



IRF22/1426

Plan finalisation report – PP-2021-3506

Campbelltown Local Environmental Plan 2015 (Map
Amendment No. 5) - Evelyn Street, Macquarie Fields

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Introduction

Overview

1.1.1 Name of draft LEP

Campbelltown Local Environmental Plan 2015 (Map Amendment No. 5)

1.1.2 Site description

Table 1 Site description

Site Description	<p>The planning proposal (Attachment A) applies to land with frontage to Evelyn Street and Oakley Road, Macquarie Fields, comprising:</p> <ul style="list-style-type: none">• Part Lot 1 DP 533662 (No. 22 Oakley Road)• Part Lots 8 and 9 DP 826459 (No. 18-16 Oakley Road)• Part Lot 100 DP 261125 (No. 109 Evelyn Street)• Lot 9 DP 852014 (No. 91 Evelyn Street)• Lot 181 DP 834233 (No. 89 Evelyn Street)• Lot 305 DP 263295 (No. 87 Evelyn Street)• Lot 40 DP 623486 (No. 85 Evelyn Street).
Type	Area
Council / LGA	Campbelltown City Council / Campbelltown LGA



Figure 1 Subject site shown in red dashed line

The site falls within the “East Edge Scenic Projection Lands”. This land is identified by Campbelltown City Council (Council) as a transitional buffer between the eastern suburbs of

Campbelltown City, and the reservation of the proposed Georges River Parkway Road and the ecologically sensitive Georges River landscape.

1.1.3 Purpose of plan

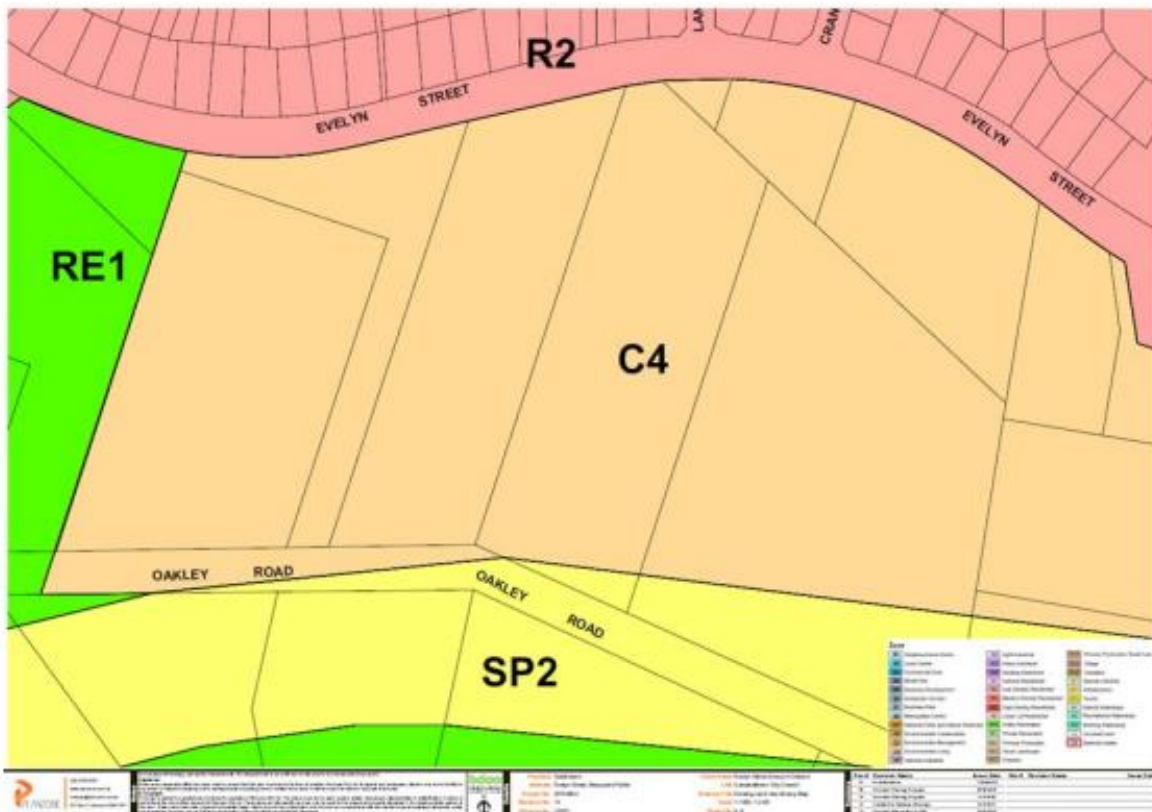
The planning proposal seeks to re-zone the site from C4 Environmental Living to R2 Low Density Residential and amend associated controls. The table below outlines the current and proposed controls.

Table 2 Current and proposed controls

Control	Current	Proposed
Zone	E4 (C4) Environmental Living	Part R2 Low Density Residential
Maximum height of the building	9m	Part 8.5m
Minimum lot size	2ha	Part 500sqm and 1ha
Dual occupancy	2ha	Part 700sqm and 1ha
Lot averaging provision	1ha	None
Zone	E4 Environmental Living	Part R2 Low Density Residential

Figures 2 to 6 below show the proposed amendments to the LEP maps. The maps include post exhibition changes made by Council in response to matters raised by the Environment and Heritage Group (EHG) (formerly Energy, Environment and Science) of the Department of Planning and Environment. Post exhibition changes to the planning proposal are discussed further in **Section 3**.

