

THE MOTION WAS PUT AND CARRIED.

499 RESOLUTION

Standing orders be suspended to enable photos to be taken.

At 7.21pm standing orders were suspended.

RESUMPTION OF STANDING ORDERS

A MOTION WAS MOVED BY COUNCILLOR HAY OAM AND SECONDED BY COUNCILLOR HODGES THAT standing orders be resumed.

THE MOTION WAS PUT AND CARRIED.

500 RESOLUTION

Standing orders be resumed.

At 7.27pm standing orders were resumed.

ITEM 2 PLANNING PROPOSAL – RECLASSIFICATION OF RESIDENTIAL LAND FROM ‘COMMUNITY’ TO ‘OPERATIONAL’ – 28 HYNDS ROAD, BOX HILL (1/2023/PLP)

A MOTION WAS MOVED BY COUNCILLOR HODGES AND SECONDED BY COUNCILLOR TRACEY THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

501 RESOLUTION

A planning proposal be forwarded to the Department of Planning and Environment for Gateway Determination to amend State Environmental Planning Policy (Precincts – Central River City) 2021, to reclassify a portion of 28 Hynds Road, Box Hill (Lot 2 DP 621465) 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 P Gangemi
Clr M Hodges
Clr F De Masi
Clr R Boneham
Clr J Cox
Clr R Jethi
Clr Dr B Burton
Clr R Tracey
Clr A Hay OAM

VOTING AGAINST THE MOTION

None

MEETING ABSENT

Clr M Blue
Clr J Brazier
Clr V Ellis
Clr Dr M Kasby

ITEM 3 PLANNING PROPOSAL, DRAFT DEVELOPMENT CONTROL PLAN AND DRAFT VOLUNTARY PLANNING AGREEMENT – 7-15 COLUMBIA WAY, NORWEST (3/2022/PLP)

A MOTION WAS MOVED BY COUNCILLOR HODGES AND SECONDED BY COUNCILLOR DE MASI THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED.

502 RESOLUTION

1. The planning proposal for land at 7-15 Columbia Way, Norwest (Lot 2015 DP 857690 and Lot 200 DP 877496) be submitted to the Department of Planning and Environment for Gateway Determination.
2. Draft The Hills Development Control Plan 2012 Part D Section X – 7-15 Columbia Way, Norwest (Attachment 3) be publicly exhibited concurrent with the planning proposal.
3. Council accept, in principle, the draft Voluntary Planning Agreement (Attachment 4). The draft VPA be subject to legal review (at the cost of the Proponent) and then updated, prior to exhibition, to reflect the recommendations of the legal review and encompass the various options for the upgrade of Columbia Way which will be further investigated by Council officers (including partial or full construction by the Proponent), as discussed within this report. Following this, the draft Voluntary Planning Agreement be placed on public exhibition concurrent with the planning proposal and draft Development Control Plan.
4. Council receive a further report following the completion of exhibition of the planning proposal, draft Development Control Plan and draft Voluntary Planning Agreement and resolution of the investigations relating to the options for the upgrade of Columbia Way, as discussed within this report.

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

VOTING FOR THE MOTION

Clr M Hodges
Clr F De Masi
Clr R Boneham
Clr J Cox
Clr R Jethi
Clr A Hay OAM

VOTING AGAINST THE MOTION

Mayor Dr P Gangemi
Clr Dr B Burton
Clr R Tracey

ITEM 2 **PLANNING PROPOSAL – RECLASSIFICATION OF RESIDENTIAL LAND FROM ‘COMMUNITY’ TO ‘OPERATIONAL’ – 28 HYNDS ROAD, BOX HILL (1/2023/PLP)****THEME:** Shaping Growth**MEETING DATE:** 26 OCTOBER 2022**GROUP:** **SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS**
TOWN PLANNER**AUTHOR:** EMMA LANGAN**RESPONSIBLE** **MANAGER – FORWARD PLANNING**
OFFICER: NICHOLAS CARLTON**PURPOSE**

This report seeks a resolution from Council to initiate a planning proposal to reclassify a portion of Council-owned land at 28 Hynds Road, Box Hill from “community” to “operational” and to forward the planning proposal to the Department of Planning and Environment for Gateway Determination.

**RECOMMENDATION**

A planning proposal be forwarded to the Department of Planning and Environment for Gateway Determination to amend State Environmental Planning Policy (Precincts – Central River City) 2021, to reclassify a portion of 28 Hynds Road, Box Hill (Lot 2 DP 621465) from ‘community’ to ‘operational’, in accordance with the Local Government Act 1993.

