

COUNCIL RESOLUTION EXTRACT FROM MINUTES 24 NOVEMBER 2014

DISCLOSURES OF INTERESTS

Councillor Martin declared a non-significant, non-pecuniary conflict of interest in Items 3 and 4 insofar as she is employed by the Department of Planning and Environment. However, Councillor Martin advised that she does not work on Wollongong-based matters.

Councillor Colacino declared a non-pecuniary, non-significant interest in Item 4 and advised that he would remove himself from the Chamber during debate and voting on the matter.

DEPARTURE OF COUNCILLORS

Due to a prior disclosure of interest, Councillor Colacino departed the Chamber and was not present during debate and voting for Item 4..

ITEM 4 - DRAFT PLANNING PROPOSAL - FUNCTION CENTRE, LOT 1 LADY WAKEHURST DRIVE, LILYVALE

A PROCEDURAL MOTION was MOVED by Councillor Curran seconded Councillor Merrin that the matter lay on the table. The PROCEDURAL MOTION on being PUT to the VOTE was LOST.

A PROCEDURAL MOTION was MOVED by Councillor Curran seconded Councillor Merrin that the motion be PUT. The PROCEDURAL MOTION on being PUT to the VOTE was LOST.

MOVED by Councillor Petty seconded Councillor Merrin that –

- 1 A draft Planning Proposal not be prepared for Lot 1 DP 335557 and Lot 1 DP 652830, Lady Wakehurst Drive, Lilyvale and the site retain its current planning controls (as amended by the review of lands formerly zoned 7(d)).
- 2 The site continue the existing use as a bed and breakfast accommodation as approved under DA-2013/863. The existing operation of the Function Centre would be required to cease and no

Minute No.

further expansion of the site would be allowed.

3 The applicant be advised of Council's decision.

At this point, Councillor Crasnich FORESHADOWED a MOTION should Councillor Petty's Motion be defeated.

Councillor Petty's MOTION was then PUT to the VOTE and was LOST.

In favour
Against

Councillors Connor, Takacs, Merrin, Dorahy, Curran and Petty
Councillors Kershaw, Brown, Martin, Blicavs, Crasnich and Bradbery

Due to the votes being tied, the Lord Mayor used his Casting Vote to vote against Councillor Petty's Motion.

Following the defeat of Councillor Petty's MOTION, Councillor Crasnich's FORESHADOWED MOTION then became the MOTION.

215 COUNCIL'S RESOLUTION - RESOLVED on the motion of Councillor Crasnich seconded Councillor Blicavs that -

- 1 A draft Planning Proposal be prepared for Lot 1 Lady Wakehurst Drive, Lilyvale being Lot 1 DP 335557 and Lot 1 DP 652830 to rezone Lot 1 DP 335557 from the proposed E2 Environmental Conservation to E3 Environmental Management and rezone Lot 1 DP 652830 from SP2 Infrastructure – Road to E3 Environmental Management with the additional permitted uses of a function centre and tourist and visitor accommodation (subject to development consent) on Lot 1 DP 335557 being permitted within the existing structures (buildings B and C) with no expansion to the existing building footprints.
- 2 Consequential amendments be made on Lot 1 DP 652830 to introduce a minimum lot size of 39.99ha and a maximum building height of 9m.
- 3 The draft Planning Proposal be referred to the Department of Planning and Environment seeking Gateway determination and if approved exhibited for a minimum period of 28 days. The Gateway request include a requirement for additional flora and fauna, bushfire, water quality studies and referrals to Roads and Maritime Services, Office of Environment and Heritage/National Parks and Wildlife Service, Office of Water, NSW Primary Industries – Fisheries and Agriculture.
- 4 Council request authority from the NSW Department of Planning and Environment for the General Manager to exercise plan making delegations in accordance with Council's resolution of 26 November 2012.

Variation The variation moved by Councillor Brown to Part 1 (the deletion of the

Minute No.

words 'with an additional permitted use of a function centre and tourist and visitor accommodation (subject to development consent) on Lot 1 DP 335557' and their replacement with the words 'with the additional permitted uses of a function centre and tourist and visitor accommodation (subject to development consent) on Lot 1 DP 335557 being permitted within the existing structures (buildings B and C) with no expansion to the existing building footprints') was accepted by the mover and seconder.

A PROCEDURAL MOTION was MOVED by Councillor Blicavs seconded Councillor Crasnich that the motion be PUT. The PROCEDURAL MOTION on being PUT to the VOTE was CARRIED.

Councillor Crasnich's Motion was then put to the vote.

In favour
Against

Councillors Kershaw, Brown, Martin, Blicavs, Crasnich and Bradbery
Councillors Connor, Takacs, Merrin, Dorahy, Curran and Petty

Due to the votes being tied, the Lord Mayor used his Casting Vote to vote in favour of Councillor Crasnich's Motion.

ATTACHMENTS	
1	Locality Plan
2	Current Zoning Map
3	Proposed Zoning Map
4	Proposed Minimum Lot Size Map
5	Proposed Height of Buildings Map

ITEM 4

DRAFT PLANNING PROPOSAL - FUNCTION CENTRE, LOT 1 LADY WAKEHURST DRIVE, LILYVALE

This report considers a rezoning submission requesting the preparation of draft Planning Proposal for Lot 1 Lady Wakehurst Drive, Lilyvale (Lot 1 DP 335557 and Lot 1 DP 652830). The proposal requests Lot 1 DP 335557 remain zoned E3 Environmental Management, Lot 1 DP 652830 be rezoned from SP2 infrastructure – Road to E3 Environmental Management, and an additional permitted use to facilitate a function centre and construction of tourist and visitor accommodation (subject to development consent) on Lot 1 DP 335557 in *Schedule 1: Additional Permitted Uses* of the Wollongong Local Environmental Plan 2009. The proposal will also require consequential amendments to introduce a minimum lot size of 39.99ha and a maximum building height of 9m.

