

To amend Wollongong LEP 2009

LOCAL GOVERNMENT AREA: Wollongong City Council

NAME OF DRAFT LEP: Lot 100 DP 1207784 Cordeaux Road Mount Kembla

ADDRESS OF LAND: Lot 100 DP 1207784 Cordeaux Road Mount Kembla



Location Map and Current Zoning

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Part 1 – Statement of objectives or intended outcomes

The Planning Proposal seeks to facilitate additional large lot residential development in addition to the protection of environmental qualities on the site through more appropriate zoning. The site was considered in the Farmborough Heights to Mt Kemplla Concept Plan that was endorsed by Council (9 December 2013) and the NSW Department of Planning (20 March 2014) to guide future development potential for this area.

Part 2 – Explanation of provisions

Statement of how the objectives or intended outcomes are to be achieved by means of new controls on development imposed via a LEP:

- Amendment of the Wollongong LEP 2009 Zoning Map in accordance with the proposed zoning map shown in Part 4, which indicates E4 Environmental Living zoning for part of the site currently zoned E3 Environmental Management and E2 Environmental Conservation zoning for the riparian corridors identified for conservation;
- Amendment of the Wollongong LEP 2009 Minimum Lot Size Map in accordance with the proposed minimum lot size map shown in Part 4, which indicates 5,000m² for areas proposed to be zoned E4 Environmental Living and 39.99ha for areas proposed to be zoned E2 Environmental Conservation;
- Amendment of the Wollongong LEP 2009 Floor Space Ratio Map in accordance with the proposed floor space ratio map shown in Part 4, which indicates a maximum permissible floor space ratio of 0.3:1 for the area proposed to be zoned E4 Environmental Living.

Part 3 – Justification**Section A – Need for the Planning Proposal****Q1: Is the planning proposal a result of strategic study or report?**

The Planning Proposal is the result of the Farmborough Heights to Mt Kembla Concept Plan that was endorsed by Council (9 December 2013) and the NSW Department of Planning (20 March 2014) to guide future development potential for this area in the context of active conservation. The key objectives of the Concept Plan were to provide certainty for the community by identifying land suitable for conservation and potential development within the study area, as well as provide the opportunity to implement a number of mechanisms that will conserve and manage the environmental attributes of the foothills of the Illawarra Escarpment.

The endorsed Concept Plan is importantly consistent with and complements the Illawarra Escarpment Strategic Management Plan (2015) and the Illawarra Escarpment Land Use Review Strategy (2007), which consider limited development may be possible having regard to the environmental sensitivity of the receiving environment and provided there are mechanisms in place to drive rehabilitation and restoration of the land and its surrounds. The Concept Plan is also consistent with the objectives and targets of regional strategies including the Illawarra Biodiversity Strategy (2011) and the Illawarra Shoalhaven Regional Plan (2015), with a focus on priority vegetation and important habitat corridors.

The endorsed Concept Plan identified potential to rezone this site to permit additional large lot residential development, subject to satisfying the accompanying Planning Principles and demonstration that an improved environmental outcome could be achieved for the land. The Concept Plan identified the opportunity to rehabilitate the riparian corridors on the site.

The Planning Proposal is the result of a Council resolution dated 30 January 2018. Other supporting documents submitted with the draft Planning proposal request included:

- Ecological Constraints Assessment (EcoPlanning 2017);
- Geotechnical Assessment (Southern Geotechnics 2016);
- Bushfire Assessment (Peterson Bushfire Consulting Services 2017);
- Aboriginal Heritage Information Management System Search (Cardno 2016);
- Vegetation Management Plan (EcoPlanning 2017);
- Aboriginal Cultural Heritage Due Diligence Assessment (Biosis 2017); and
- Preliminary Site Contamination Investigation (Cardno 2017).

Q2: Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The purpose of the Planning Proposal is to facilitate a development strategy for the subject lands, to allow large lot residential development on part of the site, while establishing a revegetation management plan for the riparian corridors on the site via an in perpetuity Conservation Agreement registered on title. A change of zoning, minimum lot size and floor space ratio is

required in order to facilitate large lot residential development on part of the site. An E2 Environmental Conservation zoning is considered more appropriate than the existing E3 Environmental Management zone to protect the identified environmental qualities.

