

Planning and Environment Act 1987

Panel Report

**Nillumbik Planning Scheme Amendment C117nill Part 2
Rezoning of land at Graysharps Road, Hurstbridge**

10 March 2020

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment. [section 27(1) of the *Planning and Environment Act 1987* (the Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the Act]

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Nillumbik Planning Scheme Amendment C117nill Part 2

Rezoning of land at Graysharps Road, Hurstbridge

10 March 2020



Geoff Underwood

Chair

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Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
Council	Nillumbik Shire Council
DDO	Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
DPO	Development Plan Overlay
GWMP	Green Wedge Management Plan
NPS	Nillumbik Planning Scheme
Open Space Plan	<i>Graysharps Road Hurstbridge Open Space Precinct Plan 2018</i>
Plan Melbourne	<i>Plan Melbourne 2017-2050</i>
PPRZ	Public Park and Recreation Zone
TZ	Township Zone

Overview

Amendment summary	
The Amendment	NillumbikNillumbik Planning Scheme Amendment C117nill Part 2nill Part 2
Common name	Rezoning of land at Graysharps Road, Hurstbridge
Brief description	<p>Rezoning of 15 council owned properties identified as serving a public open space function to Public Park and Recreation Zone. Some overlays are deleted from these sites.</p> <p>Part 2 of the Amendment was created by Council resolution on 29 October 2019.</p>
Subject land	Lot 1, 44 Graysharps Road, Hurstbridge
The Proponent	Shire of Nillumbik
Planning Authority	Shire of Nillumbik
Authorisation	1 July 2019
Exhibition	22 August - 20 September 2019.
Submissions	<p>Number of Submissions: 47 Opposed: 2</p> <p>Refer Appendix A</p>

Panel process	
The Panel	Geoff Underwood
Directions Hearing	No Directions Hearing was held
Panel Hearing	Council Chambers, Nillumbik Shire Offices, Greensborough on 24 February 2020
Site inspections	Unaccompanied, 19 February 2020
Appearances	<p>Nillumbik Shire Council represented by Ms Leigh Northwood and Ms Rosa Zouzoulas</p> <p>Mr William Lord</p> <p>Mr David McKinnon</p>
Citation	Nillumbik PSA C117nill Part 2 [2020] PPV
Date of this Report	10 March 2020

Executive summary

Nillumbik Planning Scheme Amendment C117nill Part 2 (the Amendment) seeks to rezone 15 parcels of Council owned land across the municipality that are designated for or used as open space. The Amendment proposed to rezone the sites to the Public Park and Recreation Zone and, for some sites, to remove redundant overlays.

The proposed rezoning of Lot 1, 44 Graysharps Road, Hurstbridge drew 47 submissions, 12 of which opposed the rezoning. After discussions between Council officers and submitters, only two submissions remained. Those two submissions were referred to a Panel for consideration.

One submitter sought no change to the current planning controls so as to preserve options for future residential use of the land, among other things. The second submitter opposed the application of the Public Park and Recreation Zone in place of the Township Zone and the removal of redundant overlay controls so as *“to leave Hurstbridge untouched”*.

One of the submitters appeared at the Hearing on 24 February 2020 to make a case for the retention of the current controls. The Council continued its advocacy for the Amendment based on the strategic support for the rezoning to properly identify the land as open space and not for residential development as was the underlying intention when the Township Zone was applied in 2015.

The submissions addressed the suitability of the proposed controls and the future of the subject land as now proposed under the adopted *Graysharps Road Hurstbridge Open Space Precinct Plan 2018* (Open Space Plan). One submitter argued that the Council had reversed its own intentions for the 1.8 hectare parcel of land without justification and that the Amendment should be rejected. Council submitted the future of the subject land was as open space in the broader Graysharps Road precinct where neighbouring uses included community facilities and established open space areas including active sports fields.

