

## COUNCIL RESOLUTION EXTRACT FROM MINUTES 23 FEBRUARY 2015

## CALL OF THE AGENDA

**15 COUNCIL'S RESOLUTION** – RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Blicavs that the staff recommendations for Items 3 and 4, and 8 to 10, 12 and 13 inclusive, be adopted as a block.

## **DISCLOSURE OF INTERESTS**

Councillor Martin declared a non-significant, non-pecuniary conflict of interest in Items 2 and 4 insofar as they relate to matters which will, at some point in time, involve the Department of Planning and Environment, where she is employed.

## ITEM 4 – DRAFT SHONE AVENUE AND WEST DAPTO ROAD, HORSLEY NEIGHBOURHOOD PLAN

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 15).

## COUNCIL'S RESOLUTION -

- 1 The draft Neighbourhood Plan prepared for land fronting Shone Avenue and West Dapto Road, Horsley be placed on exhibition for a minimum period of 28 days (Attachment 1 of the report) as an amendment to the Wollongong Development Control Plan 2009 Chapter D16 West Dapto Release Area, subject to the following changes being made and submitted to Council prior to exhibition:
  - a The acoustic building exclusion zone of 25m along the railway line, be incorporated into the design of the Neighbourhood Plan based on the Noise Report recommendations and be noted clearly for the purpose of identification in the Wollongong Development Control Plan 2009. Re-design Lots 371 to 393 in the Neighbourhood Plan to ensure that there is suitable space for



## a building envelope outside of the 25m exclusion zone.

- b A local park be included into the design of the Neighbourhood Plan comprising 2ha of land, 1ha being developable land outside of the 1 in 100 year event and 1ha of non-developable land, that is able to accommodate one playing field.
- c Clearly identify on the Neighbourhood Plan that the lot layout and roads can accommodate a 32m wide Asset Protection Zone to the eastern part of the site near Robins Creek and the 15m wide Asset Protection Zone in the north western corner and the south eastern corner on private land or on public roads.
- d Detention basins need to be located outside of the 1 in 100 year event.
- e The electricity easements be re-designed into the Neighbourhood Plan as part of larger lots, and not be transferred to Council.
- 2 Consultation with NSW State Agencies occur as part of the exhibition period.
- 3 A draft Planning Proposal for the following lots in part be prepared for rezoning from E3 Environmental Management to R2 Low Density Residential with a corresponding Floor Space Ratio of 0.5:1 and Minimum Lot Size of 450m<sup>2</sup>:
  - a Lot C DP 397366;
  - b Lot 5 DP 26069;
  - c Lot 19 DP 879647;
  - d Lot 102 DP 1137454;
  - e Lot 1012 DP 862178;
  - f Lot 2 DP 26069;
  - g Lot 1 DP 607456; and
  - h Lot 1 DP 26069.
- 4 Further work be required as part of the Gateway determination to be undertaken to demonstrate how the cut and fill of flood affected land could be managed within the Neighbourhood Plan area and a flora and fauna report be prepared for the areas proposed to be rezoned and exhibited as part of the draft Planning Proposal.
- 5 The draft Planning Proposal be referred to the NSW Department of Planning and Environment for a Gateway determination and if endorsed exhibited for a minimum period of 28 days.
- 6 Council requests authority for the General Manager to exercise plan



making delegations in accordance with Council's resolution of 26 November 2012 for the Planning Proposal.

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File: ESP-100.02.019



# ITEM 4 DRAFT SHONE AVENUE AND WEST DAPTO ROAD, HORSLEY NEIGHBOURHOOD PLAN

Wollongong Development Control Plan 2009 – Chapter D16 West Dapto Release Area contains specific development controls to guide future urban development in the West Dapto Release Area and supplements the standard provisions contained in the Development Control Plan. Wollongong Local Environmental Plan 2009 and Chapter D16 require a Neighbourhood Plan to be prepared and adopted by Council to guide development within the specified neighbourhood/precinct.

A draft Neighbourhood Plan has been submitted for land fronting Shone Avenue and West Dapto Road, Horsley. The plan has been reviewed internally and changes will be sought prior to the exhibition process to ensure it is consistent with the objectives and planning for the West Dapto Urban Release Area and the findings of the consultants reports. The revised Neighbourhood Plan layout is recommended for exhibition and community input as an amendment to the Wollongong Development Control Plan 2009. It is also recommended that a draft Planning Proposal be prepared to make minor adjustments to the zone boundaries to facilitate improved development outcomes.

## RECOMMENDATION

- 1 The draft Neighbourhood Plan prepared for land fronting Shone Avenue and West Dapto Road, Horsley be placed on exhibition for a minimum period of 28 days (Attachment 1) as an amendment to the Wollongong Development Control Plan 2009 Chapter D16 West Dapto Release Area, subject to the following changes being made and submitted to Council prior to exhibition:
  - a The acoustic building exclusion zone of 25m along the railway line, be incorporated into the design of the Neighbourhood Plan based on the Noise Report recommendations and be noted clearly for the purpose of identification in the Wollongong Development Control Plan 2009. Re-design Lots 371 to 393 in the Neighbourhood Plan to ensure that there is suitable space for a building envelope outside of the 25m exclusion zone.
  - b A local park be included into the design of the Neighbourhood Plan comprising 2ha of land, 1ha being developable land outside of the 1 in 100 year event and 1 ha of non-developable land, that is able to accommodate one playing field.
  - c Clearly identify on the Neighbourhood Plan that the lot layout and roads can accommodate a 32m wide Asset Protection Zone to the eastern part of the site near Robins Creek and the 15m wide Asset Protection Zone in the north western corner and the south eastern corner on private land or on public roads.
  - d Detention basins need to be located outside of the 1 in 100 year event.
  - e The electricity easements be re-designed into the Neighbourhood Plan as part of larger lots, and not be transferred to Council.