Q3: Is there a net community benefit?

The Farmborough Heights to Mt KemplA Concept Plan identifies potential and capacity for appropriately scaled and located development at the interface of the escarpment provided that this development is considered within the context of active conservation.

The Office of Environment and Heritage (OEH) has identified that the subject site represents a strategically important linkage opportunity in the context of the foothills and escarpment, and support a long term conservation outcome being achieved for the site through establishing the proposed conservation areas. The development strategy for this site has the potential to support, rehabilitate and improve the following important environmental functions of the riparian corridors:

- providing a diversity of fauna and flora habitat resources;
- providing connectivity between wildlife habitats;
- providing bed and bank stability and reducing potential bank and channel erosion;
- protecting water quality by trapping sediment, nutrients and other contaminants; and
- conveying flood flows and controlling the direction of flood flows.

The Planning Proposal would result in the retention and rehabilitation of approximately 6.62 hectares of vegetation, through the establishment of a Conservation Agreement registered on title and administered by the Biodiversity Conservation Trust (Office of Environment and Heritage).

Section B – Relationship to strategic planning framework

Q3: Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The Planning Proposal is consistent with the objectives and goals of the *Illawarra Shoalhaven Regional Plan* (2015), specifically:

Goal 2 – provide sufficient housing supply to suit the changing demands of the region and identify and conserve biodiversity values when planning new communities;

Goal 5 – protect the region's environmental values by focusing development in locations with the capacity to absorb development.

The Planning Proposal is consistent with the objectives and targets of the Illawarra Regional Strategy 2006-31 (2007), with a focus on priority vegetation and important habitat corridors. A focus on riparian conservation to improve the ecological value of the watercourse is consistent with Council's Illawarra Biodiversity Strategy (2011), which highlights the degradation of native riparian vegetation and invasion of exotic weeds as major threats to biodiversity in the Illawarra, and identifies the importance of Council encouraging conservation and restoration efforts on

private land in this regard. A network of regional biodiversity corridors has been mapped as part of the Biodiversity Strategy, with the value of landscape connectivity well recognised by various state, regional and local policies, including Australia's Biodiversity Conservation Strategy (2009), The Southern Rivers Catchment Action Plan (2013-23), and the Illawarra Regional Strategy (2006). Maintaining connectivity and enhancing existing connectivity within corridors by regenerating or revegetating missing links, is also one of the three recommended approaches to managing biodiversity in the face of climate change.

Q4: Is the Planning Proposal consistent with a council's local strategy or other local strategic document (e.g. Wollongong Community Strategic Plan)?

The Planning Proposal is consistent with the delivery of Wollongong 2022 Community Strategic Plan objective "The Natural environment is protected and enhanced" under the Community Goal "We value and protect our environment".

It specifically addresses the Annual Plan 2017-18 Key Deliverables "Continue to assess Planning Proposals against environmental strategies, including the Illawarra Biodiversity Strategy and the Illawarra Escarpment Strategic Management Plan" which forms part of the Five Year Action "Review planning controls for environmentally sensitive locations" contained within the Revised Delivery Program 2012-17.

The Planning Proposal is consistent with the Planning Principles contained in the Illawarra Escarpment Strategic Management Plan (2015) and Illawarra Escarpment Land Use Review Strategy (2007).

Q5: Is the planning proposal consistent with applicable State Environmental Planning Policies?

Refer to Table A – Checklist of State Environmental Planning Policies.

Q6: Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Refer to Table B – Checklist of Ministerial Directions.

Section C – Environmental, social and economic impact

Q7: Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The Planning Proposal seeks large lot low density residential development opportunity on land identified in the Concept Plan with little ecological value (areas dominated by cleared land and exotic vegetation), and proposes to undertake ecological conservation and rehabilitation works associated with the riparian corridors on site. The establishment of a Conservation Agreement with funding for the ecologically constrained land, in association with low density limited residential development, provides both the legal and financial mechanisms to ensure the long term conservation and enhancement of the identified biodiversity values and rehabilitation of an important east-west corridor.

