



Planning,
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Environment

IRF21/1149

Gateway determination report – PP-2021-3110

Reclassify land from 'Community' to 'Operational' | Lot 11 DP
843578, North Kellyville

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Contents

1	Planning proposal.....	1
1.1	Overview.....	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	1
1.4	Site description and surrounding area.....	2
1.5	Mapping.....	4
2	Need for the planning proposal	4
3	Strategic assessment	6
3.1	District Plan	6
3.2	Local.....	6
3.3	Local planning panel.....	7
3.4	Section 9.1 Ministerial Directions	7
3.5	State environmental planning policies (SEPPs)	8
4	Site-specific assessment	9
4.1	Environmental.....	9
4.2	Social, Economic and Infrastructure.....	9
5	Consultation.....	10
5.1	Community	10
5.2	Agencies.....	10
6	Timeframe	10
7	Local plan-making authority	10
8	Assessment summary	10
9	Recommendation.....	11

Table 1 Reports and plans supporting the proposal

Relevant reports and plans

Attachment A – Planning Proposal

Attachment B – Council Report & Resolution 23 March 2021

Attachment C – Council letter requesting Gateway

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	The Hills Shire Local Government Area
PPA	The Hills Shire Council
NAME	Reclassify land from 'Community' to 'Operational' (0 homes, 0 jobs)
NUMBER	PP-2021-3110
SEPP TO BE AMENDED	State Environmental Planning Policy (Sydney Region Growth Centres) 2006
ADDRESS	Barry Road, North Kellyville 2155
DESCRIPTION	Lot 11 DP 843578
RECEIVED	16 April 2021
FILE NO.	IRF21/1149
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The objective of the planning proposal (**Attachment A**) is to promote orderly development outcomes by disposing of Council owned 'community' surplus land in accordance with its intended land use outcome under the North Kellyville Precinct.

The planning proposal contains objectives that adequately explain the intent of the proposal.

1.3 Explanation of provisions

The proposal's objective will be achieved by the following amendments to *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*:

- Amend *Appendix 2 North Kellyville Precinct Plan, Schedule 4 Classification and reclassification of public land, Part 1 Land classified, or unclassified as operational land – no interests changed* to identify part of Lot 11 DP 843578 as 'Operational' land.
- Introduce a Land Reclassification Map – Part Lots map to identify the part of Lot 11 DP 843578 to be reclassified as 'Operational' land.

The land does not fall under the definitions of a 'public reserve' as defined in the Local Government Act 1993. 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 when

the land is subdivided in the future (Titles included in **Attachment B**). Council is the authority to release or modify the restrictions for both.

The amendments to the SEPP are shown in Table 3 below.

Table 3 Proposed amendments to Part 1, Schedule 4 (Appendix 2) of Sydney Region Growth Centres SEPP 2006

Schedule 4 Classification and reclassification of public land	
Part 1 Land Classified, or reclassified, as operational land – no interests changed	
Column 1	Column 2
Locality	Description
Barry Road, North Kellyville	Part of Lot 11 DP 843578, as shown as edged heavy red on the Land Reclassification (Part Lots) Map

No additional amendments are required to the SEPP (Sydney Region Growth Centres) controls to enable the reclassification or the subsequent disposal of the surplus land. The existing SEPP controls are shown in Table 4 below.

Table 4 Current and proposed controls

Control	Current	Proposed
Zone	Part RE1 Public Recreation Part R2 Low Density Residential	No change
Classification	Community	Community – RE1 portion Operational – R2 portion
Maximum height of the building	9m	No change
Floor space ratio	N/A	No change
Minimum lot size	N/A	No change

1.4 Site description and surrounding area

The subject site is known as Lot 11 DP 843578, with an address of Barry Road however the site has frontage to Stringer Road, North Kellyville. The land parcel has a total area of 11,810m², is generally flat, mostly vegetated with a cleared grass area in the south-east of the site.

