



IRF24/1276

Gateway determination report – PP-2023-1849

48 Terry Road, Box Hill

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment A - Planning Proposal
Attachments B1, B2 & B3 – Correspondence from SINSW
Attachment C - LPP Report and Minutes (21 February 2024)
Attachment D - Council Report and Minutes (14 May 2024)
Attachment E - Concept Subdivision and Building Envelope Plans
Attachment F - Stormwater Management Memorandum
Attachment G - Preliminary Salinity and Geotechnical Assessment
Attachment H - Detailed Site Investigation
Attachment I - Flooding Report Memorandum
Attachment J - Traffic and Parking Statement
Attachment K - VPA Letter of Offer
Attachment L – Additional Information provided by Council 01.08.24

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	The Hills Shire LGA
PPA	The Hills Shire Council
NAME	48 Terry Road, Box Hill (61 lots concept plan, 0 jobs)
NUMBER	PP-2023-1849
EPI TO BE AMENDED	State Environmental Planning Policy (SEPP) (Precincts – Central River City) 2021
ADDRESS	48 Terry Road, Box Hill 2765
DESCRIPTION	Part of Lot 30 DP10157
RECEIVED	5/06/2024
FILE NO.	IRF24/1276
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

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

The objectives of the planning proposal (**Attachment A**) in summary are to:

- Rezone SP2 Infrastructure land to facilitate medium density development;
- Reflect the advice from Schools Infrastructure NSW that it does not intend to acquire this land for the purposes of a school.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the *State Environmental Planning Policy (Precincts Central River City) 2021* for land relating to lot 30 DP 10157 as shown in Table 3:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	SP2 Infrastructure - School RE1 Public Recreation	R3 Medium Density Residential RE1 Public Recreation (no change)
Maximum height of the building	N/A	14m for R3 Medium Density Residential land N/A for RE1 Public Recreation land
Number of dwellings	1	Planning Proposal states potential for a total of 87 residential lots. The Gateway determination will require an increase in the proposed maximum dwellings per hectare, increasing this potential to approximately 121 dwellings (based on 2.9ha developable area).
Minimum Residential Density	N/A	18 dwellings per hectare for R3 Medium Density Residential land N/A for RE1 Public Recreation land
Land Reservation Acquisition	Land identified to be acquired for the purposes of a school and local open space	Land identified to be acquired for the purposes of local open space only (RE1 Public Recreation)
Local Provision – maximum residential density	Nil	Maximum residential density of 30 dwellings per hectare (planning proposal) The Gateway determination will require the planning proposal to be updated to a maximum of 42 dwellings per hectare for the RE3 Medium Density Residential land (land to be identified on a key site map).

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. However, the Gateway determination will be conditioned for the planning proposal to be amended to replace the maximum of 30 dwellings per hectare to 42 dwellings per hectare as discussed below.

The planning proposal is supported by two possible subdivision layout concept plans showing that would result in 58 or 61 residential lots (**Attachment E**), Figure 2 includes an excerpt of the subdivision plan showing 61 residential lots. As stated in Council's report to the Local Planning Panel (**Attachment C**), the proposed density of 58-61 lots is generally reflective of the residential density to be achieved on other R3 Medium Density Residential zoned sites for medium density housing product (small lot housing) being around 22 dwellings per hectare.

However, in order to provide certainty to the community and to reasonably limit the amount of additional unplanned yield that can occur on this development site, the planning proposal includes a local provision seeking a maximum residential density of 30 dwellings per hectare. The 30 dwellings per hectare is consistent with the density bands exhibited by the Department of Planning, Housing and Infrastructure in 2017 in conjunction with the finalisation of the Land Use Infrastructure and Implementation Plan for the North West Growth Area.

The maximum density bands remain in draft form. Considering the time lapse between the 2017 exhibition and now, a maximum density of 30 dwellings per hectare needs to be supported by further justification as to why it's appropriate. In addition, the R3 Medium Density Residential land use zone also permits multi-dwelling housing which may see a higher dwelling yield if the site is developed for that type of housing product and without supporting justification, the 30 dwellings per hectare maximum may be too restrictive.

Additional information provided by Council (**Attachment L**) suggests that based on a number of development consents for multi-dwelling housing on other parcels of R3 Medium Density Zoned land in Box Hill, the approximate density is 42 dwellings per hectare. The Department considers a maximum density of 42 dwellings per hectare more appropriate with sufficient justification provided by Council for the Department to support a maximum density provision. As mentioned above, the Gateway determination has been conditioned accordingly.

Supporting documentation

The planning proposal will also be supported by:

- amendments to the Box Hill DCP to identify the subject site as 'medium density residential' and include a new local road on the northern boundary; and
- a VPA letter of offer (**Attachment K**) including full monetary contributions under CP15 as required and calculated at the time of any development consent, the dedication of land for the purposes of road widening and upgrade to Terry Road, dedication of constructed half width of road along the northern boundary of the land proposed to be rezoned R3 Medium Density Residential (this is in addition to the half width adjoining the development site which would be the developer's responsibility as part of the orderly development of the land).

