency is provided below.

• Greater Sydney Region Plan

The relevant Objectives from the Greater Sydney Region Plan which apply to the proposal are Objectives 2, 3, and 10.

- Objective 2 - Infrastructure aligns with forecast growth - growth infrastructure compact
- Objective 3 - Infrastructure adapts to meet future needs
- Objective 10 - Greater Housing Supply

The Greater Sydney Region Plan seeks to better align infrastructure provision with residential growth. This will be achieved though the planning proposal as reclassification will facilitate the construction of a missing part of Serpentine Road to occur in-line with the development of adjoining land. The delivery of the road will also improve road access to the Stringer Road Sports Complex enhancing accessibility to this infrastructure for the community. The proposal will enable the subject land to be consolidated with adjoining residential land and facilitate the delivery of Serpentine Avenue which will unlock the redevelopment of residential land to the north (refer to image of potential subdivision below):

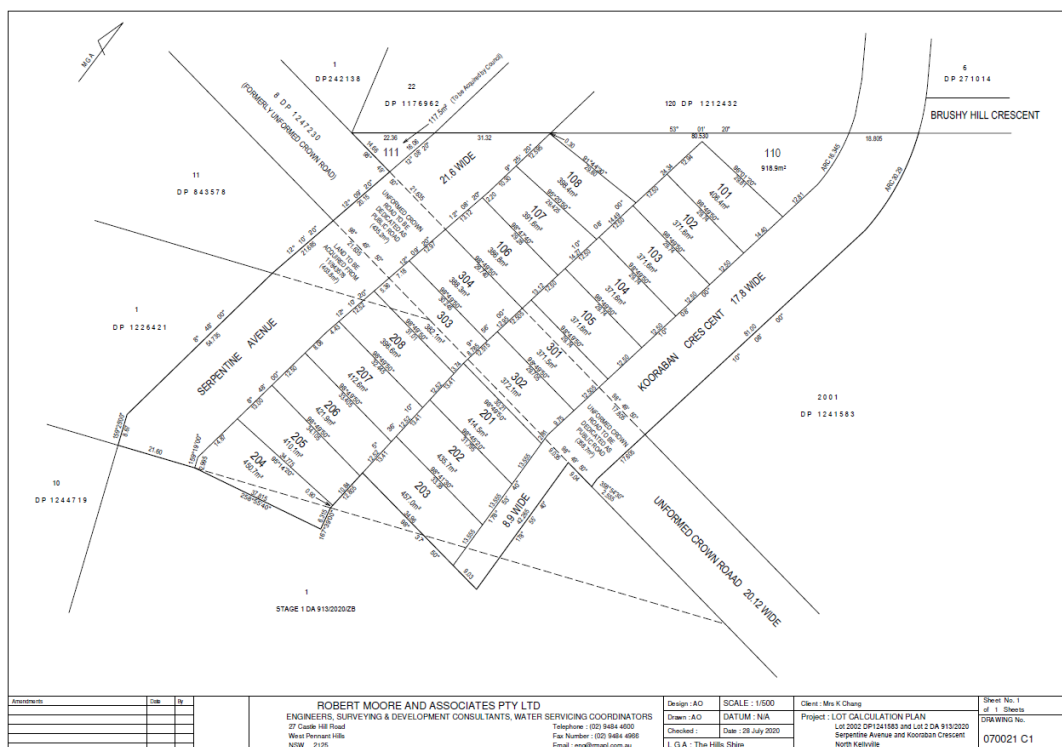


Figure 3
Indicative Plan of Subdivision (including land to the north)

- **Central City District Plan**

The relevant Planning Priorities from the Central City District Plan include N1, N5 and N17.

- N1 Planning for a city supported by infrastructure
- N5 Providing housing supply, choice and affordability, with access to jobs, services and public transport
- N17 Delivering High Quality Open Spaces

The planning proposal will support the above objectives as the reclassification will encourage infrastructure provision to align with the forecasted growth within North Kellyville. The reclassification will also support the ability for the subject land to contribute increased residential growth.

Planning and investment in infrastructure is essential to enhancing the liveability of existing and new communities with improved access to parks, sporting fields, schools and community facilities. Completion of infrastructure that will improve access to open spaces supports Objective N17 of the District Plan.

4. *Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?*

Yes, a discussion of consistency is provided below.

- **The Hills Local Strategic Planning Statement**

Council's *Local Strategic Planning Statement: Hills Future 2036 (LSPS)* outlines the Shire's 20-year vision for land use planning, population, housing, economic growth and environmental management. Supporting documents which are directly relevant to the subject site are the Housing Strategy, Recreation Strategy and Integrated Transport and Land Use Strategy. The planning proposal addresses each strategy through facilitation of the delivery of the reserve, completion of the surrounding road network and the orderly redevelopment of adjoining land. The relevant Planning Priorities from the Local Strategic Planning Statement are:

- Planning Priority 10 – Provide social infrastructure and retail services to meet residents' needs
- Planning Priority 14 – Plan for a safe and efficient road network
- Planning Priority 15 – Provide new and upgraded passive and active open space

Although the LSPS does not specifically refer to the subject R2 portion of land, it does prioritise a safe and efficient road network to alleviate congestion and support growth within the Shire (Priority 14). Facilitating the completion of the road link will reduce congestion along the eastern side of Stringer Sports Reserve by enabling uninterrupted north south access. Additionally, access to the Stringer Road Sports Reserve will be enhanced.

Enhancing access allows the planning proposal to align with Priority 10 by providing residents with additional opportunities to access active recreation at Stringer Road Sports Complex. This promotes the use of new active open space and encourages a healthy community by providing the option to use high quality recreational facilities (Priority 15).

A critical priority in the Recreation Strategy is to 'Provide Social Infrastructure to meet residents' needs'. The Recreation Strategy seeks to ensure that services and social infrastructure keeps pace with population growth and meets the needs of existing and future residents. The North Kellyville Precinct is projected to accommodate around 21,600 additional people once fully developed. Around 70% of the projected development within North Kellyville has been completed,

with the remaining development projected to occur within the next 5 years. The planning proposal will facilitate a critical active open space facility for the residents of North Kellyville and orderly development of adjoining land.

- **The Hills Future Community Strategic Plan**

The Hills Future Community Strategic Direction articulates The Hills Shire communities and Council's shared vision, values, aspirations and priorities with reference to other local government plans, information and resourcing capabilities. The direction is based on community aspirations gathered throughout months of community engagement and consultation with members of the community and required actions in order to achieve these goals.

The reclassification supports the aims of Council's Community Strategic Plan including the provision of new community infrastructure to meet the needs of a growing community. The proposal will help to deliver an important local road link which will enhance accessibility within the North Kellyville Precinct and provide access to the future Stringer Road Sports Complex.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. An assessment of the planning proposal against applicable State Environmental Planning Policies is provided in Attachment A. A discussion on the consistency of the proposal with the relevant Policies is provided below.

