



EF23/8036

Gateway determination report – PP-2023-1259

Large R2 lots interfacing Illawarra Escarpment –
Multiple lots

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Acknowledgment of Country

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

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1 Planning proposal

1.1 Overview

Table 1 Planning proposal details

LGA	Wollongong
PPA	Wollongong City Council
NAME	Large R2 lots interfacing Illawarra Escarpment
NUMBER	PP-2023-1259
LEP TO BE AMENDED	Wollongong LEP 2009
ADDRESS	Multiple lots
RECEIVED	28/07/2023
FILE NO.	EF23/8036: IRF23/1730
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to amend zones, minimum lot size and floor space ratio controls on some land adjoining or close to the Illawarra Escarpment to reduce the development potential on land where development is likely to have a negative impact on environmental values.

The proposal will also rezone a small area at the rear of residential lots at Gahnia Street, Figtree from C4 to R2 to align zone and lot boundaries.

The objectives of this planning proposal are clear and adequate when considered with the explanation of provisions.

1.3 Explanation of provisions

The planning proposal seeks to amend the Wollongong LEP 2009 to:

- Rezone land from R2 Low Density Residential to a mix of C4 Environmental Living, C3 Environmental Management and C2 Environmental Conservation. There is one area proposed to be rezoned from R2 to RE1 Public Recreation and one to SP2 Infrastructure. In Figtree – the rear portion of residential lots at Gahnia Street Figtree will be rezoned from C4 to R2 to remove a split zone and align the zone with the lot boundary.
- Amend FSR controls from 0.5:1 to 0.3:1 on blocks larger than 710m2

- Amend minimum lot size map (see PP for specific changes)

The proposal, at pages 4 – 12, list the specific changes for each of the 68 affected lots.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The planning proposal relates to 68 properties between Farmborough Heights and Stanwell Park that adjoin the Illawarra Escarpment, or are in close proximity to the mapped Escarpment, and which Council identifies as being unsuitable for intensive residential development due to cultural, scenic and environmental values and constraints.

The Illawarra Escarpment forms a natural and scenic backdrop to the coastal lands of the Illawarra – the coastal plain becomes narrower heading north from Wollongong. The Illawarra Escarpment Strategic Management Plan 2015 maps the 'Illawarra Escarpment' but the differences in landform/topography in different locations makes it difficult to clearly demarcate the boundary between the escarpment and the foothills and residential areas. Council has identified that the lands subject to this planning proposal have environmental values and characteristics similar to mapped escarpment land.

Maps on pages 34-70 of the planning proposal identify each property and the proposed changes to development controls for each site.

1.5 Mapping

The planning proposal includes maps showing the proposed changes to the land zoning, floor space ratio and minimum lot size maps. These are clear and suitable for community consultation.

1.6 Background

The planning proposal implements actions in the Department of Planning and Environment endorsed Wollongong Housing Strategy 2023 (WHS) which was prepared to guide housing policy in the Wollongong LGA over the next 10-20 years. The WHS identified, as one of many recommendations, the need for a review of large residential lots near the Illawarra Escarpment which have the theoretical potential for increased housing, which Council considered inappropriate as it may have a negative impact on scenic, cultural and environmental values.

In April 2023 Council prepared the 'Review of Residential large lots in proximity to the Illawarra Escarpment'. This desktop review considered values and constraints for each of the properties – slope, bushfire, biodiversity, flood, etc. The review made recommendations for each area. The review found that the environmental values and constraints made many of the lots unsuitable for significant housing density and that the land should be 'down-zoned' to reflect the actual development potential. Dwelling houses will still be permitted on these lands but the opportunity for dual occupancies, multi-dwelling housing and the creation of small lots will be removed.

The WHS noted that any theoretical loss of housing would be more than offset by other recommendations which included exploring opportunities to increase densities in centres.

The Department of Planning and Environment endorsed the WHS but noted that this did not constitute pre-emptive endorsement of any particular planning proposal, which would need to be considered on merit and would require adequate justification.