- 2 Consultation with NSW State Agencies occur as part of the exhibition period.
- 3 A draft Planning Proposal for the following lots in part be prepared for rezoning from E3 Environmental Management to R2 Low Density Residential with a corresponding Floor Space Ratio of 0.5:1 and Minimum Lot Size of 450m<sup>2</sup>:
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- 4 Further work be required as part of the Gateway determination to be undertaken to demonstrate how the cut and fill of flood affected land could be managed within the Neighbourhood Plan area and a flora and fauna report be prepared for the areas proposed to be rezoned and exhibited as part of the draft Planning Proposal.
- 5 The draft Planning Proposal be referred to the NSW Department of Planning and Environment for a Gateway determination and if endorsed exhibited for a minimum period of 28 days.
- 6 Council requests authority for the General Manager to exercise plan making delegations in accordance with Council's resolution of 26 November 2012 for the Planning Proposal.

## ATTACHMENTS

- 1 Submitted Draft Neighbourhood Plan
- 2 Draft Planning Proposal zoning adjustments

## REPORT AUTHORISATIONS

Report of:Renee Campbell, Manager Environmental Strategy and PlanningAuthorised by:Andrew Carfield, Director Planning and Environment – Future, City<br/>and Neighbourhoods

## BACKGROUND

The West Dapto Urban Release Area covers an area of approximately 4,700 hectares and is proposed to provide an additional 17,000 dwellings. The Release Area will also accommodate 183 hectares of employment land when fully developed.



On 5 May 2012, the Wollongong Local Environmental Plan (West Dapto) 2010 (LEP) was approved and notified by the NSW Minister for Planning. This LEP permits urban development in stages 1 and 2, of the 5 total stages. The first two stages will allow the development of approximately 6,676 dwellings. Wollongong Local Environmental Plan (West Dapto) 2010 was merged with the Wollongong Local Environmental Plan 2009 in 2014.

Chapter D16 contains specific development controls to guide future urban development in the West Dapto Release Area, and supplements the standard provisions contained in the Development Control Plan. Chapter D16 requires that a Neighbourhood Plan be prepared and adopted by Council to guide development within the specified neighbourhood/precinct. The Neighbourhood Plan also addresses the requirement of clause 6.2(3) of the LEP.

The adoption of a Neighbourhood Plan enables future development applications submitted in accordance with the Plan to comply with Clause 6.2 of the Wollongong Local Environment Plan 2009. Without a Neighbourhood Plan Council is unable to issue any development consent relating to the subject properties other than provided for under clause 6.2(4) (Development Control Plan provisions).

A Neighbourhood Plan is essential in urban release areas to ensure development occurs in an efficient cohesive manner that encourages integration of development sites and development sequencing. It can ensure appropriate connectivity between developments and other neighbourhood precincts in terms of road and cycle way layouts, stormwater and drainage management, access to public transport routes and appropriately located open space and recreation opportunities for residents. It can also assist to resolve any potential future conflicts between separate developments undertaken with differing timeframes.

The Neighbourhood Plan process outlined in Development Control Plan Chapter D16 Clause 5.1 - Requirement for a Neighbourhood Plan, requires the draft Neighbourhood Plan to be reported to Council as an amendment to Wollongong Development Control Plan 2009 – Chapter D16 West Dapto Release Area. If endorsed by Council, it is then publicly exhibited and subject to the outcomes of the exhibition, the revised Neighbourhood Plan is to be reported to Council for adoption and inclusion in the Development Control Plan.

Council has now adopted the following Neighbourhood Plans for West Dapto:

- Bong Bong East and North;
- Bong Bong Town Centre;
- Wongawilli North;
- Shone Avenue South;
- Reddalls Road Industrial;
- Sheaffes Road North; and
- Darkes Road South West.



Two further Neighbourhood Plans for Huntley Avondale Road North and the Sheaffes Road and West Dapto Road precincts were endorsed for public exhibition on 15 December 2014 and are on exhibition.

## Shone Avenue and West Dapto Road, Horsley Neighbourhood Plan

On 11 September 2014 a draft Neighbourhood Plan was lodged for the land fronting the corner of Shone Avenue and West Dapto Road Horsley (refer to Attachment 1). The northern part of the neighbourhood is physically separated from West Dapto Road via an existing Railway Line for the Wongawilli Colliery which runs parallel and adjacent to this road, however, some of the existing properties have current driveway access from West Dapto Road across the rail line.

The southern and eastern boundaries of the neighbourhood are bordered by the Robins Creek. A small tributary of this creek system also bisects the north-west corner of the precinct. The natural landform is relatively undulating throughout, with a general grade downwards from west-to-east.

The Shone Avenue and West Dapto Road, Horsley Neighbourhood Precinct contains eight separate privately owned land holdings as indicated in Table 1 below and illustrated in Figure 1. The total area of the precinct is approximately 46.16ha.

