

REF: CM14/11

PLANNING PROPOSAL LOTS 54 AND 61 DP 751301 MT OUSLEY ROAD, MT KEIRA
Report of Manager Environmental Strategy and Planning (Acting) (DG) 9/02/11 ESP-100.01.029

PRECIS

On 28 July 2009, Council resolved to prepare a draft Planning Proposal for Lots 54 and 61 DP 751301 Mt Ousley Road, Mt Keira. As a result of discussions with the NPWS and RTA the draft Planning Proposal has been modified and a further Council resolution is sought. The proposal involves the transfer of land to currently privately owned land be incorporated into the Illawarra Escarpment State Conservation Area (21.04 hectares), Mt Ousley Road Reserve (0.25 hectares), the construction of a new accessway, and the amendment of the Wollongong Local Environmental Plan to facilitate the erection of two (2) additional dwelling houses and associated subdivision of the residual site.

It is recommended that Council support the preparation of a revised draft Planning Proposal and that it be forwarded to the NSW Department of Planning for review prior to exhibition. It is also recommended that Council delegate authority to the General Manager to finalise the draft Planning Agreement, and authorize its exhibition with the draft Planning Proposal.

RECOMMENDATION

- 1 A draft Planning Proposal be submitted to the NSW Department of Planning for Lots 54 and 61 DP 751301 Mt Ousley Road, Mt Keira, to amend the Wollongong Local Environmental Plan 2009 by:**
 - a making minor amendments to the boundary between the E2 Environmental Conservation and E3 Environmental Management zone;**
 - b reducing the minimum lot size on the E3 Environmental Management zone from 40 hectares to 2 hectares, to allow two (2) additional dwellings and the subdivision into three (3) lots; and**
 - c rezoning the land to be incorporated into the Mt Ousley Road Reserve from E3 Environmental Management to SP2 Infrastructure – Roads.**
- 2 Delegated authority be granted to the General Manager to review and finalise a draft Planning Agreement between Council and the proponent, addressing the proposed transfer of land to be incorporated into the Illawarra Escarpment State Conservation Area (21.04 hectares) and Mt Ousley Road Reserve (0.25 hectares), in exchange for two (2) additional dwelling house entitlements and subdivision into three (3) lots.**
- 3 If the draft Planning Proposal is approved by the NSW Department of Planning, the draft Planning Proposal and draft Planning Agreement be exhibited for a minimum period of twenty eight (28) days.**

BACKGROUND

Lots 54 and 61 DP 751301 Mt Ousley Road, Mt Keira are located in the Illawarra Escarpment between Mt Ousley Road and Clive Bissell Drive (Attachment 1). A paper Crown road separates the properties. The properties have a combined area of 31.75 hectares. The elevation of the property ranges from 220m in the eastern part to 420m in the western part. The site contains a dwelling house (approved in 1980) and outbuildings. Access is via a left-in, left-out arrangement from Mt Ousley Road. The western part of the site is steep bushland, which adjoins the Mt Keira part of the Illawarra Escarpment State Conservation Area.

The properties are zoned E2 Environmental Conservation (western two thirds) and E3 Environmental Management (eastern third) under the Wollongong Local Environmental Plan 2009 (Attachment 2) with a minimum lot size of 40 hectares.

In 1993, the owners lodged a rezoning application with Council under the Fair Trading Scheme for the erection of two (2) additional dwelling houses in exchange for the transfer of 21 hectares to be incorporated into the Illawarra Escarpment State Conservation Area. In 1994, Council exhibited draft Wollongong Local Environmental Plan 1990 (Amendment No.100), and subsequently endorsed the draft Local Environmental Plan to be referred to the Minister for Planning for approval. The Plan was not made, the Minister's reasons are not known.

In 1998 the Minister for Planning introduced a moratorium of rezonings in the Illawarra Escarpment. The Illawarra Escarpment Commission of Inquiry report (1999) recommended that the site "should be zoned 7(a) for future inclusion in the Escarpment Regional Park and no residential development be permitted in the interim".

