
ITEM-3	FLEXIBILITY BETWEEN R2 LOW DENSITY RESIDENTIAL ZONE AND E4 ENVIRONMENTAL LIVING ZONE NORTH KELLYVILLE (5/2013/PLP)
THEME:	Balanced Urban Growth
HILLS 2026 OUTCOME/S:	BUG 2 Lifestyle options that reflect our natural beauty.
COUNCIL STRATEGY/S:	BUG 2.1 Facilitate the provision of diverse, connected and sustainable housing options through integrated land use planning.
GROUP:	STRATEGIC PLANNING
AUTHOR:	TOWN PLANNER ANITA RIAZIFAR
RESPONSIBLE OFFICER:	MANAGER - FORWARD PLANNING STEWART SEALE

EXECUTIVE SUMMARY

This report recommends that Council support the planning proposal to amend the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* to provide flexibility for the subdivision of lots with split zoning providing that the environmental values of the area are not compromised and that a planning proposal be forwarded to the Department of Planning and Infrastructure for a Gateway Determination.

The planning proposal applies to all split zoned lots throughout the North Kellyville precinct that are currently zoned partly R2 Low Density Residential and partly E4 Environmental Living. The R2 and E4 interface is extensive in the North Kellyville Precinct because of the physical characteristics of the area.

Supporting the planning proposal will permit, with development consent, subdivision of land in E4 zone with a minimum lot size lower than 2000/4000 m² where it interfaces with the R2 zone. This approach is considered the most appropriate as it removes the need to amend the minimum lot size map each time there is a variation required.

The proposal will amend *The State Environmental Planning Policy (Sydney Region Growth Centres) 2006* not *The Hills Local Environmental Plan 2012*.

APPLICANT

Council Initiated.

STATE ENVIRONMENTAL PLANNING POLICY (SYDNEY REGION GROWTH CENTRE) 2006

Zone: R2 Low Density Residential
E4 Environmental Living

ORDINARY MEETING OF COUNCIL

26 FEBRUARY, 2013

Lot Size: R2 zone: 360 m²
E4 zone: 2000/4000 m²

POLITICAL DONATIONS

N/A

HISTORY

- 19/06/2012** Letter sent to the Department of Planning and Infrastructure concerning an R2/ E4 zone boundary interface discrepancy.
- 8/08/2012** Response received from the Department of Planning and Infrastructure advising that Council should prepare a planning proposal for submission to the Department.
- 26/10/2012** Council received a letter from Department of Planning and Infrastructure requesting that Council prepare a planning proposal.

BACKGROUND

Council wrote to the Department of Planning and Infrastructure concerning the subdivision of spilt zoned lots within the North Kellyville Precinct, because currently the minimum lot size for subdivision controls applying to the E4 Environmental Living Zone can prevent an orderly subdivision pattern where lots which are partly E4 zone and partly R2 Low Density Residential Zone.

The E4 zone and R2 zone interface is extensive in the North Kellyville Precinct because of the physical characteristics of the area. Given the extent of the interface and because all instances where spilt zoned lots will be an issue cannot be identified upfront, a precinct wide solution would need to be developed.

The Department of Planning and Infrastructure supported amending the precinct plan to provide flexibility for the subdivision of lots with spilt zonings (E4 and R2 zones) on the basis that the environmental values of the area was not compromised.

The intended effect of the spilt zone clause is to:

- allow greater flexibility,
- only apply to subdivision of land zoned E4 and R2,
- allow subdivision of E4 land below the minimum lot size (both only when resulting lots contain land in both the R2 and E4 zones,
- ensure that subdivision can occur in a manner that promotes sustainable land use and development, where the subdivision of E4 land below the minimum is required for the efficient use of land and there is a demonstrated need to create spilt zoned lots (based on detailed subdivision design/infrastructure requirements),
- ensure protection of native vegetation and environmentally sensitive land in the E4 zone and ensure biodiversity outcomes are not compromised, and
- maintain minimum lot size requirements for lots that are wholly zoned E4 and R2.

This approach is considered the most appropriate as it removes the need to amend the minimum lot size map each time there is a variation required, and will enable the efficient assessment of development applications by providing an appropriate level of flexibility without compromising environmental values.

Split zoning

In some areas, a single allotment of land may have more than one zoning, this is referred to as 'dual' or 'split' zoning. Split zoning applies where Council acknowledges different land capabilities within an allotment due to topography, extent of bush fire, environmental values, land constraints or future land uses.