No	Property Details	Area	Zoning
1	21 Shone Avenue being Lot 1 DP 607456	7.37ha	R2 Low Density Residential - 4.48ha E3 Environmental Management - 2.89ha
2	471 West Dapto Road being Lot 1 DP 26069	5.47ha	R2 Low Density Residential - 3.34ha E3 Environmental Management - 2.13ha
3	57 Shone Avenue being Lot 2 DP 26069	7.8ha	R2 Low Density Residential 7.3ha E3 Environmental Management 0.5ha
4	451 West Dapto Road being Lot 5 DP 26069	10.94ha	R2 Low Density Residential 10.58ha E3 Environmental Management 0.36ha
5	441 West Dapto Road being Lot C DP 397366	7.2ha	R2 Low Density Residential 2.46ha E3 Environmental Management 4.31ha RU2 Rural Landscape 0.43ha
6	77 Shone Avenue being Part Lot 1012 DP862178	1.86ha	R2 Low Density Residential 0.48 E3 Environmental Management 1.38
7	29 Ashwood Place being Part Lot 102 DP 1137454	3.37ha	R2 Low Density Residential 1.37 E3 Environmental Management 2ha
8	Lot 19 Glenwood Drove being Part Lot 19 DP 879647	2.15ha	R2 Low Density Residential 0.4 E3 Environmental Management 1.75

#### Table 1: Property Details



#### Figure 1: Lot and Deposited Plans



The total potential developable site area, (residentially zoned land) is approximately 30.41 hectares. The breakdown of zoning is shown in Table 2 below.

#### Table 2: Development Standards

Zone	Area	Lot Size	FSR	Height
R2 Low Density Residential	30.41ha	449m²	0.5:1	9m
E3 Environmental Management	15.32ha	39.99ha	NA	9m
RU2 Rural Landscape	0.43ha	9.99ha	NA	9m

The land is currently used for rural residential activities with a mix of residential and rural infrastructure. Two high voltage electricity easements bisect the precinct.

The draft Neighbourhood Plan has undergone internal consultation, consistent with the process for other Neighbourhood Plans. As a result of initial internal feedback there are a few minor changes sought to the draft Plan; these are outlined later in the report and are envisaged to be completed as part of the exhibition process and re-reported to Council post exhibition.

The submitted draft Neighbourhood Plan is broadly consistent with the relevant provisions of the Wollongong Development Control Plan 2009, Illawarra Regional Strategy (2007) and relevant State Policies. The proposal is generally consistent with



the Wollongong Local Environmental Plan 2009 although adjustments to the zoning boundary are being sought.

The draft Neighbourhood Plan (Attachment 1) with amendments proposed in this report provides a design that enables land holdings to be developed with the appropriate level of integration, both internally, as well as with the wider release area. This integration relates to the road network; the pedestrian pathway and cycleway networks; drainage management including flood affectation, as well as appropriate interaction between the uses of residential and environmental zoned land. This integrated approach enables the efficient development of the residential zoned land generating new housing opportunities in West Dapto whilst minimising any environmental impact.

## PROPOSAL

The submitted draft Neighbourhood Plan (Attachment 1) provides for:

- 1 Low density residential development areas for approximately 393 lots with a lot size range between  $450 \text{ m}^2 850 \text{m}^2$  with one medium density lot at 1,588m<sup>2</sup>.
- 2 A sound wall along Wongawilli Colliery rail line north of the Neighbourhood.
- 3 A road hierarchy based on predicted traffic volumes and movements throughout the Neighbourhood.
- 4 Connectivity with Shone Avenue at one location managed as a future round-about and a possible future connection with West Dapto Road (if the rail line is removed).
- 5 Provisions for community and/or recreation facilities, which includes dedicated environmental/open space land within riparian corridor area.
- 6 Transgrid electricity easements within road reserves.
- 7 Perimeter roads and shared pedestrian/cycleway paths.

The following issues were identified in the assessment of the draft Neighbourhood Plan as submitted:

- 1 Encroachment of residential lots onto the E3 Environmental Management zone for which a planning proposal is sought.
- 2 Land identified as potential residential land that is within the 1 in 100 year event.
- 3 Lots indicated within a 25m no build zone as identified in the Noise Report submitted with the Neighbourhood Plan.
- 4 Detention basins within the 1 in 100 year flood event area.
- 5 The Asset Protection Zone (APZ) needs to be identified on the Neighbourhood Plan to demonstrate that they do not impact on any E3 Environmental Management land.
- 6 A local park is required to be included into the design of the Neighbourhood Plan comprising of 2ha of land, 1ha being developable land being outside of the 1 in 100 year event and 1 ha of non-developable land that is able to accommodate one playing field.

- 7 Consultation with Transgrid required in order to understand whether detention basins will be permitted under the easements.
- 8 Ownership of the electricity easements whether they are incorporated into lots or are transferred to Council to maintain.

**Flora and Fauna:** A desktop ecological constraints analysis was undertaken by Eco Logical Australia to identify any ecological constraints associated with the proposed residential subdivision.

The Eco Logical (2014) assessment is generally supported. In summary, Eco Logical (2014) correctly identifies low biodiversity constraints in the Neighbourhood Plan area including the likely absence of Threatened Ecological Communities (TECs). The report states that, based on previous surveys in the locality by Eco Logical (2013), no threatened flora are considered likely to occur on the subject site, however it is noted no thorough flora surveys were carried out on the subject site for the Eco Logical (2013) or current Eco Logical (2014) assessment.

Eco Logical (2014) notes that the subject site supports the foraging habitat of the threatened micro chiropteran bats species, including the farm dams and drainage lines. Following Councils brief site inspection from the road reserve it was noted that, in addition to foraging habitat for threatened micro chiropteran bats species, the tree cover of mainly exotic tree species, some stands of planted native trees and scattered and isolated native trees (paddock trees), may also support roosting and nesting habitats for threatened fauna species known from the locality.

EcoLogical (2014) have not assessed threatened biodiversity listed under either the *Threatened Species Conservation Act 1995* or *Environment Protection and Biodiversity Conservation Act 1999*, as may be required for a future development application.