IMPACTS**Financial**

This matter has no direct financial impact upon Council's adopted budget or forward estimates. Any proceeds from the potential sale of the land would be accounted for as contributions income under Contribution Plan No.15 – Box Hill, to be applied towards other infrastructure items identified under the Contributions Plan.

Strategic Plan - Hills Future

The reclassification supports the aims of Council's Community Strategic Plan including the provision of new infrastructure to meet the needs of a growing community. The proposal will assist in delivering a local road link, as anticipated under the Precincts SEPP and the Box Hill Growth Centres Precincts DCP. The delivery of the local road link will enhance accessibility within the Box Hill Precinct.

LINK TO HILLS SHIRE PLAN**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.

Outcomes:

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

LEGISLATIVE CONTEXT

The legislative framework for Planning Proposals, which make and amend environmental planning instruments, is established within Part 3, Division 3.4 of the Environmental Planning and Assessment Act 1979 (Clauses 3.31 to 3.37). As part of a future Council report, Council will consider whether to initiate and subsequently submit a planning proposal to the Department of Planning and Environment in accordance with Section 3.34 of the Act, that would amend State Environmental Planning Policy (Precincts – Central River City) 2021.

Additional legislative framework for reclassification of land is established within Part 2 Division 1 of the Local Government Act 1993. Council does not have the power to sell, exchange or otherwise dispose of community land under section 45 of the Act. As part of a future Council report, Council will consider whether to initiate an amendment to reclassify 'community' land to 'operational', under Section 30 of the Act.

PROPONENT

Council Initiated

OWNERS

The Hills Shire Council

1. THE SITE

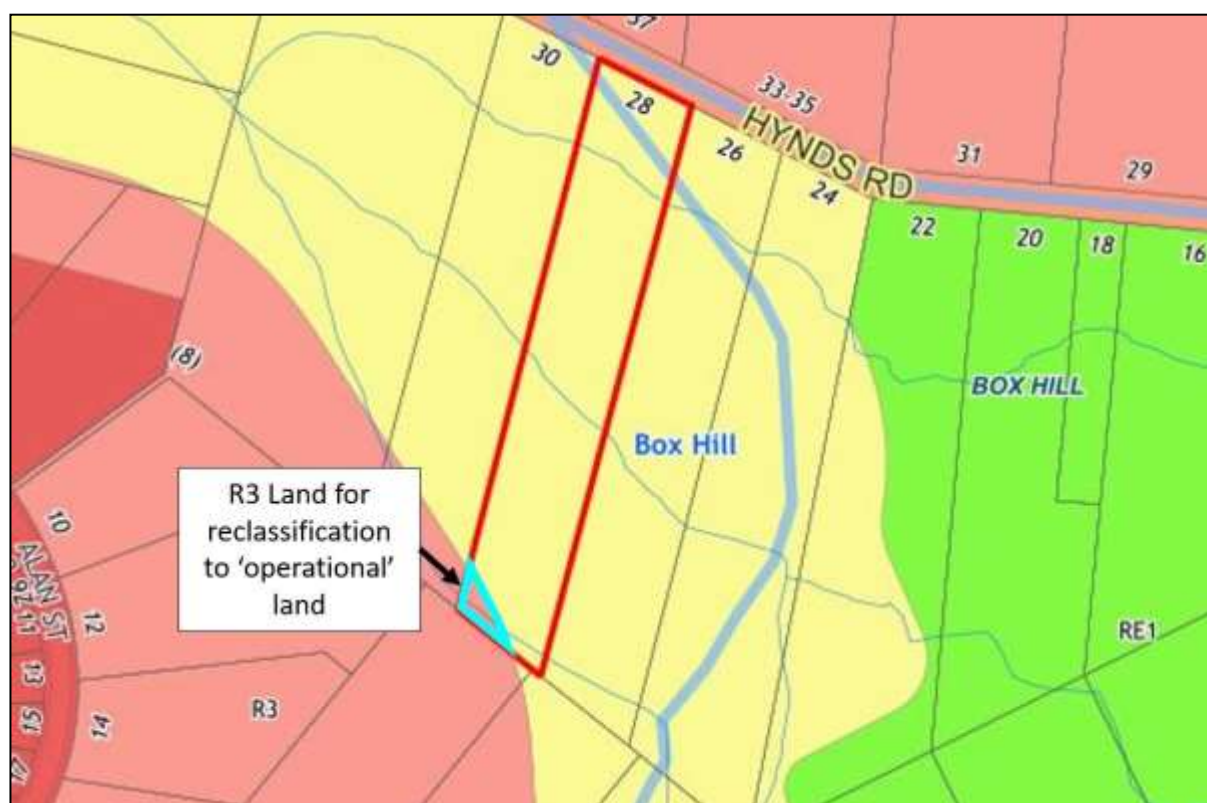
The subject property is known as Lot 2 DP 621465, 28 Hynds Road, Box Hill. It has a total area of 20,230m² and forms part of a large future drainage reserve on Hynds Road. The immediate site context is depicted in the figure below.