The part of Lot 11 to be reclassified is 403m² in area, which is vegetated, located in the eastern point of the site and corresponds with the land zoned R2 Low Density Residential under the SEPP (Sydney Region Growth Centres) (Figure 2). Figure 1 below is a current aerial photo identifying Lot 11 and the portion of land to be reclassified in shaded red.



Figure 1 Subject site (Source: NearMap 2021)

The majority of the site is part of the Stringer Road Sports Complex draft masterplan and zoned RE1 Public Recreation under the SEPP (Sydney Region Growth Centres) (Figure 2 below). As shown in the Figures below, the portion of land to be reclassified is intended for local road purposes as per the North Kellyville Indicative Layout Plan (Figure 3) and residential development.

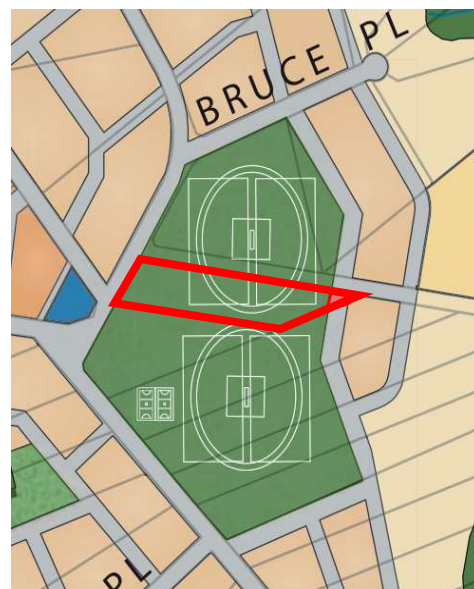
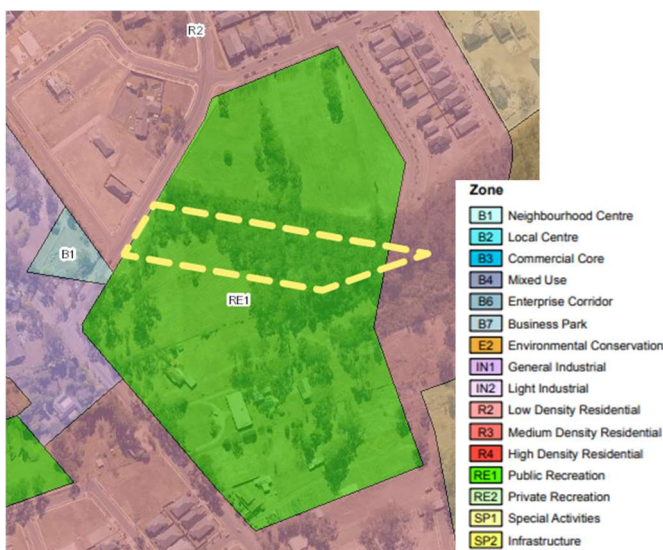


Figure 2 (L) Current zoning map (Source: Spatial Viewer 2021), Figure 3 (R) North Kellyville Precinct Indicative Layout Plan

The recently exhibited Stringer Road Sports Complex draft masterplan includes multi-purpose fields, half a basketball court, new local playground and associated amenities. The part of Lot 11 to be reclassified is not included within the masterplan, this is further discussed under Section 2 Need for Planning Proposal.

The surrounding area is characterised by low density residential dwellings and ongoing development of the area as a result of the rezoning of North Kellyville Precinct in 2008. Figures 2 and 3 above indicate a future neighbourhood centre opposite the sports complex supported by further residential development.

Relevant to this proposal is a subdivision application (DA454/2021/ZB) currently under assessment by The Hills Shire Council for the adjoining property to the south. The interrelationship between the subject proposal and this application is discussed further in this report.

1.5 Mapping

The planning proposal includes a new SEPP map 'Land Reclassification Map – Part Lots to support the amendment to *Schedule 4 Classification and reclassification of public land, Part 1 Land classified, or unclassified as operational land – no interests changed*'.