The assessment by EcoLogical is sufficient for the Neighbourhood Precinct stage, noting that a more detailed flora and fauna assessment will be required as part of the development application for subdivision.

A bushfire constraints assessment has been undertaken by Australian Bushfire: Bushfire Protection Planners (2014) to identify any bushfire protection constraints associated with the proposed residential subdivision development throughout the precinct. The land is identified as being bushfire prone primarily due to the proximity to the Robins Creek riparian corridor system. The Wollongong Bushfire Prone Land Map records Category 1 Bushfire Prone Vegetation on the land within the north-western corner of Lot 1 in DP 607456, located to the south-east of the intersection of West Dapto Road and Shone Avenue. The report notes that although the map records no other bushfire prone vegetation within the Neighbourhood Plan precinct, the Development Control Plan identifies a requirement for the rehabilitation of the riparian corridors to Robins Creek and its tributaries located within the Neighbourhood Plan precinct. This rehabilitation is likely to create, in the life of the development, a corridor of vegetation which could become a bushfire hazard. It is noted however that any revegetation will need to be balanced with the impacts on flows and behaviour of flood water.



The bushfire assessment has been based on the findings of the Eco Logical Australia ecological assessment which identifies that the precinct contains two first order, two third order and a fourth order streams. Robins Creek and the creek that flows across the north-western corner of the precinct are identified as third order streams whilst the stream which flows across the eastern portion of the precinct is identified as a fourth order stream.

The Eco Logical ecological constraints assessment recommends that a third order stream requires the establishment of a 30 metre wide riparian zone and a fourth order stream requires a 40 metre wide riparian zone [to both sides of the stream].

For residential development located adjacent to the Robins Creek riparian corridor an Asset Protection Zone width of 15 metres is required to achieve a maximum radiant heat loading of less than 29kW/m<sup>2</sup> on the exterior of the future dwellings. A similar setback is required to those dwellings located adjacent to the third order stream which flows across the north-western corner of the Neighbourhood Precinct.

For those dwellings located adjacent to the 'forest' vegetation in the fourth order section of the Robins Creek [eastern stream] an Asset Protection Zone of 32 metres is required to achieve a maximum radiant heat loading of less than 29kW/m<sup>2</sup> on the exterior of the future dwellings.

The design and construction of the public roads within the Shone Avenue West Dapto Road Neighbourhood Plan Precinct shall comply with the specifications of Section 4.1.3(1) of *Planning for Bushfire Protection 2006* with the minimum pavement width of 8.0 metres provided to all perimeter roads, kerb to kerb with 'No Parking' on one side with the services [hydrants] located on this side of the road. The minimum width of the internal roads shall be 6.5 metres with 'no-parking' to one side.

The Neighbourhood Plan will need to be reviewed to demonstrate that the lot layout and roads can accommodate a 32m wide APZ to the eastern part of the site near Robins Creek and the 15m wide APZ in the north western corner and the south eastern corner on private land or on public roads (refer to Figure 2).

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**Flooding and Drainage:** Part of the precinct is identified as flood prone land due to Robins Creek which is part of the Mullet Creek catchment. Council's Mullet Creek Flood Study (2009), Floodrisk Management Plan and Mullet Creek Flood Extension Study (2011) identifies land near Robbins Creek and the other tributaries as being flood prone and having low – high risk (Figures 3 and 4).

*Figure 3:* Mullet Creek Flood Extension model (Bewsher 2011) – 100 year event (extract from Figure 7)





*Figure 4:* Mullet Creek Flood Extension model (Bewsher 2011) – Flood Risk precincts (extract from Figure 11)



The applicant has submitted a more recent and more detailed flood study of the precinct (KFW July 2014). The flood study describes the flood behaviour through the precinct in its current condition showing the affected 100 year flood behaviour and greater flood events. In general the flood study demonstrated that the peak velocity and depth flows associated with the 1% Annual Exceedance Probability (AEP) annual exceedance probability storm event are contained generally within the back of the riparian creek system. It further recommends that the 100 year Average Recurrence Interval (ARI) flood level as presented in the study be used to set the habitable floor level for the future development of the land.



Figure 4: Flood depths for 100 year event



WEST DAPTO ROAD NEIGHBOURHOOD PLAN, HORSLEY				
Conditions	Flood Event	Coverage	Revision	Job
Existing	100yr	Flood Depth	0	KF111545



Figure 5: Flood velocity for 100 year event



WEST DAPTO ROAD NEIGHBOURHOOD PLAN, HORSLEY				
Conditions	Flood Event	Coverage	Revision	dal.
Existing	100yr	Velocity		KF111545









WEST DAPTO ROAD NEIGHBOURHOOD PLAN, HORSLEY					
Conditions	Flood Event	Coverage	Revision	Job	
Existing	100yr	Velocity x Depth	2	KF111549	



The following matters in relation to stormwater and flooding have been identified:

- The Neighbourhood Plan indicates some lots (south west corner) and access road (southeast corner) within the existing 100 year flood extents. Land below the 100 year flood level is not suitable for urban development.
- The Neighbourhood Plan proposes detention basins within the existing 100 year flood extents. Detention basins need to be located outside of the 100 year flood extents to provide any effective attenuation of stormwater runoff from the proposed development.
- One of the detention basins is proposed within an existing transmission easement. Further advice needs to be sought from the relevant authority on whether this type of structure is permitted within the easement.
- The KFW flood study dated 30 July 2014 only considers the extent of existing flooding on the site and does not consider the potential flood impacts as a result of the proposed Neighbourhood Plan inclusive of fill platforms etc.