Q8: Are there any likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

A number of studies were commissioned to address the site constraints in support of the Planning Proposal request. Following is a summary of the technical studies and key findings:

Bushfire Constraints Assessment Report

A bushfire assessment was undertaken by Peterson Bushfire (2017) in accordance with Planning for Bushfire Protection 2006 (PBP) and consisted of desktop analysis and a site inspection. The assessment of the site identified two areas of vegetation which pose a bushfire hazard and which will influence future development and subdivision of the site. The first area is vegetation associated with the riparian corridor which traverses the southern boundary of the site (ranging from 60m to 80m in width) and is associated with a tributary of American Creek. The second area of vegetation is associated with the riparian corridor which travels north along the steep embankment from the southern riparian corridor through to Cordeaux Road.

The bushfire assessment provided the following recommended mitigation measures to ensure suitability of part of the subject lands for residential development:

- Asset Protection Zones (60m and 25m) to be provided to all future dwelling houses;
- Access for firefighting operations to be constructed in accordance with the specifications of Section 4.1.3 (1) of Planning for Bushfire Protection 2006; and
- Reticulated water supply and installation of utilities.

The NSW Rural Fire Service (RFS) raised no objection to the proposal during the preliminary notification period, however noted that future lots will be required to provide Asset Protection Zones (APZs) as per the plan in the Bushfire Assessment report prepared by Peterson Bushfire (2017). The RFS will be provided with further opportunities to comment at the development application and detailed subdivision stage.

Stage 1 - Contamination Assessment

Given the agricultural history of the site, a preliminary study addressing SEPP 55 (Remediation of Land) was required to ensure the likelihood of contamination is considered as early as possible in the process and that the land is suitable, or can be made suitable, for residential

development. A Site Contamination Investigation (Cardno 2017) confirmed that the site is currently used for livestock grazing and a review of available information indicates that the historical site use was limited to grazing, with no evidence of historical industrial, commercial, residential or agricultural (cultivation) land uses. No potential areas of concern were identified on the site, the conclusion drawn that there is a low to negligible potential for subsurface contamination at the site from historical uses.

Geotechnical

Southern Geotechnics (2008 and 2016) undertook a geotechnical assessment of the stability of the site and its suitability for subdivision and residential development. The geotechnical investigations involved seven test pit investigations and logging by a geotechnical engineer, and machine drilling of nine boreholes, and concluded that the cleared areas proposed for limited residential development have an overall very low to low risk of slope instability for damage to property and risk to life.

Q9: Has the planning proposal adequately addressed any social and economic effects?

An Aboriginal Heritage Information System (AHIMS) search was undertaken, with no recorded Aboriginal Heritage sites or Aboriginal places declared in or near the site. Following the preliminary notification, OEH requested that an Aboriginal cultural due diligence assessment be undertaken. The due diligence assessment (Biosis 2017) involved a desktop analysis and archaeological survey. No new sites were discovered during the archaeological survey with the conclusion drawn that the entire study areas is assessed as having low archaeological potential.

The proposal provides the following social and economic benefits as a result of the creation of residential lots:

- Additional land for residential dwelling in desirable locations that have no significant environmental impact;
- Job creation resulting from the subdivision and servicing of the site;
- Job creation resulting from the development of housing on the site; and
- Minor increase in available spending in local shops and eateries, including Mt Kembla and neighbouring suburbs.

Section D – State and Commonwealth interests

Q10: Is there adequate public infrastructure for the planning proposal?

Full urban reticulation services (power, sewer, water and telecommunications) can be provided to the site.

Q11: What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

The Gateway determination will stipulate the required consultation with Public Authorities. Pre Gateway consultation has occurred to date with the Office of Environment & Heritage, RMS, NSW RFS, Sydney Water and DPI.

The OEH conducted a site visit and has identified that the subject site represents a strategically important linkage opportunity in the context of the foothills and escarpment and support a long term conservation outcome being achieved through the establishment of the proposed conservation areas. The OEH stress that the mechanism for securing and managing the environmental corridor should be resolved as part of the Planning Proposal and recommended consideration of dedication of the riparian corridor to Council along with in perpetuity management funding to ensure a long term conservation outcome.

