

ITEM 2	PLANNING PROPOSAL, DRAFT DEVELOPMENT CONTROL PLAN AMENDMENTS AND DRAFT VOLUNTARY PLANNING AGREEMENT – 48 TERRY ROAD, BOX HILL (2/2024/PLP)
THEME:	SHAPING GROWTH
MEETING DATE:	14 May 2024
	COUNCIL MEETING
GROUP:	SHIRE STRATEGY
	TOWN PLANNER
AUTHOR:	CATHY CHUNG
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING NICHOLAS CARLTON

PURPOSE

The planning proposal for land at 48 Terry Road, Box Hill is being reported to Council for a decision on whether to progress the planning proposal to Gateway Determination. Draft Development Control Plan amendments and a draft Voluntary Planning Agreement (VPA) Letter of Offer are also provided for Council’s consideration and a decision on whether to support the VPA Offer (in-principle) and concurrently exhibit these supporting documents with the planning proposal, should a Gateway Determination be issued.



RECOMMENDATION

1. Recognising the clear position of School Infrastructure NSW that the NSW Government will no longer be acquiring the land at 48 Terry Road, Box Hill for the purpose of a school, the planning proposal proceed to Gateway Determination, subject to the inclusion of a local provision which limits the density of future development on the site to a maximum of 30 dwellings per hectare.
2. Draft amendments to the Box Hill Development Control Plan 2018 (Attachment 3) be publicly exhibited concurrent with the planning proposal.
3. Council accept, in principle, the draft VPA Letter of Offer (Attachment 5). A draft VPA consistent with the terms of the Offer be prepared and be subject to legal review (at the cost of Proponent), updated in accordance with the recommendations of the legal review

and subsequently placed on public exhibition concurrent with the planning proposal and draft Development Control Plan.

IMPACTS

Financial

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

The planning proposal is accompanied by a draft VPA Letter of Offer which would ensure fair and reasonable development contributions are made in association with future development on the site. In addition to the payment of contributions under Contributions Plan No.15 – Box Hill Precinct (CP15), the VPA Offer proposes capital works and land dedication for the future half width road on the northern boundary of the site. This is a new road proposed as part of the planning proposal that is not currently identified or funded under Contributions Plan No. 15 – Box Hill Precinct (CP15) but which would be required as a result of the rezoning. It also proposes the dedication of 322m² of land along the Terry Road frontage of the site which is not currently identified as being required for road widening in either the Box Hill DCP or CP15, however will be required to facilitate the signalisation of the nearby intersection of Terry Road / Keenland Street, Box Hill.

Collectively, the contributions that would be secured through the VPA represent a reasonable offer and critically, they ensure that in addition to the contributions payable under CP15, the rezoning would not create any additional local infrastructure cost burdens for Council and the community that are not currently identified under CP15.

Strategic Plan - Hills Future

The planning proposal will facilitate the delivery of additional medium density housing to support the Shire's housing needs. The implementation of a maximum density control will also ensure that future development on the site provides a medium density outcome and is generally reflective of the development concepts put forward by the Proponent. The supporting DCP amendments will ensure that future development provides suitable access arrangements and a high level of amenity for future residents.

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). This report seeks a decision of Council as to whether to submit the planning proposal to the Department of Planning, Housing and Infrastructure in accordance with Section 3.34 of the Act, that would amend State Environmental Planning Policy (Precincts – Central River City) 2021.

The legislative framework for DCPs is established within Part 3 Division 3.6 of the *Environmental Planning Assessment Act 1979* (Clauses 3.41 to 3.46). Part 2 Division 2 (Clauses 12 to 21) of the *Environmental Planning and Assessment Regulation 2021* provides further requirements relating to the forming, amending or repealing, and revocation of DCPs. This report seeks a decision of Council as to whether to support amendments to the Box Hill DCP to reflect the revised development outcomes for the site as a result of the planning proposal.

The legislative framework for Planning Agreements (also known as 'VPAs') is established within Part 7, Division 7.1, Subdivision 2 of the *Environmental Planning and Assessment Act 1979* (Clauses 7.3 to 7.10). The *Environmental Planning and Assessment Regulation 2021* includes further requirements relating to the making, amending and revocation of planning agreements, public notice and procedural requirements within Part 9, Division 1 (Clauses 202 to 206). This report seeks a decision of Council as to whether to support (in-principle) the draft VPA Offer submitted in support of the planning proposal.

PROPONENT

Effective Building & Consultancy

OWNER

Seatop Holdings Pty Ltd

POLITICAL DONATIONS

Nil disclosed by the Proponent

EXECUTIVE SUMMARY

In October 2023, a planning proposal was lodged to rezone part of the site (approximately 2.9 hectares) from SP2 Infrastructure to R3 Medium Density Residential and amend the corresponding height of building and residential density maps, consistent with the adjoining residential land.

The planning proposal is the result of advice to the landowner and Council from School Infrastructure NSW (SINSW) that the NSW Government will no longer be acquiring this parcel of land for the purpose of a school, as identified in through the Precinct Planning for the Box Hill Precinct. The Government will now only be acquiring the 2 adjoining properties to the north (at 50 and 52 Terry Road) rather than all 3 properties at 48-52 Terry Road as originally planned.

Council officers have raised objection to SINSW's position since December 2019 and remain unconvinced that the Government's decision to relinquish acquisition of the land at 48 Terry Road and reduce the area of land identified for a new school at this location represents prudent strategic planning, given the higher than anticipated residential yields which are being achieved within the Box Hill Precinct and difficulty already being experienced by Government in providing sufficient education infrastructure in line with growth. Council also wrote to the Minister for Education in November 2023, requesting reconsideration of the matter and evidence from SINSW demonstrating that the land is no longer required for a school. No response has been received at this time.

Notwithstanding these objections from Council, SINSW has unequivocally reiterated that the Government will no longer be acquiring the subject land for the purpose of a school as originally planned. The Department of Planning, Housing and Infrastructure has also written to Council and requested that it amend the planning framework accordingly to reflect this. In recognition of

this and the untenable situation this decision of Government puts the landowner in, this report recommends that the planning proposal proceed to Gateway Determination to amend State Environmental Planning Policy (Precincts – Central River City) 2021 to:

- Rezone the eastern portion of the site from SP2 Infrastructure to R3 Medium Density Residential;
- Amend the Height of Buildings map to introduce a maximum building height of 14 metres for the R3 zoned land;
- Amend the Residential Density map to introduce a minimum density of 18 dwellings per hectare for the R3 zoned land; and
- Introduce a new local provision to limit the density for the R3 zoned land to a maximum of 30 dwellings per hectare.

It is noted that the inclusion of a maximum density provision of 30 dwelling per hectare has not been requested by the Proponent, nor does the Proponent support this element of the Council officer's recommendation. This matter has been discussed between the parties and it remains the view of Council officers that the inclusion of a maximum density provision is reasonable and generally consistent with the maximum density that is expected to be achieved in areas zoned R3 Medium Density Residential throughout the remainder of the precinct. This proposed density limitation will ensure that an appropriate maximum yield for the site is achieved which is generally aligned with the yield outcomes depicted in the Proponent's indicative concepts, with a reasonable amount of flexibility still available for the Proponent to refine the development outcomes as part of the future detailed design and development application process. It also recognises the constraints to any further density beyond this on the site arising from its unique location between two future schools and the significant areas of land required to accommodate a new road layout for an urban subdivision, rather than the formerly identified use of the site as a school.

Supporting amendments to the Box Hill DCP will adjust the Indicative Layout Plan for the Precinct to reflect the outcomes sought through the planning proposal, including the revised medium density residential outcome and a new local road on the northern boundary of the site. The amendments will better guide future development applications and ensure that future development provides suitable access arrangements and a high level of amenity for future residents.

The VPA Letter of Offer includes the payment of the full monetary contributions under CP15 as required and calculated at the time of any development consent, in addition to the delivery of newly identified land and capital works associated with development of the site for residential purposes, which are not currently identified or funded under CP15. The contributions represent a fair and reasonable offer and will ensure that no additional local infrastructure cost burdens are created for Council and the community as a result of the rezoning of the site.

HISTORY

4 December 2019	SINSW wrote to Council to advise of its intention to relinquish its acquisition liability over 52 Terry Road (being the northernmost SP2 parcel identified for the school).
11-13 March 2020	Council officers wrote to the Department of Planning, Housing and Infrastructure (Department) and SINSW expressing concern with the reduced land area given the higher than expected population projections for Box Hill, lack of certainty regarding other (non-zoned) school sites on

	the Indicative Layout Plan (ILP) and the ability to configure a school on the remaining Terry Road land due to flooding constraints.
28 April 2020	Meeting held between Council officers and SINSW regarding school infrastructure provision. Council officers sent a follow up email to SINSW reiterating SINSW's previous commitment that it would provide a service needs analysis justifying the proposed reduction in land zoned for school infrastructure in Box Hill to Council for consideration.
6 May 2021	Council wrote to the Minister for Education requesting information on future plans for school infrastructure delivery in Showground, Box Hill and Gables.
23 February 2022	SINSW wrote to the owner of 48 Terry Road advising them of its intention to relinquish its acquisition liability over 48 Terry Road (the southernmost site zoned for the future school). It is understood that SINSW is of the view that the land is no longer necessary and the remaining properties to the north (Nos. 50-52 Terry Road) will be sufficient land area to facilitate the delivery of the school.
23 February 2022	SINSW wrote to Council advising of its intention to relinquish its acquisition liability over 48 Terry Road.
30 September 2022	<p>The Department wrote to Council requesting that Council consider removal of 48 Terry Road from the Land Reservation Map and to consider a suitable alternative zone. The letter also advised that the Department is not able to progress a State-led rezoning for the subject site nor is it likely to meet the tests under Section 3.22 of the Environmental Planning and Assessment Act 1979.</p> <p>As a result, the landowner has instead initiated a planning proposal seeking to remove the school identification and acquisition liability from the land.</p>
4 October 2023	Planning proposal lodged with Council to rezone the SP2 portion of the site to R3 Medium Density Residential and amend corresponding height of building and residential density maps.
7 November 2023	Planning proposal presented to Councillor Workshop by Proponent.
23 November 2023	Council wrote to the Minister for Education requesting reconsideration of the matter or alternatively requesting assistance with obtaining the required evidence from SINSW demonstrating that the land is no longer required for a school. No response has been received at this time.
28 November 2023	<p>Preliminary feedback provided to the Proponent on the Planning Proposal. The letter outlined the following key issues:</p> <ul style="list-style-type: none"> ▪ The need for further consideration of traffic and access arrangements including the potential signalisation of Terry Road / Keeneland Street to provide safe and efficient access including pedestrian access to and from the future school (including associated land dedication along the Terry Road frontage of the site).

- The need for further consideration of a suitable mechanism to address the local infrastructure demand generated by the proposal, in light of the fact that the applicable contributions plan (Contributions Plan No. 15 – Box Hill Precinct) does not anticipated a residential development outcome on the site.

21 February 2024

Planning proposal and draft DCP amendments reported to The Hills Local Planning Panel for advice. The Local Planning Panel advised that:

1. *Recognising the clear position of SINSW that Government will no longer be acquiring the land for the purpose of a school, the planning proposal for 48 Terry Road, Box Hill (Lot 30 DP 10157) demonstrates adequate strategic and site-specific merit to warrant progression to Gateway Determination, subject to the inclusion of a local provision to which limits the number of dwellings on the site to 61 dwellings, reflecting the development concept submitted with the planning proposal.*
2. *A suitable mechanism must be put in place to, at a minimum, ensure that no additional local infrastructure cost burdens are created for Council and the community as a result of the rezoning, including the new proposed local road along the northern boundary of the site and land required to facilitate the upgrading of Terry Road. Further negotiations should also occur with respect to the Proponent's request to use the RE1 Public Recreation land for temporary drainage and other associated public benefits.*
3. *As part of the concurrent amendments to the Box Hill Precinct Development Control Plan with respect to the site, Council consider the inclusion of provisions which require access points for any new lots fronting Terry Road to be from the rear.*

A copy of the advice was provided to the Proponent on 23 February 2024.

1 March 2024

Council officers met with the Proponent to discuss the LPP advice, the rationale for the proposed inclusion of a dwelling cap local provision as recommended by the LPP and concerns raised by the Proponent with respect to this.

6 March 2024

Additional Information submitted by Proponent addressing matters raised within the LPP advice (Attachment 4).

1 May 2024

VPA Letter of Offer submitted by the Proponent. The Offer includes the payment of contributions under Contributions Plan No.15 – Box Hill Precinct in association with future development on the site, capital works and land dedication for the future half width road on the northern boundary of the site and the dedication of 322m² of land along the Terry Road frontage of the site required for future road widening and intersection works.

Land directly to the south of the subject site (40-44 and 46 Terry Road) is also identified for a future school, however this land is not zoned for acquisition by Government and would likely comprise a private school if developed for education purposes in the future. This land is zoned R3 Medium Density Residential however the Indicative Layout Plan for the Box Hill Precinct identifies this land for a school.

The subject site is located to the north of the Box Hill Town Centre (located at the junction of Terry Road and Mason Road) and is predominantly surrounded by medium and low-density residential land. There is also an overland flow path traversing the site.



Figure 2
Aerial of subject site and surrounding locality

2. DESCRIPTION OF PLANNING PROPOSAL AND SUPPORTING PLANS

The planning proposal seeks to rezone the SP2 portion of the site (approximately 2.9 hectares) to R3 Medium Density Residential and amend the corresponding mapping for height and density, consistent with the adjoining R3 Medium Density Residential land. No changes are proposed for the western part of the site zoned RE1 Public Recreation (approximately 1.4 hectares).

The planning proposal seeks to amend the planning controls under State Environmental Planning Policy (Precincts – Central River City) 2021 as shown in Table 1 below. The table includes the standards as originally submitted by the Proponent compared with the standards and controls recommended as part of this report (the difference between the Proponent's submission and Council officer recommendation is the inclusion of a local provision relating to maximum density):

Planning Control	Existing	Proposed (Proponent)	Proposed (Council Officer Recommendation)
Land Zoning	SP2 Infrastructure (School)	R3 Medium Density Residential	R3 Medium Density Residential
Height of Buildings	n/a	14 metres	14 metres
Residential Density	n/a	Min. 18 dw/ha	Min. 18 dw/ha
Land Reservation Acquisition	Identified for acquisition by the Minister for Education and Early Learning	n/a	n/a
Local Provision (maximum density)	n/a	n/a	Max. 30 dwellings per hectare

Table 1
Existing and Proposed SEPP Standards and Controls

Existing and proposed SEPP map amendments are shown in the following figures.