While there are a number of issues that need to be addressed during the exhibition period, it is considered the draft Planning Proposal has sufficient merit to proceed for Gateway determination and exhibition.

RECOMMENDATION

- 1 A draft Planning Proposal be prepared for Lot 1 Lady Wakehurst Drive, Lilyvale being Lot 1 DP 335557 and Lot 1 DP 652830 to rezone Lot 1 DP 335557 from the proposed E2 Environmental Conservation to E3 Environmental Management and rezone Lot 1 DP 652830 from SP2 Infrastructure – Road to E3 Environmental Management with an additional permitted use of a function centre and tourist and visitor accommodation (subject to development consent) on Lot 1 DP 335557.
- 2 Consequential amendments be made on Lot 1 DP 652830 to introduce a minimum lot size of 39.99ha and a maximum building height of 9m.
- 3 The draft Planning Proposal be referred to the Department of Planning and Environment seeking Gateway determination and if approved exhibited for minimum period of 28 days. The Gateway request include a requirement for additional flora and fauna, bushfire, water quality studies and referrals to Roads and Maritime Services, Office of Environment and Heritage/National Parks and Wildlife Service, Office of Water, NSW Primary Industries – Fisheries and Agriculture.
- 4 Council requests authority for the General Manager to exercise plan making delegations in accordance with Council's resolution of 26 November 2012.

ATTACHMENTS

- 1 Locality Plan
- 2 Current Zoning Map
- 3 Proposed Zoning Map
- 4 Proposed Minimum Lot Size Map
- 5 Proposed Height of Buildings Map

REPORT AUTHORISATIONS

Report of: Renee Campbell, Manager Environmental Strategy and Planning
Authorised by: Andrew Carfield, Director Planning and Environment – Future City
and Neighbourhoods

BACKGROUND

A rezoning submission has been received for Lot 1 Lady Wakehurst Drive, Lilyvale (Lot 1 DP 335557 and Lot 1 DP 652830). The site has an area of 12,861m² and a frontage of 57m to Lady Wakehurst Drive; refer Locality Plan (Attachment 1). The site can be accessed via vehicle from Lady Wakehurst Drive. Lady Wakehurst Drive connects Otford in the south to the Royal National Park in the north and consists of one travel lane in each direction.

The larger lot (Lot 1 DP 335557) is currently zoned E3 Environmental Management. The lot has a minimum lot size of 39.99ha and a 9m height restriction under the Wollongong Local Environmental Plan 2009. The lot currently contains two single story dwellings and one shed.

The smaller lot (Lot 1 DP 652830) is former road reserve and provides access to the large lot and is currently zoned SP2 Infrastructure – Road, refer Current Zoning Map (Attachment 2). There is currently no mapped minimum lot size or height restriction on this portion of the site.

The site is surrounded by the Royal National Park which is zoned E1 National Park and Nature Reserves. The Hacking River within the Royal National Park adjoins the site's north and eastern boundaries.

Historic records indicate that the property was originally settled as a fruit orchard. After changing ownership the site took on the role of accommodating mine workers and loggers. The draft Planning Proposal submission indicates that the previous owner established the holiday let that is situated on site, some 20 years ago. However, for this time, the holiday let and a more recently established function centre have been operating without Council's consent. The proponent continued operating the additional uses under the business name Lilyvale after purchasing the property on 8 April 2004. On 20 February 2010 the proponent's stake in the property increased to 100%.

The holiday let and function centre was first brought to Council attention by a resident of Otford. On 11 March 2013, the Otford resident contacted Council requesting information regarding the legitimacy of the business operating on the property. The resident also voiced concern that, due to a lack of signage to Lilyvale, visitors had often stopped and asked for directions. The investigation of Lilyvale was forwarded to Regulation and Enforcement Division and it was determined the holiday let and function centre were operating without development consent.

The proponent was contacted by a Council officer on the 21 March 2013 and advised of the complaint regarding the land uses without consent. The proponent was also advised by the Council officer to contact a planning consultant for advice on how to

legitimise the uses. Additionally a letter was sent to the proponent seeking their cooperation to resolve the breach. TCW Consulting Pty Ltd was approached by the proponent to assist in legitimising the land uses.

A Development Application DA-2013/863 was lodged on the 29 July 2013 seeking to change the use of the existing house to bed and breakfast accommodation as defined in the Wollongong Local Environmental Plan 2009. The Development Application was granted development consent on the 18 December 2013.

As part of the review of the former 7(d) lands at Helensburgh, Otford and Stanwell Tops, Council on 29 July 2013 resolved to endorse the rezoning of all isolated E3 Environmental Management zoned lots within the Royal National Park to E2 Environmental Conservation. Council's resolution was forwarded to the Department of Planning and Environment. The Department then referred the draft Planning Proposal to the Southern Joint Regional Planning Panel (JRPP) for review. JRPP completed their review on 30 July 2012, the JRPP report was then reported to Council on 25 August 2014. The JRPP report noted that there was a draft Planning Proposal for this site and stated that:

"Isolated lots within the Royal National Park are appropriately zoned as E2 Environmental Conservation, noting that a planning proposal has been submitted for Lot 1 DP 335557 to create an additional permitted use that is outside the terms of reference for the Regional Panel's consideration."

The Planning Proposal for the former 7(d) lands is with the Department of Planning and Environment for finalisation.

The applicant notes that the proposed E2 Environmental Conservation zoning would jeopardise further improvements being undertaken on existing structures. The change in zoning would prohibit future structures being developed on site. For these reasons the Planning Proposal request seeks to retain/reinstate an E3 Environmental Management zone and requests additional permitted uses with consent to Schedule 1 of the Wollongong Local Environmental Plan 2009.