2 Need for the planning proposal

As noted above, the planning proposal is the result of Council's strategic planning work and will implement actions in the WHS.

The planning proposal is the only means to achieve Council's desired outcome for these lands and reduce the potential environmental impacts of increased development on escarpment lands.

3 Strategic assessment

3.1 Regional Plan

The planning proposal is consistent with the following objectives of the Illawarra Shoalhaven Regional Plan (ISRP).

Objective 11: Protect important environmental assets.

Objective 12: Build resilient places and communities.

Objective 13: Increase urban tree cover.

Objective 18: Provide housing supply in the right locations.

Objective 19: Deliver housing that is more diverse and affordable.

Objective 22: Embrace and respect the region's local character.

The ISRP supports housing in centres that are well serviced by infrastructure.

3.2 Local

The proposal states it is consistent with Council's local strategic plans.

Wollongong Housing Strategy

The planning proposal is consistent with the following WHS strategies:

- Enable housing of the appropriate type in appropriate locations, with suitable landform, access to public transport, town centres and supporting infrastructure that is planned, costed and programmed within an achievable timeline.
- Retain the Illawarra Escarpment as a conservation area, with very limited opportunity for additional dwellings.
- Protect the Illawarra Escarpment, Hacking River catchment, significant bushland and ecological areas, floodplains, coastline and other sensitive locations from inappropriate housing development.
- Illawarra Escarpment Foothills (Farmborough Heights to Stanwell Park) – decrease residential development potential due to environmental constraints.

It implements the following WHS action:

- Review the zoning of large lots in the Illawarra Escarpment foothills to reduce development potential.

3.3 Local planning panel recommendation

On 31 October 2022 the Wollongong Local Planning Panel considered a report on this proposal. The Panel found that the proposal was consistent with the WHS and recommended that the proposal be progressed.

3.4 Section 9.1 Ministerial Directions

The planning proposal is considered to be generally consistent with relevant section 9.1 Directions. The planning proposal includes a comprehensive discussion of applicable Directions and those of particular relevance are addressed below:

Direction 1.1 Implementation of Regional Plans

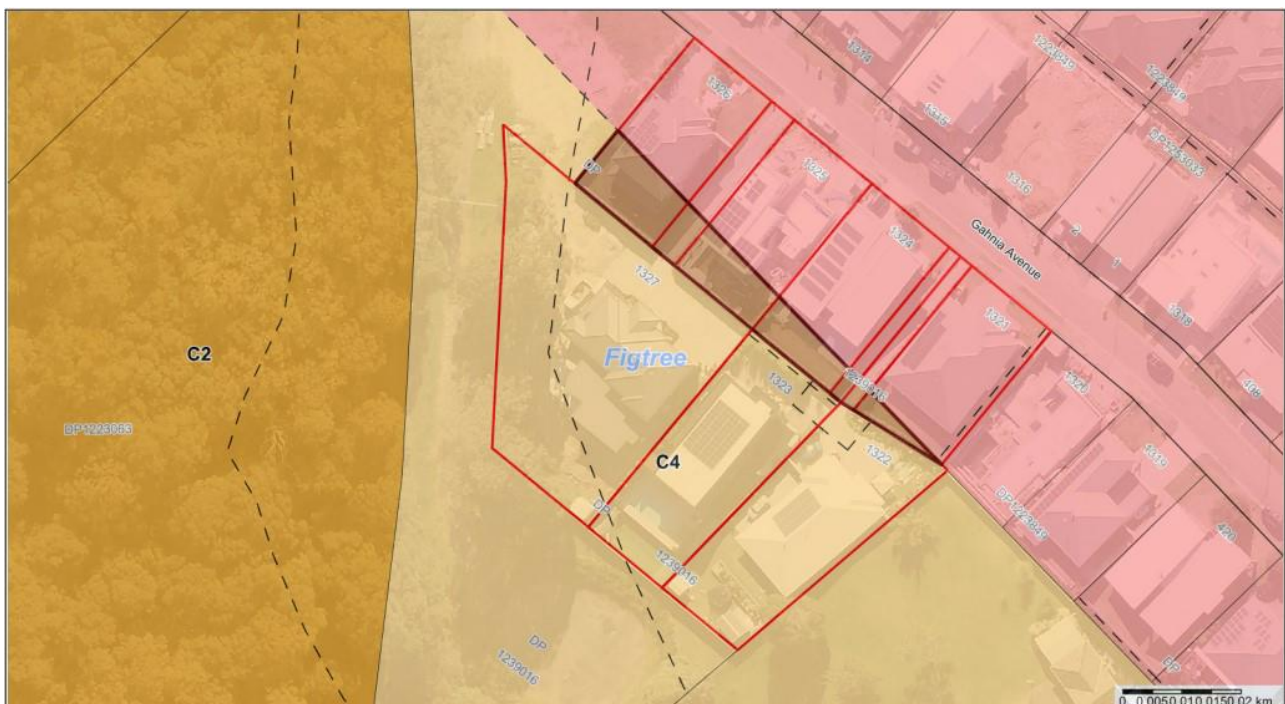
This Direction requires planning proposals to be consistent with any relevant Regional Plan.