It's noted SINSW's correspondence (**Attachment B3**) states the additional local road proposed to be provided on the subject site's northern boundary is to be located entirely within the boundary of Lot 30, at no additional cost to SINSW. The VPA letter of offer is consistent with SINSW's comments.

1.4 Site description and surrounding area

The subject property 48 Terry Road, Box Hill, Lot 30 DP 10157, has a total area of approximately 4.4 hectares and contains a single residential dwelling, scattered vegetation, an existing dam fronting Terry Road (registered as drainage easement 30m and 45m wide to provide detention for stormwater runoff from an external catchment) and an overland flowpath traversing the site. The planning proposal seeks to rezone approximately 2.9ha of the site as shown in Figure 1. A concept layout plan is shown in Figure 2.

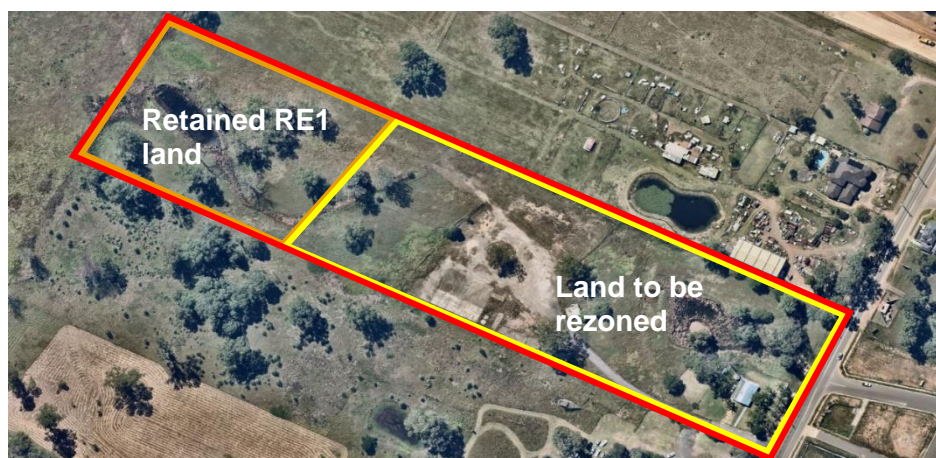


Figure 1 Subject site showing the land subject to this planning proposal (outlined in yellow) and the retained RE1 land (outlined in orange) (source: Nearmap)

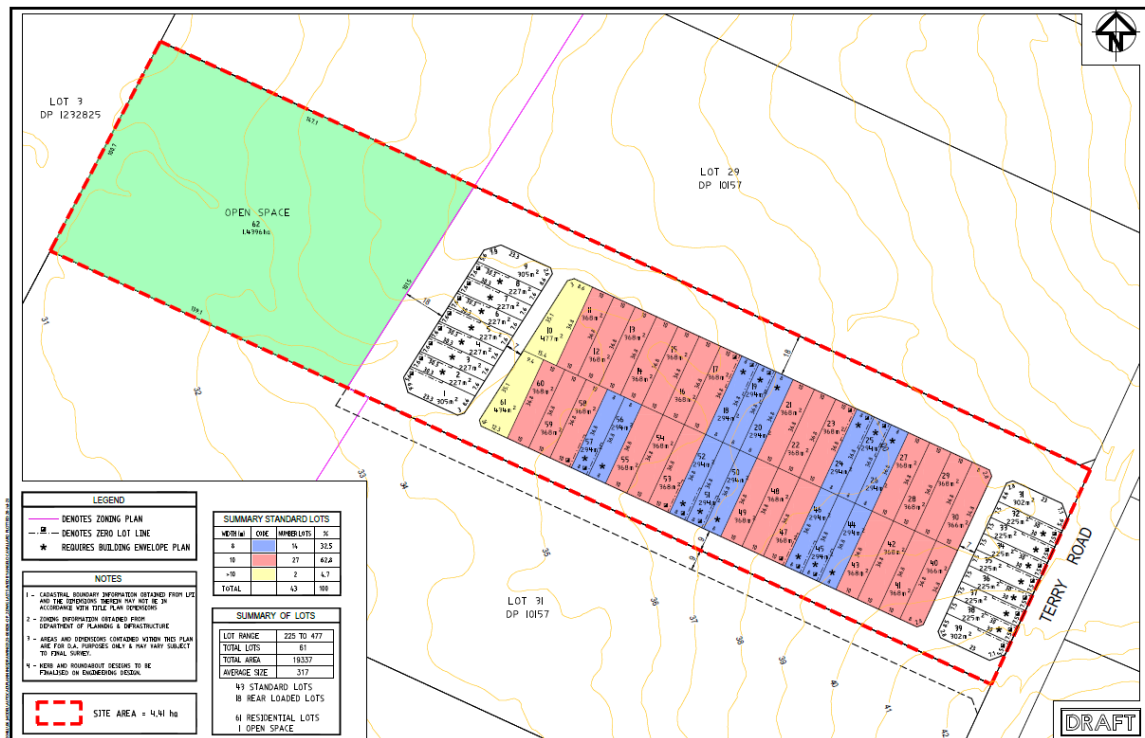


Figure 2 Concept subdivision plan showing 61 residential lots (Source: Egis 2023)

Along with No. 50 and 52 Terry Road, the majority of the subject lot is zoned SP2 Infrastructure to facilitate the delivery of a public school as identified in the Box Hill precinct plan. The western portion of the site (approximately 1.3 hectares) is zoned RE1 Public Recreation and will form part of the future Sunny Hill Parkway Sports Complex.

