

SOUTHERN REGIONAL PLANNING PANEL

Panel Reference	PPSSTH-311
DA Number	DA-2023/849
LGA	Wollongong City
Proposed Development	Multi-dwelling housing development comprising 236 dwellings and associated earthworks, road construction and delivery, civil and landscaping works, community facilities (Stage 1) and use of up to five (5) dwellings for temporary exhibition homes. The development upon completion is intended to operate as a Land Lease Community and therefore reliant upon a separate s.68 Approval under the Local Government Act for a Manufactured Home Estate.
Street Address	Lot 197 Bong Bong Road Huntley
Applicant/Owner	Stockland Development Pty Ltd
Date of DA lodgement	10 November 2023
Total number of Submissions	Nil
Recommendation	Refusal
Regional Development Criteria (Schedule 6 of the SEPP (Planning Systems) 2021	The proposal is for general development that has an estimated development cost of more than \$30 million. The proposal has a value of \$116,297,000 and is therefore required to be determined by the State Regional Planning Panel pursuant to Section 4.5(b) of the Environmental Planning & Assessment Act 1979
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> relevant environmental planning instruments - s4.15(1)(a)(1): <ul style="list-style-type: none"> <u>State Environmental Planning Policies:</u> <ul style="list-style-type: none"> State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Planning Systems) 2021 <u>Local Environmental Planning Policies:</u> <ul style="list-style-type: none"> Wollongong Local Environmental Plan 2009 <u>Other policies</u> <ul style="list-style-type: none"> Wollongong City Wide Development Contributions Plan (2022) Wollongong Community Participation Plan 2019 Planning for Bush Fire Protection 2019 proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority - s4.15(1)(a)(ii): <ul style="list-style-type: none"> Nil Relevant development control plan: s4.15(1)(a)(iii): <ul style="list-style-type: none"> Wollongong Development Control Plan 2009 relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 – s4.15(1)(a)(iiia): <ul style="list-style-type: none"> Nil

	<ul style="list-style-type: none"> Regulations: s4.15(1)(a)(iv) eg. Regs 6, 61, 62, 63 <ul style="list-style-type: none"> Nil Coastal zone management plan: s4.15(1)(a)(v) <ul style="list-style-type: none"> There is no Coastal Zone Management Plan currently applicable to the land.
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> Architectural Plans Civil Plans Landscape Plans Site Development History PL-2022/44 and PL-2023/6 Prelodgement Meeting Notes LGA s68 Application Assessment Report and determination Wollongong Development Control Plan 2009 Assessment compliance table Applicant's Planning Pathway advice
Clause 4.6 requests	Nil
Summary of key submissions	None received
Report prepared by	Nicole Ashton – Senior Development Project Officer
Report date	5 May 2025

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? No

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? No

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Assessment report and Recommendation Cover Sheet

Executive Summary

Reason for consideration by Southern Regional Planning Panel

The proposal is for general development with an estimated cost of greater than \$30 million and is declared as Regionally significant development under section 2.19 and Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021.

The proposal has a value of \$116,297,000. The proposal is therefore referred to the Southern Regional Planning Panel as the consent authority pursuant to Section 4.5(b) of the Environmental Planning and Assessment Act 1979.

Proposal

The proposal is for a multi-dwelling housing development comprising 236 dwellings and associated earthworks, road construction and delivery, civil and landscaping works, community facilities (Stage 1) and use of up to five (5) dwellings for temporary exhibition homes. The development upon completion is intended to operate as a Land Lease Community and therefore reliant upon a separate s.68 Approval under the Local Government Act for Manufactured Home Estate.

Permissibility

The application has been lodged utilising the provisions of Wollongong Local Environmental Plan (WLEP) 2009. The site is zoned R2 Low Density Residential and R3 Medium Density Residential.. The applicant asserts the proposal can be categorised as multi dwelling housing which is permissible with consent in these zones. Council has an alternate view noting Manufactured Homes are not a defined land use in the standard instrument and the next of kin development typology being caravan parks are also not permissible in both the R2 and R3 zones of WLEP2009

Consultation

The proposal was exhibited in accordance with Council's Community Participation Plan 2023 from 20 November 2023 to 20 December 2023. No submissions were received.

Internal Referrals

The proposal was referred internally, with Council's Landscape, Community Safety, Community Service, Environment, Geotechnical, Heritage and Traffic Officers ultimately providing conditionally satisfactory referral responses.

Council's Urban Release Team and Stormwater Officer provided unsatisfactory referral advice.

External Referrals

The proposal was referred externally and NSW Rural Fire Service and NSW Heritage provided General Terms of Approval.

Sydney Water, TransGrid and Endeavour Energy provided conditionally satisfactory referral responses, and Department of Planning and Environment – Water provided advice that a Controlled Activity Approval for the development is not required.

Additional information was provided to Transport for NSW (Sydney Trains), and a response has not been received to date.

Legislative clauses requiring consent authority satisfaction

The following legislative clauses require consent authority satisfaction:

- State Environmental Planning Policy (Transport and Infrastructure) 2021 - section 2.97 *Development involving access via level crossings*
- State Environmental Planning Policy (Biodiversity and Conservation) 2021 – section 4.9 *Development assessment process – no approved koala plan of management for land*
- State Environmental Planning Policy (Resilience and Hazards) 2021 – section 4.6 *Contamination and remediation to be considered in determining development application*

- Wollongong Local Environmental Plan 2009 – *Clauses 5.21 Flood Planning, 5.22 Special flood considerations, 7.1 Public utility infrastructure, 7.2 Natural resource sensitivity – biodiversity, 7.8 Illawarra Escarpment area conservation.*

Main Issues

The main issues arising from the assessment are:

- The approval pathway and the development as proposed
- Refusal of both the s68 application for a Manufactured Home Estate and associated s82 Objections
- Non-compliance with development controls for multi dwelling housing
- unresolved stormwater matters
- unresolved flooding matters
- pedestrian permeability
- development interface

Conclusion

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979.

The ultimate built form of the proposal is a Manufactured Home Estate with ancillary development including a community and recreation building, sales office and display homes. State Environmental Planning Policy (Housing) 2021 enables Manufactured Home Estates as a defined land use permissible with consent. However, SEPP Housing only permits Manufactured Home Estates on land upon which caravan parks are a permissible land use. Wollongong Local Environmental Plan 2009 does not permit caravan parks on land zoned R2 Low Density Residential and R3 Medium Density Residential.

The development does not satisfy the provisions of Clause 5.21 Flood Planning of Wollongong Local Environmental Plan 2009, including failing to demonstrate the appropriate consideration of the impacts of climate change.

The site is located within the West Dapto Urban Release Area and is subject to the Bong Bong South Neighbourhood Plan. The proposal included a Variation Justification Statement with respect to Wollongong Development Control Plan 2009 Chapter D16 – West Dapto Release Area, for a proposed variation to the Neighbourhood Plan. The proposal is not consistent with the West Dapto Vision document or Chapter D16- West Dapto Release Area of WDCP 2009, and as such, the proposed variation is not supported.

Variations were also sought to WDCP 2009 in relation to retaining wall height, combined fencing and retaining wall height, solar access to private open space areas, dwelling storage provision, outlook and surveillance of the public domain, location of driveways, stormwater quality targets and the provision of practical, cost-effective and maintainable infrastructure. Insufficient, or no, justification was provided for these variations and these are also not supported.

Council's Urban Release Team and Stormwater Officer provided unsatisfactory referral advice. Council's Landscape, Community Safety, Community Service, Environment, Geotechnical, Heritage and Traffic Officers provided conditionally satisfactory referral advice.