Split zoning may be considered a suitable approach in planning for urban release areas. In some areas, split zoning may also be considered a suitable approach on large non-urban lots where a significant portion of the lot has been identified, as an area of high environmental value.

In proposing this approach, Council needs to consider the implications of such splits. Appropriate minimum lot sizes and development standards are to be selected to support the intent of the zones and identify a suitable scale and intensity of development.

REPORT

The purpose of this report is to consider a planning proposal to provide flexibility for the subdivision of lots with split zonings in North Kellyville Release Area.

1. THE SITE

The planning proposal applies to the whole of the North Kellyville Precinct but will essentially affect split zoned lots throughout the precinct that are currently zoned partly R2 Low Density Residential zone and partly E4 Environmental Living zone. In this regard there are 96 existing lots within the release area that are affected by the split zoning (Figure 1).

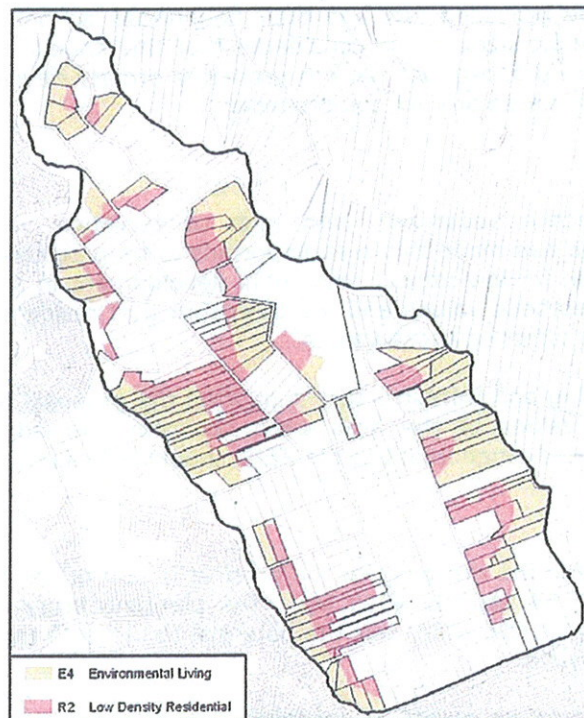


Figure 1
Split zoned lots, North Kellyville Precinct

2. PLANNING PROPOSAL

The planning proposal aims to amend the Growth Centres State Environmental Planning Policy (SEPP) to rectify the zone flexibility anomaly and insert an addition to Clause 4.1 Minimum Subdivision Lot Size of Appendix 2 of the SEPP. This will allow Council to consider subdivision of lots with split zoning (E4 and R2 zones) where the proposed lots and their boundaries do not match the zone boundaries and minimum lot sizes. It is intended that this would only apply where the variation is minor, the proposed lot pattern promotes orderly development and the environmental values of the area are not compromised.

Key Issue

The key issue is that the current planning controls under the State Environmental Planning Policy (SEPP) do not provide sufficient flexibility at the interface between R2 Low Density Residential zone and E4 Environmental Living zones. Clause 5.3 (Development Near Zone Boundaries) of the SEPP that applies to North Kellyville Precinct provides a 20m flexibility in the interpretation of zone boundaries, however this clause specifically precludes the E4 Environmental Living Zone.

Discussions with developers relating to potential subdivisions has revealed that, in some circumstances, the current zone and lot size maps prevent orderly development in location where the R2 Low Density Residential Zone adjoins the E4 Environmental Living Zone.

3. MATTERS FOR CONSIDERATION***Orderly development***

Providing flexibility will allow Council to consider subdivision of lots with split zoning (E4 and R2 zones) where the proposed lots and their boundaries do not match the zone boundaries and minimum lot sizes. It is considered that this should only apply where the variation is minor, the proposed lot pattern promotes orderly development and the environmental values of the area are not compromised.

Environmental values

The existence of untouched vegetation with high conservation values in the E4 Environmental Living zone has made this area important to be protected. Objectives of this zone include provision for low-impact residential development in areas with special ecological, scientific or aesthetic values and are to ensure that residential development does not have an adverse effect on those values.

The Department of Planning and Infrastructure supported the proposal on the basis that that the environmental values of the area were not compromised; therefore it is considered that the proposed amendment to the SEPP should only allow minor variation.