In 2007, the proponent lodged a revised proposal for two (2) additional dwelling houses. On 6 August 2007, Council considered a report on the Illawarra Escarpment Land Use Review Strategy and various rezoning proposal in the Escarpment. Council resolved (in part) that:

- 1 Council adopt the Illawarra Escarpment Land Use Review Strategy for the purpose of informing amendments to the draft Wollongong Local Environmental Plan 2007 and draft West Dapto Local Environmental Plan 2007.
- ...
- 5 Council endorse the following site specific variations –
 - e Lot 61 and Part Lot 54 DP 751301 Mount Ousley Road, Mount Keira: Council amend the Draft LEP to enable two additional dwelling entitlements and the applicant be requested to –
 - i Dedicate part of their land, which is of high conservation value and which is adjacent to the Illawarra Escarpment Park.
 - ii Prepare a feasibility study of an alternative emergency access road through their land, secured by a roadway north of Mt Pleasant in case of fire or bridge failure.
 - iii An onsite meeting be held with available Councillors and staff.

Following the appointment of Administrators, the draft Wollongong Local Environmental Plan 2009 was reviewed. On 24 June 2008 Council resolved to remove the proposal from the draft Local Environmental Plan due to "significant environmental and access constraints limit further development in this location and creating additional dwelling entitlements is not supported by Council officers".

During the exhibition of the draft Wollongong Local Environmental Plan 2009, the proponents lodged a submission which requested reconsideration of the proposal. Council at its meeting on 28 July 2009, considered a report on submissions which addressed rezoning proposals in the Illawarra Escarpment. Council resolved (in part) that:

In accordance with Section 55 of the Environmental Planning and Assessment Act 1979, "planning proposals" (formerly known as a draft Local Environmental Plans) be submitted to the Department of Planning to commence the rezoning process for the following sites (in part):

- Lot 61 & part 54 DP751301 Mt Ousley Road Mt Keira - 2 additional dwelling houses. Possible E2 National Parks zone.

Since the meeting, further discussions have occurred between the proponent, the Department of Environment, Climate Change and Water, the Roads and Traffic Authority and Council. The discussions have resulted in the submission of a modified proposal (November 2010) which has in-principle support from the two (2) State agencies. The revised draft Planning Proposal is submitted to Council for endorsement prior to submission to the NSW Department of Planning for review and Gateway determination.

PROPOSAL

The amended Planning Proposal (Attachment 3) – proposes:

- The closure of the paper Crown road, and incorporation of the land into the lots. The road closure application is to be submitted by proponent to the NSW Land and Property Management Authority.
- The transfer of the western part of the property (21.04 hectares) to be incorporated into the Illawarra Escarpment State Conservation Area. The E2 Environmental Conservation zone will be retained in the short term, as the National Parks and Wildlife Service does not support the use of the E1 National Park zoning until land is in their ownership. Once the land is transferred, a future amendment will zone the land E1 National Parks. This proposal is supported by the Department of Environment, Climate Change and Water / National Parks and Wildlife Service (Attachments 3 and 4).
- The transfer of 0.25 hectares of the property adjacent to Mt Ousley Road to be incorporated into the road reserve, to facilitate future widening of the road, and the closure of the current driveway access. The access way would be retained as a gated emergency exit in the event of a bushfire, or closure of the New Mt Pleasant Road bridge. This land is proposed to be zoned SP2 Infrastructure – Road. This proposal is supported by the Roads and Traffic Authority (Attachments 3 and 4).
- The construction of a new access way from Parrish Avenue, within the Roads and Traffic Authority road reserve to serve the existing and proposed dwelling houses. The access way could also be extended to serve other properties to the north that are currently accessed via Mt Ousley Road. This proposal is supported by the Roads and Traffic Authority (Attachment 3).
- The erection of two (2) additional dwelling houses to be facilitated by the amendment of the E2/E3 boundary and the reduction in the minimum lot size to 2 hectares to facilitate the subdivision. The E3 Environmental Management zone is proposed to be retained. (Attachment 3, 4 and 5).

