

SOUTHERN REGIONAL PLANNING PANEL

(Southern Region)

JRPP No	PPSSTH-313
DA Number	DA-2023/895
Local Government Area	Wollongong City
Proposed Development	Site remediation and demolition works, removal of trees, delivery of internal road network, stormwater infrastructure, open space and public domain works and subdivision – 16 Torrens title lots of the former Bulli Hospital
Street Address	27-29 Hospital Road BULLI NSW 2516
Applicant/Owner	Landcom
Number of Submissions	45
Regional Development Criteria (Clause 4.5(b) of the Act and SEPP (Planning Systems) 2021	The proposal is for Crown Development by way of section 6.4 of the Act with an estimated cost of greater than \$5 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 \$8,020,000.00 and 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.
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> List all of the relevant environmental planning instruments: s4.15(1)(a)(1) – <p><u>Acts</u></p> <ul style="list-style-type: none"> Biodiversity Conservation Act 2016 <p><u>State Environmental Planning Policies (SEPPs):</u></p> <ul style="list-style-type: none"> SEPP (Resilience and Hazards) 2021 SEPP (Biodiversity and Conservation) 2021 SEPP (Planning Systems) 2021 <p><u>Local Environmental Planning Policies:</u></p> <ul style="list-style-type: none"> Wollongong Local Environmental Plan 2009 <p><u>Other policies</u></p> <ul style="list-style-type: none"> Wollongong City-Wide Development Contributions Plan Wollongong Community Participation Plan 2019 Housing and Productivity Contribution (Ministerial Order 2023) Planning for Bushfire Protection 2019 List any 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 List any relevant development control plan: s4.15(1)(a)(iii) <ul style="list-style-type: none"> Wollongong Development Control Plan 2009 List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a

	<p>developer has offered to enter into under section 7.4: s4.15(1)(a)(iia)</p> <p>– Nil</p> <ul style="list-style-type: none"> List any relevant regulations: s4.15(1)(a)(iv) Environmental Planning and Assessment Regulation 2021 List any coastal zone management plan: s4.15(1)(a)(v) 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"> 1. Subdivision, Landscape and Civil Engineering plans 2. Site Photos 3. Wollongong Development Control Plan 2009 Assessment 4. Concept Subdivision Plan – future state Indicative lot layout 5. Landcom agreement on conditions 6. Conditions
Recommendation	DA-2023/895 be approved subject to the conditions contained within Attachment 6.
Report by	Sarah Goodman, Development Project Officer

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? **N/A**

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? **Yes**

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 Crown Development by way of section 6.4 of the Act with an estimated cost of greater than \$5 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 \$8,020,000.00 and 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 both Crown and Integrated Development under the Environmental Planning and Assessment Act.

The proposal comprises of the following:

Phase 1

- Completion of site remediation works
- Removal of vegetation
- Demolition works - failed retaining wall structures

Phase 2

- Subdivision of the land to create 16:
 - Eight (8) standard residential lots
 - Two (2) potential manor home lots (subject to a future application)
 - Four (4) superlots that will potentially accommodate future terrace and semi-detached residential housing (subject to a future application)
 - One (1) drainage lot
 - One (1) open space lot
- Civil works for the delivery of an internal road network, including pedestrian laneway and street landscaping.
- Underground drainage storage basin
- Associated retaining walls

Permissibility

The site is zoned R2 Low Density Residential pursuant to Wollongong Local Environmental Plan (WLEP) 2009. All works proposed and the subdivision are all permissible in the zone with development consent.

Consultation

The proposal was exhibited in accordance with Council's Community Participation Plan. Forty-Five (45) unique submissions were received, including a petition letter with 350 signatures.

Internal Referrals

The proposal was referred internally, with Council's Community Safety, Community Service, Environment, Geotech, Heritage, Landscape, Recreation, Development Engineering, and Traffic Officers for assessment. Satisfactory referral advice, comments and/or recommended conditions were provided in each instance.

External Referrals

The proposal being Integrated Development was referred externally to the NSW Rural Fire Service who have provided General Terms of Approval.

Main Issues

The main issues arising during the assessment were:

- Open space embellishment
- Remediation works
- Tree removals

- Stormwater drainage
- Community concerns for exacerbation of traffic impacts in the locality from future development of the lots

Conclusion and Reasons

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 proposed development is permissible with consent and is reflective of the objectives of the R2 Low Density Residential land use zone.

The development is consistent with the applicable provisions of the relevant planning instruments including Wollongong LEP 2009 and there are no development standard departures sought.

The design of the development is also appropriate with regard to the controls outlined in the Wollongong DCP 2009 and there are no variation requests sought.

Specific future development typologies are not sought as part of this application though Landcom's future vision for the site (s) are understood by both Council and the community via the applicant's separate engagement and information initiatives.

Council issues identified during the assessment process relating to remediation works, tree removals, open space embellishment and stormwater drainage have been resolved by way of revised details, negotiated outcomes and draft conditions which have been accepted by the applicant.