Accordingly, the Neighbourhood Plan will need to be amended to remove any residential lots and the detention basins from the 1 in 100 year extent. Consultation will occur with Transgrid over the location of detention basins within electricity easements. Additional information will be required on the impact of filling as a result of development.



**Riparian:** The southern and eastern part of the precinct contains Robins Creek. In addition, three tributaries occur within the precinct. Eco Logical (2014) describe and map two first order, two third order and a fourth order stream on the subject site and have correctly identified:

- The subject site supports 'Waterfront land' defined under the *Water Management Act 2000* (WM Act).
- The subject site supports riparian corridors as defined in *Guidelines for riparian* corridors on waterfront land (NSW Office of Water, 2012).
- Non-riparian corridor works or development may be carried out within the outer 50
  per cent of a vegetated riparian zone (VRZ), as long as these are offset according
  to the NSW Office of Water (2012) averaging rule.

The Eco Logical (2014) assessment concludes the study area (incorporating the subject site) has low ecological values, but due to the presence of waterfront land defined under the Water Management Act and riparian corridors, the NSW Office of Water may require the preparation of a Vegetation Management Plan as part of a controlled activity approval at DA stage.

As part of the development of the West Dapto Master Plan, Council along with State Agencies had to make decisions on the extent of residential land based on constraints to development. This included mapping of flooding, easements, significant vegetation and riparian corridors. It was considered appropriate that the riparian land within West Dapto was to be determined and defined by the 1 in 100 year flood event.

As a consequence a number of minor or lower order creeks were retained within the development footprint. As part of West Dapto it is expected that these minor depressions are suitable for integration within the drainage of the subdivisions road networks. This would still require consultation with Office of Water at Development Application stage.

The draft planning proposal requests that Council considers realigning part of the R2 Low Density Residential and E3 Environmental Management zones.

This request is based on the premise that the E3 Environmental Management boundary was determined by the 1 in 100 year event. The proponent has submitted an updated flood study that shows that the flood extent is not as Council has originally mapped and that some additional areas zoned E3 Environmental Management could be rezoned to facilitate the efficient subdivision of the land.

In this regard Council should note that there are reasons to both support and not support the rezoning. The reasons in support of the E3 Environmental Management rezoning are:

• The land proposed for rezoning is primarily unaffected by flooding (with the exception of a few lots that are proposed to be filled to a yet to be determined extent).

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- The land has not been identified at this stage as supporting any Endangered Ecological Communities (a full assessment would be required as part of the Gateway determination to ensure this is the case).
- The rezoning of the land would facilitate efficient land development and
  - Cumulatively minimise maintenance costs to Council for E3 Environmental Management land.
  - Contribute to greater income to Council through Section 94 developer contributions.

However, the draft Neighbourhood Plan is not entirely consistent with the NSW Office of Water (2012) guidelines as non-riparian uses are proposed to be located in the inner 50 per cent of the vegetated riparian zone (VRZ). The reduction in the area zoned E3 Environmental Management will also result in a small increase in the number of credits required to achieve Biocertification for the West Dapto Urban Release Area.

Noting all the points above it is recommended that the draft planning proposal proceed to the Department of Planning and Environment for a Gateway determination as the land is largely unconstrained, and further consultation with relevant State agencies can occur as part of the exhibition period.

**Traffic, Public Transport and Cycleways:** The Neighbourhood Plan proposes to use road type 1, 1A, 2A, 3 and 1B in accordance with the road types listed in the Wollongong Development Control Plan 2009. The Plan also shows a network of footpaths and cycleways linking through the neighbourhood precinct area and along the riparian corridors.

Traffic Division have provided no objection to the Plan however they request a minor change to the proposed shared path and footpath alignment to better match the desire line. This matter can be better accommodated in the development application as the Neighbourhood Plan detail such as foot paths and cycle ways show general alignment rather than specific locations. No further changes are required at this stage to the traffic and cycleway networks for the Neighbourhood Plan to proceed to exhibition.





Figure 8: Cycleways as required and as proposed in Neighbourhood Plan







**Noise:** The primary potential noise and vibration impacts associated with the subject Neighbourhood are likely to be generated by the immediate rail line corridor to the north of the Neighbourhood Precinct. A noise impact assessment has been undertaken by Reverb Acoustics dated July 2014 for the purpose of determining the noise and vibration impact within habitable spaces of future dwelling locations from passing rail traffic on the Wongawilli Colliery Rail Spur and to recommend acoustic modifications that should be incorporated into the Neighbourhood Plan design. The findings of the assessment show that the precinct is satisfactory for the intended purpose providing mitigation measures are implemented including the erection of a 1.8m high acoustic fence or mound at the northern boundary between the neighbourhood area and the rail line. The report recommends varying construction for affected future dwellings including roof construction specifications and insulations, brick veneer or cavity brick construction, external doors of 30-40mm solid core with all glazed sections varying between 6mm to 8.38mm safety or laminated glass. The construction requirements vary depending on the zone of the dwelling Zone 6 being the closest to the railway line and Zone 1 being the furthest south. To ensure compliance with personal comfort and building damage vibration criteria the report recommends that no dwellings be constructed within 25m of the rail line which is within Zone 6. The minimum setback distance only applied to the dwelling and not the lot boundary.

The draft Neighbourhood Plan does not appear to take this recommendation on board and will need to be re-designed to accommodate a 25m building exclusion zone. This would affect the viability of Lots 371 to 393 in the Neighbourhood Plan to ensure that there is suitable space for a building envelope outside of the 25m exclusion zone.