The site is located within the Box Hill Precinct zoned under the SEPP (Precincts – Central River City) (Figure 3). The precinct is gradually developing for urban development, the adjoining sites remain in their rural residential state, with low density residential development occurring to the north, east and west. The site is located 400m north of the Box Hill City Centre Shopping complex (under construction).



Figure 3 Site context (source: Planning Proposal (Attachment A))

Flooding

The majority of the site is mapped as flood prone and major creeks land within the North West Growth Centre Development Control Map Sheet DVC_008 supporting the SEPP(Precincts – Central River City). The Department's Flood Risk management manual (2023) defines flood prone land as land being susceptible to flooding up to the PMF event.



Figure 4 SEPP(Precincts – Central River City) Development Control Map excerpt

The Box Hill DCP identifies the majority of the subject site's flood prone land has the potential to be filled above the 1 in 100 year flood event.

A Water Cycle Management Report supported the precinct planning for Box Hill and Box Hill Industrial Precinct. As outlined in the Water Cycle Management – Post Re-Exhibition Strategy Report (November 2012), the flood assessment shows that post development 100 year ARI flows are controlled and contained within the proposed detention basins and riparian corridors of the precinct. The report also identifies the regional PMF does not impact this site.

Flooding and stormwater impacts of the proposal are further discussed in Section 3.5 and Section 4.1 of this report.

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the land use zoning, height of buildings, residential density, land reservation acquisition and key sites maps (map reference 008) supporting the SEPP(Precincts – Central River City) which are suitable for community consultation.