Issues identified by way of submissions received relate in the main to the potential for further exacerbation of existing traffic and parking conflicts in the locality from future development should the subdivision as proposed be conditionally approved, however, the current proposal is required to be assessed on merit as a subdivision of land only.

The proposed development as sought is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development.

RECOMMENDATION

DA-2023/895 be approved subject to the conditions provided in Attachment 6.

1. APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development:

Acts

- Environmental Planning and Assessment Act 1979 no. 203
- Biodiversity Conservation Act 2016

Regulations

Environmental Planning and Assessment Regulation 2021

State Environmental Planning Policies:

- SEPP (Resilience and Hazards) 2021
- SEPP (Planning Systems) 2021
- SEPP (Biodiversity and Conservation) 2021

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan (DCP) 2009

Other policies

- Wollongong City-Wide Development Contributions Plan

- Wollongong Community Participation Plan 2019
- Housing and Productivity Contribution (Ministerial Order 2023)
- Planning for Bushfire Protection 2019

1.2 PROPOSAL

The proposal is both Crown and Integrated Development under the Environmental Planning and Assessment Act.

The proposal comprises of the following:

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- Demolition works - failed retaining wall structures

Phase 2

- Subdivision of the land to create 16:
 - Eight (8) standard residential lots
 - Two (2) potential manor home lots (subject to a future application)
 - Four (4) superlots that will potentially accommodate future terrace and semi-detached residential housing (subject to a future application)
 - One (1) drainage lot
 - One (1) open space lot
- Civil works for the delivery and dedication of an internal road network, including pedestrian laneway and street landscaping.
- Underground drainage storage basin
- Associated retaining walls

A copy of principle documents detailing the subdivision is provided at Attachment 1.

1.3 BACKGROUND

Development History

A history of the development site is as follows:

Application Number	Description	Decision	Decision Date
DA-2022/1093	Demolition Works - decommissioned Bulli Hospital	Approved	23 Feb 2023
DA-2022/1364	Remediation of the former Bulli Hospital site including tree removals impacted by the works; Re-notified - to correctly identify all land to which the remediation works relate to	Approved	15 Feb 2024
DA-2023/895	Site remediation works, removal of trees, delivery of internal road network, stormwater infrastructure, open space and public domain works and Subdivision - 16 Torrens title lots of the former Bulli Hospital	<i>Current application</i>	

Pre-lodgement meetings

PL-2023/54, Subdivision of land and associated works.

Customer service actions

There are no outstanding customer service requests of relevance to the development.

1.4 SITE DESCRIPTION

The site is located at 27-29 Hospital Road, Bulli, and the title reference is Lot 1 DP 326181, Lot 1 DP 83742, Lot 1 DP 595930, Lot 20-22 DP 6793, and Lot 1-8 DP 7677I.

The approximate area of the subject site is 2.75 ha, comprised of 14 existing land parcels identified at Figures 1 and 2. The applicable landuse zone is R2 Low Density Residential

At the time of assessment, demolition works of the former Bulli Hospital have been completed and remediation works commenced as consented to by prior approvals,

The site is predominately cleared of vegetation with clusters of established trees along the along the western, north-eastern, and south-eastern boundaries.

The street scene in the immediate vicinity is characterised predominately by low density residential dwellings of single and double storey construction. Adjacent to the subject site northside of Hospital Road, is a newly constructed aged care facility operated by NSW Health. To the west the land use zone is C4 Environmental Living and consists of low-density residential dwellings of single and double storey. Land proximate to the southern boundary is zoned as RE1, Public Recreation, and consists of a childcare centre and a sports field under Council's control.

Primary access to the subject site is established via Hospital Road. Secondary access is also available via Dumbrell Road.

A suite of site photos is provided at Attachment 2



Figure 1: Aerial photograph (2024)

