

# DRAFT PLANNING PROPOSAL – BLUESCOPE LAND HOLDINGS, KEMBLA GRANGE

Lot 1 DP 588139; Lot 2 DP 230137; Lot 1 DP 588140; Lot 1002 DP 1192327

## To amend Wollongong LEP 2009

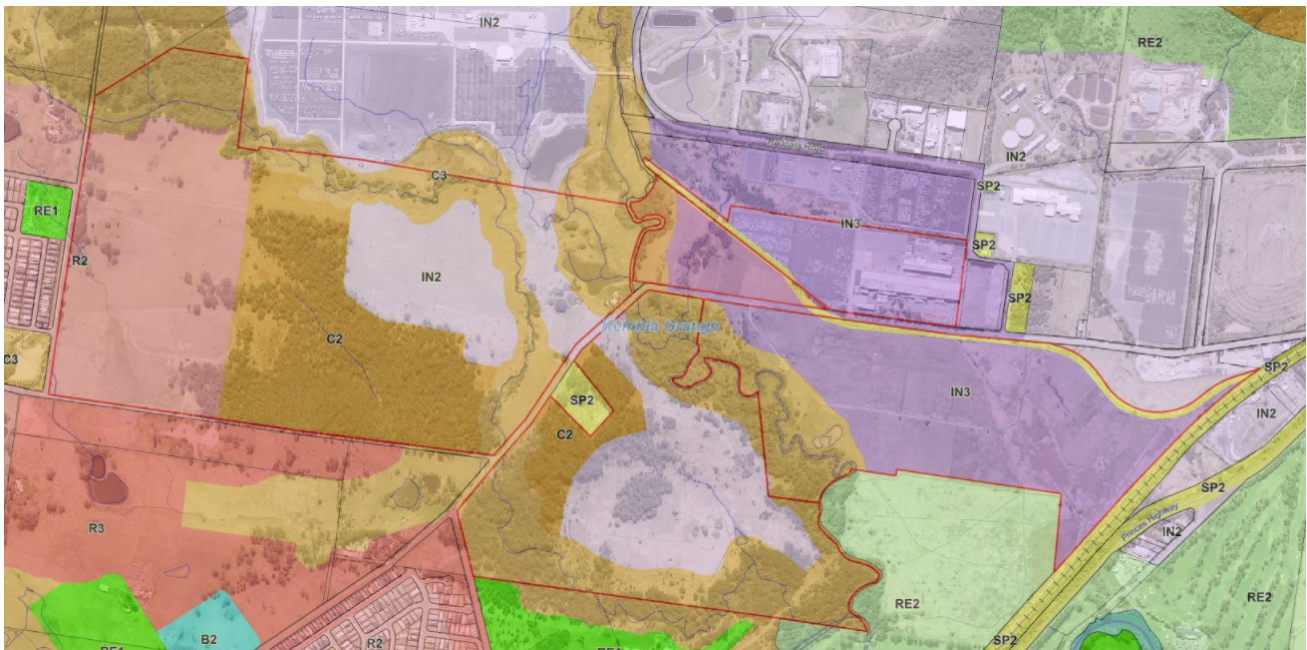
**LOCAL GOVERNMENT AREA:** Wollongong City Council

**NAME OF DRAFT LEP:** BlueScope Lands Holdings, Kembla Grange

PP-2020/4

**ADDRESS OF LAND:** BlueScope Land Holdings, Kembla Grange NSW 2526 (Lot 1 DP 588139; Lot 2 DP 230137; Lot 1 DP 588140; Lot 1002 DP 1192327) & Lot 402 DP 1148505

Lot Description	Property Address	Owner (Developer Option)	Area (ha)
Lot 1 DP 588139	206 West Dapto Road KEMBLA GRANGE	BlueScope Steel Limited	107.9
Lot 2 DP 230137	178 West Dapto Road KEMBLA GRANGE	BlueScope Steel Limited	7.7
Lot 1 DP 588140	261 West Dapto Road KEMBLA GRANGE	BlueScope Steel Limited	52.25
Lot 1002 DP 1192327	138 Cleveland Road CLEVELAND	BlueScope Steel AIS Pty Ltd	48.32
Lot 402 DP 1148505	132 West Dapto Road KEMBLA GRANGE	132 West Dapto Group Pty Ltd	12.59



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### Part 1 – Statement of objectives or intended outcomes

The objective of the Planning Proposal is to make a number of amendments to the Wollongong Environmental Plan 2009, including the rezoning of land and associated changes to floor space ratios, minimum lot sizes and maximum height of buildings, to facilitate medium density residential development and light and heavy industrial uses. To allow for the extension of Northcliffe Drive the draft Planning Proposal seeks to amend the zoning within a portion of Environmental zoned land. The draft Planning Proposal also proposes the establishment of a Biodiversity Stewardship site.

### 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:

The draft Planning Proposal request seeks to amend the Wollongong Local Environmental Plan 2009 zoning and associated floor space ratios, minimum lot sizes and maximum height of buildings, as follows –

- 1 Rezone parts of Lot 1 DP 588139 adjoining Paynes Road, from R2 Low Density Residential to R3 Medium Density Residential, with a Minimum Lot Size changed from 449 m2 to 300 m2 and an amended Floor Space Ratio of 0.75:1 from 0.5:1.
- 2 Rezone land on the corner of West Dapto Road and Darkes Road within Lot 1 DP 588140 from C3 (formerly E3) Environmental Management to R3 Medium Density Residential with a Minimum Lot Size changed from 39.99 ha to 300 m2 and an amended Floor Space Ratio of 0.75:1 from No FSR.
- 3 Rezone land along West Dapto Road within Lot 1 DP 588140 from C3 (Formerly E3) Environmental Management to C2 (formerly E2) Environmental Conservation, with a minimum lot size of 8.9 ha from 39.99 ha.

- 4 Rezone land within Lot 1 DP 588139 from C2 (formerly E2) Environmental Conservation to IN2 Light Industrial to with a Minimum Lot Size changed from 39.99 ha to 999 m2 and an amended Floor Space Ratio of 0.5:1 from No FSR.
- 5 Rezone land within Lot 1002 DP 1192327, Lot 1 DP 588140 and Lot 1 DP 588139 from C3 (formerly E3) Environmental Conservation to IN2 Light Industrial with a variety changes to minimum lot sizes, and an amended Floor Space Ratio of 0.5:1 from Nil. Ordinary Meeting of Council 19 July 2021 18.
- 6 Rezone part of the private railway from SP2 Infrastructure (Rail) to IN3 Heavy Industrial with a minimum lot size of 2999 m2 from Nil.
- 7 Various minimum lot size changes within Lot 1 DP 588139, Lot 1 DP 588140, Lot 1192327 and Lot 230137.
- 8 Establish a 48.51 ha Biodiversity Stewardship site across Lot 1 DP 588139 and Lot 1 DP 588140 in consultation with the Biodiversity Conservation Trust and the NSW Department of Planning, Industry and Environment (DPIE).

## 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 not the result of a strategic study or report. The Planning Proposal is the result of more detailed examination of the site as part of the draft Neighbourhood Planning process, which form an amendment to the Wollongong DCP 2009 – Chapter D16 West Dapto Urban Release Area. The draft Neighbourhood Plan process endeavours to provide more detailed planning for adjoining properties to the issues like connecting roads, drainage management, recreation facilities are addressed in an integrated manner.

The planning proposal is the result of a Council resolution dated 19 July 2021. Other supporting documents submitted with the draft Planning Proposal request included:

- Water Cycle Management Study (Cardno, June 2020)
- Ecological Constraints Assessment (EcoPlanning, June 2020)
- Traffic Impact Assessment (Cardno, June 2020)
- Bushfire Assessment (Peterson Bushfire, June 2020)
- West Dapto Lands, Kembla Grange: Aboriginal Cultural Heritage Assessment Report (Biosis, March 2020)
- West Dapto Lands, Kembla Grange: Archaeological Report (Biosis, March 2020)
- Arboricultural Development Assessment Report 84 Sheaffes Road (Moore Trees, June 2020)
- Preliminary Site Investigation: 84 Sheaffes Road (Cardno, May 2019)
- Preliminary Site Investigation: 178 and 261 West Dapto Road (Cardno, May 2019)
- West Dapto Road, Kembla Grange: Historical Heritage Assessment and Statement of Heritage Impact (Biosis, April 2020).

**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 increased urban and industrial development, while ensuring perpetuity protection of environmental values on site, including EECs, through the establishment of a 48.51 ha Biodiversity Stewardship site in association with the Biodiversity Conservation Trust and the NSW Department of Planning, Industry and Environment. The strategic merit of the planning proposal has been considered, which included examining the surrounding land uses, environmental constraints and the need for additional housing and employment lands within the West Dapto Urban Release Area. The proposed zoning changes and environmental conservation measures are deemed the best means of achieving the intended outcome for the subject site.

**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 Illawarra-Shoalhaven Regional Plan**

The Planning Proposal is considered to be generally consistent with the objectives of The Illawarra-Shoalhaven Regional Plan 2041. The Planning Proposal request is generally consistent with the following objectives and strategies within the ISRP 2041:

*Objective 18 – Provide housing supply in the right locations.*

The ISRP 2041 identifies West Lake Illawarra as being the focus for housing supply and designed to be healthy, vibrant and sustainable with active and passive open space.

*Objective 19 Deliver housing that is more diverse and affordable*

The proposal generally aligns with Strategy 19.1 *provide a mix of housing types and lot sizes including small lots in urban release areas*. The draft Planning Proposal request is applicable to land within the West Dapto Urban Release Area. It is likely that the proposal will result in greater housing diversity through the proposed reductions to the minimum lot size and floor space ratio within the existing R2 Low Density Residential zoned land.

The Planning Proposal includes rezoning a portion of R2 Low Density Residential land to R3 Medium Density Residential. The medium density residential land supported by Council is in proximity to Sheaffes Road and will reflect similar zoned land, adjacent to southern side of Sheaffes Road.

The subject site has the potential to provide a mix of housing close to existing and proposed employment lands of West Dapto/Kembla Grange, accessed by the future extension of Northcliffe Drive. The site's location is within four kilometres of West Dapto Town Centre, provides connectivity and access to Wollongong by bus, train and private vehicle. In addition, Underra Town Centre can be reached in 10 minutes' drive from the subject site.

*Objective 23 Celebrate, conserve and reuse cultural heritage*

The proposal generally aligns with Strategy 23.1 – *Undertake heritage studies early to inform conservation and value add opportunities and Apply adaptive reuse and heritage interpretation to create distinctive local places.*

The Statement of Heritage Impact and Archaeology Report recommended interpretation be utilised for items not recognised as being heritage items but represent past European development.

Further archaeological studies have been recommended for the site. This includes both, Aboriginal and European archaeological studies were requested to be submitted prior to public exhibition of the draft Planning Proposal.

The applicant is currently undertaking the further archaeological studies requested by Council. The applicant has requested the draft Planning Proposal request be sent to DPIE seeking a Gateway determination without the requested studies being completed and that they will be submitted at a later date. Council recommended the studies should be completed prior to Public Exhibition should DPIE issue a Gateway determination to progress the Planning Proposal.

### **Illawarra Escarpment Strategic Management Plan 2015**

The Planning Proposal is generally consistent with the Planning Principles contained within the Illawarra Escarpment Strategic Management Plan (2015) (IESMP 2015) and Illawarra Escarpment Lands Urban Review Strategy (2007). Council resolved at its meeting on the 19 July 2021 to retain the existing R2 Low Density Residential zone in proximity to the mapped areas of the Illawarra Escarpment and to restrict R3 Medium Density Residential zoned land further east, to limit potential adverse visual impacts. DPIE-ESS (formerly Office of Environment and Heritage) will be given further opportunity to comment on the draft Planning Proposal, as required under s3.25 of the EP&A Act 1979, resulting from the proximity of the site to the Illawarra Escarpment.

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

#### **Wollongong 2028 Community Strategic Plan**

This Planning Proposal is consistent with to the delivery of Wollongong 2028 objective "Our natural environment, waterways and terrestrial areas are protected, managed and improved", under the Community Goal "*We value and protect our environment*". It specifically delivers on the following –

Community Strategic Plan	Delivery Program 2018-2021	Operational Plan 2018/2021
Strategy	3 Year Action	Operational Plan Actions
1.3.1 Manage land uses to strengthen urban areas and improve connectivity to train stations and key transport routes	1.3.1.1 Impacts from development on the environment are assessed, monitored and mitigated	1.3.1.1.1 Assess new developments and planning proposals for environmental impacts

#### **Comment**

The Planning Proposal seeks to provide a diverse housing choice including medium density housing, traditional detached housing and dwellings on smaller lot holdings, through R3 Medium Density Residential zone adjacent to Sheaffes Road. The sites' unique location within proximity to the Dapto and Underra Town Centres provides access to various public facilities and public transport linkages to the Wollongong Town Centre.