The two sheds on site, originally approved in DA-1994/323 as orchid houses for the production of cut flowers has been operating as the function centre on site. This structure is known as the pavilion. An application for building certification was lodged with Council. However, the application was rejected by Council officers due to the pavilion being constructed as a function centre and not meeting design standards of a shed/Class 10a building. The building was also being utilised as a function centre without approval. Additionally, the building did not satisfy the Building Code of Australia for its current use and potential impacts of the building had not been assessed in regards to impacts on traffic, bushfire safety, and noise. Council officers recommended the removal of the kitchen facilities and a site survey was to be undertaken to locate the shed on the property.

PROPOSAL

The Planning Proposal request is to:

- Rezone Lot 1 DP 335557 site from the proposed E2 Environmental Conservation zone to E3 Environmental Management zone (assuming the Planning Proposal for the former 7(d) lands is made, which will rezone the lot from E3 Environmental Management to E2 Environmental Conservation);
- Rezone Lot 1 DP 652830 from SP2 infrastructure - Road to E3 Environmental Management refer Proposed Zoning Map (Attachment 3). A minimum lot size of 39.99ha and a 9m height restriction also needs to be introduced for Lot 1 DP 652830, consistent with Lot 1 DP 335557; and
- Permit on Lot 1 DP 335557 the additional permitted uses of a function centre and tourist and visitor accommodation through Schedule 1: Additional Permitted Uses of the Wollongong Local Environmental Plan 2009.

The draft Planning Proposal seeks to enable a 400m² function centre to be established within an existing shed on site. Furthermore, 900m² of tourist and visitor accommodation is sought to be established part of which will be within an existing dwelling house on site. The additions of a function centre and further tourist and visitor accommodation will be subject to development consent and the controls in the Wollongong Development Control Plan.

Evaluation

The site is one of the five isolated properties in Royal National Park considered as part of the review of former lands zoned 7(d) Hacking River Environmental Protection. The review noted that the properties were surrounded by the Royal National Park, were adjacent to the Hacking River, had limited services, were bushfire prone and sought to constrain future development by rezoning the properties to E2 Environmental Conservation. It was envisaged that over time the properties would be incorporated into the National Park, although they are not identified for acquisition and would not be a priority for acquisition. The Office of Environment and Heritage did not object to the rezoning as part of the 7(d) Planning Proposal.

The draft Planning Proposal request would result in further improvements to the property which would make it more difficult for the State to acquire the land sometime in the future for inclusion in the Royal National Park.

Flora and fauna

On 22 May 2013 a site survey was carried out by a Senior Ecologist employed by EcoLogical Australia. It was reported that the subject site consisted of a cleared area and was surrounded by native vegetation. The surrounding vegetation mostly consisted of Blackbutt Tall Open-forest, although there are also narrow bands of Sandstone Riparian Scrub along the banks of the Hacking River and patches of Coachwood warm temperate rainforest further downstream. A total of 230 different flora species were identified within the subject site, of which 69 species were exotic. No threatened flora

species listed under the Threatened Species Conservation Act 1995 (TSC Act) or the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) were found on site. However, two species having regional conservation significance (*Gmelina Leichardtii* and *Lomandrafluvialis*) were recorded. Individuals of both these species will not be affected by the draft planning proposal, as they are recorded as being beyond the identified vegetation management area. The cleared or thinned vegetation management area will consist of a 0.21ha area west of the function centre based on its current floor space.

A number of fauna habitats were found within the subject site including the open-forest canopy, tree hollows, fallen branches, or coarse woody debris, shrubby understory and the riparian habitat. No threatened fauna species listed under the TSC Act or the EPBC Act were recorded within the subject site during field surveys. Whilst no migratory fauna species listed under the EPBC Act were observed within the subject site during field surveys, it was noted that a range of threatened species may occasionally visit the site. Threatened species may occasionally visit the site as suitable foraging and sheltering habitats were identified.

The EcoLogical Australia Fauna and Assessment report (September 2013) considers the clearing and thinning of the proposed 0.21ha is unlikely to have a significant impact on threatened flora and fauna species. The report also details that recommendations for impact mitigation measures will be addressed at the DA stage.

Environment Division has provided comment on the draft Planning Proposal's flora and fauna assessment. Environment Division's concerns were that no studies were carried out identifying the possible impacts on the Hacking River's riparian land and aquatic environments through the intensification of the site. Environment Division also requested that the flora and fauna assessment detail the impacts on E1 National Park and Nature Reserves land affected by increasing the size of managed Asset Protection Zones (APZ) land. Increasing APZ land is a result of modelling APZ off existing floor spaces and not off those floor spaces proposed in the draft Planning Proposal.

If Council is to proceed with the draft Planning Proposal, greater understanding of the impacts on E1 National Park and Nature Reserve land and the Hacking River riparian and aquatic environments is to be sought. The draft Planning Proposal has identified basic environmental impacts, although requires further detailed assessment as illustrated by Environment Division's comments. As the site is located in close proximity to the Hacking River and within the Royal National Park it is imperative that correct balance between development and environmental be achieved. This will be obtained through building upon the submitted flora and fauna assessment and those recommendations given by the Environment Division.

Water supply and effluent disposal

The draft Planning Proposal details that water supply requirements will be considered by the Rural Fire Service (RFS) at the development assessment stage. The proposed function centre and tourist and visitor accommodation are not serviced by reticulated water. The RFS Planning for Bush Fire Protection (December 2006) requires that each

building on site be provided with a minimum 10,000 litre static water supply for firefighting purposes. The subject land is serviced by an existing main ring that is fed from a 20,000 litre water tank. It is also detailed in the draft Planning Proposal that the site is not connected to town sewage and utilises a pump out septic tank.