The RFS raised no objection to the proposal during the preliminary notification period, however noted that future lots will be required to provide APZs as per the plan in the Bushfire Assessment report (Peterson 2017). The DPI raised no objection, however noted that hazard reduction activities to create APZs should not encroach into the riparian corridor.

It is proposed that the following State Authorities would be consulted following Gateway determination.

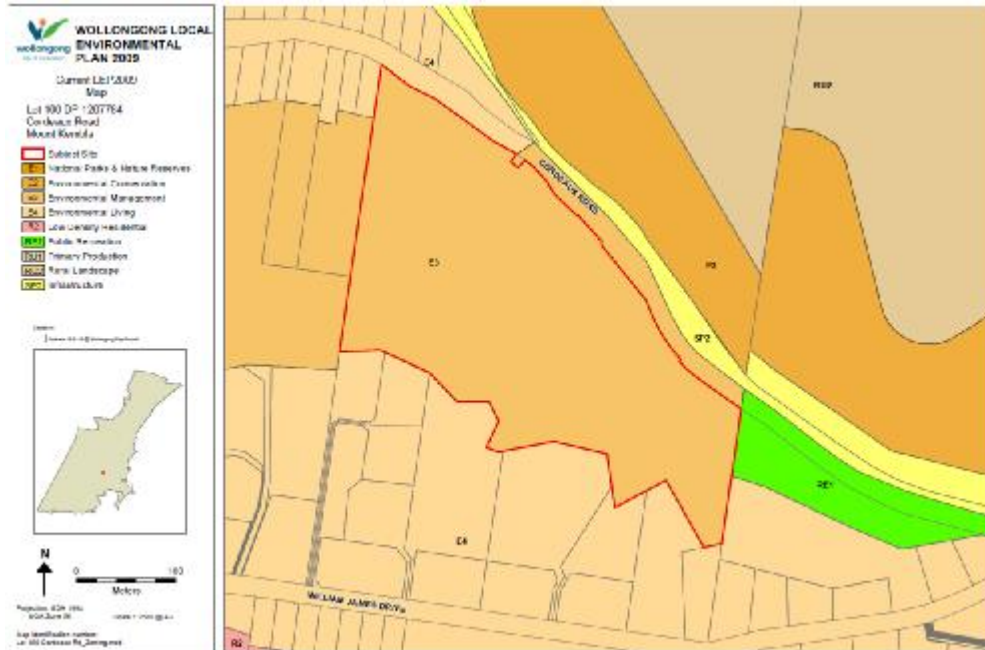
- NSW Roads and Maritime Services
- NSW Rural Fire Service
- Department of Primary Industries - Water
- NSW Office of Environment and Heritage
- Sydney Water

Part 4 – Mapping

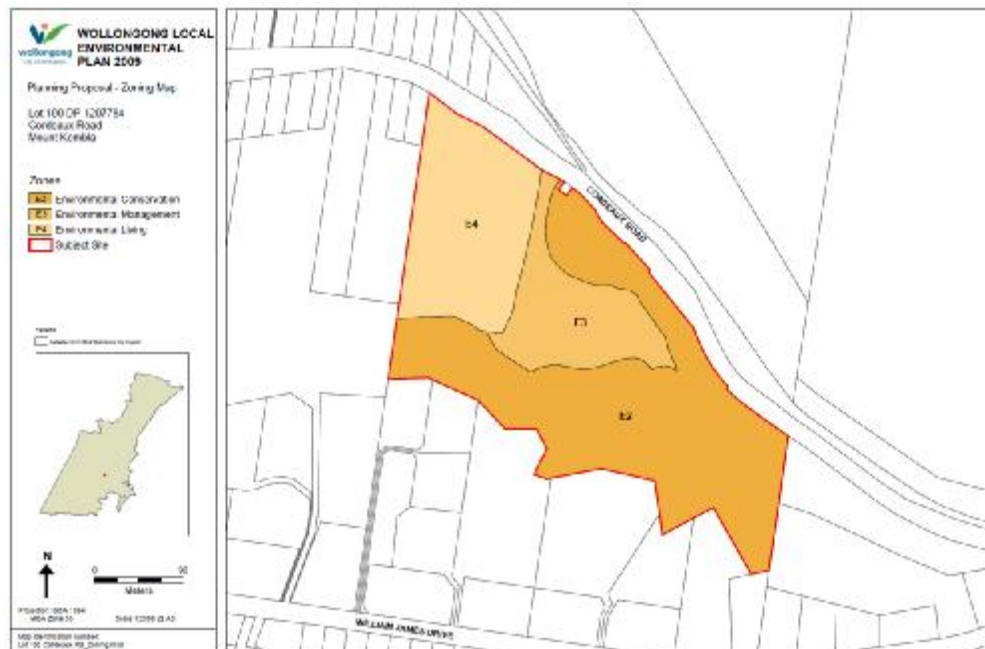
MAPS TO IDENTIFY THE INTENT OF THE PLANNING PROPOSAL