Existing - Land Use Zoning Map



Proposed – Land Use Zoning Map

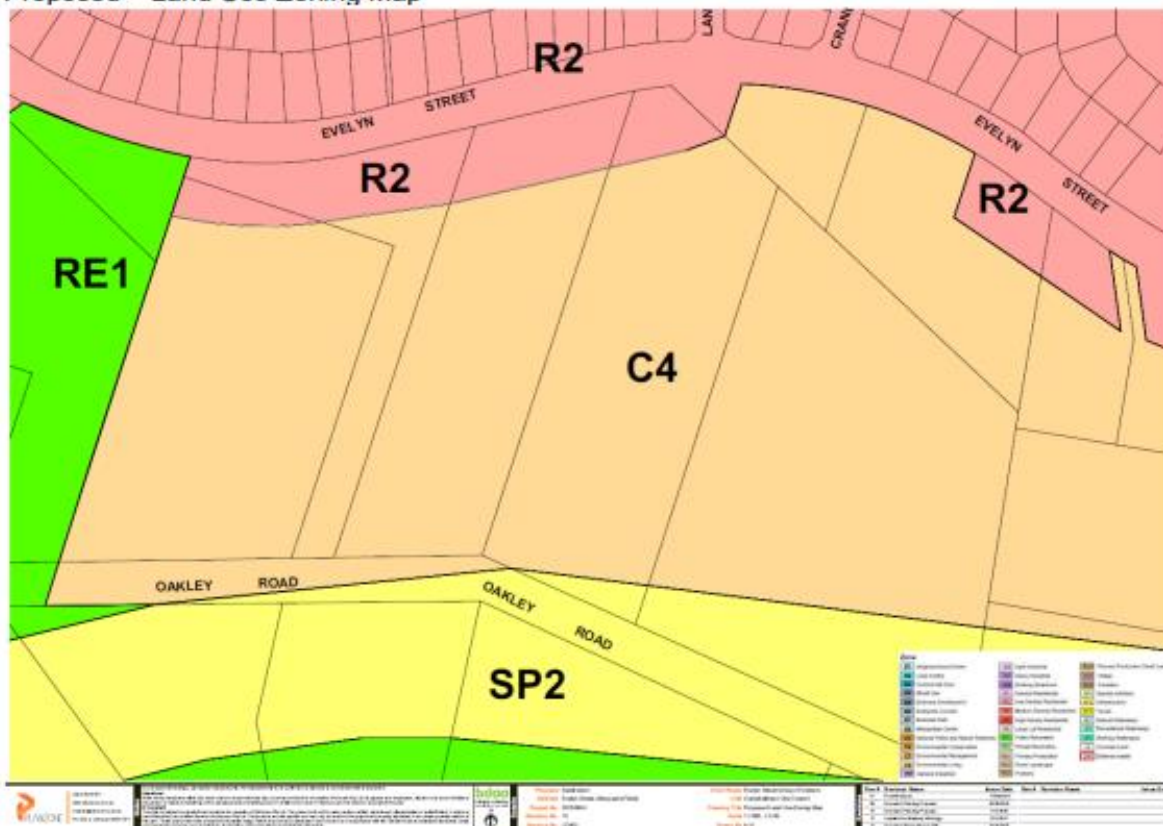
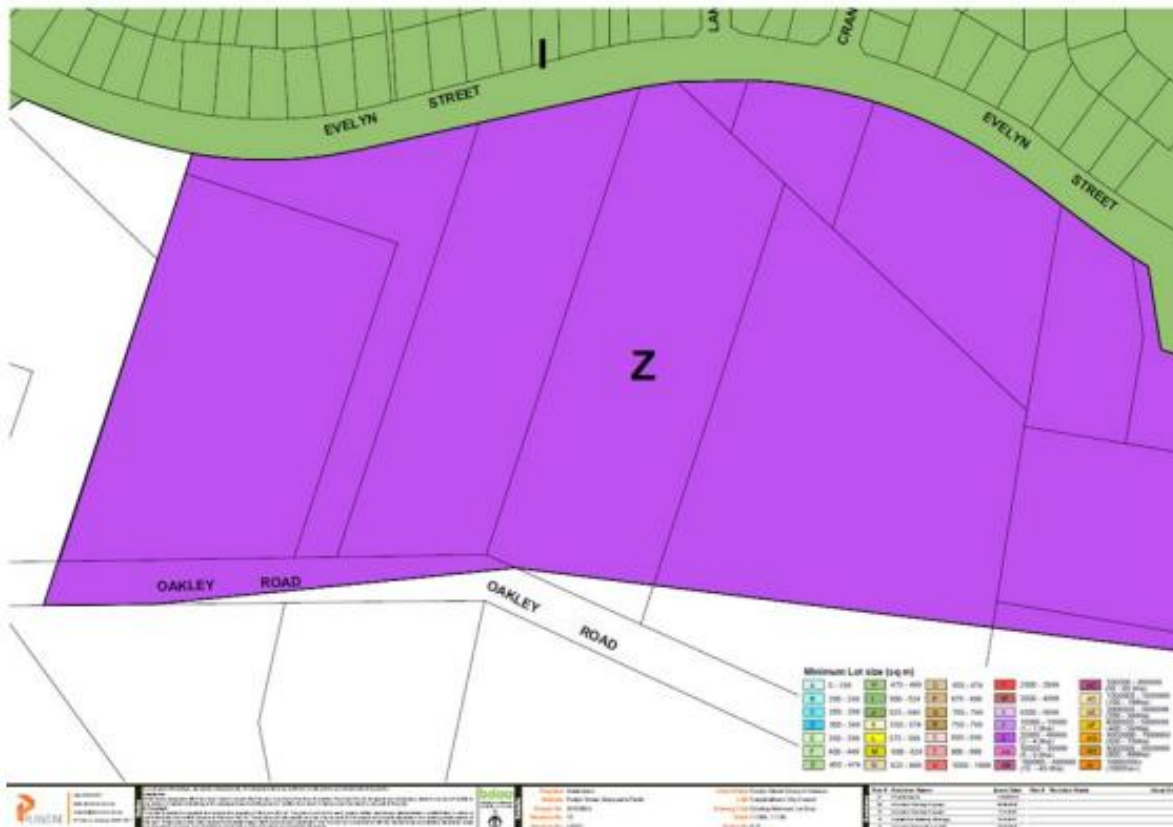


Figure 2 : Proposed zoning changes (Source: Council report)