There were no internal comments regarding the site's existing water supply. However, internal comment from the Environment Division detailed that further evidence is required to demonstrate what safeguards are in place to prevent accidental overland flow or ground seepage from the site's existing or future greater capacity septic system.

Should Council proceed with the draft Planning Proposal, further consultation with state agencies including the Rural Fire Service and Sydney Water will be required. It will be necessary to demonstrate how the site's water supply satisfies the requirements for firefighting. The site's associated firefighting equipment will also be scrutinised to ensure it adequately fulfils all legal requirements.

The site's existing pump out septic system has demonstrated that it can cater for current volumes of effluent. However, should Council proceed with the draft Planning Proposal any future DA should address the safeguards in place to mitigate the risk of effluent escape. This is essential due to the site's proximity to the Hacking River and addresses the Environment Division concerns.

Bushfire

The Bushfire Assessment (26 September 2013) prepared by EcoLogical Australia supports the proposed additional uses of a function centre and tourist and visitor accommodation. EcoLogical Australia deems the proposal capable of meeting Direction 4.4 Planning for Bushfire Protection, the requirements of *Planning for Bushfire Protection 2006 and Practice Note 2/12 Planning Instruments and Policies*.

The widths of required Asset Protection Zones (APZ) detailed in the draft Planning Proposal were calculated using the *Planning for Bushfire Protection 2006* for existing buildings.

Internal comments regarding the sites bushfire management came from the Environment, Development Assessment and Certification and Traffic Divisions. Traffic Division's comments have been noted under the site's access. Development Assessment and Certification Division's comments have partially been dealt with in the site's access. However, Development Assessment and Certification Division have additionally commented, if Council should proceed with the draft Planning Proposal any future Development Applications will be required to comply with all building standards relating to bushfire safety.

Environment Division has commented that bushfire APZ modelling was carried out using the buildings on site with their current floor space. Environment Division has added that to understand the actual size of the managed APZ for the site, APZ calculations should be based upon the proposed increased floor space. Environment Division have commented that if the managed APZ is to cross onto adjoining E1 National Park and Nature Reserve land then further studies will be required to quantify

the extent and impact. Additionally the Environment Division has commented asking for the draft Planning Proposal to expand on how riparian land will be managed should it fall within an APZ of the site.

If Council is to proceed with the draft Planning Proposal an updated bushfire report is to be sought. It should include APZ modelled off the proposed intensified land uses and including structures of larger floor space. Although exact building footprints are required at the DA stage, indicative building size and placements should be utilised to increase the accuracy of the understood APZ at the gateway. The updated bushfire report should identify the impacts on affected flora and fauna from increasing the managed APZ. The report should also list each affected lot and detail an estimate of vegetation that will be cleared or thinned.

Access

The draft Planning Proposal details that the site is accessed from Lady Wakehurst Drive via an unsealed road. It acknowledges the internal road will require upgrading to the specifications listed in the Planning for Bush Fire Protection at the DA stage.

Council's Traffic Division's comments regarding bushfire access reflect those that are detailed in the draft Planning Proposal. Additionally, Traffic has stated that there are unlikely to be any traffic impacts from the continued use of the guest facility / function centre.

Development Assessment and Certification have also commented on the need for bushfire access/egress to meet relevant standards if Council should progress with the draft Planning Proposal.

Lady Wakehurst Drive from Traffic's perspective has demonstrated the capacity to carry traffic to and from the site, incorporating the additional uses. It is mutually understood that if Council is to proceed with the draft Planning Proposal the site's internal unsealed road will require upgrading. Upgrading the internal road to meet specifications listed in the PBP at the DA stage will satisfy the concerns raised by Traffic and Development Assessment and Certification.

CONSULTATION AND COMMUNICATION

Preliminary notification of the Lilyvale draft Planning Proposal request was undertaken between 28 July and 15 August 2014. As part of the preliminary notification, a notice was placed in the Illawarra Mercury on 26 July 2014 and letters were sent to adjoining and nearby property owners, and to all property owners in Otford. No submissions were received for this draft Planning Proposal request. Councils *Have Your Say* webpage indicates that the draft Planning Proposal had 109 views. Internal referrals are discussed in the Planning and Policy Impact Section of this report.

If endorsed for Gateway determination a formal exhibition will follow, the exhibition of the Lilyvale draft Planning Proposal will be advertised on Council's website, in local newspapers and letters will be sent to affected and surrounding landowners and relevant State agencies.

Following the exhibition period, issues raised in submissions will be reviewed and reported to Council.

PLANNING AND POLICY IMPACT

Illawarra Regional Strategy 2007

The Illawarra Regional Strategy (2007) (IRS) does not specifically mention the Lilyvale site.

The IRS does recognise the economic value of the Illawarra's natural and cultural resources and its environments. The IRS also recognises these resources and environments as potential employment generators due to their importance to tourism.

The draft Planning Proposal request details the site currently operates as a holiday let and on-site function centre. *Lilyvale Essential Tourism Product for the Illawarra* (May 2013) indicates the site's popularity since 2006 when holiday let operations began. In 2006 Lilyvale had a total of 10 bookings. This has increased to 40 bookings in 2012. The numbers of guests to the site rose from approximately 100 in 2006 to 2,750 in 2013. This has economic flow on effects to the local community, through increased local employment and financial interactions with the local economy. The site directly employs six people part time. Local maintenance contractors are employed when required. Additionally, a wide range of local businesses are utilised when conducting events and weddings. *Lilyvale Essential Tourism Product for the Illawarra* (May 2013) approximates in 2012 \$800,000 was added to the local economy through flow on effects from the leasing of Lilyvale.

Section 117 Directions

2.1 Environmental Protection Zones

The objective of the Direction is to protect and conserve environmentally sensitive areas.