- **SEPP (Sydney Region Growth Centres) 2006**

The Planning Proposal seeks to amend Schedule 4 of Appendix 2 of North Kellyville Precinct Plan of the SEPP to facilitate the reclassification of 'community' land to 'operational' land. The proposal will enable a more orderly development outcome within the North Kellyville Precinct which is in line with the following overall objectives of the SEPP:

- to make development controls for land in the North Kellyville Precinct within the North West Growth Centre that will ensure the creation of a high quality environment and good design outcomes;
- to promote employment, residential and recreational opportunities in the Precinct; and
- to promote housing choice and affordability in the Precinct.

The proposal supports the SEPP and does not contain provisions that would challenge or obstruct the application and objectives of the SEPP.

6. Is the planning proposal consistent with applicable Ministerial Directions (s. 9.1 directions)?

Yes. The consistency of the planning proposal with the Section 9.1 Ministerial Directions is detailed within Attachment B. A discussion on the consistency of the proposal with each relevant Direction is provided below.

- **Ministerial Direction 3.1 - Residential Zones**

The objective of this direction is to provide for future housing needs through the establishment of a variety of housing types which are located near existing infrastructure. The unlocking of land to enable residential development and construction of local roads complies with this direction.

Reclassification allows for the R2 portion of the land to be developed in conjunction with the neighbouring lot for the purpose of residential development, and may allow for neighbouring development to attain one more lot than what could be achieved without the amalgamation of the two land parcels.

- **Ministerial Direction 4.4 - Planning for Bushfire Protection**

The objectives of this direction are to protect life, property and the environment from bushfire hazards through sound management of bushfire prone areas.

The subject site is mapped as bushfire prone land, and classified as a vegetation buffer. The site is also mapped as biodiversity certified land (as are lots contiguous to the site) and as such it is expected that the land will be cleared as part of a future subdivision application which will remove or significantly reduce the bushfire risk from the site. At the point of any future development application a bushfire consultant report will be required to assess the bushfire risk and any Asset Protection Zones will be determined at this point.

The commissioner of the NSW Rural Fire Service will be consulted following the receipt of a Gateway Determination.

- **Ministerial 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 Stringer Road Sports Complex was identified in 2008 as part of the precinct planning for North Kellyville, to meet the active recreation needs of the future population within the precinct. Council has now prepared a draft master plan for the Stringer Road Sports Complex which was exhibited from December 2020 to January 2021 and adopted in March 2021. The master plan proposes four multipurpose fields, playgrounds, one half basketball court and associated amenities. Following adoption of the master plan, detailed design work will commence and the facility is expected to be delivered by approximately 2023/24.



Figure 4
Proposed Stringer Road Concept Master Plan

The R2 portion of the Council-owned land falls outside of the area identified or required for the Stringer Road Sports complex and as such, any reclassification and potential sale of the R2 zoned land would not result in any material loss for the community. Council's ability to deliver the Stringer Road Sports Complex as envisaged by the Precinct Planning, Contributions Plan and draft master plan will not be impacted by the reclassification of the R2 portion of the site.

The R2 zoned portion of the site has not been identified for community use in any strategic plan and its current classification prevents its intended land use outcome from being achieved. As the subject land was never expected to form part of the Stringer Road Sports Complex, its classification as 'community land' is an anomaly which should ideally be corrected.

- **Ministerial Direction 7.4 – Implementation of North West Growth Area Land Use and Infrastructure Implementation Plan**

The objectives of this Direction are to ensure that development within the North West Priority Growth Area is consistent with the North West Priority Growth Area Land Use and Infrastructure Strategy. A key objective within the Strategy is to identify and coordinate the delivery of infrastructure that will support housing and employment growth to ensure there is an ongoing supply of development-ready land in Sydney's northwest.

The planning proposal is consistent with the Strategy as it would assist Council's ability to deliver appropriate infrastructure to service the future residential population in North Kellyville.

SECTION C - ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

Vegetation Protection Mapping within SEPP (Sydney Region Growth Centres) 2006 does not identify the subject site as either an existing native vegetation area or a native vegetation retention area. The site is biodiversity certified under Section 126G of the Threatened Species Conservations Act which conferred by section 35 of the Biodiversity Conservation (Savings and Transitional) Regulation 2017. Land clearing is able to occur over the site in accordance with the legislation.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The subject site is mapped as bush fire prone land and will require investigation at the development application stage. Although the site is heavily vegetated, as noted above, it is biodiversity certified (as are lots contiguous to the site) and all lots will most likely be cleared as part of the future subdivision, removing future bushfire risk.

Additionally, the site is not mapped as being within landslide, biodiversity or native vegetation protection sensitive areas, or flood prone.

9. How has the planning proposal adequately addressed any social and economic effects?

The reclassification will improve access and orderly development outcomes, facilitating the construction of a missing part of Serpentine Road in line with the development of adjoining land. The delivery of the road will also improve road access to the Stringer Road Sports Complex enhancing accessibility to this infrastructure for the community.

Additionally, the proposal will allow for the reallocation of the funds from the sale of the lot to Contributions Plan No. 13 – North Kellyville for expenditure on infrastructure within North Kellyville.

It will also transfer the burden of constructing this portion of the local road to the adjoining developer and remove the ongoing maintenance burden of this land for ratepayers.

SECTION D - STATE AND COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

Future development on the site would need to be supported by the necessary services including electricity, telecommunication, gas, water, sewer and stormwater drainage. The required services will be conditioned as part of any future residential subdivision and will be required at that stage. Therefore, there will be no notable impact on infrastructure demand for the subject site as the proposal will not facilitate any population over and above what was accounted for within the Contributions Plan No. 13 – North Kellyville. Consultation is envisaged with service providers to ensure services have been adequately accounted for.

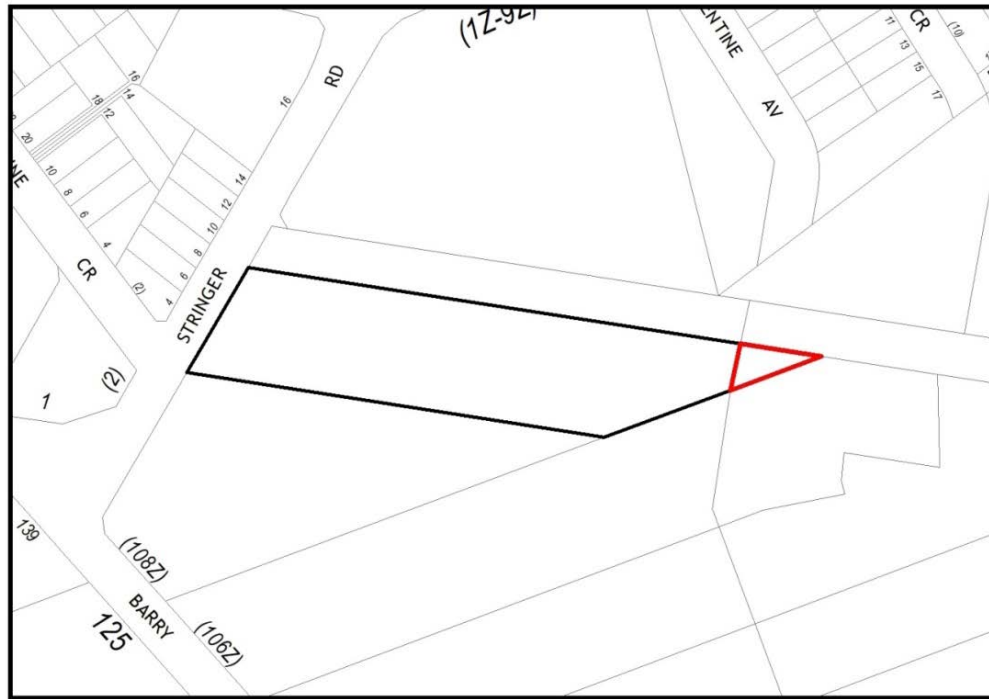
11. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

Consultation with public authorities will be undertaken in accordance with any Gateway Determination received for the planning proposal. It is anticipated consultation would be required with the following public authorities:

- NSW Rural Fire Service;
- Sydney Water;
- Endeavour Energy;
- Telstra; and
- NBN Co.