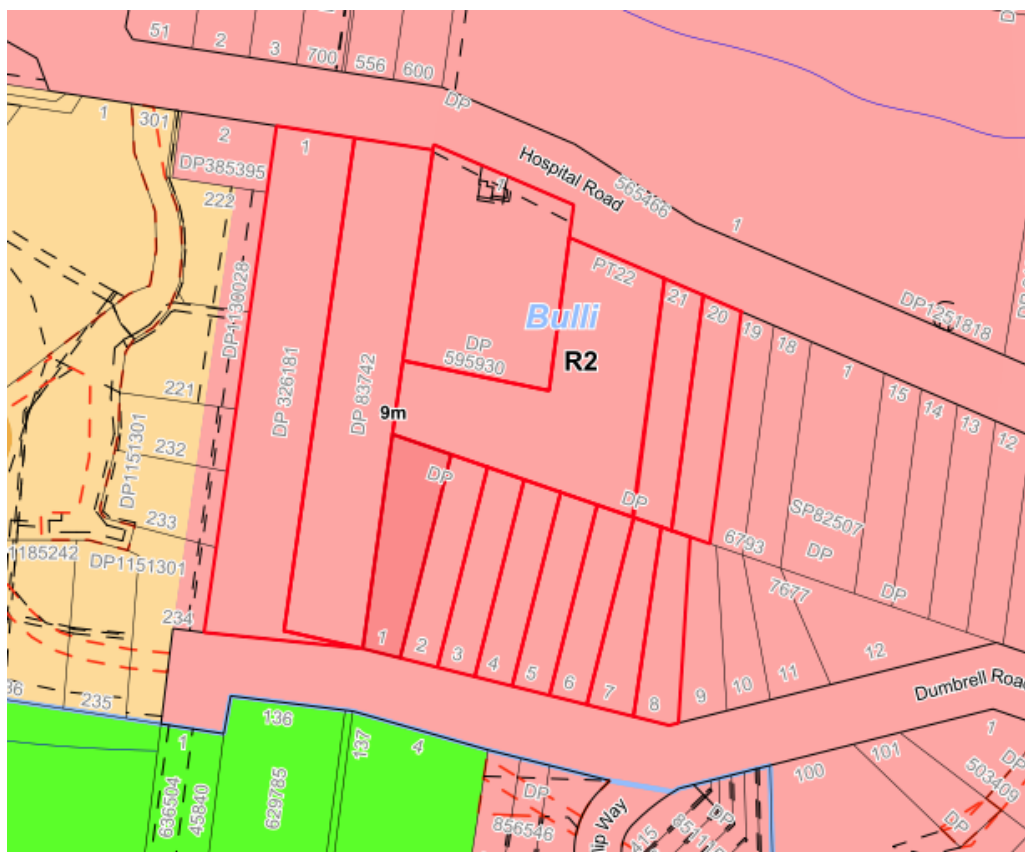


Figure 2: WLEP 2009 zoning map

Property constraints

- Complying Part – ESL – Natural Resources
- Unstable Land – Affected
- Bushfire Prone – Affected
- Ecological Sensitive Land – NR Biodiversity.

There are no restrictions on the title.

1.5 SUBMISSIONS

Details of the proposal were exhibited in accordance with Council's Community Participation Plan. Forty-Five (45) unique submissions were received, including a petition letter with 350 signatures.

The Sydney District & Regional Planning Panels Operation Procedures (September 2022) identifies a unique submission as a submission which is in substance unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.

The main issues identified within the submissions are discussed below.

Table 1: Submissions

Concern	Comment
1. Future use of the site	The former Bulli Hospital was decommissioned by NSW Health and the buildings on the site were considered dilapidated and unsafe.

Concern	Comment
	<p>It is understood that the applicant has conducted local community engagement information sessions relating to future residential development.</p> <p>In accordance with Landcom's Housing Policy, the future vision for the site incorporates a minimum provision of 10% affordable housing. This allocation is intended to cater to low to moderate income households, ensuring that housing costs remain manageable while allowing residents to meet other essential living expenses.</p> <p>Concerns were raised through public submissions regarding access via Dumbrell Road. While pedestrian access will be facilitated from Dumbrell Road, vehicular access was assessed but found to be unfeasible due to the site's challenging topography. Accordingly, future vehicle access from this road has not been pursued in the development design.</p>
2. Traffic Management	<p>The development application was accompanied by a Transport Impact Assessment, which was referred to Council's Traffic Officer for evaluation. It is noted that the proposed vehicle entry and exit points align with the pre-existing site access arrangements.</p> <p>To ensure safe and orderly traffic movement during remediation and construction, conditions have been imposed on the consent requiring all construction access to be limited to Hospital Road except for those associated with the drainage a reserve lot. All loading and unloading operations are to occur within the site boundaries or within the road reserve, under a traffic control plan approved by Council.</p>
3. Tree Protection	<p>Council's Landscape officer has reviewed the application submission which included an Arboricultural report and conditions have been provided relating to tree protection measures under Arboricultural supervision.</p>
4. Vehicle Parking	<p>The submitted Construction Traffic Management Plan has been assessed against the requirements set out in Chapter E3, Section 6.2 of the WDCP2009. The findings of the assessment indicate that the proposed measures are appropriate and satisfactory.</p> <p>Submissions raised concerns about the adequacy of future parking provision for the intended residential use of the site. While the current application pertains to subdivision and associated works only, the final form and scale of future residential development are yet to be confirmed. Nonetheless, Landcom has undertaken local engagement activities to inform the future planning of the site.</p>
5. Bushfire Concerns	<p>Concerns relating to intensification of use and evacuation routes were raised in the submissions. Under section 100B of the Rural Fires Act 1997 authorisation via a Bushfire Safety Authority is required for subdivision of bushfire prone land that could lawfully be used for residential or rural purposes or development of bushfire prone land for special fire protection purposes. The subject site incorporates land which is</p>