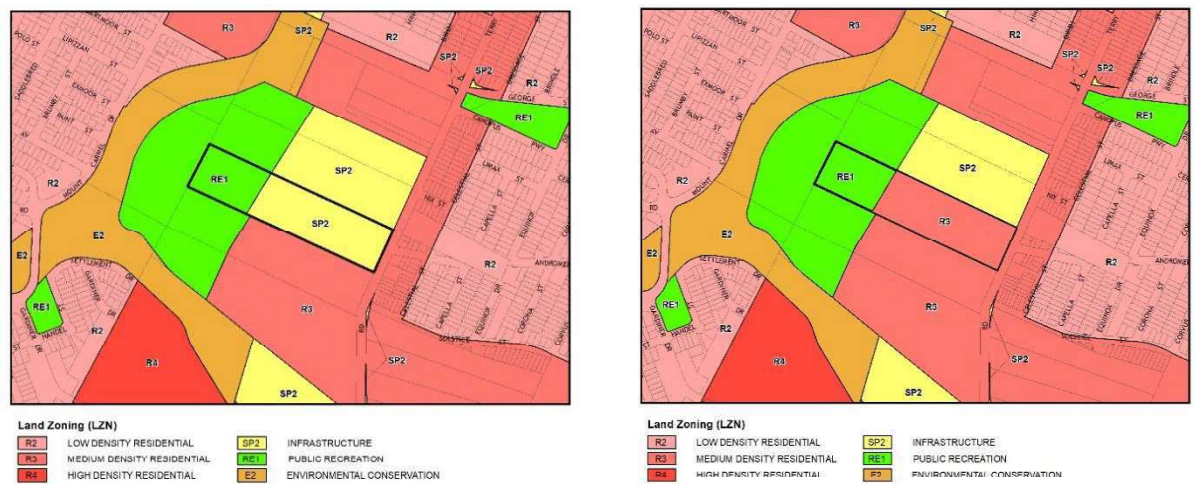


Figure 3
Land Zoning Map – Existing (left) and Proposed (right)



Figure 4
Height of Buildings Map – Existing (left) and Proposed (right)

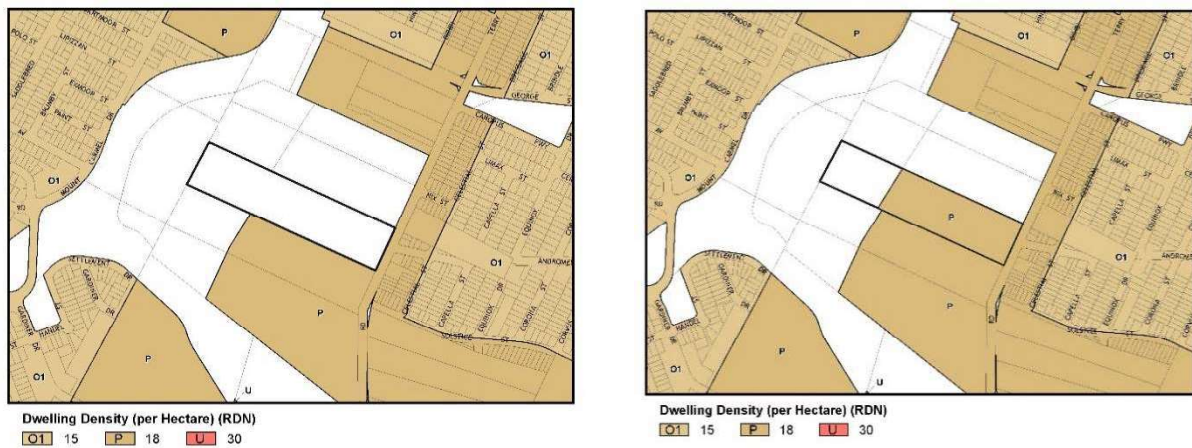


Figure 5
Residential Density Map – Existing (left) and Proposed (right)

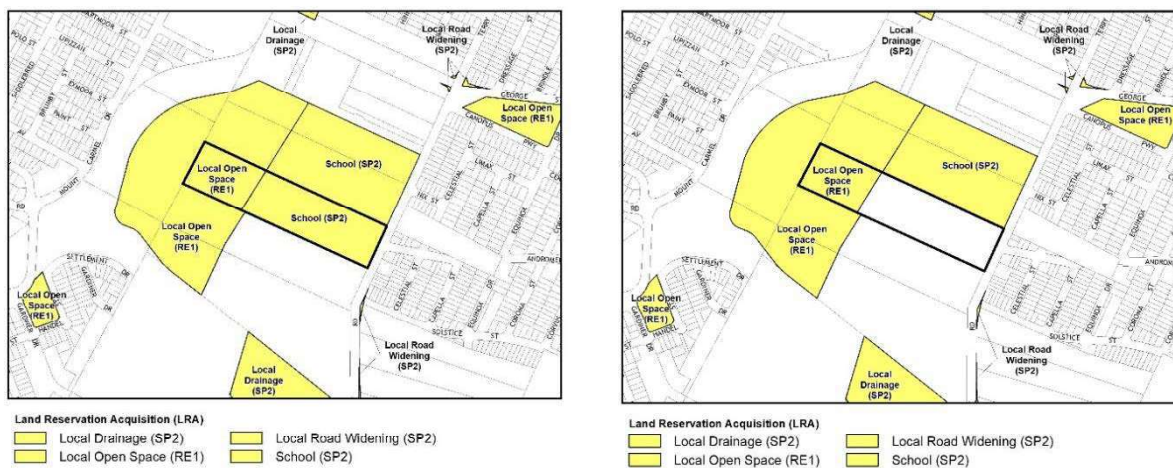


Figure 6
Land Reservation Acquisition Map – Existing (left) and Proposed (right)

Two concepts submitted by the Proponent indicate a potential development yield of between 58 to 61 lots or dwellings on the site, with lot size in between 225m² to 526m², as shown below.

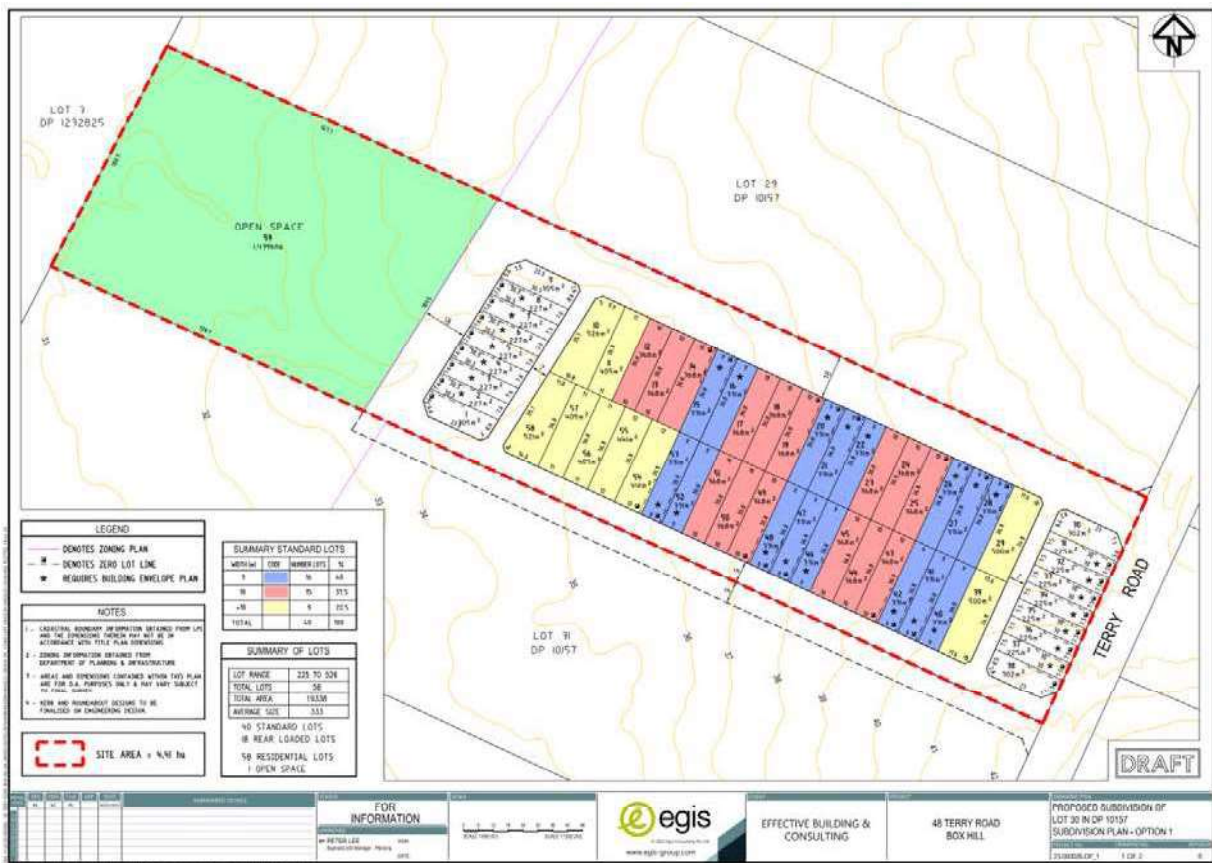


Figure 7
Development concept (Option 1: 58 residential lots and one open space)

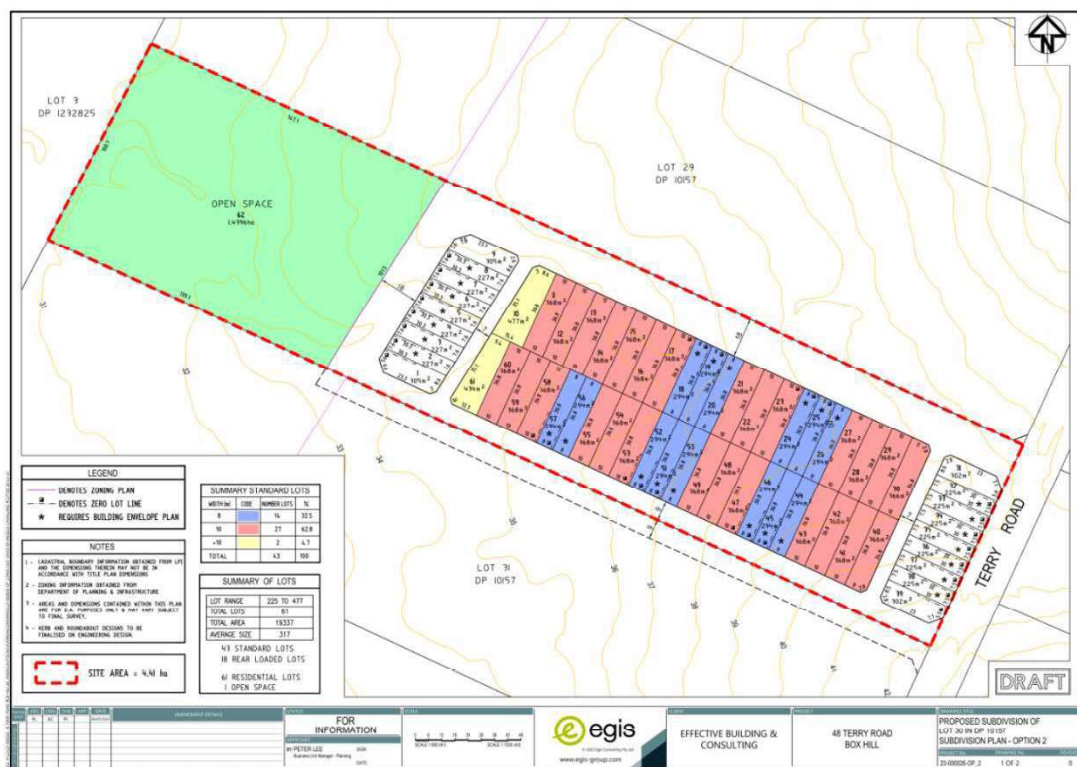


Figure 8
Development concept (Option 2: 61 residential lots and one open space)

It is noted that this planning proposal application relates to the land use zoning and planning controls that will apply to the land. The planning proposal does not approve a specific development concept and the final development outcome would be subject to further detailed design as part of a future development application.

Development Control Plan Amendments

The planning proposal is supported by amendments to the Box Hill DCP to identify the subject site as 'Medium Density Residential', include a new local road on the northern boundary under Section 2.2 – Indicative Layout Plan and amend the character area and road network maps to reflect the proposed outcomes (Figures 3 and 14 of the DCP). The draft amendments are shown within Attachment 3 and the existing and draft Indicative Layout Plan for the site is shown in the following figure.



Figure 9

Proposed changes to the Box Hill and Box Hill Industrial ILP - Existing (left) and proposed (right)

Voluntary Planning Agreement

Negotiations with respect to a suitable mechanism to address the local infrastructure demand were undertaken between Council officers and the Proponent between February and May 2024. These negotiations culminated in the Proponent submitting a formal VPA Letter of Offer on 1 May 2024 which includes the following:

- The VPA would *not* exempt the development from payment of the full monetary contributions payable under Contributions Plan No. 15 – Box Hill Precinct (CP15), calculated as normal at the time of any future development consent.
- Capital works and land dedication for the future half width road on the northern boundary of the site adjoining the future northern school site. This would be in addition to the half-width of the road adjoining their development site which would already be their responsibility as part of orderly development of the land. This is a new road proposed as part of the planning proposal which is not currently identified or funded under CP15 but would arise as a result of the rezoning.

- Dedication of 322m² of land along the Terry Road frontage of the site. This land is not currently identified as being required for road widening in either the Box Hill DCP or CP15. However, as part of Council's internal assessment of the planning proposal, it has been identified that the land would be necessary to facilitate traffic signals at the intersection of Terry Road and Keenland Street, to provide a safe crossing point for pedestrians including students attending the future public school.