PART 4 MAPPING

The planning proposal seeks to introduce a 'Land Reclassification (Part Lots) Map' into the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*, to identify the subject land to be reclassified.



Land Reclassification (Part Lots) (RPL)

Operational Land

PART 5 COMMUNITY CONSULTATION

As required under the *Environmental Planning and Assessment Regulation 2000*, the planning proposal will be made available on Council's website from the commencement of the public exhibition period. In addition, letters will be sent to adjoining and nearby property owners and stakeholders advising of the exhibition. Following the exhibition period an independently facilitated public hearing is required as part of the community consultation process for any planning proposal seeking to re-classify land from 'community' to 'operational'. This will be undertaken in accordance with the relevant requirements.

PART 6 PROJECT TIMELINE

STAGE	DATE
Commencement Date (Gateway Determination)	May 2021
Government agency consultation	June 2021
Commencement of public exhibition period (28 days)	July 2021
Completion of public exhibition period	August 2021
Independently Chaired Public Hearing	September 2021
Timeframe for consideration of submissions	October 2021
Timeframe for consideration of proposal post exhibition	November 2021
Report to Council on submissions	February 2022
Planning Proposal to PCO for opinion	March 2022
Date Council will make the plan (if delegated)	April 2022
Date Council will forward to department for notification (if not delegated)	April 2022

ATTACHMENT A: LIST OF STATE ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)		APPLICABLE TO THSC	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/CONSISTENT
No. 19	Bushland in Urban Areas	YES	NO	-
No. 21	Caravan Parks	NO	-	-
No. 33	Hazardous and Offensive Development	NO	-	-
No. 36	Manufactured Home Estates	NO	-	-
No. 47	Moore Park Showground	NO	-	-
No. 50	Canal Estate Development	NO	-	-
No. 55	Remediation of Land	YES	NO	-
No. 64	Advertising and Signage	YES	NO	-
No. 65	Design Quality of Residential Apartment Development	YES	NO	-
No. 70	Affordable Housing (Revised Schemes)	YES	NO	-
Aboriginal Land (2019)		NO	-	-
Activation Precincts (2020)		NO	-	-
Affordable Rental Housing (2009)		YES	NO	-
Building Sustainability Index: BASIX (2004)		YES	NO	-
Coastal Management (2018)		NO	-	-
Concurrences and Consents (2018)		YES	NO	-
Educational Establishments and Child Care Facilities (2017)		YES	NO	-
Exempt and Complying Development Codes (2008)		YES	NO	-
Gosford City Centre (2018)		NO	-	-
Housing for Seniors or People with a Disability (2004)		YES	NO	-
Infrastructure (2007)		YES	NO	-
Koala Habitat Protection (2020)		NO	-	-
Kosciuszko National Park – Alpine Resorts (2007)		NO	-	-
Kurnell Peninsula (1989)		NO	-	-
Mining, Petroleum Production and Extractive Industries (2007)		YES	NO	-
Penrith Lakes Scheme (1989)		NO	-	-
Primary Production and Rural Development (2019)		YES	NO	-
State and Regional Development (2011)		YES	NO	-
State Significant Precincts (2005)		YES	NO	-
Sydney Drinking Water Catchment (2011)		NO	-	-
Sydney Region Growth Centres (2006)		YES	YES	CONSISTENT
Three Ports (2013)		NO	-	-
Urban Renewal (2010)		NO	-	-
Vegetation in Non-Rural Areas (2017)		YES	NO	-
Western Sydney Employment Area (2009)		NO	-	-
Western Sydney Parklands (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. 20 – Hawkesbury – Nepean River (No 2 – 1997)		YES	NO	-
SREP No. 24 – Homebush Bay Area		NO	-	-
SREP No. 26 – City West		NO	-	-

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)	APPLICABLE TO THSC	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
SREP No. 30 – St Marys	NO	-	-
SREP No. 33 – Cooks Cove	NO	-	-
SREP (Sydney Harbour Catchment) 2005	YES	NO	-

ATTACHMENT B: ASSESSMENT AGAINST SECTION 9.1 MINISTERIAL DIRECTIONS

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
1. Employment and Resources				
1.1	Business and Industrial Zones	YES	NO	-
1.2	Rural Zones	YES	NO	-
1.3	Mining, Petroleum Production and Extractive Industries	YES	NO	-
1.4	Oyster Aquaculture	YES	NO	-
1.5	Rural Lands	NO	-	-
2. Environment and Heritage				
2.1	Environment Protection Zone	YES	NO	-
2.2	Coastal Management	NO	-	-
2.3	Heritage Conservation	YES	NO	-
2.4	Recreation Vehicle Area	YES	NO	-
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	NO	-	-
2.6	Remediation of Contaminated Land	YES	NO	-
3. Housing, Infrastructure and Urban Development				
3.1	Residential Zones	YES	YES	CONSISTENT
3.2	Caravan Parks and Manufactured Home Estates	YES	-	-
3.3	Home Occupations (REVOKED)	YES	NO	-
3.4	Integrating Land Use and Transport	YES	NO	-
3.5	Development Near Regulated Airports and Defence Airfields	YES	NO	-
3.6	Shooting Ranges	NO	-	-
3.7	Reduction in non-hosted short term rental accommodation period	NO	-	-
4. Hazard and Risk				
4.1	Acid Sulfate Soils	YES	NO	-
4.2	Mine Subsidence and Unstable Land	YES	NO	-
4.3	Flood Prone Land	YES	NO	-
4.4	Planning for Bushfire Protection	YES	YES	CONSISTENT
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 NSW Far North Coast	NO	-	-
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	NO	-	-
5.9	North West Rail Link Corridor Strategy	YES	NO	-
5.10	Implementation of Regional Plans	YES	YES	CONSISTENT
5.11	Development of Aboriginal Land Council Land	NO	-	-

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
6. Local Plan Making				
6.1	Approval and Referral Requirements	YES	NO	-
6.2	Reserving Land for Public Purposes	YES	NO	-
6.3	Site Specific Provisions	YES	YES	CONSISTENT
7. Metropolitan Planning				
7.1	Implementation of A Plan for Growing Sydney	N/A	-	-
7.2	Implementation of Greater Macarthur Land Release Investigation	NO	-	-
7.3	Parramatta Road Corridor Urban Transformation Strategy	NO	-	-
7.4	Implementation of North West Priority Growth Area Land 2 Plan	YES	YES	CONSISTENT
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	-	-
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	-	-
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	NO	-	-
7.8	Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	NO	-	-
7.9	Implementation of Bayside West Precincts 2036 Plan	NO	-	-
7.10	Implementation of Planning Principles for the Cooks Cove Precinct	NO	-	-
7.11	Implementation of St Leonards and Crows Nest 2036 Plan	NO	-	-
7.12	Implementation of Greater Macarthur 2040	NO	-	-
7.13	Implementation of the Pyrmont Peninsula Place Strategy	NO	-	-

[Agenda Report](#)

COUNCIL MEETING

USER INSTRUCTIONS

If necessary to view the original Agenda Item, double-click on 'Agenda Report' blue hyperlink above.

