

[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.

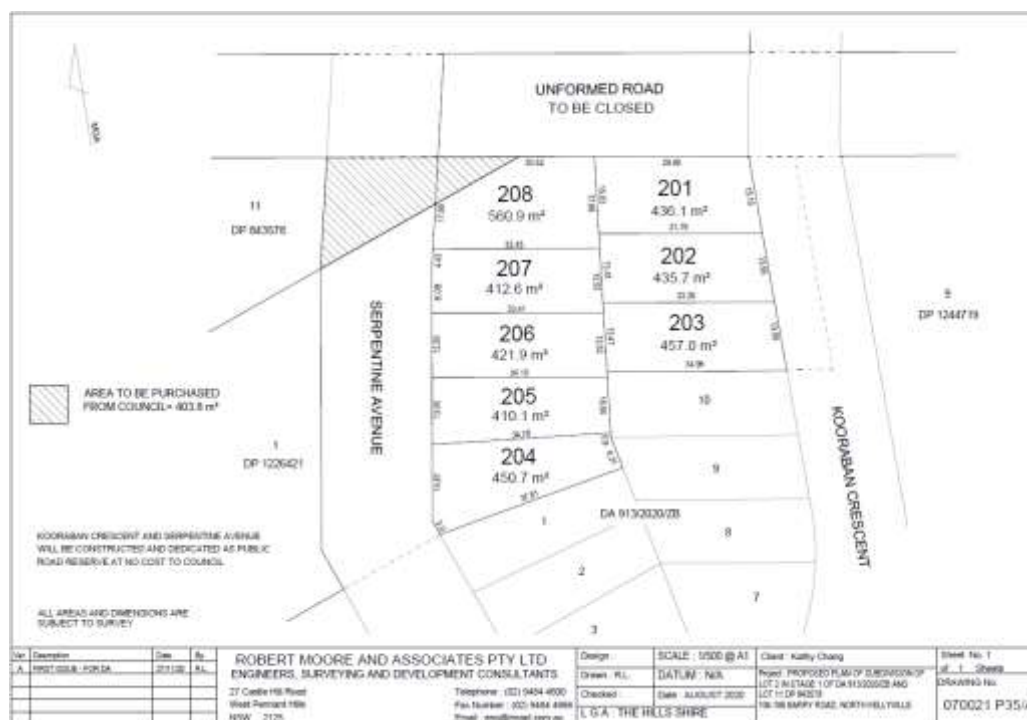


Figure 4

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.

