

REZONING REVIEW – Briefing Report

Date of referral		
Department ref. no	RR_2021_83	
LGA	Shellharbour	
LEP to be amended	Shellharbour Local Environmental Plan 2013	
Address	2514 Illawarra Highway, Calderwood	
Reason for review	<input type="checkbox"/> Council notified the proponent it will not support the proposed amendment	<input checked="" type="checkbox"/> Council failed to indicate support for the proposal within 90 days
Is a disclosure statement relating to reportable political donations under s10.4 of the Act required and provided?	<input type="checkbox"/> Provided <input checked="" type="checkbox"/> Not required Comment: There are no donations or gifts to disclose	

1. SUMMARY OF THE PROPOSAL

1.1 Background

On 18 December 2018, Urbanco Group Pty Ltd submitted a planning proposal to Shellharbour City Council seeking to amend the Shellharbour Local Environmental Plan (LEP) 2013 to rezone land at 2514 Illawarra Highway, Calderwood and apply development controls to enable the development of the land for housing and environmental conservation.

The land is zoned part RU1 Primary Production and part SP2 Infrastructure under the Shellharbour LEP 2013.

The subject land is adjacent to existing urban zoned land as part of the Calderwood release area.

The proposal seeks to rezone the land to a mix of R2 Low Density Residential, E3 Environmental Management and E2 Environmental Conservation and SP2 Infrastructure and proposes minimum lot sizes ranging from 150m² to 300m².

The applicant is seeking a rezoning review because Council failed to formally indicate support for the proposal within 90 days.

Council's comments on the rezoning review request – discussed in section 3 of this report – indicate that Council does not support the Planning Proposal.

1.2 Locality and context

The site is located on the northern side of the Illawarra Highway which bisects Calderwood and Tullimbar. The site is divided by the Macquarie Rivulet. It is located approximately 2km from the Calderwood Town Centre, with a planned Local Retail Centre located approximately 150m to the north-east.

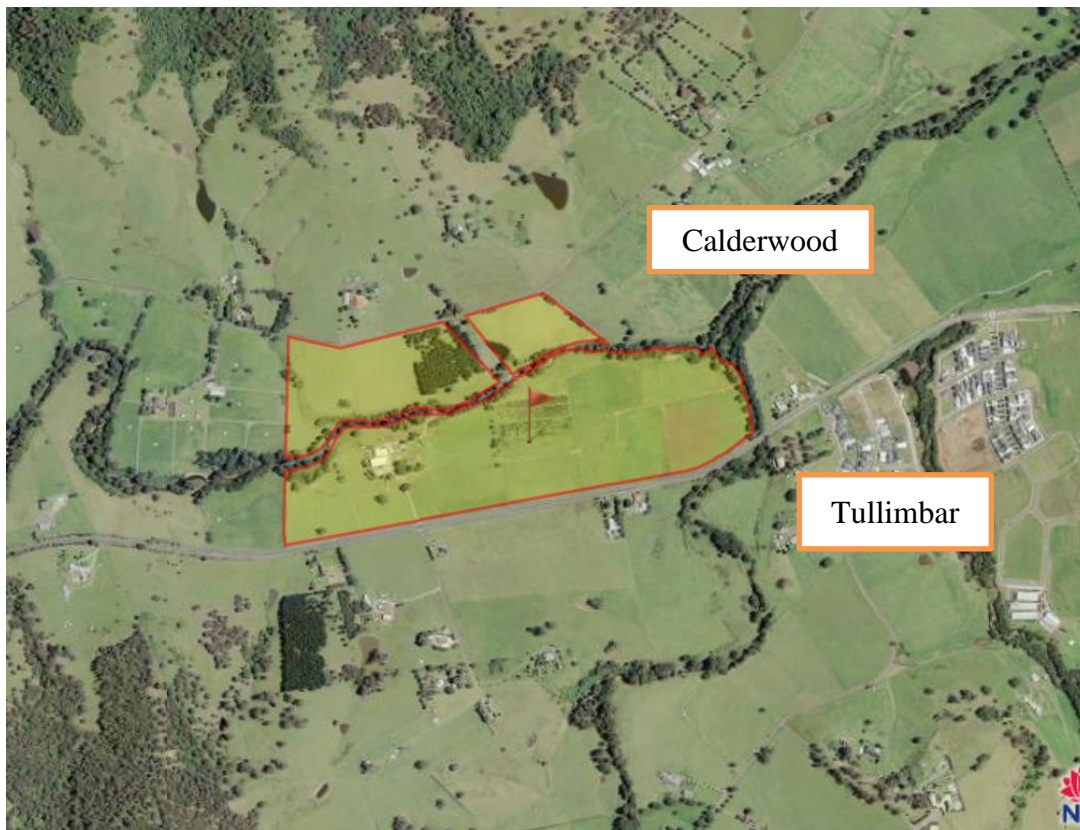


Figure 1: Locality map – the site is outlined in red (source: SIX Maps).