RESOLVED ITEMS ACTION STATEMENT

Action is required for the following item as per the Council Decision or Resolution Under Delegated Authority.

ACTION ITEM

ITEM

PLANNING PROPOSAL TO RECLASSIFY RESIDENTIAL LAND ADJOINING STRINGER ROAD SPORTS COMPLEX IN NORTH KELLYVILLE FROM 'COMMUNITY' TO 'OPERATIONAL' (5/2021/PLP)

A MOTION WAS MOVED BY COUNCILLOR DR GANGEMI AND SECONDED BY COUNCILLOR COLLINS OAM THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

RESOLUTION

A planning proposal be forwarded to the Department of Planning, Industry and Environment for Gateway Determination to amend State Environmental Planning Policy (Sydney Region Growth Centres) 2006, to reclassify part of Lot 11 DP 843578 (known as 104 Barry Road, North Kellyville) from 'community' to 'operational', in accordance with the Local Government Act 1993.

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

VOTING FOR THE MOTION

Mayor Dr M R Byrne
Clr R A Preston MP
Clr Dr P J Gangemi
Clr B L Collins OAM
Clr A N Haselden
Clr J Jackson
Clr E M Russo
Clr A J Hay OAM
Clr R M Tracey
Clr F P De Masi
Clr M G Thomas
Clr S P Uno

VOTING AGAINST THE MOTION

None

MEETING ABSENT
Clr R Jethi

ITEM-4**PLANNING PROPOSAL - RECLASSIFICATION OF RESIDENTIAL LAND ADJOINING STRINGER ROAD SPORTS COMPLEX IN NORTH KELLYVILLE FROM 'COMMUNITY' TO 'OPERATIONAL' (5/2021/PLP)****THEME:**

Shaping Growth

OUTCOME:

5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity.

STRATEGY:

5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.

MEETING DATE:**23 MARCH 2021**

COUNCIL MEETING

GROUP:**SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS****AUTHOR:****TOWN PLANNER**

LAURA MORAN

RESPONSIBLE OFFICER:**MANAGER – FORWARD PLANNING**

NICHOLAS CARLTON

**EXECUTIVE SUMMARY**

This report recommends that Council initiate a planning proposal to reclassify approximately 403m² of residential zoned land that forms part of Lot 11 DP 843578 (known as 104 Barry Road, North Kellyville) from 'community' to 'operational'. The reclassification will enable the potential sale of the land and resolve orderly development issues.

The subject lot forms part of the future Stringer Road Sports Complex in North Kellyville and is zoned part RE1 Public Recreation and part R2 Low Density Residential. At the time of purchase by Council, the entire lot was classified as 'community land'.

The owner of the adjoining property has approached Council with a view to commencing negotiations to purchase the portion of Council's land zoned R2 Low Density Residential.

Reclassification and sale of the site would enable the land to be incorporated into the subdivision of the adjoining development site at 106 Barry Road, enabling the construction of a new local road (Serpentine Avenue) which traverses the site.

Construction of the portion of Serpentine Avenue on Council's land is critical to the orderly development of adjoining land at 106 Barry Road, as well as other residential land to the north, as it is necessary to provide access to the residential lots that will be created on these properties.

Due to the 'community land' classification, Council cannot sell the surplus land or construct the road as it is not expressly authorised by Council's Sportsground Plan of Management. It is therefore necessary for the land to be reclassified under Section 30 of The Local Government Act, if it wishes to pursue the sale of the land to the adjoining developer. This would require a Planning Proposal to amend State Environmental Planning Policy (Sydney Region Growth Centres) 2006 to reclassify the land.

The reclassification of the land, to enable its potential sale and construction of the local road, is considered to be in the public interest as it will promote orderly development outcomes for properties east of the Stringer Road Sports Reserve and will assist with the completion of the road network surrounding the future sports complex and the wider North Kellyville neighbourhood.

PROPONENT

Council Initiated

OWNERS

The Hills Shire Council

HISTORY

- | | |
|-------------------|--|
| 19/12/2008 | North Kellyville Precinct Released – This rezoned the subject land from 1(a) Rural to part RE1 Public Recreation and part R2 Low Density Residential and under State Environmental Planning Policy (Sydney Region Growth Centres) 2006. |
| 15/12/2009 | Council resolved to purchase the subject lot (then known as 38 Barry Road, Kellyville) for the purpose of public recreation. At the time of acquisition, the entire lot (both the public recreation and residential portion) was classified as "community" land. |
| 06/10/2020 | Subdivision Application 454/2021/ZB lodged with Council seeking to subdivide the adjoining land at 106 Barry Road for the purpose of 8 residential lots. |

REPORT

This report provides an overview of a potential planning proposal to reclassify Council-owned land that adjoins the future Stringer Road Sports Complex in North Kellyville from 'community' to 'operational'.

1. THE SITE

The subject property is known as Lot 11 DP 843578, 104 Barry Road, North Kellyville. The parcel has a total area of 11,810m². The majority of the parcel is zoned RE1 Public Recreation, however a small portion of the site (403m²) is zoned R2 Low Density Residential (outlined in blue in Figure 2 below). The parcel was acquired by Council in June 2010 as part of the Stringer Road Sports Complex, located on Stringer Road within the North Kellyville Precinct.

At the time of purchasing the site, the entire lot was classified as 'community land' under the Local Government Act 1993. Classification as community land requires that the lot be reserved for a public purpose which is to be specified in a Council plan of management. Council's Sportsgrounds Plan of Management applies to the subject land (including both the RE1 and R2 portions) and as such, the entire lot can only be used for the purpose of a sportsground at this time. Council's current practice is to initially classify acquired land as Operational until the new facility is completed, to enable operational matters such as this to be more efficiently resolved. However this has not always been the case.

The land which is proposed to be reclassified comprises the portion of the site zoned R2 Low Density Residential (outlined in blue in Figure 2 below). A planned local road (Serpentine Avenue) will traverse the site in a north-south direction and will occupy 337m² (approximately 82%) of the R2 zoned portion of the lot. This local road will leave approximately 66m² of residential land separated from the future reserve and in Council's ownership.