#### **West Dapto Vision**

The draft Planning Proposal is generally consistent with the West Dapto Vision and aims at planning for suitable transport links, water management, environmental conservation, open space,



housing and employment. The draft Planning Proposal is generally consistent with the West Dapto Vision by contributing to residential housing and employment within Stage 1 and 2 of the West Dapto Urban Release Area and Employment Lands. The draft Planning Proposal request also seeks to preserve environmental lands within an identified urban release area. The site will be connected into the future NDE providing transportation routes, which will service the residential and employment lands.

Council resolved at its meeting on the 19 July 2021 to retain land zoned R2 Low Density Residential in proximity to the Illawarra Escarpment to limit any visual impacts.

### **Urban Greening Strategy 2017 - 2037**

The *Urban Greening Strategy 2017-2037* aims to strategically increase the quality and quantity of all vegetation in an urban setting. The Strategy identifies opportunities for our City to harness the benefits of trees and vegetation, contributing towards creating a world class urban landscape.

The **Vision** is that:

*Wollongong will grow and nurture a healthy, diverse and well-managed urban forest to deliver a renewed and resilient place for people, enterprise and the ecosystems that support us.*

The following Principles will inspire and inform Council's approach to urban greening in Wollongong:

- more strategic and targeted urban greening;
- evidence-based decision making and programming;
- enhanced amenity of public spaces;
- maximisation of ecosystem services and biodiversity connections;
- stronger leadership and partnerships with the community; and
- greater diversity of urban greening.

The Planning Proposal is conducive to the Strategy as it seeks to enhance connectivity and linkage throughout the site with the proposed Biodiversity Stewardship site. The proposal will result in the removal of some vegetation; however, as large portions of the site area cleared, there is opportunity of potential of greening of the landscape associated with development that will contribute to increasing the canopy cover of the City.

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

A full assessment against all applicable State Environmental Planning Policies is provided at Table A.

### **SEPP 55 – Remediation of Land**

SEPP 55 provides state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. Subsequently, SEPP 55 requires consideration of contamination issues as part of the preparation or making of an environmental planning instrument (rezoning) land.

The subject site was used primarily for rural land uses with the exception of the radio telescope station that operated in the 1950's through to the 1960's. Many of the original farmhouses and outbuildings in addition to the equipment and buildings associated with the Dapto Radiospectrograph have been demolished and removed. Furthermore, general tripping and filling

is present within the site. The site is also in proximity to industrial uses and in proximity to Whytes Gully Waste and Resource Recovery Centre.

The site is mapped as contaminated land and as such, the applicant submitted two preliminary site investigation (PSI) with the draft Planning Proposal request (Cardno 1 May 2019 for land at Lot 1 DP 588139 and Cardno 19 September for land at Lot 1002 DP 1192327; Lot 1 DP 588140 and Lot 2 DP 230137).

Below is a list of the potential areas of environmental concern:

Lot 1 DP 588139



Potential Area of Environmental Concern	Site Activity
<b>PAEC01: Filling Areas</b>	potential areas of filling were identified in the eastern portion of the site, specifically within the dam wall, creek crossing and in the vicinity of the dilapidated agricultural sheds and former building footprints. Asbestos fragments were identified on the surface within the fill lining the dam and were also identified within surface fillings in the vicinity of the dilapidated agricultural buildings and building footprints. The likely source of buried asbestos and fragments identified on the ground surface is from demolition of previous agricultural buildings and imported fill for the dam. Potential areas of filling were identified within the dam wall, lining the drainage channel, within the horse training track and within the building footprints in the western portion of the site.
<b>PAEC02: Stockpiles</b>	A stockpile of demolition and building waste contained within a concrete structure and comprising plasterboard, wood, steel, rubber, plastic and asbestos containing fibre cement fragments was observed adjacent to the dam in the eastern portion of the site.

	<p>A soil stockpile was identified to the north of the residence in the eastern portion of the site and comprised silty CLAY material with fragments of asbestos containing pipe.</p> <p>A stockpile containing asphalt boulders was observed adjacent to the tree line in the middle portion of the site.</p> <p>Soil stockpiles of unknown composition were observed within the vicinity of the dilapidated sheds in the south west portion of the site.</p>
<b>PAEC03: Equipment, Waste and Chemical Storage</b>	<p>Discarded building materials and miscellaneous items of equipment were observed in the southwest portion of the site in the vicinity of the dilapidated sheds and horse training track. Discarded chemical storage vessels were observed within the sheds may have been associated with historical / current horse agistment practices.</p> <p>Miscellaneous mechanical equipment, including abandoned vehicle chassis were also observed sporadically within the vicinity of the dilapidated sheds and horse training track.</p>
<b>PAEC04: Offsite Sources of Contamination</b>	<p>To the immediate north of the site is an industrial parcel of land operating as a car parking facility for new cars arriving from Port Kembla. To the north-east is Whytes Gully Waste and Resource Recovery Centre.</p>

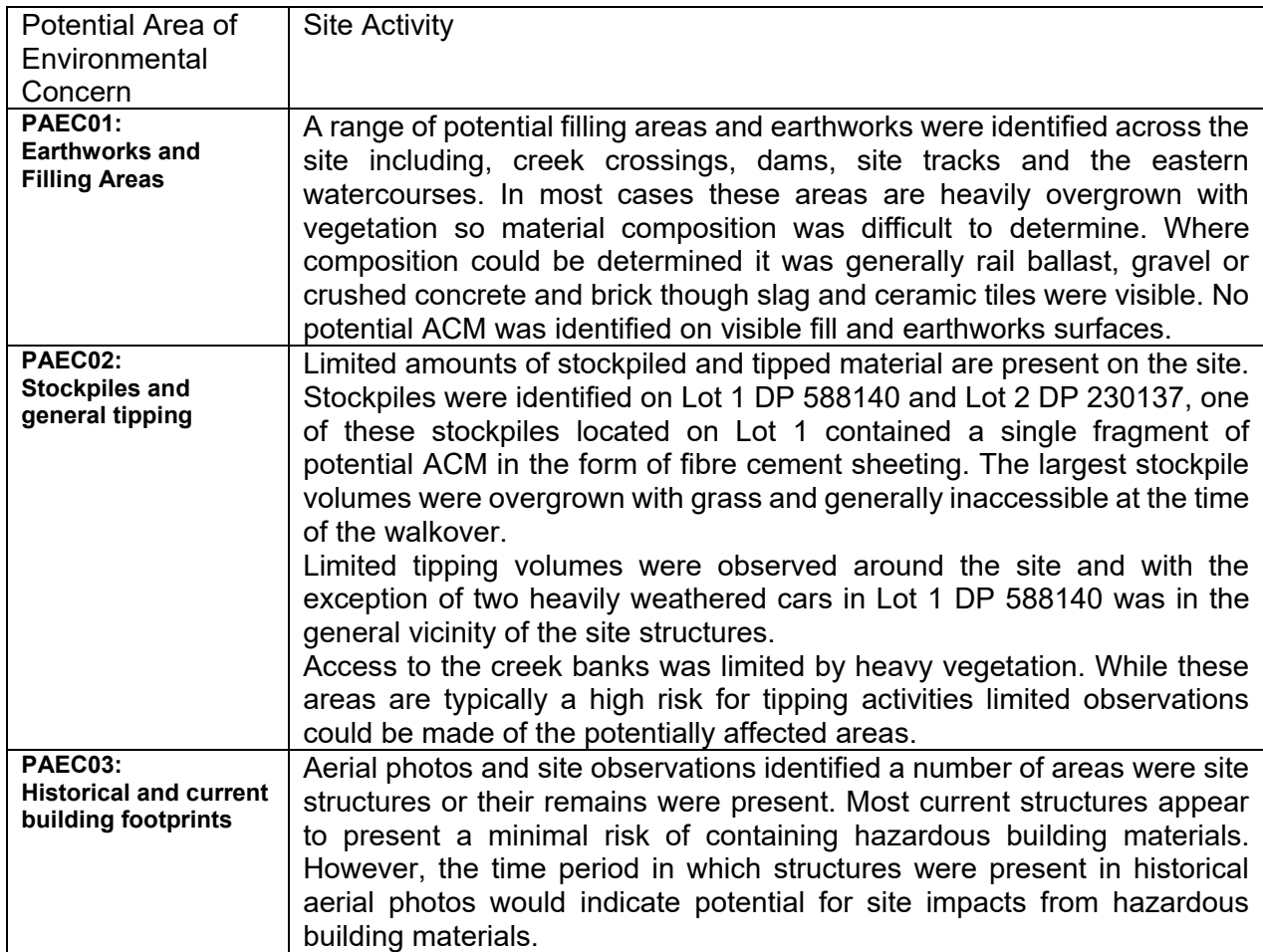
The PSI included the following recommendations for Lot 1 DP 588139.

- *Any future investigations should be undertaken in accordance with relevant regulatory guidance including the National Environment Protection (Assessment of Site Contamination) Measure 1999, as amended 2013.*
- *If the findings of subsequent investigation(s) indicate that remediation is required a RAP must be prepared by a suitably qualified environmental consultant.*
- *A 'SafeWork NSW Site Search for Schedule 11 Hazardous Chemicals on Premises' was pending at the time of this report. The results of the search should be reviewed and any findings incorporated into future phases of investigation*
- *A hazardous material survey (HAZMAT) should be undertaken on the residential dwelling and associated sheds prior to demolition in order to identify any potential hazardous building materials that may be present within the property*
- *Due to the presence of asbestos at the site, an Asbestos Management Plan (AMP) should be prepared to ensure asbestos is appropriately managed during remediation and redevelopment works;*
- *Any future works involving soil disturbance should incorporate an unexpected finds protocol to facilitate the identification and management of previously undocumented contamination;*
- *Any soil proposed for off-site excavation should be classified in accordance with the 2014 NSW EPA Waste Classification Guidelines Part 1 and*
- *Should future soil sampling identify risks to human health or the environment, these should be managed in accordance with the Contaminated Land Management Act 1997.*

Below is a list of the potential areas of environmental concern:

Lot 1002 DP 1192327, Lot 1 DP 588140 and Lot 2 DP 230137





	Further to the above, these structures and their immediate surrounds are the most likely locations for historical storage of chemicals onsite. As a result a consideration of environmentally persistent contaminants will need to be made in this area.
<b>PAEC04: Offsite Sources of Contamination</b>	Whytes Gully landfill, industrial properties adjacent to the northern boundary, West Dapto Catholic Cemetery adjacent west of the site and the power pole laydown area to the south have been identified as the highest risk sources of offsite contamination with the most likely pathway to the site being through discharges to watercourses running through the site, flooding during large storm events and/or groundwater or via airborne dust and other contaminants.

The PSI included the following recommendations for Lot 1002 DP 1192327, Lot 1 DP 588140 and Lot 2 DP 230137

- *A targeted site investigation should be undertaken in accordance with relevant regulatory guidance including the National Environment Protection (Assessment of Site Contamination) Measure 1999, as amended 2013. The targeted investigation should consider both soil, groundwater and surface water impacts, particularly migration of impacts through the site via watercourses from the north.*
- *Prior to any further sampling being undertaken it is recommended that extensive vegetation management (i.e. clearing and grubbing) be undertaken at the site to increase visibility of ground surfaces, particularly around identified PAECs. Following this another site visit should be conducted to ensure that any planned targeted investigation captures all areas of potential contamination impacts.*
- *If the findings of subsequent investigation(s) indicate that contamination is present on the site and remediation is required, then a Remedial Action Plan (RAP) must be prepared by a suitably qualified environmental consultant.*
- *Should future soil sampling identify risks to human health or the environment, these should be managed in accordance with the Contaminated Land Management Act 1997.*

Council has reviewed the submitted Planning Proposal and supporting documents and is aware the sites have a long-standing land used as farmland/ grazing with the following Potential Areas of Environmental Concern (PAEC):

- > PAEC 1 – Unknown quality and quantity of fill materials could be CWR, slag incl Copper Slag, asbestos containing material (ACM);
- > PAEC 2 – Above ground stockpiles with Unknown quality and quantity of fill materials could be CWR, slag incl Copper Slag, asbestos containing material (ACM);
- > PAEC 3 – Mechanical equipment storage and abundant vehicles;
- > PAEC 4 - Chemicals, fuels, liquid waste;
- > PAEC 5 – Asbestos sheeting and fragments across site;
- > PAEC 6 – Dams; and
- > PAEC 7 – onsite wastewater septic system (tanks and irrigation system).

The provisions of SEPP 55 – Remediation of Land, in addition to WDCP 2009 Chapter E20: Contaminated Land Management of WDCP 2009, will apply to future development proposals at these sites. In this regard, a NSW EPA accredited site auditor's Interim Advice Letter is required. That letter should state that a site auditor will review the site assessment, remediation, containment of groundwater contamination, ongoing monitoring and validation.

Upon completion of any site remediation and validation, the site auditor will issue a Site Audit Statement (SAS) and a Site Audit Report (SAR) to Council prepared under the Contaminated Land Management Act 1997 stating that the site is suitable for the proposed development. In addition, the site auditor will need to recommend any appropriate section 10.7 of the Environment Planning and Assessment Act 1979 wording for restrictions to be placed on the land.