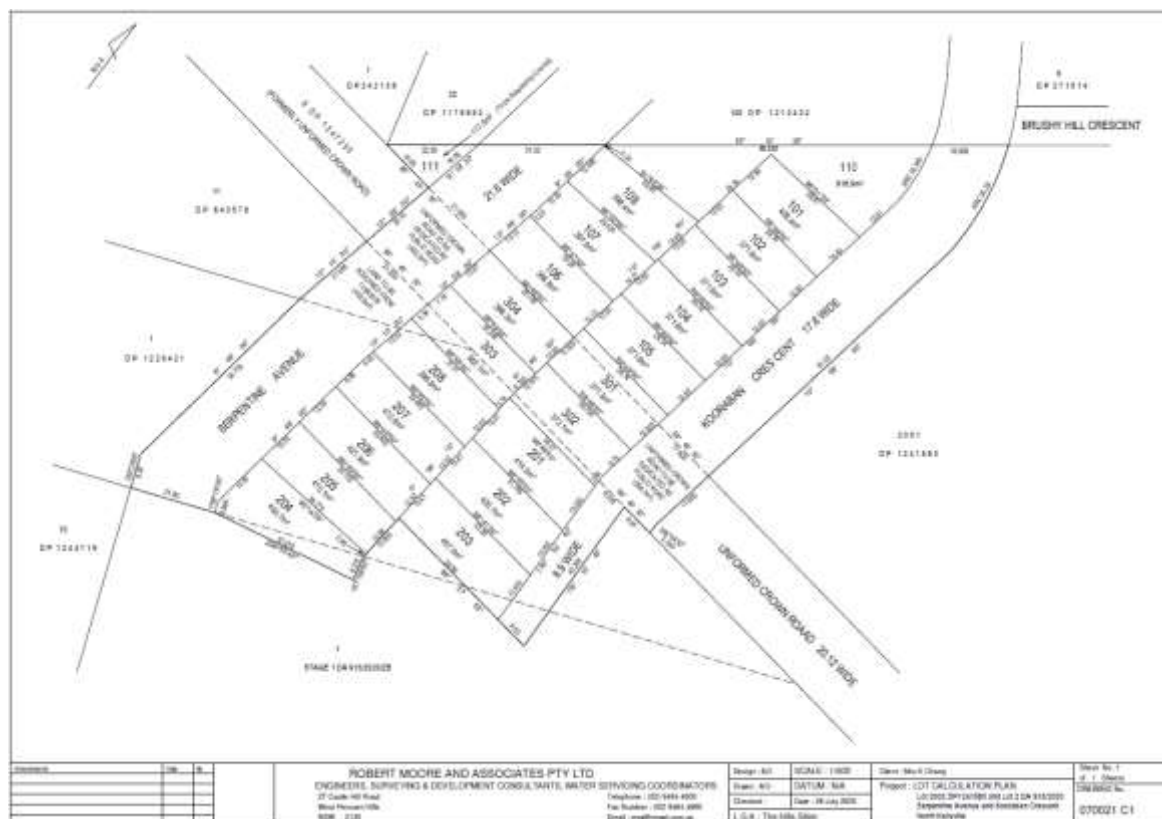


Figure 5
Indicative Plan of Subdivision (including Crown Land)

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).

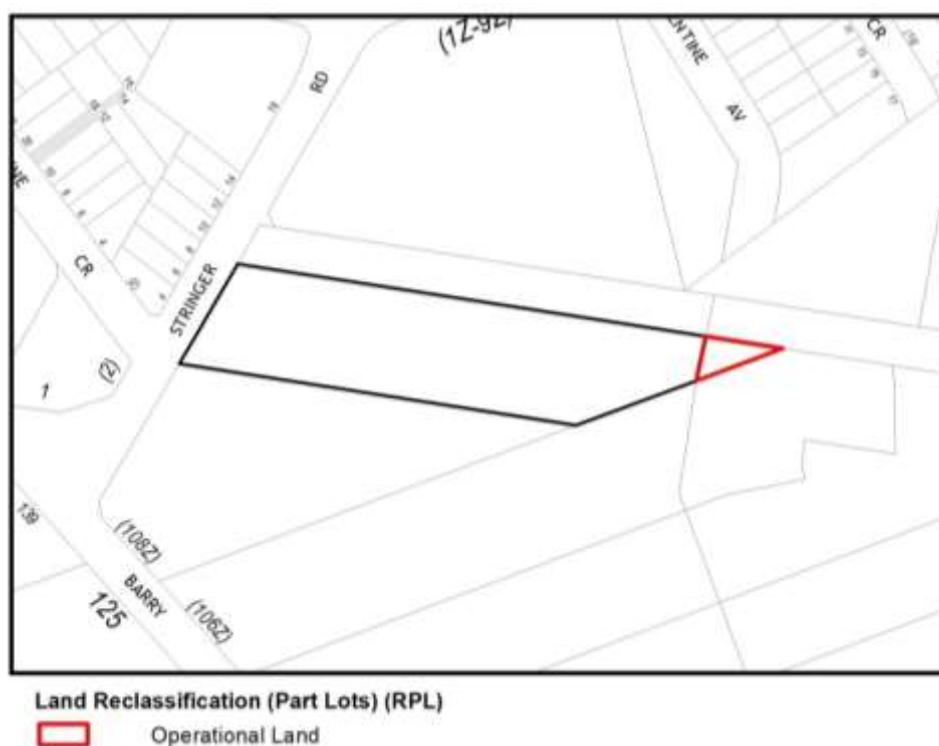


Figure 5

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