Concern	Comment
	identified as Bushfire Prone Land under Council's Bushfire Prone Land Map. The proposed development therefore requires referral as Integrated Development under the Rural Fires Act 1997. NSW RFS has reviewed the submitted Bushfire consultant's report and provided General Terms of Approval.
6. Geotechnical issues	Details of the application submission including a Geotechnical consultant's report have been reviewed by Council's Geotechnical Officer. The recommendations of the report are considered appropriate for the proposed development and conditions have been recommended.
7. Stormwater Management	<p>Details of the application submission were referred to Council's Development Engineering Officer for review. Conditions of consent have been recommended. A separate open space in the south-eastern corner of the site is proposed to be provided to accommodate an underground stormwater detention tank.</p> <p>Concerns regarding the ongoing maintenance of this area were also noted, and long-term maintenance obligations will be minimised by limiting high-maintenance embellishments.</p>
8. Environment Impacts	Concerns Council's Environment Officer has reviewed the application submission which included a Flora and Fauna report and provided conditions in consultation with Council's Landscape Officer with regard to tree retention. Conditions proposed include a Construction Environmental Management Plan.

Table 1: Number of concerns raised in submissions

Concern	1	2	3	4	5	6	7	8
Frequency	36	38	15	40	3	3	2	2

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Details of the proposal were referred to Council's Community Safety, Community Service, Environment, Geotech, Heritage, Landscape, Recreation, Development Engineering, and Traffic Officers for assessment. Satisfactory referral advice, comments and/or recommended conditions were provided in each instance.

Community Safety/Community Service

Council's Community Safety and Service Officers have reviewed the application submission.

Initial concerns were raised in regard to passive surveillance. A social impact assessment has been prepared for the site. Notwithstanding, the proposed subdivision includes through-site pedestrian connections and the provision of public open space.

Environment

Council's Environment Officer has reviewed the application submission.

Consent for site remediation works has already been considered and granted via DA-2022/1364 which includes conditions for validation, interim site auditor's advice, a construction environmental management plan, an unexpected finds protocol and a long term environmental management plan in

response to the submitted Remedial Action Plan and clear statement from the environmental consultant JBS&G dated 7 December 2022 that the site can be remediated for the intended use for residential development.

Contamination issues as relates to the subject DA are confined to areas of the site in the southern extent, adjacent retaining walls to be demolished and tree removals which may contain bonded asbestos fragments and existing road base material which contains hydrocarbons below threshold reporting limits, which is intended to be reused onsite under roads. Some coal wash will also be retained on site within the tree protection areas.

Previous discussions have been held with Landcom regarding onsite management of contaminated materials. Council reiterates that it will not accept the location of any containment cells or contaminated material to be located under public land, including roadways and footpaths. Landcom have confirmed that their position is to remove all asbestos contaminated material and dispose of off-site,

Site works are conditioned to be conducted in two phases, the first being completion of site remediation works, removal of vegetation and demolition works - failed retaining wall structures. Conditions at Attachment 6 require an interim validation report and interim Site Auditor advice to be submitted to Council prior to the release of a Subdivision Works Certificate for the Phase 2 of the project. Conditions also require the submission of a Site Audit Report and Site Audit Statement prior to the release of the Subdivision Certificate.

The site is partially mapped under the Natural Resource Sensitive Lands (Clause 7.2 Natural Resource Sensitivity-Biodiversity of Wollongong LEP 2009). Most vegetation within these areas is proposed to be retained.

It is noted that the submitted Flora and Fauna Assessment 'Old Bulli Hospital Stage 1 and Stage 2 – Demolition and Remediation Works: Flora and Fauna Assessment' prepared by Biosis Offices dated 26 July 2023 was reviewed as part of the assessment in conjunction with Council's Landscape officer and the submitted Arboricultural report.

Site management conditions are proposed at Attachment 6 to account for soil and erosion control and dust suppression during civil works as well as standard amenity controls to mitigate nuisance in the locality.

Geotech

Council's Geotech Officer has reviewed the application submission.

The geotechnical report dated 20 October by PSM was reviewed with known geotechnical information for the general area. The recommendations of the report are considered appropriate for the proposed development and conditions have been recommended.

Heritage

Council's Heritage Officer has reviewed the application submission.

Whilst the subject site does not contain any listed heritage item, the site history is of significance to the local community. A former 'cottage hospital' that was located on the site has since been demolished.

The submitted The Historical Heritage Assessment prepared by Austral Archaeology 2023 and the Heritage Interpretation Plan prepared by Austral Archaeology, dated 7 June 2023 were reviewed as part of the assessment.

It is noted that this application forms part of a staged development process and that previous conditions have been put in place relating to a Demolition DA (DA-2022/1093) and Remediation DA (DA-2022/1364) that require archival recording of the old Hospital Buildings, as well as the development of a Heritage Interpretation Plan.