Existing - Minimum Lot Size



Proposed - Lot Size

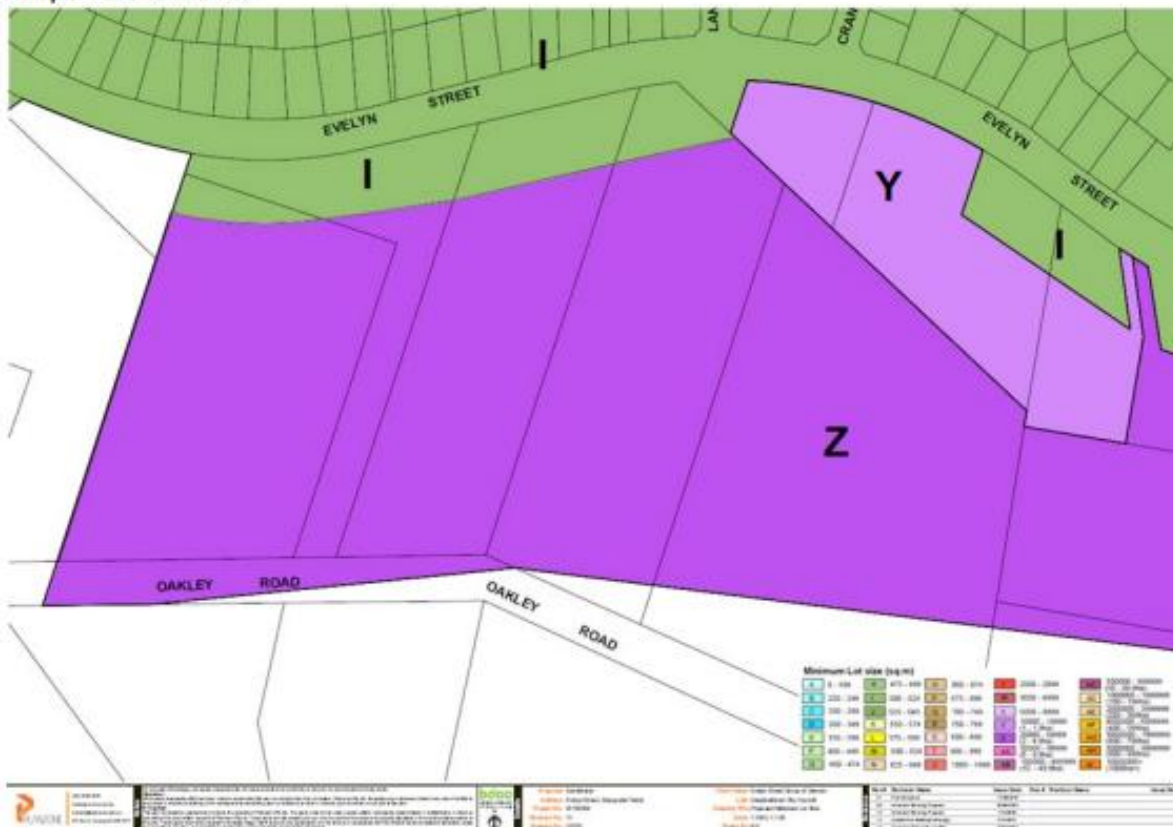
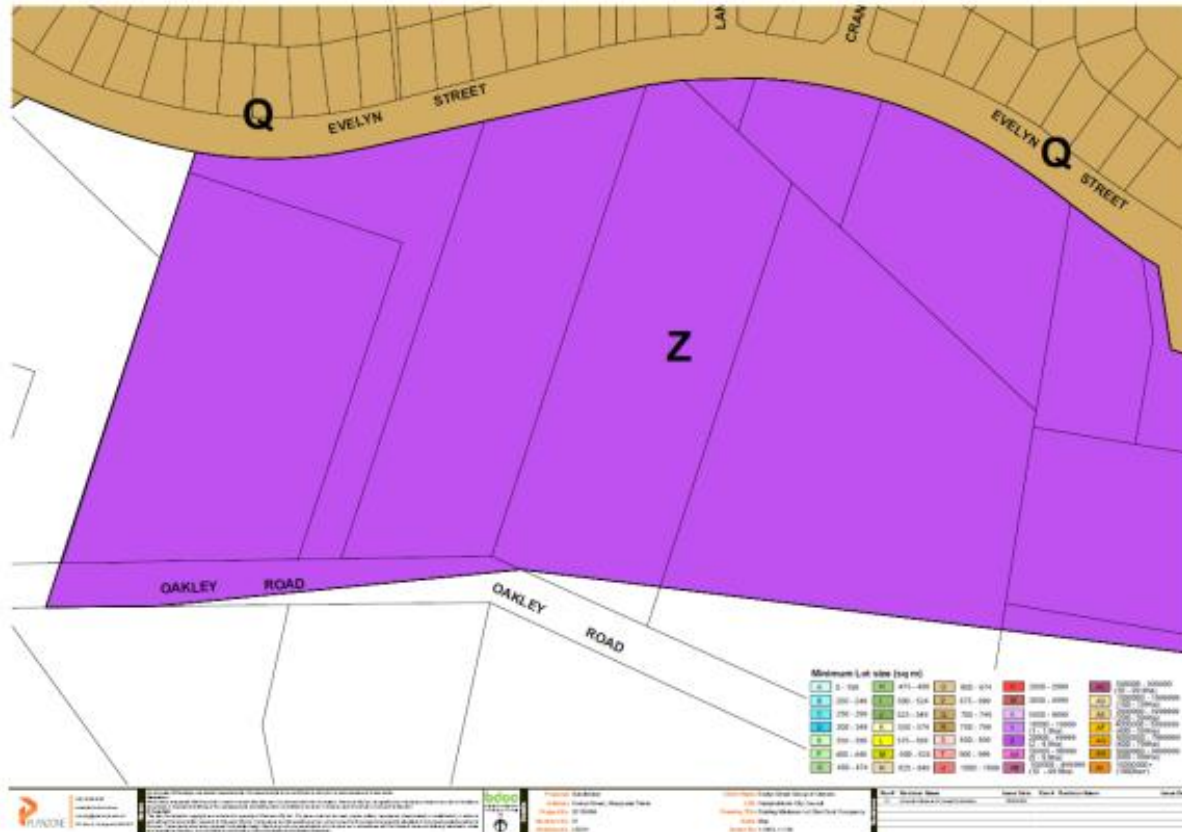


Figure 3 Proposed lot size map changes (Source: Council report)