1.3 Site description

The subject land is identified as Lot 7 DP 259137, being 2514 Illawarra Highway, Calderwood. The site is irregular in shape and has an area of approximately 45.5ha (Figure 2, next page). Most of the land is zoned RU1 Primary Production with a small portion adjacent to the Illawarra Highway zoned SP2 Infrastructure.

The land comprises varying topography, with a large cleared area, vegetated riparian corridors and area vegetated with pine trees in the north. Land on the northern side of the site is more steeply sloping up to North Macquarie Road. The land in the north-eastern corner adjoining existing dwellings within the Calderwood site is relatively flat.

The site is heavily vegetated in some areas, and a biodiversity study accompanying the proposal identifies that the site contains endangered ecological communities (EECs) and other medium/high-value vegetation. The land to the south is largely flat.

The Yellow Rock Creek corridor along the eastern boundary and Macquarie Rivulet corridor through centre of the site form distinct landforms with the incised creek beds sitting approximately 5-6m below the surrounding paddocks.

The land has been used for a variety of agricultural businesses over the past 50 years, including more recently poultry farming, livestock grazing, cropping and Christmas Tree production.

The site is approximately 2km from the Calderwood Town Centre, 150m from a planned Local Retail Centre, 500m from playing fields and 200m from local parklands.



Figure 2: Site map – the site is outlined in red (source: Urbanco report).

1.4 Current planning provisions

The land is zoned part RU1 Primary Production and part SP2 Infrastructure (Classified Road) under the Shellharbour LEP 2013. A current zoning map is provided below in Figure 3.

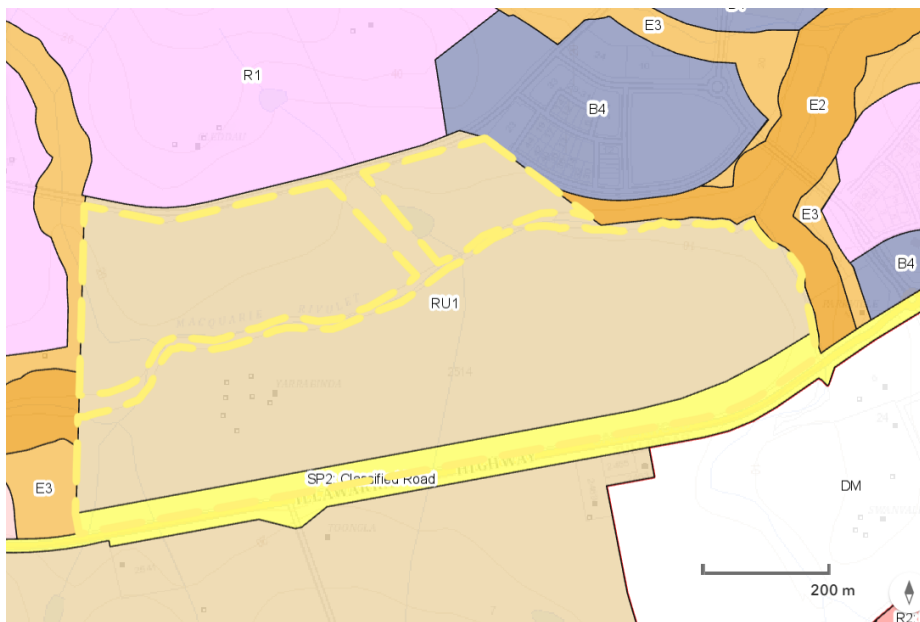


Figure 3: Zoning map – the site is outlined in yellow (source: Planning Portal)

The subject land is adjacent to existing urban zoned land as part of the Calderwood release area. The 2000 LEP does not contain FSR controls for the site and has a height control of 9m.