Increase in yield

Minimum lot size included in the mapping for the precinct is 360 m² for the R2 zone and minimum lot size for the E4 zone is 4000 m². The planning proposal is to provide flexibility in this minimum lot size which has the potential to increase the opportunity for minor additional dwelling yield.

On assessment of the future development applications applying to the subject site, it should be considered that the increase in yield should be consistent with the North

Kellyville Development Control Plan and the capability of the land to accommodate future residential growth.

Sydney Regional Environmental Plan 20 Hawkesbury Nepean River

The aim of this plan is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

The general planning considerations set out in clause 5 of the plan, and the specific planning policies and related recommended strategies set out in clause 6 of the plan which are applicable to the proposed development, must be taken into consideration.

Of particular relevance is the environmentally sensitive areas Policy: The environmental quality of environmentally sensitive areas must be protected and enhanced through careful control of future land use changes and through management and (where necessary) remediation of existing uses. Environmentally sensitive areas in the Hawkesbury-Nepean catchment are: the river, riparian land, escarpments and other scenic areas, conservation area sub catchments, national parks and nature reserves, wetlands, other significant floral and faunal habitats and corridors, and known and potential acid sulphate soils.

New development in conservation area sub-catchments should be located in areas that are already cleared.

4. PLANNING FRAMEWORK

R2 Low Density Zone

This zone was applied to land where primarily low density housing was to be established or maintained.

In North Kellyville Precinct, the R2 Low Density Residential zone covers an extensive area in the precinct which is surrounded mainly by E4 zoned lands and is subject to a minimum lot size of 360 m².

E4 Environmental Living Zone

This zone is generally intended for land with special environmental or scenic values, and accommodates low impact residential development.

In North Kellyville Precinct, the E4 Environmental Living zone is low density residential area located around the western and eastern edges of the precinct, in areas adjoining Smalls Creek and Cattai Creek. Steep slopes along Cattai Creek have limited development potential; therefore a significant amount of remnant vegetation has been left largely untouched, providing a unique bushland setting for residential living.

It is intended that this area will be characterised by large lots comprising of detached homes backing onto creeks and native vegetation with high conservation value. The minimum lot size in this area is 2000/ 4000 m² or alternatively Development Control Plan allows for community title schemes with a minimum lot size of 600 m².

5. GROWTH CENTRE PRECINCT PLAN

Aims of Precinct Plan

The Precinct Plan (SEPP) aims to promote housing choice while protecting and enhancing the environmentally sensitive areas and natural and cultural heritage of the Precinct,

while promoting sustainable development, employment, residential and recreational opportunities.

The planning proposal aims to provide flexibility for subdivision of split zoned lots to provide a range of housing choices which responds to both environmental constraints and the subdivision development standards included in the North Kellyville Development Control Plan.

It is considered that the planning proposal is consistent with respect to the general aims of the precinct plan.

Clause 4.1 Minimum subdivision lot size for other development

The minimum lot size for land zoned R2, as shown on the lot size map, is 360m². The minimum lot size for land zoned E4, as shown on the lot size map, is 4000m² except some specific areas in the south western part of the precinct which has 2000 m² minimum lot size.

This clause will need to be amended to provide for flexibility.

Clause 4.1B Residential density

Clause 4.1B of the Growth Centres SEPP requires that any development consent issued for the North Kellyville Precinct does not prevent the eventual provision of 4,500 dwellings within the precinct as forecast within the North Kellyville Development Control Plan.

The planning proposal will not prevent the eventual provision of 4,500 dwellings within the precinct.

Clause 5.3 Development near zone boundaries

The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zones.

Sub Clause 2 states: that this clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.

Sub Clause 3 states that this clause does not apply to: E4 Environmental Living.

Based on the above it is considered that Clause 5.3, Sub Clause 3 would be amended to remove reference to the E4 Environmental Living Zone.

Clause 6.3 Development controls – native vegetation retention areas and riparian protection areas

Clause 6.3 of the Growth Centres SEPP relates to the protection of areas nominated as either native vegetation protection areas or riparian protection areas on the respective maps that accompany the Growth Centres SEPP, the E4 zone of the precinct is affected by both.

The objective of this clause is to prevent the clearing of certain native vegetation.

The planning proposal is promoting flexibility in E4 zone on the basis that the environmental values of the E4 Living Zone are not compromised.