These contrary positions were the theme of presentations at the Hearing. After consideration of the presentations and the written submissions, the Panel has made the following conclusions:

- The Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework.
- The Amendment is consistent with Ministerial Direction 11.
- The Amendment is strategically justified.
- The Council is appropriately applying policy, supported by other action plans, in the rezoning of the subject land as open space.
- The adoption of the Open Space Plan and the recent allocation of funds confirms the intention to proceed with implementation.
- The formulation of the Amendment with the rezoning from the Township Zone to the Public Park and Recreation Zone was a considered decision of Council.
- The Panel accepts the Council submission and supports the proposed Public Park and Recreation Zone and the changes to the overlays to ensure only the relevant controls apply.

The overall conclusion is, to use one submitter’s criterion, there is a *“very good, well justified and proper planning rationale”* to support the Amendment.

Recommendation

That Nilumbik Planning Scheme Amendment C117nill Part 2 be adopted as exhibited.

1 Introduction

1.1 The Amendment

(i) Amendment description

Amendment C117nill to the Nillumbik Planning Scheme (NPS) was a municipal-wide amendment which proposed the rezoning of 15 parcels of Council owned land in various townships in the municipality that are designated for or used as open space. The Amendment proposed to rezone the sites to the Public Park and Recreation Zone (PPRZ) and, for some sites, to remove redundant overlays.

In October 2019, the Nillumbik Shire Council (NSC), as the planning authority, split the Amendment into two parts so as to progress the rezoning of 14 sites without opposition and to seek the appointment of a Panel to deal with two submissions that opposed the rezoning of one site.

Part 1 was referred to the Minister for Planning for approval; it came into effect on 6 February 2020.

Specifically, Part 2 of the Amendment deals with land known as Lot 1, 44 Graysharps Road, Hurstbridge (the subject land and the Amendment site). The proposal:

- rezones the Amendment site to the Public Park and Recreation Zone and removes a Development Plan Overlay (DPO) and a Design and Development Overlay (DDO) that are redundant upon the change of zoning
- makes a machinery change to Clause 72.03 in the NPS to correctly reference the relevant overlays in the scheme.

(ii) The subject land

The Amendment site is shown in Figure 1 with the teal coloured boundary and the number 44.

Figure 1 The subject land and environs
Source: Council's Part A submission



Paragraph 26 of Council's Part A submission describes the subject site as:

The Amendment site is 1.8 hectares in size and is bounded by the Hurstbridge railway line and Diamond Creek corridor, approximately 330 metres from the Hurstbridge Town Centre. No direct access is available to the Amendment site as the railway provides a barrier between the site and the town centre.

The subject land sits within what is known as the Graysharps Road precinct at Hurstbridge. Neighbouring uses include two sports ovals (the Ben Frilay Oval and the Hurstbridge High Oval also known as the East Oval), the Hurstbridge basketball court, open netball courts, the Hurstbridge Wetlands, the Hurstbridge Family Hub with a Maternal and Child Health Centre, a Children's Hub and two kindergartens as well as a building designated as a Bushfire Neighbourhood Safer Place. A walking track which extends around and through the precinct was noted as popular with dog walkers and joggers at the time of the Panel's inspection.

The Council has adopted a Recreational and Open Space Plan for the Graysharps Road precinct. That Plan, the Graysharps Road Hurstbridge Open Space Precinct Plan 2018 (Open Space Plan), now supports the strategic direction for the subject land as open space. Figure 2 is from the Open Space Plan. It shows the various land use activities in the precinct. The subject land is numbered 12 and marked as Lot 1 in the legend on the Plan.

Figure 2 The Graysharps Road Precinct



1.2 Background

Amendment C117nill was exhibited from 22 August to 20 September 2019. Forty-seven submissions were received about the rezoning of the subject land. They included submissions for and against the proposal. Of the opposing submissions, all but two were withdrawn as submitters accepted the Council position on the rezoning. In October 2019, Council resolved to split the Amendment into two parts to deal with those sites without submissions.

This report deals with Part 2 of the Amendment and the two opposing submissions about the subject land. Of those submissions, one sought no change to the current controls and the retention of the Township Zone (TZ) to allow the option for a range of uses as allowed in the

TZ including community or residential uses. The second submission opposed the rezoning to the PPRZ and the removal of a DPO and the DDO so as *“to leave Hurstbridge untouched”*.