3. LOCAL PLANNING PANEL ADVICE

The Local Planning Panel considered the proposal on 21 February 2024 and provided the following advice for Council's consideration:

1. *Recognising the clear position of SINSW that Government will no longer be acquiring the land for the purpose of a school, the planning proposal for 48 Terry Road, Box Hill (Lot 30 DP 10157) demonstrates adequate strategic and site-specific merit to warrant progression to Gateway Determination, subject to the inclusion of a local provision to which limits the number of dwellings on the site to 61 dwellings, reflecting the development concept submitted with the planning proposal.*
2. *A suitable mechanism must be put in place to, at a minimum, ensure that no additional local infrastructure cost burdens are created for Council and the community as a result of the rezoning, including the new proposed local road along the northern boundary of the site and land required to facilitate the upgrading of Terry Road. Further negotiations should also occur with respect to the Proponent's request to use the RE1 Public Recreation land for temporary drainage and other associated public benefits.*
3. *As part of the concurrent amendments to the Box Hill Precinct Development Control Plan with respect to the site, Council consider the inclusion of provisions which require access points for any new lots fronting Terry Road to be from the rear.*

A copy of the Council Officer's Assessment Report to the Local Planning Panel is provided as Attachment 1 to this report. The Local Planning Panel's advice is provided as Attachment 2.

Following the receipt of the Local Planning Panel's advice, Council officers met with the Proponent to discuss the proposal and the Proponent then submitted additional information comprising:

- A letter objecting to the imposition of a maximum dwelling cap as recommended within Item 1 of the LPP's advice (provided as Attachment 4); and
- A VPA Letter of Offer, addressing Item 2 within the LPP's advice (Attachment 5).

4. MATTERS FOR CONSIDERATION

A full technical assessment of the proposal is contained within the Council Officer Assessment Report to the Local Planning Panel, provided as Attachment 1 to this report. A summary and discussion of key considerations associated with the planning proposal, including consideration of the further information submitted by the Proponent following receipt of the LPP's advice, is provided below.

Key Consideration	Comment
Strategic Context	<p>The proposal will reduce the extent of land identified for school infrastructure within Box Hill. However, SINSW has indicated that they will no longer be acquiring this parcel and the adjoining SP2 zoned land at 50-52 Terry Road (with an area of nearly 5 hectares) will be sufficient to deliver the necessary school infrastructure to service growth within precinct. Council officers have requested information and justification to support this position, including confirmation that SINSW's service needs analysis takes into account the most current population projections for the Precinct. This information has not been provided at this time, however SINSW (as the relevant authority for acquisition of the land) has unequivocally advised that they will no longer be acquiring this parcel of land. The Department has also requested that Council amend the planning framework to reflect this decision of SINSW.</p> <p>While Council officers remain unconvinced by SINSW's position to relinquish acquisition of this property, it is nonetheless a change in circumstances as a result of the position of SINSW, that Council is unable to directly control.</p> <p>On the basis that there is no longer an authority willing to acquire this land, it would be reasonable to enable the rezoning of the site to an alternative zoning that has a viable development outcome for the landowner. In this respect and in the selection of an appropriate alternative zoning, the application of the R3 Medium Density Residential zone as proposed is consistent with broad strategic policy objectives relating to the delivery of diverse and well-located housing.</p> <p>Should the proposal proceed to Gateway Determination, SINSW should again be requested to provide evidence for consideration by both Council and the community that the most up-to-date population figures for Box Hill are being utilised and that the remaining land (being 50 and 52 Terry Road as well as other identified public school sites within the Precinct) will be sufficient to accommodate the necessary demand generated by existing and future residents of the precinct. This may occur as part of the public authority consultation process, should a Gateway Determination be issued.</p> <p>Council's LSPS notes that Council will advocate for the implementation of maximum density controls across residential areas in Box Hill Precinct to respond to an identified disconnect between anticipated yields occurring on land and the scale of development ultimately being delivered (being significant greater density than anticipated). While the Government had previously exhibited maximum density standards for the growth centre precincts, these were not subsequently finalised.</p> <p>In order to provide certainty to the community and ensure that the final outcome on this site generally reflects the intended development outcome submitted as part of the planning proposal and the appropriate density expected for R3 Medium Density Residential land in Box Hill, it is recommended that a maximum density of 30 dwellings per hectare be applied via a local provision. This is further discussed in further detail in the Density and Built Form section.</p>

Stormwater and Flooding	<p>The subject site is identified as a flood control lot under The Hills DCP 2012 and flood affected land in the Box Hill Growth Centre Precincts DCP. Development of the land for residential subdivision will also generate an increased volume of runoff. Flooding and Stormwater information submitted with the proposal conclude that the proposed future development is unlikely to have unacceptable flooding impacts, subject to the implementation of localised works to address runoff and water quality including:</p> <ul style="list-style-type: none"> ▪ replacement of the existing farm dam with new temporary detention or raingarden basin to attenuate the stormwater runoff from the subject site and the properties immediately adjacent to the site; and ▪ basins to filter stormwater runoff from the proposed development to meet water quality pollution reduction targets. <p>Any future development application would need to include a site-specific flood study which demonstrates that:</p> <ul style="list-style-type: none"> ▪ The development will not result in the increase in flood levels and flow velocities in the neighbouring properties, including the future Sunny Hill Parkway Sports Complex, due to alterations to flood conveyance, including the effect of fences and ground reshaping. ▪ Flood mapping, including flood inundation extents, hazard mapping and flood planning areas are established. ▪ Finished floor levels (FFL) of the habitable areas of affected dwellings are set at least 0.5m above the 1% AEP flood level. <p>Prior to undertaking a flood study, the applicant's consultant should liaise with Council regarding the modelling approach and parameters.</p> <p>It is considered that the proposal is sufficient to proceed to Gateway Determination based on the flooding and stormwater information submitted. A number of matters will however need to be further addressed as part of any future development application. DPHI may also require updated flood analysis that includes an assessment against the Flood Risk Management Manual 2023 in order to technically satisfy the determination of consistency with Direction 4.1 Flooding. This matter would be further considered as part of the Gateway Determination process.</p> <p>Should the planning proposal proceed, the following matters would ultimately need to be resolved by the Proponent before any development could occur.</p> <p><u>Overland Flow Path</u></p> <p>Based on the Proponent's concept subdivision plans, most of the proposed dwellings are to be built where the existing overland flow path is currently located. As such, the proposed development will inevitably require filling of the overland flow path. The Box Hill DCP acknowledges that the filling of flood affected land will be required to facilitate the urban development of the Precinct.</p>
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It is noted that the location of the local sag in Terry Road has been shifted southward from the junction of Terry Road/ Andromeda Parkway to the future junction of Terry Road/ Sunny Hill Parkway. The trunk drainage system will be required to convey both piped and overland flows. The piped component of the trunk drainage system will need to have a 5% AEP conveyance capacity at a minimum and will ideally be incorporated in the design of Sunny Hill Parkway. This will ensure that flows in excess of the pipe capacity will occur as overland flows within the road corridor.

As part of new residential development to the east of Terry Road (Development Applications 283/2022/ZA and 525/2020/ZA), a new outlet structure was built near the old sag of Terry Road. If the trunk drainage system is to be rerouted along the subject site's southern boundary (future Sunny Hill Parkway), modification works will be required to the existing outlet structure to suit the pipe alignment along Sunny Hill Parkway. The location of stormwater trunk drainage system that will need to service the subject site and external catchments is shown below.

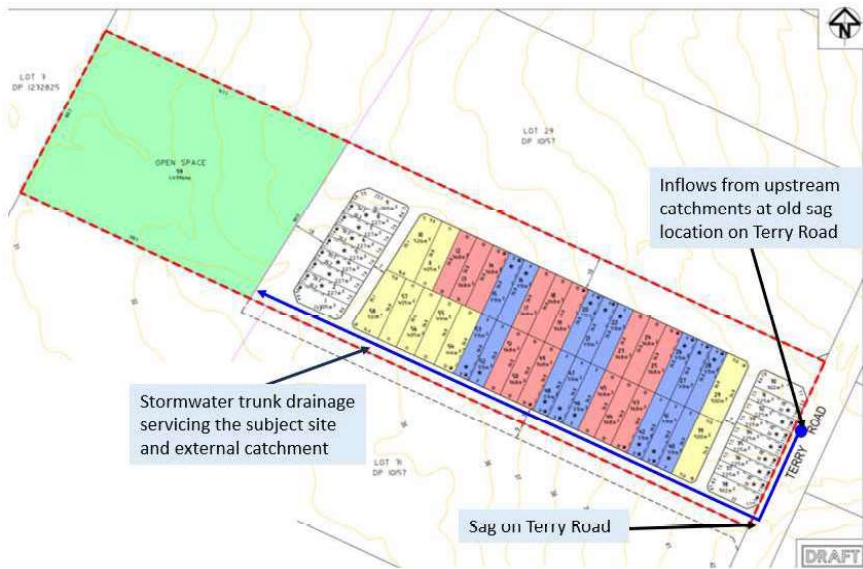
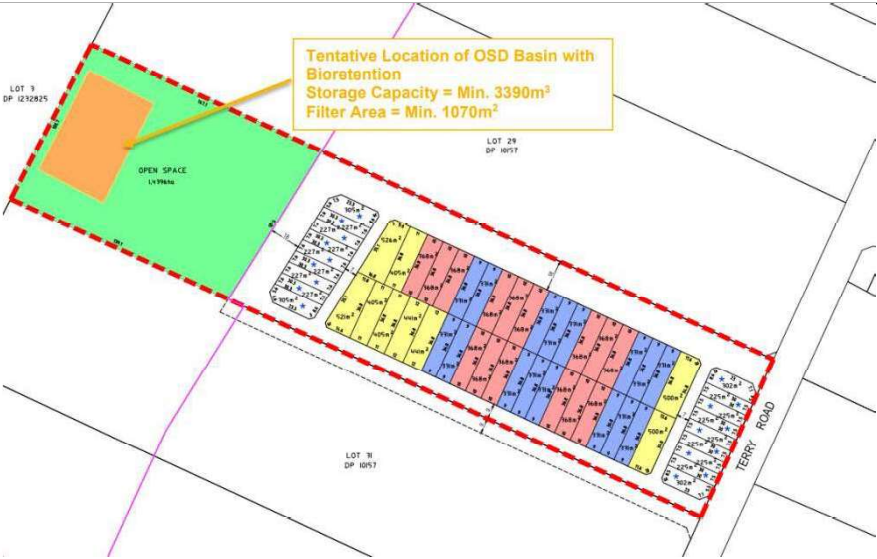


Figure 10
Stormwater trunk drainage system servicing the subject site and external catchments

Temporary Water Detention

There is an existing farm dam on the site which has been registered as a drainage easement to provide detention for stormwater runoff from the external catchment. The existing dam has been modified to improve active flood storage. As part of the redevelopment of the site the associated works will include road construction, earthworks and filling of the existing dam which will affect drainage management from adjoining subdivisions. In recognition of this, the proposal identifies that it will be necessary to provide a new temporary stormwater treatment and detention basin. The application identifies that the installation of a new Basin will attenuate peak flow for the rainfall event ranging from 2-year to 100-year ARI. The proposal identifies a temporary basin on the future open space zoned land as shown below.

	<div></div> <p>Figure 11 Proponent's Tentative Location of Temporary OSD Basin with Bioretention</p> <p>It is anticipated that the Sunny Hill Parkway Sporting Complex will contain a wetland/ raingarden and detention basin which will address water quality and quantity treatment. However, the delivery of this facility is a number of years away and it is likely that redevelopment of the subject site will occur prior to the delivery of this facility. Accordingly, localised site works will be required as part of the redevelopment of the site to address water quality and quantity treatment.</p> <p>The provision of temporary detention basins on RE1 zoned land to satisfy water quality and quantity treatment for an adjoining subdivision would not be supported, as it could impact on the operation and ability to use the site for future open space and may potentially result in increased cost for Council as part of the future embellishment of the site. Rather, it is generally required that each development must include a temporary basin within the development on proposed lots. Once the regional basin system is completed, the temporary basis will no longer be required and the Developer can then convert these interim storage areas to residential lots.</p> <p>Negotiations have commenced between Council and the landowner for Council to acquire the zoned RE1 land and as such, it is expected that the developable area of the site (proposed R3 zoned land) will need to cater for a temporary basin without reliance on the adjoining open space land. An alternative location will need to be considered as part of any future development application for the site.</p>
Traffic and Transport	<p>As the proposal is immediately adjacent to two future schools (on both the northern and southern boundaries), a key consideration is ensuring that the road network is designed to facilitate safe and efficient vehicular and pedestrian movements within the area.</p> <p>The proposal is supported by draft DCP amendments which propose a new local road on the northern boundary of the site, resulting in a perimeter road around the subdivision and along the boundary of each school site. It is considered that the new road along the northern</p>

	<p>boundary, in conjunction with existing identified roads on the western and southern boundaries, will facilitate suitable access and permeability for future development on the site and the adjoining schools.</p> <p>Since the lodgement of the planning proposal, further investigation has been undertaken on the operation of Terry Road which is to be upgraded to sub-arterial standard and will continue to carry higher volumes of traffic as the area continues to develop. As part of this investigation, it has been identified that the proposed access points from the subject site onto Terry Road will likely need to be limited to 'left-in left-out' only, due to the need for a concrete median along the centre of Terry Road.</p> <p>Traffic signals are also likely to be required at the intersection of Keeneland Street (which will run along the northern side of 52 Terry Road) and Terry Road to provide a safe crossing point for pedestrians including students attending the future public school. In order to facilitate the upgrade of Terry Road including the signalisation of Terry Road / Keeneland Street, around 322m² of road widening will be required from the frontage of the site (the Proponent has offered to dedicate this required land to Council, at no cost, discussed further below).</p> <p>Notwithstanding these required arrangements, vehicles from 48 Terry Road will still be able to make a right turn onto Terry Road (and head southbound to Windsor Road) via Keeneland Street to the north, once the section of Sunny Hill Parkway between 48 Terry Road and Keeneland Street (along the boundary between the school sites and Sunny Hill Parkway Sports Complex behind) has been constructed.</p> <p>The Hills Local Planning Panel considered the proposal in February 2024 and concluded that it demonstrated sufficient strategic and site-specific merit to warrant progression to Gateway Determination, however suggested that consideration be given to restricting access for lots fronting Terry Road to rear-loaded only. Whilst the intent of this recommendation is acknowledged, the remainder of Terry Road is not currently subject to similar access restrictions. However, most properties will be limited to left-in and left-out movements when the road is upgraded to its ultimate configuration. It is not considered reasonable to impose a no-access restriction for this site in isolation, however it is noted that the Proponent's development concepts indicate that the lots fronting Terry Road will be rear loaded. It is considered reasonable that this matter be subject to merit assessment as part of any future development application for the site.</p>
Ecology	<p>Council's vegetation mapping identifies the site as containing Cumberland Plain Woodland which is listed as a Critically Endangered Ecological Community. However, the site is biodiversity certified under the Growth Centres Biodiversity Certification Order 2006 therefore, no biodiversity assessment or reporting requirements are needed for this planning proposal.</p>