The report concludes that the recommendations for construction of dwellings, the noise wall and the exclusion zone when implemented, will ensure that the rail traffic noise and vibration levels will be compliant with Department of Planning and Environment, Office of Environment and Heritage and Wollongong Council requirements and do not foresee any acoustic reason why the proposal should be denied.



## Figure 9: Noise Zoning



**Heritage:** A preliminary Aboriginal Heritage Assessment has been undertaken by AHMS (August 2014) in order to determine if there are any identified items or sites of heritage significance either within the subject site of in close proximity. The report found that there were no Aboriginal objects or sites identified within the study area. The survey confirmed that previously disturbed areas including houses, farm buildings, associated access tracks and the former "Flemming" mine on Mt Kembla railway line are unlikely to contain any surviving Aboriginal objects and therefore should be excluded from further archaeological testing. Although there are no known subjects or a low probability of objects occurring in the area the report notes that it is still important to exercise due diligence when carrying out development activities.

The survey did however highlight areas within the study area that have a high probability of containing Potential Archaeological Deposits (PADs) (refer to Figure 7). All of these areas are within 50 metres of the creeks situated within the study area. Based on the Office of Environment and Heritage (OEH) guidelines (Due Diligence Code of Practice, Step 2b), undisturbed areas situated within 200 metres of water are believed to have a high potential for Aboriginal objects to exist. As a result additional archaeological test excavations are required in these areas prior to development to confirm if any Aboriginal objects are present and identify if an Aboriginal Heritage Impact Permit is required for development.



The report recommended the following:

- 1 Further archaeological investigation should be undertaken prior to impact occurring within the study area. The ridgelines and terraces surrounding Robins Creek in particular have the potential for Aboriginal Heritage Culture to be present.
- 2 If further investigation reveals that Aboriginal objects do exist then wherever possible design alterations to avoid impacts on Aboriginal objects should be the first course of action.
- 3 If the boundaries of the proposed development are revised to include areas not investigated as part of this Preliminary Aboriginal Assessment, investigation of these additional areas should be undertaken in order to identify and appropriately manage Aboriginal objects, sites and/or places that may exist in these areas.
- 4 Consultation between KFW and the registered Aboriginal parties should be maintained as appropriate throughout the design and construction of the proposed development.
- 5 If human skeletal material less than 100 years old is discovered, the *Coroners Act* 2009 requires that all works should cease and the NSW Police and the NSW Coroner's Office contacted. Traditional Aboriginal burials (older than 100 years) are protected under the *National Parks and Wildlife Act 1974* and if found, all works should cease and an appropriately skilled archaeologist or physical anthropologist contacted. Interpreting the age and nature of skeletal remains is a specialist field and an appropriately skilled archaeologist or physical anthropologist should be consulted in the event of human remains being identified. Should the skeletal material prove to be archaeological Aboriginal remains, notification to OEH and the relevant Aboriginal stakeholders will be required. Notification should also be made to the Commonwealth Minister for the Environment, under the provisions of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.
- 6 A copy of this assessment should be provided to the registered Aboriginal parties.

The Heritage officer has reviewed the information provided in the Neighbourhood Plan and provides the following comments and recommendations:

Aboriginal Heritage: The submitted report provides a "Preliminary" Aboriginal Heritage Assessment. This report has not identified any known Aboriginal sites within the proposed development area, however it has identified a number of areas that are considered to have "High" archaeological potential and which require further investigation to determine if these potential archaeological sites do indeed contain evidence of Aboriginal occupation. The report recommends that archaeological testing be undertaken in accordance with the code of practice for archaeological sites, prior to the commencement of any development works on the site. Further, it is likely that additional consultation to allow for a cultural significance assessment will be required as part of this process.

If the future archaeological works reveal archaeological evidence, there is considerable potential for the achievement of the Neighbourhood Plan to be impacted by the requirements of the National Parks and Wildlife Act 1974. However it is noted that the



areas identified as having archaeological potential are on the fringe of the R2 Low Density Residential land and therefore offer potential adjustments at DA stage.

*European Heritage*: The neighbourhood planning area is (with the exception of Lot 1 DP 607456) located on part of the 500 acre land grant which was promised to W F Weston in 1817. The land was occupied from this time by Weston, his wife Elizabeth and their children, and became known as "West Horsley Place", the name later being simplified to "Horsley". It is of note that Elizabeth Weston was remarried in 1830 to convict Thomas Williamson. The 1841 census records Elizabeth Williamson living at Horsley and being landlady to 21 tenants on farmlets. The farm was now a small village with 84 people, some free, some convicts, in 21 slab houses. In 1842, the grant was formally issued to Augusta Brooks and Elizabeth Weston (Jnr), William and Elizabeth Weston's two daughters.

The relevance of this information pertains to the lengthy period of occupation and the (relative) density of this occupation during the early occupation of the property, as it is likely that each of the 'tenant farmers' would have established basic means of accommodation across the estate and there is therefore potential for the site to contain evidence of this early occupation in the form of an archaeological resource. There is no known mapping or other documentary evidence pertaining to the location of these 'tenant houses' or even the boundaries of the tenants leases across the site, and as such, it would be very difficult to establish the potential location of early occupation sites. It is also highly likely that these houses would have been constituted of small timber cottages of slab construction and as such, the level of archaeological evidence relating to these would be very minimal, and could easily have been disturbed/destroyed by later farming activity and other development across the site. It is of note that the 1948 aerial photograph of the site does not show any evidence of any buildings or structures within the development footprint.