Landscape

Council's Landscape Officer has reviewed the application submission.

The submitted Arboricultural Impact Assessment Report prepared by Allied Tree Consultancy dated August 2023 and the Arborist Addendum reference 5136A prepared by Allied Tree Consultancy dated 12th November 2024 were reviewed as part of the assessment.

Initial concerns were raised regarding conflicts between proposed the landscape plan and the Bush Fire Assessment prepared by Paterson Bushfire Consultants dated 27th October 2023 as well as the level of embellishment proposed for the open space lots.

Council requested additional information for the Landscape master Plan to coordinate with the Bush Fire Assessment by Paterson Bushfire Consultants dated 27th October 2023.

Furthermore, the embellishment of Hilltop Park as initially proposed was not supported as retention of trees within open space is paramount.

The open space lots were assessed against Section 8 Public Reserves and Open space of Chapter B2 Residential Subdivision of the Wollongong DCP 2009.

The size and location requirements for public open space shall fall within a hierarchy of provisions in accordance with Council infrastructure planning and generally as indicated in table 2. (Local open space 1-2 hectares (10,000 – 20,000sqm))

Hilltop Park Lot OS1 – is 2480sqm and did not meet the minimum requirements for Local open space to support facilities as initially proposed. Council has identified this area as a local pocket park where minimal infrastructure and assets are required.

Draft conditions as Attachment 6 include tree protection measures with arboricultural supervision as well as compensatory plantings for trees to be removed.

Recreation

Council's Recreation Officer has reviewed the application submission.

It is noted that consideration was made initially for the Hilltop Park, which is anticipated to become a Council asset is no longer proposed to be embellished and satisfies passive open space requirements.

Development Engineering

Council's Development Engineering Officer has reviewed the application submission with regard to subdivision, stormwater, flooding and water quality matters.

Water sensitive urban design (WSUD) as initially proposed was deemed unnecessary for the size of the development. The water quality basin was removed and an underground OSD tank has been provided for the development and considered conditionally satisfactory.

Strategic

Council's Strategic Officer has reviewed the application submission.

The applicant has noted obligations under Landcom's Housing policy will be secured through engagement divestment of land to a CHP to deliver and manage the 10% affordable housing and contractual obligations through the divestment of the land. This is considered adequate in acknowledgment that Landcom is a State-owned Corporation and bound by their Housing Policy.

An Indicative Subdivision Plan found at Attachment 4 represents the future concept of the site.

Traffic

Council's Traffic Officer has assessed the application submission.

A Transport Impact Assessment prepared by SCT Consulting dated 17 October 2023 was reviewed as part of the assessment.

The proposed traffic generation would not materially affect the operation of the nearby intersections. These intersections are more impacted by the accumulation of background traffic growth. Also, it should be noted the site was previously operating as a hospital which generated a comparable amount of traffic to the development (As noted in the Transport Impact Assessment). Construction traffic management as proposed is satisfactory.

1.6.2 EXTERNAL CONSULTATION

NSW Rural Fire Service

Details of the application were referred to the NSW RFS for a Bushfire Safety Authority as required under Section 100B of the NSW Rural Fires Act 1997. General Terms of Approval have been provided.

2. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

SECTION 4.15 ASSESSMENT

2.1 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

Section 1.7 of the Environmental Planning and Assessment Act 1979 (EP&A Act) provides that Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 (BC Act).

Part 7 of the BC Act relates to Biodiversity assessment and approvals under the EP&A Act where it contains additional requirements with respect to assessments, consents and approvals under this Act.

Clause 7.2 of the Biodiversity Conservation Regulation 2017 provides the minimum lot size and area threshold criteria for when the clearing of native vegetation triggers entry of a proposed development into the NSW Biodiversity offsets scheme. For the subject site, entry into the offset scheme would be triggered by clearing of an area greater than 0.5 hectares based upon the minimum lot size of the WLEP 2009 C3 zoned land (i.e. less than 40 hectare minimum lot size).

The proposal does not trigger entry into the Biodiversity Offset Scheme (BOS) as this property is not identified on the Biodiversity Values Map. The area of clearing does exceed the BOS area thresholds (0.25ha for this site – Site is partially 'no min lot size' and partially 449sqm). The vegetation within the development footprint includes a mix of planted and self-seeded natives. The area of clearing mostly native vegetation is under the threshold.

STATE ENVIRONMENTAL PLANNING POLICIES

1.1.1 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 4 Koala habitat protection 2021

The site is larger than 1ha and but 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. The site is an old hospital site and no koalas are known in the local area. Whilst the site is not considered core Koala habitat by Council's Environmental Officer, tree removal is proposed as part of siteworks.

Council's Environment and Landscape Officers have reviewed the application submission including the Arboricultural Impact Assessment Report prepared by Allied Tree Consultancy dated August 2023 and the Arborist Addendum reference 5136A prepared by Allied Tree Consultancy dated 12th November 2024 and the Flora and Fauna Assessment 'Old Bulli Hospital Stage 1 and Stage 2 – Demolition and Remediation Works: Flora and Fauna Assessment' prepared by Biosis Offices dated 26 July 2023.

