

LOCAL GOVERNMENT AREA: Wollongong City Council

NAME OF LEP: Wollongong Local Environmental Plan 2009

21 Barham Place, Horsley

PP-2024/1

ADDRESS OF LAND: 21 Barham Place, Horsley including:

Table 1: Subject site information

Lot Description	Property Address	Owner	Area (HA)
203	1290802	Private	32.94



Figure 1: Subject Site - 21 Barham Place, Horsley

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Part 1 – Objective and intended outcomes

Objective

The objective of the Planning Proposal is to facilitate the potential for increased residential development upon the site while increasing environmental protections through partially rezoning the site for conservation land use.

Intended Outcomes

Provide additional R2 Low Density Residential zoned land for housing within the West Dapto Urban Release Area (WDURA) that is consistent with the Illawarra Shoalhaven Regional Plan 2041 and the Wollongong Housing Strategy 2023.

Rezone land to C3 Environmental Management from RE2 Private Recreation. The C3 Land Use zone better reflects the current use of land and provides appropriate environmental protections for lands associated with the riparian corridor that traverses the eastern boundary of the site.

Part 2 – Explanation of provisions

Part 2.1 Summary of Proposed Amendments

The proposal seeks to amend the Wollongong Local Environmental Plan 2009 mapping to allow for further low-density residential development on portions of the site that elevated above the Probable Maximum Flood level and are adjacent to sites already developed for residential uses. This also requires amendment to the Minimum Lot Size mapping and Floor Space Ratio Mapping.

The proposal also seeks to rezone portions of the site that are mapped as flood prone from RE2 Private Recreation to C3 Environmental Management. The C3 Environmental Management Land Use Zone better reflects the site constraints and limited development potential of the existing floodplain and riparian corridor on site.

To satisfy the conditioned Gateway determination, the Planning Proposal has been amended to further facilitate the ongoing management of C3 Environmental Management zoned land following any future subdivision. It is proposed that a local provision be included under Part 7 Local Provisions - general of the Plan to ensure any newly created lots consist of both R2 Low Density Residential and C3 Environmental Management zoned land.

Part 2.2 Detailed Explanation of Proposed Amendments

The Planning Proposal is intended to create the opportunity for three (3) additional lots, which consist of both R2 Low Density Residential and C3 Environmental Management zoned land. The resulting mixed zoned lots will enable residential development on non-flood prone areas of each site, while ensuring the management of the C3 zoned floodplain is distributed between the newly created lots.

Amend the Wollongong LEP 2009 Land Use Zone mapping and rezone a portion of RE2 Private Recreation zone to R2 Low Density Residential.

Where land is proposed to be rezoned to R2 Low Density Residential, amend the Wollongong LEP 2009 Floor Space Ratio Map from Nil mapped FSR to 0.5:1 and amend the Minimum Lot Size Map from Nil mapped MLS to 9.99 hectares.

Amend the Wollongong 2009 Land Use Zone mapping and rezoned the remaining portions of the site from RE2 Private Recreation to C3 Environmental Management.

Retain the existing Wollongong LEP 2009 FSR Map of Nil FSR and amend the Minimum Lot Size Map from Nil mapped MLS to 9.99 hectares for all existing and proposed C3 Environmental Management zoned land.

Amend Part 7 Local Provisions – general of the Wollongong LEP 2009 to include a clause that is specific to the site to ensure the ongoing management of C3 Environmental Management zoned land post subdivision. The proposed Clause will require any newly created lots to consist of both R2 Low Density Residential and C3 Environmental Management zoned land. Furthermore, the Clause will also require any newly created lot to consist of sufficient, flood free, R2 Low Density Residential zoned land for a dwelling to be constructed upon.

The proposed amendment for inclusion under Part 7 Local Provisions – general is provided below.

Development on certain lands in Horsley

- (1) This clause applies to land at 21 Barham Place, Horsley – Lot 203 DP 1290802
- (2) The objective of this Clause is to ensure in perpetuity stewardship and management of C3: Environmental Management Zoned land following any future subdivision of the site to create additional lots for residential dwellings.
- (3) Development consent must not be granted for development, including subdivision, on the land to which this clause applies if the development will result in the creation of one or more lot that:
 - (a) does not consist of land zoned R2 Low Density Residential and C3: Environmental Conservation, and
 - (b) does not consist of sufficient R2 Low Density Residential land to construct a dwelling house upon.

Part 3 – Justification
Section A – Need for the Planning Proposal
<p>Q1: Is the planning proposal a result of an endorsed LSPS, strategic study or report?</p> <p>The Planning Proposal is not directly the result of an endorsed LSPS, strategic study or report. However, the Planning Proposal is generally consistent with Council’s Local Strategic Planning Statement, the Illawarra Shoalhaven Regional Plan 2041 and Council Housing Strategy 2023 with the objective to increase residential development in appropriate locations while maintaining and increasing environmental lands.</p> <p>Q2: Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?</p> <p>The Planning Proposal is the only means of amending the Wollongong LEP 2009 to permit further development low density residential uses on less constrained portions of the site, while rezoning the floodplain and riparian corridor for environmentally sensitive uses.</p>
Section B – Relationship to strategic planning framework

Q3: Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

The Illawarra-Shoalhaven Regional Plan 2041

The Planning Proposal is consistent with the following objective within the Illawarra Shoalhaven Regional Plan 2041 –

Objective 18: Provide housing supply in the right locations.

The Planning Proposal will provide for further housing supply in areas less constrained within the site, and greater environmental management within environmentally sensitive areas. The intended outcomes of the Planning Proposal are consistent with the Plans objectives for housing in West Lake Illawarra.

Q4: Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GCC, or another endorsed local strategy or strategic plan?

West Dapto has been identified as an urban release area since 1980s. The Horsley Park Estate was rezoned for residential uses in 1990s, and urban development commenced. The importance of West Dapto for housing supply is indicated in a range of Council's strategic documents as outlined below:

Our Wollongong Our Future 2032 Community Strategic Plan

This Planning Proposal is consistent with the delivery of Wollongong 2032 and Goal 1: We value and protect our environment. It specifically delivers on the following –

Community Strategic Plan		Delivery Program 2022-2026
Strategy		Service
1.5	Maintain the unique character of the Wollongong Local Government Area, whilst balancing development, population growth and housing needs.	Land Use Planning

The Planning Proposal will allow the progression of future urban growth in an appropriately managed way to support future community outcomes as envisaged in Council's adopted Community Strategic Plan.

Local Strategic Planning Statement

In 2020 Council adopted the Wollongong Local Strategic Planning Statement (LSPS) 2020 to provide a 20 year land use planning vision for the City. It has drawn on the many existing strategies and plans developed, exhibited and adopted by Council.

In relation to the West Dapto Urban Release Area the LSPS acknowledges importantly that: -

- *The West Dapto Urban Release Area is the largest urban release area outside Sydney, and is forecast to produce some 19,500 dwellings over a 40-50 year period.*
- *The release area will remain a key housing supply area for many years.*
- *The West Dapto Vision was adopted in 2018 and remains an important strategic document guiding the development of this release area into the future as outlined above.*

The Planning Proposal seeks to enable the partial development of 21 Barham Place, Horsley for residential purposes in line with the strategic outcomes for West Dapto, which is consistent with the LSPS Objectives.

Wollongong Housing Strategy 2023

The Wollongong Housing Strategy has been prepared to guide the future housing directions within the Wollongong Local Government Area for the next 10-20 years. The Strategy builds on the previous work, including the Housing Our Community discussion paper, the Housing and Affordable Housing Options Paper and community input.