If the proposal is supported by the NSW Department of Planning, the draft Planning Proposal and a draft Planning Agreement should be exhibited concurrently. The draft Planning Agreement would advise the community of the proposed transfer of land to Council (to subsequently be transferred to National Parks and Wildlife Service and the Roads and Traffic Authority), in exchange for the two (2) additional dwelling entitlements and subdivision of the land. The draft planning agreement will be prepared by the proponent and reviewed by Council's in-house solicitor. It is recommended that Council delegate authority to the General Manager to review and authorise the exhibition of the draft Planning Agreement.

The following issues are relevant to Council's consideration of the proposal:

Access

Access to the property is currently via Mt Ousley Road, with a left-in, left-out arrangement. Intensification of this access point has not been supported by Council or the Roads and Traffic Authority. An alternate accessway from the northern end of Parrish Avenue has now been proposed and is supported by the Roads and Traffic Authority, National Parks and Wildlife Service and Council officers. The accessway is located in the Mt Ousley Road Reservation, controlled by the Roads and Traffic Authority, and on the subject site.

The existing accessway to Mt Ousley Road is proposed to be closed, gated and the land transferred to the Roads and Traffic Authority. The accessway would be opened in bushfire emergencies or if the New Mt Pleasant Road bridge was closed.

The new accessway could also be extended to serve the other Mt Ousley Road properties.

Bushland

The western portion of the property contains steep bushland that is contiguous with the Illawarra Escarpment State Conservation Area. The bushland contains four (4) vegetation communities: Coachwood Warm Temperate Rainforest, Moist Coastal White Box Forest, Moist Gully Gum Forest and Escarpment Edge Silvertop Ash Forest. None of the communities are listed as endangered. The site does form part of the Illawarra Escarpment Moist Forest Fauna Corridor, which occurs along the Illawarra Escarpment as a continuous vegetation band and is an important regional corridor for fauna movement. A flora and fauna assessment report accompanied the proposal.

The Department of Environment, Climate Change and Water have agreed in-principle to 21.04 hectares of the site being transferred and incorporated into the Illawarra Escarpment State Conservation Area. Some bushland would remain in private ownership as a buffer.

The proposed additional dwellings are located on cleared land. A bushfire asset protection zone has been designed around each dwelling house, which will require minimal tree removal.

Additional dwelling houses

The site currently contains one (1) dwelling house. Two (2) additional dwelling houses are proposed. The land is not serviced by reticulated water or sewer. Water is currently supplied by a spring, and effluent is disposed on-site. These practices are proposed to continue with the new dwelling houses.

Once the paper Crown Road is closed, and the Local Environmental Plan approved, it is proposed that the land be subdivided into five (5) lots, one (1) lot for each dwelling house (three (3) in total), plus one (1) lot for the Roads and Traffic Authority and one (1) lot for the National Parks and Wildlife Service.

Minimum lot size

The site currently consists of two (2) lots and the paper Crown road. A minimum lot size of 40 hectares applies to the site for subdivision and dwelling yield. This standard would need to be varied to permit the subdivision of the land. The minimum lot size could be removed from the 0.25 hectares proposed to be zoned SP2 Infrastructure – Roads and transferred to the Roads and Traffic Authority. The western portion could be reduced to 20 hectares, to reflect the 21.04 hectares to be transferred to the Department of Environment, Climate Change and Water /

National Parks and Wildlife Service. The balance of the property, to remain in private ownership could be subdivided to a minimum of 2 hectares, to allow subdivision into three (3) lots (one (1) for each dwelling house) (Attachment 5).

CONSULTATION AND COMMUNICATION

If the draft Planning Proposal is approved by the NSW Department of Planning, it is proposed to exhibit the draft Planning Proposal and draft Planning Agreement concurrently for a minimum period of twenty eight (28) days.

Following the exhibition, a report on submissions will be prepared and submitted to Council for consideration.