Density	<p>The development concepts submitted by the Proponent demonstrate a potential medium density housing outcome comprising between 58 and 61 lots/dwellings. The Hills Local Planning Panel considered the proposal in February 2024 and advised that it demonstrated sufficient strategic and site-specific merit to warrant progression to Gateway Determination, subject to the inclusion of a local provision to limit the number of dwellings on the site to 61 dwellings. The intent of this was to ensure that development outcomes on the site generally reflected the development concepts submitted with the planning proposal.</p> <p>Following the receipt of the Local Planning Panel’s advice, the Proponent submitted further information, objecting to the application of such a dwelling cap to the site (a copy of this letter is provided as Attachment 4).</p> <p>The Proponent’s objection was generally on the basis that a dwelling cap would unreasonably restrict a future developer to a lower yield than what they might be able to achieve through a detailed design process, where a higher yield could be achieved based on the maximum density of 30 dwellings per hectare exhibited by the Department of Planning, Housing and Infrastructure in 2017. The Proponent suggested that the outcomes provided in the indicative concepts were for information purposes only and to demonstrate the intended road layout.</p> <p>Having regard to both the Local Planning Panel’s advice, the intent of their recommendation and the Proponent’s response, it is considered more appropriate to introduce a maximum residential density of 30 dwelling per hectare for the site (through a local provision), rather than a dwelling cap as originally recommended by the Panel. Whilst this could potentially facilitate a marginally higher yield than indicated in the development concepts, a maximum density of 30 dwellings per hectare is consistent with the maximum density for R3 zoned land exhibited by the Department in 2017 and has been referenced by the Proponent also as a reasonable maximum density for R3 Medium Density Residential land.</p> <p>This density is generally consistent with the maximum density that could be achieved on the surrounding R3 zoned land and will facilitate an appropriate outcome for the site having regard to the site’s unique location between two schools and the proposed road layout which will require an additional full width road within the boundaries of the subject site. Imposing a maximum density as opposed to a dwelling cap will provide a future developer with some additional flexibility to deliver an alternative development outcome and enable the delivery of a limited amount of additional housing in support of Government current housing priorities.</p> <p>As detailed below, the proposed contributions mechanism that would apply to future development on the land would ensure that adequate local contributions are collected to address any additional demand on local infrastructure, even if additional yield above the current concepts was achieved.</p>
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Development Control Plan	<p>Amendments are proposed to the Box Hill DCP 2018 to reflect the planning proposal outcomes and ensure suitable access arrangements for the area.</p> <p>The DCP amendments sought by the Proponent relate to Section 2.2 – Indicative Layout Plan, to identify the subject site as ‘Medium Density Residential’ and include a new local road on the northern boundary.</p> <p>In addition to the Indicative Layout Plan, amendments to the following figures within the DCP will also be required to reflect the revised development outcome for the site as a result of the planning proposal. These include:</p> <ul style="list-style-type: none"> ▪ Figure 3 Box Hill Growth Centre Precincts character areas; and ▪ Figure 14 Road network. <p>The proposed new local road on the northern boundary will provide separation from the school and a suitable street address for the new dwellings which is considered an optimal outcome from an urban design perspective. The proposed road network will also facilitate efficient access for the residential development and the adjoining school developments.</p> <p>The proposed amendments to the DCP are reflected in Attachment 3 to this report.</p>
Local Infrastructure Demand and VPA Offer	<p>The site is subject to Council’s Contributions Plan No.15 – Box Hill Precinct (CP15). This plan levies development for the provision of traffic and transport, open space and drainage infrastructure to support the development of approximately 13,276 new dwellings. A draft amendment to CP15 is currently underway, with IPART having completed its review of the draft plan in April 2024. The draft amendments identify an increase in the yield projection within the Precinct to 16,030 additional dwellings (16,699 total dwellings).</p> <p>The material submitted with the planning proposal does not include a detailed infrastructure demand assessment and states that future development will be subject to CP15 to fund open space, traffic and drainage works to support development.</p> <p>It is acknowledged that the rates payable under CP15 would be appropriate to levy the marginal amount of residential development on this land towards the provision of new local infrastructure. However, it has also been identified that the rezoning of this land as proposed would create additional cost burdens for Council which are not currently identified or funded under CP15. When considering the planning proposal, the Local Planning Panel recommended that a suitable mechanism must be put in place to, at a minimum, ensure that no additional local infrastructure cost burdens are created for Council and the community as a result of the rezoning, including the new proposed local road along the northern boundary of the site and the additional land required to facilitate the upgrading of Terry Road along the site’s frontage.</p>

On 1 May 2024, the proponent submitted a formal VPA offer including the following contributions:

- The VPA would *not* exclude future development from the payment of full monetary contributions under CP15, calculated as normal at the time of any future development consent.
- Capital works and land dedication for the future half width road on the northern boundary of the site (in addition to the half width adjoining the development site which would be the developer’s responsibility as part of orderly development of the land). This new road is proposed as part of the planning proposal which is not currently identified or funded under CP15 but would arise as a result of the rezoning.
- Dedication of 322m² of land along the Terry Road frontage of the site. This land is not currently identified as being required for road widening in either the Box Hill DCP or CP15. However, as part of Council’s internal assessment of the planning proposal, it has been identified that the land would be necessary to facilitate traffic signals at the intersection of Terry Road and Keenland Street, to provide a safe crossing point for pedestrians including students attending the future public school.

The overall value of the offer is estimated to be between \$6,675,545 and \$6,907,631 (noting that CP15 is currently under review by Government and the final rates that will ultimately apply to this development are not yet known).

	Concept Options	
	Option 1 (58 Allotments)	Option 2 (61 Allotments)
Monetary Contributions under CP15 (IPART Recommended Contribution Rates – April 2024)	\$4,122,948	\$4,355,034
Combined Land and Works Offered under VPA Letter of Offer	\$2,552,597	\$2,552,597
TOTAL Contribution	\$6,675,545	\$6,907,631

Table 2
Estimated VPA Offer Value

The combined value of the offer including monetary contributions exceeds the total value of contributions that would be payable under several other comparable Contributions Plans as shown in the following table.

Contribution Plan	Value of Contribution (58 allotments)	Value of Contribution (61 allotments)
CP12 Balmoral Road	\$2,822,125	\$2,975,726
CP13 North Kellyville	\$2,174,190	\$2,292,526
CP15 Box Hill (Adopted)	\$2,824,072	\$2,983,042
CP15 Box Hill (IPART Recommended Contribution Rates – April 2024)	\$4,122,948	\$4,355,034
CP16 Box Hill North	\$4,300,033	\$4,526,351
VPA Offer incl. Draft CP15 (IPART Recommended Contribution Rates – April 2024)	\$6,675,545	\$6,907,631

Table 3
VPA Offer Value Compared with other Council Contributions Plans

If the actual yield ends up being higher than what is indicated in the current development concepts, then the overall value of the contribution would increase in-line with the additional lots being proposed, based on the rates established under CP15.

Critically, it should be noted that if the rezoning was to proceed without an associated VPA which secures these outcomes at no cost to Council, these costs would become Council’s responsibility to fund. Accordingly, the combined value of land and works identified in Table 1 reflect the liability for Council if the rezoning was to proceed without a VPA. Accordingly, a key element of the VPA is to mitigate this risk to Council and ensure that these local infrastructure works arising from the rezoning do not become additional items competing for limited funding under CP15.

Given the foregoing, it is considered that the contributions that would be secured through the VPA represent a fair and reasonable offer. In addition to requiring the payment of full contributions under CP15, the VPA will ensure that no additional local infrastructure cost burdens are created for Council and the community as a result of the rezoning of the site.

OPTIONS

This report recommends that the planning proposal should proceed to Gateway Determination, however the following potential options are provided for Council's consideration.

- Option 1 – Proceed to Gateway Determination with a local provision limiting future development on the site to 61 dwellings

Council may choose to forward the planning proposal for Gateway Determination with the inclusion of a local provision to limit future development on the site to a maximum residential yield of 61 dwellings, aligning with the Proponent's development concept. This would be consistent with the advice provided by the LPP and would ensure that the resulting maximum yield reflects the highest yield indicated within the development concept submitted with the planning proposal.

However, as mentioned within this report, the Proponent has raised concern with the application of a dwelling cap to the site in this manner. The Proponent has suggested that the outcomes provided in the indicative concepts were for information purposes only and to demonstrate the intended road layout.

It is acknowledged that the imposition of such a strict cap would be restrictive and limit the yield to a density that is potentially below the achievable density on surrounding R3 zoned land. It would also set the cap at a density that is less than the maximum residential density band exhibited by the Department in 2017.

- Option 2 – Proceed to Gateway Determination (including a local provision to limit future development on the site to a maximum residential density of 30 dwellings per hectare)

Council may choose to forward to the planning proposal for Gateway Determination with the inclusion of a local provision to limit future development on the site to a maximum residential density of 30 dwellings per hectare, as set out in this report. The inclusion of a density limitation is considered reasonable to:

- Align with Council's existing policy position and will reinforce the action within the LSPS that supports the implementation of density bands across most of Box Hill. It would also be consistent with the maximum density for R3 zoned land in Box Hill exhibited by the Department in its North West Growth Centre Land Use and Infrastructure Implementation Plan in 2017.
- Provide general consistency with the maximum density that could be achieved on the surrounding R3 zoned land and facilitate an appropriate outcome for the site having regard to the site's unique location between two schools and the proposed road layout which will require an additional full width road within the boundaries of the subject site.
- Provide certainty for Council that the maximum yield on this site is appropriate in the context of broader growth and higher than expected population projections within the Box Hill Precinct, as well as infrastructure funding issues being experienced with CP15.
- Provide some additional flexibility for the proponent to deliver an alternative development outcome and enable the delivery of a *limited* amount of additional housing in support of Government current housing priorities as part of the detailed design and development application process.

This maximum residential density could theoretically result in up to 87 dwellings on the site. However, this density is consistent with the upper density band exhibited by the Department in 2017 (which was a range of 15 to 30 dwellings per hectare for R3 zoned land). Given that the density is consistent with the State Government's exhibited density band and would reinforce the LSPS that supports the implementation of the density bands, this option is considered to be a reasonable middle ground and as such is recommended within this report.

The Proponent has expressed a different view to date, which does not support any cap on density being applied to the site. However, this position is considered to be a reasonable compromise which provides ample flexibility for the Proponent to determine outcomes through the detailed design phase, whilst still providing adequate certainty with respect to the magnitude of density outcomes that could be achieved on the land.

- Option 3 – Proceed to Gateway Determination (with no limitation on the proposed density)

Council may choose to progress the planning proposal to Gateway Determination, as submitted by the Proponent and without any local provision / maximum density control. This option could theoretically result in a higher yield being achieved on the land, albeit likely still only a moderate increase given the relevant controls and site constraints. This would not align with the advice of the Local Planning Panel and is not recommended.

It is recommended that Council proceed with Option 2, as it is considered to be the most reasonable compromise that provides sufficient flexibility to a future developer to determine outcomes as part of the detailed design process, whilst also ensuring resultant yields are consistent with what is expected and achievable on surrounding R3 zoned land. This will provide Council with some assurance that the overall yield achievable on the site will be serviceable with respect to local infrastructure.

CONCLUSION

Recognising the clear position of SINSW that Government will no longer be acquiring the land for the purpose of a school, the planning proposal is considered to demonstrate sufficient merit to proceed to Gateway Determination, subject to the inclusion of a local provision to limit the density of future development on the site to a maximum of 30 dwellings per hectare.

Council officers remain unconvinced that SINSW's position to relinquish acquisition of the land at 48 Terry Road and reduce the area of land identified for school represents prudent strategic planning, given the higher than anticipated residential yields which are being achieved within the Box Hill Precinct and difficulty already being experienced by Government in providing sufficient education infrastructure in line with growth. However, this is a clear position of Government which Council is unable to directly control.

Any support for the proposal should continue to be contingent on SINSW providing sufficient evidence to Council and the community that the most up-to-date population figures for Box Hill are being utilised in their service needs analysis and that the remaining land will be sufficient to accommodate the necessary demand generated by existing and future residents. Further consultation with SINSW will be a critical condition of any future Gateway Determination (if issued) and would need to be undertaken before the proposal is publicly exhibited.

Both the DCP and VPA Offer will improve the overall development and infrastructure outcomes and are appropriate to exhibit in conjunction with the planning proposal. The supporting DCP amendments will ensure that future development provides suitable access arrangements and a high level of amenity for future residents. The contributions that would be secured through the VPA represent a fair and reasonable offer and will ensure that no additional local infrastructure cost burdens are created for Council and the community as a result of the rezoning of the site.

ATTACHMENTS

1. Council Officer Assessment Report to Local Planning Panel, 21 February 2024 (24 pages)
2. Local Planning Panel Advice, 21 February 2024 (2 pages)
3. Draft Box Hill Development Control Plan 2018 (246 pages)
4. Additional Information from Proponent in Response to LPP Advice, 6 March 2024 (2 pages)
5. Voluntary Planning Agreement Letter of Offer, 1 May 2024 (7 pages)

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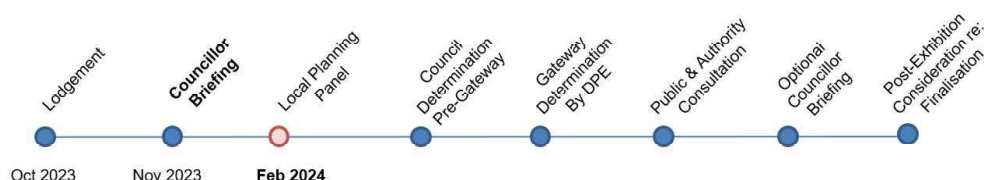
THE HILLS SHIRE

ITEM	LOCAL PLANNING PANEL – PLANNING PROPOSAL – 48 TERRY ROAD, BOX HILL (2/2024/PLP)
THEME:	Shaping Growth
MEETING DATE:	21 FEBRUARY 2024
	LOCAL PLANNING PANEL
GROUP:	SHIRE STRATEGY
	TOWN PLANNER
AUTHOR:	CATHY CHUNG
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING NICHOLAS CARLTON

PURPOSE

This report presents the planning proposal for land at 48 Terry Road, Box Hill (2/2024/PLP), to the Local Planning Panel (LPP) for advice, in accordance with Section 2.19 of the *Environmental Planning and Assessment Act 1979* (the Act).