The Housing Strategy addresses overall housing supply and demand, as well as examining various housing sectors that are in need of support, including the homeless, social housing, affordable housing and accessible or supportive housing.

The Housing Strategy acknowledges that the adopted visions for housing within the LGA includes 'Urban Release Areas such as West Dapto, will deliver the largest proportion of new housing supply and will be adequately serviced with essential infrastructure' and that Council will continue to progress existing initiatives that support housing such as the West Dapto Urban Release Area.

The Planning Proposal aligns with the strategy, aiming to facilitate additional housing that is well-located and therefore the proposal is considered consistent with the desired outcomes of the Housing Strategy. The Proposal will make a minor contribution to additional housing supply.

West Dapto Vision 2018

The West Dapto Vision outlined in the document is as follows:

West Dapto will grow and develop as a series of integrated and connected communities. Set against the spectacular Illawarra Escarpment and a landscape of riparian valleys, these communities will integrate the natural and cultural heritage of the area with the new urban form.

The communities will be healthy, sustainable and resilient with active and passive open space accessible by walkways, cycleways and public transport. To support these new communities, local centres will provide shopping services, community services and jobs while employment lands will facilitate further opportunities for the region.

West Dapto will be supported by a long-term strategy to oversee the timely implementation of infrastructure to deliver sustainable and high-quality suburbs with diverse housing choices.

The site is located in Horsley, which was the first stage of the West Dapto Urban Release Area development in the 1980s and 1990s. The site is located adjacent to existing residential development. The Planning Proposal seeks to facilitate increased housing supply within the site which is consistent with the West Dapto Vision 2018.

The Planning Proposal is consistent with the West Dapto Vision 2018.

Council's Planning Proposal Policy.

The Planning Proposal request is inconsistent with Council's Planning Proposal Policy (2022). Council's preference is to review the planning controls for precincts, rather than site by site requests. However, as the adjoining sites are zoned for residential purposes, there is no opportunity for a broader precinct approach.

Q5: Is the planning proposal consistent with any other applicable State and regional studies or strategies?

The Planning Proposal is generally consistent with the NSW Government Housing 2041: NSW Housing Strategy.

The Housing 2041 represents a 20-year vision for housing in NSW. It embodies the NSW Government's goal and ambitions to deliver better housing outcomes by 2041 – housing in the right locations and housing that suits diverse needs.

The Planning Proposal is consistent with the NSW Housing system pillars detailed in the strategy. The Pillars being: Supply, diversity, affordability and resilience.

The planning proposal is considered consistent with the strategy as it seeks to facilitate further residential development within areas of the site that are less constrained by natural hazards.

Q6: Is the planning proposal consistent with applicable SEPPs?

A detailed review of the Planning proposal against all State Environmental Planning Policies (SEPPs) is provided at Table 3.

State Environmental Planning Policy (Housing) 2021

The proposal is generally consistent with the SEPP. The proposal includes rezoning land from RE2 Private Recreation to R2 Low Density Residential. The land to be rezoned R2 was previously filled to elevate residential development above Mullet Creek Floodplain, Probable Maximum Flood as part of the West Dapto Urban Release Area Stage 1 – Horsley. The proposed R2 Low Density Residential zone is expected to facilitate a diverse range of permitted residential development.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 – Coastal management

The site is not mapped as being within Coastal Environment Area and / or the Coastal Use Area mapping under the SEPP. Furthermore, the site is not located within areas mapped as Coast vulnerability.

The Proposal is consistent with Chapter 2 of the SEPP.

Chapter 3 – Hazardous and offensive development

The Proposal seeks to rezone existing RE2 Private Recreation to R2 Low density Residential and C3 Environmental Management. The proposal does not seek to permit land uses that would be considered hazardous and offensive.

The Proposal is consistent with Chapter 3 of the SEPP.

Chapter 4 Remediation of land

The site is mapped as filled land however the site is not mapped as contaminated or a land under the Contaminated Land Management Act 1997.

The site was filled as part of the 1990s Horsley Park Estate earthworks and accordingly, a Preliminary Site Investigation (PSI) is required to facilitate the assessment.

On 7 January 2025, a PSI was submitted to Council, which confirmed the filling and found no evidence of contamination.

The PSI satisfies the requirements of the SEPP.

State Environmental Planning Policy (Transport and Infrastructure)

The site is mapped as containing a number of easements for energy infrastructure, which includes the Eastern Gas Pipeline.

The easements are not located within areas to be proposed to be retained or rezoned to R2 Low Density Residential from RE2 Private Recreation. The easements generally traverse the site in a north-northeast to south-southwest direction and are located in the floodway proposed to be rezoned to C3 Environmental Management. The recorded easements on site for energy and water infrastructure are:

M) Easement for transmission line 30.48 wide

N) Easement for transmission line 18.29 wide

P Easement for the construction and maintenance of water supply works

U) Easement for pipeline 20 wide

The mapped centreline of the eastern gas pipeline is approximately 185 metres from the land proposed to be rezoned R2 low Density Residential. This distance is consistent with adjoining lots, which have been developed for residential purposes.

It is expected residential development within areas to be retained or rezoned as R2 Low Density Residential would be able to sufficiently address the requirements of the SEPP.

Q7: Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions) or key government priority?

The Minister for Planning, under section 9.1 of the EP&A Act issues Directions that relevant planning authorities, in this case Wollongong City Council, must follow when preparing Planning Proposal's for new Local Environmental Plans and associated amendments.

A complete assessment of the Planning Proposal's consistency against all s.9.1 directions is provided at Table 5.

Focus Area 1: Planning Systems

1.1 Implementation of Regional Plans

Objective

The objective of the direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.

Response

The Planning Proposal seeks to rezone a portion of the site from RE2 Private Recreation to R2 Low Density Residential to enable facilitate further residential development within the Horsley estate. The Horsley estate is within Stage 1 of the West Dapto Urban Release Area, identified under the Regional Plan as West Lake Illawarra.

The proposal to rezone the site to is consistent with the objective of the Regional Plan:

Objective 18: Provide housing supply in the right locations.

The proposed land to be rezoned R2 within the site is limited to areas already filled above the Probable Maximum Flood. The remainder of the site is proposed to be rezoned from RE2 to C3 Environmental Management or retained as C3

The proposal is considered to be consistent with the objectives of the Regional Plan and the Ministerial Direction.

1.4 Site Specific Provisions

Objective

Discourage unnecessarily restrictive site specific planning controls.

The Planning Proposal seeks to amend Wollongong Local Environmental Plan 2009 zoning and development standard mapping that is applicable to 21 Barham Place, Horsley to facilitate additional residential development within the West Dapto Urban Release Area.

To satisfy Condition 1. of the issued Gateway determination, the Planning Proposal was amended to also seek an amendment to Part 7 Local Provisions – general of the Wollongong LEP 2009 to include a clause that is specific to the site to ensure the ongoing management of C3 Environmental Management zoned land post subdivision. The proposed Clause will require any newly created lots to consist of both R2 Low Density Residential and C3 Environmental Management zoned land. Furthermore, the Clause will also require any newly created lot to consist of sufficient, flood free, R2 Low Density Residential zoned land for a dwelling to be constructed upon.

The site currently contains a small portion of R2 Low Density Residential zoned land adjacent to Barham Place. However, within the site and adjacent to the R2 zoned land is additional flood free land that is considered suitable for residential development, which is currently zoned RE2 Private Recreation.