The subject land was part of the former Hurstbridge High School enclave. Council’s Part A submission provides useful information about the history of the use of the subject land, the change of ownership upon closure of the school and Council’s past intentions for an alternate use *“to allow the development of a medium density cluster of affordable and accessible housing”*. The current planning controls were applied to facilitate that use in September 2015, through Amendment C85 to the NPS. The Council also rezoned the land to the TZ and applied the accompanying DPO to control the form of development, through C85.

Both an Environmental Significance Overlay (ESO) and Land Subject to Inundation Overlay (LSIO) cover parts of the subject land. These are to be retained. The Panel was provided with copies of those overlays in Council’s Part B submission. The Council regards those overlays as appropriate controls to facilitate the desired outcome and use of the subject land as open space as part of the broader Open Space Plan.

1.3 Procedural issues

As part of its request for a Panel to be appointed, Council requested the matter to be determined ‘on the papers’: that is, without a hearing. The request was made in anticipation that the two opposing submitters did not wish to appear before a Panel. From a Panel perspective, this left uncertainty about the intentions of those submitters. Therefore, to accord procedural fairness and allow the submitters the opportunity to present their submissions if they wished, the Panel declined the request.

No Directions Hearing was held for this proceeding. Instead, written directions about the distribution of material from Council and notice of the hearing were issued on 14 February 2020.

There was a delay between the time of the appointment of the Panel in November 2019, when the submitters were advised about its appointment, and the Hearing on 24 February 2020. This delay was at the request of the Council to accommodate its administrative processes associated with Council’s meeting cycle.

Ahead of the Hearing, in line with the Panel directions:

- Council distributed a Part A submission.
- Submitter Mr William Lord confirmed his attendance.

Through the distribution of material as directed and the notice of attendance, the Panel was satisfied that its directions were met.

The Panel records its appreciation to the Council for its comprehensive Part A submission which assisted with the unaccompanied inspection of the subject land and the surrounding precinct on 19 February 2020.

At the Hearing, the Panel allowed Mr David McKinnon, a person who had supported the change to the planning controls in a submission lodged during exhibition of the Amendment, to restate that support. This was despite Mr McKinnon having no status as his submission was not among those referred to the Panel.

1.4 Summary of issues raised in submissions

At the Hearing, Council continued their advocacy for the Amendment and, Mr Lord who supported the retention of the current controls, spoke to his submission.

The second submitter, Stevie Morris, did not respond to notice about the Hearing and did not attend. No further reference is made to the thrust of that submission in the Report.

In both its Part A and Part B submissions Council provided information to support the rezoning of the subject land. The Part A submission summarised the planning history of the subject land and the basis of Council's decisions about use of the land. The Part B submission outlined the strategic planning issues in support of the rezoning, including the reasons for the application of the PPRZ, and directly addressed Mr Lord's submission.

The issues relevant to the Panel's consideration of the Amendment are set out in the chapters 2 and 3 of this Report dealing with the Planning context and the specific Issues raised by Mr Lord.

2 Planning context

2.1 Planning policy framework

The Explanatory Report for the Amendment stated that the proposal was supported by the Planning Policy Framework. Council stated that the Amendment implemented the objectives of planning in Victoria; addressed the environmental, social and economic effects of the Amendment; supported and implemented the Local Planning Policy Framework, and specifically the Municipal Strategic Statement.

Under a heading *Planning Policy Framework*, Council's Part A submission relied upon the following Clauses in the NPS for support of the Amendment:

- Clause 12.05-2S and the objective to 'enhance significant landscapes and open spaces that contribute to character identity and sustainable environments'.
- Clause 19.02-6S about 'the establishment, management and improvement of a diverse and integrated network of public open space that meets the needs of the community'.
- Objective 4 of Clause 21.05, in the Local Planning Policy Framework concerning 'facilitating provision of equitable local recreational facilities and public open spaces to meet local community needs'.