Figure 1

Aerial of Subject Site and Stringer Road Sports Complex



Figure 2
Subject Site with local road

2. STRINGER ROAD SPORTS COMPLEX

The Stringer Road Sports Complex was identified in 2008 as part of the precinct planning for North Kellyville, to meet the active recreation needs of the future population within the precinct. Council has now prepared a draft master plan for the Stringer Road Sports Complex which was exhibited from December 2020 to January 2021. The master plan proposes four multipurpose fields, playgrounds, one half basketball court and associated amenities. Following adoption of the master plan, detailed design work will commence and the facility is expected to be delivered by approximately 2023/24.



Figure 3
Proposed Stringer Road Concept Master Plan

The R2 portion of the Council-owned land falls outside of the area identified or required for the Stringer Road Sports complex and as such, any reclassification and potential sale of the R2 zoned land would not result in any material loss for the community. Council's ability to deliver the Stringer Road Sports Complex as envisaged by the Precinct Planning, Contributions Plan and draft master plan will not be impacted by the reclassification of the R2 portion of the site.

The R2 zoned portion of the site has not been identified for community use in any strategic plan and its current classification prevents its intended land use outcome from being achieved. As the subject land was never expected to form part of the Stringer Road Sports Complex, its classification as 'community land' is an anomaly which should ideally be corrected.

It is noted that 337m² (approximately 82%) of the R2 zoned portion of the site is needed for the construction of a new local road (Serpentine Avenue). Following construction of the road, the remaining R2 land (66m²) (approximately 18%) would be disconnected from the rest of the sports facility and if not consolidated into the adjoining development, would result in an irregular parcel of residual land which is unable to be developed and which Council would be responsible for maintaining it.

Importantly, selling the land would remove this maintenance burden to Council (and ratepayers) and result in additional funds that would be returned to Contributions Plan No. 13 – North Kellyville Precinct and applied towards other infrastructure in the North Kellyville Precinct.

3. ADJOINING LAND DEVELOPMENT AND NEGOTIATIONS

A subdivision application (454/2021/ZB) was lodged for the adjoining property to the south (106 Barry Road) in October 2020. The subdivision (as submitted) would facilitate 8 low density residential lots (refer to figure below). As shown in the plan, part of the land which is proposed to be reclassified would ultimately form part of Serpentine Avenue, with the remaining portion of land incorporated into future lot 208.

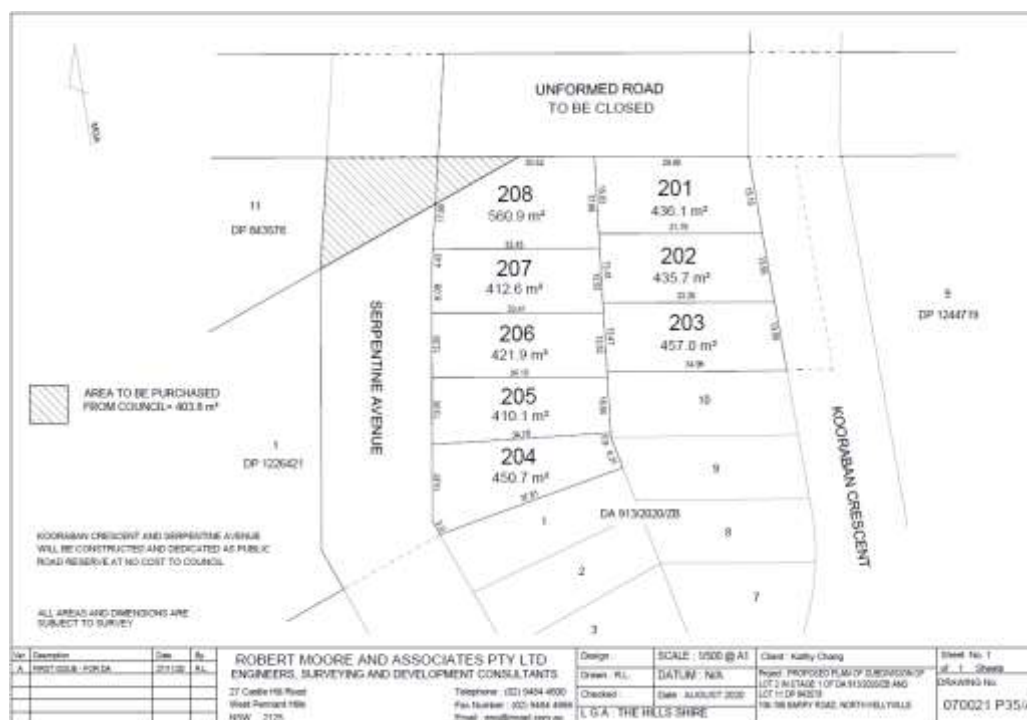


Figure 4

Proposed Subdivision Plan for adjoining site at 106 Barry Road, North Kellyville

Orderly development issues have arisen as part of the assessment of the subdivision, in particular the ability to access future lots 204-208, without the required portion of the local road (Serpentine Avenue) being constructed across Council's land. Accessibility to Stringer Road Sports Complex and other residential lots to the east of the reserve is also diminished without the road. The missing road link provides the residential lots to the east of the site with greater connections (both north and south) whilst also allowing the road enclosing the reserve to be completed. Without this portion of the road, it is likely that congestion will substantially increase on the surrounding road network.

Importantly, under the current 'community land' classification, Council cannot sell this portion of the site or construct the local road as this would not be permitted under the Local Government Act 1993. Therefore, regardless of whether Council or a future owner were to construct the road, the reclassification of the subject land would still be required.

In order to provide access to the residential lots 204-208 proposed as part of the subdivision of 106 Barry Road, it is reasonable to require construction of the length of Serpentine Avenue (even where it traverses Council's land) as part of this subdivision. In response to these orderly development issues, the owner of the adjoining property has approached Council with a view to commencing negotiations to purchase the portion of Council's land zoned R2 Low Density Residential. The sale of this land would enable the developer to construct the local road and then dedicate this back to Council, facilitating access to the proposed lots within the subdivision. It is noted that additional development potential may

also be achieved by the developer if an unformed crown road to the north of 106 Barry Road is closed and also purchased by the adjoining owner (subject to separate negotiations). The figure below demonstrates the potential development outcome (and benefits to the developer) that could be facilitated if this were to occur.