Under this Direction Council must:

- a. include provisions that facilitate the protection and conservation of environmentally sensitive areas; and
- b. not reduce the environmental protection standards that apply to the land (including by modifying any development standards or subdivision controls that apply to the land).

It is considered that this draft Planning Proposal is not inconsistent with this Direction as the environmental zone is not being removed on the primary lot and the smaller lot is being rezoned from SP2 Infrastructure to E3 Environmental Management creating an increase to the total area zoned Environmental Management.

It is also noted that the site is developed and is proposing extensions and a permissible use.

4.4 Planning for Bushfire Protection

The objective of the Direction is to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and to encourage sound management of bush fire prone areas.

Under this Direction Council must:

- a. consult with the Commissioner of the NSW Rural Fire Service;
- b. have regard to *Planning for Bushfire Protection 2006*;
- c. introduce controls that avoid placing inappropriate developments in hazardous areas; and
- d. ensure that bushfire hazard reduction is not prohibited within the APZ.

A draft LEP shall, where development is proposed, comply with the following provisions, as appropriate:

- a. provide an Asset Protection Zone (APZ) incorporating at a minimum:
 - i. an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and
 - ii. an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,
- b. for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the draft LEP permit Special Fire Protection Purposes (as defined under section 100B of the *Rural Fires Act 1997*), the APZ provisions must be complied with,
- c. contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,
- d. contain provisions for adequate water supply for firefighting purposes,
- e. minimise the perimeter of the area of land interfacing the hazard which may be developed, and
- f. introduce controls on the placement of combustible materials in the Inner Protection Area.

It is considered that this draft Planning Proposal has potential to be consistent with this policy. An updated Bushfire Assessment would be required however to cover some minor outstanding issues and this would then require consultation with the Rural Fire Service should it proceed to Gateway.

6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls.

Under this Direction a draft LEP that amends another environmental planning instrument in order to allow a particular development proposal to be carried out shall either:

- a. allow that land use to be carried out in the zone the land is situated on, or
- b. rezone the site to an existing zone already applying 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, or
- c. allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

Under this direction a draft LEP shall not contain or refer to drawings that show details of the development proposal.

It is considered that this draft Planning Proposal requires an additional permitted use because the biodiversity and site context warrant special controls that specify and restrict development. A change in zone would enable many unsuitable uses on the site that would not be compatible or appropriate in the current site context.

Wollongong 2022 – Community Strategic Plan

This report contributes to the Wollongong 2022 objective - *Residents are able to have their say through increased engagement opportunities* and take an active role in decisions that affect our city under the Community Goal – *we are a connected and engaged community*.

It specifically delivers on core business activities as detailed in the Land Use Planning Service Plan 2014-15.

Internal Comments

The draft Planning Proposal was referred internally to assist in the assessment. Comments are outlined below.

Traffic

- No objection to the draft planning proposal.
- There are unlikely to be any traffic impacts from the continued use of the guest facility / function centre.
- The development would have to meet the relevant bushfire access/evacuation provisions.

Traffic comments are noted and it is considered that bushfire access and egress would need to be demonstrated as part of the revised the Bushfire Assessment Report.

Development Assessment and Compliance

- Assessed and granted consent for the use of a bed and breakfast on site which was restricted to the main house;
- Considered the site inappropriate for tourist and visitor accommodation up to 900m² due to the location and the intensification of land use;
- There may be impacts on the surrounding National Park through wastewater, services and management;
- Risk management of the site may be impacted i.e. bushfire emergency;
- Operations of a function centre on the site should be limited to the existing structure;
- The function centre structure will be required to meet all Australian Standards including fire safety standards before a Building Certificate Application is granted; and
- Current SP2 Infrastructure zoned land should be discussed with RMS.

The size of the tourist and visitor accommodation would appear to be a concern because of the potential for impacts on surrounding lands as a result of intensification. The applicant would be required to address how these would be managed if a larger tourist and visitor component was supported to proceed to Gateway. Furthermore a Bushfire Report has been submitted but does require updating post-Gateway determination. Compliance with the Australian Standard and the management of the site would form part of a development application and not the draft Planning Proposal.

Consultation will occur with the Roads and Maritime Services as part of the draft Planning Proposal exhibition, however it is noted that the SP2 Infrastructure zoned portion of the land is privately owned, and is not owned by the RMS.

Heritage

No objection to the draft Planning Proposal as any future development on site will be subject to a Development Application.

Geotechnical

Do not object to the draft Planning Proposal as there is no recorded land instability. It has been noted the stability of soils in the area are additionally stabilised through existing vegetation.

Stormwater and Flooding

There is no objection to the draft Planning Proposal but note that Council has no flood level information for this portion of the Hacking River catchment. It is expected that a

detailed flood study accompany any future Development Applications, demonstrating the potential for development on site.

It is considered that the flood study should be pursued post-Gateway to assist in establishing whether the land is capable of supporting further development.

Environment

The draft Planning Proposal is not supported at this time. Environment has deferred a final decision until there is a more complete flora and fauna assessment, which includes:

- The Flora and Fauna Assessment be extend over the channel of the Hacking River and the report's content and context be updated. This should include aquatic habitats and discuss their diversity and sensitivity.
- Due to the proposed intensification of the site, the Flora and Fauna Assessment address the:
 - *Water Management Act 2000;*
 - *National Parks and Wildlife Act 1974;*
 - *Fisheries Management Act 1994; and*
 - *Clause 7.4 (3) Riparian lands under the Wollongong LEP 2009.*
- Out of date data audits be updated and include a defined 5 kilometre search area.
- Provide top of bank mapping.
- Provide updated managed vegetation polygon.
- Impact assessment in the Flora and Fauna Assessment be updated and:
 - Provide a likely location of the 900m² tourists and visitor accommodation (part of which is within an existing dwelling).
 - Update Asset Management Zones based upon the proposed increased floor space.
 - Tabularise estimated vegetation removal listing each affected lot based upon required increased APZ.
- The *guidelines for developments adjoining land and water managed by the Department of Environment, Climate Change and Water* (DECCW, 2010) (now Office of Environment and Heritage) (OEH) be addressed and summarised into a table.
- Discuss safeguards against a pollution incident from the sites existing or if required greater pump out septic system.