Clause 6.5 Subdivision of land in Zone E4 Environmental Living

One of the objectives of this clause is to provide for residential development that takes account of the special values of land in Zone E4 Environmental Living.

Sub Clause 3 states that the consent authority may grant development consent for the subdivision of land to which this clause applies only if;

- Each lot, other than a lot compromising neighbourhood property, to be created by the subdivision will have an area of not less than 600m², and
- The subdivision will not result in more than 7.5 development lots per hectare.

The planning proposal is considered to be consistent with this clause.

6. STRATEGIC CONTEXT

Metropolitan Plan for Sydney 2036

The strategic plan prepared by the NSW Government entitled the *Metropolitan Plan for Sydney 2036* identifies the North West Growth Centre as a new release growth area and includes objectives and actions to guide development of this area.

A relevant key objective in this plan is the provision for locating 30% of new housing in new release areas. The planning proposal is consistent with this objective as it assists delivery of new housing within North Kellyville Precinct.

Draft North West Subregional Strategy

The draft North West Subregional Strategy was prepared by the NSW Government to implement the Metropolitan Plan and the State Plan.

According to the Metropolitan Strategy 30% of new housing across the Sydney Region will occur in land release areas. Within the North West Subregion the majority of land release to 2031 will occur within the North West Growth Centre which includes the subject land (North Kellyville Precinct).

The planning proposal is consistent with the objectives of this strategy as it assists in achieving the relevant dwelling yield target.

Ministerial Section 117 Directions

Section 117(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act) enables the Minister for Planning and Infrastructure to issue directions that councils must address when preparing planning proposals. The relevant Section 117 Directions are:

- 2.1) Environment Protection Zone
- 3.1) Residential Zones
- 3.3) Home Occupations
- 3.4) Integrating Land Use and Transport
- 4.3) Flood Prone Land
- 4.4) Bush Fire Protection
- 6.1) Approval and Referral Requirements
- 6.3) Site Specific Provisions
- 7.1) Implementation of the Metropolitan Plan for Sydney 2036

The planning proposal is generally consistent with these directions.

Local Strategy

The Residential Directions is the relevant component of the Local Strategy to be considered in assessing this application.

- **Residential Direction**

This Residential Direction aims to give Council, the community and developers a clear strategy for the future planning and management of residential development and growth to 2031. A key focus of the Residential Direction is to provide 'sustainable living' for the residents of the Shire in terms of economic, community and environmental outcomes.

It is considered that the planning proposal is consistent with the key focus.

NEXT STEPS

Should Council resolve to support the planning proposal, it will be forwarded to the Department of Planning and Infrastructure for Gateway Determination. The Gateway Determination is likely to contain conditions that will need to be satisfied before exhibition can commence. Once the planning proposal is exhibited for public comment it will be reported back to Council for determination.

CONCLUSION

The planning proposal applies to all split zoned lots throughout the North Kellyville precinct that are currently zoned partly R2 Low Density Residential and partly E4 Environmental Living. The R2 and E4 interface is extensive in the North Kellyville Precinct because of the physical characteristics of the area.

Given the extent of the interface and because all instances where split zoned lots will be an issue cannot be identified upfront, a precinct wide solution needs to be developed. The approach for a precinct wide solution is considered to be the most appropriate as it removes the need to amend the minimum lot size map each time there is a variation required, and will enable the efficient assessment of development applications by providing an appropriate level of flexibility without compromising environmental values.

IMPACTS

Financial

There is potentially a moderate amount of income to be derived from increase in the number of developments that could occur in the area should the planning proposal proceed.

Hills 2026

The provision of flexibility for subdivision of split zoned lots has the potential to increase housing opportunities and to achieve the Growth Centre Commission dwelling target. It would also assist with the implementation of Hills 2026 outcomes by facilitating protected environment and balanced urban growth.

RECOMMENDATION

Council support the planning proposal to amend the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* to provide flexibility for the subdivision of lots with split zoning providing that the environmental values of the area are not compromised and that a planning proposal be forwarded to the Department of Planning and Infrastructure for a Gateway Determination.

ATTACHMENTS

Nil

Agenda Report

COUNCIL MEETING

USER INSTRUCTIONS

If necessary to view the original Agenda Item, double-click on 'Agenda Report' blue hyperlink above.

RESOLVED ITEMS ACTION STATEMENT

Action is required for the following item as per the Council Decision or Resolution Under Delegated Authority.