The proposal seeks to rezone the flood free portion of the site from RE2 Private recreation to R2 Low Density Residential to facilitate additional residential development within Horsley that was the subject of Stage 1 of the West Dapto Urban Release Area. The remainder of the site is proposed to be rezoned from RE2 Private Recreation to C3 Environmental Management, as the conservation zoning better reflects the lower floodplain and is existing C3 zoned riparian corridor on site.

To allow for the future subdivision of land at an appropriate scale, a minimum lot size of 9.99 ha is proposed. The intent of the minimum lot size is to allow for a 3 split zoned lot, subdivision. The intent of the split zoned lots is ensure the ongoing conservation and management of the C3 zoned land by the dwelling located on the R2 zoned land.

It was identified by the Department that the proposed minimum lot size may result in an unintended outcome where the C3 zoned land is subdivided off from the residential land and therefore unlikely to be managed into the future. The Department, in the Gateway determination included a condition that Part 2.2 of the Planning Proposal be amended to clearly state the

intention of the proposal is to create lots that contain both R2 and C3 land, with any future dwelling being located on the R2 flood free portion of the land.

As a result of the Gateway condition and to ensure subdivision of the site results in the intent of the proposal it is proposed Part 7 of the Wollongong Local Environmental Plan 2009 be amended to include the Clause listed in Part 2.2 of this report. It is noted the proposed amendment to Part 7 of the Wollongong LEP 2009 does not refer to drawings that show details of future development.

It is considered the Planning Proposal is consistent with the objective of the ministerial direction 1.4, as the proposal does not seek an unnecessarily restrictive control. It is expected that the amendment will result in the orderly subdivision of the site, while ensuring the ongoing conservation of conservation zoned land that is consistent with the objectives of the Regional Plan and Stage 1 of the West Dapto Urban Release Area.

Focus area 4: Resilience and Hazards

4.1 Flooding

Objectives

(a) 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, and

(b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.

Response

The site is mapped as being impacted by Flood Prone Land being within the Mullet Creek catchment. The Floodplain is limited to the RE2: Private Recreation and C3 Environmental Management zoned portions of the site. The existing and proposed R2 portions of the site were previously filled as part of the Horsley Park Estate. As such, portions of the site proposed to be rezoned R2 and facilitate residential development are above the probable Maximum Flood level.

The remainder of the site, within the Mullet Creek floodplain and riparian corridor, is proposed to be rezoned to C3 Environmental Management.

As the proposal seeks to facilitate residential development on portions of the site above the PMF, while managing the floodplain through rezoning land to C3 Environmental Management, it is considered the proposal is consistent with the Ministerial Direction.

4.2 Coastal Management

Objective

The objective of this direction is to protect and manage coastal areas of NSW.

Response

The site is located within the catchment for Lake Illawarra. A review of the Lake Illawarra Coastal Management Plan identifies the site as within the catchment of the lake; however, the site is not within a mapped Coastal Management Area.

As the proposal will generally rezone land for residential purposes upon land already modified for residential purposes, and not within mapped coastal management area, the proposal is considered consistent with the Direction.

4.3 Planning for Bushfire Protection

Objectives

- a) Protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- b) Encourage sound management of bush fire prone areas.

Response

At the time the proposal was submitted the lower parts of the site (floodplain) was mapped as Vegetation Category 2 (grasslands and pasture) and the batter and eastern section of upper part of the site is mapped as bushfire buffer area. The remainder of the site was no mapped as bush fire prone land.

On 17 July 2024, new Bush Fire Prone Land mapping was certified by the Commissioner of the NSW Rural Fire Service (RFS) and Council's DCP mapping updated. The mapping was updated to include Vegetation Category 3 (Grasslands, freshwater wetlands, semi-arid woodland, alpine complex and arid-shrubland. Apart from the change in categories, the boundaries have not changed. The lower part of the site is now mapped as Category 3 and the batter and eastern section of the upper part of the site is mapped as buffer. As previously mapped, the remainder of the upper part of the site and adjoining lots are not mapped as Bush Fire Prone Lands.

A Bushfire Impact Assessment was not submitted with the proposal. The NSW RFS raised no object to the proposal, provided the future development complied with Planning for Bushfire Protection (2019).

It is considered that the proposal is capable of being consistent with the direction.

4.4 Contaminated Lands

Objective

The objective of this direction 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.

Response

The site is mapped as filled land; however, the site is not mapped as contaminated or a land under the Contaminated Land Act. The site was filled as part of the 1990s Horsley development and accordingly, a Preliminary Site Investigation (PSI) is required to facilitate the assessment.

On 7 January 2025, a PSI was submitted, which confirmed the filling and found no evidence of contamination.

It is considered that the proposal is capable of being consistent with the Ministerial Direction.

4.5 Acid Sulfate Soils

The objective of this directive is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

Response

The site is mapped being affected by Acid Sulfate Soils. Class 5 buffer (within 500m of class 1,2,3 or 4) Acid Sulfate Soils are mapped on the upon the filled land proposed to be rezoned R2 Low Density Residential. In addition to areas mapped as Class 5, the low floodplain areas proposed to be rezoned to C3 Environmental Management are mapped as Class 2 Acid Sulfate Soils.

It is considered the proposal may be inconsistent with the terms of the direction. However, as the proposed residential is on the upper part of the site, acid sulfate soils are not a constraint of future development and therefore any inconsistency with the direction is of minor significance.

Focus area 5: Transport and Infrastructure

5.5 High Pressure Dangerous Goods Pipelines

Objectives

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring high pressure dangerous goods pipelines (relevant pipelines) are considered by Planning Proposal Authorities.

Response

An easement for the Eastern Gas Pipeline traverses the site in a north north-east to south south-west direction. The pipeline is immediately within the portion of the site to be rezoned from RE2 Public Recreation to C3 Environmental Management. Additionally, within 200 metres of the pipeline's centre line, the proposal seeks to rezone land from RE2 Private Recreation to R2 Low Density Residential. The proposed boundary of the R2 zoned land is approximately 185 metres from the centre line of the pipeline.

The existing and proposed R2 land use zone includes a number of permissible uses that are considered to sensitive land uses or facilitate development that may result in significant population increase. The identified land uses permissible with consent in the R2 zone include: attached dwelling, multi-dwelling housing, residential flat building, group homes, seniors housing, hostel, centre-based childcare.

As the proposal seeks to increase residential development in an existing neighbourhood that is within 200 metres of the high-pressure dangerous goods pipeline, Council will liaise with the pipeline operator. As existing residential development already exists and no roads are required to access or cross the pipeline easement, it is considered any inconsistency with the Ministerial Direction is of minor significance.

Focus Area 6: Housing

6.1 Residential Zones

Objectives

The objectives of this direction are to:

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

Response

The proposal is generally consistent with the direction as the proposal seeks to facilitate further residential development within Horsley Park Estate that was developed as part of Stage 1 of the West Dapto Urban Release Area. The site is within an existing neighbourhood developed for residential purposes. The site is accessible via the street frontage to Barham Place. Additionally, the existing and proposed R2 portions of the site have previously been filled to enable development above the Mullet Creek Floodplain Probable Maximum Flood level.

The proposal will facilitate further residential development within areas already developed for residential purposes. As the land to be zoned R2 has previously been modified to suit residential development, it is not expected that the proposal will have further impacts upon the adjacent floodway or land zoned for conservation purposes. It is therefore, considered the proposal is generally consistent with the Ministerial Direction.