- Discuss if surrounding E1 National Park and Nature Reserves will be sought to be included into managed APZ land and if so to what extent is proposed.
- Seek comment on the draft Planning Proposal from relevant stakeholder agencies, including Office of Environment and Heritage, Office of Water, and NSW Primary Industries – Fisheries and Aquaculture.

This issue can be addressed by the proponent as a requirement of the Gateway determination, if Council resolves to progress the draft Planning Proposal.

OPTIONS

1. Resolve to prepare a draft Planning Proposal to rezone Lot 1 DP 335557 and Lot 1 DP 652830, Lady Wakehurst Drive, Lilyvale to E3 Environmental Management and permit a function centre and visitor and tourist accommodation (up to 900m²), a minimum lot size of 39.9ha and maximum building height of 9m. **RECOMMENDED.**
2. Resolve not to prepare a draft Planning Proposal. A suitable recommendation would be:
 - a. A draft Planning Proposal not be prepared for Lot 1 DP 335557 and Lot 1 DP 652830, Lady Wakehurst Drive, Lilyvale and the site retain its current planning controls (as amended by the Review of lands formerly zoned 7(d)).
 - b. The site continue the existing use as a bed and breakfast accommodation as approved under DA-2013/863. The existing operation of the Function Centre would be required to cease and no further expansion of the site would be allowed.
 - c. The applicant be advised of Council's decision.

CONCLUSION

This report considers a rezoning submission requesting the preparation of the draft Planning Proposal for Lot 1 Lady Wakehurst Drive, Lilyvale. The proposal requests the site be zoned E3 Environmental Management, and additional permitted uses of function centre and tourist and visitor accommodation be permitted on the site. The proposal will also require consequential amendments to introduce a minimum lot size of 39.99ha and a maximum building height of 9m to Lot 1 DP 652830.

The site has a history of being a holiday let that has been operating without development consent for the past 20 years. The proponent purchased the property in 2004 and commenced leasing the property as a holiday let in 2006. Additionally in 2006 the proponent commenced operating a function centre.

The draft Planning Proposal emphasises the site use as a generator of local employment and provides revenue to the Illawarra's economy.

Due to the site being located within the Royal National Park, any environmental impacts from the site are considered important and need to be addressed if progressed. Potential environmental impacts are compounded as the site is bounded by the Hacking River riparian corridor. Further evidence would be required showing how this risk could be mitigated. The additional uses and intensification of the site require further bushfire management provisions to be adopted. It is expected that should Council proceed with the draft Planning Proposal, requirements in regard to bushfire management must be met.

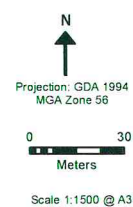
It is recommended that Council proceed with the draft Planning Proposal for Lot 1 Lady Wakehurst Drive. Lilyvale does present a unique opportunity as a venue and visitor accommodation for Wollongong Local Government Area in the north. However, due to the sensitivity of the Royal National Park and the Hacking River bounding the site, it is recommended that updated bushfire and flora and fauna assessment be provided. These updated reports will assist with Council's assessment of whether or not to finalise the draft Planning Proposal during Gateway determination. Comment from Office of Environment and Heritage, Office of Water, and NSW Primary Industries – Fisheries and Aquaculture should also be sought.