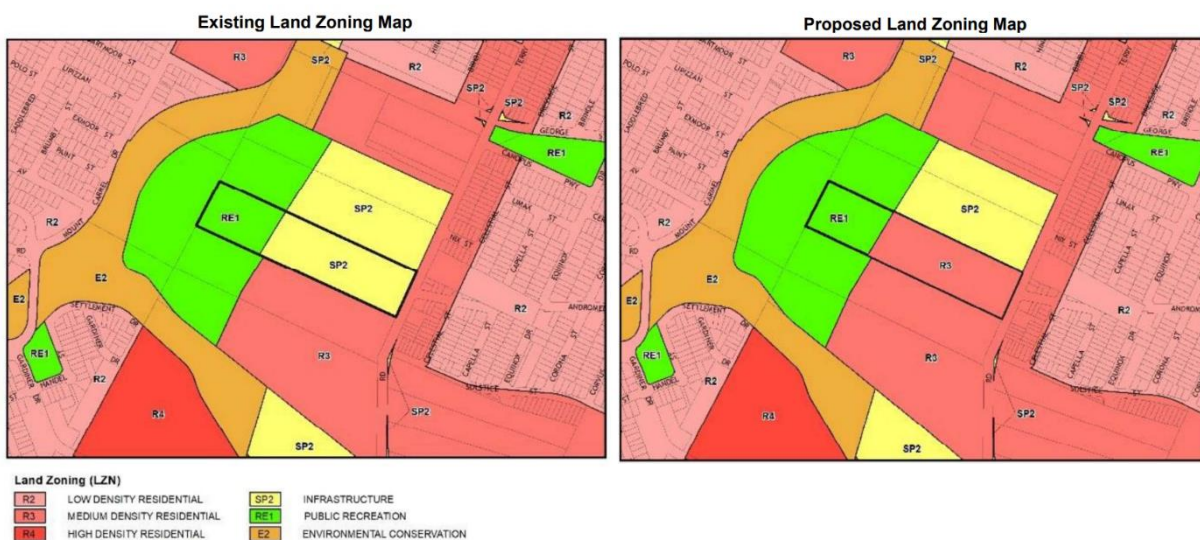


Figure 5 Existing and proposed land use zoning map



Figure 6 Existing and proposed height of building map



Figure 7 Existing and proposed residential density (minimum) map

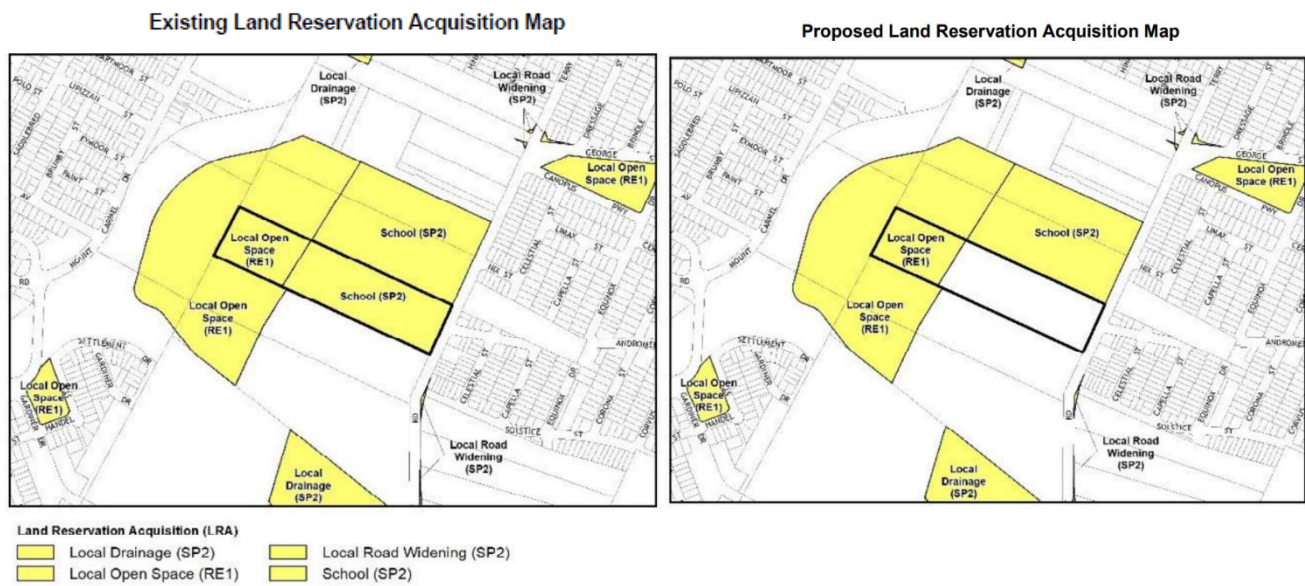


Figure 8 Existing and proposed land reservation acquisition map



Figure 9 Existing and proposed key sites map

2 Need for the planning proposal

Is the proposal a result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?

The planning proposal is not the result of a local strategic planning statement, or Department approved strategy or report. It is proponent initiated and is the result of a change in circumstance.

School Infrastructure NSW (SINSW) separately advised the Department and landowner via letters dated 23 February 2022 that it intends to relinquish its interest over the part of the subject site identified in the SEPP to be acquired for the purposes of a school (**Attachments B1 and B2**).

This has led to a planning proposal being lodged with The Hills Shire Council to rezone the land subject to SP2 Infrastructure – school to R3 Medium Density Residential. Council requested comment from SINSW on the planning proposal, and it reiterated its previous position, that the subject site is no longer required for the purposes of a school (**Attachment B3**).

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

A planning proposal to amend the SEPP is the most suitable mechanism to achieve the objectives of the planning proposal and to respond to the change in circumstances.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Greater Sydney Region Plan.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 6 - Services and infrastructure meet	Objective 6 of the Region Plan seeks to ensure that services and social infrastructure are provided to meet the changing needs of existing and new communities.

communities' changing needs	The proposal would reduce the extent of land identified for the purposes of a school, however SINSW has stated its intention to relinquish the land for the purposes of a school.
Objective 10 - Greater housing supply	Objective 10 of the Region Plan seeks to increase the supply of housing in the right locations. The provision of additional medium density housing within the proposal will contribute to the Central City meeting its 2036 housing target.

3.2 District Plan

The site is within the Central City District and the Greater Sydney Commission released the Central City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 5 District Plan assessment

District Plan Priorities	Justification
Priority C3 - Providing services and social infrastructure to meet people's changing needs	<p>Planning Priority C3 of the District Plan seeks to ensure that services and social infrastructure are provided to meet the changing needs of existing and new communities</p> <p>The proposal would reduce the extent of land identified for a school, however SINSW's (Attachment B3) reiterated in its response dated April 2023 to Council seeking comment on the subject planning proposal that the agency's position in terms of relinquishing its interest over the part of the subject site identified for the purposes of a future school remains. SINSW is currently exploring opportunities for educational facilities on 50-52 Terry Road.</p>
Priority C5 - Providing housing supply, choice and affordability with access to jobs, services and public transport	<p>Priority C5 of the District Plan seeks to ensure an ongoing and diverse supply of housing in the right locations. The District Plan places emphasis on local infill through "the missing middle" medium density housing. The planning proposal would align with these objectives by providing additional R3 Medium Density Residential capable of providing villas and townhouses in an accessible location close to the Box Hill Town Centre, schools and open space.</p> <p>The planning proposal is consistent with this priority.</p>

3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
------------------	---------------