Given the early period of occupation of the site, and the potential significance of any archaeological finds related to this early period of occupation, it is worthwhile to consider the archaeological potential of likely occupation sites, likely to be located at high points across the site, and the potential archaeological significance of these sites as part of future redevelopment plans. This could be addressed at the development application stage of the development process, but to ensure consideration of this issue as part of the neighbourhood planning process, the application should be referred to the NSW Heritage Branch for consideration as part of the exhibition of the Neighbourhood Plan.

Illawarra Harbour Land Corporation Rail Line: During the 1890's the Illawarra Harbour Land Corporation, with the purpose of establishing a harbour within Lake Illawarra, established a rail line linking "Flemming's Mine" (located north of the elbow in Sheaffes Road) with Lake Illawarra. This rail line traversed the part of the neighbourhood planning area made up of Lot 1 DP 607456, skirting around its eastern boundary. The route of this line can be seen in the 1948 aerial photograph of the area (though it had been abandoned prior to this time) and on the Parrish Plan for the area.



It is recommended that:

- 1 The following groups should be notified of the draft Neighbourhood Plan and invited to comment on the plan:
  - a The NSW Office of Environment and Heritage (Aboriginal Heritage);
  - b All local Aboriginal groups; and
  - c NSW Heritage Branch (regarding the archaeological potential relating to Horsley Estate).
- 2 The additional Aboriginal archaeological research recommended in the Preliminary Aboriginal Heritage Assessment should be undertaken as part of any future development application, to more clearly define the nature and extent of the potential archaeological deposits detailed in the report. The outcomes of these additional investigations should be used to inform the final layout of the subdivision.
- 3 Further research should be undertaken to inform the future stages of the development process (DA stage) to consider the potential for early occupation evidence related to the Horsley Estate to occur across the development area. This will be expected to be addressed prior to the lodgement of a development application for the site.
- 4 A heritage interpretation plan should be developed to guide the implementation of some heritage interpretation devices to tell the story (both Aboriginal and non-Aboriginal) of the site's history, and to identify and interpret the route and location of the former rail line which traversed the site. This matter can be addressed at the development application stage of the process.



Figure 10: Disturbed areas and areas of high potential Aboriginal Cultural Heritage



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## Figure 11: Development layout and the high potential Aboriginal Cultural Heritage sites overlay



**Electricity Easements:** The Neighbourhood Plan land includes two Transgrid easements that the applicant proposed to be dedicated to Council as part of the road reserve. Council would then be responsible for the maintenance costs of mowing/maintaining the easements, Horsley contains examples of other sections of the same easements both in public (road reserves and open space) and private ownership. The applicant has suggested that Council could maintain them as road reserves (as opposed to parks) for a cost of \$4,172 per annum. It is considered that to accept the easements under Council ownership and management is not ideal and should not be supported. It is noted that there is an extensive network of electricity easements in West Dapto and Council should not be responsible for their on-going maintenance. In other parts of Dapto the easements are used for grazing, private open space or other uses. The Neighbourhood Plan should be re-designed to include the land within private larger lots.

**Community and Recreation Facilities:** The Neighbourhood Plan has not nominated the local park that is required within the precinct. The Wollongong Section 94 Development Contribution Plan requires Local Park "8" (refer to Figure 12) within the residential area at 2ha with one field; the park is expected to be formed of 1ha of developable land and 1ha of non-developable land. The Neighbourhood Plan should be amended to include the park.

*Figure 12*: Location of Park "8" in West Dapto Section 94 Development Contribution Plan (2011) and revised Neighbourhood Plan



**Infrastructure:** The precinct is not yet sufficiently serviced by water, sewerage, electricity and communication services. All of these services will be required to be provided as part of the development. The current strategies of the relevant State service providers as well as local infrastructure items have been considered for future residential development in this precinct.

*Electricity:* Endeavour Energy has secured a site for a new electricity zone substation adjacent to West Dapto Road to the east of the Neighbourhood, which provides a connection point for new developments. Due to the lead-time in constructing a new substation Endeavour Energy has been working in conjunction with Council and active developers in the area to ensure electricity supply will be available to new dwellings as they are constructed.

*Water and Sewer:* Sydney Water has developed a Growth Servicing Plan to provide water and wastewater (sewer) services in stages over the next 40 years to West Dapto and adjoining release areas as rezoning and development occurs. Sydney Water has worked closely with the NSW Department of Planning and Environment, local Councils, relevant State agencies, the Illawarra Urban Development Committee and other stakeholders as the plans for land use in this area were being developed and while developing the Growth Servicing Plan.

A proposal for the delivery of services to the zoned areas of West Dapto has also been developed by Sydney Water which avoids, where possible, environmentally sensitive areas and commits to a range of measures to minimise environmental impacts.



Sydney Water gained Part 3A approval on 14 June 2013 for the West Dapto Stage 1 and 2 Servicing Plan, and is currently undertaking further design work to progress implementation of works. The precinct should be serviced by 2015-16 and the work starts this year to service Stages 1 and 2.

**Planning Proposal:** The Proponent requests minor amendments to the Wollongong Local Environmental Plan 2009 to implement the Neighbourhood Plan (Attachment 2). These changes are essentially a boundary adjustment between the R2 Low Density Residential and E3 Environmental Management zones that would enable the current layout of the Neighbourhood Plan and permit some further residential lots. The affected areas are within the fringe of the north-west corner of the site, the eastern boundary and a small portion of the southern boundary. The total area involved in the draft Planning Proposal is calculated at 1.25ha based on the figures provided in Attachment 2 facilitating a total of 22 lots.