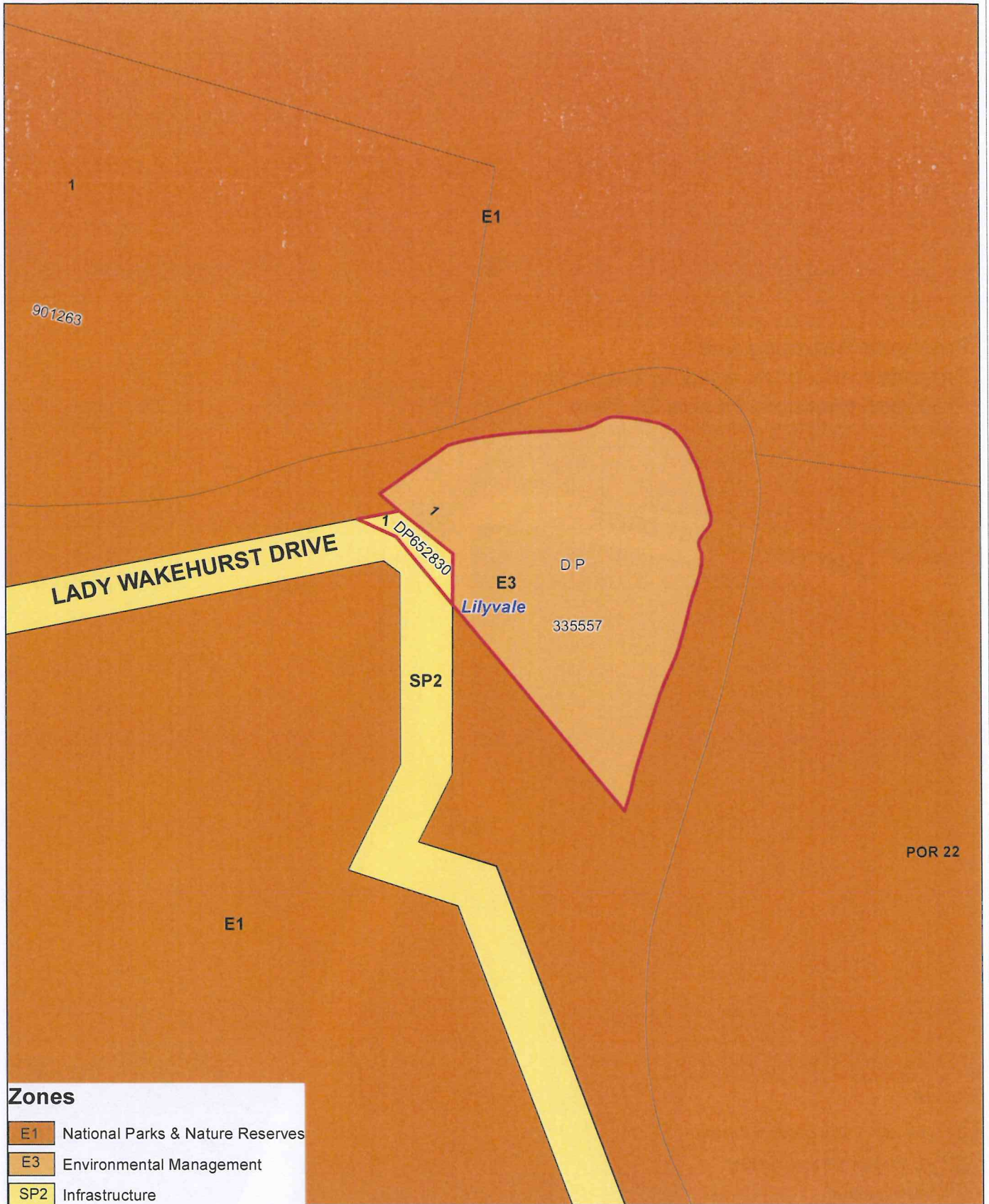


Planning Proposal
 Lot 1 DP 652830
 Lady Wakehurst Drive, Lilyvale



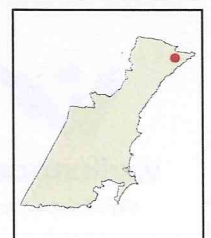
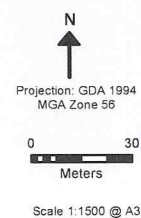
Subject site



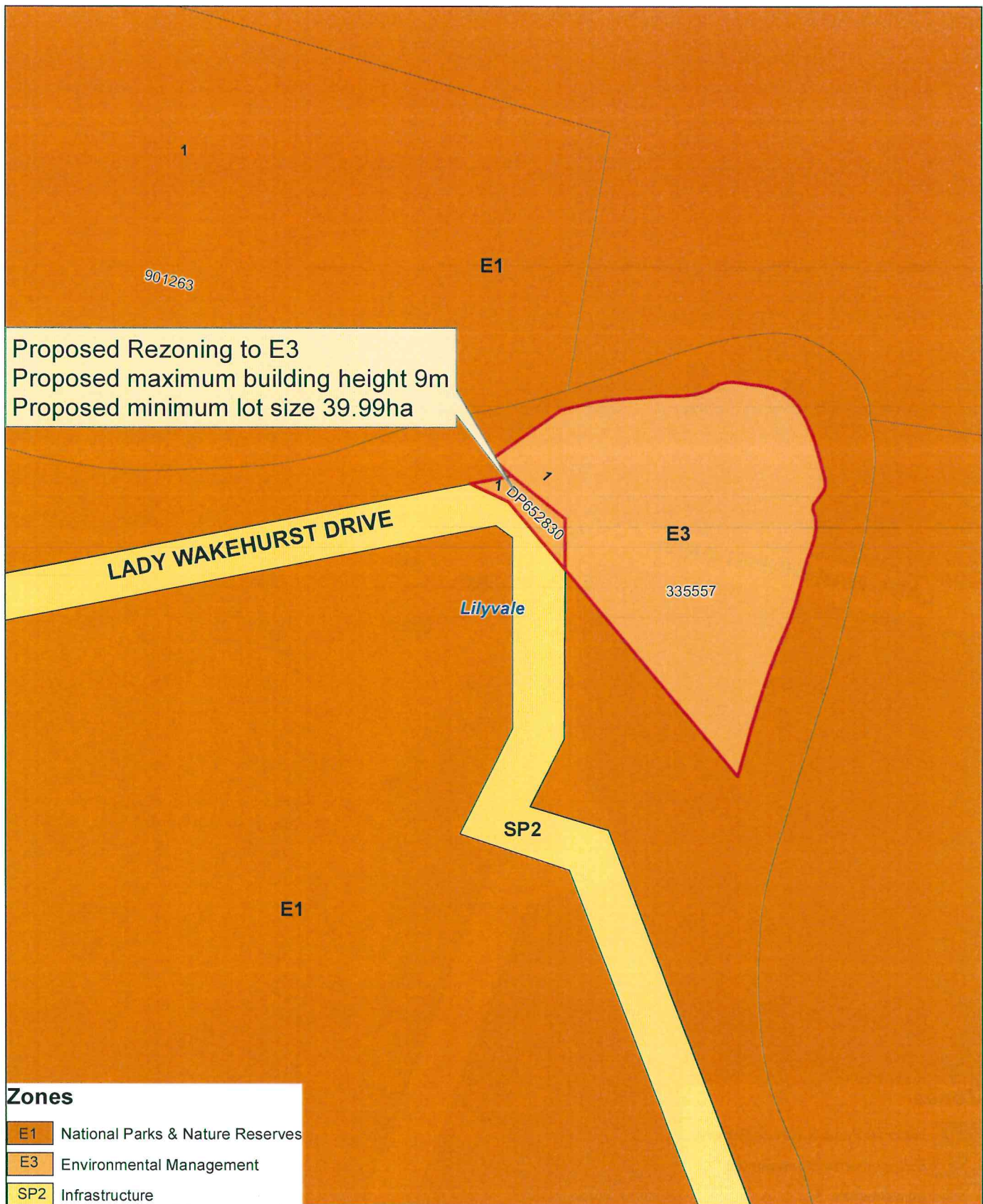


Planning Proposal
 Lot 1 DP 652830
 Lady Wakehurst Drive, Lilyvale
 Existing Zoning