Further for the purpose SEPP 55 contaminated land the applicant is to provide for a clear statement in their reports either in their executive summary or conclusion that the consent authority may be satisfied that the required considerations of CI 7 of SEPP55 are satisfied with justifiable reasoning. This statement must be concurred by the appointed site auditor as part of peer review of site contamination assessment and validation reports.

Should the proposal be granted a “gateway” determination, this work would be completed prior to exhibition, submitted, assessed, prior to the post-exhibition Council report.

It is envisaged that the final PP will be consistent with the SEPP 55 and the Ministerial Directions.

### **SEPP Coastal Management 2018**

The Coastal Management SEPP consolidates current coastal-related SEPPs. It replaces SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection) and seeks to ensure that future coastal development is appropriate and sensitive to our coastal environment, and that we maintain public access to beaches and foreshore areas.

The State Environmental Planning Policy (Coastal Management) 2018 (SEPP CM) is applicable to land adjacent to the M1 Motorway and southern rail line within Lot 1002 DP 1192327. The land identified under the SEPP CM mapping is currently zoned IN3 Heavy Industrial, however is currently being utilised for the grazing of livestock. The Ecological Constraints Assessment (ECA) identified and mapped the plant community type (PCT) as being Coastal freshwater lagoons of the Sydney Basin Bioregion and South East Corner Bioregion (PCT 781) in the eastern portion of the subject site. This PCT equates to the Biodiversity Conservation Act 2016 Freshwater wetlands on coastal floodplains Endangered Ecological Community and potentially the SEPP Coastal Management Coastal Wetlands. The area has been inspected by Council officers, DPIE-EES, BlueScope and their consultants. It appears that the vegetation community PCT 781 has established around a channel cut in the 1970s. It was agreed that the vegetation community type is present, however whether it qualifies to be mapped under the SEPP requires further assessment by DPIE-EES.

### **Q6: Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?**

The Minister for Planning, under section 9.1 of the EP&A Act issues Directions that relevant planning authorities, in this case Wollongong Council, must follow when preparing planning proposals for new Local Environmental Plans. The directions cover the following broad categories:

- employment and resources;
- environment and heritage;
- housing, infrastructure and urban development;
- hazard and risk;
- regional planning; and
- local planning making.

A complete assessment of the Planning Proposals consistency against all s.9.1 directions is provided at Table B. The following Ministerial Directions (s.9.1 Directions) are highlighted with respect to the Planning Proposal.

Directions 1.1 Business and Industrial Zones

Direction 2.1 Environmental Protection Zones

Direction 2.2 Coastal Management

Directions 2.3 Heritage Conservation

Direction 2.6 Remediation of Contaminated Land

Directions 3.1 Residential Zones

Direction 3.4 Integrating Land Use and Transport

Direction 4.3 Flood Prone Land

### **Directions 1.1 Business and Industrial Zones**

The objective of Directions 1.1 is to:

- a) *Encourage employment growth in suitable locations,*
- b) *Protect employment land in business and industrial zones, and*
- c) *Support the viability of identified centres.*

The Planning Proposal is not the result of a study; however, is identified in the Illawarra Shoalhaven Regional Plan 2041 as being within the West Lake Illawarra Growth Area. Council identifies the site within Stage 1 of the Kembla Grange as being within the residential urban release area and future employment lands.

The proposed industrial lands are separated from the existing R2: Low Density Residential and proposed R3 Medium density Residential zoned land by the existing Biobank site. However, the residential zoned land and industrial sites will be connected through planned infrastructure identified in Wollongong City Council's, West Dapto Development Contributions Plan.

The Planning Proposal is consistent with the Ministerial Direction.

### **Direction 2.1 Environmental Protection Zones**

The objective of Direction 2.1 is to *'The objective of this direction is to protect and conserve environmentally sensitive areas'*.

The direction indicates that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas and must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).



The proposal will not impact upon the existing Biobank site on BlueScope land west of West Dapto Road, within Lot 1 DP 588140 with a further 48.51 of native vegetation on E2 and E3 lands, including EEC's, proposed to be under a future Biodiversity Stewardship Site.

The Planning Proposal will result in portions of C2 Environmental Conservation and C3 Environmental Management (formerly E2 and E3) being rezoned to IN2 Light Industrial. However, the Planning Proposal will not result in amendments to development standards for the proposed and existing C2 Environmental Conservation and C3 Environmental Management zoned land. The loss of the vegetation in the E2 zone can be offset by credits from the BioBanking Agreement.

The Environmental Constraints Assessment submitted in support of the Planning Proposal notes The Biodiversity Conservation Act 2016, Serious and Irreversible Impact (SAIL) entity Illawarra Lowlands Grassy Woodland (ILGW) EEC, is present in the Planning Proposal area. The ECA notes there will be a need to demonstrate sufficient avoidance and minimisation measures to reduce the potential for a SAIL to occur to the ILGW EEC for future DA's.

The Planning Proposal includes establishing a 48.51 ha Biodiversity Stewardship site across Lot 1 DP 588139 and Lot 1 DP 588140 in consultation with the Biodiversity Conservation Trust and the NSW Department of Planning, Industry and Environment. The Biodiversity Stewardship site generally consists of land in proximity to vegetated riparian corridors that traverse the site currently zoned C2 and C3.

Council resolved the proposed 48.51 ha Biodiversity Stewardship site across Lot 1 DP 588139 and Lot 1 DP 588140 be supported in principle, subject to further consultation with Council Officers, the Biodiversity Conservation Trust and the NSW Department of Planning, Industry and Environment and the following be addressed prior to a Gateway Determination -

- a The applicant address the proposed dedication of E2 and E3 lands including the current western Biobank site and proposed Biodiversity Stewardship site, including details of in-perpetuity funding for the restoration and enhancement of the site.
- b The applicant discuss the potential for Biodiversity Certification of the Planning Proposal/Neighbourhood Plan area with the NSW Department of Planning, Industry and Environment to streamline and provide certainty in planning outcomes, future development and biodiversity impact assessment and offsetting.

Should the proposal be granted a "gateway" determination, this work would be completed prior to exhibition, submitted, assessed, prior to the post-exhibition Council report.

It is envisaged that the final Planning Proposal will be consistent with the Ministerial Direction

## **Direction 2.2 Coastal Management**

The objective of Direction 2.2 is to *'protect and manage coastal areas of NSW'*.

Land within the site is within the Coastal Use Area mapping and is currently zoned IN3 Heavy Industrial. Currently the land is being utilised for the grazing of livestock. The Ecological Constraints Assessment (ECA) identified and mapped the plant community type (PCT) as being Coastal freshwater lagoons of the Sydney Basin Bioregion and South East Corner Bioregion (PCT 781) in the eastern portion of the subject site.

This PCT equates to the Biodiversity Conservation Act 2016 Freshwater wetlands on coastal floodplains Endangered Ecological Community and potentially the SEPP Coastal Management Coastal Wetlands. The area has been inspected by Council officers, DPIE-EES, BlueScope and

their consultants. It appears that the vegetation community PCT 781 has established around a channel cut in the 1970s.

It was agreed that the vegetation community type is present, however whether it qualifies to be mapped under the SEPP requires further assessment by DPIE-EES.

### **Directions 2.3 Heritage Conservation.**

The objective of Direction 2.3 is to '*conserve items, areas, objects and places of environmental heritage significance and indigenous significance*'.

The Direction indicates that a planning proposal must contain provisions that facilitate the conservation of items of historical significance to an area.

#### Aboriginal Heritage

The site contains locations recorded under the Aboriginal Heritage Information Management System (AHIMS) and Council's mapping system, demonstrating a historic use of the land within West Dapto and the site, by the local Aboriginal people. Sites of Aboriginal significance identified under AHIMS are generally located in proximity to Dapto Creek, Sheaffes Creek and Robins Creek. The archaeological sites are mapped as having moderate to high significance. Additionally, there are several locations, which include fig trees, that are AHIMS pending and require further investigation. The significance of the fig trees to Aboriginal culture is acknowledged in the Archaeological Report. The Archaeological Report prepared by Biosis, dated 26 March 2020 recommends further testing of areas with a moderate – high Aboriginal archaeological potential. The Archaeological Report acknowledges local heritage item No. 6326 Group of Bunya Pines, Moreton Bay Figs and Hills Figs within Lot 1 DP 588139. The Arboricultural Development Assessment Report prepared by Moore Tree, dated June 2020 identifies the trees as 1-20 and recommends further testing for tree health be undertaken.

#### Heritage (European)

The SoHI identifies the local heritage item No. 5974, St John's Catholic Cemetery located on Lot 1 DP 1037747. The lot is not included in lands applicable to the draft Planning Proposal request. However, due to the proximity of the allotment to land to be rezoned to IN2 Light Industrial there is potential for the visual amenity of the site to be impacted upon. The SoHI concluded the visual impacts would be indirect and could be mitigated by establishing a visual barrier, through plantings to the east and a landscaped strip within the setback to West Dapto Road implemented through the introduction of site specific DCP controls.

Council's Heritage officer has noted the draft Planning Proposal request has the potential to impact upon a number of local heritage items and their buffers. Further design considerations limiting the potential visual impact on heritage items will be required at the neighbourhood planning stage.

#### Natural Heritage

Lot 1 DP 588139 contains heritage item number 6326 - Bunya Pines, Moreton Bay Figs and Hill Figs. Located in land zoned R2 Low Density Residential, the land is proposed to be utilised as a pocket park. The pines appear before 1949 aerial photography and are considered early examples of ornamental plantings and windbreaks utilised in the West Dapto area. The pines are likely associated with Clarke's historical hut and stockyards, which are no longer present upon the site.

The proposal includes land to be rezoned from R2 to R3 surrounding the pocket park, which is consistent with the discussion in the Statement of Heritage Impact (SoHI). While the rezoning is

unlikely to result in a negative impact upon the local heritage item, a danger exists from falling Bunya pinecones due to their size.

The Moreton bay Fig, Local heritage item 6329, is located on the east side of Dapto Creek and is within land zoned E3 Environmental Management. It is not expected the Planning Proposal will have an impact upon the heritage item. However, any development in the vicinity of the tree would result in a minor noise and visual impact that would not affect the significance of the item.

#### Non heritage listed items of importance

The submitted SoHI identifies the former Dapto radio telescope site and associated infrastructure, built in 1952, upon Lot 1 DP 588139. The site is not an identified heritage item, however it is recognised for its importance to Australia's contribution to early 20th century radio telescope research. The SoHI found the only features left of the observatory are concrete footings which are of low archaeological potential. The footings have been inspected by Council officers. The SoHI recommends at the neighbourhood planning stage, heritage interpretation be investigated and implemented. Signage should be provided nearby to recognise the role the site played in the development of radio telescope technology.

The site previously contained a number of farms, and some commercial buildings. The majority of the structures have been demolished, however sites may have archaeological values. The buildings were largely associated with veteran land grants throughout West Dapto and were examples of early European farming practices in the area. The structures, many of which have fallen into disrepair or been demolished, are not recognised as formal heritage items. As a result of the draft Planning Proposal, many of the former sites are to be redeveloped. The SoHI identifies the archaeological significance of the sites can range from high to low.

Council noted the archaeological provisions of the *NSW Heritage Act 1977* would need to be addressed in relation to the site in any future development proposals for the site. Council concurred with the SoHI, that at the Neighbourhood Planning stage there was the potential for interpretation opportunities to recognise the importance of the site.

Council resolved that the following occur prior to referring the draft Planning Proposal to the Department of Planning, Industry and Environment, until the following studies are submitted.

- Archaeological Testing of areas of moderate – high Aboriginal Archaeological Potential as recommended in the Biosis Archaeological Report.
- Archaeological Research and Design Report for Testing of Areas of high Archaeological Potential (non-Aboriginal) as recommended in the Biosis Archaeological Report.
- Tree Testing of Heritage Item No. 6326 to be carried out as recommended by the Arborist Report prepared by Moore Trees, dated June 2020.

Resulting from consultancy and HeritageNSW timeframes the applicant requested the required Heritage and archaeological information be submitted post gateway determination and prior to exhibition of the draft Planning Proposal.

Should the proposal be granted a “gateway” determination, this work would be completed prior to exhibition, submitted, assessed, prior to the post-exhibition Council report.

It is envisaged that the final Planning Proposal will be consistent with the Ministerial Direction.

#### **Direction 2.6 Remediation of Contaminated Land**

The objective of Direction 2.6 is to *‘reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities’*.

Council has reviewed the submitted Planning Proposal and supporting documents and is aware the sites have a long-standing land used as farmland/ grazing with the following Potential Areas of Environmental Concern.

In this regard, a NSW EPA accredited site auditor's Interim Advice Letter is required. That letter should state that a site auditor will review the site assessment, remediation, containment of groundwater contamination, ongoing monitoring and validation.

Upon completion of any site remediation and validation, the site auditor will issue a Site Audit Statement (SAS) and a Site Audit Report (SAR) to Council prepared under the Contaminated Land Management Act 1997 stating that the site is suitable for the proposed development. In addition, the site auditor will need to recommend any appropriate section 10.7 of the Environment Planning and Assessment Act 1979 wording for restrictions to be placed on the land.