Hills Future 2036 - Local Strategic Planning Statement 2019	<p>The LSPS sets out the land use planning context and Council's 20-year vision to manage future land use planning decisions and guide how growth will be managed to provide for more housing, jobs, parks and services for the growing population.</p> <p>The proposal is consistent with the LSPS, in particular Priority 6 -Plan for new housing to support Greater Sydney's growing population, as it facilitates the provision of new and diverse housing within the Box Hill Precinct.</p>
Housing Strategy 2019	<p>The Housing Strategy supports the Hills Future 2036 vision 'to shape exceptional living, working and leisure places where expected growth brings vibrancy, diversity, liveability and prosperity for The Hills'.</p> <p>Through enabling an increase in the supply of medium density housing, the proposal supports the strategy's planning priorities for; new housing to support Greater Sydney's growing population, plan for new housing in the right locations, and plan for a diversity of housing.</p>

3.4 Local planning panel recommendation

The proposal was reported to The Hills local planning panel on 21 February 2024. In summary, the panel advised:

1. The proposal 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 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.
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.

Department response

It is noted that Council supported a higher maximum density provision of 30 dwellings per hectare rather than applying a specific dwelling cap of 61 dwellings as recommended by the local planning panel. Section 1.3 of this report provides a discussion on the local provision to introduce a maximum density provision with the Department conditioning the Gateway to increase the maximum dwellings per hectare provision from 30 to 42.

3.5 Section 9.1 Ministerial Directions

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

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Regional Plans	Consistent	The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.

		As discussed under Section 3.1, the planning proposal is consistent with the regional plan to deliver housing.
Direction 1.4 Site Specific Provision	Justifiably inconsistent	<p>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.</p> <p>The proposed site specific provision is for the purposes of placing a maximum density on the site. The Department's comments on this provision are provided in Section 1.3 of this report.</p> <p>The maximum dwelling cap is considered inconsistent with (1)(b) rezoning the site to an existing zone already in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone.</p> <p>The Department supports a maximum density provision as a result of the following circumstances:</p> <ul style="list-style-type: none"> • This planning proposal will result in additional unplanned yield not anticipated at the time the precinct was rezoned in 2013. • There are already significant limitations on the planned local and regional infrastructure network within the Box Hill Precinct, without considering any additional unplanned yield. • The provision of local infrastructure is exacerbated by Council's inability to fund the infrastructure list identified by the Department during the precinct planning for Box Hill, as a result of other Government policy decisions which have now resulted in a funding shortfall under CP15, in the realm of \$180 million. • Council has provided sufficient justification for a maximum density provision on this site however the Gateway has been conditioned to increase the maximum density provision from 30 dwellings per hectare to 42 dwellings per hectare. • The subject site has a relatively small developable area of approximately 2.9ha (if this planning proposal proceeds). • The Department considers planning proposals to increase residential densities in Box Hill relatively infrequent due to the precinct planning occurring in 2013. <p>Given the above, the inconsistency with this Direction is considered to be of minor significance.</p>
Direction 1.6 Implementation of Northwest Priority Growth Area Land Use Infrastructure	Consistent	<p>The objectives of this Direction are to ensure that development within the North West Priority Growth Area is consistent with the North West Priority Growth Area Land Use and Infrastructure Plan (LUIIP).</p>

and Implementation Plan		<p>The LUIP outlines plans for the Growth Area and the infrastructure needed to support this growth. It contains a set of key actions.</p> <p>The proposal is consistent with the LUIP as it will provide more land supply for new homes, as it provides for additional medium density on land considered surplus to SINSW needs. The rezoning of this land will not interfere with the school infrastructure for the area or any other infrastructure items listed in the LUIP.</p>
Direction 4.1 Flooding	Inconsistent – unjustified	<p>This Ministerial direction is to ensure development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.</p> <p>The planning proposal states the proposal is consistent with this direction however there is no explanation as to what provisions of the direction it is consistent with.</p> <p>As discussed in Section 1.4, the subject site is mapped in the SEPP(Precincts-Central River City) as containing land susceptible to flooding up to the probable maximum flood. The planning proposal is inconsistent with:</p> <ul style="list-style-type: none"> (2) a planning proposal must not rezone land within the flood planning level area from Special Purpose to a residential land use zone; and (3) a planning proposal must not contain provisions that apply to the flood planning area which (d) permit a significant increase in the development and/or dwelling density of that land. <p>It is noted the SEPP (Precincts – Central River City) does not contain special flood considerations therefore the proposal does not need to consider consistency of the proposal between the flood planning area and the probable maximum flood.</p> <p>As outlined in Section 1.4, the post development 1 in 100 year flood event flows are contained within the proposed detention basins and riparian corridors of the precinct. The regional basins servicing the subject site (BH01C or BH01B as referenced on p.7 of the Stormwater Memo) have not been constructed. Until this has occurred, temporary stormwater drainage works are required.</p> <p>The development of the site would include filling the land to above the 1 in 100 year flood event (as alluded to in the Box Hill DCP) with temporary stormwater drainage and treatment works within the site to include the construction of a temporary OSD basin. The temporary OSD basin would accommodate the 1 in 100 year flood event.</p>