ACTION ITEM

ITEM

**FLEXIBILITY BETWEEN R2 LOW
DENSITY RESIDENTIAL ZONE AND E4
ENVIRONMENTAL LIVING ZONE
NORTH KELLYVILLE (5/2013/PLP)**

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

THE MOTION WAS PUT AND CARRIED.

RESOLUTION

Council support the planning proposal to amend the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* to provide flexibility for the subdivision of lots with split zoning providing that the environmental values of the area are not compromised and that a planning proposal be forwarded to the Department of Planning and Infrastructure for a Gateway Determination.

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

VOTING FOR THE MOTION

Councillors Dr M.R. Byrne, R.K. Harty OAM, A.J. Hay, M.G. Thomas, Dr J. Lowe, M. Taylor, Y. Keane, P. Gangemi, A.C. Jefferies, A. Haselden

VOTING AGAINST THE MOTION

Councillors R. Tracey

**ATTACHMENT B
STATE ENVIRONMENTAL PLANNING POLICIES**

INSTRUMENT		RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
<u>S.E.P.P.</u>			
1	Development Standards	NO	
4	Development without Consent and Miscellaneous Exempt & Complying Development	NO	
6	Number of Storeys in a Building	NO	
10	Retention of Low-Cost Rental Accommodation	NO	
19	Bushland in Urban Areas	NO	
21	Caravan Parks	NO	
22	Shops and Commercial Premises	NO	
30	Intensive Agriculture	NO	
32	Urban Consolidation	NO	
33	Hazardous and Offensive Development	NO	
50	Canal Estate Development	NO	
55	Remediation of Land	NO	
62	Sustainable Aquaculture	NO	
64	Advertising and Signage	NO	
65	Design Quality of Residential Flat Development	NO	
70	Affordable Housing (Revised Schemes)	NO	
	Housing for Seniors or People Living with a Disability (2004)	NO	
	Building Sustainability Index: BASIX 2004	NO	
	Major Projects 2005	NO	
	Sydney Region Growth Centres 2006	NO	
	Mining, Petroleum Production and Extractive Industries 2007	NO	
	Temporary Structures and Places of Public Entertainment (2007)	NO	
	Infrastructure (2007)	NO	
<u>SYDNEY REP</u>			
9	Extractive Industry	NO	
18	Public Transport Corridors	NO	
19	Rouse Hill Development Area	NO	
20	Hawkesbury – Nepean River	YES	CONSISTENT

ATTACHMENT C
SECTION 117 DIRECTIONS

<u>S117(2) MINISTERIAL DIRECTIONS</u>		RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
1. Employment and Resources			
1.1 Business and Industrial Zones	NO		
1.2 Rural Zones	NO		
1.3 Mining, Petroleum Production and Extractive Industries	NO		
1.4 Oyster Aquaculture	NO		
1.5 Rural Lands	NO		
2. Environment and Heritage			
2.1 Environmental Protection Zones	YES		CONSISTENT
2.2 Coastal Protection	NO		
2.3 Heritage Conservation	NO		
2.4 Recreation Vehicle Areas	NO		
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	YES		CONSISTENT
3.2 Caravan Parks and Manufactured Home Estates	NO		
3.3 Home Occupations	YES		CONSISTENT
3.4 Integrating Land Use and Transport	YES		CONSISTENT
3.5 Development Near Licensed Aerodromes	NO		
4. Hazard and Risk			
4.1 Acid Sulfate Soils	NO		
4.2 Mine Subsidence and Unstable Land	NO		
4.3 Flood Prone Land	YES		CONSISTENT
4.4 Planning for Bushfire Protection	YES		CONSISTENT
5. Regional Planning			
5.1 Implementation of Regional Strategies	NO		
5.2 Sydney Drinking Water Catchments	NO		
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	NO		
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	NO		
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	NO		
5.6 Sydney to Canberra Corridor	NO		
5.7 Central Coast	NO		
5.8 Second Sydney Airport: Badgerys Creek	NO		
6. Local Plan Making			
6.1 Approval and Referral Requirements	YES		CONSISTENT
6.2 Reserving Land for Public Purpose	NO		
6.3 Site Specific Provisions	YES		CONSISTENT
7. Metropolitan Planning			
7.1 Implementation of the Metropolitan Plan for Sydney 2036	YES		CONSISTENT