The proposal was referred externally to NSW Rural Fire Service, NSW Heritage, Sydney Water, TransGrid and Endeavour Energy who provided General Terms of Approval or conditionally satisfactory advice as appropriate. The Department of Planning and Environment – Water advised that a Controlled Activity Approval for the development was not required. The concurrence request to Transport for NSW (Sydney Trains) remains outstanding.

Pedestrian permeability within and through the site has not been fully resolved and in its current form is not supported. The extensive use of retaining walls and the interface of the site with adjoining land is poorly resolved, and is likely to result adverse amenity impacts, both within and external to the site.

The proposal has not been designed appropriately given the constraints and characteristics of the site and the wider Neighbourhood, and has the potential to result in significant adverse impacts on the amenity of the surrounding area. The development as proposed would set an undesirable precedent and approval is therefore not considered to be in the public interest.

The operation of the development as a Manufactured Home Estate requires an approval under Section 68 of the Local Government Act 1993. LG-2024/19 lodged with Council for the approval to operate a Manufactured Home Estate was refused on 29 April 2025. In the absence of the required Section 68 Approval, the development as described in the Statement of Environmental Effects cannot be undertaken.

RECOMMENDATION

It is recommended that DA-2023/824 be refused.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the proposal:

State Environmental Planning Policies:

- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Planning Systems) 2021

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other policies

- West Dapto Development Contributions Plan (2025)
- Wollongong Community Participation Plan 2023

1.2 PROPOSAL

The proposal comprises the following:

Use

- Proposed dwellings to be delivered as manufactured homes
- Site to operate as Manufactured Home Estate (MHE), requiring additional approval under Section 68 of the Local Government (LG) Act 1993.
- Development to be a Land Lease Community

Site preparation

- Earthworks including cut and fill generally approximately 2.5m in depth

Civil Works

- Stage 1 area for development located in northern, far western and along TransGrid easement and is inclusive of common/community facilities and subject to separate development application DA-2024/202
- Stage 2 area located east of electricity easement and centrally on site
- Construction of retaining walls across site – walls between internal boundaries to be generally no higher than one metre, external boundary walls up to 2.5 metres in height
- All retaining walls to be located within subject site

Construction / building details

- Dwelling installation to occur when road access and services completed in each civil works stage
- Staging of dwelling construction proposed over five stages, consistent with civil works staging
- Proposed to be delivered as manufactured homes with on-site construction, subject to S68 application and S82 objections under the LG Act 1993.
- 236 dwellings proposed, all single storey
- Dwellings provided with 2-3 bedrooms, 2 bathrooms and double garages
- Five housing types proposed across five frontage types, ranging from 10.5 metre to 12.5 metres for standard lots and width of up to 15 metres proposed for corner lots

- Two to three external façade types and four colour palettes available
- Principal private open space areas provided as roofed alfresco areas
- BASIX certificates provided for each dwelling typology in each of the key orientations

Exhibition village

- Use of up to five dwellings as exhibition homes
- Temporary use linked to sales office for sales of house and land lease packages and associated finance options

Operation for up to four years, then exhibition homes to revert to private dwellings

Sales and Community Management Office

- Consists of:
 - Reception room
 - Sales office
 - Viewing gallery
 - Kitchen
 - Storage
 - Communications room
 - Messy Arts / Multi-purpose room
- Operational 7 days per week, 10:00am to 5:00pm

Traffic, parking and servicing

- All roads private, treated as private shared zones with posted speed limit of 10km/hr
- Roads to generally align with requirements of Local Government Regulations (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021 (LG Regs)
- Footpath 2.5 metre wide proposed to provide for public access through the site with easement to be established to ensure ongoing access
- 91 visitor parking spaces
- Internal kerb side waste collection by Council contractor
- Provision of three gross pollutant traps at stormwater outlets
- Two bioretention basins proposed centrally within transmission easement

Landscaping

- Visually permeable fencing provided between site and public areas
- Colorbond fencing proposed between site and adjoining private land
- Dwelling landscaping:
 - 1.5metre wide landscaping strip consisting of ground covers and shrubs
 - Sufficient deep soil to allow for planting of one canopy tree in the corner of each site
- Communal garden proposed at eastern side of site

The proposed development is Integrated Development as it requires a Bushfire Safety Authority pursuant to Section 100B of the NSW Rural Fires Act 1997, and an Aboriginal Heritage Impact Permit pursuant to Section 90 of the National Parks and Wildlife Act 1974.

1.1 BACKGROUND

On 13 October 2014, Council considered a draft Planning Proposal request for rezoning of land between Bong Bong Road and Cleveland Road West Dapto to permit residential development within Stage 3 of

the West Dapto Urban Release Area. The draft Planning Proposal and draft Neighbourhood Plan were exhibited in July/August 2018 and adopted in November 2018.

Following the adoption of the Neighbourhood Plan and approval of the Planning Proposal, DA-2018/1483 for 1002 torrens title lots (to be developed over 16 stages/phases comprising 989 residential lots, 6 large rural lots, 7 superlots, 2 open space lots to be dedicated to Council, tree removals, remediation, demolition, associated roads and drainage utility infrastructure, riparian corridor and landscape works) was lodged with Council for consideration. DA- 2018/1483 was subsequently withdrawn by the applicant.

The site has been subject to a number of development applications to date as detailed below, with separate consents issued for works including significant bulk earthworks across the site to enable on site blending with coal wash reject, and for the subdivision of land to construct the Central and Northern Precincts of the site.

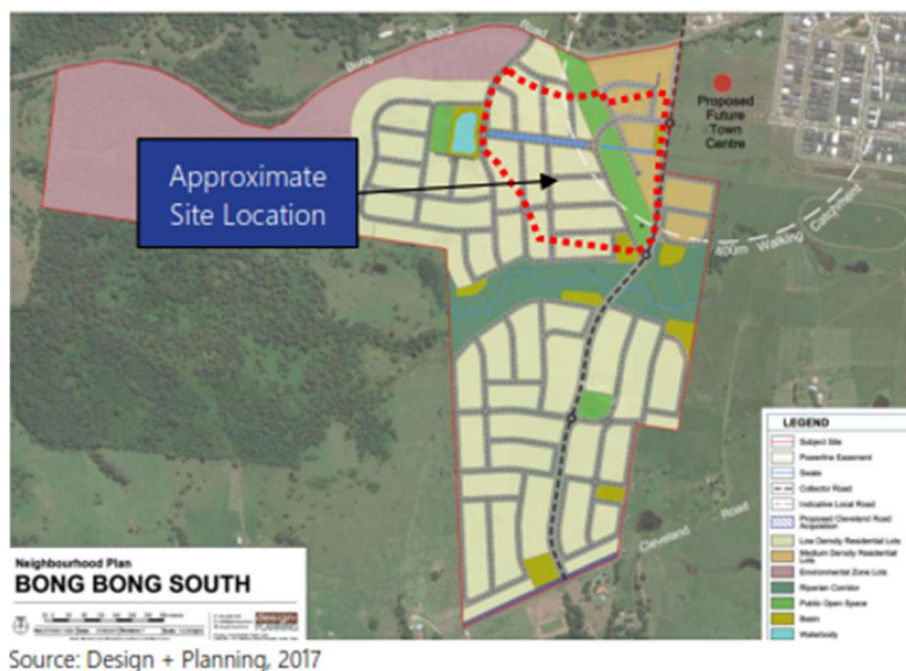


Figure 1: Adopted Neighbourhood Plan showing area of development under DA-2023/849

(Ref: Statement of Environmental Effects dated 25 October 2023 prepared by GLN Planning)

Development History

The development history of the site is detailed at **Attachment 4**. Applications relating directly to the proposal are as follows:

Application Number	Description	Decision
PL-2022/44	Multi Dwelling Housing (to be delivered as Manufactured Homes), road and dwelling layout, civil, landscape, sales office, displays and community facilities	Completed
PL-2023/6	Manufactured Homes Estate including road, civil, landscaping, sales office, display and community facilities.	Completed
DA-2023/849	Multi-dwelling housing development managed as a Land Lease Community and comprising 236 manufactured homes, associated earthworks, civil and landscaping works, community facilities (Stage 1) and use of five (5) dwellings for temporary exhibition purposes	Subject Application
LG-2024/19	Operate a manufactured home estate comprising 236 dwellings and associated community facilities	Refused
DA-2024/202	Community facilities buildings, associated civil and landscaping works	Under Assessment

Prelodgement meetings PL-2022/44 and PL-2023/6 were held in relation to the proposal and the pre-lodgement notes are included at **Attachment 5**. The following issues were identified in the pre-lodgement minutes:

- Consistency with approved Neighbourhood Plan
- Pedestrian connectivity and permeability
- Clarification in relation to private open space controls
- Solar access to dwellings
- Permissibility and operation of the Land Lease Community via a separate s 68 Approval for a Manufactured Home Estate
- s82 Objections reliance to facilitate the development

1.2 APPROVAL PATHWAY

The application relies on consent under WLEP 2009 for multi dwelling housing, and then an approval under s68 of the Local Government Act 1993 to operate a manufactured home estate. The approval to operate as a manufactured home estate provides a gateway for the development to operate as a land lease community under the Residential (Land Lease) Communities Act 2013. The applicant provided legal advice in relation to the approval pathway, and this is included at **Attachment 8**.

Environmental Planning and Assessment Act 1979 (the Act)

Manufactured Homes (MH) are not “buildings” as defined in the Act:

building includes part of a building, and also includes any structure or part of a structure (including any temporary structure or part of a temporary structure), but does not include a manufactured home, moveable dwelling or associated structure within the meaning of the [Local Government Act 1993](#).

This excludes MHs from the certification requirements under *Part 6 Building and subdivision certification* of the Act, including removing the need for Construction Certificates, Occupation Certificates and critical stage inspections.

MHs are also specifically excluded from the definition of residential building work under the Home Building Act 1993, which in turn excludes them from the requirements for insurance under the Home Building Act.

State Environmental Planning Policy (Housing) 2021

SEPP Housing enables Manufactured Housing Estates (MHE), with consent, under Chapter 3, Part 8. Section 122 details where development for the purposes of a MHE may be carried out pursuant to this Part, which is on any land on which development for the purposes of a caravan park may be carried out, subject to a number of exceptions that are not relevant to this site.

Caravan Parks are not a permissible land use in the R2 and R3 zones under WLEP 2009.

Wollongong Local Environmental Plan 2009

MHE's are not a defined land use under the standard instrument, and therefore no pathway for approval for a MHE exists under WLEP 2009.

The applicant asserts the characteristics of the development most closely align with multi dwelling housing, which is defined as:

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

Local Government Act 1993 / Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021

The operation of a MHE requires the prior approval of Council under section 68 of the LGA, and the requirements of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021 (LG MH Regs) are relevant to the design, assessment and operation of the MHE.

The applicant can lodge an objection under section 82 of the LGA that compliance with any provision of the Regulations is unreasonable or unnecessary in the circumstances of the case. If Council is satisfied that the objection is well founded, the objection can be supported with the concurrence of the Departmental Chief Executive.

Section 68 application - LG-2024/19

LG-2024/19 was lodged on 20 March 2024, for the operation of a manufactured home estate comprising 236 dwellings and associated community facilities. The application included s82 Objections for the following matters:

- Section 21 – Width of roads – width of major road proposed to be 5.5m, instead of required 6m
- Section 23 – Visitor parking – proposed width of angle and parallel parking spaces to be 2.4m and 2.2m respectively, instead of required 2.5m for both types of parking
- Section 34 – Fire hydrants – to be installed as per Sydney Water specifications in lieu of the double-headed pillar-type hydrants.
- Section 36 – Use of manufactured home estates – proposed manufactured homes (MH) to be constructed on site where the Regulations specify that a MHE must not be used for the manufacture, construction or reconstruction of moveable dwellings.

Council's LGA Section 89 Assessment Report included at **Attachment 6** supports the objection for the fire hydrants, but finds that the remaining objections are not well founded and are therefore not supported.

In addition, there were a number of non-compliances with the Regulations that were not supported by s82 objections and were not supported by Council. These include: insufficient information on plans detailing dwelling site setbacks and disabled parking spaces, non-compliance with divided road requirements, no dedicated passing bays and insufficient visitor parking spaces.

As a result, the s68 application was refused on 29 April 2025.

Summary

The implications of the refusal of the section 68 application under the Local Government Act 1993 for the development application under consideration are as follows:

1. The Statement of Environmental Effects (SEE) clearly identifies that the multi dwelling housing will be constructed as Manufactured Homes.
2. The conditioning requirements for multi-dwelling developments would usually reinforce the need for compliance with *Part 6 Building and subdivision certification* of the Act, however Part 6 does not apply to manufactured homes
3. Certification requirements for manufactured homes are detailed in the LG MH Regs, however conditioning to reflect the LG MH Regs would not be able to be complied with as the section 68 application to operate a manufactured home has been refused,
4. The development application proposed and detailed in the SEE cannot be undertaken.

Planning Proposal

The subject site, being Lot 197 DP 1258914, is to be further subdivided to create the lot required for the proposal. This subdivision is proposed under DA-2023/891, for a procedural paper subdivision to create five lots.

DA-2023/891 is currently awaiting the outcome of a planning proposal that will realign the area mapped under the *Land Reservation Acquisition Map* that sits over the RE1 zoned land to the west. The proposed subdivision layout and open space in that area did not align with the zoned and mapped land, and as such, consent could not be granted to the roads located on the mapped land, in accordance with the provisions of Clause 5.1A of WLEP 2009.

The Planning Proposal is due to be reported to Council for exhibition on 26 May 2025, after having been through gateway determination with the Department of Planning, Housing and Infrastructure.

1.3 SITE DESCRIPTION

The proposed development application is located within the Stocklands "Forest Reach" development, which is part of the Stage 3 West Dapto Urban Land Release Area. The subject land is identified as

being Lot 197 DP 1258914, located on the southern side of Bong Bong Road, Huntley. This lot has an area of 78.917ha.

The topography of the northern part of the site is steep, falling away from Bong Bong Road, to a deep gully and is flatter around the eastern end of the lot. The land has historically been subject to filling with coal washery reject, impacted by lead shot from the gun club on the adjoining eastern site (proposed Bong Bong Town Centre) and more recently, contaminated by building waste from illegal dumping. Extensive bulk earthworks, including the blending of coal washery rejects, and site remediation are currently occurring over the area as approved under DA-2021/1401.

The development site slopes with a fall of approximately 10m over a distance of 460 metres from the northern extent of the proposal to the southern extent.

The development area is traversed by a high voltage (330kV) overhead power line, generally in a north south direction. The site is overlooked by the Illawarra Escarpment to the west and from the higher western parts of the site there are extensive views to the east and south east over Lake Illawarra extending to the Pacific Ocean.

Subdivision of the Central Precinct on the site is generally completed, and subdivision works are occurring over the Northern Precinct, with some stages in that precinct having reached completion.