2.2 Other relevant planning strategies and policies

(i) Plan Melbourne

Council's Part A and Part B submissions addressed the relevant planning policy set out in *Plan Melbourne 2017-2050* (Plan Melbourne). In general, Plan Melbourne sets out strategic directions to guide Melbourne's development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved

The Explanatory Report referred to directions and policy set out in Plan Melbourne citing:

- Direction 5.4 Deliver local parks and green neighbourhoods in collaboration with communities.
 - Policy 5.4.1 Develop a network of accessible, high-quality, local open spaces.
- Direction 6.4 Make Melbourne cooler and greener.
 - Policy 6.4.2 Strengthen the integrated metropolitan open space network.
- Direction 6.5 Protect and restore natural habitats.
 - Policy 6.5.1 Create a network of green spaces that support biodiversity conservation and opportunities to connect with nature.

An essential part of the implementation process is to allow municipalities to ensure projects at the local level support the high-level approach in Plan Melbourne. Council submitted that the Open Space Plan supports the implementation of Plan Melbourne.

2.3 Planning scheme provisions

(i) Zoning

The subject land is proposed to be rezoned to the PPRZ. The Explanatory Report explains that zone was selected because of the control it provides to Council as responsible authority “to ensure the land use is consistently and appropriately recognised for meeting the open space requests of the local community”.

Council’s Part B submission makes three statements about the selection of the PPRZ.

Paragraph 10 states:

The PPRZ is the main operative provision of the Amendment. Relevant to the Amendment it:

- a. Recognises areas for public recreation and open space; and
- b. Provides for commercial uses to be considered where appropriate.

Paragraph 48 states:

Appropriate future uses of the Amendment site, aligned to the objectives of the Open Space Precinct can effectively be provided for in applying the PPRZ. The PPRZ allows for significant scope for land uses, in respect of the purpose of the zone which can include some minor commercial uses, community uses and utility use aligned to the majority use ‘public park and recreation’.

Paragraph 61 states:

It is also regarded proper planning to zone land for its intended use as justified in adopted strategies, regardless of ownership.

(ii) Overlays

The Amendment removes a DPO and a DDO from the subject land as they are considered redundant upon the deletion of the TZ. As a matter of principle, the Panel supports the removal of overlays no longer relevant to a parcel of land.

The existing Environmental Significance Overlay (ESO) and Land Subject to Inundation Overlay (LSIO) which cover parts of the subject land will remain. They are considered appropriate to facilitate the desired outcome for use of the subject land as open space as part of the broader Open Space Plan.

2.4 Ministerial Directions and Practice Notes

Ministerial Directions

The Explanatory Report notes that the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018 (PPN46). There is no dispute about compliance with the Direction or the Practice Note.

2.5 Discussion

Mr Lord, preferred that part of Plan Melbourne which he says:

“provides guidance on directions for future land use planning that should be included in the overall perspective of the Green Wedges for metropolitan Melbourne. This includes

Plan Melbourne saying; “accommodate additional housing and employment in established towns that have the capacity for growth.”

He questioned whether, to be consistent with what he called “the State Government Planning Scheme”, the Planning Minister may not support the Amendment “as the State Government agreed to the last Council’s Township Zone proposal and may well wish to keep open future alternatives for Hurstbridge, particularly given their recent proposal for upgrading of the Hurstbridge Railway line (to be completed 2022)”.

The Panel accepts the statement by Council at paragraph 10 of its Part B submission that:

This amendment will change the zoning to ensure the land use is consistently and appropriately recognised for meeting the open space requests of the local community.