Both referral groups have provided conditionally satisfactory referral responses and the consent authority can be satisfied that this proposal is likely to have low or no impact on koalas or their habitat, thus satisfying the requirements of section 4.9 (3).

1.1.2 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 Remediation of land

Clause 4.3 Definitions

remediation means—

- (a) removing, dispersing, destroying, reducing, mitigating or containing the contamination of any land, or
- (b) eliminating or reducing any hazard arising from the contamination of any land (including by preventing the entry of persons or animals on the land).

Clause 4.4 Land to which this Chapter Applies

This Chapter applies to the whole of the State.

Clause 4.6 Contamination and remediation to be considered in determining development application

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
 - (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Consent for site remediation works has already been considered and granted via DA-2022/1364 which includes conditions for validation, interim site auditor's advice, a construction environmental management plan, an unexpected finds protocol and a long term environmental management plan in response to the submitted remediation action plan and clear statement from the environmental consultant JBS&G dated 7 December 2022 that the site can be remediated for the intended use for residential development.

Contamination issues as relates to the subject DA are confined to areas of the site in the southern extent adjacent retaining walls to be demolished and tree removals which may contain bonded asbestos fragments and existing road base material which contains hydrocarbons below threshold reporting limits, which is intended to be reused onsite.

Site works are conditioned are to be conducted in two phases the first being completion of site remediation works, removal of vegetation and demolition works - failed retaining wall structures. Conditions at Attachment 6 require an interim validation report and interim Site Auditor advice to be submitted to Council prior to the release of a Subdivision Works Certificate for the Phase 2 works of the project – civil works. Conditions also require the submission of a Site Audit Report and Site Audit Statement prior to the release of the Subdivision Certificate.

The proposal is therefore considered satisfactory and consistent with the assessment considerations of SEPP (Resilience and Hazards) 2021 to the extent that the determining authority can be satisfied as required by clause 4.6 as relates to the intended use of the land for residential purposes and land contamination matters.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

The proposal is for Crown Development by way of section 6.4 of the Act with an estimated cost of greater than \$5 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 \$8,020,000.00 and 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.

2.1.3 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Part 1 Preliminary

Clause 1.4 Definitions

The application proposes **Subdivision of Land** and associated **Subdivision Works**, and construction of a public **Road**.

Road means a public road or a private road within the meaning of the Roads Act 1993, and includes a classified Road

Subdivision of Land and Subdivision Works is not defined in the LEP, but is defined in Part 6 of the EP&A Act as follows:

6.2 Meaning of “subdivision” of land

(1) For the purposes of this Act, **subdivision** of land means the division of land into 2 or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. The division may (but need not) be effected—

(a) by conveyance, transfer or partition, or

(b) by any agreement, dealing, plan or instrument rendering different parts of the land available for separate occupation, use or disposition.

(2) Without limiting subsection (1), **subdivision** of land includes the procuring of the registration in the office of the Registrar-General of—

(a) a plan of subdivision within the meaning of section 195 of the [Conveyancing Act 1919](#), or

(b) a strata plan or a strata plan of subdivision within the meaning of the [Strata Schemes Development Act 2015](#).

Subdivision work means any physical activity authorised to be carried out in connection with a subdivision under the conditions of a development consent for the subdivision of land. For the purposes of this definition, a development consent includes an approval for State significant infrastructure if the regulations under Part 5 apply this Part to subdivision work under such an approval.

Earthworks mean excavation or filling.

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.

Clause 2.3 – Zone objectives and land use table

The objectives of the 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 proposal is satisfactory regarding the above objectives as the development relates to the creation of lots which will be used for future residential development.

The land use table permits the following uses in the zone.

Permitted with consent

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

Roads as defined above is permissible in the zone with development consent. The earthworks relates to ground remediation, permitted within the R2 Low Density Residential zone, in preparation for future development application(s).

Clause 2.6 Subdivision—consent requirements

Land to which this Plan applies may be subdivided, but only with development consent.

Consent for subdivision of the subject site is sought as part of the application

Part 4 Principal development standards

Clause 4.1 minimum subdivision lot size

The western portion of the site is identified as being affected by Council's Lot Size map (refer to Figure 3), which sets a minimum lot size of 449m².

Lots proposed within this area of the site have been designed to exceed the minimum lot size. Accordingly, the proposal is consistent with the requirements of Clause 4.1.