As discussed above, this proposal is not inconsistent with the Illawarra Shoalhaven Regional Plan 2041. It will protect the Illawarra Escarpment, a significant environmental and cultural asset in the region, from overdevelopment without sterilizing the land – as dwelling houses will remain permissible. While the proposal does theoretically reduce housing supply, it is considered appropriate to apply a zone that reflects the characteristics and development potential of the land.

Direction 3.1 Conservation Zones

The intent of this Direction is to protect and conserve environmentally sensitive areas. It states that a planning proposal must not reduce conservation standards applying to land identified for environmental conservation.

This proposal will apply an environmental zone to land within and near the Illawarra Escarpment thereby providing improved conservation outcomes for these lands. However, the proposal will rezone a small area of land in Figtree from C4 to R2 to align the zone and lot boundaries (Figure 1)



4.1 Flooding

This Direction requires planning proposals affecting flood prone land to be consistent with the NSW Flood Prone Land Policy and other NSW Government policies and guidelines relating to flooding. Planning proposals must not permit development in floodway areas or permit a significant increase in dwelling density.

Many of the lands subject to this proposal are mapped as flood prone land. However, as the intent of the proposal is to reduce the potential for development, it is considered consistent with the objections and terms of this Direction.

4.3 Planning for Bushfire Protection

This Direction aims to protect life, property and the environment from bushfire hazards by discouraging incompatible land uses and encouraging sound management.

This proposal applies to bush fire prone land and, under the terms of this Direction, the relevant planning authority must consult with the Commissioner of NSW Rural Fire Service following the receipt of a Gateway determination.

The intent of this proposal is to minimise development density and increase environmental protection.

It is recommended that the Secretary agree that this proposal will be consistent with this Direction following consultation with the NSW RFS.

6.1 Residential Zones

This Direction aims to encourage a range of housing types in well serviced locations and minimise the impact of residential development on the environment.

The Direction states that a planning proposal must not reduce the permissible residential density of land.

This proposal does reduce permissible housing density so is inconsistent with the terms of this Direction.

A planning proposal may be inconsistent with this Direction if it is justified by a strategy approved by the Secretary. In this case, the proposal is addressed in the Wollongong Housing Strategy, which was endorsed by the Secretary's delegate. This proposal aims to restrict housing in areas considered unsuitable for significant development while still allowing dwellings as a permissible use.

It is recommended that the Secretary agree that the inconsistency with Direction 6.1 is justified.

3.5 State environmental planning policies (SEPPs)

The proposal is not inconsistent with the objectives of relevant SEPPs including the Housing SEPP, Biodiversity and Conservation SEPP, and the Resilience and Hazards SEPP.