Property constraints

Council records identify the land as being impacted by the following constraints:

- Escarpment Lands: the development area is located outside of the area mapped for Escarpment Lands.
- Unstable land: the proposal was referred to Council's Geotechnical Officer for comment.
- Filled Land: the proposal was referred to Council's Geotechnical Officer for comment
- Contamination: the proposal was referred to Council's Environment Officer for comment
- Flooding: The site is identified as being located within a flood risk precinct (classification under review). Council's Stormwater Officer has reviewed the application in this regard.
- Bushfire: The proposal was referred to the NSW Rural Fire Service as Integrated Development
- Land for public purpose- the RE1 Public Recreation zoned land is identified as being land for a public purpose, and sits outside of the development area
- Easements
- Heritage: the proposal was referred to Council's Heritage Officer and Heritage NSW for both Aboriginal and European heritage matters.
 - Site of former Waples Butchery
 - Site of former "Swan" Homestead
 - Site wide Aboriginal Heritage Impact Permit
- burdened by an easement for a transmission line (generally following the blue line shown below).



Figure 1: Aerial photograph

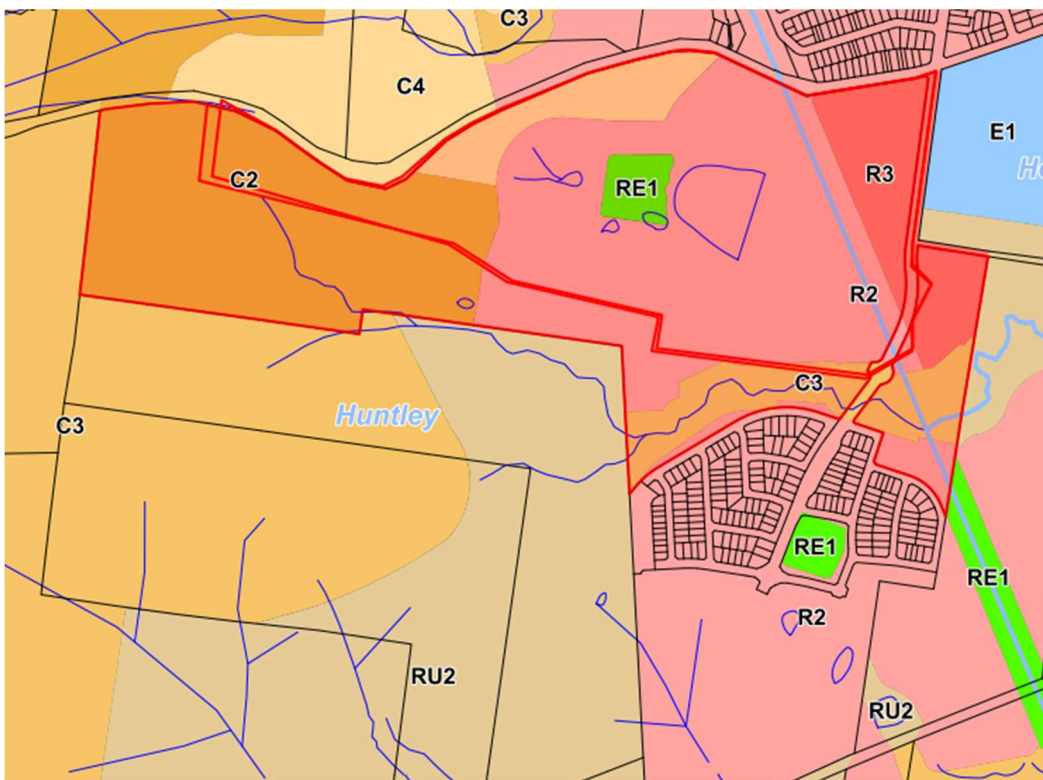


Figure 2: WLEP 2009 zoning map

1.4 SUBMISSIONS

The application was exhibited in accordance with Council's Community Participation Plan 2023. No submissions were received following the exhibition.

1.5 CONSULTATION

1.5.1 INTERNAL CONSULTATION

Urban Release

Council's Urban Release Team has reviewed the application and provided an unsatisfactory referral response. There are a range of unsatisfactory matters relating to flooding, stormwater disposal, water quality target, retaining walls, interface with adjoining development, pedestrian linkages, traffic calming, manoeuvring for proposed caravan park area and pedestrian access to likely future bus stops.

These matters are discussed in greater detail under the Wollongong Development Control Plan 2009 Assessment at **Attachment 7**.

Geotechnical Engineer

Council's Geotechnical Officer has reviewed the application and provided a conditionally satisfactory referral response.

Community Safety

Council's Community Safety Officer has reviewed the application and initially provided an unsatisfactory referral response with respect to:

- Lack of Crime Prevention through Environmental Design (CPTED) report
- No demonstration of impact from street trees on proposed lighting
- Provision of landscaping in laneway adversely impacts on natural surveillance
- Laneways should not be included in new developments – if retained should be min. 2.5m wide
- Natural surveillance from residences to green spaces required

A CPTED report was subsequently provided and referred to the Community Safety Officer who found the CPTED report to be a positive inclusion, but noted that the report did not extend to addressing the issues of the lighting, natural surveillance, laneway and landscaping.

Community Services

Initial referral advice from Council's Community Services Officer indicated the following matters as requiring amendment or further resolution:

- Location of community garden not located within an area considered to be "communal"
- Access to future town centre compromised for wider community
- Use of transmission easement as primary open space not best practice
- Public road interface poor and does not permit good passive to site's internal roads
- Amount of hard surfaces and impact on heat and cooling of dwellings
- CPTED issues with respect to front setbacks and dwelling designs
- Limited detail regarding target demographic

Following the provision of additional information, the Community Safety Officer provided conditionally satisfactory referral advice.

Environment Officer

Council's Environment Officer requested additional information in relation to the impacts of the Vegetation Management Plan being implemented in the riparian corridor on the bushfire assessment, sustainability matters including provision of solar panels, EV charging, consideration of heat impacts and Council's Urban Greening Strategy and contamination matters. Information was provided that generally addressed the request and satisfactory referral advice was provided by the Environment Officer.

Heritage Officer

Council's Heritage Officer requested the formal lodgement of the Heritage Interpretation Plan (HIP) and advice on interpretive outcomes for the Northern Precinct following consideration of the proposal. The HIP was provided and the applicant noted that the proposal was a separate development to the

Northern Precinct subdivision. This was accepted by the Heritage Officer who provided satisfactory referral advice, also noting that General Terms of Approval were issued by Heritage NSW for the proposal.

Stormwater Officer

Council's Stormwater Officer provided unsatisfactory referral advice with respect to the following matters:

- Version 2 of the Water Cycle Management Study is inconsistent with Council's Mullet Creek Floodplain Risk Management Study and Plan (FRMSP) with respect to methodology, events modelled and mapping of the Flood Risk Precincts.
- Insufficient information has been provided to assess the Defined Flood Event (DFE) to determine if the proposal complies with the Mullet Creek FRMSP 2023, particularly the controls within the high and medium flood risk precincts.
- The application fails to demonstrate that the calculation of the DFE included the information provided in the Mullet Creek FRMSP 2023
- The application fails to demonstrate Water Management Objective "O" and the principles 3, 5 and 8 of the West Dapto Vision and Chapter D16 of the WDCP 2009
- The Digital Elevation Model has not been provided in support of the submitted Water Cycle Management Study Version 2 – October 2024
- Proposed batters in the floodway/channel are not of a suitable grade to allow regular maintenance
- A drainage and floodway easement has not been proposed to ensure that stormwater from public areas can be drained through the development (entirely privately owned) to an appropriate discharge point.
- Draft restrictions/covenants have not been proposed over trunk drainage system and "light green dashed drainage line" to ensure that all future maintenance of the infrastructure is assigned to the owner of the land in perpetuity
- The application submission does not provide impacts map for the unblocked and blocked scenarios in accordance with Section 5.2(c) of Chapter E13 WDCP 2009, with reference to the blockage factors used in the model, and described in Table 4 of the WCMS.