The affected lots being:

- 1 Lot C DP 397366,
- 2 Lot 5 DP 26069,
- 3 Lot 19 DP 879647,
- 4 Lot 102 DP 1137454,
- 5 Lot 1012 DP 862178,
- 6 Lot 2 DP 26069,
- 7 Lot 1 DP 607456, and
- 8 Lot 1 DP 26069.

The applicant has prepared a flood study that highlights the extent of the 1 in 100 year event which is used to determine the extent of development. The plan submitted in support of the rezoning does not demonstrate that all proposed residential lots will be outside of the 1 in 100 year event. The draft Planning Proposal states however that all building envelopes would be outside of the 1 in 100 year event. Should the draft Planning Proposal not be supported the applicant would need to re-design and in some instance potentially remove lots. Affected proposed lots include:

19-21, 60-67, 80-81, 91-92, 246, 296-299, 355, 356, 357, 359-360, and 368.

The applicant states in support of the Planning Proposal the following:

- Land is generally above the 1% AEP as defined by the Mullet Creek Extension Flood Study. Land that is not can be brought above the 1% AEP and the existing depression can be filled under the level 1 geotechnical control;
- All lots will have building areas above the 1% AEP;
- Twenty two additional lots will be facilitated with an overall reduction in the area to be dedicated to Wollongong City Council thereby reducing the asset maintenance liability and generating an additional \$660,000 in Section 94 Developer Contributions;



- The riparian zone is degraded and is impacted upon by Shone Avenue and the rail corridor and is non continuous; and
- There is still suitable amounts of riparian land that can provide adequate space for restoration.

It is recommended that the draft Planning Proposal be supported to accommodate the efficient development of land where practical with further work undertaken to demonstrate how cut and fill of flood affected land could be managed within the Neighbourhood Plan area.

**Other Development Control Plan matters:** Shone Avenue is considered the primary road for lots adjoining Shone Avenue; these lots will therefore be required to be rear loaded with fences facing Shone Avenue being no higher than 1.2m and a minimum 50% transparency with pedestrian access to the property via a gate or the like. This control will be inserted into the DCP with the Neighbourhood Plan in order to achieve positive urban design outcomes, facilitate passive surveillance and generally support principle of crime prevention through environmental design. This will mean that the garages or carports for vehicular access will need to be located on the rear lane (rear loaded property). It is essential that this principle be applied across the board on all access denied roads to ensure the overall urban form of West Dapto is positive and safe.

## CONSULTATION AND COMMUNICATION

The draft Neighbourhood Plan forms an amendment to the Wollongong Development Control Plan 2009 – Chapter D16 West Dapto Release Area. As such, it is required to be publicly exhibited for a minimum period of 28 days to enable community and agency input.

If endorsed for exhibition, the exhibition of the draft Plan will be advertised on Council's website, in the local newspapers and letters will be sent to affected and surrounding landowners, relevant State agencies, and community and aboriginal groups.

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

## PLANNING AND POLICY IMPACT

#### Illawarra Regional Strategy

The draft Neighbourhood Plan is consistent with the urban development outcomes stipulated in the Illawarra Regional Strategy (2007) for the West Dapto Release Area.

## Wollongong Community Strategic Plan 2022

This report contributes to the delivery of Wollongong 2022 under the objective - the sustainability of our urban environment is improved (Community Goal we value and protect our environment).



It specifically delivers on core business activities as detailed in the *Review and Access Neighbourhood Plans* Service Plan 2014-15.

## CONCLUSION

The submitted draft Neighbourhood Plan for the Shone Avenue and West Dapto Road precinct is supported, however the following changes are considered necessary prior to public exhibition:

- 1 The acoustic building exclusion zone of 25m be incorporated into the design of the Neighbourhood Plan and be noted clearly for the purpose of identification in the Wollongong Development Control Plan 2009. Re-design Lots 371 to 393 in the Neighbourhood Plan to ensure that there is suitable space for a building envelope outside of the 25m exclusion zone.
- A local park be included into the design of the Neighbourhood Plan comprising of 2ha of land, 1ha being developable land being outside of the 1 in 100 year event and 1 ha of non-developable land that is able to accommodate one playing field.
- 3 Clearly identify on the Neighbourhood Plan that the lot layout and roads can accommodate a 32m wide Asset Protection Zone to the eastern part of the site near Robins Creek and the 15m wide Asset Protection Zone in the north western corner and the south eastern corner on private land or on public roads.
- 4 Detention basins need to be located outside of the 1 in 100 year event.
- 5 The easements be re-designed into the Neighbourhood Plan as part of larger lots.

It is recommended that once the revised draft Plan is received that it be placed on public exhibition for a minimum of 28 days and consultation be undertaken with State agencies including the NSW Office of Water, Rural Fire Service, Transgrid and Sydney Water. The Neighbourhood Plan can then be reported back to Council.

It is also recommended that a draft Planning Proposal be progressed for the rezoning of land from E3 Environmental Management to R2 Low Density Residential and corresponding Floor Space Ratio of 0.5:1 and Minimum Lot Size of 450m<sup>2</sup> in part for the following lots:

- 1 Lot C DP 397366;
- 2 Lot 5 DP 26069;
- 3 Lot 19 DP 879647;
- 4 Lot 102 DP 1137454;
- 5 Lot 1012 DP 862178;
- 6 Lot 2 DP 26069;
- 7 Lot 1 DP 607456; and
- 8 Lot 1 DP 26069.



Further work will be required to be undertaken to demonstrate how the cut and fill of flood affected land could be managed within the Neighbourhood Plan area.

The draft Planning Proposal should be submitted to the NSW Department of Planning and Environment for a Gateway determination and exhibited for a minimum of 28 days using the General Managers delegation.