Proposed Planning Controls: changes are proposed to the Zoning Map, Minimum Lot Size Map, and Floor Space Ratio Map. Following are the current Zoning, Minimum Lot Size and Floor Space Ratio Maps for the site, and the proposed map amendments to Wollongong LEP 2009:

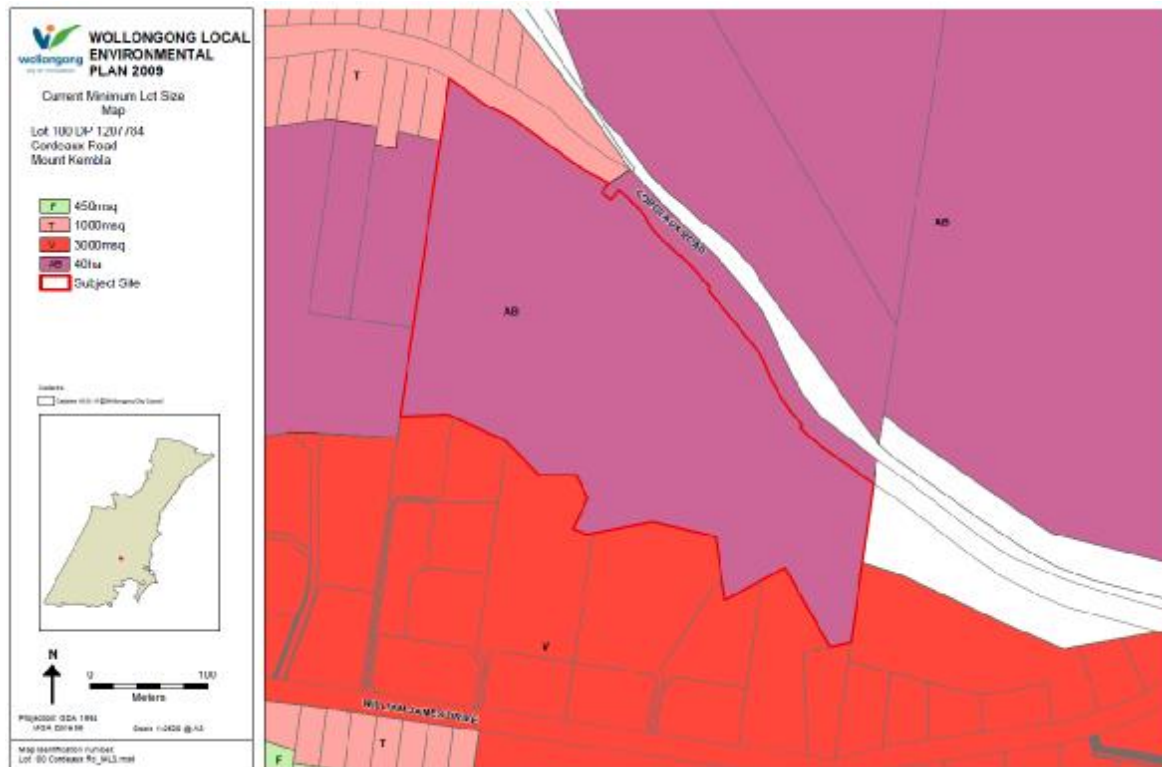
Current Land Zoning Map sheet LZN_011



Proposed Land Zoning Map sheet LZN_011



Current Lot Size Map sheet LSZ_011



Proposed Lot Size Map sheet LSZ_011



Current Floor Space Ratio Map – Sheet FSR_011



Proposed Floor Space Ratio Map – Sheet FSR_011



Part 5 – Community Consultation

Any Gateway Determination will confirm community consultation requirements. If the Planning Proposal is supported, the Proposal will be exhibited for a minimum period of twenty-eight (28) days, and include:

- Hard copies at Council's Administration building and relevant Libraries;
- Electronic copy on Council's website;
- Notification letters to surrounding and nearby property owners; and
- Notification letters to relevant State agencies and other authorities nominated by the NSW Department of Planning and Environment including (but not limited to):
 - Office of Environment & Heritage
 - Office of Water
 - RMS
 - RFS
 - Sydney Water

Part 6 – Projected Timeline

This timeline tentatively sets out expected timelines for major steps in the process

#	Action	Estimated Timeframe	Responsibility
1	Anticipated date of Gateway Determination	February 2018	Department of Planning and Environment
2	Anticipated completion of required technical studies	N/A	Consultants
3	Government agency consultation	March 2018	Agencies
4	Public exhibition period	March 2018	Council
5	Date of Public Hearing (<i>if applicable</i>)	N/A	Council
6	Consideration of submissions	March 2018	Council
7	Assessment of proposal post-exhibition	April 2018	Council
8	Report to Council	May 2018	Council
9	Final maps and Planning Proposal prepared	May 2018	Council
10	Submission to Department for finalisation of LEP	May 2018	Council
11	<i>Anticipated date RPA will make the LEP</i>	<i>Delete if Council is not the RPA</i>	Council (if under delegation)
12	Anticipated date Council will forward final Planning Proposal to DOP&E for notification	June 2018	Council
13	Anticipated date LEP will be notified	June 2018	<i>Parliamentary Counsel and DOP&E</i>

Table A - Checklist of State Environmental Planning Policies

State Environmental Planning Policy		Compliance	Comment
SEPP No. 1	Development Standard	N/A	
SEPP No. 14	Coastal Wetlands	N/A	
SEPP No. 19	Bushland in Urban Areas	Does not apply to Wollongong	
SEPP No. 21	Caravan Parks	N/A	
SEPP No. 26	Littoral Rainforests	N/A	No littoral rainforests identified in the Wollongong LGA
SEPP No. 30	Intensive Agriculture	N/A	
SEPP No. 33	Hazardous and Offensive Development	N/A	
SEPP No. 36	Manufactured Home Estates	N/A	
SEPP No. 44	Koala Habitat Protection	N/A	
SEPP No. 47	Moore Park Showground	Does not apply to Wollongong	
SEPP No. 50	Canal Estate Development	N/A	
SEPP No. 52	Farm Dams, Drought Relief and Other Works	Does not apply to Wollongong	
SEPP No. 55	Remediation of Land	Consistent	Preliminary Site Contamination Investigation (Cardno 2017) concluded there is a low to negligible potential for subsurface contamination at the site from historical land uses.
SEPP No. 62	Sustainable Aquaculture	N/A	
SEPP No. 64	Advertising and Signage	N/A	
SEPP No. 65	Design quality of residential flat development	N/A	
SEPP No. 70	Affordable Housing (revised schemes)	Does not apply to Wollongong	
SEPP No. 71	Coastal Protection	N/A	
SEPP	Affordable Rental Housing 2009	N/A	
SEPP	Building Sustainability Index: BASIX 2004	N/A	
SEPP	Educational Establishments and Child	N/A	