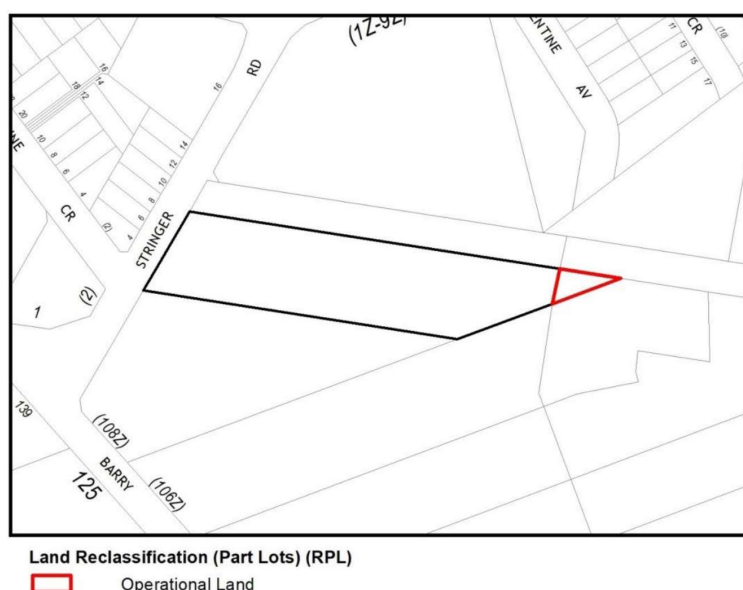


Figure 4 Proposed Land Reclassification Map – Part Lots

2 Need for the planning proposal

The planning proposal is the best means of enabling the reclassification of surplus land (part of Lot 11) and to facilitate its disposal and development in accordance with envisaged development outcomes under the North Kellyville Precinct Plan.

Lot 11 was acquired by Council in June 2010 to be redeveloped as part of the Stringer Road Sports Complex. 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 site (including both the RE1 and R2 portions) and as such, the entire lot can only be used for the purpose of a sportsground.

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. The land subject to the reclassification was not envisaged to form part of the Stringer Road Sports Complex as demonstrated by the land use zoning plan and North Kellyville Precinct Indicative Layout plan (Figures 2 and 3 above).

In terms of disposing the surplus land following reclassification, the owner of an adjoining property has approached Council with a view of commencing negotiations to purchase this land. This land

would assist in addressing orderly development issues, in particular the ability to access future residential lots, that have arisen as part of the assessment of the subdivision development application (DA 454/2021/ZB). An excerpt of the subdivision plan is provided in Figure 5 below.