Existing – Minimum Lot Size Dual Occupancy



Proposed - Minimum Lot Size Dual Occupancy

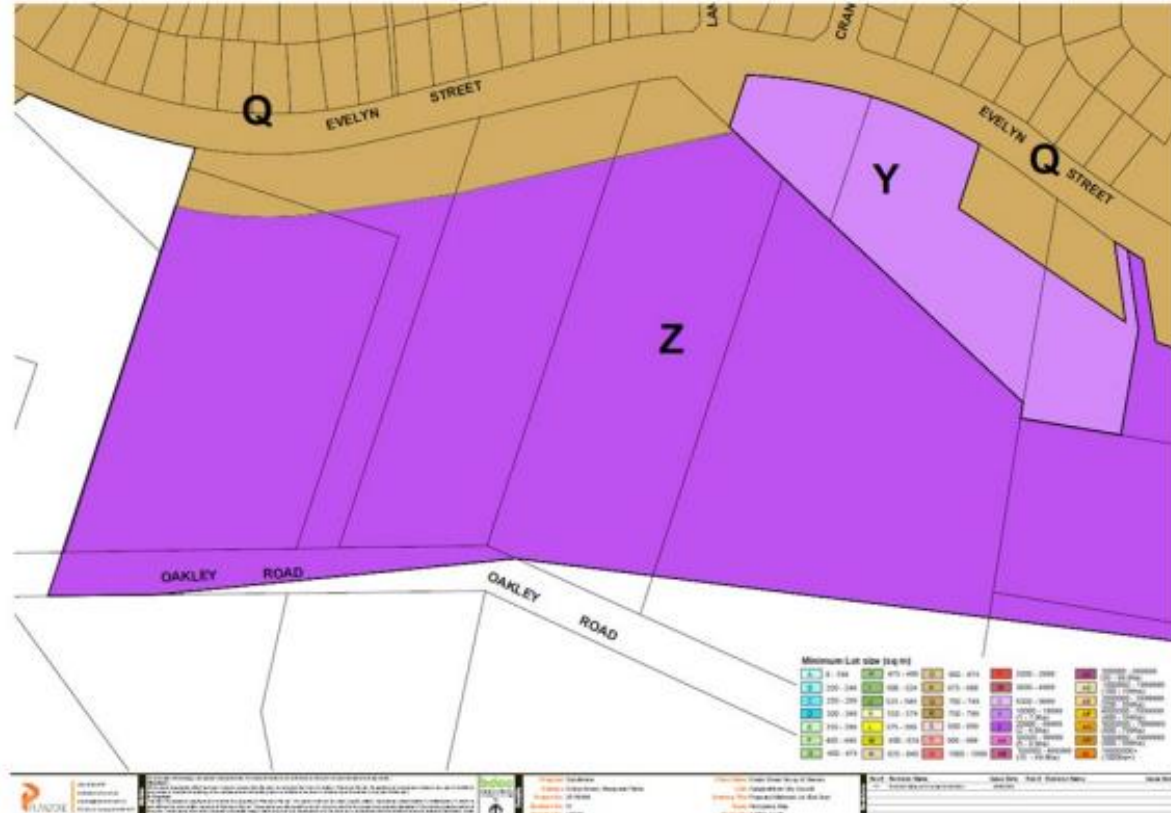
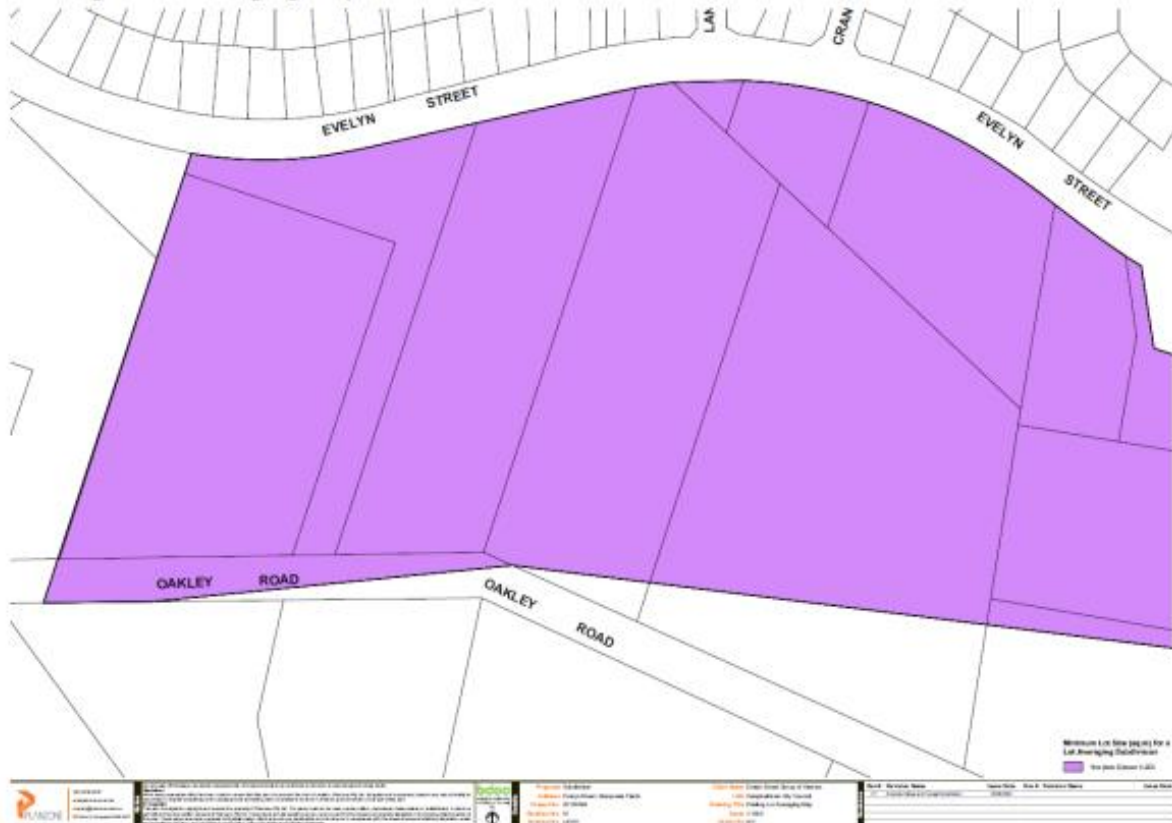