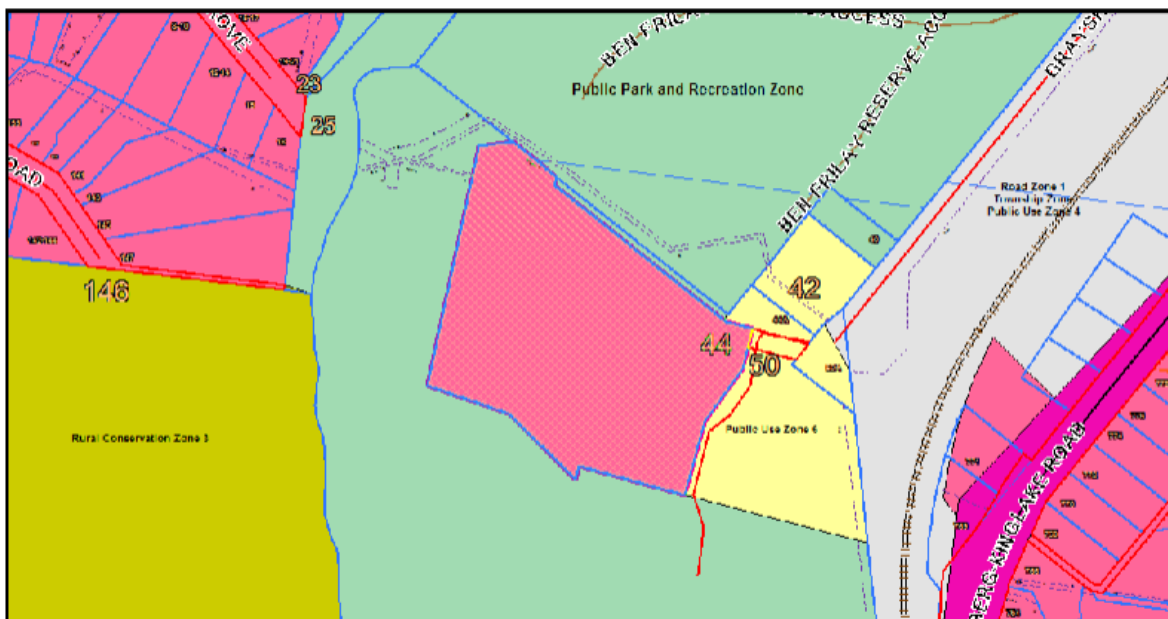
While Mr Lord opposes removing the TZ, he did not criticise the selection and application of the PPRZ.

Council addressed Mr Lord’s preference for the TZ in its Part B submission under the heading ‘Appropriateness of the current planning controls’. Through paragraphs 60 to 70 of its submission, Council persuasively argued for the PPRZ on the basis of it being the best zone to apply strategically and to achieve the best outcomes for the subject land in light of current policy and the adopted Open Space Plan. Council concluded that:

69. Given that Council have resolved not to sell the Amendment site, and intends to remain the public land owner and manager, it is contended that the application of the PPRZ is both appropriate and necessary in allowing Council as the public land manager flexibility in implementing the strategic objectives for the Amendment site and broader Open Space Precinct.
70. Further given land located within the Graysharps Road Open Space Precinct is in Council ownership and management, and is zoned PPRZ or PUZ, it is considered application of the PPRZ is the appropriate tool for guiding the ‘fair and orderly use and development of land’.

Figure 3, taken from Council’s Part A submission, shows the subject land (numbered 44) in the context of the surrounding zonings.

Figure 3 Zonings adjoining 44 Graysharps Road



2.6 Conclusions

The Panel accepts Council's submission and supports the application of the PPRZ as well as the changes to the overlays to ensure that only the relevant controls apply.

The Panel concludes that the Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework, and is consistent with Ministerial Direction 11. The Panel concludes that the Amendment is strategically justified.

The change to Clause 72.03 is a machinery change and is a consequence of each zone change and overlay removal. As the change automatically follows, there is no need to assess its merit.

3 Issues

3.1 The issues

The Panel has the task of considering the proposal for the exhibited change to the planning controls against the opposing submission from Mr Lord. That is: should the current controls remain on the subject land as Mr Lord submits or should the Council be supported?

3.2 Submissions

Mr Lord submitted that the existing TZ zoning was appropriate and the subject land should remain identified as a possible site for development that satisfies policy directions in the NPS and the Green Wedge Management Plan (GWMP).

He referred to policy statements from the GWMP and the NPS as well as Plan Melbourne which he says:

provide guidance on directions for future land use planning that should be included in the overall perspective of the Green Wedges for metropolitan Melbourne. This includes Plan Melbourne saying; “accommodate additional housing and employment in established towns that have the capacity for growth.”