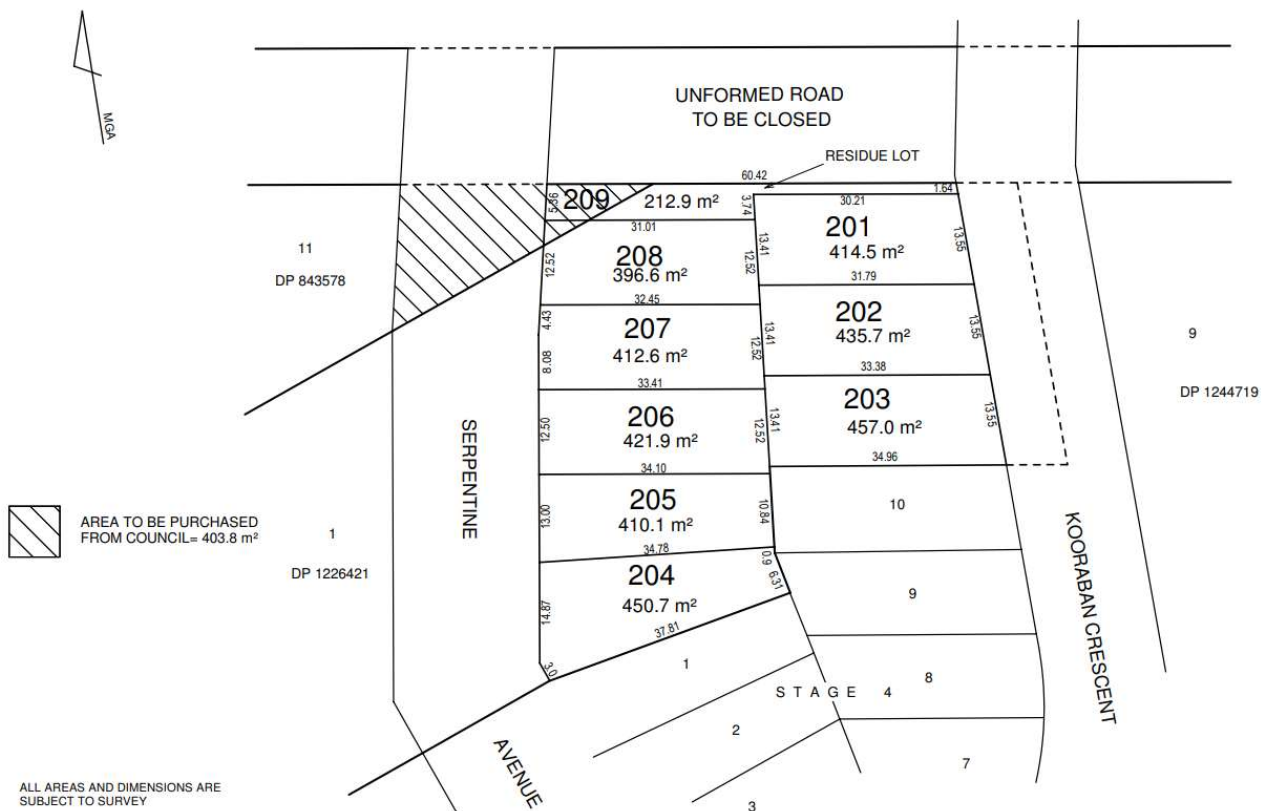


Figure 5 Proposed Subdivision Plan DA 454/2021/ZB

As shown in Figure 5, a planned road (Serpentine Avenue) will traverse the site in a north-south direction, requiring 337m² in land area (approximately 82%) of the surplus land. This missing road link provides the residential lots to the east of the site with greater connectivity (both north and south) whilst also allowing the road enclosing the reserve to its east to be completed. Once the road is constructed, this will leave approximately 66m² of residential land which can be incorporated into a residential lot as demonstrated in Figure 5. It is noted that detailed negotiations with the adjoining landowner and Council have not yet commenced and any future sale would be subject to a separate and future decision by Council.

Council's ability to deliver the Stringer Road Sports Complex as envisaged by the North Kellyville Contributions Plan and draft master plan will not be impacted by the reclassification of the R2 portion of the site.

The Department considers Council's justification for the preparation of the subject planning proposal satisfactory.

3 Strategic assessment

3.1 District Plan

The Central City District Plan is the applicable plan for The Hills Shire. It responds to the vision and actions of A Metropolis of Three Cities – A Greater Sydney Region Plan released by the Greater Sydney Commission in March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the planning priorities as outlined in Table 5 below. The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

Table 5 District Plan assessment

District Plan Priority	Justification
Planning Priority N1 – Planning for a city supported by infrastructure	The planning proposal will support this planning priority as it will encourage infrastructure provision (both road and social infrastructure) to align with the forecasted growth for North Kellyville.
Planning Priority N5 – Providing housing supply, choice and affordability, with access to jobs, services and public transport	The reclassification will also support the ability for the subject land to contribute to housing supply as envisaged under the precinct plan.
Planning Priority N17 – Delivering high quality open space	Accessibility to the Stringer Road sports complex will be enhanced under the proposal as it will facilitate the delivery of a section of Serpentine Avenue.