Figure 3: Height of Buildings map – the site is outlined in yellow (source: Planning Portal)

1.5 Proposed planning provisions

The following table summarises existing and proposed provisions:

Provision	Existing	Proposed
Land use zone	RU1 Primary Production	R2 Low Density Residential E2 Environmental Conservation E3 Environmental Management
	SP2 Infrastructure	SP2 Infrastructure
Lot size	40ha	R2 – 150m ² R2 – 300m ² E2 and E3 – 2.5ha
Height of building (HOB)	9m	9m
Floor Space Ratio	Nil	R2 0.5:1 R2 0.75:1

The proposed LEP maps and draft clause are provided at **Attachment D**.

2. INFORMATION ASSESSMENT

Does the proposal seek to amend a zone or planning control that is less than five years old?

No. The land is zoned under Shellharbour LEP 2013.

2.1 Strategic merit test

Consistency with the relevant regional plan outside the Greater Sydney region, district plan within the Greater Sydney region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment.

Proponents will not be able to depend on a draft regional, district or corridor/precinct plan when the Minister for Planning and Public Spaces or the Department of Planning, Industry and Environment have announced that such a plan will be updated before being able to be relied on.

Illawarra Shoalhaven Regional Plan 2041

The regional plan applies to the Shellharbour LGA and was adopted by the Department in June 2021.

The proposal states it is consistent with the regional plan and addresses each of the plan's objectives relevant to the proposal:

Objective 9: Promote agriculture innovation, sustainability and value-add opportunities

Map 6 of the Regional Plan identifies areas of key Biophysical strategic agricultural land within the region.

The subject site does not incorporate and is not situated within proximity of any land mapped as Biophysical strategic agricultural land.

The strategy aims to protect identified important agricultural land and industries from other land uses, land use conflict and fragmentation.

The land is not identified as important agricultural land, is surrounded by zoned residential land and existing dwellings.

In this regard, support for this planning proposal will reduce existing land use conflict, without impacting any areas of important agricultural land.

Objective 11: Protect important environmental assets

The Regional Plan maps areas of High Environmental Value across the Illawarra and Shoalhaven. Map 7 of the plan identifies the central creek line which traverses the site as being mapped as High Environmental Value.

There are no mapped Biodiversity corridors within or adjoining the subject site.

The Planning proposal is consistent with this objective as it will retain, protect and enhance the creek corridor by zoning it E2 Environmental Conservation, recognising and protecting its environmental status.

Delivery of the project will also incorporate rehabilitation and revegetation of the creek line as a Riparian corridor, and also remove agricultural activities and grazing from this area.

Support for this proposal will deliver an enhanced environmental outcome along this creek corridor.

Objective 12: Build resilient places and communities

This objective relates primarily to the preparation of a resilience benchmark matrix by the State Government and local community resilience plans by Councils.

Notwithstanding, the proposal has taken into consideration and addressed all natural hazards including flood affectation and the like.

As detailed in the Planning Proposal, support for the rezoning and development outcomes proposed will achieve a reduction in food levels for adjoining sites to the south and across the Illawarra Highway delivering positive community benefit.

Objective 13: Increase urban tree canopy cover

This objective is focussed primarily on increasing the urban tree canopy on existing urban areas.

Notwithstanding, the proponents commit to delivering a high quality landscape outcome which promotes an appropriate urban tree canopy coverage.

Objective 14: Enhance and connect parks, open spaces and bushland with walking and cycling paths

The Planning Proposal states it is consistent with this objective as it will deliver significant areas of open space and facilitate extended pedestrian and cycle path linkages and connections.

The Proposal seeks to deliver the missing link green space connection along the riparian corridor between the existing zoned land to the east and west. This area will also accommodate proposed pedestrian and cycle paths linking these communities and providing access to the local centre for future residents.

Objective 18: Providing housing supply in the right locations

The subject land is part of an identified Urban Investigation Area which has been included in the Illawarra Shoalhaven Urban Development Plan (ISUDP) housing supply forecasts.

Support for this Planning Proposal will assist in supporting the ongoing supply of housing within an existing urban growth area.

A preliminary concept plan has been provided which demonstrates the proposed urban design outcomes.