Mr Lord identified other policy directions and strategies in the NPS to support his submission. They included strategies for the promotion of economic development in Hurstbridge (as well as other small towns of St Andrews and Panton Hill identified in the NPS); the encouragement of the concentration of commercial and community services and facilities in major and neighbourhood activity centres and townships; as well as parts of the Council Framework Plan to use the TZ as a strategic planning tool to achieve these outcomes.

Central to Mr Lord’s submission is the argument that future development in the small towns in the municipality should be in the TZ so as to protect the Green Wedge areas from development pressure. He submitted that removing any part of the TZ in Hurstbridge is sending the wrong message to landowners and developers wanting to undermine the Green Wedge.

Mr Lord considered the subject land to be suitable for aged care and social housing facilities which were components of the use proposal when the TZ was applied in 2015 under Amendment C85. He wanted the opportunity for that use, and other uses, to be retained by leaving the TZ in place.

Mr Lord put to the Panel that it should not advise Council *“to get rid of this bit of Township Zone (TZ) without very good, well justified and proper planning rationale”*. As Mr Lord put it the Panel had to consider this criterion before recommending the Amendment.

Council counters Mr Lord by pointing out the policy support for the land’s identification as open space as well as the strategic basis for the application of the PPRZ.

In addition to State and Local policy in the NPS, Council identified two further elements of policy supporting the open space future of the land

- the Green Wedge Management Plan (GWMP) adopted in December 2019, and
- the Open Space Precinct Plan.

At paragraph 43 of its Part B submission, Council summarised the effect of the GWMP. It stated:

Council's adopted GWMP is consistent with State policy regarding the placement and use of the Urban Growth Boundary (UGB) and State Green wedge policy more broadly. The adopted GWMP reaffirms the Urban Growth Boundary and no changes to the existing location of the UGB are proposed, considered or intimated.

The Council considered that GWMP countered Mr Lord's contention about how the Green Wedge is being observed by some "*landowners and developers*".

At paragraph 50 of its Part B submission, Council submitted there is:

significant strategic intent and investment through its adopted Trails Strategy, Open Space Strategy and the more recent Graysharps Road Open Space Precinct Plan in regard to the Amendment site and broader open space precinct. It is also noted that actions and significant funding has been allocated as evidenced through the current Council Plan identifying work including the Precinct Plan and extension of the Diamond Creek Trail through to Hurstbridge (and beyond).

Council submitted that the recent allocation of \$4million to fund the implementation of the Open Space Plan and the extension of the complementary Diamond Creek Trail indicated a considered decision by Council about its intentions and improvements to the subject land for the advantage of the local area and the sites broader context.

Council submitted that this part of the TZ in Hurstbridge was not warranted as an area for residential use because there is sufficient appropriately zoned land in the township to accommodate the projected limited demand of 6 new dwellings per annum.

Council's Part A and Part B submissions made clear how the current controls came to be and how, in December 2016, following "*representations from the community about future use of the subject land*", Council changed direction and determined the land should be retained as open space, with a preference for "*unstructured open space*".

Paragraphs 20 to 23 of Council's Part B submission directly address the issues raised by Mr Lord:

20. Initial work for the Graysharps Road Open Space Precinct Plan (Precinct Plan) project was commenced in 2016 and at that time the Amendment site was excluded as part of that strategic work, despite the fact that the Amendment site is located in the middle of the precinct. This exclusion of the site from the Precinct Plan was generally in association with an earlier Council decision that identified use of the Amendment site for housing upon acquisition of the site.
21. During 2016 in early consultation around the Hurstbridge township, the community clearly indicated that they wanted the Amendment site to be included in any consideration of the open space area in undertaking a holistic approach to planning for the Graysharps Road Open Space precinct. In agreement and acknowledgement of both community concern and orderly planning, Council resolved at its 20th December 2016 Ordinary Council Meeting (OCM) that a Recreational and Open Space Plan for the expanded Graysharps Road precinct be prepared including the Amendment site.
22. In preparation of the Precinct Plan, the community, through a lengthy and extensive consultation process, were engaged in identifying a preferred option for the precinct including the Amendment site, and this has been developed into the adopted Graysharps Road Open Space Precinct Plan 2018.
23. Preparation of the Amendment to rezone the Amendment site was not undertaken until the Precinct Plan was finalised to allow identification of the most appropriate

planning controls to be sought, based on the strategic intent for the Amendment site (and broader precinct).

