

<b>DATE OF DECISION</b>	Monday, 9 November 2020
<b>PANEL MEMBERS</b>	Gordon Kirkby (Chair), Tim Fletcher, Renata Brooks, Michael Mantei
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	<p><b>David Brown:</b> I was part of the council unanimous vote to oppose this and natural justice generally would say to not sit on an appeal of your own decision</p> <p><b>Mark Carlon:</b> I was a member of the Wollongong Local Planning Panel when this matter was first considered. As such I have already been involved in assessing the matter and it is not appropriate that I take part in the rezoning review.</p>

## REZONING REVIEW

2020STH004 – Wollongong – RR\_2020\_WOLLG\_001\_00 - 3-15 Short Street; 312-324 Princes Hwy Corrimal (AS DESCRIBED IN SCHEDULE 1)

### Reason for Review:

- ☒ The council has notified the proponent that the request to prepare a planning proposal has not been supported
- ☐ The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support

## PANEL CONSIDERATION AND DECISION

The Panel considered: the material listed at item 4 and the matters raised and/or observed at meetings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel determined that the proposed instrument:

- ☒ **should** be submitted for a Gateway determination because the proposal has demonstrated strategic and site specific merit
- ☐ **should not** be submitted for a Gateway determination because the proposal has
- ☐ not demonstrated strategic merit
  - ☐ has demonstrated strategic merit but not site specific merit

The decision was unanimous.

## REASONS FOR THE DECISION

### Overview

The Panel has been requested to undertake a Rezoning Review of Planning Proposal RR\_2020\_WOLLG\_001\_00 on land located at 3-15 Short Street, 312-234 Princes Highway, Corrimal. The land comprises multiple Lots and is approximately 7,500m<sup>2</sup> in size. The land is currently zoned part SP2 Infrastructure (car park) and part R2 Low Density Residential *Wollongong Local Environmental Plan 2009* (LEP 2009). The proposal also includes a small parcel of Council owned land that forms part of Ziems Park and is also zoned SP2.

The Planning Proposal seeks to rezone the land to a combination of R3 Medium Density Residential, R2 Low Density Residential, RE1 Public Recreation and RE2 Private Recreation. It is also proposed to:

- amend the “Height of Buildings map” to apply a height limit of 15m for the areas to be zone R3
- amend the “Floor Space Ratio Map” to apply a FSR of 1.5:1 for the areas to be rezoned R3

- amend Schedule 1 to permit *flood mitigation works* as an additional permitted use.

The Panel had the benefit of the following:

- Rezoning Review Request correspondence prepared by Urbis on behalf of Lederer Group dated 14 August 2020
- Written report prepared by the Department of Planning, Industry and Environment (Department) (undated)
- Council Planning Officer's Assessment Report to Council dated 29 June 2020
- Minutes of the Ordinary Meeting of Council held 29 June 2020.

Council Planning Officer's Assessment report to Council recommended that the planning proposal be submitted for gateway determination subject to a number of amendments:

- The site be identified as a "Key Site" in WLEP and be subject to design excellence provisions
- The site have a minimum lot size for subdivision of 450m<sup>2</sup>
- The site be identified in the riparian Lands and Watercourses Map
- Include a Part 7 Local Provisions relating to a sun access plane, permit rooftop plant, list towers etc to exceed the 15m height limit, require alternative arrangements for the provision of car parking currently required on the site.

### **Strategic Merit**

In considering the strategic merit the Panel noted advice provided by Council and the Department regarding the local strategic planning framework for the subject land and surrounding areas. The Panel is of the view that:

1. The current land use and planning controls applying to the site have been in place for greater than five years.
2. Regional strategic plans:
  - The Illawarra Shoalhaven Regional Plan (ISRP) identifies Corrimal as an "urban centre"
  - Goal 2 of the ISRP promotes a variety of housing choices, with homes that meet needs and lifestyles.
  - Within Goal 2, Direction 2.2 supports housing opportunities close to existing services, jobs and infrastructure in the region's centres. Corrimal is specifically identified as a centre for increased housing activity in the Northern Corridor of Wollongong.
  - Action 2.2.1 - Investigate the policies, plans and investments that would support greater housing diversity in centres. The Action identifies Corrimal as a centre where a wider range of housing options are feasible, and where changes to planning controls could facilitate this outcome.
3. Relevant local strategy endorsed by the Department:
  - There is no relevant local strategy that has been endorsed by the Department.
  - The Corrimal Town Centre Plan 2015-2025 identifies Corrimal as a centre with strategic opportunity for growth given its access to services, public transport and proximity to Wollongong CBD.