		<p>The planning proposal does not address how the proposal gives effect to and is consistent with sections (1)(a)-(d): the NSW Flood Prone Land Policy, principles of the Floodplain Development Manual 2005 (replaced by Flood Risk Management Manual 2023), considering flooding in land use planning guideline 2021, any adopted flood study and/or floodplain risk management plan.</p> <p>In order to satisfy this direction, prior to exhibition the planning proposal will need to be updated to address the above.</p>
Direction 4.4 Remediation of Contaminated Land	Consistent	<p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>The planning proposal is supported by a Detailed Site Investigation, dated April 2023, which found that the site is suitable for future residential land use (Attachment H).</p> <p>The proposal is consistent with this direction.</p>
Direction 5.1 Integrating Land Use and Transport	Consistent	<p>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.</p> <p>The proposal satisfies this direction as the site is located in proximity to Box Hill Town Centre and has sufficient bus accessibility, including a potential bus stop in close proximity to the site.</p>
Direction 5.2 Reserving Land for Public Purposes	Consistent	<p>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.</p> <p>This Direction requires the approval of the relevant public authority and the Planning Secretary (or their delegate) for a planning proposal to proceed that seeks to remove an existing zoning or reservation of land for public purposes.</p> <p>The planning proposal is supported by a letter from SINSW informing the landowner of their relinquishment of interests on the site. The proposal responds to this request by rezoning the impacted land which the Council has sought further comment from SINSW. SINSW confirms its previous position that it intends to relinquish its interest in the site.</p>
Direction 6.1 Residential zones	Justifiably inconsistent	<p>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.</p> <p>The planning proposal is consistent with this direction as it provides additional medium density zoned land which can accommodate a variety of housing types.</p>

The planning proposal does not need to contain a requirement regarding adequate servicing of the land before residential development can be permitted as there is an existing SEPP clause (cl 6.1 public utility infrastructure) that requires Council to be satisfied adequate arrangements have been made to make infrastructure available prior to issuing development consent.

The Direction also states a planning proposal must not contain provisions which will reduce the permissible residential density of land (2)(b). The proposal is inconsistent with this Direction as it contains a local provision seeking to place a maximum density provision on the site.

The justification for the maximum density provision is provided under Direction 1.4 Site Specific Provision and is appropriate to address the proposal's inconsistency with this Direction. The inconsistency is determined to be of minor significance.

3.6 State environmental planning policies (SEPPs)

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

Table 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Precincts Central River City) 2021	<p>The objective of the SEPP is to guide the bulk and scale of future development within the Precincts to deliver housing choice and affordability by accommodating a wide range of residential dwelling types that cater for housing diversity.</p> <p>Additionally, the SEPP also seeks to identify land within the Precincts that is proposed to be brought into public ownership for the purposes of roads, parks, drainage and schools.</p>	Consistent	<p>The planning proposal seeks to amend Part 4 Appendix 10 of the SEPP to facilitate the proposed medium-density residential outcome.</p> <p>The proposal is considered consistent with the SEPP as it seeks to provide housing choice and affordability by rezoning land for medium density housing, consistent with adjoining and surrounding land uses.</p>
SEPP (Biodiversity and Conservation) 2021	<p>Chapter 6 of the SEPP aims to provide controls for development within water catchments.</p> <p>Chapter 13 of the SEPP aims to ensure development in strategic conservation areas;</p> <ul style="list-style-type: none"> is consistent with the biodiversity certification under the Biodiversity 	Consistent	<p>The site is part of the Webbs Creek subcatchment within the Hawkesbury-Nepean Catchment. The planning proposal needs to address Chapter 6 Water catchments of the SEPP, a</p>

	<p>Conservation Act 2016 and the EPBC Act 1999,</p> <ul style="list-style-type: none"> • facilitates appropriate development on biodiversity certified areas, • protects areas with high biodiversity value or regionally significant biodiversity that can support ecological functions, • avoids or minimises impacts from future development on biodiversity values in areas with high biodiversity value. 		<p>Gateway condition has been included to this effect.</p> <p>While the planning proposal needs to address Chapter 6 of the SEPP, the Department considers the proposal consistent with the SEPP as it includes stormwater management measures to mitigate impacts of the future development on the land. The subject site is biodiversity certified meaning no further assessment of the impacts of the proposal on flora and fauna is required.</p>
SEPP (Housing) 2021	<p>The principles of this SEPP include;</p> <ul style="list-style-type: none"> • enabling the development of diverse housing types, ensuring new housing development provides residents with a reasonable level of amenity, • promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services, • minimising adverse climate and environmental impacts of new housing development, • reinforcing the importance of designing housing in a way that reflects and enhances its locality, 	Consistent	<p>The proposal ensures new housing development provides residents with a reasonable level of amenity, with its locations within Box Hill in proximity to existing and planned infrastructure and services in the precinct.</p>
SEPP (Resilience and Hazards) 2021	<p>The proposed rezoning of the site to residential requires consideration of potential contamination under the Resilience and Hazards SEPP and Local Ministerial Direction.</p>	Consistent	<p>The planning proposal is supported by a Detailed Site Investigation, dated April 2023, which found that the site is suitable for future residential land use (Attachment H).</p>