Further for the purpose SEPP 55 contaminated land the applicant is to provide for a clear statement in their reports either in their executive summary or conclusion that the consent authority may be satisfied that the required considerations of CI 7 of SEPP55 are satisfied with justifiable reasoning. This statement must be concurred by the appointed site auditor as part of peer review of site contamination assessment and validation reports.

Should the proposal be granted a "gateway" determination, this work would be completed prior to exhibition, submitted, assessed, prior to the post-exhibition Council report.

It is envisaged that the final Planning Proposal will be consistent with the Ministerial Direction.

### **Direction 3.1 Residential Zones**

The objectives of Direction 3.1 are:

- (a) *to encourage a variety and choice of housing types to provide for existing and future housing needs,*
- (b) *to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and*
- (c) *to minimise the impact of residential development on the environment and resource lands.*

The Planning Proposal seeks to provide a diverse housing product including residential flat buildings, a mix of townhouses, semi-detached and semi attached dwellings on holdings, through R3 Medium Density Residential zone adjacent to Sheaffes Road.

The proposal is conducive with the nominated objectives.

### **Direction 3.4 Integrating Land Use and Transport**

The objectives of this Direction in relation to the Planning Proposal are to ensure that land use locations achieve the following planning objectives:

- (a) *improving access to housing, jobs and services by walking, cycling and public transport, and*
- (b) *increasing the choice of available transport and reducing dependence on cars, and*
- (c) *reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- (d) *supporting the efficient and viable operation of public transport services, and*
- (e) *providing for the efficient movement of freight.*



The Planning Proposal seeks to provide a diverse housing choice including medium density housing, traditional detached housing and dwellings on smaller lot holdings, through R3 Medium Density Residential zone adjacent to Sheaffes Road. access to various public facilities and public transport linkages to the Wollongong Town Centre.

The Planning Proposal is capable of complying with the nominated objectives.

#### **Direction 4.3 Flood Prone Land**

The objectives of Direction 4.3 are:

- (a) *to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005,*
- (b) *to ensure that the provisions of an LEP on flood prone land is commensurate with the flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

Direction 4.3 applies when a planning proposal creates, removes or alters a zone or a provision that affects flood prone land.

The subject site is located within the Mullet Creek catchment in the Wollongong LGA. The majority of the site is located within the catchments of Dapto Creek and Sheaffes Creek. A report prepared by Cardno (Water Cycle Management Study, 30 June 2020) to demonstrate that the proposal is in accordance with the environmental controls for floodplain management, stormwater management and water sensitive urban design.

Council reviewed the study and found the planning proposal is inconsistent with Direction 4.3(6)(a) & (c) of the Section 9.1 of the Ministerial Directions. The planning proposal would permit a range of development uses within a floodway area and permit a significant increase in the development of the land that is within a Floodway Area, High Flood Hazard, and Flood Planning Area. In addition to the proposed additional IN2 zoning is proposed within an existing floodway area which is contrary to section 4.3 (6) (a) of Section 9.1 of the Ministerial Directions, section 7.3 of the Wollongong LEP, Chapter E13 and Chapter D16 of the Wollongong DCP 2009.

In response to Council's comments the applicant submitted a Technical Memo, 31 August 2020.

Council's Flooding and Stormwater Engineers reviewed the submitted Technical Memo and provided an unsatisfactory referral response stating the proposed landform modifications resulted in an unacceptable impact on the environment through the modification of the riparian corridors.

Council's West Dapto Steering Committee referred the matter to the Executive Management Committee (EMC) seeking recommendations on how to progress the planning proposal in relation to flooding and associated environmental impacts. Council's EMC met on the 4 November 2021 and resolved that that Mullet Creek Floodplain Risk Management Study and Plan (FPRMS&P) would further test the Bluescope development scenario for the IN3 zoned land adjoining West Dapto Road as proposed through the Applicants draft Neighbourhood Plan and was not intended to demonstrate support for the proposal until further studies are undertaken.

The draft Planning Proposal is currently inconsistent with the flood prone land direction and additional information has been requested from the proponent. The information may necessitate changes to the planning proposal.

Should the proposal be granted a “gateway” determination, this work would be completed prior to exhibition, submitted, assessed, prior to the post-exhibition Council report.

It is anticipated the final Planning Proposal will be consistent with the Ministerial Direction.

### 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?**

Council’s mapping has identified a number of threatened flora and fauna species within 1000m radius of the subject site. Within the site and recorded on Council’s mapping are the following threatened fauna species:

- |                           |                                |
|---------------------------|--------------------------------|
| • Little Eagle            | Hieraaetus morphnoides         |
| • Grey Headed Flying fox  | Pteropus poliocephalus         |
| • Greater Broad nosed Bat | Scoteanax rueppellii           |
| • Large Bent winged Bat   | Miniopterus orianae oceanensis |

Additionally, the following threatened fauna was recorded on Council’s mapping:

- Chorizema parviflorum Benth      Chorizema parviflorum

In addition to the mapped threatened flora and fauna, the Endangered Ecological Communities identified under the Biodiversity Conservation Act 2016 (NSW) are mapped within the site

- Illawarra Lowlands Grassy Woodland MU24 and MU23

The following endangered ecological communities mapped under the Environmental Protection Biodiversity Conservation Act 1999 (Federal) are suspected within the site and are mapped in Council’s mapping system

- Illawarra and South Coast Lowland Forest and Woodland

The draft Planning Proposal request has the potential for some future environmental impacts. Areas where the draft Planning Proposal is likely to have potential environmental impacts are where land zoned for environmental purposes is to be rezoned to for industrial uses that contain identified Endangered Ecological Communities (EECs).

The Ecological Constraints Assessment (ECA) by Ecoplaning (2020) highlights the following -

- Preliminary site surveys did not locate any threatened flora species, and it was considered there is a low likelihood for these to be present in the highly disturbed areas that would be subject to future development.
- The presence of a seasonal roost camp of the threatened fauna species Grey-headed Flying Fox (GHFF) along West Dapto Creek.
- Other than the known seasonal GHFF, preliminary habitat-based fauna surveys did not locate any other threatened fauna species, however it is considered that there is a moderate to high likelihood of other threatened fauna occurring within the site.

- There is an existing Biobank site on BlueScope land west of West Dapto Road, within Lot 1 DP 588140 with a further 48.51 of native vegetation on C2 and C3 (formerly E2 and E3) lands, including EEC's, proposed to be under a future Biodiversity Stewardship Site.
- Ecological constraints categorised into High, Moderate and Low constraint classes are mapped across the subject site.
- The Biodiversity Conservation Act 2016, Serious and Irreversible Impact (SII) entity Illawarra Lowlands Grassy Woodland (ILGW) EEC, is present in the Planning Proposal area. The ECA notes there will be a need to demonstrate sufficient avoidance and minimisation measures to reduce the potential for a SII to occur to the ILGW EEC for future DA's.
- Areas of riparian corridors associated with Sheaffes and Dapto Creek are included on the NSW Government Biodiversity Values Map (BVM).
- Preliminary ecosystem and species offset credit calculations for future biodiversity impacts.
- In conclusion the ECA identifies -
- Future development in the Planning Proposal/Neighbourhood Plan area would impact on an estimated 22.98 ha of native vegetation and potential habitat for threatened species
- Future development applications are likely to trigger one or more of the thresholds for entry into the NSW Biodiversity Offset Scheme and this will require -
- Survey and assessment according to the Biodiversity Assessment Method (BAM) inclusive of targeted surveys for threatened flora and fauna species
- Preparation of Biodiversity Development Assessment Reports (BDARs) to accompany these development applications, determining the need for and quantifying offset obligations.
- A controlled activity approval will be required at the development assessment phase for development within 40 m of the top of bank of a watercourse, as required under the NSW Water Management Act 2000
- The proposed Biodiversity Stewardship Site (BSS) will require a Biodiversity Stewardship Site Assessment Report (BSSAR) in support of the establishment of the BSS and Biodiversity Stewardship Agreement.

**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 undertaken to address the site constraints in support of the Planning Proposal request. Below is a summary of the studies and findings:

**Flooding**

The Planning Proposal was presented at the 29 April 2021 meeting of the Wollongong Local Planning Panel seeking advice from the WLPP, as required under legislation. The WLPP were briefed on the reported flooding issues upon the site. The WLPP did not request further studies as it was identified in the reporting that this would be undertaken prior to the request for a Gateway determination.

The site is within the Mullet Creek catchment and includes the sub-catchments of Dapto Creek and Sheaffes Creek catchments. The Water Cycle Management Study conducted by Cardno (2020) proposes a number of land modifications to mitigate flooding impacts to the proposed Industrial lands should the draft Planning Proposal request proceed. The earthworks discussed in the draft Neighbourhood Plan include the fill of a farm dam and unclassified watercourse.

Council considered the submitted draft Planning Proposal request required filling of watercourses contradicting Section 9.1 Local Planning Direction 4.3, clause 7.3 of the Wollongong LEP, and Chapters E13 and D16 of the Wollongong Development Control Plan 2009.

During the assessment of the draft Planning Proposal request, a new Local Planning Direction No 4.3 – Flood Prone Land, commenced on 14 July 2021. As the draft Planning Proposal request was submitted previous to the commencement of the local planning direction, both the previous Direction and newly commenced Direction have been considered as part of the assessment.

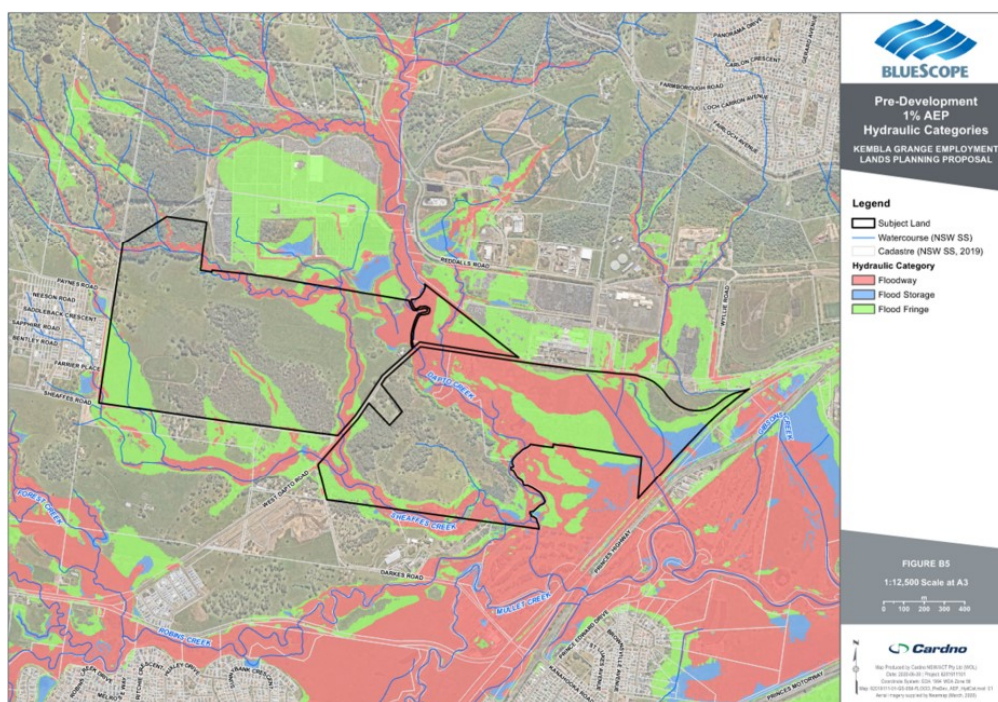


Figure 2: Pre-development Site Flood Affection

The majority of Lot 1002 DP 1192327 and Lot 2 DP 230137 is mapped as a flood planning area. The IN3 Heavy Industrial zoned land is generally flood affected in proximity to the watercourse traversing the site. Land to be rezoned IN3 is limited to the Land with a present land use zoning of SP2 Infrastructure and is mapped as currently being partially flood affected.

The draft Planning Proposal request seeks to rezone multiple areas of C3 (formerly E3) Environmental Management to IN2 Light Industrial. The proposed land to be IN2 Light Industrial, notably in proximity to Dapto Creek is generally flood affected and will require modification and filling of the watercourse.

Council considered the draft Planning Proposal request at the meeting held 19 July 2021, which included how the sites can be developed with the existing flood constraints will need to be considered as part of the draft Neighbourhood Plan and any future Development Application.

Following the meeting of Council, the applicant submitted a technical memo, dated 31 August 2020, which sought introduce and number landform modifications, which include cut and fill to fulfill the requirements of WDCP 2009, WLEP 2009 and the Ministerial Directions, to:

- *Maintain or replace the flood conveyance that the industrial pad will occupy.*
- *Offset flood storage lost from development footprint*



- Low maintenance
- Net positive ecological outcome
- Sensitive to adjacent creek and downstream coastal wetland.