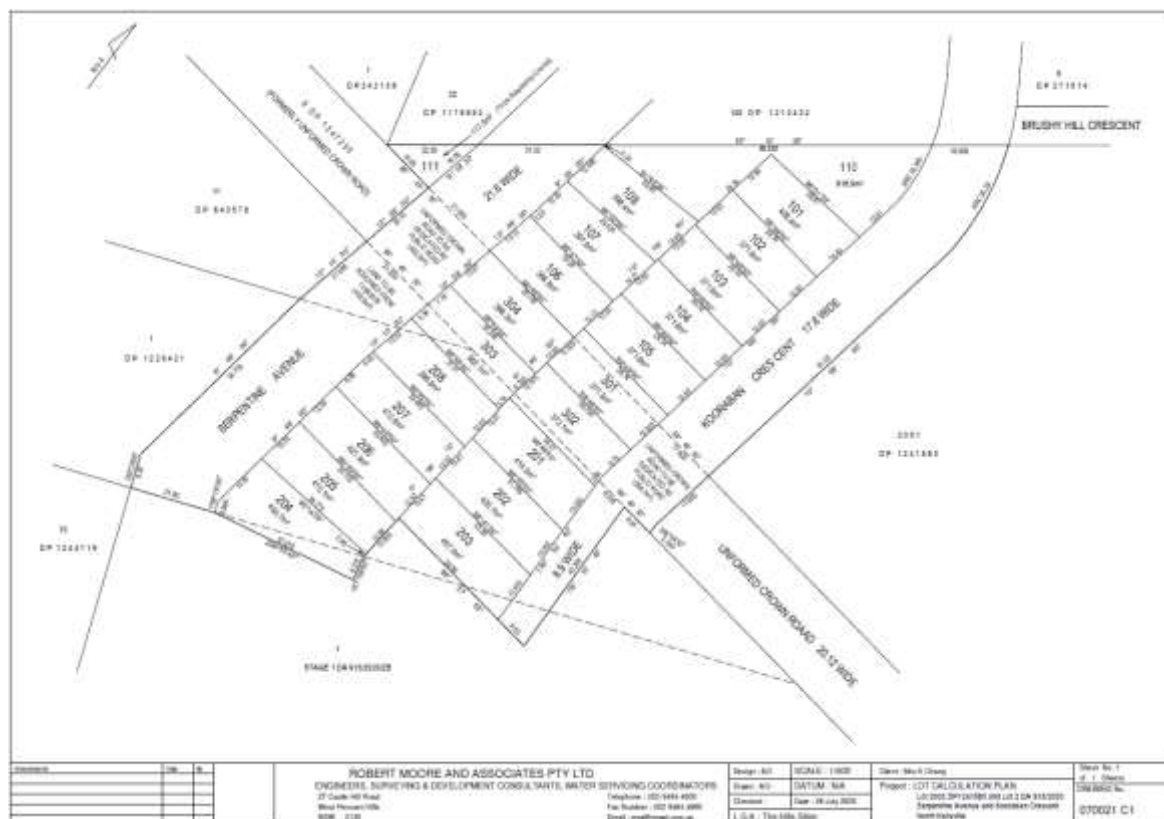


Figure 5
Indicative Plan of Subdivision (including Crown Land)

The sale would result in some income to Council which would return to Contributions Plan No. 13 – North Kellyville for expenditure on infrastructure within North Kellyville. It will also transfer the burden of constructing this portion of the local road to the adjoining developer. Should the sale of the land to the adjoining developer not proceed, Council would be unable to develop this land for any other purpose and it is unlikely that this portion of the local road network would be constructed unless Council were to complete this work as part of the delivery of Stringer Road Reserve.

4. PLANNING PROPOSAL

As the subject land is not required for the Stringer Road Sports Complex and cannot be developed in isolation, it is recommended that Council reclassify this portion of the site from 'community' to 'operational' which would facilitate its potential sale to the adjoining landowner.

Reclassification of the R2 zoned portion of the site will require a new planning proposal to amend State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (which applies to the North Kellyville Precinct) to reclassify the land. Should the land be reclassified, Council could subdivide (excise) the R2 zoned portion of land and proceed with negotiations for the sale of the land to the adjoining owner.

It is noted that the only likely purchaser of the surplus land is the adjoining landowner. Detailed negotiations with the adjoining landowner have not yet commenced and any future sale would be subject of a separate and future decision by Council. Notwithstanding this, in order to pursue the sale of this land at any point in the future, it is necessary for the land to first be reclassified.

Reclassification of land would typically occur by way of listing the subject lot and DP under Schedule 4 – Classification and Reclassification of Public Land within Appendix 2 of the Growth Centres SEPP. However, as the subject proposal would only seek to reclassify a portion of the subject lot, this mechanism is not appropriate. Accordingly, a new map will be required to identify the land which is proposed to be reclassified (referred to as the 'Land Reclassification – Part Lots' Map – extract in figure below).

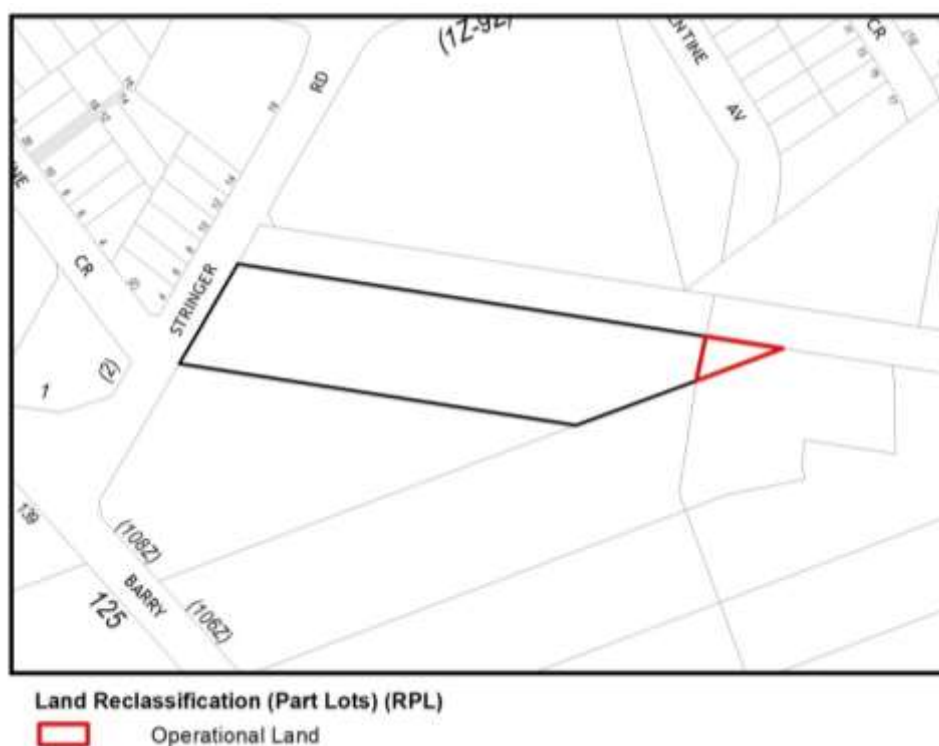


Figure 5

Proposed Land Reclassification – Part Lots Map under Growth Centres SEPP

The land has a height limit of 9m and a minimum residential density of 10 dwelling per hectare which is consistent with the neighbouring and surrounding residential land. Accordingly, no amendments to other standards under the Growth Centres SEPP are considered necessary as part of the planning proposal.

5. RECLASSIFICATION PROCESS

All public land is classified as either 'community' or 'operational', which sets the rights and responsibilities of Council in dealing with that land and provides for transparency in Council's strategic asset management. 'Community' land is not to be sold, exchanged or otherwise disposed of and therefore reclassification of the subject property is required should Council resolve to sell the property (subject to separate negotiations).