Section C – Environmental, social and economic impact

Q8: Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

The proposal is not expected to have an adverse impact on critical habitat or threatened species, populations or ecological communities, or their habitats. The proposal seeks to rezone land to R2 Low Density Residential within areas already within modified for residential purposes. The remainder of the site is proposed to be rezoned from RE2 Private Recreation to C3 Environmental Management to reflect the current and strategic uses within the floodplain and riparian corridor.

Q9: Are there any other likely environmental effects of the Planning Proposal and how are they proposed to be managed?

The proposal is not expected to result in other likely environmental effects that are required to be managed.

Q10: Has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal is not expected to result in negative social and/ or economic effects.

Council's West Dapto Contributions Plan and / or City Wide Contributions Plan may apply to any future development on the site, which includes development for the subdivision of land.

Section D – Infrastructure (Local, State and Commonwealth)**Q11: Is there adequate public infrastructure for the Planning Proposal?**

Portions of the site to be retain or proposed to be rezoned R2 Low Density Residential are within areas already developed for Stage 1 of the West Dapto Urban Release Area. The site has the ability to be connected into public infrastructure.

Section E – State and Commonwealth interests**Q12: What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?**

An informal preliminary exhibition of the proposal was notified from 22 July 2024 to 19 August 2024. The informal preliminary exhibition involved notifying applicable State Agencies. Council received feedback on the proposal from NSW RFS, NSW Environment Protection Authority (EPA) and the NSW Department of Climate Change, Energy, the Environment and Water – Biodiversity, Conservation and Science Group (DCCEES – BCS).

The following comments were received from government agencies:

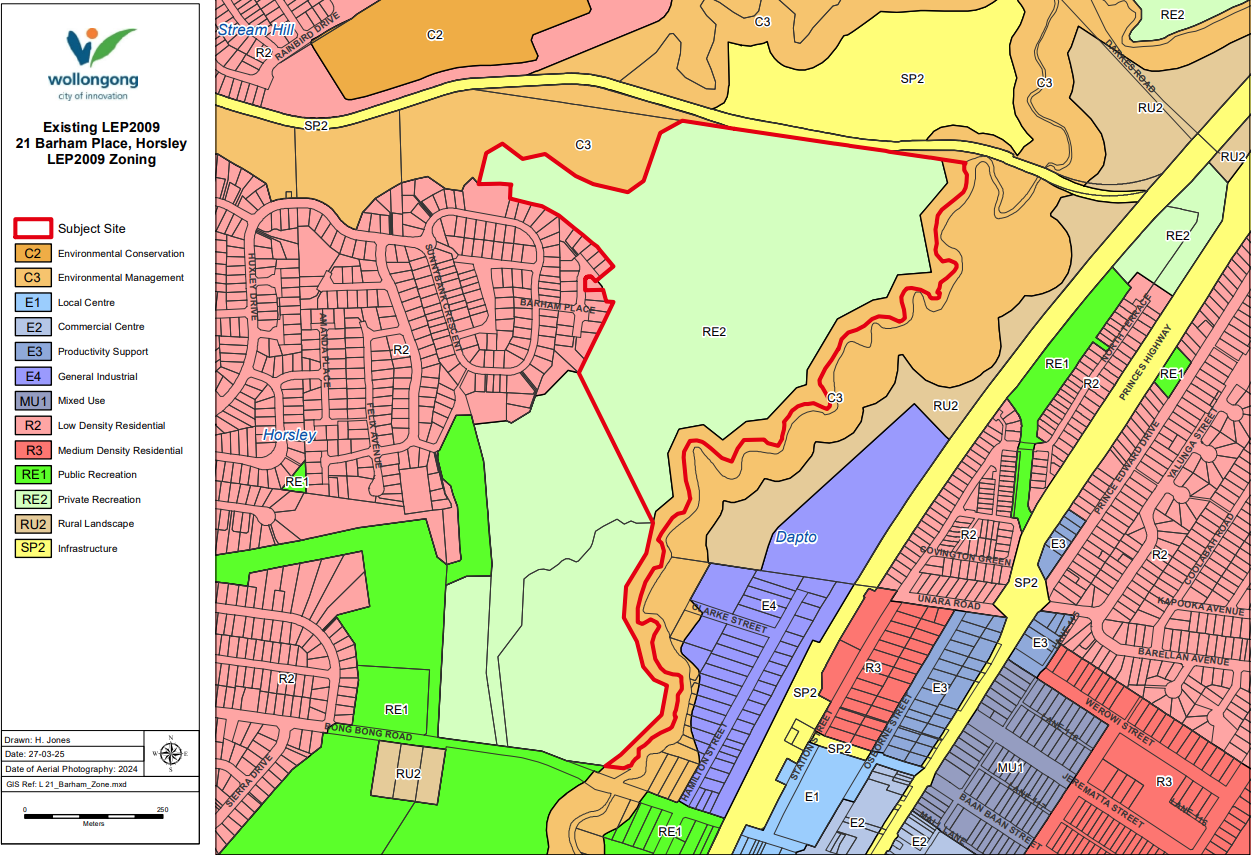
- NSW RFS and the NSW EPA raised no objection to the proposal.
- DCCEEW -BCS suggested that a Flood Impact Assessment report be prepared.

Response

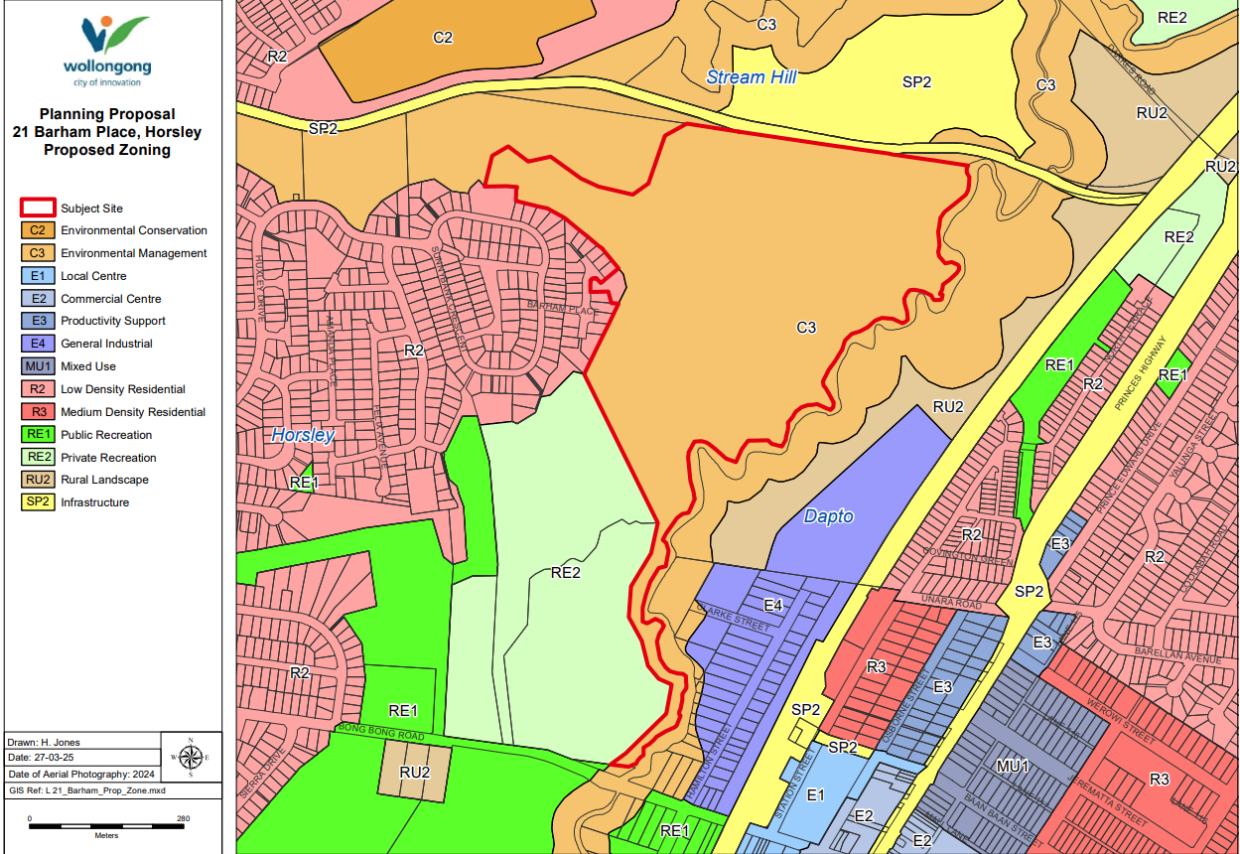
As the land proposed to be rezoned as R2 is above the Probable Maximum Flood level, a Flood Impact Assessment is not required.