Figure 3: Proposed Drainage Concept

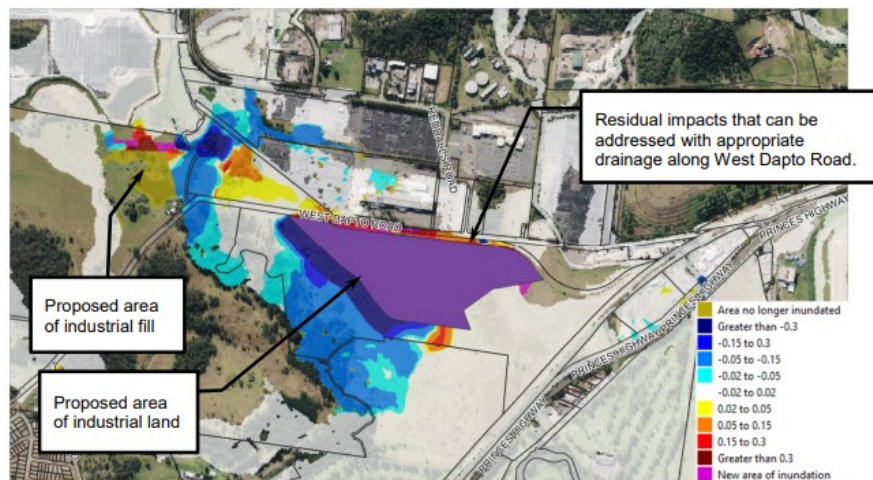


Figure 4: 1% AEP flood impacts (preliminary)

Councils Flooding and Stormwater Engineers reviewed the submitted Technical Memo and provided an unsatisfactory referral response stating the proposed landform modifications resulted in an unacceptable impact on the environment through the modification of the riparian corridors.

Council's West Dapto Steering Committee referred the matter to the Executive Management Committee (EMC) seeking recommendations on how to progress the planning proposal in relation to flooding and associated environmental impacts. Council's EMC met on the 4 November 2021 and resolved that that Mullet Creek Floodplain Risk Management Study and Plan (FPRMS&P) would further test the Bluescope development scenario for the IN3 zoned land adjoining West

Dapto Road as proposed through the Applicants draft Neighbourhood Plan and was not intended to demonstrate support for the proposal until further studies are undertaken.

### Bushfire Assessment Report

A bushfire assessment was undertaken by Peterson Bushfire Ref:18156 (2020) in accordance with *Planning for Bushfire Protection 2019* (PBP). The report identifies a number of vegetated areas as bushfire hazards throughout the site.

The bushfire assessment provided the following recommended mitigation measures:

#### Asset Protection Zones –

- **Residential zone west of West Dapto Road**
  - North: Forest downslope 36m
  - North East: Forest downslope 29m
  - East: Woodland 16m
- **Residential zoning east of West Dapto Road (removed from Planning Proposal)**
  - East: Forest downslope 29m
  - South: Woodlands upslope/flat 12m
- **Light industrial zoning**
  - Various locations: Woodlands and Forest ranged between upslope/flat/downslope minimum of 6 m defensible space
- *Future subdivisions and development applications will need to demonstrate that the developable zones can be managed and landscaped to achieve the fuel management standard of an inner protection Area. An exception is the stand of trees within the R2 zone adjacent the biobanking site which can be maintained as an Outer Protection Area (OPA).*
- *Provision of defensible space to the light industrial zones consisting of public roads and minimum 6 m wide fire access roads.*
- *Vegetation management across all developable zones to achieve IPA standard.*
- *Adequate access for emergency response and evacuation consisting of alternate access to the existing road network for the residential zones.*
- *Compliant road widths and design for all zones.*
- *Adequate water supply for all developable zones to allow fire-fighting operations by fire authorities.*

The NSW Rural Fire Service (RFS) will be notified of the draft Planning Proposal and given an opportunity provide comments, as part of the public exhibition process should a gateway approval be obtained.

The Planning Proposal was presented at the 29 April 2021 meeting of the Wollongong Local Planning Panel seeking advice from the WLPP, as required under legislation. The WLPP did not raise concerns regarding the draft Planning Proposal request.

A Planning Proposal would be able to adequately address the requirements of Planning for Bushfire Protection 2019.

Further road design considerations will be provided during the Neighbourhood Planning Stage that address Planning for Bushfire Protection 2019.

### Geotechnical

The site is not identified in Council's mapping system identified as being within a known landslip known area. However, as the site is located in proximity to Lake Illawarra the proposal was referred to Council's Geotechnical Engineering Section for comments. Council's Geotechnical Engineering section raise no objections to the draft Planning Proposal and considered the site suitable for the intended land uses.

### Site Contamination

The site has been mapped as contaminated land resulting from previous land uses.

The applicant submitted two preliminary site investigation (PSI) with the draft Planning Proposal request (Cardno 1 May 2019 for land at Lot 1 DP 588139 and Cardno 19 September for land at Lot 1002 DP 1192327; Lot 1 DP 588140 and Lot 2 DP 230137). The submitted PSI found potential areas of environmental concern that included locations of earthworks and filling, stockpiles and general tipping, historical and current building footprints and offsite sources of contamination.

Council has reviewed the submitted Planning Proposal and supporting documents and is aware the sites have a long-standing land used as farmland/ grazing with the following Potential Areas of Environmental Concern (PAEC):

- > PAEC 1 – Unknown quality and quantity of fill materials could be CWR, slag incl Copper Slag, asbestos containing material (ACM);
- > PAEC 2 – Above ground stockpiles with Unknown quality and quantity of fill materials could be CWR, slag incl Copper Slag, asbestos containing material (ACM);
- > PAEC 3 – Mechanical equipment storage and abundant vehicles;
- > PAEC 4 - Chemicals, fuels, liquid waste;
- > PAEC 5 – Asbestos sheeting and fragments across site;
- > PAEC 6 – Dams; and
- > PAEC 7 – onsite wastewater septic system (tanks and irrigation system).

The provisions of SEPP 55 – Remediation of Land, in addition to WDCP 2009 Chapter E20: Contaminated Land Management of WDCP 2009, will apply to future development proposals at these sites. In this regard, a NSW EPA accredited site auditor's Interim Advice Letter is required. That letter should state that a site auditor will review the site assessment, remediation, containment of groundwater contamination, ongoing monitoring and validation.

Upon completion of any site remediation and validation, the site auditor will issue a Site Audit Statement (SAS) and a Site Audit Report (SAR) to Council prepared under the Contaminated Land Management Act 1997 stating that the site is suitable for the proposed development. In addition, the site auditor will need to recommend any appropriate section 10.7 of the Environment Planning and Assessment Act 1979 wording for restrictions to be placed on the land.

Further for the purpose SEPP 55 contaminated land the applicant is to provide for a clear statement in their reports either in their executive summary or conclusion that the consent authority may be satisfied that the required considerations of CI 7 of SEPP55 are satisfied with justifiable reasoning. This statement must be concurred by the appointed site auditor as part of peer review of site contamination assessment and validation reports.

Should the proposal be granted a "gateway" determination, this work would be completed prior to exhibition, submitted, assessed, prior to the post-exhibition Council report.

It is envisaged that the final Planning Proposal will be consistent with the SEPP 55 and the Ministerial Directions

### **Foreshore Building Line**

The site is not located within the Foreshore Building Line.

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

#### **Aboriginal Heritage**

The site contains locations recorded under the Aboriginal Heritage Information Management System (AHIMS) and Council's mapping system, demonstrating a historic use of the land within West Dapto and the site, by the local Aboriginal people. Sites of Aboriginal significance identified under AHIMS are generally located in proximity to Dapto Creek, Sheaffes Creek and Robins Creek. The archaeological sites are mapped as having moderate to high significance. Additionally, there are several locations, which include fig trees, that are AHIMS pending and require further investigation. The significance of the fig trees to Aboriginal culture is acknowledged in the Archaeological Report. The Archaeological Report prepared by Biosis, dated 26 March 2020 recommends further testing of areas with a moderate – high Aboriginal archaeological potential. The Archaeological Report acknowledges local heritage item No. 6326 Group of Bunya Pines, Moreton Bay Figs and Hills Figs within Lot 1 DP 588139. The supporting Arboricultural Development Assessment Report prepared by Moore Tree, dated June 2020 identifies the trees as 1-20 and recommends further testing for tree health be undertaken.

Council requested the proponent undertake the following studies pertaining to Aboriginal heritage and archaeology -

- Archaeological testing of areas with a moderate – high Aboriginal archaeological potential, as per recommendation in the Biosis Archaeological Report
- Testing Report for Tree Health on Local Heritage No. 6326, as per the recommendations of Moore Trees dated June 2020.

The proponent indicated to Council soil testing associated with tree health had been carried out as requested and came back as being inconclusive. Council Heritage Officer requested the results from the soil samples be returned to Council. The proponent is yet to provide Council with the requested soil samples and as such the matter remains outstanding.

It is expected that should DPIE approve a Gateway Determination to progress the proposal the results are to be submitted to Council prior to public exhibition of a draft Planning Proposal.

Archaeological testing identified in Recommendation 1, of the Archaeology Report submitted by Biosis, requires further testing under a Section 140 Excavation Permit and the subsequent preparation of an Archaeology Research Design.

Council noted the testing is required and that the proposal should be notified to Heritage NSW for Comment under the Heritage Act. The proponent has told Council the testing and associated discussions with Heritage NSW will be undertaken; yet, requested the Planning Proposal be progressed and a Gateway determination be sort prior to the submission of testing results and feedback from Heritage NSW as a result of time delays associated.



Should the proposal be granted a “gateway” determination, this work would be completed prior to exhibition, submitted, assessed, prior to the post-exhibition Council report.

The draft PP is currently inconsistent with the Heritage direction and additional information has been requested from the proponent. The information may necessitate changes to the planning proposal.

It is envisaged that the final PP will be consistent with the Direction.

#### **Section D – State and Commonwealth interests**

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

###### **Utilities**

The site has the potential to be serviced by all utilities.

The following easements are located on Lot 1002 DP 1192327 and where noted, on Lot 1 DP 588140:

- Easement for water supply (5.5 – 5.8 metres wide) on the northern edge of the allotment adjacent to West Dapto Road.
- 2 x Transmission easement for electricity crossing the site in a north-easterly direction (combined width of 48.77 metres). The easement for electricity also traverses the eastern portion of Lot 1 DP 588140.
- Easement for Jemina Gas pipeline (20 metres wide) traversing the eastern most portion of the site.
- Easement for cathodic protection (3 metres wide) located on the eastern most portion of the site.

The draft Planning Proposal does not seek to alter the existing easements. Further design detail and consultation with stakeholders will be required at the neighbourhood planning stage.

###### **Roads**

The site will be accessible from West Dapto Road, Sheaffes Road, the future extension of Northcliffe Drive and associated connecting roads, which are identified in the West Dapto Contributions Plan. Additional planned infrastructure servicing the IN2 Light Industrial lands not identified West Dapto Contributions Plan will at the cost of the developer.

Development of the subject site as proposed will require the construction and potential dedication to Council of new roads.

###### **Development Contributions**

The approval and subsequent construction of any future residential development of the site will involve a contribution towards the provision of facilities in accordance with the West Dapto Contributions Plan 2020.

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

Preliminary Consultation was sought from a number of agencies. Their comments are noted within the Council report and have been incorporated within the recommendation of the Planning proposal.

Subject to a positive Gateway determination and based on the identified issues and constraints, consultation is required with the following agencies and departments:

- NSW Department of Planning, Industry and Environment – Environment, Energy and Science
- NSW Department of Planning, Industry and Environment - Natural Resources Regulator
- NSW Rural Fire Service
- Department of Education
- Endeavour Energy
- Transport for NSW
- State Emergency Services
- Sydney Water
- Heritage NSW
- Jemena
- Illawarra Local Aboriginal Lands Council.