The planning proposal seeks to rezone part of the site (approximately 2.9 hectares) from SP2 Infrastructure to R3 Medium Density Residential and amend the corresponding height of building and residential density maps to be consistent with the surrounding residential land. The proposal will facilitate a medium density housing product, comprising between 58 to 61 lots, ranging in size from 225m² to 526m².

**RECOMMENDATION**

1. Recognising the clear position of SINSW that Government will no longer be acquiring the land for the purpose of a school, the planning proposal for 48 Terry Road, Box Hill (Lot 30 DP 10157) demonstrates adequate strategic and site-specific merit to warrant progression to Gateway Determination, subject to the inclusion of a local provision to which limits the number of dwellings on the site to 61 dwellings, reflecting the development concept submitted with the planning proposal.
2. If the planning proposal proceeds to Gateway Determination, a suitable mechanism must be put in place to, at a minimum, ensure that no additional local infrastructure cost burdens are created for Council and the community as a result of the rezoning, including the new proposed local road along the northern boundary of the site and land

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required to facilitate the upgrading of Terry Road. Further negotiations should also occur with respect to the Proponent's request to use the RE1 Public Recreation land for temporary drainage and other associated public benefits.

Proponent	Effective Building & Consultancy
Owner	Seatop Holdings Pty Ltd
Planning Consultant	EGIS Consulting Pty Ltd
Geotechnical Consultant	Martens Consulting Engineers
Site Investigation Consultant	Martens Consulting Engineers
Stormwater and Engineering Consultant	EGIS Consulting Pty Ltd
Transport Consultant	Transport Planning Partnership (TPPP)
Flooding Consultant	EGIS Consulting Pty Ltd
Site Area	4.4 Hectares
List of Relevant Strategic Planning Documents	Greater Sydney Region Plan Central City District Plan Local Strategic Planning Statement and Supporting Strategies Section 9.1 Ministerial Directions
Political Donations	None disclosed

1. THE SITE

The site has a total area of approximately 4.4 hectares. It is one of three adjoining properties (48, 50 and 52 Terry Road) that are partly zoned SP2 Infrastructure (School) under SEPP Precincts (Central River City) 2021 (formerly the Growth Centres SEPP). These three properties were identified for this purpose by the Department of Planning, Housing and Infrastructure (Department) during the precinct planning and release of the Box Hill Precinct in 2011.

The western portion of the site is zoned RE1 Public Recreation and will form part of the future Sunny Hill Parkway Sports Complex. The site is located to the north of the Box Hill Town Centre (located at the junction of Terry Road and Mason Road) and is predominantly surrounded by medium and low-density residential land. Land directly to the south of the site (40-44 and 46 Terry Road) is also identified for a future school within the Department's Indicative Layout Plan for the Precinct, however this land is not zoned for acquisition by

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Government as it is intended for a future private school (hence the application of the land use zoning aligned with the surrounding residential area).

There is also an overland flow path traversing the site. Images of the site and surrounds are provided in Figures 1 and 2.



Figure 1
Aerial of subject site and surrounding locality



Figure 2
Land zoning and proposed road network

On 23 February 2022, School Infrastructure NSW (SINSW) advised the owner of 48 Terry Road, Box Hill that it no longer intends to purchase the site for the purpose of a school. It is understood that SINSW has formed the conclusion that the land is no longer necessary and that the remaining two properties to the north (being 50 and 52 Terry Road) will be sufficient to facilitate the delivery of the new school.

As a result, in September 2022 the Department of Planning (Department) wrote to Council encouraging consideration of the removal of the site from the Land Reservation Acquisition Map and application of an alternative zone. The letter also advised that the Department is not able to progress a State-led rezoning for the subject site, include the change as part of a housekeeping amendment, nor is it likely to meet the tests under Section 3.22 of the *Environmental Planning and Assessment Act 1979* for an expedited State-led planning

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proposal. As a result, the landowner has instead initiated a planning proposal seeking to remove the school identification and acquisition liability from the land.

2. HISTORY OF CORRESPONDENCE WITH SCHOOL INFRASTRUCTURE NSW

Council officers have attended a number of meetings and discussions with SINSW over the past 3 years with respect to their planned acquisition of the required land for schools in Box Hill. With respect to the identified site at 48, 50 and 52 Terry Road (being 3 individual adjoining properties) Council officers have consistently advocated for SINSW to acquire the maximum land area possible (consistent with the precinct planning and zoning outcomes) to ensure that there is sufficient capacity and flexibility available to accommodate the significant incoming student population, as well as achieve orderly and appropriate development and design outcomes such as adequate play space for children and room for circulation and parking.

In December 2019, SINSW wrote to Council to advise that it intended to relinquish its acquisition liability over 52 Terry Road (being the northernmost SP2 parcel identified for the school). Council officers wrote to the Department and SINSW in March 2020 expressing concern with the reduced land area given the higher than expected population projections for Box Hill, lack of certainty regarding other (non-zoned) school sites on the Indicative Layout Plan (ILP) and the ability to configure a school on the remaining Terry Road land due to flooding constraints.

Following this, a number of meetings were held with SINSW and the Department where SINSW advised that the decision to reduce the land area for a school in this location was the outcome of further service needs analysis and concept planning undertaken since rezoning of the Precinct. Despite requesting this information on numerous occasions, Council has not been provided with any detailed justification supporting SINSW's amended position. SINSW has also since adjusted its approach and has now acquired both 50 and 52 Terry Road and instead relinquished its acquisition liability over 48 Terry Road (the subject site), on the basis that 48 Terry Road has a greater extent of environmental constraint. The remaining two parcels which SINSW has acquired (50 and 52 Terry Road) will have a combined area of just under 5 hectares for the provision of a school (*excluding* the future open space land zoned at the rear of each of the properties which will be for the purpose of community active open space).

In 2023, Council wrote to the Minister for Education requesting reconsideration of the matter or alternatively requesting assistance with obtaining the required evidence from School Infrastructure NSW demonstrating that the land is no longer required for a school. A response has not been received at this time.

Despite the concerns and objections raised by Council officers, SINSW has nonetheless formed a firm position that it will no longer be acquiring the land at 48 Terry Road and has advised both the landowner and Council of this decision. The landowner has, as a result, reasonably requested that the assessment and consideration of the planning proposal progress.

3. DESCRIPTION OF PLANNING PROPOSAL

The planning proposal seeks to rezone part of the site (approximately 2.9 hectares) from SP2 Infrastructure to R3 Medium Density Residential and amend corresponding height of building and residential density maps within the SEPP, consistent with the surrounding land. The site would also be removed from the Land Reservation Acquisition Map.

The proposed changes are intended to facilitate a medium density housing product, comprising between 58 to 61 lots, ranging in size from 225m² to 526m². No changes are

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proposed for the western part of the site which is zoned RE1 Public Recreation (approximately 1.4 hectares).

A comparison between the existing and proposed controls under the SEPP Precincts (Central River City) 2021 is provided in the table below.

Planning Control	Existing	Proposed
Land Zone	SP2 Infrastructure (School)	R3 Medium Density Residential
Building Height	None Applicable	14 metres
Residential Density	None Applicable	Min. 18 dw/ha
Land Reservation Acquisition	Identified for acquisition by the Minister for Education and Early Learning.	Not identified for acquisition

Existing and proposed SEPP map amendments are shown in the following figures.

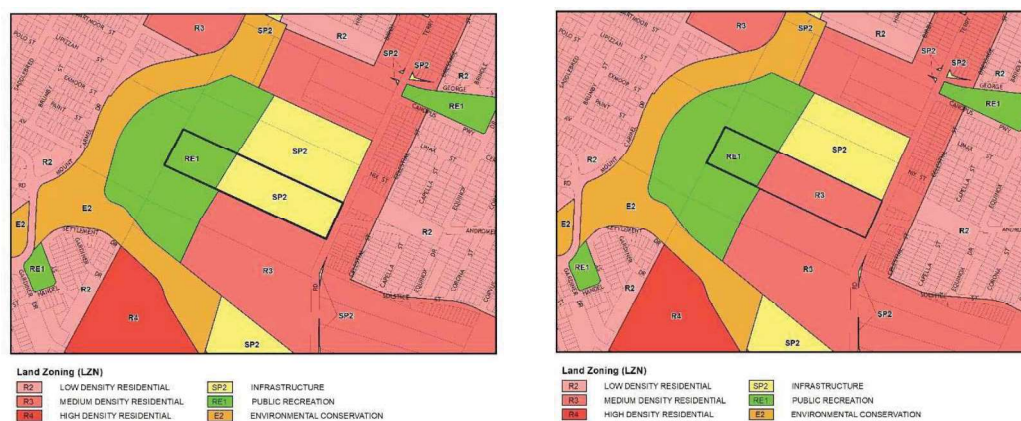


Figure 3
Land Zoning Map – Existing (left) and Proposed (right)



Figure 4
Height of Buildings Map – Existing (left) and Proposed (right)

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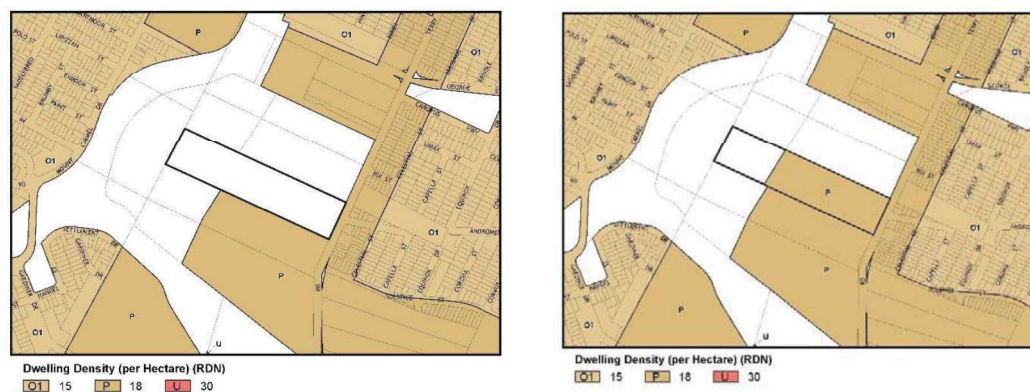


Figure 5
Residential Density Map – Existing (left) and Proposed (right)

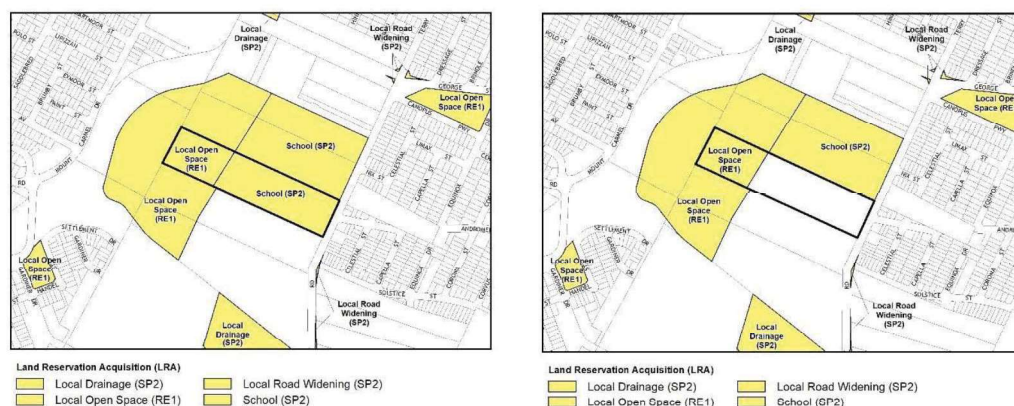


Figure 6
Land Reservation Acquisition Map – Existing (left) and Proposed (right)

The following concept subdivision plans depict the indicative yield, lot size and lot widths. The proposed outcome is a medium density housing product, comprising between 58 to 61 lots, ranging in size from 225m² to 526m².

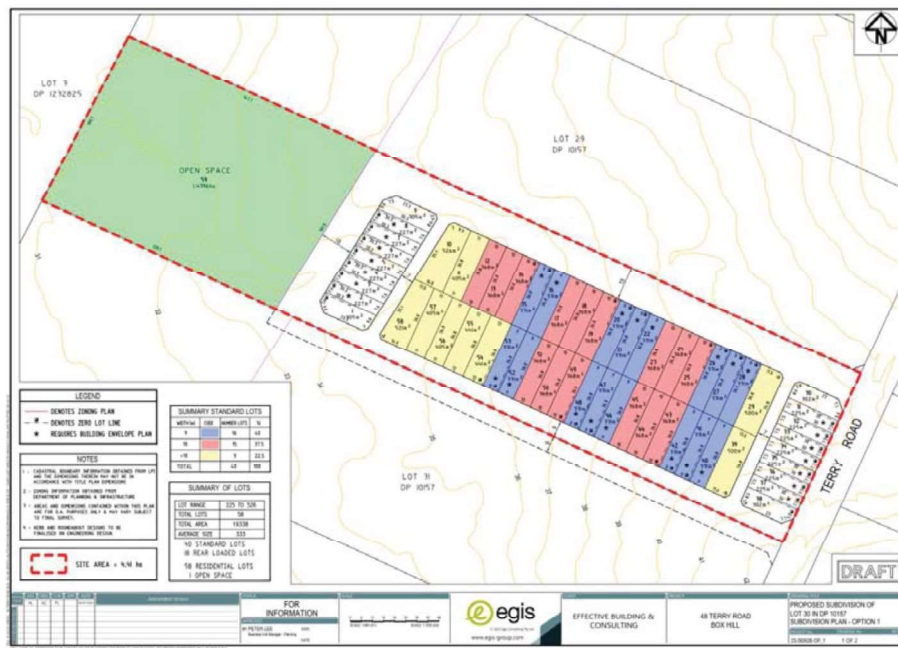


Figure 7

Development concept (Option 1: 58 residential lots and one open space)

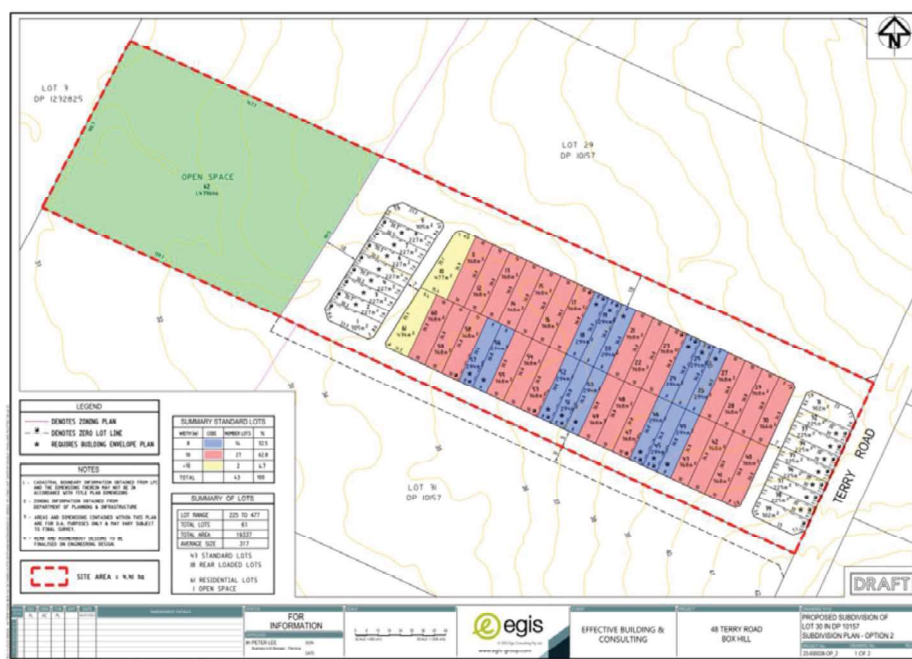


Figure 8

Development concept (Option 2: 61 residential lots and one open space)

The planning proposal also flags the need for associated amendments to the Box Hill Development Control Plan (DCP) to reflect the revised outcomes. In particular, amendments would be required to Section 2.2 – ILP to identify the subject site as 'Medium Density Residential' and include a new local road on the northern boundary (in addition to the existing

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local road along the southern boundary). The proposed amendments are reflected in the following figure.