Part 4 – Mapping

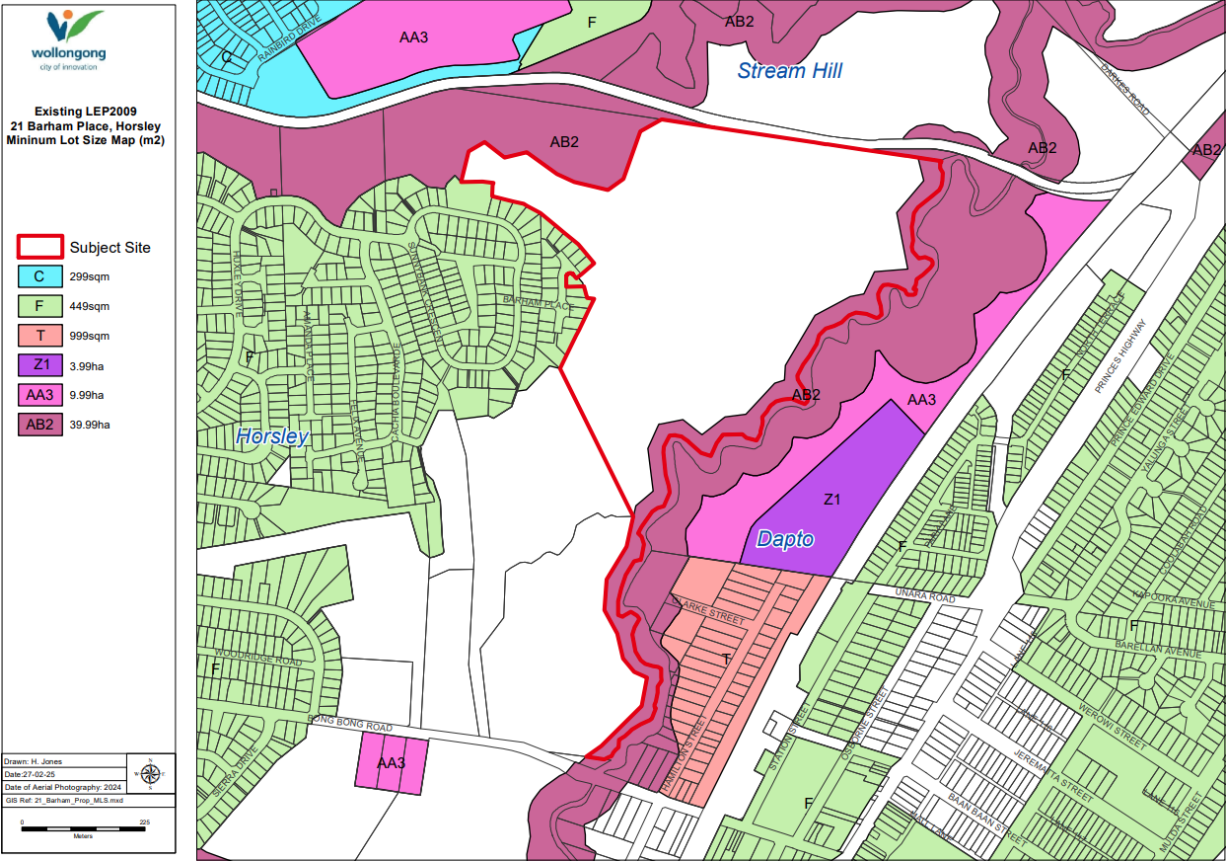
Existing Land Zoning Map



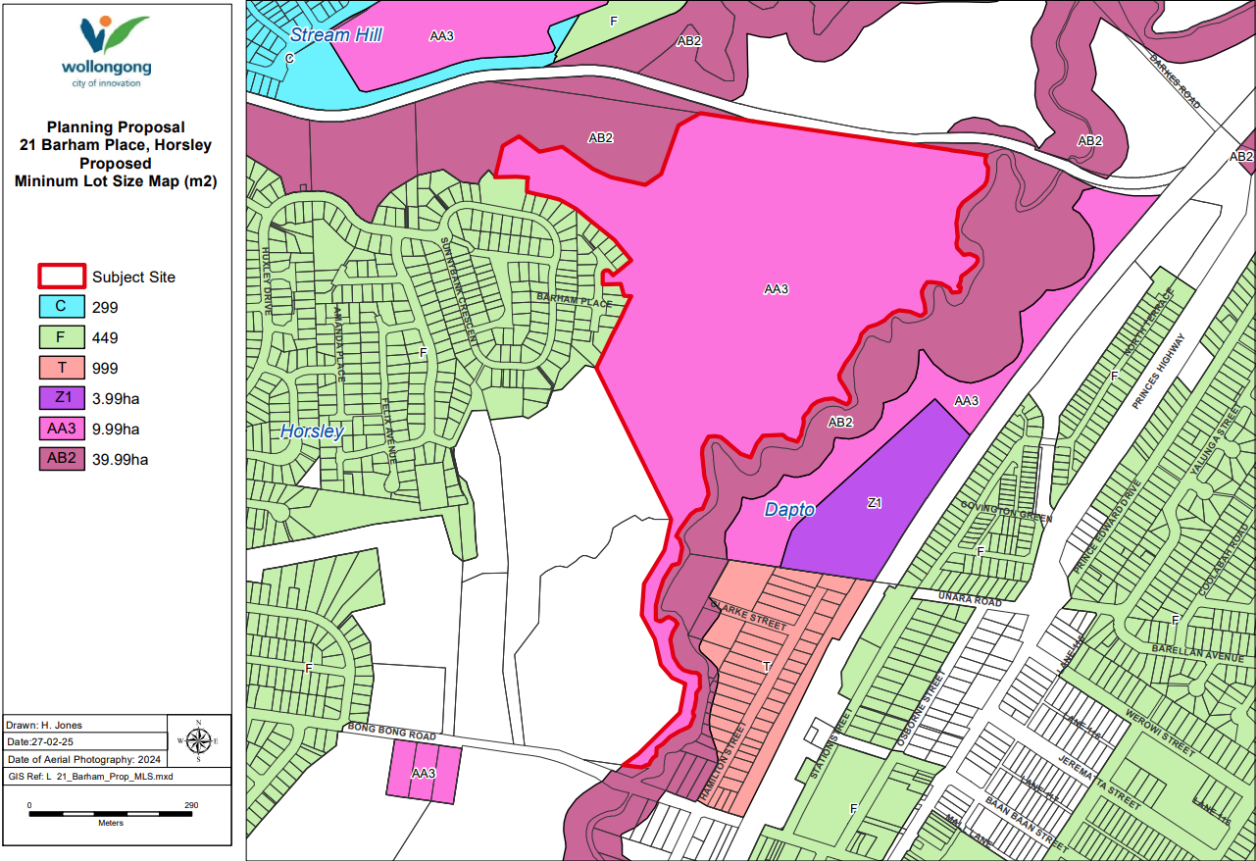
Proposed Land Zoning Map



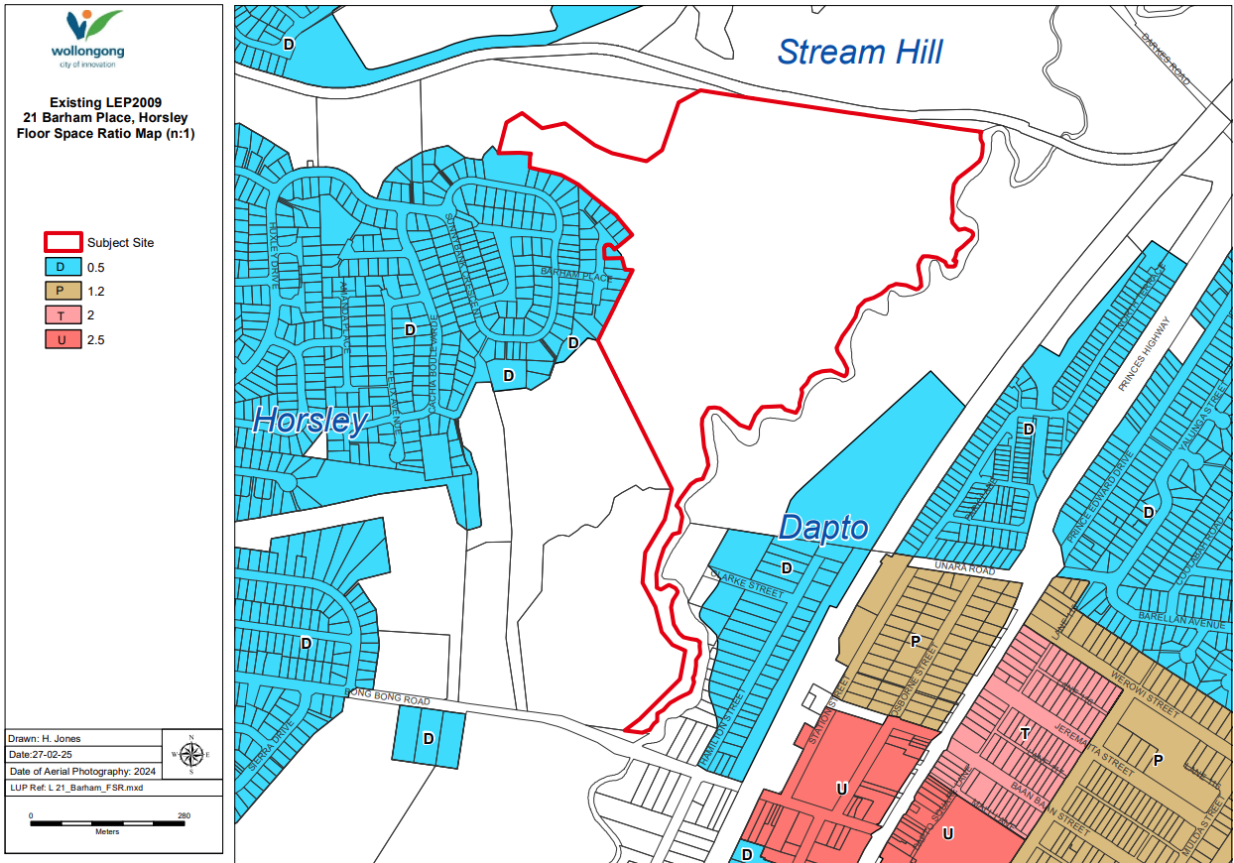
Existing Lot Size Map



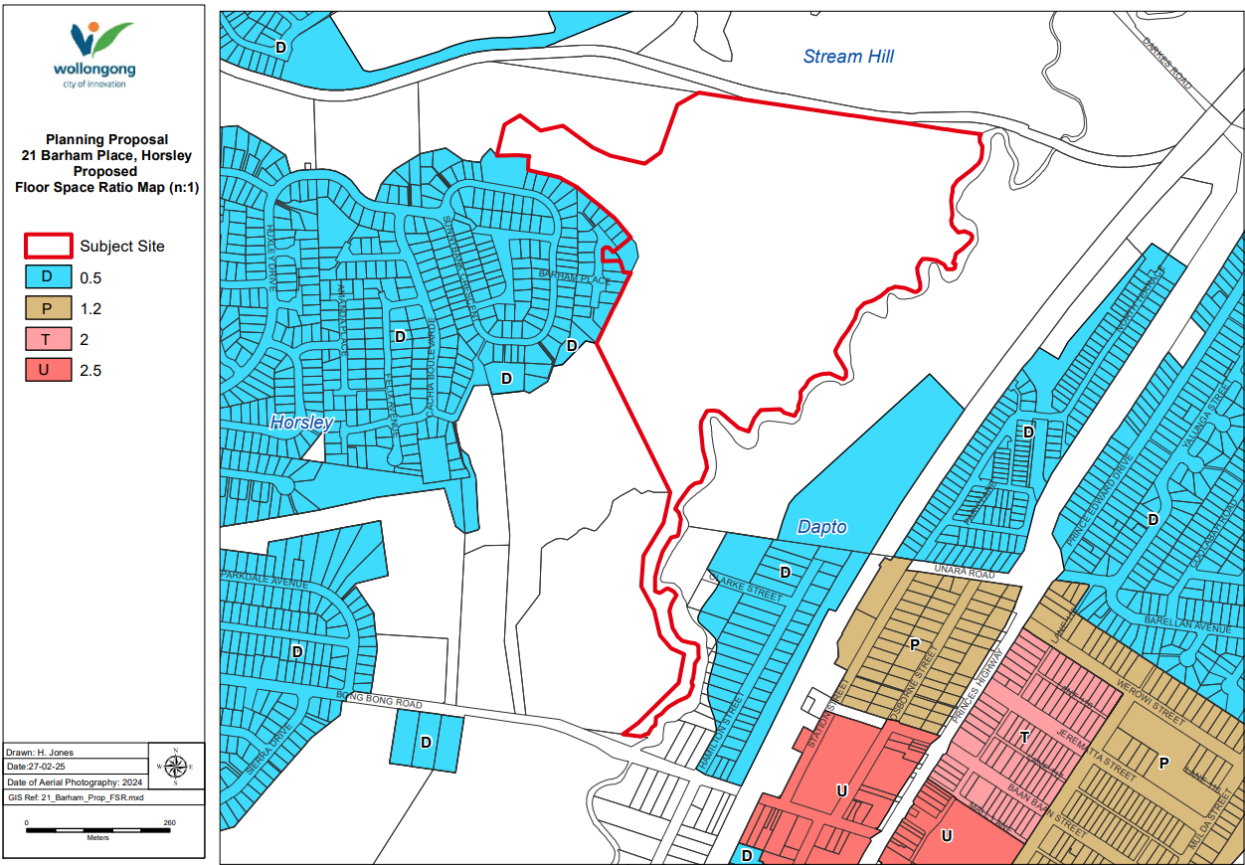
Proposed Lot Size Map



Existing Floor Space Ratio Map



Proposed Flood Space Ratio Map



Part 5 – Community Consultation

An informal preliminary exhibition of the proposal was notified from 22 July 2024 to 19 August 2024. As part of the Informal exhibition involved adjoining landowners to the site and Neighbourhood Forum 8.