The Panel is satisfied that the planning proposal has Strategic Merit.

### **Site Specific Merit**

The Panel considered a number of key issues regarding the site specific merit of the planning proposal:

#### **1. Flood Management**

The site is located in the Towradgi Creek Catchment, which has a history of severe flooding. Almost 50% of the site is affected by flooding from the 100 Year ARI storm event. Significant flood modelling and channel design for flood mitigation was undertaken in support of this Planning Proposal. The proposed mitigation works were revised following consultation with Council and the then Office of Environment and Heritage. Council is satisfied that the revised mitigation works demonstrate that a floodway could be constructed to improve flooding impacts both on site and areas adjoining the site, including the Princes Highway and Short Street. The Council officers recommend that a planning agreement be prepared to facilitate construction of the floodway prior to any redevelopment of the site.

Council officers are satisfied with the conclusions of the revised flood modelling that the proposed development areas of the site will be free of any flood hazard in the 1% AEP event and with the works proposed, the development area would be rendered entirely a Medium Flood Risk Precinct and hence suitable for commercial and residential development. This would be subject to planning controls such as minimum habitable floor levels. The proposed flood mitigation channel would continue to be categorised as a High Flood Risk Precinct. No development will occur in this area which is proposed to be zoned RE2 Private Recreation. The Panel supports the preparation of a planning agreement to facilitate construction of the floodway prior to any redevelopment of the site.

Section 9.1 Ministerial Direction 4.3 – Flood Prone Land requires that a planning proposal must not rezone land within a flood planning area from Special Purpose to a residential zone or contain provisions which will permit development in floodway areas. The Direction however allows a planning proposal to be inconsistent with the Direction where the provision of the planning proposal that are inconsistent are of minor significance. While the proposed areas of the site to be rezoned from SP2 Infrastructure to R3 Medium Density Residential are currently located in a floodway, the flood mitigation works proposed as part of the planning proposal would rectify flood behaviour and reduce the flood risk on the site and surrounding locality to an acceptable level for residential development. The Panel is therefore satisfied that the inconsistency with the Direction is justified as the proposed flood mitigation works would create a net improvement and are of minor significance with regard to overall flood management in the Towradgi Creek Catchment.

## 2. Car parking provision

The site is currently the subject of a development consent (DA 1995/255) the conditions of which require the provision of 200 car parking spaces associated with the shopping centre to the north of the site. The proponent is in discussions with Council regarding options to ensure that the required car parking spaces continue to be provided.

Council officers have recommended that the required car parking provision be resolved prior to finalisation of planning proposal. The recommendations propose a new Part 7 Local provision be applied to the site. Included in this provision will be the requirement the future consent for development on the site be conditional on the provision of the car parking required in the development consent for DA 1995/255.

The Panel supports this recommendation.

## 3. Built form and design

The site is at the corner of the Princes Highway and Short Street and is a prominent corner site at the southern edge of the Corrimal Town Centre. The site is considered suitable for medium density residential development given its close proximity to the existing commercial and retail services, public transport and recreational opportunities available in the town centre, subject to the resolution of the flooding and car parking issues addressed above.

Council officers have recommended that the site be designated as a “key site” in WLEP. This will ensure that future development on the site is the subject of a design excellence process. The site is located adjacent to significant community facilities including Ziems Park, Corrimal swimming pool and a community centre. Council officers have recommended that, in the Part 7 Local provision, a “Sun Plane Protection” clause be included to ensure that the adjoining community facilities are not subject to excessive overshadowing. The Panel supports this recommendation.

The provision of affordable rental housing is an important outcome in any redevelopment of the site. The Panel agrees with the Council officers’ recommendation that the planning proposal for construction of the stormwater channel also include a requirement that the developer ensure that 5% of all residential units are available for affordable rental housing. This require is to be satisfied in the first stage of the development.