Figure 4: Minimum lot size dual occupancy map changes (Source: Council report)

Existing – Lot Averaging Map



Proposed – Lot Averaging Map

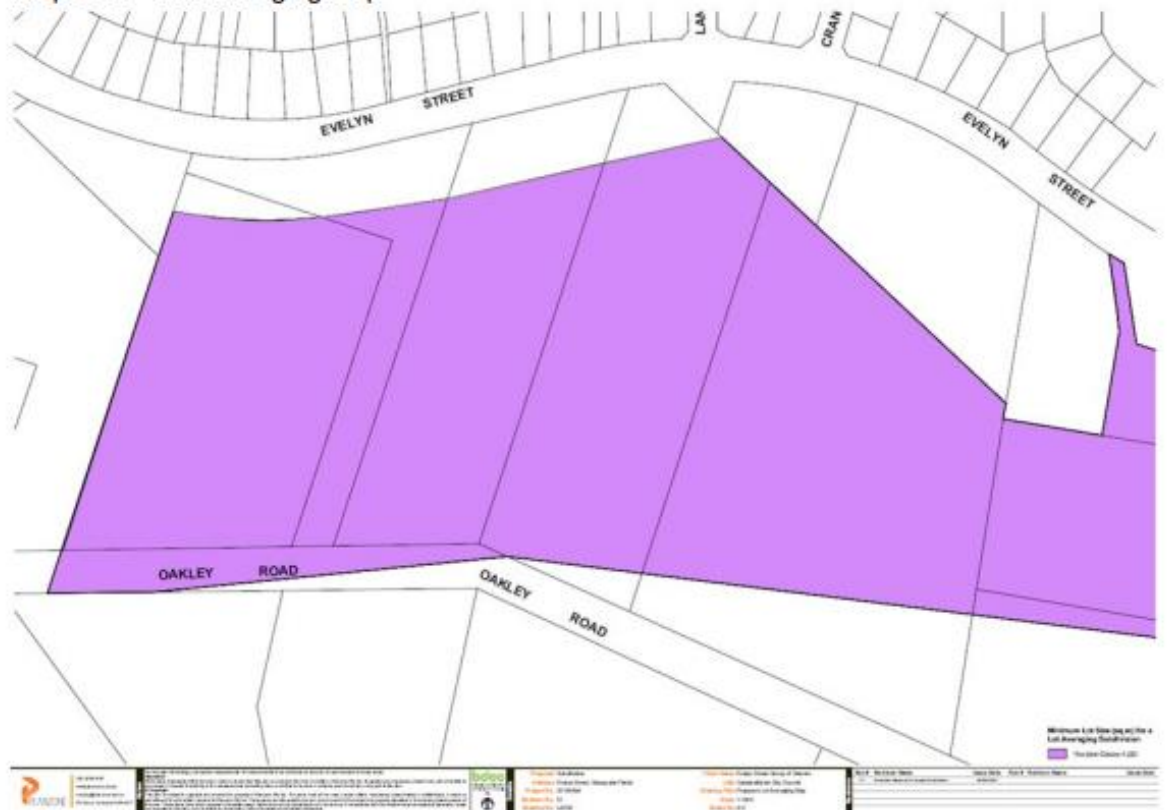


Figure 6: Proposed lot averaging map changes (Source: Council report)

1.1.4 State electorate and local member

The site falls within the Macquarie Fields state electorate. Mr Anoulack Chanthivong MP is the State Member.

The site falls within the Macarthur federal electorate. Dr Mike Freelander MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Gateway determination and alterations

The Gateway determination issued on 10 June 2021 (**Attachment B**) determined that the proposal should proceed subject to conditions. Council has met all the Gateway determination conditions.

The Gateway determination was altered on the following occasions:

- An alteration was issued on the 28 October 2021 to require public exhibition to commence by 11 November 2021 compared to 1 November 2021. This allowed Council adequate time to undertake pre-exhibition consultation as per the Gateway conditions (**Attachment B**).
- An alteration was issued on the 17 May 2022 to remove Council of its delegation as the local-plan making authority (**Attachment B1**).

Background

In March 2018, Council lodged the Evelyn Street, Macquarie Fields planning proposal with the department for Gateway determination (PP-2020-3600).

After 33 months the LEP had not been completed due to unresolved biodiversity and bushfire issues and outstanding agency comments from NSW Rural Fire Service and EHG.

On 14 March 2021, the department altered the Gateway determination for the proposal to not proceed. This was in response to Council's request for an extension of time to complete the remaining stages of the LEP process. Council was encouraged to resubmit the planning proposal for a new Gateway determination once the unresolved issues have been addressed.

On 17 May 2021, the department received a new planning proposal for the subject site (PP-2021-3506).

On 10 June 2021, the department issued a Gateway determination for this new planning proposal.

3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 11 November 2021 to 9 December 2021, in accordance with the requirements of the Act and the Gateway determination (as amended).

The department issued an extension period for submissions from the 31 January to 3 February 2022 for EHG after it was identified that the agency did not get notified of the exhibition via the planning portal.

Two community submissions and five agency submissions were received. One community submission and one agency submission raised concerns with the proposal.

Council did not consult with Telstra, a listed agency as per the Gateway conditions. Due to the nature of this planning proposal and Council's position that the proposed development would not impact on any Telstra assets, the department considers this to be satisfactory. Telstra were not consulted as per Section 3.34 (8) of the *Environmental Planning and Assessment Act 1979*.

3.1 Submissions during exhibition

3.1.1 Community submissions

There were two submissions received from individuals. One objected to and one supported the proposal.

The key issues raised in the submission are:

- urban encroachment towards rural properties and wholistic consideration of the entire precinct
- Additional houses contributing to the “heat island effect”
- Loss of habitat/trees
- Traffic generation.

These matters are discussed below.

3.1.1.1 Urban encroachment towards rural properties

One community submission noted that the rezoning will result in further development of the area. The submission noted that the rezoning will result in further development of the area impinging on rural land.

The other community submission requested inclusion of their site in the planning proposal.

Council response

The Local Strategic Planning Statement (LSPS) identifies the site as being suitable for rezoning for urban expansion. The adjoining land is identified as having environmental constraints and not suitable for re-zoning.