The reclassification of Council land must be undertaken in accordance with the Local Government Act 1993, Environmental Planning and Assessment Act 1979 and Practice Note PN09-003 issued by the Department of Planning and Environment (June 2009).

The mechanism to reclassify land is by way of a planning proposal to amend Schedule 4 Appendix 2 of the Growth Centres SEPP (and introduction of a new 'Part Lots' Map), to identify the land as being reclassified to 'operational'. An independently facilitated public hearing is required (following the exhibition period) as part of the community consultation process for any planning proposal seeking to re-classify land from 'community' to 'operational'.

As part of the planning proposal, Council will be required to address the following considerations:

- The reasons why the planning proposal is being prepared including the planning merits of the proposal (in particular the intention of Council to dispose of the land);
- The reasons for the reclassification including how this relates to Council's strategic framework, the proposed future use of the land, proposed zones, any site specific requirements, anticipated physical or operational changes resulting from the reclassification;
- The nature of Council's interest in the land, e.g. ownership or lease; and
- An indication, as a minimum, of the magnitude of any financial gain or loss from the reclassification and of the type(s) of benefit that could arise.

The above considerations can be satisfactorily addressed and will form part of a written statement which would be included within the planning proposal. In accordance with the Department of Planning's timeframes it is anticipated that this proposal would be completed within approximately 12 months from the issue of a Gateway Determination.

Under the Ministerial *Local Planning Panels Direction – Planning Proposals (2018)*, planning proposals are required to be referred to the Local Planning Panel (LPP) for advice, unless the General Manager determines that the planning proposal relates to:

- (a) *The correction of an obvious error in a local environmental plan,*
- (b) *Matters that are of a consequential, transitional, machinery or other minor nature, or*
- (c) *Matters that council's general manager considers will not have any adverse impact on the environment or adjoining land.*

While Council has not previously sought to exercise this authority, the planning proposal meets all the above criteria and therefore would not be required to be forwarded to the LPP for advice. Specifically, the planning proposal would correct an error whereby the portion of 104 Barry Road which is zoned R2 Low Density Residential was classified as 'community land' despite never being intended to be used for open space. The current classification prevents the achievement of the development and precinct planning outcomes envisaged for the land under the Growth Centres SEPP, North Kellyville DCP and Contributions Plan No.13 to be achieved and the planning proposal simply seeks to rectify this.

The proposal will not result in any adverse impacts on the environment or adjoining land (noting also that any future development on the adjoining land will be subject to a separate development assessment process). It is therefore considered appropriate that the proposal be forwarded directly to the Department of Planning, Industry and Environment for Gateway Determination.

IMPACTS**Financial**

The purchase of 104 Barry Road, North Kellyville was undertaken using funds from Contributions Plan No. 13 – North Kellyville and as such, any proceeds of the sale would be placed back into this contributions pool which could then be used towards other infrastructure items identified under that Plan.

Strategic Plan - Hills Future

The reclassification supports the aims of Council's Community Strategic Plan including the provision of new community infrastructure to meet the needs of a growing community. The proposal will help to deliver an important local road link which will enhance accessibility within the North Kellyville Precinct and provide access to the future Stringer Road Sports Complex.

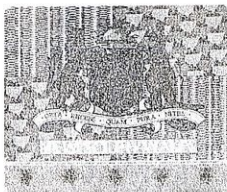
RECOMMENDATION

A planning proposal be forwarded to the Department of Planning, Industry and Environment for Gateway Determination to amend State Environmental Planning Policy (Sydney Region Growth Centres) 2006, to reclassify part of Lot 11 DP 843578 (known as 104 Barry Road, North Kellyville) from 'community' to 'operational', in accordance with the Local Government Act 1993.

ATTACHMENTS

Nil

BOX 307V
(AF532618)



TORRENS TITLE REFERENCE

11/843578

EDITION

3

DATE OF ISSUE

2/6/2010

CERTIFICATE AUTHENTICATION CODE

WTYG-YV-VDWV



NEW SOUTH WALES
CERTIFICATE OF TITLE
REAL PROPERTY ACT, 1900

I certify that the person described in the First Schedule is the registered proprietor of an estate in fee simple (or such other estate or interest as is set forth in that Schedule) in the land within described subject to such exceptions, encumbrances, interests and entries as appear in the Second Schedule and to any additional entries in the Folio of the Register.


REGISTRAR GENERAL



LAND

LOT 11 IN DEPOSITED PLAN 843578

AT KELLYVILLE.

LOCAL GOVERNMENT AREA: THE HILLS SHIRE.

PARISH OF CASTLE HILL COUNTY OF CUMBERLAND

TITLE DIAGRAM: DP843578

FIRST SCHEDULE

THE HILLS SHIRE COUNCIL

(T AF532618)

SECOND SCHEDULE

1. LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
2. EXCEPTING LAND BELOW A DEPTH FROM THE SURFACE OF 20 METRES WITHIN THE PART(S) OF THE LAND ABOVE DESCRIBED SHOWN SO INDICATED IN THE TITLE DIAGRAM
3. DP843578 RESTRICTION(S) ON THE USE OF LAND

**** END OF CERTIFICATE ****

ANY ATTEMPT TO ALTER THIS CERTIFICATE COULD RESULT IN HEAVY FINES OR IMPRISONMENT (S.141 REAL PROPERTY ACT).

INSTRUMENT SETTING OUT TERMS OF EASEMENT AND RESTRICTIONS ON THE
USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE
CONVEYANCING ACT, 1919

Lengths are in metres

Sheet 1 of
3 Sheets

PART 1

Plan:

DP 843578

Plan of Subdivision of Part
Lot 1 D.P. 25193 and Lot
1 D.P. 254890
covered by Council Clerk's
Certificate No. 7726
of 19/07/94

Full name and address of the
Proprietor of the Land:

MARIA A.M.M.
Stella ~~Maria~~ Mizzi
2 Canara Drive
Innisfail 4860

Identity of Easement or
Restriction firstly referred to
in abovementioned plan:

Restriction On the Use of
Land

Schedule of Lots etc. Affected

Lots Burdened

Lots, Name of Road or
Authority Benefitted.

11, 12

Baulkham Hills Council

Identity of Easement or
Restriction secondly referred to
in abovementioned plan:

Restriction On the Use of
Land

Schedule of Lots etc. Affected

Lots Burdened

Lots, Name of Road or
Authority Benefitted.

11,12

Baulkham Hills Council

Approved by Baulkham Hills Council

.....*M. Murray*.....
for General Manager

INSTRUMENT SETTING OUT TERMS OF EASEMENT AND RESTRICTIONS ON THE
USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE
CONVEYANCING ACT, 1919

Lengths are in metres

Sheet 2 of
3 Sheets

PART 2

Plan:

DP 843578

Plan of Subdivision of Part
Lot 1 D.P. 25193 and Lot
1 D.P. 254890
covered by Council Clerk's
Certificate No. 7726
of 19/07/94

Terms of Restriction On the Use of Land Firstly referred to in the
abovementioned Plan:

- (a) No fill operations resulting in the placement of filling material more than one metre deep shall be carried out upon each Lot burdened without the prior written consent of the Council of the Shire of Baulkham Hills.
- (b) The body having the right to release, vary or modify this restriction is the Council of Baulkham Hills.