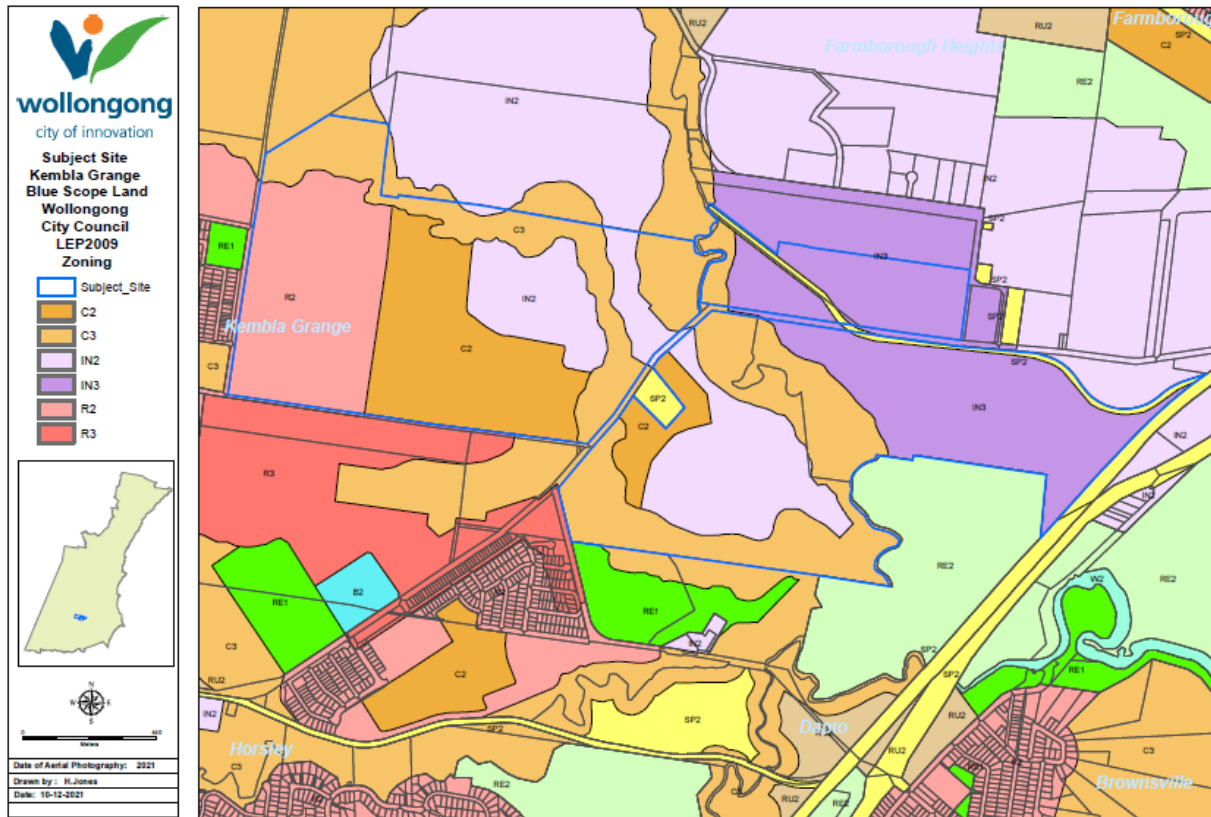
Council requests that Gateway nominate any additional State or Commonwealth authorities required for consultation. All identified authorities/stakeholders will be notified during the exhibition period.

**Part 4 – Mapping****MAPS TO IDENTIFY THE INTENT OF THE PLANNING PROPOSAL**

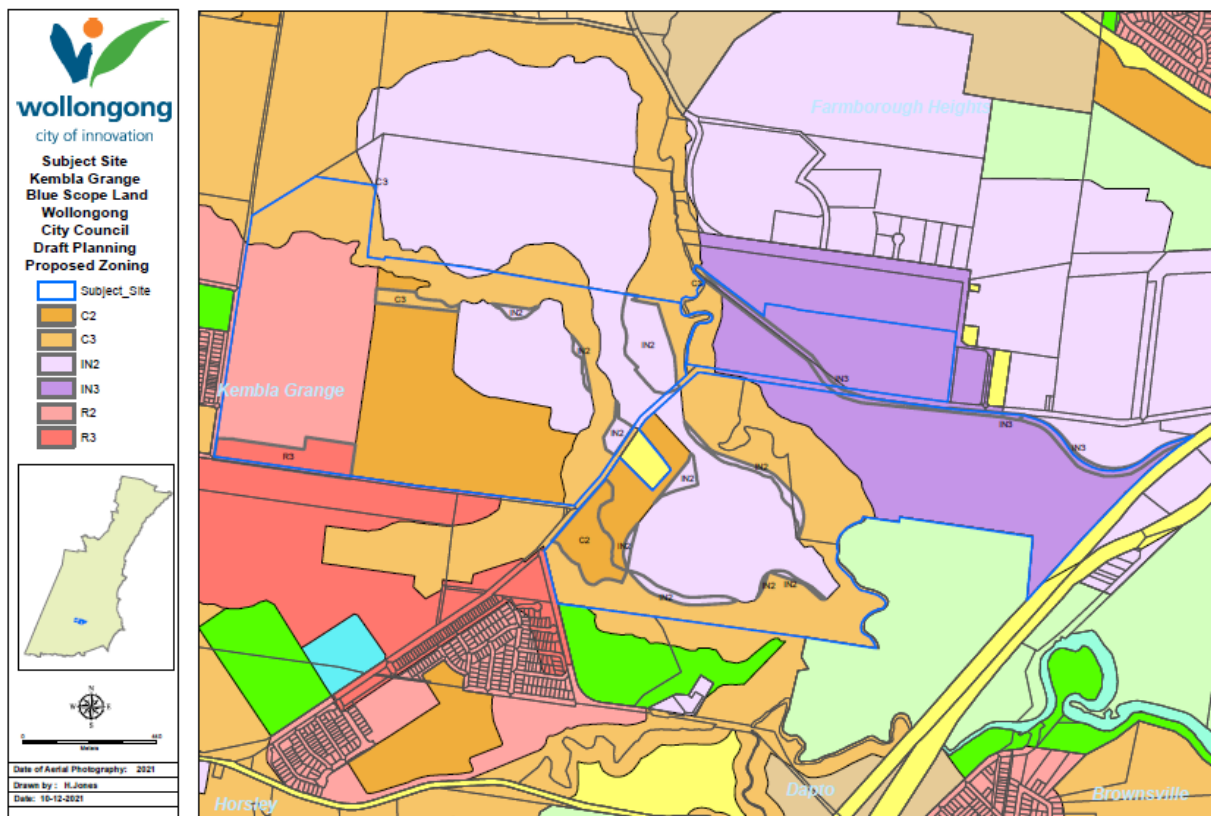
**Proposed Planning Controls:** changes are proposed to the Zoning Map, Minimum Lot Size Map, and Floor Space Ratio Map. Following are the current Zoning, Minimum Lot Size and Floor Space Ratio Maps for the site, and the proposed map amendments to Wollongong LEP 2009:

## Land Zoning Map sheet LZN\_010 8450\_COM\_LZN\_010\_020\_20210616

## Existing Land Zoning Map

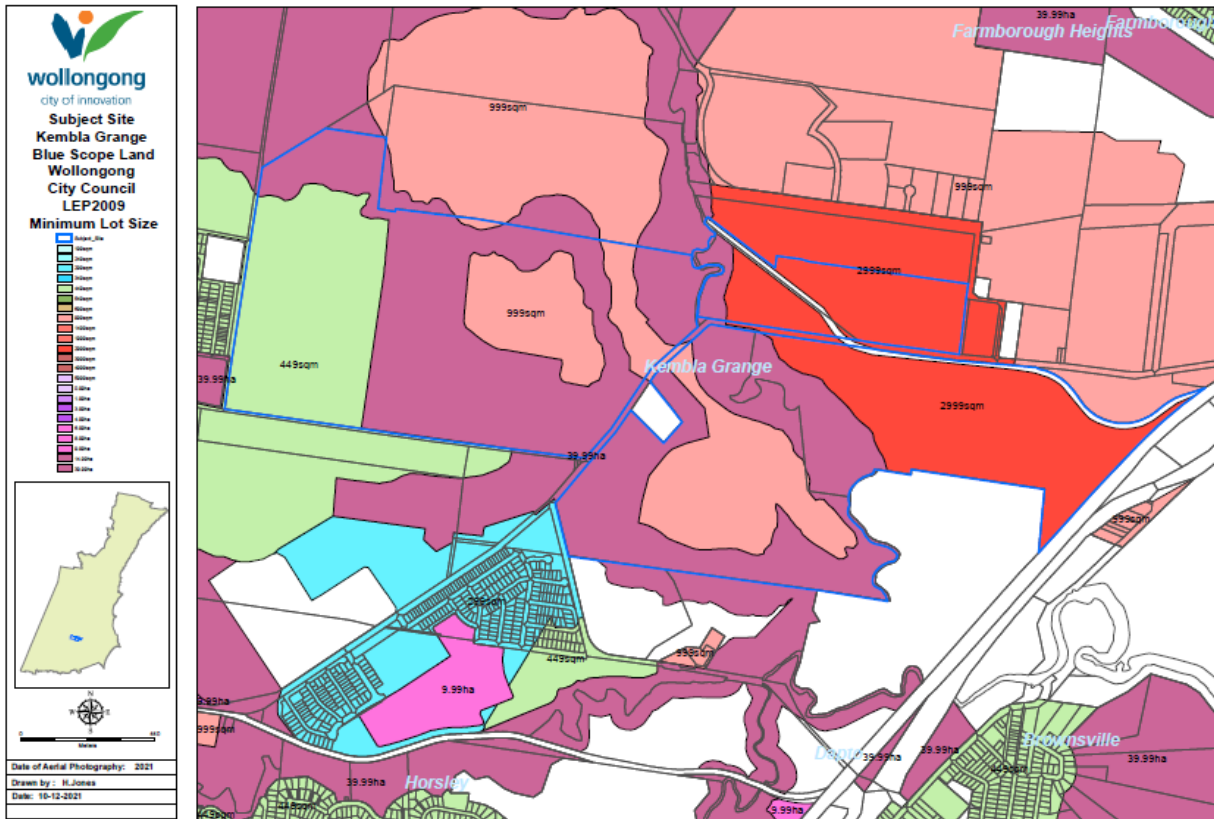


## Proposed Land Zoning Map

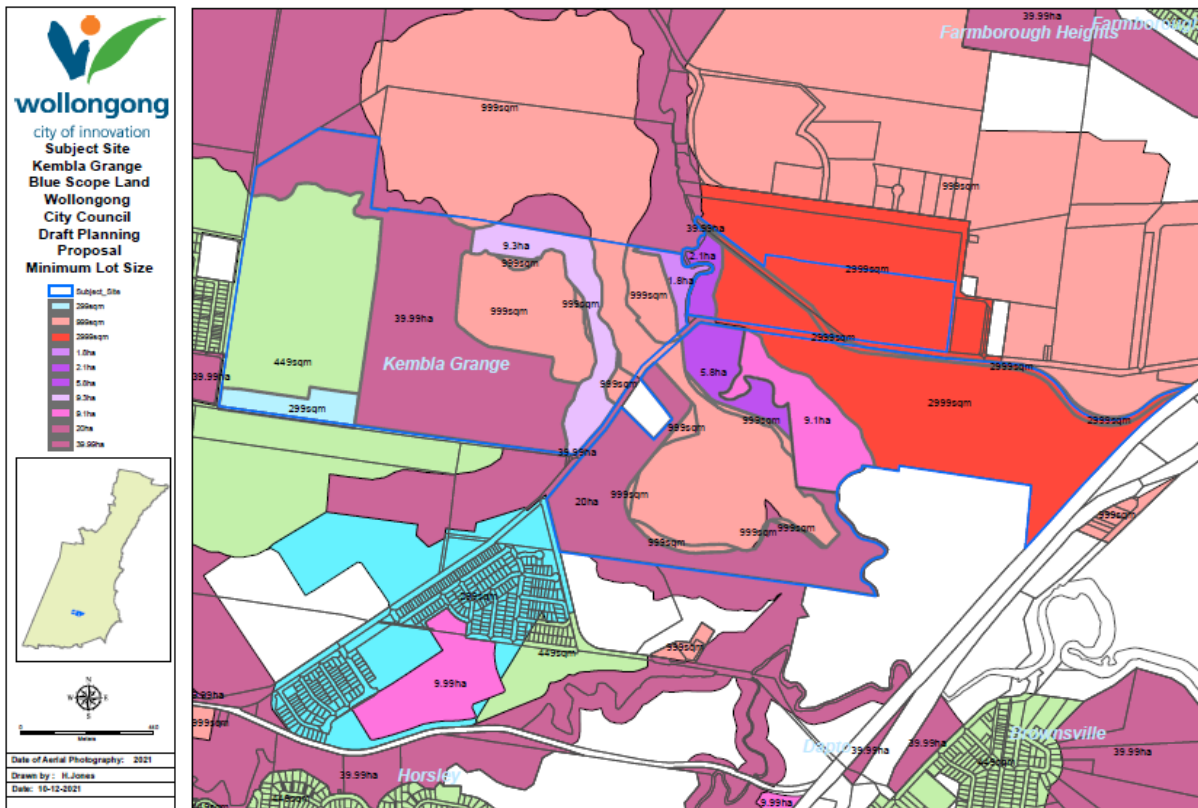


Lot Size Map sheet: LSZ\_010 8450\_COM\_LSZ\_010\_020\_20210616

Existing Lot Size Map



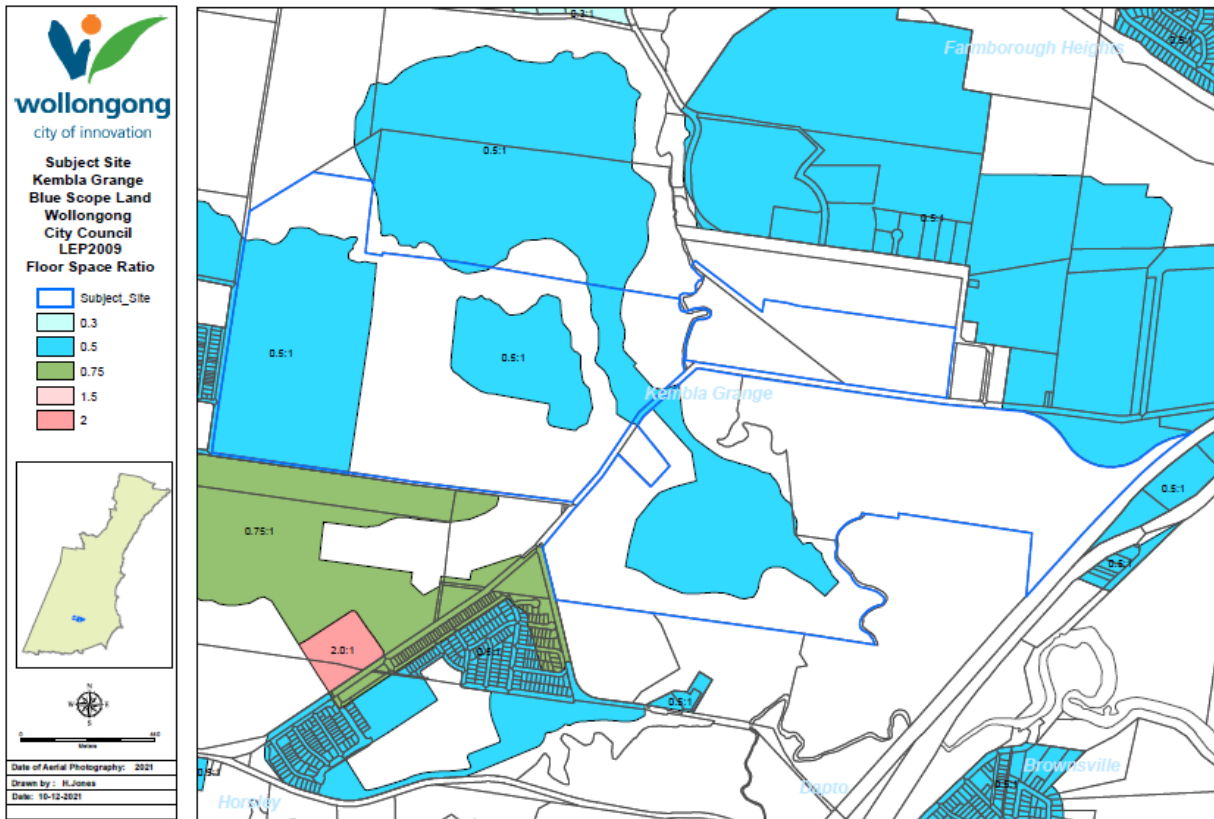
Proposed Lot Size Map



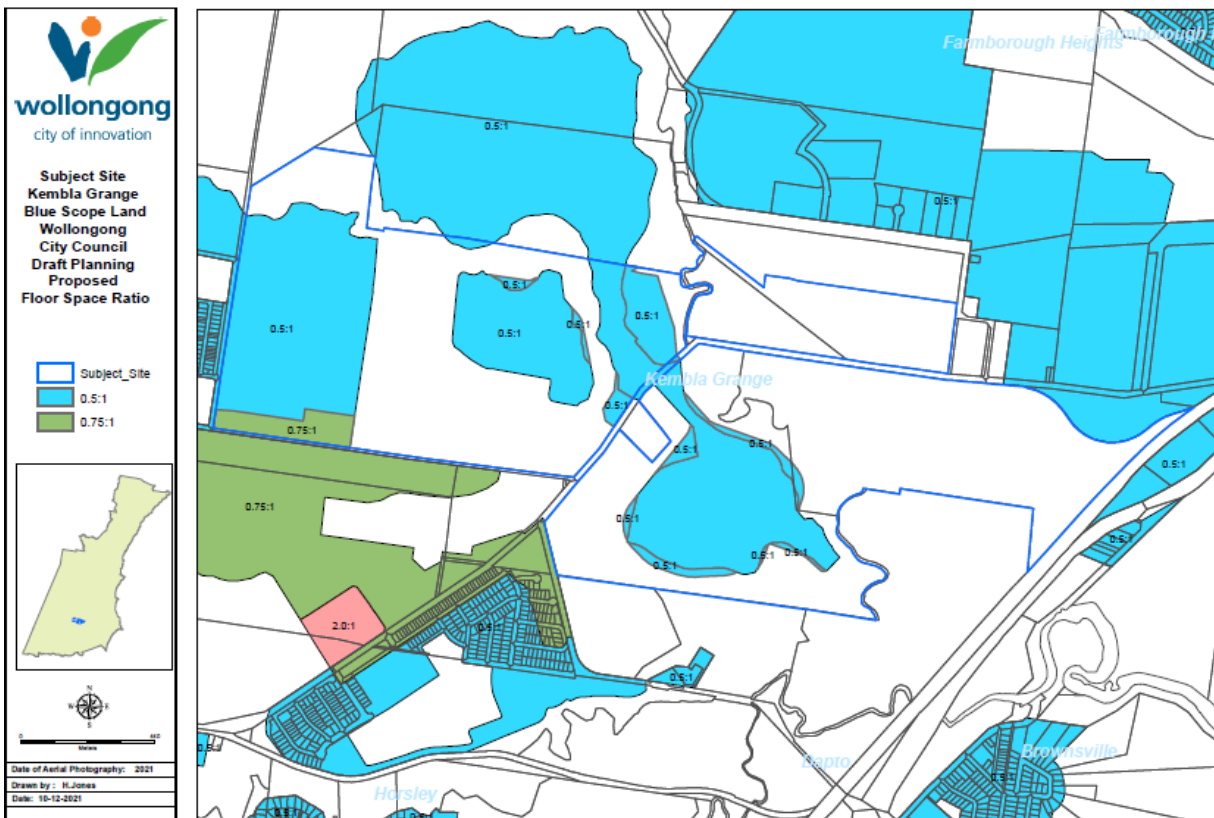


## Floor Space Ratio Map sheet: FSR\_010 8450\_COM\_FSR\_010\_020\_20210616

## Existing Floor Space Ratio Map

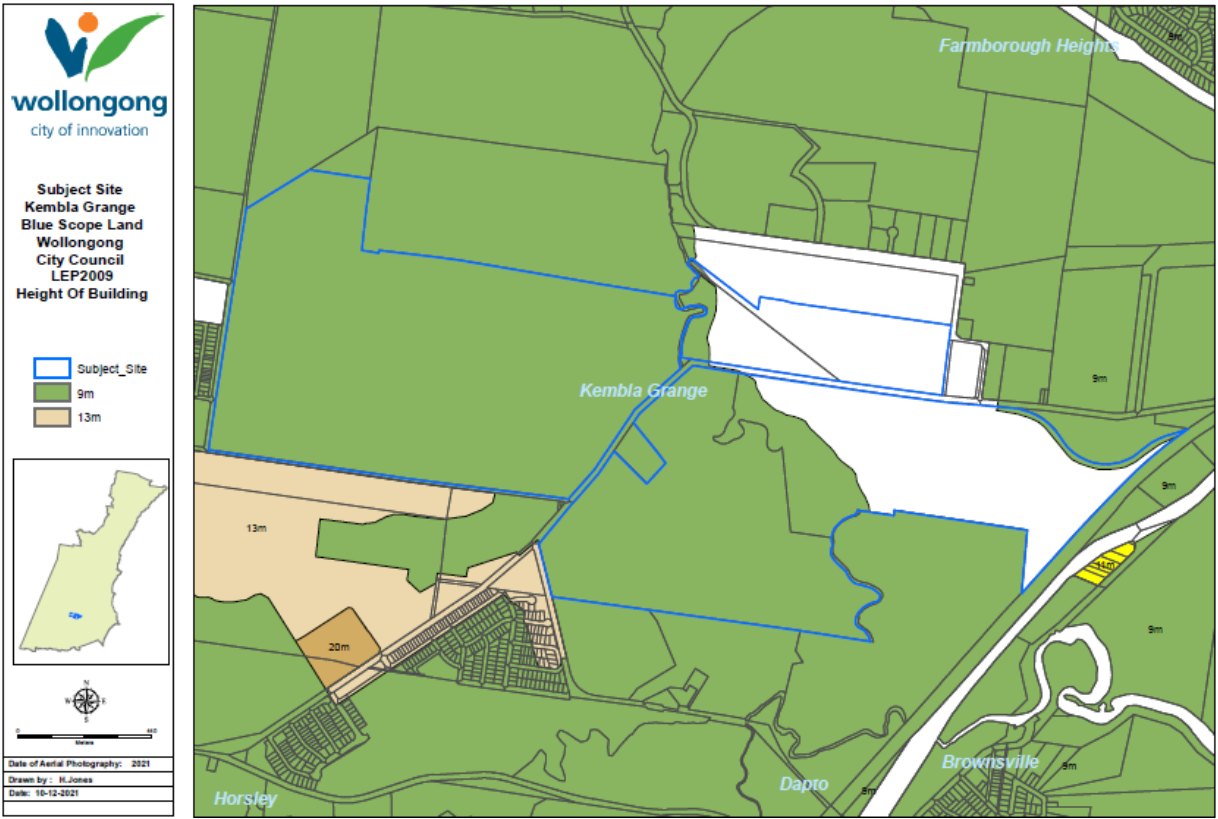


## Proposed Floor Space Ratio

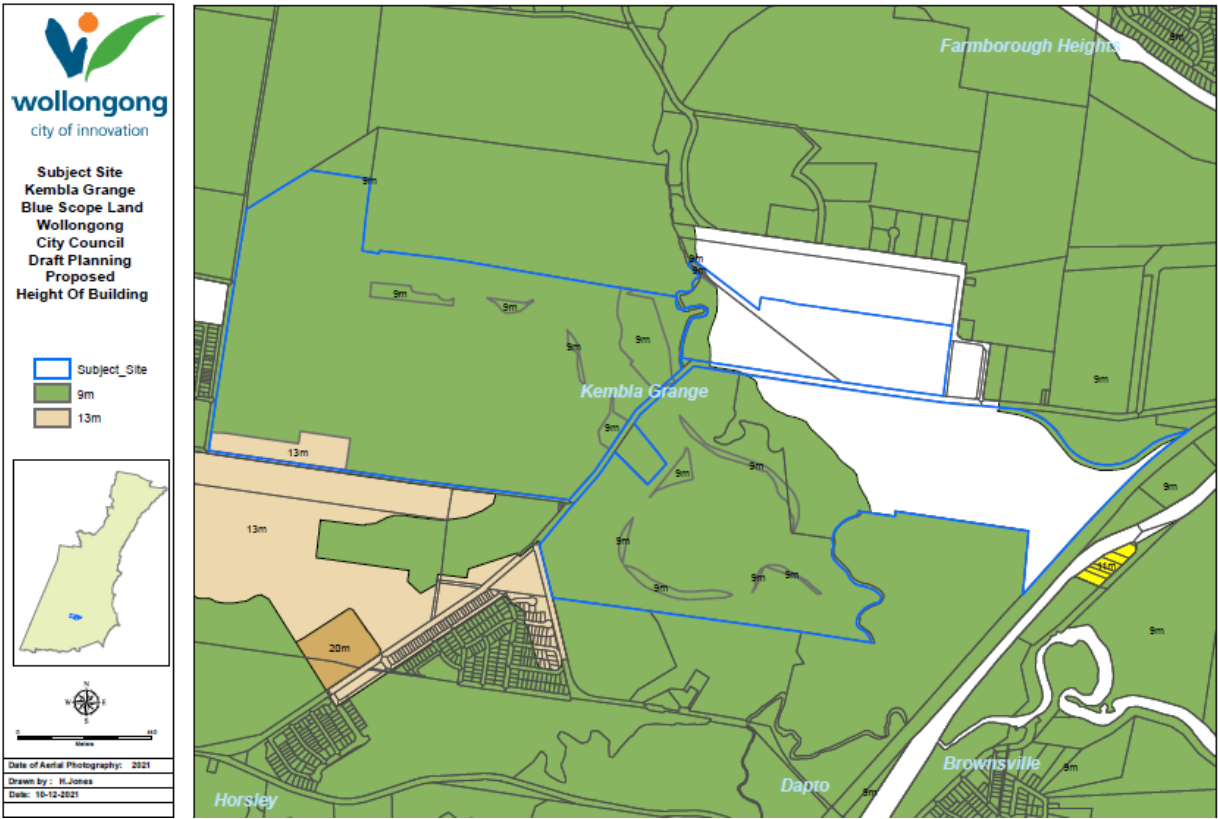


Height of Buildings Map Sheet: HOB\_010 8450\_COM\_HOB\_010\_020\_20210616

Existing Height of Buildings Map



Proposed Height of Buildings Map



## Part 5 – Community Consultation

### Public Exhibition

Should a Gateway Determination be issued, a further period of community consultation in the form of public exhibition will be held.

The requirements for this consultation is determined by the EP&A Act and the minimum requirements for this consultation are identified in section 4.5 of A Guide to Preparing Local Environmental Plans (Department of Planning 2009 & Infrastructure 2013). The requirements set out in section 4.5 relate to the notification requirements and what material is to be made available for inspection.