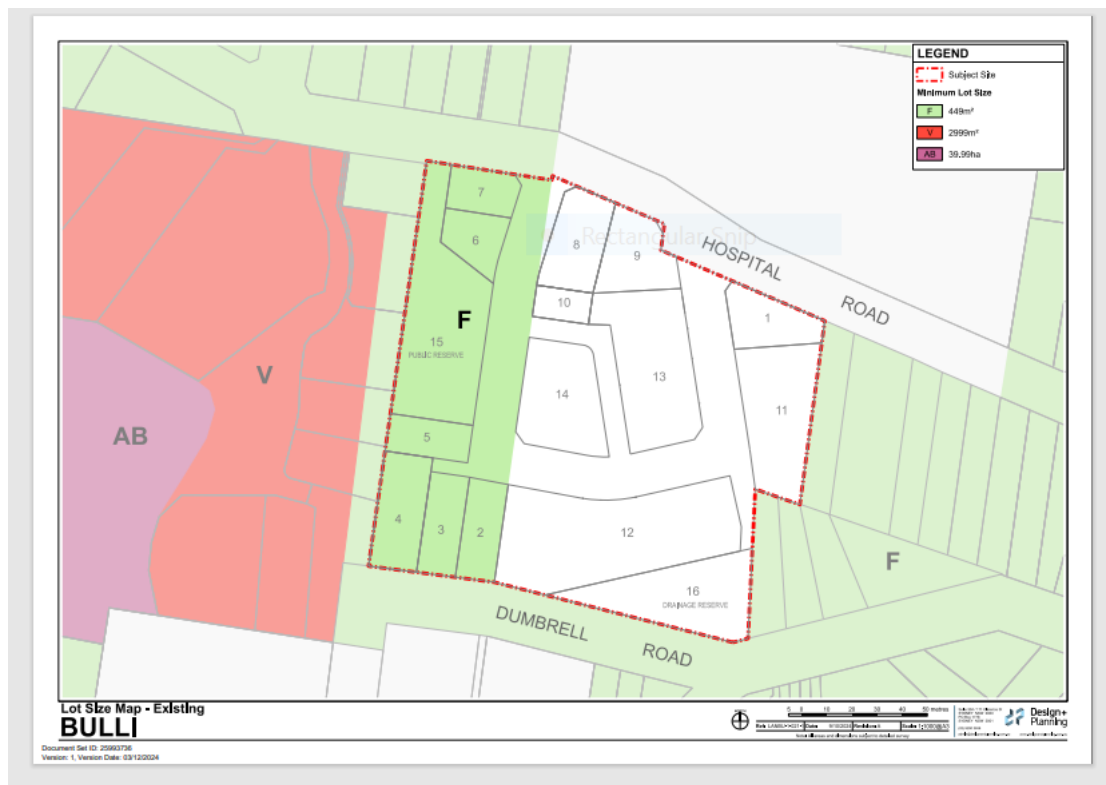


Figure 3: Lot Size Map Extract

Part 5 Miscellaneous provisions

Clause 5.10 Heritage conservation

The site does not contain any listed heritage items nor is it within a heritage conservation area as per schedule 5.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

This clause seeks to ensure that sufficient infrastructure is available to service development and requires that consent not be granted for development unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.

The site is already serviced by electricity, water and sewerage services. It is expected that the existing utility services can be augmented to support the proposed development.

Conditions at **Attachment 6** require approval from the relevant authorities for the connection of electricity, water and sewerage to service the site prior to the commencement of works.

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

2.2.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant chapters of WDCP 2009. Compliance tables are provided at Attachment 3.

2.2.2 HOUSING AND PRODUCTIVITY CONTRIBUTION

Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Order 2023

This contribution applies to this application as it was lodged after 1 October 2023 and has been accounted for in the draft conditions at Attachment 6.

2.2.3 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN

The Wollongong City Wide Development Contributions Plan applies to the subject site.

- The proposed cost of development* is over \$200,001 – a levy rate of 1% applies.

Contribution Amount = Cost of Works \$8,020,000.00 x 1% levy rate = \$80,200.00

Note: The proposed cost of development is calculated in accordance with clause 25J of the EP&A Regulations, however if a separate cost estimate is not provided with the DA, use the cost of works stated on the application*

This contribution has been accounted for in the draft conditions at Attachment 6.

2.3 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.

2.4 SECTION 4.15 1(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

Environmental Planning and Assessment Regulation 2021

6 Estimated development cost

The cost estimate has correctly calculated the development cost in accordance with this section.

6A Determination of BASIX development cost

N/A

35B Additional requirements for development applications involving contravention of development standards

N/A

Part 4 Determination of development applications

Division 1 Determination of development applications—the Act, s 4.15(1)(a)(iv)

61 Additional matters that consent authority must consider

Conditions of consent are recommended with regard to demolition.

62 Consideration of fire safety

N/A

63 Considerations for erection of temporary structures

N/A

2 Savings

Any act, matter or thing that, immediately before the repeal of the 2000 Regulation, had effect under the 2000 Regulation continues to have effect under this Regulation.

2000 Regulation means the Environmental Planning and Assessment Regulation 2000 as in force immediately before its repeal on 1 March 2022.