4 Site-specific assessment

4.1 Environmental

The proposal will reduce the number of houses that can be built on the subject properties to limit negative impacts of development on the environmental and cultural values of the Illawarra Escarpment. It prioritises protection of the environment and is not expected to have a negative impact on critical habitats or threatened species.

The proposal relates to land that is mapped as bushfire prone, flood affected, and with geotechnical constraints. The proposal seeks to minimise the risk associated with these constraints by limiting the number of future dwellings.

4.2 Social and economic

The proposal will 'down-zone' land currently zoned for residential development so it is likely that owners of the subject properties will not be supportive of the proposal and they will be disadvantaged by devaluing the land by reducing the potential development yield.

The Department has been contacted by an owner who is extremely distressed by the proposed changes to zones and controls as they bought their land with the intention of future subdivision. This opportunity will be removed by this proposal.

Council has argued that any loss of housing is theoretical as the lands are not considered suitable for higher density development due to constraints such as bushfire, flooding, stability, biodiversity, stability, scenic impacts etc. Council estimates that the theoretical reduction in housing in the Escarpment foothills would be approximately 470 potential lots. Council has advised that any potential loss of housing in these areas will be offset by proposed measures to encourage medium density housing in other areas and that there will be an increase in overall yields. The WHS aims to concentrate more residential development and higher residential densities in areas considered to be most suited to housing.

Council has pointed to development applications for subdivision and development at 14 Cosgrove Avenue, Keiraville which were not supported by Council or the Southern Regional Planning Panel as an example that the current residential zone does not mean that development will be approved.

Applying a zone that reflects the characteristics and values of the land is an important planning principle and will assist in dampening expectations which may see landowners spending significant money preparing development applications and studies only to be refused.

The proposal does not sterilise the land as dwellings will remain a permissible use. It will however remove the opportunity for dual occupancies, multi-dwelling housing and the creation of smaller lots.

It is important that landowners will have the opportunity to express their concerns during the exhibition period. Council, as planning proposal authority, will be required to consider all issues raised in submissions.

5 Consultation

5.1 Community

A community consultation period of 28 days is considered appropriate.

5.2 Agencies

Council has nominated the public agencies to be consulted about the planning proposal. This is considered appropriate.

- NSW Department of Planning and Environment - Biodiversity Conservation Division
- NSW Rural Fire Service
- NSW Ambulance Service
- Transport for NSW/ Roads and Maritime Services

- RailCorp
- State Emergency Services
- Sydney Water
- NSW Heritage
- Endeavour Energy
- Jemena
- Illawarra Local Aboriginal Lands Council.

6 Timeframe

The Department recommends a time frame of 12 months to complete the LEP amendment.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal is generally consistent with the Illawarra Shoalhaven Regional Plan and consistent with Council's strategic planning – including the Wollongong Housing Strategy- the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported as it is consistent with Council's strategic planning, and relevant state plans and policies. It is anticipated the proposal will provide housing at an appropriate scale while limiting the impacts upon the scenic, cultural, and environmental attributes of the land in proximity to the escarpment.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 3.1 Conservation Zones and 6.1 Residential Zones are minor or justified and that the proposal will be consistent with 4.3 Planning for Bushfire Protection following consultation with the NSW Rural Fire Service.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Consultation is required with the following public authorities:

- NSW Department of Planning and Environment - Biodiversity Conservation Division
- NSW Rural Fire Service
- NSW Ambulance Service
- Transport for NSW/ Roads and Maritime Services
- RailCorp

- State Emergency Services
- Sydney Water
- NSW Heritage
- Endeavour Energy
- Jemena
- Illawarra Local Aboriginal Lands Council.

NB. Consultation with NSW Rural Fire Service must occur prior to community consultation to satisfy the terms of Direction 4.3 Planning for Bushfire Protection.

2. The planning proposal should be made available for community consultation for a minimum of 28 days
3. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



16/8/23

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