Subject site



Map identification number:
 Lilyvale_PlanningProposal_ExistingZoning.mxd



Planning Proposal
Lot 1 DP 652830
Lady Wakehurst Drive, Lilyvale
Proposed Zoning

Subject site

N
↑
Projection: GDA 1994
MGA Zone 56
0 30
Meters
Scale 1:1500 @ A3



Map Identification number:
Lilyvale_PlanningProposal_PropZoning.mxd





wollongong
city of innovation

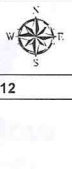
Lots 1 DP 652830
Lady Wakehurst Drive Lilyvale
Proposed Minimum Lot Size (sq m)

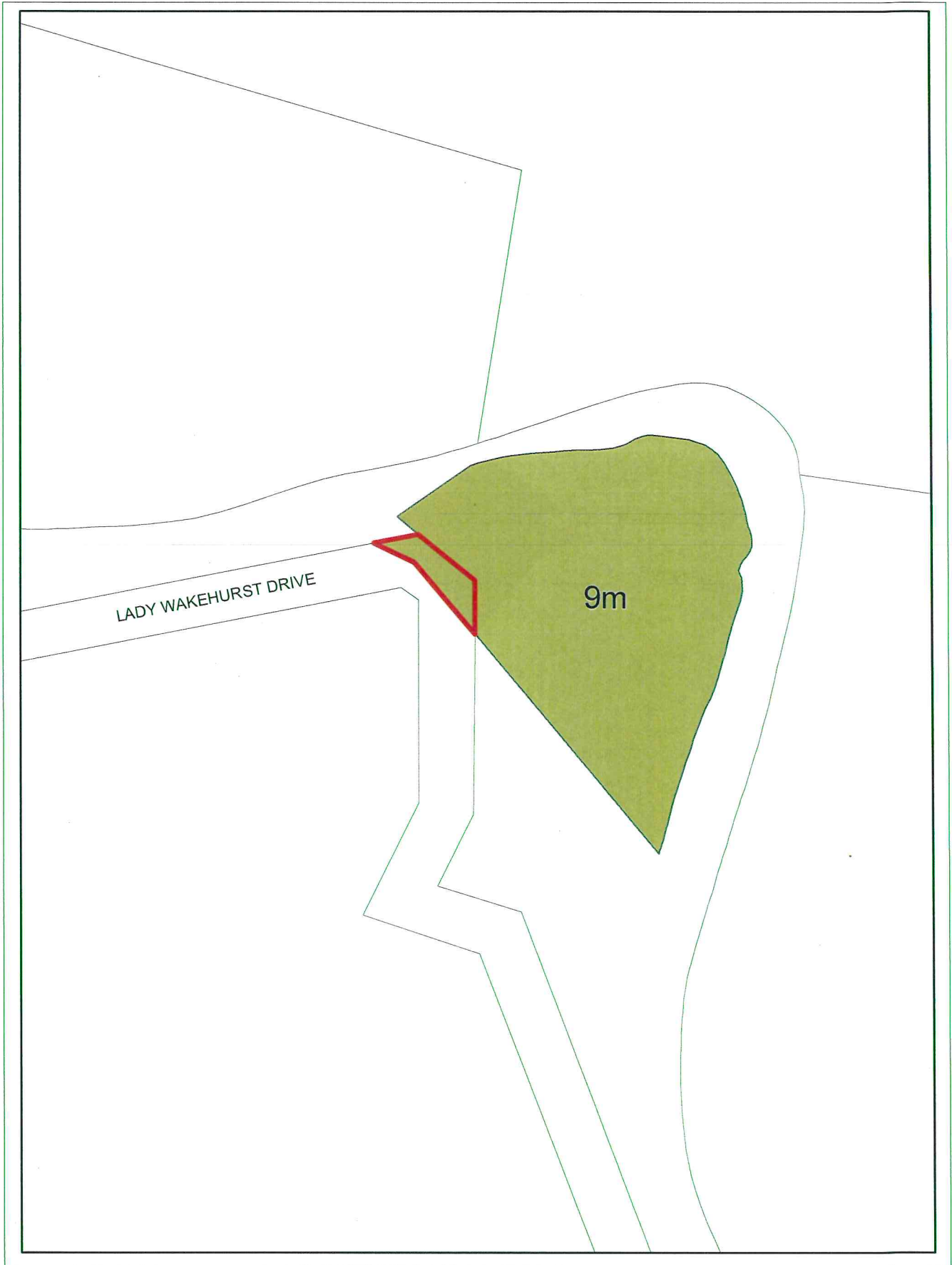
 Lilyva_Subject_Land	 F 449	 T 999	 V 2999	 Y 1.99ha	 AA 9.99
	 J 549	 U1 1499	 W 3999	 Z1 3.99ha	 AB 39.99ha
	 P 699	 U2 1999	 X 0.99ha	 Z2 4.99ha	

Drawn By: H. Jones
Date: 30.10. 2014

Date of Aerial Photography: 2012

Gis ref: A4P Lilyvale
Proposed ML S.mxd





Lots 1 DP 652830
Lady Wakehurst Drive Lilyvale
Proposed Height of Building (sq m)

8	12	16	30	60	120
9	13	20	32	65	
11	15	24	48	80	

Lilyval_Subject_Land

Drawn By: H. Jones

Date: 30.10. 2014



Date of Aerial Photography: 2012

Gis ref: A4P Lilyvale
 ProposedHOB.mxd