The exhibition page on Council's website received 100 views and 42 document downloaded. One comment was made on the engagement webpage from adjoining landowner objecting to the proposal.

The Planning Proposal was reported to Council on 3 February 2025 seeking endorsement for Gateway. At the meeting Council resolved the following:

- 1 *A Planning Proposal be prepared to amend the Wollongong Local Environmental Plan 2009 for 21 Barham Place, Horsley by –*
 - a *Amending the controls for the upper part of the site, by rezoning the land and part R2 Low Density Residential and RE2 Private Recreation to the R2 Low Density Residential zone with a Floor Space Ratio of 0.5:1, Minimum Lot Size of 9.99 hectares.*
 - b *Amending the controls for the lower (floodplain) part of the site, by rezoning the land from part RE2 Private Recreation and C3 Environmental Management to the C3 Environmental Management zone with a Minimum Lot Size of 9.99 hectares.*
- 2 *The Planning Proposal be referred to the NSW Department of Planning, Housing and Infrastructure for Gateway Determination and the preparation of an amendment to the Wollongong Local Environmental Plan (LEP) 2009.*
- 3 *The NSW Department of Planning, Housing and Infrastructure be requested to authorise a minimum exhibition period of 28 days, as part of the Gateway determination.*
- 4 *The NSW Department of Planning, Housing and Infrastructure be advised that Council wishes to use its delegation to finalise the Planning Proposal.*

The Business papers for the Planning Proposal remain publicly available on Council's website.

The requirements for consultation are outlined in the EP&A Act and the minimum requirements for this consultation are identified in Section 1, Stage 5 of the Local Environmental Plan Making Guideline (Department of Planning and Environment August 2023). The requirements set out in Stage 5 relate to the notification requirements and what material is to be made available for inspection. The Planning Proposal is to be exhibited for a minimum period of 28 days.

Public Exhibition

The Public Exhibition of the Planning Proposal for a minimum period of 28 days will include:

- *Hard copies at Council's Administration building and relevant Libraries;*
- *An electronic copy on Council's website;*
- *Planning Portal;*
- *Notification letters to surrounding and nearby property owners;*
- *Notification to relevant State agencies and other authorities nominated by the NSW Department of Planning 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.

Table 2: Projected timeline

Action	Timeframe	Timeline
Consideration by Wollongong Local Planning Panel	Completed	Completed 28 Oct 2024
Consideration and decision by Council	Completed	3 Feb 2025
Submitted to Department of Planning & Environment for Gateway		Feb/Mar 2025
Gateway Determination	Max 25 days	Mar/Jun 2025
Post Gateway / Pre-exhibition	Max 50 days	Jun 2025
Commencement and completion of public exhibition period	Max 95 days	Jul 2025
Consideration of submissions		Jul/Aug 2025
Post exhibition review and additional studies		Aug 2025
Final Council Decision		Sep/Oct 2025
Submission to Department for finalisation	Max 55 days	Oct/Nov 2025
Notification of LEP amendment		Nov/Dec 2025

Table 3: Checklist of State Environmental Planning Policies – applicable at the time of the issued Gateway Determination

State Environmental Planning Policy		Compliance	Comment
SEPP	(Biodiversity and Conservation) 2021	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	Consistent	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	(Housing) 2021	Consistent	<p>The Proposal seeks to facilitate limited residential development within the site based upon the site constraints. Further commentary is provided under Q6. Of this report.</p> <p>The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.</p>
SEPP	(Industry and Employment) 2021	Consistent	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	(Planning Systems) 2021	Consistent	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	(Precincts-Central River City) 2021	Not Applicable	
SEPP	(Precincts—Eastern Harbour City) 2021	Not Applicable	
SEPP	(Precincts—Regional) 2021	Consistent	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	(Precincts—Western Parkland City) 2021	Not Applicable	
SEPP	(Primary Production) 2021	Not Applicable	
SEPP	(Resilience and Hazards) 2021	Capable of being consistent	<p>Chapter 2 Coastal management</p> <p>The site is not within areas mapped under Chapter 2 of the SEPP.</p> <p>Chapter 3 Hazardous and offensive development</p> <p>The proposal does not propose hazardous and offensive development.</p> <p>Chapter 4 Remediation of Land</p> <p>The site is mapped as filled land. A PSI was submitted that satisfies the SEPP requirements. The PSI confirmed no evidence of contamination within filled land.</p>
SEPP	(Resources and Energy) 2021	Consistent	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP	(Sustainable Buildings) 2022	Consistent	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.

State Environmental Planning Policy		Compliance	Comment
SEPP	(Transport and Infrastructure) 2021	Capable of being consistent	<p>The site contains a number of easements for energy. This includes an easement for the Eastern Gas Pipeline.</p> <p>The proposal includes rezoning land to R2 Low Density Residential within approximately 185 metres of the centre line of the pipe.</p> <p>It is noted the proposed R2 land is not within the easement for the pipeline. However, the proposed R2 zone is within 200 metres of the Eastern Gas Pipeline.</p> <p>As the proposed R2 land is within an existing residential neighbourhood, it is expected residential development will be able to occur, consistent with adjoining lots.</p> <p>The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.</p>

Table 4: Deemed SEPP (former Regional Plans)

Deemed SEPPS (former Regional Plans)		Compliance	Comments
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 5: Checklist of Section 9.1 Ministerial Directions

	Compliance	Comment
Focus Area 1: Planning Systems		
1.1 Implementation of Regional Plans	Consistent	<p>The direction indicates that a Planning Proposal must be consistent with a Regional Plan released by the Minister for Planning.</p> <p>The proposal is consistent with the objectives of the Illawarra Shoalhaven Plan 2041 as outlined within the Planning Proposal report at Section B – Q4.</p>
1.2 Development of Aboriginal Land Council land	N/A	Not applicable to Wollongong
1.3 Approval and Referral Requirements	Consistent	The proposal is consistent with this Direction because it does not alter the provisions relating to approval and referral requirements
1.4 Site Specific Provisions	Consistent	<p>The proposal does seek to introduce a site specific controls into Part 7 Local Provisions – general of the Wollongong Local Environmental Plan 2009.</p> <p>It is considered the proposed provision is consistent with the intent of the Ministerial Direction as it is not unnecessarily restrictive and will allow for the logical subdivision of the site, while ensuring the ongoing management of conservation zoned land through the creation of mixed R2/C3 split zoned lot.</p> <p>For further discussion refer to Part 2.2 and Part 3, Question 7 (1.4) of this report.</p>
1.4A Exclusions of Development Standards from Variation	Consistent	The proposal will not propose to introduce or alter an existing exclusion to Clause 4.6 of the Wollongong LEP 2009
Focus area 1: Planning Systems – Place based		
1.5 Parramatta Road Corridor Urban Transformation Strategy	N/A	Not Applicable to Wollongong
1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	N/A	Not Applicable to Wollongong
1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A	Not Applicable to Wollongong
1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A	Not Applicable to Wollongong
1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	N/A	Not Applicable to Wollongong
1.10 Implementation of the Western Sydney Aerotropolis	N/A	Not Applicable to Wollongong