Figure 9

Existing (left) and proposed (right) Proposed changes to the Box Hill and Box Hill Industrial ILP

A detailed infrastructure assessment was not submitted by the Proponent in support of the proposal. The submitted documentation states that any future development application on the site will be subject to Council's Section 7.11 Contributions Plan (i.e. Contribution Plan No. 15 – Box Hill Precinct). Further consideration of infrastructure is provided later in this report.

4. STRATEGIC MERIT CONSIDERATIONS

The planning proposal has been assessed having regard to relevant strategic merit considerations as outlined in the following policies:

- Greater Sydney Region Plan and Central City District Plan;
- Hills Future 2036 - Local Strategic Planning Statement and Housing Strategy 2019; and
- Section 9.1 Ministerial Directions.

A discussion on the proposal's consistency with the relevant strategic policies is provided below.

a) Greater Sydney Region Plan and Central City District Plan

Objective 6 of the Region Plan and Planning Priority C3 of the District Plan seek to ensure that services and social infrastructure are provided to meet the changing needs of existing and new communities. When the Box Hill Precinct was rezoned by the State Government in 2011 it was expected to accommodate around 28,000 people. As a result of a range of Government reforms since rezoning of the Box Hill Precinct in 2011, it is now estimated that the precinct will accommodate around 49,000 additional people at full development. This yield is 75% more than the yield established by the State Government which underpinned the original infrastructure planning for the Precinct. Of this residential growth over 63% has already been approved.

The proposal would reduce the extent of land identified for regional infrastructure within Box Hill. However, SINSW has indicated that the adjoining SP2 zoned land at 50-52 Terry Road (with an area of nearly 5 hectares) will be sufficient to deliver the necessary school infrastructure to service growth within precinct. Council officers have requested information and justification to support this position, including confirmation that SINSW's service needs analysis take into account the most current population projections for the Precinct. This information has not been provided at this time, however SINSW (as the relevant authority for

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acquisition of the land) has unequivocally advised that they will no longer be acquiring this parcel of land.

Accordingly, while Council officers remain unconvinced by SINSW's position to relinquish acquisition of this property, it is nonetheless a change in circumstances as a result of the position of SINSW, that Council is unable to directly control. On the basis that there is no longer an authority willing to acquire this land, it would be reasonable to enable the rezoning of the site to an alternative zoning that has a viable development outcome for the landowner. However, should the proposal proceed to Gateway Determination, SINSW should again be requested to provide evidence for consideration by both Council and the community that the most up-to-date population figures for Box Hill are being utilised within their service needs analysis, which has informed their decision to reduce the extent of school land. Furthermore, evidence should be provided that the remaining land (being 50 and 52 Terry Road as well as other identified public school sites within the Precinct) will be sufficient to accommodate the necessary demand generated by existing and future residents of the precinct.

Objective 10 of the Region Plan and Planning Priority C5 of the District Plan seek to ensure an ongoing and diverse supply of housing in the right locations. As identified in these Plans, an additional 750,000 dwellings is required between 2016-2036 to accommodate Sydney's continued strong population growth whilst ensuring housing is provided in a range of types, tenures, and price points to meet the future demand.

As outlined in the District Plan, one way to provide greater housing variety is through local infill development such as the "missing middle" or medium density housing. The District Plan encourages Councils to investigate the most suitable locations for additional medium density opportunities. Notwithstanding Council's concerns regarding the reduction in school land, if this position remains from SINSW, then the alternative zoning of R3 Medium Density Residential would align with these objectives by repurposing surplus school land and providing an additional 58-61 medium density dwellings in an accessible location close to the Box Hill Town Centre, schools and open space (Sunny Hill Parkway Sports Complex).

b) Hills Future 2036 – Local Strategic Planning Statement and Housing Strategy 2019

Planning Priority 6 of the LSPS seeks to plan for new housing to support Greater Sydney's growing population. The delivery of additional housing within the Box Hill Precinct would support this objective.

Planning Priorities 7 and 8 of the LSPS also seek to plan for a diversity of new housing in the right locations. The proposed alternative zoning of R3 Medium Density Residential is consistent with the prevailing character and density on the surrounding residential areas. The site is also centrally located within the Box Hill Precinct and is in close proximity to various services and transport. The proposal is therefore considered to support these objectives.

Planning Priority 6 refers to a recent Government review of density outcomes within Box Hill which sought to apply maximum dwelling densities for most residential land in the precinct. The review sought to respond to an identified disconnect between anticipated yields and the scale of development ultimately being delivered (being significant greater density than anticipated). In order to provide certainty to the community and ensure that the final outcome on the site generally reflects the intended development outcome submitted as part of the planning proposal, it is recommended that a maximum density be applied to the site via a local provision. This is further discussed in the Density and Built form section.

c) Section 9.1 Ministerial Directions

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- *Direction 1.6 Implementation of Northwest Priority Growth Area Land Use and Infrastructure Implementation Plan*

This Direction requires relevant planning proposals to be consistent with the North West Priority Growth Area Land Use and Infrastructure Strategy. This strategy was prepared in 2017 to provide a framework to support additional growth in the North West Growth Area, inform remaining rezonings and ensure the delivery of critical infrastructure and services to support the population.

Key actions of the strategy relevant to this site include:

- Action 1: provide more land supply for new homes;
- Action 3: manage residential densities to align with infrastructure; and

Consistent with Action 1, the proposed rezoning to R3 Medium Density Residential will utilise land no longer intended to be acquired by Government for the purpose of new housing to support population growth. However, as mentioned above and in response to Action 3, in order to provide certainty to the community and ensure future growth is appropriate in scale density and can be supported by infrastructure, it is recommended that a maximum residential yield reflective of the Proponent's intended development outcome be applied to the site via a local provision.

- *Direction 4.1 Flooding*

The purpose of this Direction is to ensure that planning proposals are consistent with the Government's flood related policies and consider potential flood impacts. The Direction applies to all planning proposals that seek to create, alter or remove a zone or provision affecting flood prone land.

The subject site is identified as a flood control lot under The Hills DCP 2012 and flood affected land in the Box Hill Growth Centre Precincts DCP. It is located upstream of a sensitive waterway, the northern tributary of Killarney Chain of Ponds, and contains an overland flowpath. In the ultimate developed scenario, the subject site (4.4 hectares) combined with the 21 hectares external catchment (to the east of the site) will generate a considerable volume of runoff. A map of the site along with the upstream catchment that drains through the site is shown in the following figure.



Figure 10

Flood Prone Land Map including internal upstream catchment that drains through the site

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Stormwater Management and Flooding Memos, dated February 2023 and August 2023, were submitted with the Proposal and consider the impact of the proposal on the site and the broader catchment. The memos conclude that the proposed future development is unlikely to have unacceptable flooding impacts, subject to the implementation of localised works to address runoff and water quality including:

- replacement of the existing farm dam with new temporary detention or raingarden basin to attenuate the stormwater runoff from the subject site and the properties immediately adjacent to the site; and
- basins to filter stormwater runoff from the proposed development to meet water quality pollution reduction targets.

As part of the lodgement of any future development application a site-specific flood study would also be required to ensure that:

- The development will not result in the increase in flood levels and flow velocities in the neighbouring properties, including the future Sunny Hill Parkway Sports Complex, due to alterations to flood conveyance, including the effect of fences and ground reshaping.
- Flood mapping, including flood inundation extents, hazard mapping and flood planning areas are established.
- Finished floor levels (FFL) of the habitable areas of affected dwellings are set at least 0.5m above the 1% AEP flood level.

The flood study would need to demonstrate that the proposed development, which will involve the filling of the existing overland flow path, does not impact or worsen the flooding of the adjoining properties. The outcome of the flood study will also establish the flood planning levels applicable to the proposed development. Prior to undertaking a flood study, the applicant's consultant should liaise with Council regarding the modelling approach and parameters.

It is noted that following the preparation of the Proponent's application materials, a transitional provision has recently been introduced to this Ministerial Direction to reflect the new Flood Risk Management Manual 2023 which replaces the Floodplain Development Manual 2005. While it is highly unlikely that the findings and recommendations of the Proponent's existing analysis would change as a result, it may be the case that the Department requires an updated Flood Analysis that includes an assessment against the Flood Risk Management Manual 2023 in order to technically satisfy the determination of consistency with Direction 4.1 Flooding. This matter would be further considered as part of the Gateway Determination process.

Filling of Overland Flow Path

Based on the Proponent's concept subdivision plans, most of the proposed dwellings are to be built where the existing overland flow path is currently located. As such, the proposed development will inevitably require filling of the overland flow path. The Box Hill DCP acknowledges that the filling of flood affected land will be required to facilitate the urban development of the Precinct. The following figure is an extract from the DCP which identifies flood affected land within the Precinct to be filled. The subject site is outlined in red. As can be seen, the DCP intends that the subject site would be filled to facilitate urban development.

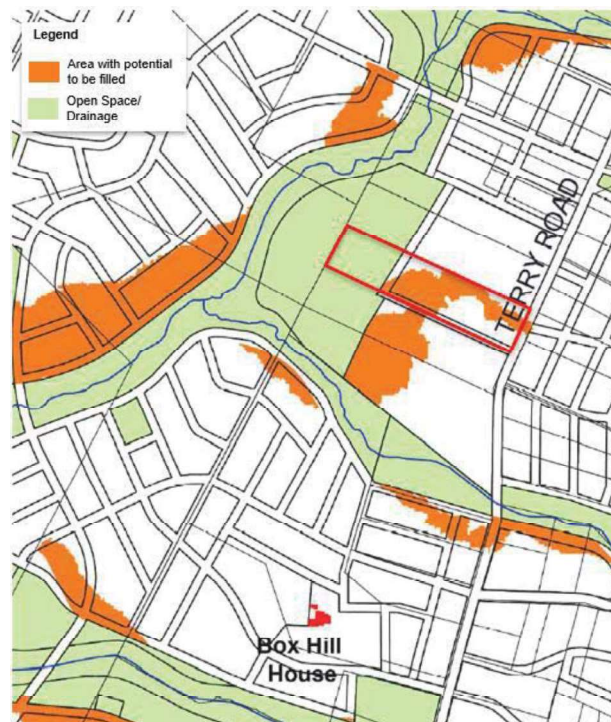
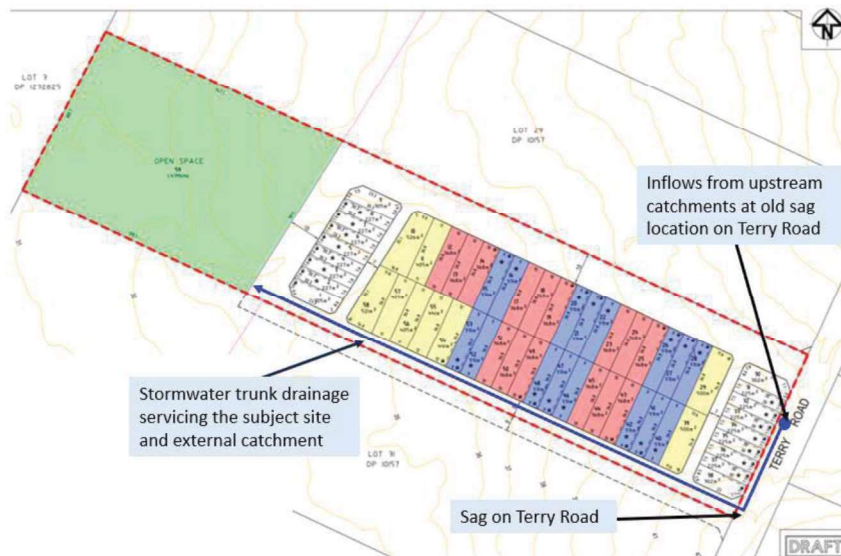


Figure 11
Flood Affected areas with Potential to be Filled

It is noted that the location of the local sag in Terry Road has been shifted southward from the junction of Terry Road/ Andromeda Parkway to the future junction of Terry Road/ Sunny Hill Parkway. The trunk drainage system will be required to convey both piped and overland flows. The piped component of the trunk drainage system will need to have a 5% AEP conveyance capacity at a minimum and will ideally be incorporated in the design of Sunny Hill Parkway. This will ensure that flows in excess of the pipe capacity will occur as overland flows within the road corridor.