State Environmental Planning Policy		Compliance	Comment
	Care Facilities 2017		
SEPP	Exempt and Complying Development Codes 2008	N/A	
	Housing for Seniors or People with a Disability 2004	N/A	
	Infrastructure 2007	Consistent	
SEPP	Integration and Repeals 2016	N/A	
SEPP	Kosciuszko National Park – Alpine Resorts 2007	Does not apply to Wollongong	
SEPP	Kurnell Peninsula 1989	Does not apply to Wollongong	
	Mining, Petroleum Production and Extractive Industries 2007	N/A	
	Miscellaneous Consent Provisions 2007	N/A	
SEPP	Penrith Lakes Scheme 1989	Does not apply to Wollongong	
SEPP	Rural Lands 2008	N/A	
SEPP	State and Regional Development 2011	N/A	
SEPP	State Significant Precincts 2005	N/A	
SEPP	Sydney Drinking Water Catchment 2011	N/A	
SEPP	Sydney Region Growth Centres 2006	Does not apply to Wollongong	
SEPP	Three Ports 2013	Does not apply to Wollongong	
SEPP	Urban Renewal 2010	Does not apply to Wollongong	
SEPP	Vegetation in Non-Rural Areas 2017	Consistent	
SEPP	Western Sydney Employment Area 2009	Does not apply to Wollongong	
SEPP	Western Sydney Parklands 2009	Does not apply to Wollongong	
Deemed SEPPS(former Regional Plans)			

State Environmental Planning Policy		Compliance	Comment
Illawarra REP 1	Illawarra	Repealed within Wollongong	
Illawarra REP 2	Jamberoo	Does not apply to Wollongong	
Greater Metropolitan REP No.2	Georges River catchment	Does not apply to Wollongong	

Table B - Checklist of Section 117 Ministerial Directions

Ministerial Direction	Comment
1. Employment and Resources	
1.1 Business and Industrial Zones	N/A
1.2 Rural Zones	N/A
1.3 Mining, Petroleum Production and Extractive Industries	N/A
1.4 Oyster Aquaculture	N/A
1.5 Rural Lands	N/A
2. Environment and Heritage	
2.1 Environment Protection Zone	Consistent. An E2 Environmental Conservation zoning is considered more appropriate than the existing E3 Environmental Management zone to protect the identified environmental qualities.
2.2 Coastal Protection	N/A
2.3 Heritage Conservation	Consistent. An Aboriginal Cultural Heritage Due Diligence Assessment was undertaken (Biosis 2017) – no new sites were discovered during the archaeological survey with the conclusion drawn that the entire study area is assessed as having low archaeological potential.
2.4 Recreation Vehicle Areas	N/A
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable to Wollongong
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent. The proposal is considered consistent with this direction and objectives as the land will be adequately serviced, provide flexibility in the type of housing that can be delivered and enable a design that minimises impacts on the environment.
3.2 Caravan Parks and Manufactured Home Estates	N/A

3.3 Home Occupations	Consistent
3.4 Integrating Land Use and Transport	Consistent. The proposal is considered consistent with this direction and objectives, given the existing road and public transport network.
3.5 Development Near Licensed Aerodromes	N/A
3.6 Shooting Ranges	N/A
4. Hazard and Risk	
4.1 Acid Sulfate Soils	N/A
4.2 Mine Subsidence and Unstable Land	N/A
4.3 Flood Prone Land	N/A
4.4 Planning for Bushfire Protection	Consistent The site is identified as bushfire prone. A bushfire constraints assessment (Peterson Bushfire 2017) was undertaken in accordance with Planning for Bush Fire Protection 2006. The following mitigation measures were recommended to ensure suitability of part of the subject lands for residential development: Asset protection Zones (60m and 25m) to be provided to all future dwelling houses; Access for firefighting operations to be constructed; and Reticulated water supply and installation of utilities. The RFS has undertaken a preliminary review of the Planning Proposal and has not raised any objections.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent The proposal provides additional housing supply, housing choice and protection of environmental attributes.

5.2 Sydney Drinking Water Catchments	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable to Wollongong
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable to Wollongong
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Not applicable to Wollongong
5.8 Second Sydney Airport: Badgerys Creek	Not applicable to Wollongong
5.9 North West Rail Link Corridor Strategy	Not applicable to Wollongong
5.10 Implementation of Regional Plans	Consistent
6. Local Plan Making	
6.1 Approval and Referral Requirements	N/A
6.2 Reserving Land for Public Purposes	N/A
6.3 Site Specific Provisions	N/A
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Not applicable to Wollongong
7.2 Implementation of Greater Macarthur Land Release Investigation	Not applicable to Wollongong
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not applicable to Wollongong
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable to Wollongong
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable to Wollongong
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable to Wollongong