Landscape Officer

The Landscape Officer raised the following in their initial referral advice:

- Proposal to resolve conflicts between street trees and proposed drainage and service infrastructure
- Suitable street tree species to be nominated
- Proposal to explore the use of soil vaults
- Proposal for deep soil zone in transmission line not accepted, as does not meet spirit and intent of deep soil zone
- Communal garden remote and not centrally located.

The majority of these issues were resolved and Council's Landscape Officer provided a conditionally satisfactory referral response.

Traffic Officer

The initial review of the proposal by Council's Traffic Officer revealed unsatisfactory matters relating primarily to road design, as well as pedestrian safety and the proposed speed limits.

These matters were addressed by the applicant and Council's Traffic Officer provided satisfactory referral advice, subject to conditions.

1.5.2 EXTERNAL CONSULTATION

Transport for NSW (Sydney Trains)

Concurrence for the proposal is required from Sydney Trains under section 2.97 *Development involving access via level crossings* as the development will result in a likely significant increase in the total number of vehicles or the number of trucks using a level crossing.

Sydney Trains requested the provision of a Traffic Impact Assessment (TIA) that incorporates the Bong Bong Road and Avondale level crossings and any associated risks associated with the proposal's traffic movement on 12 December 2023. The additional information was referred to Sydney Trains on 9 October 2024. A response has not been received however this does not preclude the determining authority from refusing developing consent.

Heritage NSW

The proposal was referred to Heritage NSW under Section 90 of the National Parks and Wildlife Act 1974. An Aboriginal Heritage Impact Permit (AHIP) for the Forest Reach site was issued to Stocklands in 2020. Heritage NSW issued General Terms of Approval on 12 June 2024, and these relate primarily to compliance with the AHIP.

NSW Rural Fire Service

The proposal was referred to the NSW Rural Fire Service (RFS) as Integrated Development, with the north-western portion of the site being identified as being bushfire prone land. Whilst the final built form of the development will be consistent with a MHE, the proposal is for multi dwelling housing and as such is not development for a Special Fire Protection Purpose. Regardless, the RFS issued both General Terms of Approval and a Bush Fire Safety Authority for the development, and noted this anomaly in their comments.

TransGrid

The proposal was referred to TransGrid under Subdivision 2 *Development likely to affect an electricity transmission or distribution network*, section 2.48 *Determination of development applications—other development* of the SEPP (Transport and Infrastructure) 2021.

TransGrid initially raised a number of concerns with the proposal and advised the development was not permitted.

The application was amended by the applicant and re-referred to TransGrid who subsequently provided a conditionally satisfactory referral response.

Endeavour Energy

The proposal was also referred to Endeavour Energy under Subdivision 2 *Development likely to affect an electricity transmission or distribution network*, section 2.48 *Determination of development applications—other development* of the SEPP (Transport and Infrastructure) 2021.

Endeavour Energy have provided a conditionally satisfactory referral response.

Sydney Water

The proposal was referred to Sydney Water for consideration in relation to water supply and wastewater infrastructure – Sydney water provided a conditionally satisfactory referral response.

Department of Planning & Environment – Water (DPE-Water)

DPE-Water provided advice that the proposal did not require a Controlled Activity Approval under the Water Management Act 2000.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

1.6 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment.

NSW BIODIVERSITY CONSERVATION ACT 2016

There is no native vegetation proposed to be cleared for the subject development and as such the proposal does not trigger the requirement for a biodiversity offset scheme. Additionally, the site is not identified as being of high biodiversity value on the [Biodiversity Values Map](#).

The development will not result in adverse impacts on biodiversity and is consistent with the provisions of the Biodiversity Conservation Act 2016.

It is noted that a Biodiversity Assessment Report was provided for land clearing associated with earlier development across the site, and requirements for ecosystem credit retirements were included in conditioning for those development consents as appropriate.

1.6.1 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 4 Koala habitat protection 2021

4.9 Development assessment process—no approved koala plan of management for land

The subject site has an area of greater than 1 hectare and does not have an approved koala plan of management applying to the land. As such, the consent authority must assess whether the proposal is likely to have any impact on koalas or koala habitat.

Ecological Australia's (ELA) Biodiversity Development Assessment Report submitted with DA-2021/1041 (for bulk earthworks across the site) identified that no koalas have been detected on the site during any of the surveys carried out since 2015 to November 2021 and there are no koala records on or near the subject site. ELA has formed the opinion that the subject site is not likely to contain core koala habitat. Council was satisfied under that previous development application that the bulk earthworks proposed were not likely to have an impact on koalas or their habitat.

As the proposal is generally within the footprint of the bulk earthworks approved on the site, and no further vegetation is proposed for removal, the consent authority can be similarly satisfied that this proposal is likely to have low or no impacts on koalas or their habitat, thus satisfying the requirements of section 4.9(3).

1.6.2 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 Remediation of land

4.6 Contamination and remediation to be considered in determining development application

The site was previously subject to filling with coal wash reject, builders' waste and was also impacted by lead shot from the previous gun club activities on the adjoining, eastern site.

Contamination matters in the northern area of Forest Reach were dealt with under previous DA-2021/1401. The bulk earthworks and blending associated with DA-2021/1401 are ongoing, and as such, final sign off for all remediation works on the site has not been achieved.

An Interim Site Validation Report was provided in support of the application and is relevant the development area for the proposal. The Interim Site Validation Report identifies that development area is suitable for the proposed residential land use. The Site Auditor has provided a review of the interim validation report and is satisfied that the report is adequate and can be used as sufficient supporting evidence that site suitability has been achieved in the development area.

As such, SRPP as the determining authority can be satisfied that Section 4.6 matters are thus satisfied.

1.6.3 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

Division 5 Electricity transmission or distribution

Subdivision 2 Development likely to affect an electricity transmission or distribution network

Section 2.48 Determination of development applications—other development

Section 2.48 requires a consent authority to provide written notice of an application that proposes the development within or immediately adjacent to an easement for electricity. The proposed development

was referred to TransGrid and Endeavour Energy who have provided conditionally satisfactory referral responses.

Division 15 Railways

Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors—notification and other requirements

Section 2.97 Development involving access via level crossings

Section 2.97 requires the consent authority to gain concurrence from the rail authority for the rail corridor where development involves a likely significant increase in the total number of vehicles or the number of trucks using a level crossing as a result of the development. The proposal has the potential to impact on level crossings at Bong Bong Road and Avondale Road. Sydney Trains, acting under delegation from Transport for NSW, requested additional information. The information supplied by the applicant was referred to Sydney Trains, however a referral response has not been provided.

1.6.4 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Note: Multi dwelling housing is a type of **residential accommodation**.

residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following—

- (a) attached dwellings,
- (b) boarding houses,
- (baa) co-living housing,
- (c) dual occupancies,
- (d) dwelling houses,
- (e) group homes,
- (f) hostels,
- (faa) (Repealed)
- (g) multi dwelling housing,
- (h) residential flat buildings,
- (i) rural workers' dwellings,
- (j) secondary dwellings,
- (k) semi-detached dwellings,
- (l) seniors housing,
- (m) shop top housing,

but does not include tourist and visitor accommodation or caravan parks.

exhibition home means a dwelling built for the purposes of the public exhibition and marketing of new dwellings, whether or not it is intended to be sold as a private dwelling after its use for those purposes is completed, and includes any associated sales or home finance office or place used for displays.

exhibition village means 2 or more exhibition homes and associated buildings and places used for house and land sales, site offices, advisory services, car parking, food and drink sales and other associated purposes.

Clause 1.8A Savings provision relating to pending development approvals

None applicable.

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned R2 Low Density Residential and R3 Medium Density Residential.

Clause 2.3 – Zone objectives and land use table

The objectives of the R2 Low Density Residential zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The objectives of the R3 Medium Density Residential zone are as follows:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents

The proposal is generally consistent with the objectives of the zones.