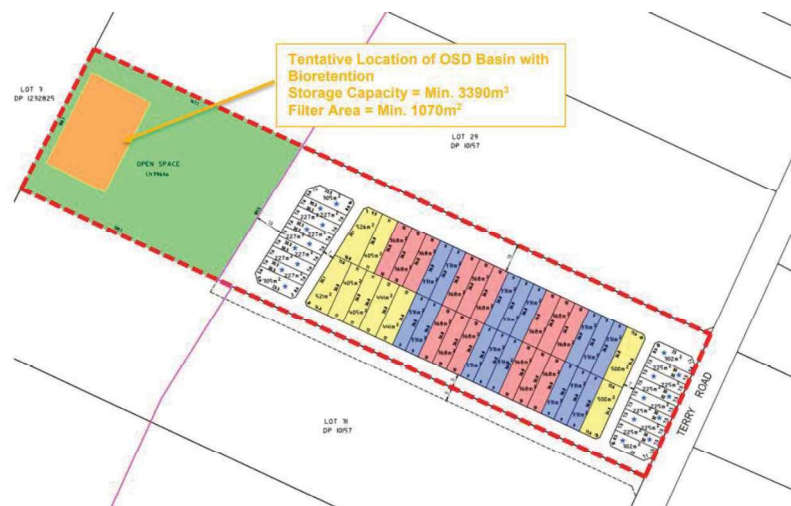
As part of new residential development to the east of Terry Road (Development Applications 283/2022/ZA and 525/2020/ZA), a new outlet structure was built near the old sag of Terry Road. If the trunk drainage system is to be rerouted along the subject site's southern boundary (future Sunny Hill Parkway), modification works will be required to the existing outlet structure to suit the pipe alignment along Sunny Hill Parkway. The location of stormwater trunk drainage system that will need to service the subject site and external catchments is shown below.

**Figure 12**

Stormwater trunk drainage system servicing the subject site and external catchments

Temporary Water Detention

There is an existing farm dam on the site which has been registered as a drainage easement to provide detention for stormwater runoff from the external catchment. The existing dam has been modified to improve active flood storage. As part of the redevelopment of the site the associated works will include road construction, earthworks and filling of the existing dam which will affect drainage management from adjoining subdivisions. In recognition of this, the proposal identifies that it will be necessary to provide a new temporary stormwater treatment and detention basin. The memo identifies that the installation of a new Basin will attenuate peak flow for the rainfall event ranging from 2-year to 100-year ARI. The proposal identifies that the temporary basin would be on the future open space zoned land as shown below.

**Figure 13**

Proponent's Tentative Location of Temporary OSD Basin with Bioretention

It is anticipated that the Sunny Hill Parkway Sporting Complex will contain a wetland/raingarden and detention basin which will address water quality and quantity treatment.

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However, the delivery of this facility is a number of years away and it is likely that redevelopment of the subject site will occur prior to the delivery of this facility. Accordingly, localised site works will be required as part of the redevelopment of the site to address water quality and quantity treatment.

Typically, Council would not support the provision of temporary detention basins on RE1 zoned land to satisfy water quality and quantity treatment for an adjoining subdivision, as it could impact on the operation and ability to use the site for future open space and may potentially result in increased cost for Council as part of the future embellishment of the site. Rather, the approach that is pursued is that each development must include a temporary basin within the development on proposed lots. Once the regional basin system is completed, the temporary basin will no longer be required and the Developer can then convert these interim storage areas to residential lots.

Notwithstanding the above, there may be benefit in considering the Proponent's identified approach, if there is an associated public benefit with respect to the transfer of the land and potential delivery of some open space outcomes on the land that has already been acquired (to the north). It is recommended that the applicant discuss this matter further with Council officers to determine if an arrangement can be negotiated that facilitates the full redevelopment of the site (without the need for temporary drainage within the development site) concurrent with public benefits for the community in relation to the future open space. This could potentially occur by way of a Voluntary Planning Agreement. A possible arrangement is shown in the following image. If such an arrangement cannot be negotiated, then the expectation would remain that the development site cater for a temporary basin, without reliance on the adjoining open space land.

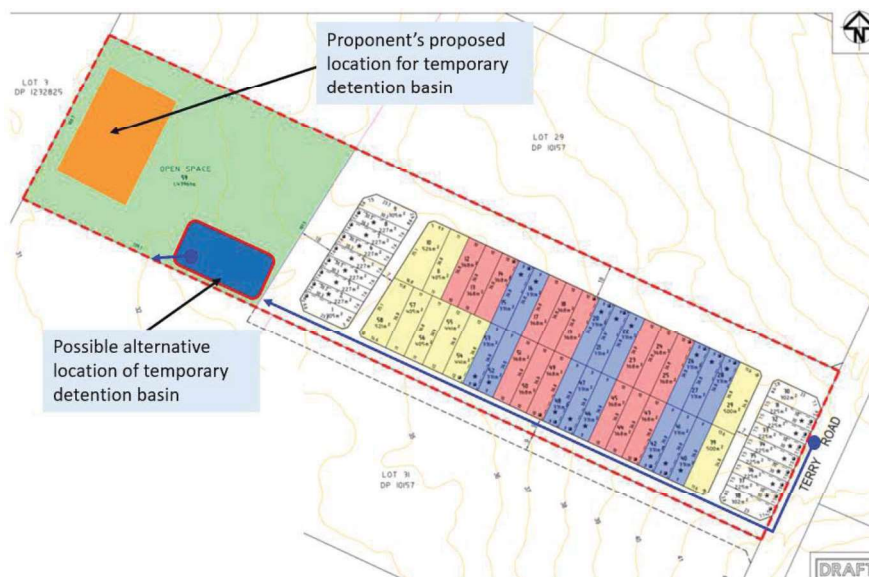


Figure 14
Possible Alternative Location of Temporary OSD Basin with Bioretention

■ *Direction 4.4 Remediation of Contaminated Land*

The purpose of this Direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are adequately considered as part of planning proposals, where relevant.

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The proposed rezoning of the site to residential requires consideration of potential contamination under the Resilience and Hazards SEPP and Local Ministerial Direction. The applicant has submitted a Detailed Site Investigation, dated April 2023, which found that the site is suitable for future residential land use.

- *Direction 5.1 Integrating Land Use and Transport*

The objectives of this Direction aim to improve access to housing, jobs, and services by co-locating development with walking, cycling and public transport options.

Given that SINSW has advised the land will no longer be acquired for infrastructure purposes, rezoning the subject site for medium density residential uses is the most suitable alternative outcome, consistent with the prevailing character and density on the surrounding lands. The site is considered a reasonable location for medium density housing given the relatively close proximity to Box Hill Town Centre, good bus accessibility via Terry Road and other nearby services including the future school and open space.

- *Direction 5.2 Reserving Land for Public Purposes*

This Direction seeks to facilitate the preservation of land for public services and facilities by reserving land for public purposes. It also seeks to enable the removal of reservations for public land where the land is no longer required for public uses. Planning proposals cannot alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary.

The proposal is consistent with this Direction as the land was previously earmarked for a school with the Minister for Education and Early Learning as the responsible acquiring authority. However, SINSW has advised in writing that the site is no longer required, and the Department has suggested that Council investigate an alternative suitable zoning for the land.

The western portion of the site will remain RE1 Public Recreation Zone to enable the land to be used for public open space / recreational purposes as originally planned.

- *Direction 6.1 Residential zones*

The objective of this Direction is to encourage a variety and choice of housing types, to provide for existing and future housing needs, and make efficient use of infrastructure and minimise the impact of residential development on the environment and resource lands.

The planning proposal would provide additional dwellings in a well serviced urban location and broaden the choice of building types available through the provision of more medium density residential dwellings within Box Hill.

5. SITE SPECIFIC MERIT CONSIDERATIONS

The planning proposal requires consideration of the following site-specific matters:

- a) Traffic and Transport;
- b) Stormwater and Flooding;
- c) Ecology;
- d) Density and Built Form;
- e) Development Control Plan; and
- f) Infrastructure Demand.

a) Traffic and Transport

Road Network

The proposed road layout indicates the intention to provide a full width local road along the northern boundary of the site and half-width local road along the southern boundary (with the remaining half-width to be delivered as part of the redevelopment of the adjoining land to the south). This would result in 2 new local roads running east-west along the perimeter of the site between Sunny Hill Parkway Sports Complex and Terry Road (see figure below). These roads would also separate the residential development from potential future schools on either side of the development. This approach is considered reasonable from an urban design perspective.

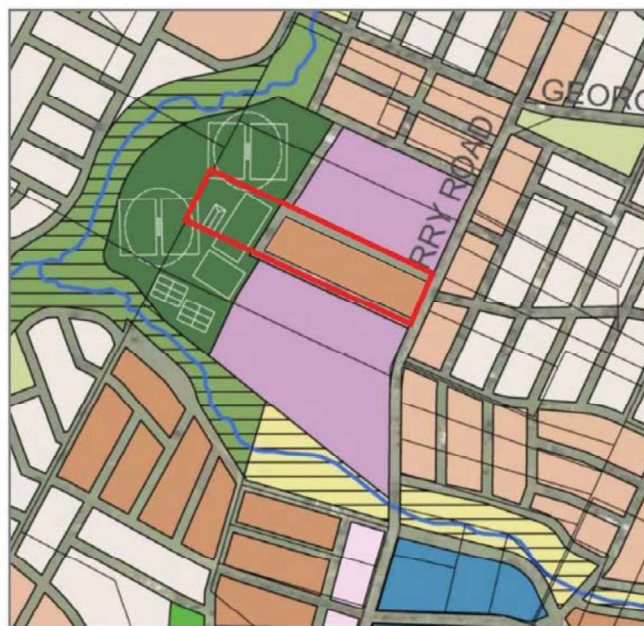


Figure 15
Proposed ILP (subject site highlighted in red)

Since the proposal is immediately adjacent to the future school, a key consideration for this proposal is to ensure the road network is designed to facilitate safe and efficient vehicular and pedestrian movements within the area.

Since the lodgement of the planning proposal, further investigation has been undertaken on the operation of Terry Road which is to be upgraded to sub-arterial standard and will continue to carry higher volumes of traffic as the area continues to develop. As part of this investigation, it has been identified that the proposed access points from the subject site onto Terry Road will likely need to be limited to 'left-in left-out' only. This is due to the need for a concrete median along the centre of Terry Road.

Traffic signals are also likely to be required at the intersection of Keeneland Street (which will run along the northern side of 52 Terry Road) and Terry Road to provide a safe crossing point for pedestrians including students attending the future public school.

Notwithstanding these required arrangements, vehicles from 48 Terry Road will still be able to make a right turn onto Terry Road (and head southbound to Windsor Road) via Keeneland Street, once the section of Sunny Hill Parkway between 48 Terry Road and Keeneland Street

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(along the boundary between the school sites and Sunny Hill Parkway Sports Complex behind) has been constructed.

The proposed road design concept for Terry Road is shown in the figure below. In order to facilitate the upgrade of Terry Road, around 328m² of road widening will be required from the frontage of the site (shaded orange).

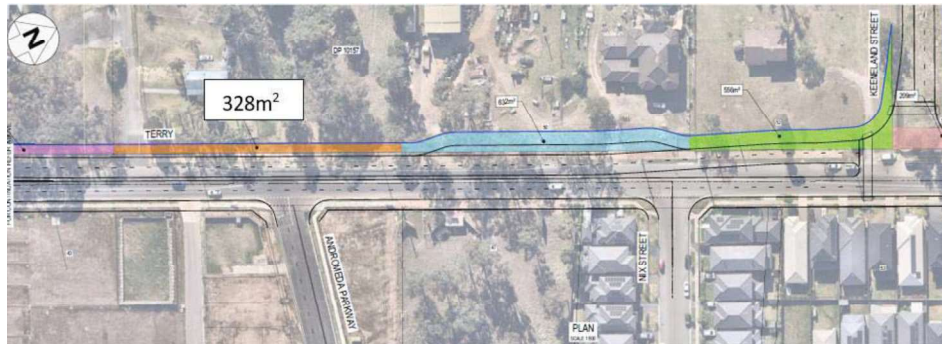


Figure 16
Draft Concept and Land Dedication

SINSW provided scoping comments on the proposal which requested the following key outcomes for the proposed road / access network:

- The new local road on the northern boundary of the site should be:
 - located entirely within the boundary of the subject site, at no additional cost to the Department; and
 - delivered with all necessary servicing and transport infrastructure required to support any future school (including a footpath on both sides and pedestrian crossing to the school and future playing fields).
- New local road infrastructure should be implemented prior to the delivery of the future school.
- Roads already included in the Box Hill DCP should remain.

The Proponent has included the proposed road on the site's northern boundary entirely within the boundary of the site, as requested by SINSW. The new road will be a 'local road' under the Box Hill DCP and would be required to provide a 1.2m footpath on *one* side only (refer figure below). All other existing roads on the Box Hill indicative layout plan are not proposed to change as part of this proposal. However, Council is not able to dictate the timing for the delivery of the road infrastructure associated with the site, as it up to the current (or future) landowner if and when they choose to develop.

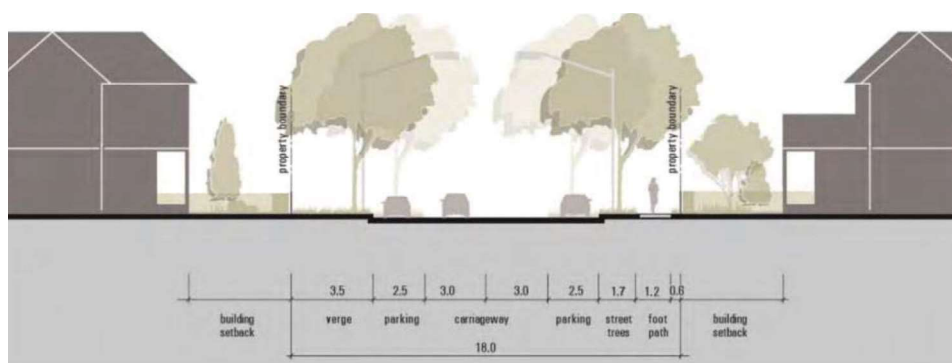


Figure 17
Local Road Profile – Box Hill DCP

Further consultation will be undertaken with SINSW if the proposal proceeds to Gateway Determination. Whilst school-specific infrastructure such as crossings may be desired by SINSW, it is not considered reasonable that this site fund or deliver the infrastructure as the demand for such is associated with the school development and not the residential development on this site.

Parking and Traffic

On-site car parking is proposed to be provided in accordance with the requirements set out in Box Hill DCP, which is considered acceptable.

The Proponent's Traffic and Parking Statement identifies that the proposed medium density outcome would generate approximately 55 to 57 vehicles per hour during peak times. Based on these numbers, the traffic generation will be moderate, and it is not anticipated to cause unacceptable traffic impacts on the surrounding road network.