Furthermore, should the Planning Proposal be supported, Council will request that the Planning Proposal be exhibited for a period of 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;*
- *Notification letters to relevant State agencies and other authorities nominated by the NSW Department of Planning, Industry and Environment (but not limited to).*

## Part 6 – Projected Timeline

A primary goal of the plan making process is to reduce the overall time taken to produce LEPs. This timeline tentatively sets out expected timelines for major steps in the process. These timeframes are subject to change and are to be used as a guide only. The Minister may consider taking action to finalise the LEP if timeframes approved for the completion of the Planning Proposal are significantly or unreasonably delayed.

#	Action	Estimated Timeframe	Responsibility
1	Anticipated date of Gateway Determination	January 2021	Department of Planning, Industry and Environment
2	Anticipated completion of required technical studies	Prior to Exhibition	Consultant
3	Government agency consultation	2 month period	Agencies
4	Public exhibition period	1 month period	Council
5	Date of Public Hearing	N/A	Council
6	Consideration of submissions	2 month	Council
7	Assessment of proposal post-exhibition	2 months	Council
8	Report to Council	1 month	Council

9	Final Planning Proposal prepared	1 month	Council
10	Submission to Department for finalisation of LEP	1 month	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 Department for notification	1 month	Council
13	Anticipated date LEP will be notified	1 month	<i>Parliamentary Counsel and DPIE</i>



**Table A - Checklist of State Environmental Planning Policies**

State Environmental Planning Policy		Compliance	Comment
SEPP No. 19	Bushland in Urban Areas	Does not apply to Wollongong	Not Applicable
SEPP No. 21	Caravan Parks	Not Applicable	Not Applicable
SEPP No. 33	Hazardous and Offensive Development	Consistent	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.  Land zoned for potential hazardous and offensive development are suitably located and separated from proposed and existing residential and urban areas.
SEPP No. 36	Manufactured Home Estates	Not Applicable	Not Applicable
SEPP No. 47	Moore Park Showground	Does not apply to Wollongong	Not Applicable
SEPP No. 50	Canal Estate Development	Not Applicable	Not Applicable
SEPP No. 55	Remediation of Land	Applicable.  Capable of complying.	The site has been mapped as contaminated land resulting from previous and adjoining land uses.  Council has made a number of recommendations detailed within Section B and Section C of the draft Planning Proposal.  It is envisaged the Planning Proposal can comply with the provisions of the SEPP,
SEPP No. 64	Advertising and Signage	Consistent	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP No. 65	Design quality of residential flat development	SEPP 65 provides minimum design guidelines for residential flat building, shops top housing and mixed use development with residential accommodation.	The proposal is capable of complying with provisions of the SEPP.

State Environmental Planning Policy		Compliance	Comment
SEPP No. 70	Affordable Housing (revised schemes)	Repealed Consistent	Repealed The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	Aboriginal Land 2019	Not Applicable	Not Applicable The site is not mapped as being land owned by the Wollongong Local Aboriginal Lands Council.
SEPP	Activation Precincts 2020	Not Applicable	Not Applicable
SEPP	Affordable Rental Housing 2009	Repealed Consistent	Repealed The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	Building Sustainability Index: BASIX 2004	Consistent	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	Coastal Management 2018	Applicable	<p>The site is mapped as being affected by Coastal Use Area and Environmental Area under the Coastal Wetlands and Littoral Rainforests Area Map within the SEPP (Coastal Management) 2018.</p> <p>The proposal does not seek to rezone land within the affected portions of the site that are mapped as being within contained Coastal Management zone.</p> <p>It appears that the vegetation community PCT 781 has established around a channel cut in the 1970s. It was agreed that the vegetation community type is present, however whether it qualifies to be mapped under the SEPP requires further assessment by DPIE-EES.</p>
SEPP	Concurrence and Consents 2018	Not Applicable	Not Applicable to this Planning Proposal

State Environmental Planning Policy		Compliance	Comment
SEPP	Educational Establishments and Child Care Facilities 2017	Consistent	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	Exempt and Complying Development Codes 2008	Not Applicable	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	Gosford City Centre 2018	Not Applicable	Not Applicable
SEPP	Housing	Applicable. Capable of complying. SEPP not introduced at the time of drafting.	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	Housing for Seniors or People with a Disability 2004	Consistent	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	Infrastructure 2007	Capable of complying	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	Major Infrastructure Corridors 2020	Capable of complying	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	Koala Habitat Protection 2021	Consistent	The site does not represent 'potential koala habitat' or 'core koala habitat'
SEPP	Kosciuszko National Park – Alpine Resorts 2007	Does not apply to Wollongong	Not Applicable
SEPP	Kurnell Peninsular 1989	Does not apply to Wollongong	Not Applicable
SEPP	Mining, Petroleum Production and Extractive Industries 2007	Not Applicable	Not Applicable
SEPP	Penrith Lakes Scheme 1989	Does not apply to Wollongong	Not Applicable

State Environmental Planning Policy		Compliance	Comment
SEPP	Primary Production and Rural Development	Not Applicable	Not Applicable
SEPP	State and Regional Development 2011	Applies to the State	Not Applicable
SEPP	State Significant Precincts 2005	Not Applicable	Not Applicable to this Planning Proposal
SEPP	Sydney Drinking Water Catchments 2011	Not Applicable	Not Applicable
SEPP	Sydney Region Growth Centres 2006	Does not apply to Wollongong	Not Applicable
SEPP	Three Ports 2013	Not Applicable	Not Applicable
SEP	Urban Renewal 2010	Not Applicable	Not Applicable
SEPP	Vegetation in Non-Rural Areas 2017	Consistent	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	Western Sydney Aerotropolis 2020	Not Applicable	Not Applicable
SEPP	Western Sydney Employment Area 2009	Not Applicable	Not Applicable
SEPP	Western Sydney Parklands 2009	Not Applicable	Not Applicable

Deemed SEPPS (former Regional Plans)			
Illawarra REP 1	Illawarra	Repealed within Wollongong	Not Applicable
Illawarra REP 2	Jamberoo	Does not apply to Wollongong	Not Applicable
Greater Metropolitan REP No.2	Georges River Catchment	Not Applicable	Not Applicable



**Table B - Checklist of Section 9.1 Ministerial Directions**

Ministerial Direction	Comment
<b>1. Employment and Resources</b>	
1.1 Business and Industrial Zones	<p>The industrial sites are bound by the proposed Northcliffe Drive Extension, West Dapto Road and a mix of environmental and SP2 (West Dapto Cemetery) zoned land.</p> <p>The proposed industrial lands are detached from existing and proposed residential zoned land. The separation will ensure there is minimum land use conflict between residential and industrial land uses.</p> <p>The site is an identified location in the Illawarra-Shoalhaven Regional Plan 2041 as employment lands that will support job growth in the West Illawarra location.</p> <p>The proposal is considered to be generally consistent the Ministerial Direction.</p>
1.2 Rural Zones	Currently the site is largely utilised for rural uses. However, the site is not zoned for rural uses and therefore, the Proposal is not inconsistent with the Ministerial Direction
1.3 Mining, Petroleum Production and Extractive Industries	Not Applicable
1.4 Oyster Aquaculture	Not Applicable
1.5 Rural Lands	Currently the site is largely utilised for rural uses. However, the site is not zoned for rural uses and therefore, the Proposal is not inconsistent with the Ministerial Direction
<b>2. Environment and Heritage</b>	
2.1 Environment Protection Zone	<p>The Planning Proposal seeks to rezone portions of C2 Environmental Conservation and C3 Environmental Management (formerly E2 Environmental Conservation and E3 Environmental Management).</p> <p>The Planning Proposal is not the result of a study; however, is identified in the Illawarra Shoalhaven Regional Plan 2041 as being within the West Lake Illawarra Growth Area. Council identifies the site within Stage 1 of the Kembla Grange as Employment lands.</p> <p>The draft Planning Proposal also proposes the establishment of a Biodiversity Stewardship site. The proposed 48.51 ha Biodiversity Stewardship Site proposes the in-perpetuity protection of environmental values on site, including EECs in association with the Biodiversity Conservation Trust and the NSW Department of Planning, Industry and Environment.</p>
2.2 Coastal Management	The Planning proposal does not seek to rezone land to a more intensive land use

	<p>within the Coastal Protection Zones.</p> <p>The Planning Proposal will result in the modification of the landform to provide developable IN3 Heavy Industrial zoned land.</p> <p>The applicant has been requested to provide further information regarding site flooding, that will have further consequences on Coastal zone impacts.</p> <p>The area has been inspected by Council officers, DPIE-EES, Bluescope and their consultants. It appears that the vegetation community PCT 781 has established around a channel cut in the 1970s. It was agreed that the vegetation community type is present, however whether it qualifies to be mapped under the SEPP requires further assessment by DPIE-EES.</p>
2.3 Heritage Conservation	<p>The site contains Aboriginal and European heritage items.</p> <p>Council has requested further archaeological studies be undertaken prior to satisfying the Ministerial Directions.</p> <p>Heritage Conservation remains outstanding.</p>
2.4 Recreation Vehicle Areas	Not Applicable
2.5 Application of C2 and C3 (formerly E2 and E3) Zones and Environmental Overlays in Far North Coast LEPs	Not Applicable
2.6 Remediation of Contaminated Land	<p>The proposal acknowledges the site has contamination,</p> <p>Additional information has been requested regarding site contamination.</p> <p>It is envisaged the site can be rehabilitated to enable residential and industrial development.</p>
<b>3. Housing, Infrastructure and Urban Development</b>	
3.1 Residential Zones	<p>Consistent.</p> <p>The proposal is considered consistent with this direction and objectives as the land will be adequately serviced and provide flexibility in the type of housing that can be delivered and enable a design that minimises impacts on the environment.</p> <p>As such, the Planning Proposal is not inconsistent with Direction 3.1.</p>
3.2 Caravan Parks and Manufactured Home Estates	Not Applicable
3.3 Home Occupations	Not Applicable
3.4 Integrating Land Use and Transport	<p>The site is convenient to the Dapto and Underra Town Centre and existing community facilities.</p>

	<p>Additionally, these locations are services by public transport, including rail and bus services.</p> <p>The site is also well serviced within the existing road infrastructure network and will be benefitted by the extension of the Northcliffe Drive.</p> <p>The Planning Proposal is capable of consistency.</p>
3.5 Development Near Regulated Airports and Defence Airfields	<p>The site is in proximity of the Shoalhaven Airport, and as such, Lot 1 DP 588139 is mapped as having an obstacle limitation surface of 110 m to 200 m Australian Height Datum.</p> <p>It is not expected the Planning Proposal will impact upon the operations of the airport as the site has a maximum building height of 9 m and the site has a maximum contour height of approximately 48 m.</p>
3.6 Shooting Ranges	Not Applicable
3.7 Reduction in non-hosted short term rental accommodation period	Not Applicable
<b>4. Hazard and Risk</b>	
4.1 Acid Sulfate Soils	<p>Portions of the subject site are classified as – Class 5, Class 4 and Class 3 Acid Sulfate Soils.</p> <p>Council's Geotechnical Engineer reviewed the draft Planning Proposal request and raised no objections.</p> <p>The Planning Proposal is capable of consistency.</p>
4.2 Mine Subsidence and Unstable Land	Not Applicable
4.3 Flood Prone Land	<p>The subject site has been identified as flood prone land.</p> <p>The Planning Proposal is partially inconsistent with the with this Direction.</p> <p>Council has requested additional information from the applicant regarding flood prone lands.</p> <p>Should the Planning Proposal obtain a 'Gateway' approval the applicant is to submit further information to Council in support of the application and prior to public consultation.</p>
4.4 Planning for Bushfire Protection	<p>The subject site has areas identified as Bush Fire Prone Land.</p> <p>The proposal is capable of complying with the Direction.</p>

<b>5. Regional Planning</b>	
5.1 Implementation of Regional Strategies	Not Applicable – see 5.10
5.2 Sydney Drinking Water Catchments	Not Applicable
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- the Planning Proposal is consistent with the objectives of the Illawarra-Shoalhaven Regional Plan 2041, and Illawarra Escarpment Strategic Management Plan (2015)
5.11 Development of Aboriginal Land Council land	Not Applicable
<b>6. Local Plan Making</b>	
6.1 Approval and Referral Requirements	The proposal is consistent with this Direction because it does not alter the provisions relating to approval and referral requirements.
6.2 Reserving Land for Public Purposes	The Planning Proposal seeks to identify land to be acquired and maintained for public open space. The proposal is considered to be generally in accordance with this Direction.
6.3 Site Specific Provisions	The proposal will not introduce a site specific provision. No other amendments are proposed, and the proposal will not result in any unnecessarily restrictive planning standards.
<b>7. Metropolitan Planning</b>	
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Not Applicable
7.2 Implementation of the Greater Macarthur Land Release Investigation	Not Applicable
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not Applicable
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not Applicable
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not Applicable
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not Applicable
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not Applicable
7.8 Implementation of the Western Sydney Aerotropolis Plan	Not Applicable
7.9 Implementation of Bayside West Precincts 2036 Plan	Not Applicable
7.10 Implementation of Planning Principles for the Cooks Cove	Not Applicable



Precinct	
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	Not Applicable
7.12 Implementation of Greater Macarthur 2040	Not Applicable