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

Context and Setting:

The proposal has been assessed with regard to mitigating both environmental and amenity impacts and is considered to be compatible with the local area.

Access, Transport and Traffic:

Access to the site for all works will be limited to Hospital Road except for those associated with the drainage reserve lot. Council's Development Engineering and Traffic Officers have reviewed the proposed access arrangements. The design of the subdivision is satisfactory.

Public Domain:

The proposal is not considered to have an adverse impact upon the public domain.

Utilities:

The proposal would not be envisaged to place an unreasonable demand on utilities supply. Existing utilities can be augmented to service the proposal.

Heritage:

Details of the application submission were reviewed by Council's Heritage Officer. A Heritage Interpretation Plan is conditioned for to account for the history of the site though there are no listed items or conservation area considerations required.

Other land resources:

The proposal would not be envisaged to impact upon valuable land resources.

Water:

The site is presently serviced by Sydney Water, which could be readily extended to meet the requirements of the proposed development.

The proposal would not be envisaged to have unreasonable water consumption.

Soils:

It is expected that, with the use of appropriate erosion and sedimentation controls during construction, soil impacts will not be unreasonably adverse.

Air and Microclimate:

The proposal would not be expected to result in negative impact on air or microclimate. Dust suppression measures are conditioned for during siteworks

Flora and Fauna:

The application submission was reviewed by Council's Landscape and Environment officers. The proposal will have minimal impact on native flora and fauna.

Waste:

Waste management during works can be managed through proper arrangements. A condition is proposed requiring the use of an appropriate receptacle for any waste generated during the construction and compliance with the Site Waste Management and Minimisation Plan provided with the DA.

Energy:

The proposal would not be expected to have unreasonable energy consumption.

<u>Noise and vibration:</u>
Conditions are proposed to minimise nuisance during any construction, demolition, or civil works.
<u>Natural hazards:</u>
There are no natural hazards affecting the site that would prevent the proposal.
<u>Technological hazards:</u>
There are no technological hazards that would preclude the proposal.
<u>Safety, Security and Crime Prevention:</u>
The proposal would not be envisaged to result in any greater opportunities for criminal or antisocial behaviour.
<u>Social Impact:</u>
The proposal is not expected to create negative social impacts.
<u>Economic Impact:</u>
The proposal is not expected to create negative economic impacts.
<u>Construction:</u>
Conditions are recommended in relation to construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, and the use of any crane, hoist, plant or scaffolding. A condition will be attached to any consent granted that all works are to be in compliance with the Building Code of Australia.
<u>Cumulative Impacts:</u>
The development is consistent with the future desired character of the locality.

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

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

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

The proposal was exhibited in accordance with Council's Community Participation Plan. Forty-Five (45) unique submissions were received, including a petition letter with 350 signatures.

Submissions from public authorities

There were no submissions from public authorities.

2.8 SECTION 4.15 1(E) THE PUBLIC INTEREST

The proposed development is considered appropriate with consideration to the zoning and the future desired character of the area. Approval of the proposed development is considered to be in the public interest.

2.9 SECTION 4.33 1(B) DETERMINATION OF CROWN APPLICATIONS

(1) A consent authority (other than the Minister) must not:

(b) impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.

As Crown development is proposed the draft conditions at **Attachment 6** were forwarded to Landcom as the applicant for agreement.

Agreement was provided by way of email confirmation dated 23 May 2025 with a copy provided at Attachment 5

3. CONCLUSION AND REASONS

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 proposed development is permissible with consent and is reflective of the objectives of the R2 Low Density Residential land use zone.

The development is consistent with the applicable provisions of the relevant planning instruments including Wollongong LEP 2009 and there are no development standard departures sought.

The design of the development is also appropriate with regard to the controls outlined in the Wollongong DCP 2009 and there are no variation requests sought.

Specific future development typologies are not sought as part of this application though Landcom's future vision for the site (s) are understood by both Council and the community via the applicant's separate engagement and information initiatives.

Council issues identified during the assessment process relating to remediation works, tree removals, open space embellishment and stormwater drainage have been resolved by way of revised details, negotiated outcomes and draft conditions which have been accepted by the applicant.

Issues identified by way of submissions received relate in the main to the potential for further exacerbation of existing traffic and parking conflicts in the locality from future development should the subdivision as proposed be conditionally approved, however, the current proposal is required to be assessed on merit as a subdivision only.

The proposed development as sought is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development.

4. RECOMMENDATION

DA-2023/895 be approved pursuant to Section 4.16(1) of the Environmental Planning & Assessment Act 1979 subject to the conditions provided at Attachment 6.

5. ATTACHMENTS

1. Subdivision, Landscape and Civil Engineering Plans
2. Site Photos
3. Wollongong Development Control Plan 2009 Assessment
4. Concept Subdivision Plan – future state indicative lot layout
5. Landcom agreement on conditions
6. Conditions