Department response

Council's response is considered adequate.

3.1.1.2 Contribution to the “heat island effect”

The submission raised concerns that the rezoning will result in additional hard surfaces and leading to additional “heat island effect”

Council response

Maximum vegetation retention is central to the amended proposal. Additionally, formal tree planting in the street reserve and potentially on-site would contribute to a balanced outcome.

Department response

Council's response is considered adequate as the post exhibition changes result in the potential for limited vegetation loss and not a significant volume of additional hard surfaces.

3.1.1.3 Vegetation, tree loss and adverse koala impacts

The submission raised concerns regarding the loss of habitat resulting from the proposed development.

Council response

Future tree removal would be assessed in accordance with the requirements of the *Biodiversity Conservation Act 2016* and Council's Comprehensive Koala Plan of Management. As detailed in the applicant's Biodiversity Assessment Report, over 59 per cent of low and medium quality vegetation is capable of retention by the proposal.

Department response

Council's response is considered adequate.

3.1.1.4 Traffic generation

The submission raised concern with adverse impacts of increased traffic in Evelyn Street and related safety.

Council response

The existing traffic network is capable of safely accommodating a modest increase in traffic, as attested to in the accompanying traffic assessment. Additionally, a proposed reduction in the amount of land to be rezoned and a commensurate reduction in proposed lot yield and associated traffic generation would further reduce the perceived impact.

Department response

Council's response is considered adequate.

3.2 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with the following agencies as listed within the Gateway Determination:

- Environment, Energy and Science (now EHG)
- Endeavour Energy
- Jemena Gas Networks
- NSW Rural Fire Service
- Sydney Water
- Transport for NSW
- Telstra

Feedback was received from the following agencies:

- Environment, Energy and Science (now EHG)
- Endeavour Energy
- Jemena Gas Networks
- NSW Rural Fire Service
- Sydney Water
- Transport for NSW.

Jemena Gas Networks, NSW Rural Fire Service, Sydney Water and Transport for NSW raised no objection to the planning proposal.

EHG and Endeavour Energy raised the following matters.

3.1.1.5 Biodiversity impacts

The first submission from EHG did not support the publicly exhibited planning proposal due to the environmental impacts resulting from rezoning land with high biodiversity values.

EHG's second submission on Council's post exhibition changes identified that the revised rezoning area still applies to land (eastern portion - see map in Figure 7 below) mapped on Council's

biodiversity values map and the Campbelltown Comprehensive Koala Plan of Management (Biolink 2018) (CKPoM).

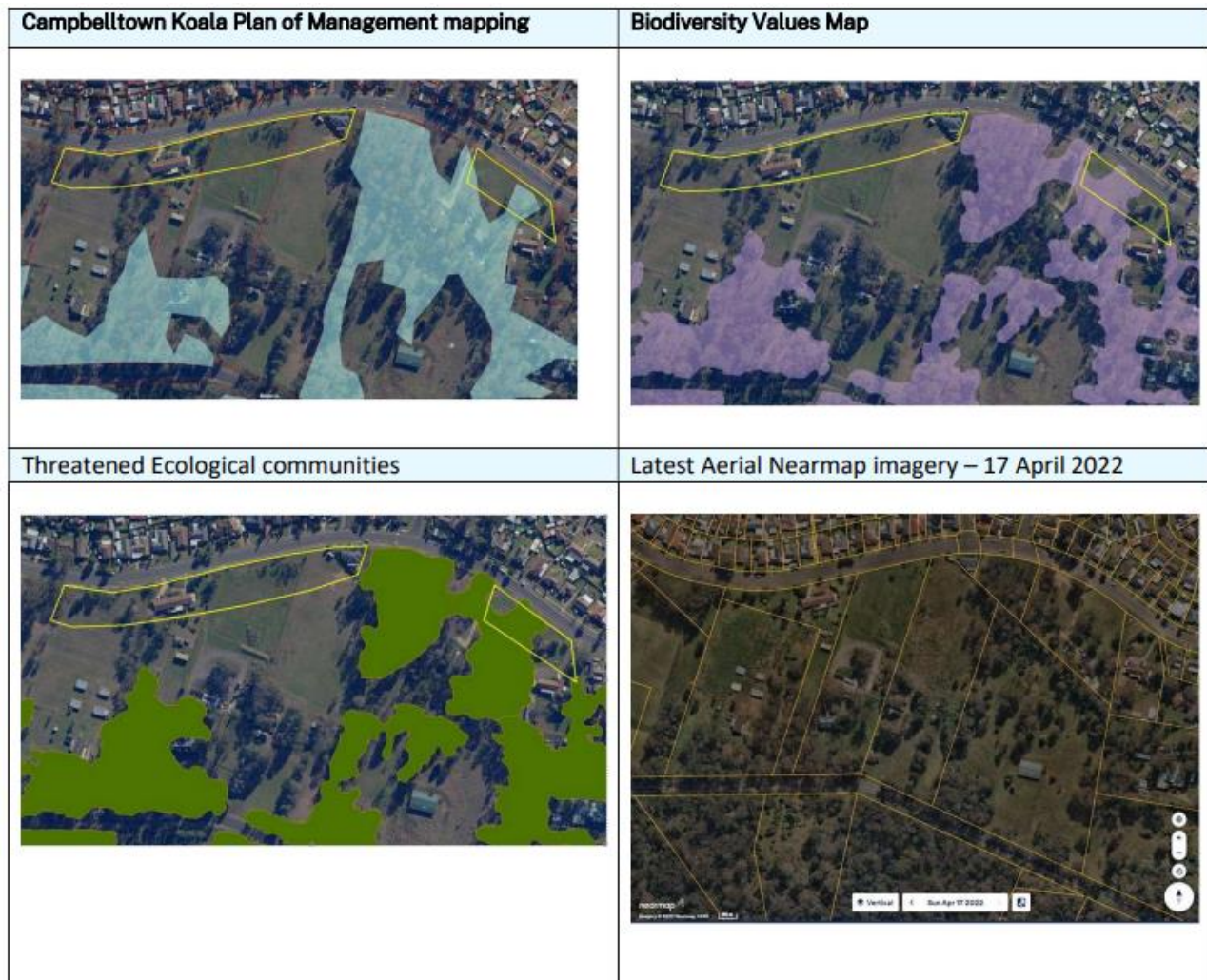


Figure 7 Environmental mapping applicable to subject site (Source: Biodiversity and Conservation submission)

EHG noted that the proposal to only rezone a portion of the site to R2 would avoid the entirety of the Cumberland Plain Woodland (CPW) described as being in moderate condition. However, EHG noted that without the preparation of a Biodiversity Development Assessment Report, it remains unclear to what extent the mapped low condition CPW on the eastern portion of the proposed R2 land will be affected by the proposed rezoning.