The Wollongong Local Planning Panel considered the Planning Proposal in 2<sup>nd</sup> April 2020. The Panel raised concern regarding the proposed FSR of 1.5:1 on the basis that the FSR was the same as for the Corrimal Town Centre but the future development of the site is for residential / mixed use and will not have the efficiencies of commercial development. The Local Planning Panel recommended that either prior to seeking Gateway or as part of the requirements of any Gateway but prior to exhibition, further design analysis be undertaken to ensure that the height and FSR work together. The Panel supports the need for an FSR analysis and recommends that it be undertaken as a condition of any gateway approval and prior to public exhibition of the planning proposal.

There is a significant stand of street edge trees on the site, particularly along the Princes Highway. The Panel is of the view that these trees should be retained where possible and has recommended that this be specifically addressed in the site specific DCP provisions.

The site is currently comprised of a number of separate parcels of land. The panel is of the view that the future development area proposed to be rezoned to R3 Medium Density Residential should developed as one integrated development. The Panel therefore recommends that the Part 7 Local provision for the site include a requirement that a future development application for residential development on the R3 Medium Density Residential part of the site include consolidation of the lots.

#### 4. Contamination

The planning proposal included a State 1 Preliminary Site Investigation. The Site Investigation covered both the site and the shopping centre site to the north in the context of current land use and not the proposed change of land use. Council officers have recommended that, should the planning proposal be endorsed at Gateway, an updated Stage 1 Preliminary Site Investigation be submitted (addressing proposed residential uses) along with a Phase 2 (detailed investigation) assessment and Site Audit Statement process under the *Contaminated Land Management Act 1997*. These further assessments should be prepared and submitted for public exhibition. The Panel endorses this approach.

#### RECOMMENDATION

The Panel has adopted the recommendations in Council's Officer's Assessment report to Council dated 29 June 2020 subject to a number of amendments discussed in this report.

1. A draft Planning Proposal be prepared for 3-13 Short Street, 312-324 Princes Highway, Corrimal to amend Wollongong Local Environmental Plan 2009 as follows –
  - a. Amend the Zoning Map from part SP2 Infrastructure (Car park) to part R3 Medium Density Residential and RE2 Private Recreation.
  - b. Amend the Height of Buildings Map to 15 metres for that part of the site proposed for R3 Medium Density Residential zoning.
  - c. Amend the Floor Space Ratio Map to 1.5:1 (***or otherwise as determined by Council having regard to the recommended FSR analysis***) for that part of site proposed for R3 Medium Density Residential zoning.
  - d. Amend the Minimum Lot Size Map to 450m<sup>2</sup>.
  - e. Amend the Riparian Lands and Watercourse Map rehabilitating the riparian corridor.
  - f. Amend the Key Site Map to identify the site as a Key Site under clause 7.18 Design Excellence.
  - g. Amend Schedule 1 Additional Uses to incorporate additional permitted use "Flood Mitigation Works".
  - h. Include a new Part 7 Local provision for the site to: -
    - i. Include a "Sun Plane Protection" clause to protect the adjacent public open space, public pool and community facilities from excessive overshadowing by restricting the height and set back of buildings.
    - ii. Ensure the granting of development consent is conditional on any proposed development exhibiting design excellence and considers impacts on the adjoining community centre, library and public pool.
    - iii. Enable development consent to be granted to development for the purpose of rooftop plant, lift towers, lift motor rooms and/or communal open space and access to any

structures associated with such space, that would exceed or causes a building to exceed, the Height of Building limit.