Public Transport

The submitted Traffic and Parking Statement identifies that the site currently has connections to the regional public transport network with bus stops located approximately 300m north and 270m south of the site. The bus route runs along Terry Road fronting the subject site providing connection between Box Hill and nearby centres such as Rouse Hill.

Preliminary design work for Terry Road proposes to include a bus bay along the frontage of 50 Terry Road, primarily to service the future schools on either side of the site. The bus bay will provide a higher level of safety for bus passengers, whilst also reducing impacts on the flow of traffic along Terry Road. Consultation will be needed with Transport for NSW and SINSW regarding this outcome and some dedication of land within the school site will be required. These discussions can occur as part of the public authority consultation for the planning proposal and as part of any future development application for the public school at 50 and 52 Terry Road.

b) Stormwater and Flooding

Discussion of flooding and stormwater management is contained within Section 4b) of this report, under "*Direction 4.1 Flooding*".

c) Ecology

Council's vegetation mapping identifies the site as containing Cumberland Plain Woodland which is listed as a Critically Endangered Ecological Community. Notwithstanding this, the site

is biodiversity certificated under the Growth Centres Biodiversity Certification Order 2006. Therefore, no biodiversity assessment or reporting requirements are needed for this planning proposal.



Figure 18

Vegetation Mapping 2008 – Cumberland Plain Woodland (orange) and Weed Species (purple)



Figure 19

Biodiversity Certified Land (blue shaded)

d) Density and Built Form

Density

The Planning Proposal seeks to amend the Residential Density Map to apply a minimum residential density of 18 dwellings/ha to the site. This density is consistent with the minimum density standard that applies under the SEPP to the surrounding R3 Medium Density zoned land.

To date, within the Box Hill Precinct there have been around 1,878 dwellings / lots approved on 84.84 ha of R3 zoned land. This equates to a residential density of around 22 dwellings/ha within the R3 zone. The concepts submitted with the planning proposal identify a yield between 58-61 dwellings which equates to a density of around 20-21 dwellings/ ha, consistent

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with the proposed minimum residential density within the SEPP and generally reflective of the residential density expected to be achieved on other R3 zoned sites within the Precinct for medium density housing product.

Whilst the density being proposed is consistent with the density that would be expected for R3 zoned land, the planning proposal will facilitate residential uplift on land where no residential uplift was envisaged under the existing policy framework. This will have implications for infrastructure demand which are discussed in the Infrastructure section of this report.

Providing the demand for local infrastructure can be addressed, the proposed density is considered reasonable.

In order to provide certainty for the community and to ensure that future growth aligns with infrastructure planning and the intended development outcome submitted by the Proponent, it is recommended that the site be subject to a local provision to apply a maximum residential yield on the site. The new provision would be located within Clause 6.9 of Appendix 10 of SEPP (Precincts-Central River City) 2021.

'6.9 Development at 48 Terry Road, Box Hill

- (1) *This clause applies to land at 48 Terry Road, Box Hill, being Lot 30 DP 10157, identified as "Area H" on the Key Sites Map.*
- (2) *Development consent must not be granted to development that results in more than 61 dwellings on the subject land'.*



Figure 20
Key Sites Map – Existing (left) and Proposed (right)

Lot Layout (Lot Size and Frontage Widths)

Section 3.1.2 Block and Lot Layout of the Box Hill DCP specifies the minimum lot dimensions for different residential dwelling types. The base control of the allotment size for a dwelling house in the R3 zone is 300m², or 225m² if the proposal is accompanied by a Building Envelope Plan. Based on the current subdivision plan submitted by the proponent, the allotment sizes range between 225m² to 526m² would be consistent with the lot size ranges permitted by these controls, subject to the further detailed development assessment in due course.

Regarding allotment frontages, given the net residential density target is 20 dwellings per hectare, the minimum lot frontage widths are 7m (for front loaded) and 4.5m (for rear loaded). Based on the Proponent's subdivision plans, the front-loaded frontages generally range from 8m - 12m, except for the corner allotments which have a slightly larger frontage width. Within

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both concepts the smaller rear-loaded lots have frontage widths of around 7.5m - 7.6 m and 5.5m - 5.6m on the corner lots, all of which would satisfy (and be more generous than) the minimum lot frontage requirement of 4.5m.

Character and Streetscape

Section 3.1.1 of the DCP provides guidance on the appropriate mix of housing types for certain density bands. The proposal has a net residential density of 15 to 20 dwelling per hectare. According to Table 5 of the DCP, it predominantly consists of a mix of detached dwelling houses, with focused areas of small lot dwellings in high amenity locations remaining as single and double storeys. An extract from the Box Hill DCP which shows the typical streetscape expected for development within the 15-20 dwelling/ha density band, is included below.



Figure 21

Suburban streetscapes occur in 15-20 dwellings (per hectare) net density bands

Considering other built form considerations mentioned throughout this report, it is considered that the future residential density has the potential to be visually appealing and positively contribute to the streetscape and the surrounding. As such, it is considered that the proposal is reasonable and is not out of character with this planned character outcome.

Overshadowing

Based on the submitted subdivision concept plan, most of the proposed dwellings will be designed with north or south-west orientations. Some proposed dwellings facing Terry Road and the rear boundary of the site will have south or east orientations. As indicated, each individual allotment will also contain private open space to ensure appropriate solar access is provided at the rear of each individual allotment. Detailed assessment against compliance with solar access and overshadowing controls will occur as part of the assessment of a future development application, however the plans submitted adequately indicate the future development under the proposed planning controls will be capable of compliance with these requirements.

Consideration of potential overshadowing from the adjacent school site, and its impact on dwellings and private open spaces on the site, will need to be considered as part of any future development application for the school.

e) Development Control Plan

The DCP amendments sought by the Proponent relate to Section 2.2 – Indicative Layout Plan, to identify the subject site as ‘Medium Density Residential’ and include a new local road on the northern boundary. The proposed amendments are reflected in the following image.

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Figure 22

Existing (left) and proposed (right) Proposed changes to the Box Hill and Box Hill Industrial ILP

In addition to the Indicative Layout Plan, amendments to the following figures within the DCP will also be required to reflect the revised development outcome for the site as a result of the planning proposal. These include:

- Figure 3 Box Hill Growth Centre Precincts character areas; and
- Figure 14 Road network.

The proposed new local road on the northern boundary will provide separation from the school and a suitable street address for the new dwellings which is considered an optimal outcome from an urban design perspective. The proposed road network will also facilitate efficient access for the residential development and the adjoining school developments.

The Proponent's concept proposes a medium density product with rear access laneways to provide vehicular access for certain smaller lots. Under the Box Hill DCP, rear laneways are to have a minimum width of 8m between garages. Laneway width is an important consideration for Council as these are the primary point for waste collection and need to facilitate sufficient space to enable Council's contractor to enter and exit the site safely and efficiently. The required minimum laneway profile is shown in the following figure.



Figure 23

Typical Rear Laneway Section – Box Hill DCP

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Indicative subdivision layout plans submitted with the Proposal indicate that the laneways would comprise a width of 7m, which aligns with the Box Hill DCP requirement. However, future laneways should ideally have a total width of 8m (including 6m for the carriageway and 2m for the road verge) to accommodate the Council's standard waste services for the development. Additionally, when considering the distance between the bin storage area and the waste collection point, it is important to ensure the route is flat or with a maximum grade of 7% and avoid steps, landscaping edging, gutters, or passing through the dwelling. This matter will ultimately need to be addressed as part of the detailed design and assessment and determination of a future development application for the site.

f) Infrastructure Demand

The site is subject to Council's Contributions Plan No.15 – Box Hill Precinct (CP15). This plan levies development for the provision of traffic and transport, open space and drainage infrastructure to support the development of approximately 13,276 new dwellings. It is noted that a draft amendment to CP15 is currently being reviewed by IPART identify an increase in the yield projection within the Precinct to 16,030 additional dwellings (16,699 total dwellings).

The material submitted with the planning proposal does not include a detailed infrastructure demand assessment and states that future development will be subject to CP15 to fund open space, traffic and drainage works to support development. Whilst it is acknowledged that CP15 applies to the site, the plan does not anticipate a residential development outcome on this land and this framework therefore may not be the most appropriate mechanism through which contributions are levied for future development on this site.

This matter will be further negotiated between the Proponent and Council and considered by the Council in association with the planning proposal.

At a minimum, the Proponent must demonstrate that the rezoning of the site and development for residential purposes rather than a school will not generate any additional local infrastructure costs for Council and the community. In particular, it is noted that:

- The proposed new local road along the northern boundary is not currently anticipated or funded within CP15. In addition to the half-width portion adjoining the development site, this new road would create a liability for Council to fund the remaining half-width construction and land value, given it adjoins land that will be used for the purpose of a school;
- There is land required for the upgrade of Terry Road along the frontage of 48, 50 and 52 Terry Road. While this previously would have been dedicated as part of the delivery of a new school on these properties, the rezoning of 48 Terry Road would create an acquisition liability for Council which is not currently anticipated or funded within CP15.

If the planning proposal progresses to gateway Determination, a suitable mechanism should be put in place to ensure the Developer is responsible for these outcomes, at no cost to Council.

In addition to the above, there may also be opportunity for an Agreement to be negotiated with respect to public benefits associated with the rezoning, such as:

- Dedication of land required for the future Sunny Hill Parkway Reserve or transfer at a reduced value, especially noting the Proponent's request to facilitate temporary drainage infrastructure on this land thereby enabling the subject site to fully develop without sacrificing any of the development lots for on-site detention; and/or

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- Construction and dedication of the half width local road adjoining the RE1 zoned land along the western boundary of the site as part of the development.

It may be the case that inclusion of the above outcomes within a Voluntary Planning Agreement could warrant exemption of future development from the payment of Section 7.11 contributions.

These discussions with the Proponent remain ongoing and will be further progressed before the matter is reported to Council.

CONCLUSION

Council officers remain unconvinced that SINSW's position to relinquish acquisition of the land at 48 Terry Road and reduce the area of land identified for school represents prudent strategic planning, given the higher than anticipated residential yields which are being achieved within the Box Hill Precinct and difficulty already experienced by Government in providing sufficient education infrastructure in line with growth.

However, it has been clearly communicated by SINSW and the Department that Government will no longer be acquiring this property. Accordingly, as there is no longer any authority willing to acquire this land, it is therefore reasonable to enable the rezoning of the site to an alternative zoning that has a viable development outcome for the landowner. In this context, the planning proposal is considered to satisfy the strategic and site specific merit tests, subject to the proposal being updated to include a maximum dwelling cap which will ensure that future growth on the site can be aligned with infrastructure and consistent with the intended development outcomes submitted by the Proponent.

Any support for the proposal should continue to be contingent on SINSW providing sufficient evidence to Council and the community that the most up-to-date population figures for Box Hill are being utilised in their service needs analysis and that the remaining land will be sufficient to accommodate the necessary demand generated by existing and future residents. Further consultation with SINSW will be a critical condition of any future Gateway Determination (if issued) and would need to be undertaken before the proposal is publicly exhibited.

Whilst it is acknowledged that Contributions Plan No. 15 – Box Hill Precinct applies to the site, the plan does not anticipate a residential development outcome on this land and this framework may not be the most appropriate mechanism through which contributions are levied for future development on this site. Further negotiations should be undertaken between the Proponent and Council as detailed within this report.

ATTACHMENTS

1. Council Officer's Preliminary Assessment Feedback Letter
2. Proponent's Planning Proposal Report
3. Concept Subdivision and Building Envelope Plans
4. Preliminary Salinity and Geotechnical Assessment
5. Detailed Site Investigation
6. Stormwater Management Memo
7. Traffic and Parking Statement
8. Flooding Report
9. NSW Education Scoping Feedback Letter

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 14 May 2024

with Council to receive a further Report on this matter prior to commencement of any public exhibition of the planning proposal.

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 F De Masi
Clr M Blue
Clr J Brazier
Clr R Boneham
Clr J Cox
Clr Dr B Burton
Clr R Tracey

VOTING AGAINST THE MOTION

None

ABSENT FROM THE ROOM

Clr R Jethi

MEETING ABSENT

Clr Dr M Kasby
Clr A Hay OAM
Clr V Ellis
Clr M Hodges MP

ITEM 2 PLANNING PROPOSAL, DRAFT DEVELOPMENT CONTROL PLAN AMENDMENTS AND DRAFT VOLUNTARY PLANNING AGREEMENT – 48 TERRY ROAD, BOX HILL (2/2024/PLP)

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

THE MOTION WAS PUT AND CARRIED.

190. RESOLUTION

1. Recognising the clear position of School Infrastructure NSW that the NSW Government will no longer be acquiring the land at 48 Terry Road, Box Hill for the purpose of a school, the planning proposal proceed to Gateway Determination, subject to the inclusion of a local provision which limits the density of future development on the site to a maximum of 30 dwellings per hectare.
2. Draft amendments to the Box Hill Development Control Plan 2018 (Attachment 3) be publicly exhibited concurrent with the planning proposal.
3. Council accept, in principle, the draft VPA Letter of Offer (Attachment 5). A draft VPA consistent with the terms of the Offer be prepared and be subject to legal review (at the cost of Proponent), updated in accordance with the recommendations of the legal review and subsequently placed on public exhibition concurrent with the planning proposal and draft Development Control Plan.

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 14 May 2024

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

VOTING FOR THE MOTION

Clr F De Masi
Clr J Brazier
Clr R Boneham
Clr J Cox
Clr R Jethi
Clr R Tracey

VOTING AGAINST THE MOTION

Mayor Dr P Gangemi
Clr Dr B Burton
Clr M Blue

MEETING ABSENT

Clr V Ellis
Clr Dr M Kasby
Clr A Hay OAM
Clr M Hodges MP

ITEM 4 POST EXHIBITION – PLANNING PROPOSAL AND DCP AMENDMENTS – AGRITOURISM IN RURAL AREAS (3/2024/PLP)

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

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

191. RESOLUTION

1. The planning proposal proceed to finalisation.
2. Draft amendments to The Hills Development Control Plan 2012 Part B Section 1 – Rural and Part C Section 1 – Parking be adopted and come into force at the time the associated planning proposal is notified.

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 F De Masi
Clr M Blue
Clr J Brazier
Clr R Boneham
Clr J Cox
Clr R Jethi
Clr Dr B Burton
Clr R Tracey

VOTING AGAINST THE MOTION

None