Plan		
1.11 Implementation of Bayside West Precincts 2036 Plan	N/A	Not Applicable to Wollongong
1.12 Implementation of Planning Principles for the Cooks Cove Precinct	N/A	Not Applicable to Wollongong
1.13 Implementation of St Leonards and Crows Nest 2036 Plan	N/A	Not Applicable to Wollongong
1.14 Implementation of Greater Macarthur 2040	N/A	Not Applicable to Wollongong
1.15 Implementation of the Pyrmont Peninsula Place Strategy	N/A	Not applicable to Wollongong
1.16 North West Rail Link Corridor Strategy	N/A	Not applicable to Wollongong
1.17 Implementation of the Bays West Place Strategy	N/A	Not applicable to Wollongong
1.18 Implementation of the Macquarie Park Innovation Precinct	N/A	Not applicable to Wollongong
1.19 Implementation of the Westmead Place Strategy	N/A	Not applicable to Wollongong
1.20 Implementation of the Camellia-Rosehill Place Strategy	N/A	Not applicable to Wollongong
1.21 Implementation of South West Growth Area Structure Plan	N/A	Not applicable to Wollongong
1.22 Implementation of the Cherrybrook Station Place Strategy	N/A	Not applicable to Wollongong
Focus area 2: Design and Place		
[this focus area was blank when the directions were made]		
Focus area 3: Biodiversity and Conservation		
3.1 Conservation Zones	Consistent	The Proposal is consistent with the direction as land proposed to be zoned R2 is currently zoned has been previously modified for residential development as part of Horsley estate. The remainder of the site is proposed to be rezoned C3 Environmental Management.
3.2 Heritage Conservation	Can be consistent	The proposal does not include rezoning land mapped as being impacted by state, local or Aboriginal Heritage. The proposal seeks to rezone a portion of the site to R2 Low Density Residential, which has already been modified as part of the development of Horsley estate.
3.3 Sydney Drinking Water Catchments	Direction does not apply	The site is not location within the Sydney drinking water catchment
3.4 Application of C2 and C3 Zones and Environmental	N/A	Not applicable to Wollongong

Overlays in Far North Coast LEPs		
3.5 Recreation Vehicle Areas	Direction does not apply	The planning proposal does not include provision that would enable the land to be developed for the purposes of a recreational vehicle area
3.6 Strategic Conservation Planning	N/A	Not applicable to Wollongong
3.7 Public Bushland	Direction does not apply	Not applicable
3.8 Willandra Lakes Region	N/A	Not applicable to Wollongong
3.9 Sydney Harbour Foreshores and Waterways Area	N/A	Not applicable to Wollongong
3.10 Water Catchment Protection	Direction does not apply	The Planning Proposal does not include land within the prescribed regulated catchments.
Focus area 4: Resilience and Hazards		
4.1 Flooding	Capable of being consistent	<p>The proposal seeks to rezone a portion of the site to R2 Low Density Residential. This area of the site has already been modified above the PMF, as part of the development of Horsley Park Estate.</p> <p>The remainder of the site, which is mapped as flood affected, is to retain the existing C3 Environmental Management land use zone or be rezoned from SP2 Private Recreation to C3.</p>
4.2 Coastal Management	Consistent	The proposal is not within areas mapped for coastal management.
4.3 Planning for Bushfire Protection	Capable of being consistent	<p>The lower part of the site (floodplain) is mapped as Category 3 and the batter (partially proposed to be rezoned R2 Low Density Residential) and eastern section of the upper part of the site is mapped as buffer. The remainder of the upper part of the site, proposed to be rezoned to R2, and adjoining lots (with and existing R2) are not mapped as Bush Fire Prone Lands.</p> <p>A Bushfire Impact Assessment was not submitted with the proposal. The NSW RFS raised no object to the proposal, provided the future development complied with Planning for Bushfire Protection (2019).</p> <p>Further discussion on Direction 4.3 is provided under Question 7 of this Planning Proposal.</p>
4.4 Remediation of Contaminated Land	Consistent	<p>The site is mapped as filled land however the site is not mapped as contaminated or a land under the Contaminated Land Act.</p> <p>The site was filled as part of the 1990s Horsley development and accordingly, a Preliminary Site Investigation (PSI) is required to facilitate the assessment.</p> <p>On 7 January 2025, a PSI was submitted, which confirmed the filling and found no evidence of contamination.</p>
4.5 Acid Sulfate Soils	Inconsistent	It is considered the proposal is inconsistent with the

	(minor significance)	<p>ministerial direction. However, as the proposed R2 land, mapped as Class 5 Acid Sulfate Soils, is restricted to land already filled and prepared as part of Horsley it is not expected to impact upon permitted low density development.</p> <p>As Acid Sulfate Soils are not expected to impact permitted uses it is considered the inconsistency with the Ministerial Direction is of minor significance.</p> <p>Note: Class 2 Acid Sulfate Soils are mapped on the lower floodplain portions of the site. However, these areas are to either retain the existing C3 zone or are proposed to be rezoned from RE1 Private Recreation to C3.</p>
4.6 Mine Subsidence and Unstable Land	Direction does not apply	The Planning Proposal appears not located in areas mapped as being impacted by mines subsidence.
Focus area 5 Transport and Infrastructure		
5.1 Integrating Land Use and Transport	Consistent	The proposal does not include provisions that would have a significant impact on existing transport infrastructure.
5.2 Reserving Land for Public Purposes	Direction does not apply	The Planning Proposal does not include reserving land for public purposes.
5.3 Development Near Regulated Airports and Defence Airfields	Consistent	The proposal will not result in development within areas associated with regulated airports and defence airfields.
5.4 Shooting Ranges	Direction does not apply	Not Applicable
5.5 High pressure dangerous goods pipelines	Capable of being consistent	<p>The site contains a number of easements for energy. This includes an easement for the Eastern Gas Pipeline.</p> <p>The proposal includes rezoning land to R2 Low Density Residential within approximately 185 metres of the centre line of the pipe.</p> <p>It is noted the proposed R2 land is not within the easement for the pipeline. However, the proposed R2 zone is within 200 metres of the Eastern Gas Pipeline.</p> <p>As the proposed R2 land is within an existing residential neighbourhood, it is expected residential development will be able to occur, consistent with adjoining lots.</p>
Focus area 6: Housing		
6.1 Residential Zones	Consistent	The Planning Proposal seeks to rezone a portion of the site, which is within an existing residential neighbourhood, from RE1 to R2 Low Density Residential. The proposed R2 zoned land will be consistent with adjacent zoning and development and limited to areas of the site that are less affected by site constraints and hazards that would preclude permissible development.

6.2 Caravan Parks and Manufactured Home Estates	Direction does not apply	Not Applicable
Focus area 7: Industry and Employment		
7.1 Employment Zones	Direction does not apply	Not Applicable
7.2 Reduction in non-hosted short-term rental accommodation period	N/A	Not applicable to Wollongong
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	N/A	Not applicable to Wollongong
Focus area 8: Resources and Energy		
8.1 Mining, Petroleum Production and Extractive Industries	Consistent	The proposal will not impact upon any future mining, petroleum production and extractive industries.
Focus area 9: Primary Production		
9.1 Rural Zones	Direction does not apply	Not Applicable
9.2 Rural Lands	N/A	Not applicable to Wollongong
9.3 Oyster Aquaculture	Direction does not apply	Not Applicable
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	N/A	Not applicable to Wollongong