4 Site-specific assessment

4.1 Environmental

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

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Environmental	<p>The Hills Shire vegetation mapping identifies Cumberland Plain Woodland (classified as CEEC) on site, however as the site is biodiversity certificated under the Growth Centres Biodiversity Certification Order 2006, no additional biodiversity assessment or reporting requirements are required.</p>
Stormwater	<p>The site contains an overland flow path and an existing farm dam (fronting Terry Road). The farm dam services an external catchment (49, 53 and 55 Terry Road) for the management of temporary drainage from approved subdivisions on those properties.</p> <p>As part of the future development of the subject site, the land will be filled including the existing dam which will affect the drainage management for the approved developments of 49, 53 and 55 Terry Road that drain into the farm dam.</p> <p>Temporary stormwater treatment and detention to manage stormwater runoff is required as part of the redevelopment of the site. This includes a temporary OSD basin with bioretention in the RE1 public recreation land (or elsewhere in the development site – location to be determined at DA stage) and stormwater trunk drainage will be piped along the site's proposed southern local road. Any overland flows will occur within the proposed local road corridor.</p> <p>The proposed OSD basin is an interim measure, it would attenuate the stormwater runoff for rainfall events up to 1 in 100 year AEP. Once the regional basins servicing the subject site (BH01C or BH01B p.7 of the Stormwater Memo) have been constructed, the proposed OSD basin can be removed. The stormwater will be treated by the raingarden identified to be located within the future Sunny Hill Parkway sports complex.</p>
Flooding	<p>As discussed under Section 1.4 of this report and under Section 9.1 Direction 4.1 Flooding, information has only been provided confirming the affectation of the 1 in 100 year flood event on the site. Due to the site being identified in the SEPP as being flood affected, the planning proposal needs to consider flooding planning guidance published by the Department.</p> <p>The Department published a flood-prone land package which commenced on 14 July 2021, providing advice to councils on considering flooding in land-use planning. The updated guidance supports:</p> <ul style="list-style-type: none"> • Better management of flood risk beyond the 1% annual exceedance probability • Greater resilience built into communities in floodplains and reduces potential property damage and loss of life in recognition of increasing extreme flood events throughout NSW. <p>The package included:</p> <ul style="list-style-type: none"> • a revised 9.1 local planning direction on flooding (addressed in under Section 3.5 of this report); • a planning circular on flooding PS 21-006 <i>Considering flooding in land use planning: guidance and statutory requirements</i> which has been supplemented by PS 24-001, issued 1 March 2024, <i>Update on addressing flood risk in planning decisions</i> (this has not been addressed within the planning proposal); and

- the Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021 which included Clause 5.21 Flood Planning and Clause 5.22 Special Flood Considerations (SEPP Precincts – Central River City does not contain these provisions however the SEPP contains additional heads of consideration for development on flood prone and major creeks land for a consent authority to consider at development application stage).

The updated planning circular (PS 24-001) states consistent with the findings of the NSW Flood Inquiry, the Department recommends applying a risk-based approach when addressing flooding in planning decisions. This includes ensuring that:

- a level of assessment undertaken for a planning proposal or development proposal is proportionate to the likely impacts of the proposal, including taking into account the relative flood risk of the proposal.
- planning decisions are based on a balanced consideration of the merits, risk and impacts of a given proposal, and that appropriate measures are in place to limit impacts to an acceptable level and achieve a tolerable flood risk level for flood-affected proposals.

In terms of land use planning, the circular provides the following advice on matters to be considered:

- whether the proposal is in a high-risk catchment
- the location of the proposal in relation to flood behaviour and constraints including:
 - floodway, flood storage area or flood fringe area
 - the hazard vulnerability classification of the land
 - frequency of inundation
- whether the proposal provides for safe occupation and efficient and effective evacuation in flood events and how it is to be achieved
- any known evacuation constraints such as the flood emergency response classification for the area and available warning times (including rate of rise and when the evacuation route is cut by floodwater)
- whether the proposal is for a sensitive or hazardous land use, or other higher risk uses and what controls (if any) are proposed to reduce any identified risks
- whether there may be adverse flooding impacts on surrounding properties potential impacts of cut and fill and other building works on flood behaviour
- ability of proposed development to withstand flood impacts.

These matters should be considered across a range of flood events such as the 10% AEP, 5% AEP, 1% AEP, 0.5 or 0.2% AEP, the PMF event, and the FPL (if available), as well as 0.02% or 0.05% AEP events for higher risk proposals. Climate change to also be considered.

Flood Impact and Risk Assessment - Flood Risk Management Guide LU01 (2023) provides advice on flood impact and risk assessment for planning proposals and DAs.

The Gateway determination has been conditioned for the planning proposal to address Planning Circular PS 24-001, issued 1 March 2024, *Update on addressing flood risk in planning decisions* prior to exhibition.