CONCLUSION

The preparation of a Planning Proposal for Lots 54 and 61 DP 751301 Mt Ousley Road, Mt Keira has had a long history. On 28 July 2009, Council resolved to prepare a draft Planning Proposal for the site. As a result of discussions with the National Parks and Wildlife Service and Roads and Traffic Authority the draft Planning Proposal has been modified and a further Council resolution is sought. The modified proposal includes the dedication of land to Council (to be transfer subsequently to the National Parks and Wildlife Service and Roads and Traffic Authority), a new accessway and the erection of two (2) additional dwelling houses on separate allotments. The transfer arrangements will be detailed in a draft Planning Agreement which is proposed to be exhibited concurrently with the draft Planning Proposal.

It is recommended that Council support the preparation of a revised draft Planning Proposal and that it be forwarded to the NSW Department of Planning for review prior to exhibition. It is also recommended that Council delegate authority to the General Manager to finalise the draft Planning Agreement, and authorize its exhibition with the draft Planning Proposal.

Name	Position Title
Author:	
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Authorised by:	
Andrew Carfield	Director Planning and Environment
David Farmer	General Manager

ATTACHMENTS

1. Site Plan
2. Current Zoning Plan
3. Modified Concept Plan.
4. Proposed Zoning Plan
5. Proposed Minimum Lot Size Plan

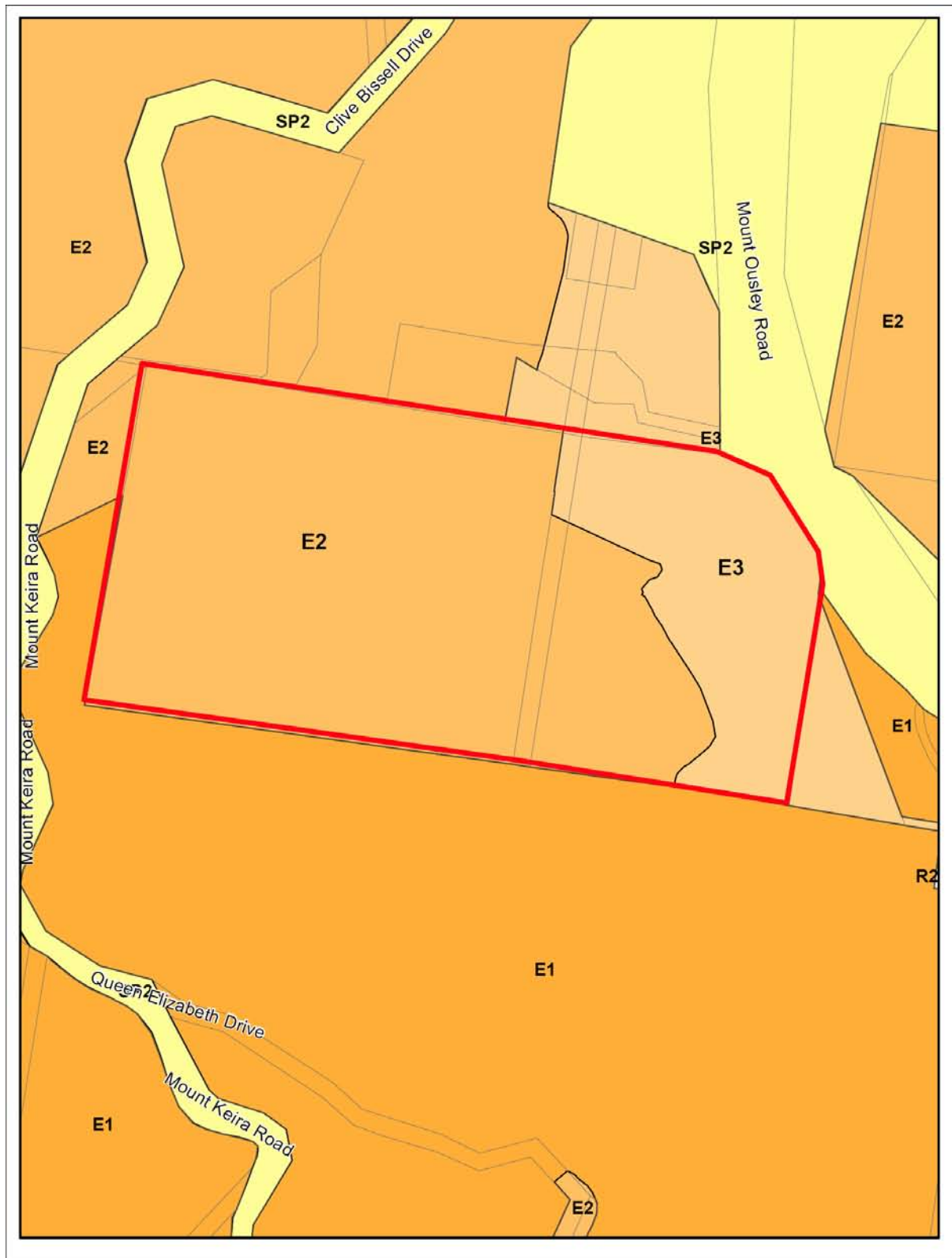


Mt Ousley Road

Legend

 Subject Land

Drawn By: H Jones	
Date: 10/02/2011	
Gis ref: Fera Photo.mxd	
Date of Aerial Photography: 2008	
	



Legend

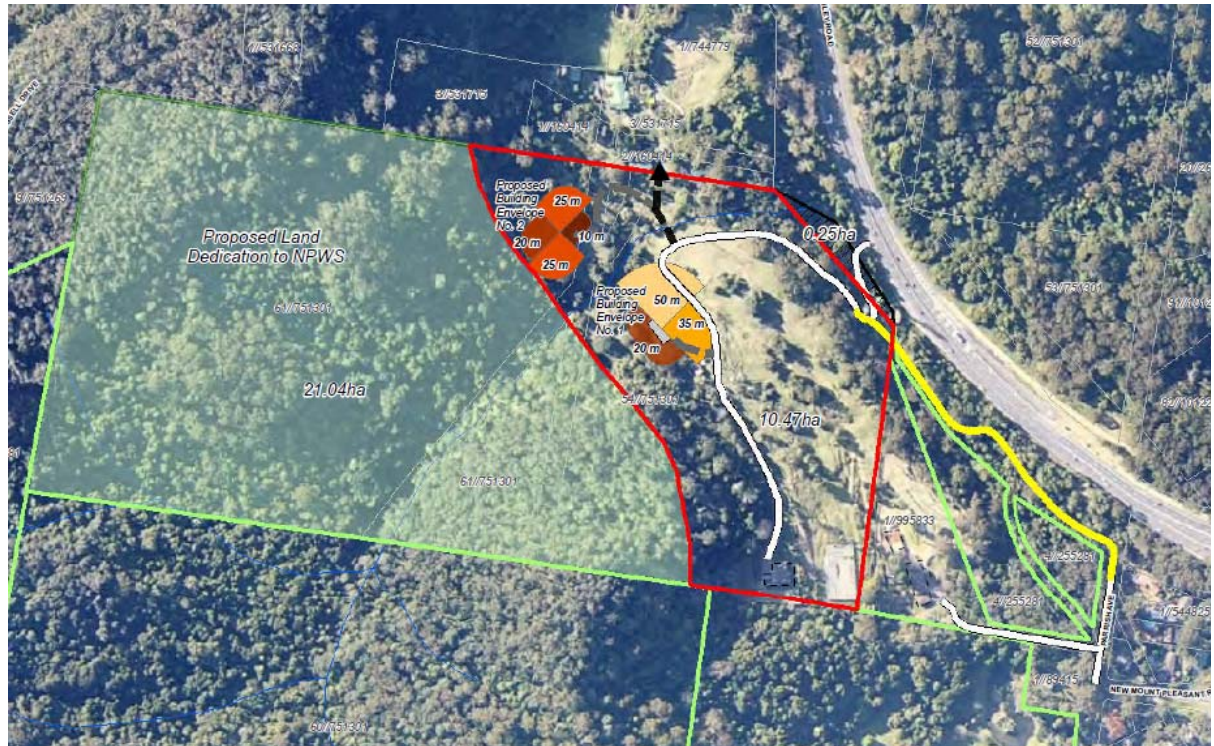
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- E2 Environmental Conservation
- E3 Environmental Management
- SP2 Infrastructure
- Subject Land