Key place making and urban design outcomes embodied in the plan include:

- Creation of a local pocket park which allows retention of two large existing fig trees and reflects the location of the original homestead site.
- Utilise the east – west riparian corridor to deliver cross site pedestrian and cycle linkages between existing residential land.
- Allow for a variety of housing product and lot typologies, with small lot density housing focused around the pocket park.
- Provide a clear and legible road layout and hierarchy which also encourages pedestrian movements though the site to open space and pedestrian/cycle connections.
- Provide for a future road connection to the development area to the south-west as requested by RMS.

Objective 19: Providing housing supply in the right locations

This objective and associated actions in the Regional Plan focus on delivering housing diversity across the region and addressing affordable housing needs.

The Regional Plan requires that Council's local strategic planning and local plans address this matter through encouraging housing diversity.

The proposal states it is consistent with this objective and Strategy 19.1 as:

- The layout plan facilitates a mix of housing types and lot sizes including small lot housing specified in the Regional Plan.
- The project is able deliver a variety of housing sizes including studios and one-bedroom dwellings.

- The proposed minimum lot sizes and associated provisions allow opportunities for diverse housing options.

Objective 21: Respond to the changing needs of local neighbourhoods

AV Jennings are able to deliver housing which responds to the changing needs of the community and allow for diversity in housing responding to post Covid requirements.

Objective 23: Celebrate, conserve and reuse cultural heritage

An Aboriginal Heritage Assessment has been provided as part of the rezoning package.

A detailed Aboriginal Cultural Heritage Assessment (ACHA) will be completed if required prior to rezoning.

Objective 28: Create connected and accessible walking and cycling networks

This objective and associated strategies seek to improve and/or create connected and accessible walking and cycling networks across the Illawarra Region.

This proposal will enhance local pedestrian and cycle connections, providing a link in the east-west pedestrian and cycle paths through the Calderwood release area.

At present, pedestrian and cycle pathways along the creek corridor will terminate on the eastern and western boundary. Support for this planning proposal will allow for further connectivity for residents to access the planned local centre.

Objective 29: Utilise smart infrastructure to drive resilience, prosperity and vibrant places

Collaboration with Shellharbour City Council during the delivery phase will allow for the installation of smart infrastructure technology where possible.

Illawarra Shoalhaven Urban Development Program (2016)

The ISUDP is a NSW Government program for managing land and housing supply in the Illawarra and Shoalhaven. The program monitors the planning, servicing and development of new urban areas.

The proposal states the 2016 UDP update retains the Calderwood urban release area, with a dwelling yield estimate of 6,900 dwellings within Shellharbour LGA.

The 2016 UDP update included mapping of the land zoned under the Calderwood Lend Lease Major Project.

This is mapped as a major regionally significant development project, and demonstrates the area referred to in the dwelling yield projection tables.

The 2016 UDP update confirms a dwelling yield of 4,000 dwellings within the Shellharbour LGA and 800 within Wollongong LGA for the Lend Lease project.

Consistent with the 2014 UDP update, the remaining balance of 2,900 dwellings are to be delivered outside of the Lendlease project.

The Calderwood area mapped in the 2016 UDP does not define an urban release boundary.

2020 UDP Dashboard

The figures have been reviewed and refined with recent updates to the UDP.

The proposal states the 2020 UDP dashboard identifies delivery of residential dwellings within the Calderwood Release Area in three separate components under the UDP which deliver a total of 6,900 dwellings.

These areas include:

- Calderwood (Lendlease project area) = 4,455 dwellings
- Calderwood (North Macquarie Road) = 300 dwellings
- Calderwood (Remainder) = 2,145 dwellings.

The subject land is part of the Calderwood (Remainder) dwelling delivery area, which is identified to provide a minimum of 2,145 dwellings from 2023 onwards in order to achieve dwelling yield targets under the IUDP and ISRP.

2.2 Site-specific merit test

The natural environment (including known significant environmental values, resources or hazards).

Relevant environmental issues on site include bushfire, flooding and biodiversity.

The proponent has provided various environmental studies in support of the application, including an ecological constraints assessment, a floodplain risk management plan, an Aboriginal heritage review, a preliminary site investigation (contamination) and a preliminary geotechnical assessment. A Bushfire Assessment has not been provided with the application as the land was not mapped as being Bushfire prone at the time of lodgement. The mapping has since been updated.

The site contains EECs, including River-flat Eucalypt Forest along the riparian corridor.