4.2 Social and economic

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

Table 10 Social and economic impact assessment

Social and Economic Impact	Assessment
Social Impact	Development on the site will be supported by existing public transport services providing residents with access to services and jobs, a new recreational open space facility (Sunny Hill Parkway Sports Complex), and is within 400m of the Box Hill Town Centre.
Economic Impact	The development of the site is supported by a voluntary planning agreement letter of offer which includes the delivery and dedication of a new half road to Council along the northern site boundary (adjoining the proposed school) and dedication of 322m ² of land along the Terry Road frontage of the site (not currently identified for road widening).

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 11 Infrastructure assessment

Infrastructure	Assessment
Road network and traffic	<p>Due to the subject site being intended to form part of a future school, the rezoning of this site has implications on the local road network not envisaged during precinct planning, being the need for an additional local road on the site's northern boundary.</p> <p>SINSW provided comments on the proposal (Attachment B3) and requested the new local road on the subject site's northern boundary be located entirely within the subject site, at no additional cost to Education. The applicant's proposed subdivision concept plans show a full width local road within the subject site. In addition, the VPA letter of offer (referred to in Table 10 and discussed in 1.3 of this report), includes the capital works and dedication of this road to Council.</p> <p>Other local roads identified in the DCP on the subject site have also been included in the subdivision concept plans supporting the planning proposal.</p> <p>As part of Council's assessment of the planning proposal, further investigation into the operation of Terry Road was undertaken. Terry Road is to be upgraded and requires 382m² of road widening along the frontage of the subject site (included within VPA letter of offer).</p> <p>As part of Council's preliminary design work for Terry Road, a bus bay is proposed along the frontage of 50 Terry Road (adjoining lot to the north of the subject site). This will require some dedication of land within the school site. Council seeks to undertake consultation with Transport for NSW and SINSW regarding the proposed</p>

bus bay on the adjoining lot as part of the public authority consultation for the subject planning proposal.

In terms of traffic from the proposed rezoning, as noted in the Traffic and Parking Statement (**Attachment J**), traffic generation to and from the site is considered to be moderate and is not anticipated to cause any adverse traffic impacts on the surrounding network.

The planning proposal also suggests consultation with NSW State Emergency Service to ensure any adverse impacts associated with the future development will be mitigated. The Department assumes this relates to the evacuation road network.

5 Consultation

5.1 Community

The planning proposal is categorised as a standard under the LEP Making Guidelines (September 2022). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

Council has nominated the public agencies to be consulted about the planning proposal.

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Transport for NSW
- School Infrastructure NSW
- NSW State Emergency Service
- Endeavour Energy
- Sydney Water
- NSW Department of Climate Change, Energy, the Environment and Water

6 Timeframe

Council proposes a 10 month time frame to complete the amendment to the SEPP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as standard.

The Department recommends an LEP completion date of 28 February 2025 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

Due to the nature of this planning proposal, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

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

- It is consistent with the objectives and priorities of the Central City District Plan
- It is consistent with The Hills Shire Council's Local Strategic Planning Statement and Local Housing Strategy
- There is a demonstrated need for this proposal with SINSW relinquishing their interest in the site for the purposes of a school. The planning proposal responds appropriately by rezoning the site R3 Medium Density Residential commensurate with surrounding land uses.
- It is not considered to have significant adverse impacts overall including environmental, social, economic, traffic and infrastructure impacts.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Amend the local provision proposing a maximum residential density for the subject site to 42 dwellings per hectare
- Address Section 9.1 Direction 4.1 Flooding (1)(a)-(d)
- Address SEPP(Biodiversity and Conservation) 2021, Chapter 6 Water Catchments
- Address Planning Circular PS 24-001, issued 1 March 2024, *Update on addressing flood risk in planning decisions*

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that the inconsistencies with section 9.1 Directions *1.4 Site Specific Provisions* and *6.1 Residential Zones* are considered minor and justified; and
- Note that the consistency with section 9.1 Direction *4.1 Flooding* is unresolved and will require justification.

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

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be updated to:
 - Remove the local provision proposing a maximum residential density for the subject site
 - Address Section 9.1 Direction 4.1 Flooding (1)(a)-(d)
 - Address SEPP(Biodiversity and Conservation) 2021, Chapter 6 Water Catchments
 - Address Planning Circular PS 24-001, issued 1 March 2024, *Update on addressing flood risk in planning decisions*
2. Prior to community consultation, the planning proposal is to be revised to address condition 1.
3. Consultation is required with the following public authorities:
 - Transport for NSW
 - School Infrastructure NSW
 - NSW State Emergency Service
 - Endeavour Energy

- Sydney Water
- Department of Climate Change, Energy, the Environment and Water

4. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that a SEPP Amendment completion date of 28 February 2025 be included on the Gateway.

The timeframe for the SEPP Amendment to be completed is on or before 28 February 2025.



05.08.24

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07.08.24

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