A copy of the Precinct Plan (Open Space Plan) was included in Council’s Part B submission. A section of that plan is included in Figure 4.

Figure 4 Positioning the subject land in the Open Space Plan

PRECINCT PLAN DETAIL



The detail for “A” is described this way in the words of the plan:

A RETAIN OPEN GRASSED INFORMAL AREA

The ‘Lot 1’ site previously proposed for development will be retained as an informal area of grassed open space, allowing for informal activities to occur. This might include dog walking, community events, informal socialising or exercise. No new structure are proposed for this area, which serves as an ‘intermediary’ spacer between the natural creek corridor and the activity centred around the Community Hub and Football Club..

3.3 Discussion

Mr Lord’s submission clearly presented his arguments and the reasons for not changing the planning controls. The Council presentations, of course, took a contrary stance relying on planning support for its position.

Without reducing Mr Lord’s central submission that the TZ should remain to guide a future for the subject land, a future that is diametrically opposed to Council’s proposed use as open space. The Panel summarises Mr Lord’s submission into three parts:

- That the rezoning sends the wrong message that the TZ is not important for the future growth of Hurstbridge.
- That the lack of a development plan for the land indicates uncertainty in the mind of the Council about what the future should be for the land.

- That the Council decision to change its intent with the subject land was made on a whim.

Mr Lord presented his concern for the way the municipality should develop as part of local policy that earmarks Hurstbridge, St Andrews and Panton Hill as towns for growth. It is not for the Panel to question the Council's motivation to remove the TZ and thus obviate the residential use behind Amendment C85 in 2015, or to rethink a future for the subject land.

The Council unequivocally stated its position about development when it submitted that the *"adopted GWMP reaffirms the Urban Growth Boundary and no changes to the existing location of the UGB are proposed, considered or intimated"*. People may draw their own conclusions on the removal of 1.8 hectares of land from the TZ. It will be up to the Council as planning authority to fall back on the Green Wedge policy and, as responsible authority, to respond to development applications.

The history of the preparation of the Open Space Plan as explained in Council's Part B submission confirms to the Panel that it was a considered decision to integrate the subject land into the broader Graysharps Road precinct. The adoption of the final plan in 2018 and the more recent allocation of funds for implementation also confirm to the Panel that the Council has a clear picture for the future for the subject land.

Whereas Mr Lord submits the decision was made on a whim, the Panel finds that the resolutions of Council, and the studies that support the future for the subject land and the selection of the PPRZ, justify the proposed controls.

3.4 Conclusions and recommendation

The Panel concludes that:

- The Council has established that there is strategic justification for the Amendment.
- The Council is applying policy, supported by other action plans, in the rezoning of the subject land as open space.
- The Open Space Plan and the allocation of funds confirms the intention to proceed with implementation.
- The formulation of the Amendment with the rezoning from the TZ to the PPRZ was a considered decision of Council.

The overall conclusion is, to use Mr Lord's criterion, that there is a *"very good, well justified and proper planning rationale"* to support the Amendment.

The Panel recommends:

That Nillumbik Planning Scheme Amendment C117nill Part 2 be adopted as exhibited.

Appendix A Submitters to the Amendment

No.	Submitter
1	William Lord
2	Stevie Morris

Appendix B Document list

No.	Date	Description	Provided by
1	19/02/2020	Council Part A submission	Council
2	24/02/2020	Council Part B submission	Council
3	24/02/2020	List of submissions lodged during exhibition	Council
4	24/02/2020	Submission by William Lord	Mr Lord
5	24/02/2020	Location plan showing general residential location of the submitter	Council