The site is now mapped as bushfire prone. It contains first and second-order streams.

The areas of the site proposed for R2 Low Density development are generally cleared.

The proponent advises that the site investigations and concept plan demonstrate the site is suitable for residential uses.

The existing uses, approved uses and likely future uses of land in the vicinity of the proposal.

The subject land adjoins residential-zoned land to the north and is separated from residentially zoned land to the east and west by environmentally zoned land. Land to the north east is zoned B4 – Mixed Use. The land is located within the context of an urban release area.

The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

Infrastructure – including sewer, water and electricity – is available adjacent to the site, which can be extended/augmented to service the subject land.

3. COUNCIL VIEWS

On 18 June 2021, the Department wrote to Council advising that a rezoning review application had been received for the Illawarra Highway, Calderwood planning proposal. The Department received Council's response on 06 August 2021 (**Attachment E**).

Council confirmed that the proposal and supporting documentation is the same as that considered by Council. The proposal has not gone to a Council meeting and so there is no Council resolution on this matter.

Council has provided detailed comments and has indicated that it does not support the rezoning of the land. Council states that the proposal does not satisfy for the Strategic Merit Test and that there is no strategic planning justification to support the Planning Proposal.

In summary, Council:

- Is of the view that no additional residential zoned land is required in the Shellharbour LGA to meet housing demand and therefore the Planning Proposal will not give effect to the Illawarra Shoalhaven Regional Plan 2041;
- Considers the planning proposal is not needed to satisfy forecast housing demand and there is already adequately zoned residential land for Shellharbour City Local Government Area (LGA) until 2041. This is in accordance with Council's adopted Local Housing Strategy (LHS) and Local Strategic Planning Statement (LSPS), and the State Government's recently adopted Illawarra Shoalhaven Regional Plan 2041.
- Considers that the land is not in the ISUDP, is not part of an urban investigation area, and is not being considered for urban use under the Department of Planning & Environment's urban release program;
- Considers that although the subject land is adjacent to the Calderwood Project Area it will not be a logical inclusion into the project area. The Calderwood Project Area is subject to controls contained within the State Significant Precincts SEPP 2005 (Part 28 Calderwood), the conditions and Statements of Commitments contained in the Calderwood Concept Approval, the provisions of the Calderwood VPA's (Local and State) and the requirements contained in the Calderwood Development Control Strategy;
- Considers it inappropriate to consider any change of zoning or use on the subject land prior to the completion of the Rural Strategy;
- Direction 4.3 - Flood Prone Land issued under section 9.1(2) of the Environmental Planning and Assessment Act 1979 applies to this proposal and Part 5 and Part 6 of the direction have not been satisfied by the proposal;
- Access, Traffic and Parking –
 - Illawarra Highway should be designated as a Controlled Access Road. A bridge may be required to ensure connectivity into Calderwood
 - Access from roundabout should be reviewed in line with RMS advice. A second access may be required by Emergency Services
 - Pedestrian access to the Calderwood Town Centre must be demonstrated – this may include a pedestrian bridge that would link the north and south subdivision
 - Must demonstrate access to public transport with a bus stop available every 400 metres
- Considers the proposal will erode agricultural land and important rural character;
- Notes that a detailed contamination report would be required if a Gateway is issued;
- Notes that the land is subject to the Obstacle Limitation Surface (OLS) and the application should be referred to both Shellharbour Airport and CASA should a Gateway be issued;
- Recommends an Aboriginal Technical Report (ART) be prepared if a Gateway determination is issued;
- Heritage listed item no. I291 "Riversford" to be investigated along with archaeological assessment;
- Crown Waterway, Travelling Stock Reserve and current Native Title Claim – Planning Proposal to be referred to National Native Title Tribunal (NNTT) to assess any impacts on the land adjacent;

- Any variation to the Development Contributions Plan or proposed Draft Voluntary Planning Agreement would need to be finalised prior to the completion of rezoning;
- Ongoing ownership and management of E2, E3 land and Riparian corridors to be considered as Council is unlikely to accept ownership.

ATTACHMENTS

Attachment A – Locality map

Attachment B – Site map

Attachment C – Current zone map

Attachment D – Proposed LEP maps and clause

Attachment E – Council comments on proposal

Attachment F1 – Application form

Attachment F2 – Cover letter – rezoning review request

Attachment F3 – Draft planning proposal

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