**Figure 1**

Aerial of subject site and surrounding locality

The majority of the lot is zoned SP2 Local Drainage, for acquisition by Council for future drainage infrastructure. However a small portion of the site (487m²) is zoned R3 Medium Density Residential (outlined in blue in Figure 2 below). The parcel was acquired by Council in May 2016. At the time of purchase, the entire lot was acquired (both the SP2 and R3 land) and was classified as 'community' land under the Local Government Act 1993. Classification as 'community' land requires the lot be reserved for a public purpose which is to be specified in a Council plan of management. The lot forms part of the Hynds Road Drainage Reserve under the Council's Parkland Management Plan, although this was not the intended development outcome for this portion of land.

It is noted that Council's current practice is to classify the land as 'operational' following the acquisition process, to avoid this issue occurring in the future. Public land would then be classified as 'community' land, once the relevant infrastructure works have been completed on that land (for example, completion of a new park or construction of a drainage basin). However, there remains some historical instances where this did not occur and where reclassification proposals are therefore required in order for Council to dispose of surplus developable land that was acquired as a result of whole-lot acquisitions.

**Figure 2**

Subject site (red) zoning and portion of land to be reclassified (blue)

The Indicative Layout Plan within the Box Hill Growth Centres Precinct DCP envisages a new local road link over the R3 zoned portion of the land.

**Figure 3**

Indicative Layout Plan from Box Hill DCP (subject site outlined in red)

2. PLANNING PROPOSAL

The owner of the adjoining property to the south at 793 Windsor Road, Box Hill has approached Council and expressed an interest in purchasing this R3 portion of the site to enable the construction of the road link, as part of their development of the land to the south.

Land classified as 'community' land is unable to be sold or transferred by Council under the requirements of the Local Government Act 1993. Reclassification of the land would allow for Council to proceed with negotiations for the sale of this land to the adjoining landowner, facilitating the construction of the local road and orderly development outcomes.

This portion of land is not required to form part of the drainage basin acquired by Council, nor was it intended to under the planning framework. This portion of land is zoned R3 Medium Density Residential and the Indicative Layout Plan within the Box Hill Growth Centres Precinct DCP envisages this part of the land forming part of a new local road link. This is indicated in Figure 3 above, being the extract of the Box Hill DCP Indicative Layout Plan.

It is therefore recommended that Council commence the process of reclassifying the R3 portion of the site from 'community' to 'operational' (being the area outlined in blue in Figure 2 above). The planning proposal would amend the Land Reclassification Part Lots Map within the Precincts – Central River City SEPP to show the R3 portion of the site as "operational". The proposed map amendment is shown in the figure below.