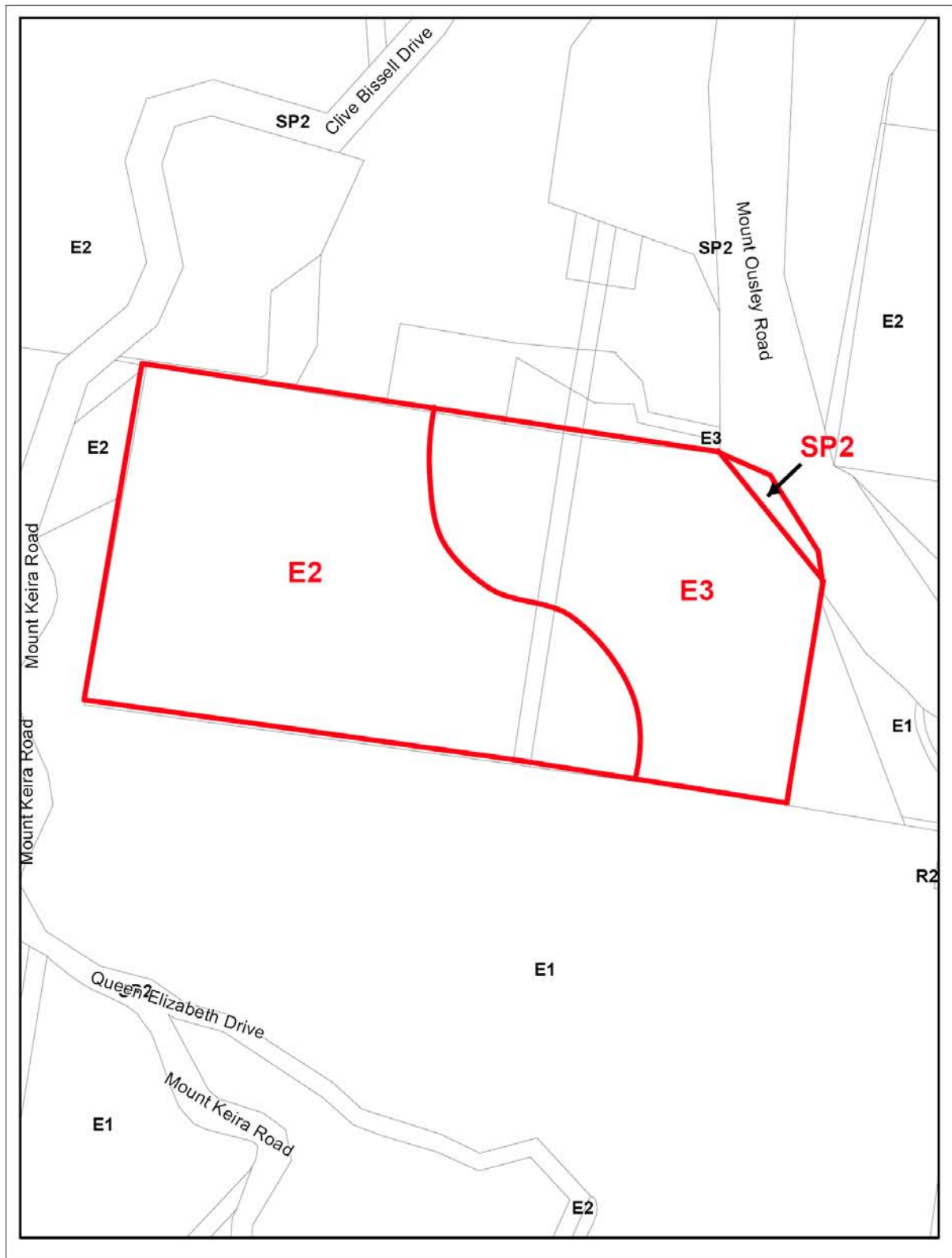
Mt Ousley Road

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Mt Ousley Road

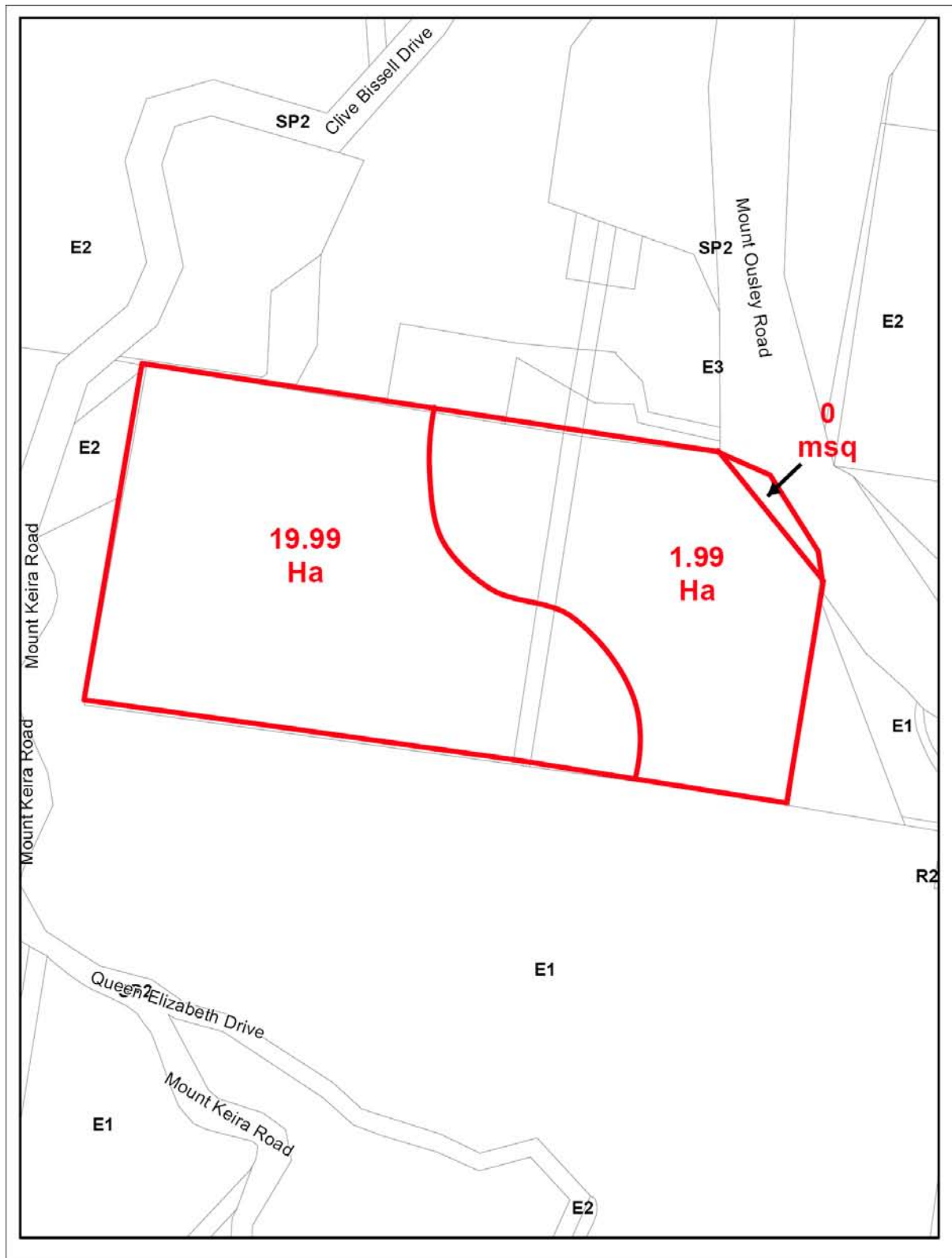
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▬ Subject Land & proposed zone boundaries

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Date of Aerial Photography: 2008



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Mt Ousley Road

Legend

 Subject Land

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Date of Aerial Photography: 2008

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