While the proposed R2 land as shown in Figure 7 above is predominantly cleared, the development of R2 rezoned land for residential purposes will remove the potential to widen and protect the corridor in the future. A reduction in the depth of the residential zone from the road could be considered for the eastern portion of lots to avoid impacts to low condition CPW in this location.

As a minimum, EHG advised the E4 (C4) zoning should be retained to protect the areas identified as containing core koala habitat and/or high biodiversity value.

Council response

Council noted that in response to EHG's first submission, the applicant agreed to modify the planning proposal to exclude the most sensitive areas of vegetation from the proposed R2 Low Density Residential zone. It is also proposed to remove the 1ha minimum area "residue" land and retain the existing E4 (C4) Environmental Living zoning.

Council noted that EHG's consideration of the site's biodiversity impacts through the preparation of a Biodiversity Development Assessment Report was beyond the level of assessment required at the planning proposal stage.

Council noted that future development applications for subdivision would need to address the *Biodiversity Conservation Act 2016*, the CKPoM and Planning for Bushfire Protection 2019, as a minimum.

Department response

A reduction in the amount of R2 zoned land adopted by Council (refer section 3.1.2) would protect significant areas of vegetation. It is noted that the areas to be impacted in the eastern area of proposed R2 lands have been identified as being low quality CPW.

However, the eastern part of the site has core koala habitat and/or high biodiversity value (see **Figure 7** above). EHG noted that the zoning objectives for the E4 (C4) zone are commensurate to the biodiversity values present on the subject site while the R2 zoning objectives are not suitable for a site which contains the list of biodiversity values noted in submissions.

The department has undertaken further consultation with EHG. While EHG acknowledge that the changes made by Council and the proponent partly address their issues, there are still unresolved issues with the eastern part of the site. The department is not satisfied that that rezoning of the eastern part of the land is suitably justified in the planning proposal to address the concerns raised by EHG. The department considers that any future development applications in that eastern part of the site would need to give detailed consideration to impacts on that vegetation and measures to protect it and mitigate and offset loss.

Further consideration of matters raised in the EHG submission and Council's response is addressed in Section 4.1.

3.1.1.6 Infrastructure provisions

The Endeavour Energy submission identified that the planning proposal did not appear to address the easements for electricity infrastructure on or near the site or whether the electricity services are available and adequate for the proposed development.

Endeavour Energy noted that an easement is located on the western part of the site (identified in red on **Figure 8**).

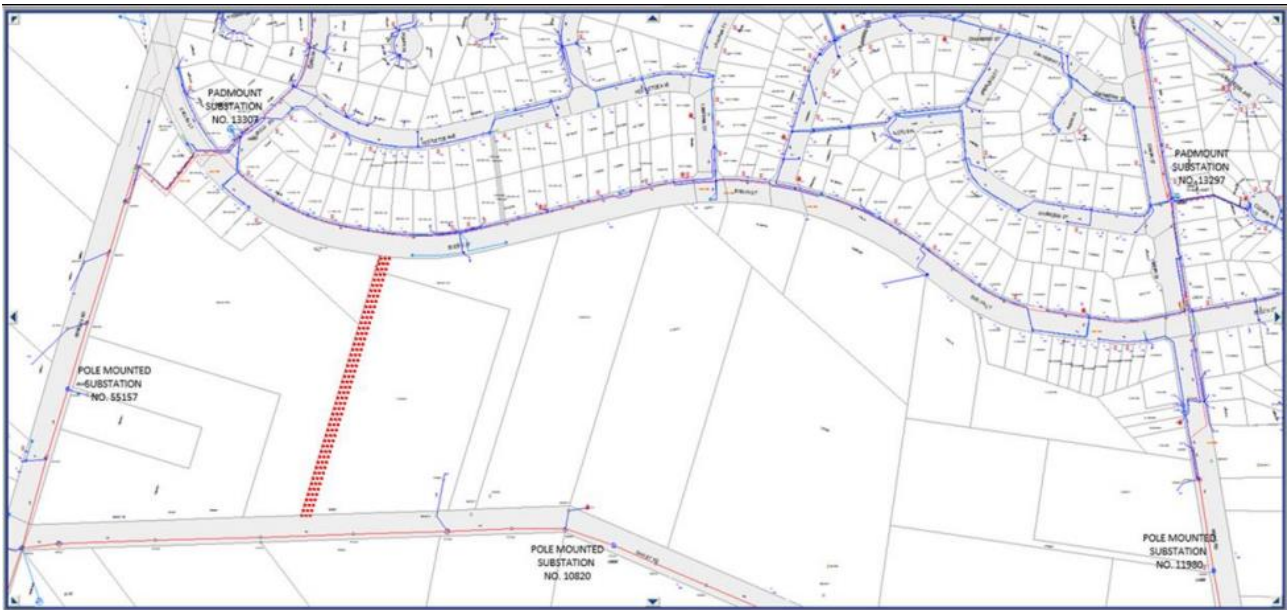


Figure 8 Endeavour Energy Easement identified in red (source: Endeavour Energy Submission)

Endeavour Energy noted that all encroachments and/or activities (works) within the easements (other than those approved / certified by Endeavour Energy's Customer Network Solutions Branch as part of an enquiry / application for load or asset relocation project and even if not part of a Development Application) need to be referred to Endeavour Energy's Easement Officer for assessment and possible approval if they meet the minimum safety requirements and controls.

Council response

Council raised no concern with Endeavour Energy's response, recognising that any future development application would be subject to further referrals to the agency.

Department response

Council's response is considered adequate and that any future development within easements will need to be assessed on its merit and referred to Endeavour Energy's Easement Officer.