Terms of Restriction On the Use of Land Secondly referred to in the
abovementioned Plan:

- (a) No building or improvements shall be commenced, unless a fuel reduced zone to mitigate bush fires, is provided and maintained to the requirements of the Fire Control Officer of the Baulkham Hills Council.

In this regard all combustible material and vegetation, having a trunk diameter of 100 mm at the base or less, shall be removed. No planting of trees, shrubs or other vegetation shall be permitted within the maintained fuel reduced zone, without the consent of the Fire Control Officer of the Baulkham Hills Council.

- (b) The registered proprietor/s of the land hereby burdened at the time when such Development Application is submitted to the Council of Baulkham Hills for approval shall as a condition of approval sign or execute any document and/or plan which Council may require to enable the registration of a plan designating the area position and extent of the said fuel reduced zones of the land hereby burdened.

Name of person empowered to release vary or modify the Restriction as to User secondly referred to in the abovementioned plan.

THE COUNCIL OF BAULKHAM HILLS

Approved by Baulkham Hills Council

..........
for General Manager

INSTRUMENT SETTING OUT TERMS OF EASEMENT AND RESTRICTIONS ON THE
USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE
CONVEYANCING ACT, 1919

Lengths are in metres

Sheet 3 of
3 Sheets

PART 2

Plan:

DP 843578

Plan of Subdivision of Part
Lot 1 D.P. 25193 and Lot
1 D.P. 254890
covered by Council Clerk's
Certificate No. 7726
of 19/07/94

Signed in my presence by Stella Maris
Mizzi who is personally known to me

S. m. Mizzi
MARIA Mizzi
Stella ~~Maris~~ Mizzi
Registered Proprietor

Signature of Witness *M. Micale J.P.*

Name of Witness (BLOCK LETTERS)

NORAH MARGARET MICALE

Address and Occupation of Witness

Shopkeeper
166 Mourilyan Road
Innisfail
Queensland.

Approved by Baulkham Hills Council

.....*A. Grey*.....
for General Manager

REGISTERED  *22/10/94*

ATTACHMENT E - INFORMATION CHECKLIST FOR PROPOSALS TO CLASSIFY OR RECLASSIFY PUBLIC LAND THROUGH A SEPP

Matters for Consideration	Council Response
<i>The current and proposed classification of the land</i>	Council originally resolved to classify the land as 'community' land in 2010. On 23 March 2021, Council resolved to initiate a planning proposal to reclassify part of the land as 'operational' land.
<i>Whether the land is a 'public reserve' (defined in the LG Act)</i>	The land does fall under the definitions of a 'public reserve' as defined in the Local Government Act 1993. However the land in question is the part of the subject lot zoned R2 Low Density Residential. Only to R2 portion of the site is proposed for reclassification.
<i>The strategic and site specific merits of the reclassification and evidence to support this</i>	<p>The planning proposal is consistent with the applicable strategic framework relevant to the site as the proposal is consistent with the objectives and actions contained within the Greater Sydney Region Plan, Central City District Plan, Council's Local Strategic Planning Statement, and relevant State Environmental Planning Policies and Ministerial Directions.</p> <p>The planning proposal has site specific merit as the landowners of the adjoining property on Lot 2 DP 1266815 are seeking to develop the site in line with the objectives of the R2 Low Density Residential Zone. The proposed reclassification will facilitate the sale of the site and enable an orderly development outcome to occur. Ultimately, this will facilitate the construction of the local road which traverses the site and residential development on the R2 portion of land.</p>
<i>Whether the planning proposal is the result of a strategic study or report</i>	The planning proposal is Council initiated and is an opportunity to promote orderly development outcomes for the North Kellyville Precinct.
<i>Whether the planning proposal is consistent with council's community plan or other local strategic plan</i>	The planning proposal is consistent with the relevant local policies and plans.

<p><i>A summary of council's interests in the land, including:</i></p> <ol style="list-style-type: none"> <i>1. How and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution);</i> <i>2. If council does not own the land, the land owner's consent;</i> <i>3. The nature of any trusts, dedications, etc;</i> 	<p>The land was compulsorily acquired by Council on June 2010 for the purpose of public recreation and the benefit of the local community. At this time, the entire lot was classified as 'community' land.</p> <p>The proposal to reclassify the subject land will enable the potential sale of the land to the developer of the adjoining site to facilitate an orderly development outcome for the subject site with the funds of the sale to be returned to Contributions Plan No. 13 – North Kellyville Precinct and applied towards other infrastructure in the North Kellyville Precinct.</p>
<p><i>Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why</i></p>	<p>The proposal will not require any interests in the land to be discharged. There are existing restrictions on title relating to land fill and bushfire, however these can be reviewed if and when the land is subdivided in the future.</p>
<p><i>The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged)</i></p>	<p>The reclassification will enable the sale of the site, construction of the local road and subsequently promote an orderly development outcome to occur. The funds that are obtained due to the sale of the site will be to be returned to Contributions Plan No. 13 – North Kellyville Precinct and applied towards other infrastructure in the North Kellyville Precinct.</p> <p>The R2 portion of the Council-owned land falls outside of the area identified or required for the Stringer Road Sports complex and as such, any reclassification and potential sale of the R2 zoned land would not result in any material loss for the community.</p>
<p><i>Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government gazette, trust documents)</i></p>	<p>The subject land is identified in Council's Sportsground Plan of Management by virtue of its public reserve status. The Plan of Management is available on Council's Website.</p> <p>Attachment D of the planning proposal contains an electronic title search and deposited plan of the site. The title does not contain any restrictions relating to use of the site as a public reserve.</p>
<p><i>Current use(s) of the land, and whether uses are authorized or unauthorized</i></p>	<p>The subject land is currently vacant and cannot be developed for any purpose other than what is permitted under the Local Government Act.</p>
<p><i>Current or proposed lease or agreements applying to the land, together with their duration, terms and controls</i></p>	<p>There are no leases currently on the subject property.</p>

<i>Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time)</i>	The sale of the site is subject to future negotiations.
<i>Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy)</i>	No rezoning of the subject site is proposed.
<i>How council may or will benefit financially, and how these funds will be used</i>	The funds that are obtained due to the sale of the site will be to be returned to Contributions Plan No. 13 – North Kellyville Precinct and applied towards other infrastructure in the North Kellyville Precinct.
<i>How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal</i>	Funds obtained will be returned to Contribution Plan No.13 – North Kellyville and will be pooled with other contributions to be used for items in the Contribution Plan.
<i>A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot; and</i>	A Land Reclassification (Part Lots) Map has been provided in accordance with the standard technical requirements and is provided in Part 4 of the Planning Proposal.
<i>Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.</i>	It is anticipated as part of a Gateway Determination, that relevant government agencies are to be contacted for comments.