- iv. Ensure the granting of development consent is conditional on the ~~satisfactory~~ provision of car parking required for the shopping centre, which is a condition of consent on DA1995/255.
  - v. ***Ensure that future development application for residential development on the site include consolidation of the lots within the proposed R3 Medium Density Residential zoned area.***
2. The draft Planning Proposal also rezone part of Ziems Park (Lot 101 DP 1062386) from SP2 Infrastructure (Car Park) to RE1 Public Recreation.
  3. The following additional investigations be requested as part of the Gateway determination for public exhibition –
    - a. Phase 1 Site Assessment.
    - b. Stage II Site Contamination Assessment - A Stage II (detailed investigation) and Site Audit Statement process under Contaminated Land Management Act 1997 is to be prepared.
    - c. Remediation Action Plan.
    - d. Revised Traffic Impact Assessment prepared in accordance with the RMS Guide to Traffic Generating Development.
    - e. Revised Urban Design Analysis to inform a new Part 7 Local provision “Sun Plane Protection” clause.
    - f. A draft site-specific Development Control Plan (DCP) be developed for the site, and be reported to Council. **The DCP should include consideration of the recommended FSR analysis and address the retention of significant street edge trees on the site.**
    - g. A Planning Agreement be prepared to facilitate construction of the floodway prior to any redevelopment of the site and inclusion of 5% affordable rental housing (based on residential floor space) and be reported to Council.
    - h. ***An analysis be undertaken for the proposed R3 zoned section of the site to ensure that the proposed 1.5:1 FSR control yields an appropriate built form outcome on the site, given the recommended height limit control and proposed sun plane protection restriction***
  4. Should a Gateway determination be issued, consultation be undertaken with the following agencies:
    - a. NSW Department of Primary Industries – Water.
    - b. NSW Environment Protection Authority.
    - c. NSW Department of Planning, Industry and Environment - Environment, Energy and Science.
    - d. NSW Heritage.
    - e. Endeavour Energy.
    - f. Transport for NSW.
    - g. Sydney Water.
    - h. Emergency response organisations (SES, RFS etc).
  5. The draft Planning Proposal be exhibited for a minimum period of 28 days.
  6. The NSW Department of Planning, Industry and Environment be requested to issue authority to the General Manager to exercise plan making delegations.

PANEL MEMBERS



Gordon Kirkby (Chair)



Renata Brooks



Tim Fletcher



Michael Mantei

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	2020STH004 – Wollongong – RR_2020_WOLLG_001_00 - 3-15 Short Street; 312-324 Princes Hwy Corrimal
2	LEP TO BE AMENDED	Wollongong Local Environmental Plan 2009
3	PROPOSED INSTRUMENT	<p>The proposal seeks to amend the Wollongong LEP 2009 by:</p> <ul style="list-style-type: none"> <li>• rezoning the subject land from SP2 Infrastructure (Car Park) and R2 Low Density Residential to part R3 Medium Density Residential, part RE1 Public Recreation and part RE2 Private Recreation;</li> <li>• amending height, floor space ratio and minimum lot size controls;</li> <li>• amending Schedule 1 to permit flood mitigation works as an additional use; and</li> <li>• identifying the land as a 'Key Site'.</li> </ul>
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Rezoning review request documentation</li> <li>• Briefing report from Department of Planning, Industry and Environment</li> </ul>
5	BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> <li>• <b>Briefing with Department of Planning, Industry and Environment (DPIE):</b> Tuesday, 20 October 2020 <ul style="list-style-type: none"> <li>○ Panel members in attendance: Gordon Kirkby (Chair), Renata Brooks, Tim Fletcher, Michael Mantei</li> <li>○ DPIE staff in attendance: Graham Towers, Louise Myler</li> </ul> </li> <li>• <b>Briefing with Proponent:</b> Tuesday, 20 October 2020 <ul style="list-style-type: none"> <li>○ Panel members in attendance: Gordon Kirkby (Chair), Renata Brooks, Tim Fletcher, Michael Mantei</li> <li>○ DPIE staff in attendance: Graham Towers, Louise Myler</li> <li>○ Proponent representatives in attendance: Andrew Harvey, Rob Battersby, Patrick Hall</li> </ul> </li> <li>• <b>Briefing with Council:</b> Tuesday, 20 October 2020 <ul style="list-style-type: none"> <li>○ Panel members in attendance: Gordon Kirkby (Chair), Renata Brooks, Tim Fletcher, Michael Mantei</li> <li>○ DPIE staff in attendance: Graham Towers, Louise Myler</li> <li>○ Council representatives in attendance: David Green, Kathy Adams</li> </ul> </li> <li>• Papers were circulated electronically between 16 October 2020 and 20 October 2020</li> </ul>