The land use table permits the following uses in the R2 Low Density Residential zone.

*Attached dwellings; Bed and breakfast accommodation; Boat launching ramps; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; **Exhibition homes; Exhibition villages**; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Hospitals; Hostels; Information and education facilities; Jetties; **Multi dwelling housing**; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Tank-based aquaculture; Veterinary hospitals*

The land use table permits the following uses in the R3 Medium Density Residential zone.

*Attached dwellings; Backpackers' accommodation; Bed and breakfast accommodation; Boarding houses; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; **Exhibition homes; Exhibition villages**; Group homes; Home-based child care; Home businesses; Home industries; Hostels; Information and education facilities; **Multi dwelling housing**; Neighbourhood shops; Oyster aquaculture; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Serviced apartments; Shop top housing; Signage; Tank-based aquaculture; Veterinary hospitals*

The applicant asserts the proposal is categorised as a multi dwelling housing development and includes an exhibition village as defined above.

Part 4 Principal development standards

Clause 4.3 Height of buildings

All proposed dwellings are single storey. The maximum proposed building height of 6.87m does not exceed the maximum of 9m and 16m permitted for the R2 and R3 zoned portions of the site respectively.

Clause 4.4 Floor space ratio

Maximum FSR permitted for the zone: 0.5:1 (R2 zoned land)

0.75:1 (R3 zoned land)

Site area: (as proposed under DA-14.85ha
2023/891)

GFA: 29,281m²

FSR: 0.2:1

The proposal does not exceed the permissible floor space ratio for the land.

Part 5 Miscellaneous provisions

Clause 5.10 Heritage conservation

The site has proximity to local environmental heritage items, being the sites of the former Waples Butchery and former Swan Homestead, both located further north-west on the land and outside of the development area. The proposal was referred to Council's Heritage Officer, and a conditionally satisfactory referral response provided in this regard.

Forest Reach is subject to an overall AHIP for the site. Of note is a Potential Archaeological Deposit (PAD) located immediately south, and outside, of the development area. Archaeological salvage has already been carried out on this PAD, in accordance with the terms of the AHIP.

The proposal was referred to Heritage NSW as Integrated Development with respect to Aboriginal Heritage- General Terms of Approval were provided by Heritage NSW and generally relate to compliance with the AHIP.

The proposal was also notified to the local Aboriginal communities – no responses were received.

Clause 5.21 Flood planning

Council records indicate the land as being Flood Affected – Medium and High Flood Risk Precincts. The location of the proposal was generally not flood affected in the pre-development phase, however the extensive bulk earthworks over the site will/have impact(ed) on the existing/prior flooding arrangements for the site.

The proposal was referred to Council's Stormwater Engineer who noted that the areas on the development site that were high/medium flood risk were directly associated with the overland flow swale within the transmission line easement, and the low flood risk areas were adjoining Road 01 including but not limited to, the road way, some adjoining lots, the carpark and resident facilities.

The PMF overflows from the wetland are not considered safe and would result in impacts to the proposed carpark, residential lots, the community management office and clubhouse / wellness facility in its built form.

In addition, the trunk drainage system requires re-design to have a more direct alignment, a formal containment of the overland flow path, provision of ample accessibility for future maintenance, and designed with special consideration to public safety and protection of property for all storm events.

In addition, the application submission does not fully demonstrate that changes to flood behaviour as a result of climate change have been considered in the design.

The proposal does not satisfy the provisions of this Clause.

Part 6 Urban release areas

6.2 Development control plan

The subject site forms the adopted *Bong Bong South Neighbourhood Plan*, detailed in Chapter D16 of WDCP 2009. Chapter D16 provides for the matters listed in 6.2(3), although it is noted that there are no site-specific development controls applicable to this Neighbourhood.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The Sydney Water referral response indicated that the proposal is able to be serviced by water and wastewater infrastructure, expected to be delivered to the site mid-2024. A Section 73 certificate for suitable arrangements would also be required prior to the issue of a Construction Certificate if the application were to be supported.

Endeavour Energy have provided a conditionally satisfactory referral response with respect to the provision of electricity to the proposal.

Clause 7.2 Natural resource sensitivity – biodiversity

Whilst Council records indicate the site is affected by “Natural Resource Sensitivity – Biodiversity”, the development area is not located on the mapped part of the lot. No objection to the proposal was raised by Council's Environment Division in this regard.

Clause 7.4 Riparian lands

The main riparian corridor through the site is located near the southern boundary of the development area. The proposal was referred to DPE-Water as Integrated Development, with referral advice indicating that a Controlled Activity Approval was not required for the proposal. The proposal will not adversely impact on the riparian lands.

A Vegetation Management Plan applying to the corridor has been approved under previous consents for the site, providing opportunities for rehabilitation of aquatic and riparian vegetation in that land.

Clause 7.6 Earthworks

The proposal comprises areas of both cut and fill. The earthworks are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land.

The bulk of the earthworks across the site are being carried out under approved DA-2021/1401 and its modifications. This proposal comprises earthworks to achieve the final design levels for the proposal. This DA proposes land reshaping works with cut and fill of up to around 1.5-2 metres.

Clause 7.8 Illawarra Escarpment area conservation

The site includes “Illawarra Escarpment Area” mapped lands, however the development area is located outside and to the east of the Illawarra Escarpment Area, and there is residential subdivision already approved between the mapped lands and the proposal. The application was referred to Council's Environment Officer and no objections were raised in relation to this matter.

7.14 Minimum site width

Multi-dwelling housing requires a minimum site width of at least 18 metres under the provisions of this Clause- the development area exceeds this requirement.

1.7 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

None applicable.

1.8 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

1.8.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant chapters of WDCP2009 and found to be unsatisfactory with regards to flooding and stormwater management, retaining wall height, combined fencing and retaining wall height, solar access to private open space areas, solar access to living areas, dwelling storage provision, outlook and surveillance of the public domain, location of driveways, stormwater quality targets, the provision of practical, cost-effective and maintainable infrastructure, development interface, pedestrian linkages and permeability, traffic calming, provision of motorbike parking spaces. In addition, variation justification statements have not been provided in support of these variations.

A Variation Justification Statement was provided for proposed variations to the Bong Bong South Neighbourhood Plan - there are a number of matters that remain outstanding or unsatisfactory with the design of the proposal and as such, the determining authority cannot be satisfied that the proposed amendment achieves the West Dapto Vision and the requirements of Chapter D16 and therefore the variation is not supported.

The application also fails to demonstrate accessibility to public transport and swept paths for the caravan parking area.

A full compliance table against the controls of WDCP 2009 is provided at **Attachment 7**.

1.8.2 HOUSING PRODUCTIVITY CONTRIBUTION

The Housing Productivity Contribution (HPC) replaced the former NSW Illawarra Shoalhaven Special Infrastructure Contribution (SIC).

The Forest Reach development is subject to a State Planning Agreement. In the event that the application is supported, the applicant could consider obtaining a HPC Amendment Certificate that acknowledges prior contributions to state and regional infrastructure.

1.8.3 WEST DAPTO DEVELOPMENT CONTRIBUTIONS PLAN 2025

The West Dapto Development Contributions Plan applies to the subject property. This Plan would levy a contribution on residential development based on the increase in dwellings.

1.9 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

1.10 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

Environmental Planning and Assessment Regulation 2021

There are no additional matters of relevance prescribed by the Regulations applicable to the proposal.

1.11 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

The proposal is considered unacceptable with regard to the likely impacts.

Context and Setting:

The site is included in the Bong Bong South Neighbourhood Plan (NP). The development was not proposed or envisaged under the Neighbourhood planning process and as a result, the site layout is not consistent with the NP. Prelodgement advice indicated that a Variation Justification Statement would be required and that the provision of public, pedestrian access from the western part of the site to the future Bong Bong Town Centre land to the east was a threshold issue.