The Department considers Council has adequately responded to the majority of matters raised in submissions from public authorities. Further consideration of matters raised in the EHG submission and Council's response is addressed in Section 4.1.

Post-exhibition changes

3.1.2 Council resolved changes

At Council's Ordinary Meeting on 12 April 2022, Council resolved to proceed with the planning proposal with the following post-exhibition changes (refer Annexure 3 of the Planning Proposal at Attachment A for proposed lot numbers):

- Rezone only part of the Evelyn Street fringe from E4 (C4) Environmental Living to R2 Low Density Residential. Future proposed lot numbers, 21 and 22 to remain zoned E4 (C4) Environmental Living.
- Apply a minimum lot size of 1ha to the "residue" E4 (C4) Environmental Living zone land, aligning with proposed lots 21, 22 and 15.
- Apply a minimum lot size of 1 ha for dual occupancy on the "residue" E4 (C4) Environmental Living Zone in the plan area aligning with proposed lots 21, 22 and 15.

- Revert back to the existing 2ha minimum lot size for land aligning with proposed lots 23, 24, 25 and 26.

Council's adopted changes were in response to the issues raised in EHG's submission.

3.1.3 The Department's recommended change

Following the receipt of the revised planning proposal from Council, the Department carried out further consultation with EHG, as it was noted that Council did not consult EHG on the proposed post-exhibition changes, and that EHG concerns remain. Therefore, the department has made the following change:

- Rezone only the western part of the Evelyn Street fringe from E4 (C4) Environmental Living to R2 Low Density Residential. All land to the east of the site to remain zoned E4 (C4) Environmental Living and retain exiting corresponding controls.

3.1.4 Justification for post-exhibition change

The Department notes that the post-exhibition change is justified and was in response to EHG's ongoing objection to the planning proposal, and therefore does not require re-exhibition.

4 Department's assessment

The proposal has been subject to detailed review and assessment through the department's Gateway determination (**Attachment B**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination (**Attachment B**), the planning proposal submitted to the department for finalisation:

- Remains consistent with the regional and district plans relating to the site
- Remains consistent with the Council's Local Strategic Planning Statement
- Remains consistent with all relevant Section 9.1 Directions.
- Remains consistent with all relevant SEPPs.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1

Table 3 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

	Consistent with Gateway determination report Assessment	
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

Table 4 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

Detailed assessment

The following section provides details of the department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

4.1.1 Eastern part of the site

The second submission from EHG recommended that consideration be given to reducing the size of the eastern portion of R2 land to further reduce potential environmental impacts. Council considered but did not make any further reduction to this portion of land believing the remaining environmental issues could be considered and addressed in the development assessment process.

The eastern portion of land proposing to be zoned R2 is approximately 2,700m² (see Figure 9 below). The aerial image shows that the site is largely grass with a scattering of trees. The proposed R2 zoning and 500m² minimum lot size would allow for approximately 4-5 dwellings.

Council's position that future assessment of the subdivision and dwelling houses can consider means to mitigate, manage and offset impacts on the trees is supported. Importantly, future applications will need to give specific consideration to Campbelltown Council's CKPoM.

In addition to the above, the department undertook additional consultation with Council regarding the proposed depth of the R2 land might be appropriate. On the 14 June 2022, Council confirmed that *"it is not possible to further reduce the size of the proposed R2 – Eastern Precinct"* as a further reduction *"would negate the prospect of achieving relevant building envelopes and compliance with the minimum 30 metre lot depth"*.

EHG noted that the zoning objectives for the E4 (C4) zone are commensurate to the biodiversity values present on the subject site while the R2 zoning objectives are not suitable for a site which contains the list of biodiversity values noted in submissions.

After further consultation with EHG, the department has formed the view that rezoning the eastern part of the land is not supported as there remains unresolved agency issues, that cannot be easily resolved within the finalisation stage. Accordingly, the department has made a post-exhibition change to retain the existing zoning on the eastern part of the site and is proceeding only with

rezoning the western part of the site. However, this does not prevent a new proposal for this land being submitted in future should the outstanding issues be resolved.

It is noted that protection of high value biodiversity and impacts on koala protection were two issues raised by EHG for the previous planning proposal (PP-2020-3600). Council and the proponent were advised when the previous proposal was determined not to proceed, due to unresolved agency concerns, including those from EHG, and that all outstanding matters should be resolved before resubmitting the planning proposal. It would appear as though these issues were not resolved prior to submitting the revised planning proposal for gateway, given EHG's ongoing objection to the planning proposal, in both the exhibited and Council's post-exhibition form.



Figure 9 Eastern Portion of R2 Land

4.1.2 1ha minimum lot size for E4 (C4) zoned land

EHG's second submission raised concerns regarding the 1ha minimum lot size proposed for the residue E4 (C4) lands, believing it would lead to potential degradation of the biodiversity values and koala habitat across the site.

The area to be zoned E4 (C4) is approximately 1.375ha in area (refer Figure 10). The application of the 1ha minimum lot size would only allow for 1 dwelling to be built across the land. There is already a dwelling that exists in the eastern portion of the land. It is unlikely any further dwellings would be able to be erected on the site.

As discussed above, after further consultation with EHG, the department has formed the view that only the western part of the site should be rezoned and that land to the east should retain the existing E4 (C4) zoning and corresponding controls. Accordingly, the exiting 2ha minimum lot size will be retained for this land.

This does not prevent a new proposal for this land being submitted in future should the outstanding issues be resolved.



Figure 10 C4 area proposed to have a 1ha minimum lot size

5 Post-assessment consultation

The department consulted with the following stakeholders after the assessment.

Table 5 Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	5 maps have been prepared by the department's ePlanning team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit being not inconsistent with Campbelltown Local Strategic Planning Statement.
- It is consistent with the Gateway Determination.
- Issues raised during consultation have been addressed, and there are no outstanding agency objections to the proposal.



26 July 2022

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26 July 2022

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Attachments

Attachment	Document
A	Planning Proposal Post Exhibition April 2022
B	Gateway determination June 2021
B1	Gateway Alteration – October 2021
B2	Gateway Alteration – May 2022
Maps	LEP maps
Legal	Legal instrument