3.2 Local

The proposal states that it is consistent with Council's Local Strategic Planning Statement: Hills Future 2036, as shown below:

Table 6 LSPS assessment

LSPS Planning Priority	Justification
Planning Priority 10 – Provide social infrastructure and retail services to meet residents' needs	The proposal will facilitate the completion of a road link which will increase accessibility for residents to active recreation at Stringer Road Sports Complex.
Planning Priority 14 – Plan for a safe and efficient road network	The proposal will facilitate the completion of the road link, reducing 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.
Planning Priority 15 – Provide new and upgraded passive and active open space	The proposal will increase accessibility to the active recreation opportunities to be provided by the Stringer Road Sports complex.

The proposal states it is consistent with The Hills Recreation Strategy (which has not been endorsed by the Department) as the planning proposal will assist in facilitating a critical active open space facility for the residents of North Kellyville and orderly development of adjoining land. This is consistent with the aim of the Recreation Strategy which is to ensure that services and social infrastructure keeps pace with population growth and meets the needs of existing and future residents.

3.3 Local planning panel

Under the Ministerial *Local Planning Panels Direction – Planning Proposal (2018)*, planning proposals are required to be referred to the Local Planning Panel 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 an adverse impact on the environment or adjoining land.

Council resolved to forward the planning proposal to the Department of Planning, Industry and Environment for Gateway Determination without referral to the Local Planning Panel.

Council's position is that the planning proposal meets the above criteria and therefore would not be required to be forwarded to the Local Planning Panel for advice. Specifically, the planning proposal would correct an error whereby the portion subject to the reclassification which was 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 seeks to rectify this.

The Department agrees with Council's position and forwarding the proposal was to the Local Planning Panel was not warranted in this instance.

3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below.

Direction 4.4 – Planning for Bushfire Protection

The objectives of this Direction are:

- to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas.
- to encourage sound management of bush fire prone areas.

The proposal is inconsistent with this Direction as the site is identified as containing bushfire prone land (Vegetation Buffer as shown in Figure 6 below).



Figure 6 Bushfire Prone Land (DPIE's ePlanning Spatial Viewer Bushfire Prone Land Maps)

As part of the Gateway Determination, formal consultation with NSW Rural Fire Service to ensure the proposal complies with the specific requirements of this Direction will be required. Until this occurs the consistency of this proposal with the Direction will remain unresolved.

It is noted that the site is also mapped as biodiversity certified land 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. Bushfire risk will be assessed as part of future development applications supported by mitigation measures.

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

The proposal is consistent with this Direction. The proposed reclassification of part of the site from community to operational is consistent with the intended development outcome for the site as envisaged under the North Kellyville Precinct Plan and the Springer Road sports complex masterplan. This portion of the site was never identified or required for a public purpose.

The reclassification and potential sale of the R2 zoned land would not result in any material loss for the community.

Direction 7.4 – Implementation of North West Growth Area Land Use and Infrastructure Implementation Plan (LUIIP)

The objective of this Direction is to ensure development within the North West Priority Growth Area is consistent with the LUIIP.

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

3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 7 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
State Environmental Planning Policy No.19 – Bushfire in Urban Areas	The aim of this SEPP is to protect and preserve bushland within urban areas.	Consistent	<p>The planning proposal does not propose to clear or disturb any of the bushland located on the R2 zoned portion of the allotment and is consistent with the SEPP.</p> <p>However, it is noted the land is biodiversity certified and land clearing is able to occur over the site in accordance with the legislation.</p>

State Environmental Planning Policy (Sydney Region Growth Centres) 2006	The aims of this SEPP are to release land for urban development and support it with appropriate development controls	Consistent	The proposal supports the SEPP and does not contain provisions that would challenge or obstruct the application and objectives of the SEPP.
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4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 8 Environmental impact assessment