A Variation Justification Statement was provided with respect to proposed variation to the NP, and this is discussed further in **Attachment 7** under Chapter D16 considerations. The Variation Justification Statement is not supportable.

The application under consideration is a fenced multi-dwelling housing development that includes private community facilities and a gated main entry road. The ultimate desired development outcome for the site is a MHE/Land Lease Community.

The layout, landscaping, private roads and perimeter fencing create territorial reinforcement and a very clear distinction between public and private land. While the delineation of public and private land is desirable with respect to Crime Prevention through Environmental Design Principles, it works against the intent of the “public” shared accessway that is provided through the site.

The application indicates that signage will be used to make clear to the public that the shared accessway is a public thoroughfare, however the application does not demonstrate how illegitimate access by the public throughout the Community will be controlled, which would likely be an expectation of the Community occupants. An example of this conflict is the “accessible grade alternate route” that draws pedestrians further into the Community. Further, sufficient information has not been provided to demonstrate the proposal will provide a legal right of access in perpetuity and the terms of that access. A draft deposited plan and 88b Instrument have not been provided.

The interface of the development with surrounding development, footpaths and roads is unsatisfactory. The site has been subject to significant bulk earthworks and associated changes to levels, where much of the prior landform has been altered by the works due to the location of coal washery rejects, the extent of soil required for blending and the need to obtain site levels that allow for compliant road grades and reasonable site levels. This is acknowledged and reflected in the DA-

2021/1401 determination that permitted cut of greater than 20 metres in the development area for this proposal. The applicant was advised that the levels approved under DA-2021/1401 would not necessarily reflect the final levels that would be approved under future subdivision applications. The design of the proposal fails to consider surrounding development in a situation where additional earthworks would not be inappropriate.

The subject application proposes fill of approximately 1.5-2 metres along its southern boundary, assumed to provide a relatively level land area for the “walkable community” and ease of construction. In association, retaining walls of up to 2 metres are proposed along this interface, with an intention to provide 1.8 metre colorbond fencing atop – a barrier with an overall height of 3.8metres. This is a significant physical and visual impact on adjoining residential land that will also impact solar access on lots at the rear.

Similarly, the interface at the northern and western boundaries propose 1.5- 2 metre high retaining walls immediately adjoining the road and development area boundary, with fencing on top. These level changes reinforce the isolation of the proposal from the wider Neighbourhood, prevent additional pedestrian access points into and out of the proposal, and impact on passive surveillance to and from the proposal.

The proposal does not sufficiently respond to its context.

Access, Transport and Traffic:

Council’s Urban Release Officer (Traffic) has identified that there a number of traffic, transport and access matter that remain unsatisfactory. These are discussed in greater detail in **Attachment 7** WDCP, under Chapter D16, and would require amendments to the proposed layout, or additional information to enable them to be resolved.

Public Domain:

The matter of provision of public access through the proposal has not been fully resolved- this is a critical pedestrian linkage for the northern area of Forest Reach. The application does not demonstrate that the proposed shared pathway is equal to access provided by a public road and footpath.

Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply. External referral advice indicates that the proposal is capable of being fully serviced.

Heritage:

The proposal was referred to Heritage NSW for Aboriginal Cultural Heritage matters and to Council’s Heritage Officer for matters relating to both European Heritage and Aboriginal Cultural Heritage.

Heritage NSW provided General Terms of Approval for the proposal. Council’s Heritage Officer initially raised some concerns with the proposal, and subsequently provided a conditionally satisfactory referral response following the submission of a Heritage Interpretation Plan and satisfactory referral comments from Heritage NSW.

Other land resources:

The land is part of an identified Urban Release Area. There are no valuable land resources that would preclude the development.

Water:

Referral advice from Sydney Water indicates that servicing will likely be available to the development area as of mid 2024.

Chapter D16 WDCP 2009 requires stormwater targets that will act to limit the impacts of future development on Lake Illawarra. These water targets have not been adopted in the proposal, and therefore the impacts on water quality and the pollution of water bodies likely to arise from the development are not supported.

Soils:

Remediation of contaminated soils is occurring across the site, and is discussed further under Chapter E20 of WDCP 2009. An Interim Site Validation Report that applies to the development site

has been provided with the application, identifying that the development site is suitable for the proposed residential land use.

An extensive programme of site excavation and blending of excavated material with coal washery reject previously deposited on the site is occurring across the site. A suitable mix of material and compaction is required to address combustibility concerns. This is addressed under a previously issued development consent for the bulk earthworks.

Air and Microclimate:

The proposal is not expected to have any negative impact on air or microclimate.

Flora and Fauna:

Council's Landscape and Environment Officers have provided conditionally satisfactory referral responses, noting that vegetation removal is not proposed under this application.

Waste:

On site waste collection is proposed for the development, utilising Council's waste contractor, Remondis. Written confirmation that the site could be serviced would be required from Remondis, if the proposal was to be supported.

Energy:

The proposal is not envisaged to have unreasonable energy consumption. Although not required, BASIX certificates have been provided for each dwelling design against a number of likely orientations. In addition, solar panels are proposed to meet BASIX commitments and battery storage and EV charging facilities available as an upgrade to individual dwellings.

Council's Environment Officer made recommendations with respect to a charging location for electric vehicles.

Noise and vibration:

Conditioning could be included in any consent granted that nuisance be minimised during any construction, demolition, or works.

Natural hazards:

Council's mapping identifies the site as being bush fire prone and subject to flooding. Satisfactory referral advice has been provided with to bushfire matters, however flooding matters are unsatisfactory and require a redesign of the proposal and additional information.

Technological hazards:

Site contamination has been addressed for the development area, with interim site validation and Site Auditor's review of the same provided. Bulk earthworks blending coal washery reject and soil to achieve safe combustion levels are ongoing over the site.

Safety, Security and Crime Prevention:

The safety, security and crime prevention measures proposed in the development are detailed in a Crime Prevention Through Environmental Design Report dated 1/2/2024 prepared by GLN Planning.

The report includes a number of recommendations that are relatively easy to implement in the proposal. The proposed measures including CCTV, lighting, restricted access areas and the use of natural surveillance and appropriate landscaping are suitable for a multi dwelling residential development.

The matter of conflict between pedestrians using the site as a thoroughfare and the proposal being a "gated community" as stated in the report has not been addressed, however may be addressed where the expectations of the occupants of the development are managed accordingly.

The plans indicate that a greater number of dwellings with bedrooms at the front are proposed throughout the development- as a minimum, 50% of the dwellings in any street should have a living area at the front of the dwelling to allow for natural surveillance of common areas.

Social Impact:

The proposal could result in positive social impacts generally for its occupants by the provision of social cohesion, a sense of belonging and through the provision of planned community facilities that are also proposed for the occupants of the development via DA-2024/202.

The physical design of the proposal at the development interface could be improved to increase social interaction and cohesion with occupants of the wider Neighbourhood.

The proposal was notified to the local community and relevant stakeholders including local Aboriginal communities. There are no additional specific groups that would have required more targeted consultation.

Economic Impact:

The proposal fails to address the provision of practical, cost-effective and maintainable infrastructure in relation to the proposed trunk drainage system.

Site Design and Internal Design:

The proposal would result in the following variations to WDCP 2009: retaining wall height, combined fencing and retaining wall height, solar access to private open space areas, dwelling storage provision, outlook and surveillance of the public domain, location of driveways, stormwater quality targets and the provision of practical, cost-effective and maintainable infrastructure. These variations are not supported.

The proposal does not adequately respond to the constraints of the site and will likely have adverse amenity impacts on both the occupants of the development and adjoining residents.