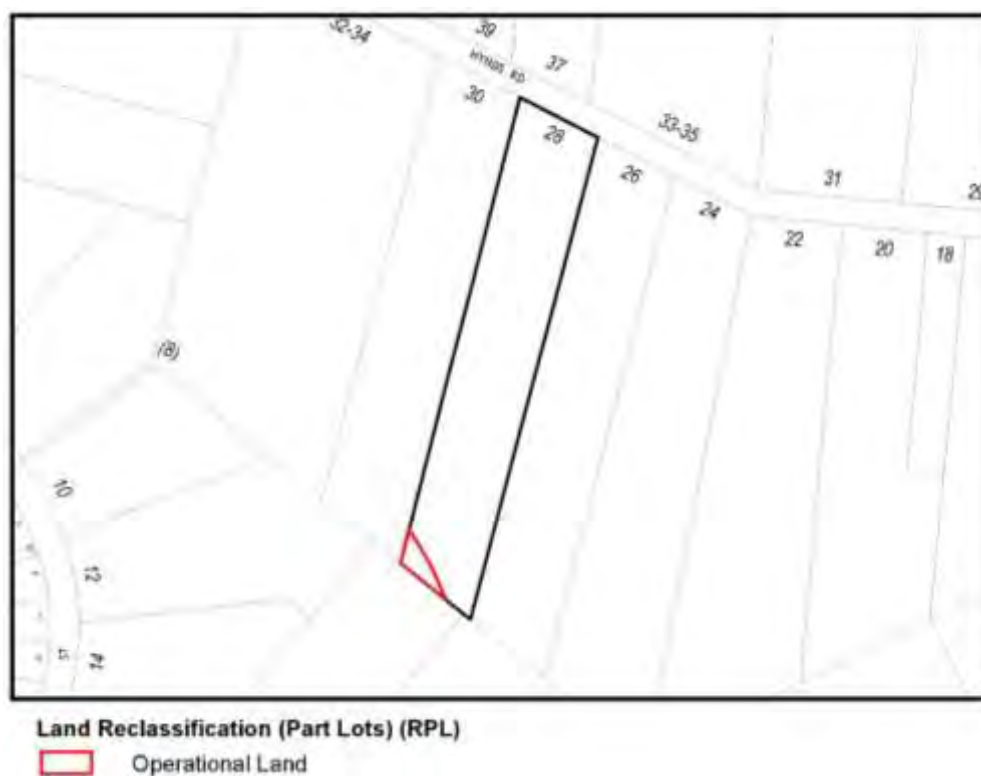


Figure 4

Proposed Land Reclassification – Part Lots Map under SEPP Precincts – Central River City

3. ADJOINING LAND DEVELOPMENT AND NEGOTIATIONS

Land classified as 'community' is unable to be sold or transferred by Council under the requirements of the Local Government Act 1993. The 'community' land classification is therefore inhibiting orderly development outcomes within the Box Hill Precinct and preventing the delivery

of the planned local road link at this location, to service future residential development. The planned road link will improve accessibility within the Box Hill precinct for future residents.

The owner of the adjoining site (793 Windsor Road, Box Hill) has expressed an interest in purchasing this portion of the site to facilitate the road link and commenced negotiations with Council. The future sale of the site would be subject to a separate and future decision by Council, following completion of the reclassification process. If the land is reclassified and any sale was to occur, this would result in income to Council which would be accounted for as contributions income under Contribution Plan No.15 – Box Hill, to be applied towards other infrastructure items identified under the Contributions Plan.

If the sale of the land was to not proceed, Council would be unable to develop this land for any other purpose and it would potentially be obligated to construct this portion of the local road network in order to facilitate orderly development. It is preferable for this length of the local road network to be constructed by the adjacent developer, at their cost as part of the subdivision for at 793 Windsor Road, Box Hill and 12 Alan Street, Box Hill.

4. RECLASSIFICATION PROCESS

All public land owned by Council is classified as either ‘community’ or ‘operational’, which sets the rights and responsibilities of Council in dealing with that land and provides transparency in Council’s strategic asset management. ‘Community’ land cannot be sold, exchanged or otherwise disposed of. Reclassification of a portion of the subject property is therefore required in order to facilitate the sale of the land and the subsequent construction of the local road link by the adjoining landowner.

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 PN16-001 issued by the Department of Planning and Environment (October 2016).

The mechanism to reclassify land is through a planning proposal to amend the State Environmental Planning Policy (Precincts – Central River City) 2021. This process requires submission of a planning proposal to the Department of Planning and Environment for Gateway Determination, followed by a public exhibition period and a subsequent independently chaired public hearing.

Under the Ministerial Direction *Local Planning Panel Direction – Planning Proposals (2018)*, planning proposals are required to be referred to the Local Planning Proposal (LPP) for advice, unless the General Manager determines that the planning panel 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 subject planning proposal meets the above criteria and therefore would not be required to be forwarded to the LPP for advice prior to submitting the application for Gateway Determination. Specifically, the planning proposal would:

- a) Correct an error, whereby the portion of 28 Hynds Road, Box Hill which is zoned R3 Medium Density Residential was classified as ‘community land’ in error at the time of purchase by Council.

- b) Be minor in nature, as it relates to a small portion of land and seeks to ensure the outcomes articulated under the current planning framework, being the construction of a local road, can be delivered; and
- c) Will not have any adverse impact on the environment or adjoining land. Rather, it would facilitate a benefit to the adjoining land with respect to resolving orderly development issues and would provide a broader benefit to the Box Hill Precinct through the establishment of the new local road network. The construction of this road and subdivision of the adjacent properties would be subject to a separate development assessment process.

CONCLUSION

The reclassification of the portion of R3 Medium Density Residential zoned land at 28 Hynds Road, Box Hill (Lot 2 DP 621465) from 'community' to 'operational' will enable the potential sale of the land and resolve orderly development issues. The reclassification and potential sale of the land to the adjacent development would allow for the construction of a planned local road link, as envisaged under the planning framework for the Box Hill Precinct, at no cost to Council of the community. The reclassification will not have any adverse impact on the environment or adjoining land. The planning proposal is considered to be in the public interest, promoting orderly development outcomes for the adjoining properties and assisting in the completion of the road network for the wider Box Hill neighbourhood.

ATTACHMENTS

Nil