Environmental Impact	Assessment
Environmental	<p>The proposed reclassification will not impact the site's vegetation. Regardless, the SEPP(Sydney Region Growth Centres) 2006 does not identify the subject site as containing either existing native vegetation or native vegetation retention area.</p> <p>The site is biodiversity certified, land clearing is able to occur on the site in accordance with the certification and supporting legislation.</p>
Bushfire Prone Land	<p>The site contains bushfire prone land as discussed under Section 3.4 of this report.</p> <p>The proposed reclassification will not impact the site's bushfire risk.</p>

4.2 Social, Economic and Infrastructure

The following table provides an assessment of the potential social, economic and infrastructure impacts associated with the proposal.

Table 9 Social and economic impact assessment

Impact	Assessment
Social Impact	<p>There are no negative social impacts associated with the proposal. The reclassification supports priorities within Council's LSPS including the provision of new community infrastructure to meet the needs of a growing community.</p> <p>The proposal will help to deliver a local road link which will enhance accessibility within the North Kellyville Precinct and provide access to the future Stringer Road Sports Complex.</p>
Economic Impact	<p>The reclassification will improve access and orderly development outcomes for the site and adjoining land. The sale of the land will also transfer the burden of constructing the portion of the local road to the adjoining developer.</p> <p>Funds generated by the sale of the R2 land will assist with delivering other infrastructure items within North Kellyville Contributions Plan (CP No.13).</p>

Infrastructure

Future development of the site would need to be supported by the necessary services including electricity, telecommunication, gas, water, sewer and stormwater management. The proposal will not facilitate any population above what was accounted for within the Contributions Plan No.13 – North Kellyville.

Consultation is recommended with service providers to ensure services have been adequately accounted for.

5 Consultation

5.1 Community

Public exhibition of the planning proposal is appropriate and should be made available for community consultation for a minimum of 28 days. This will form a condition of the Gateway determination.

In addition, a public hearing is required as the proposal involves reclassifying public land.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment:

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

6 Timeframe

The Department recommends a time frame of 12 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

As the planning proposal seeks to reclassify Council-owned land, the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The R2 portion of the Council-owned land falls outside of the area identified or required for the Stringer Road Sports complex, any reclassification and potential sale of the R2 zoned land would not result in any material loss for the community.
- 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 from being achieved.

- It would encourage orderly development to the surrounding R2 Low Density Residential zoned land, and in particular would allow Serpentine Avenue to transverse the site in the north-south direction.
- The sale of the R2 portion of the site would remove the maintenance burden to council and ratepayers and result in additional funds returned to Contributions Plan No. 13 – North Kellyville Precinct which could be applied to other infrastructure in the North Kellyville Precinct.

9 Recommendation

It is recommended the delegate of the Secretary:

- Note that the inconsistency with section 9.1 Directions 4.4 – Planning for Bushfire Protection remains unresolved until further justification has been provided.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition the planning proposal is to be updated to:
 - consult with the NSW Rural Fire Service in accordance with section 9.1 Direction 4.4 Planning for Bushfire Protection and address any comments of this agency.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities and address any comments of these agencies:
 - NSW Rural Fire Service,
 - Sydney Water,
 - Endeavour Energy,
 - Telstra; and
 - NBN Co.
4. The planning proposal must be exhibited four (4) months from the date of the Gateway determination.
5. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination. To ensure this timeframe can be met, public exhibition is to commence by August 2021, and the planning proposal is to be reported to Council by February 2022.
6. Given the nature of the proposal, Council should not be authorised to be the local plan-making authority.



23.04.21

Elizabeth Kimbell

Manager, The Hills, Hawkesbury



14.05.21

Jane Grose

Director, Central (Western)

Assessment officer

Patricia Ball

Senior Planning Officer, Agile Planning & Programs

02 9995 6943