Construction:

Staging of the development in an appropriate manner has been proposed and would ensure the delivery of the community facilities in the first stage.

The dwellings are proposed to be constructed on site as part of an LGA S82 objection in a manner similar to traditional housing construction, however this has not been supported and the separate application under s68 of the LGA refused by Council.

As such, the proposed method of construction will not occur as detailed in the SEE, the alternate construction method is unknown and therefore the likely impacts of construction are not able to be determined.

Cumulative Impacts:

The subject application proposes multi dwelling housing as asserted by the applicant, however in a number of instances does not satisfy the requirements for multi dwelling housing under WDCP 2009.

The SEE refers to preferential satisfaction of the LG MH Regs, however the proposal does not fully comply with these requirements either and has not provided s82 objections for all non-compliant matters. The cherry picking of, and non-compliance with, controls is likely to result in adverse amenity impacts for the occupants of the development

The proposal is located on a greenfield site and is not subject to the site constraints that might impact infill development. As such, compliance with the objectives and controls for multi dwelling housing is expected under this application, as there are no extenuating, site specific circumstances that would suggest an alternate approach as being appropriate.

1.12 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Does the proposal fit in the locality?

The likely impacts of the proposal on the locality and adjoining land are not acceptable. The proposal also does not propose adequate water quality targets to protect Lake Illawarra waters.

Are the site attributes conducive to development?

The site is subject to bush fire and flooding natural hazards, and is also located on land that contains Aboriginal cultural heritage and items of European heritage. However, the majority of these are located outside of the development area and are not impacted by the proposal. Following initial objection to the

development by TransGrid, the design of the proposal has been amended to respond to TransGrid's concerns in relation to the transmission easement.

The existing levels of the site are sloping, which is a reflection of pre-development topography. The proposal provides generally flat sites achieved through the proposed earthworks and associated retaining walls. Given the undeveloped nature of the overall site, a more appropriate design response would be expected in relation to site levels to provide for an improved interface between the proposal and adjoining development.

1.13 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

There were no submissions received following exhibition. Referral responses were received from the relevant State Agencies as detailed above in Section 1.5.

1.14 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The proposal does not sufficiently respond to its context and is likely to result in adverse impacts on the amenity of the occupants, adjoining residents and the wider Forest Reach Neighbourhood. The proposal is considered inappropriate with consideration to site constraints, contrary to the relevant planning controls and in the current form, approval would not be in the public interest.

CONCLUSION

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979.

The ultimate built form of the proposal is a Manufactured Home Estate with ancillary development including a community and recreation building, sales office and display homes. State Environmental Planning Policy (Housing) 2021 enables Manufactured Home Estates as a defined land use permissible with consent. However, SEPP Housing only permits Manufactured Home Estates on land upon which caravan parks are a permissible land use. Wollongong Local Environmental Plan 2009 does not permit caravan parks on land zoned R2 Low Density Residential and R3 Medium Density Residential.

The development does not satisfy the provisions of Clause 5.21 Flood Planning of Wollongong Local Environmental Plan 2009, including failing to demonstrate the appropriate consideration of the impacts of climate change.

The site is located within the West Dapto Urban Release Area and is subject to the Bong Bong South Neighbourhood Plan. The proposal included a Variation Justification Statement with respect to Wollongong Development Control Plan 2009 Chapter D16 – West Dapto Release Area, for a proposed variation to the Neighbourhood Plan. The proposal is not consistent with the West Dapto Vision document or Chapter D16- West Dapto Release Area of WDCP 2009, and as such, the proposed variation is not supported.

Variations were also sought to WDCP 2009 in relation to retaining wall height, combined fencing and retaining wall height, solar access to private open space areas, dwelling storage provision, outlook and surveillance of the public domain, location of driveways, stormwater quality targets and the provision of practical, cost-effective and maintainable infrastructure. Insufficient, or no, justification was provided for these variations and these are also not supported.

Council's Urban Release Team and Stormwater Officer provided unsatisfactory referral advice. Council's Landscape, Community Safety, Community Service, Environment, Geotechnical, Heritage and Traffic Officers provided conditionally satisfactory referral advice.

The proposal was referred externally to NSW Rural Fire Service, NSW Heritage, Sydney Water, TransGrid and Endeavour Energy who provided General Terms of Approval or conditionally satisfactory advice as appropriate. The Department of Planning and Environment – Water advised that a Controlled Activity Approval for the development was not required. The concurrence request to Transport for NSW (Sydney Trains) remains outstanding.

Pedestrian permeability within and through the site has not been fully resolved and in its current form is not supported. The extensive use of retaining walls and the interface of the site with adjoining land is poorly resolved, and is likely to result adverse amenity impacts, both within and external to the site.

The proposal has not been designed appropriately given the constraints and characteristics of the site and the wider Neighbourhood, and has the potential to result in significant adverse impacts on the amenity of the surrounding area. The development as proposed would set an undesirable precedent and approval is therefore not considered to be in the public interest.

The operation of the development as a Manufactured Home Estate requires an approval under Section 68 of the Local Government Act 1993. LG-2024/19 lodged with Council for the approval to operate a Manufactured Home Estate was refused on 29 April 2025. In the absence of the required Section 68 Approval, the development as described in the Statement of Environmental Effects cannot be undertaken.

RECOMMENDATION

It is recommended that DA-2023/849 be refused for the following reasons:

1. The application submission fails to demonstrate that the proposed development is capable of being undertaken as detailed in the submitted Statement of Environmental Effects.
2. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application submission fails to demonstrate consistency with Wollongong Local Environmental Plan 2009 with respect to Clause 5.21 Flood planning.
3. Pursuant to the provisions of Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal is not consistent with the Bong Bong South Neighbourhood Plan applicable to the land.
4. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal fails to demonstrate consistency with the provisions of the Wollongong Development Control Plan 2009 with respect to the following chapters:
 - a. Chapter B1 - Residential Development
 - b. Chapter C3 —Car parking, Access, Servicing/Loding Facilities and Traffic Management
 - c. Chapter D16 – West Dapto Release Area
 - d. Chapter E13 – Floodplain Management
 - e. Chapter E14 – Stormwater Management
5. Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the application submission fails to demonstrate the likely impacts of the proposed development will not be adverse with respect to:
 - a. The site levels proposed at the interface of the proposal development with adjoining residential development and roads, including the physical treatments proposed to address those levels
 - b. The proposed public shared pathway, in relation to sufficient and ongoing, in-perpetuity access
 - c. Conflicts arising from the provision of a proposed public shared pathway through a private community, including safety, security and crime prevention for the occupants of the development
 - d. The lack of provision of motorcycle parking
 - e. Lack of pedestrian permeability through the site for the development's occupants
 - f. Impacts on Lake Illawarra arising from the proposed stormwater targets
 - g. Flooding
 - h. Stormwater management
 - i. Economic impacts arising from the proposed trunk drainage system
 - j. Site design and internal design
 - k. Solar access to private open space areas
 - l. Sustainability such that the orientation and design of dwellings does not maximise solar access to living areas

- m. Construction impacts associated with Reason for Refusal No 1.
- n. Cumulative impacts
- 6. Pursuant to the provisions of Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, the application submission fails to demonstrate the site is suitable for the development as proposed.
- 7. Pursuant to the provisions of Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore, not in the public interest.

ATTACHMENTS

- 1. Architectural Plans
- 2. Civil Plans
- 3. Landscape Plans
- 4. Site Development History
- 5. PL-2022/44 and PL-2023/6 Prelodgement Meeting Notes
- 6. LGA s68 Application Assessment Report and determination
- 7. Wollongong Development Control Plan 2009 Assessment compliance table
- 8. Applicant's Planning Pathway advice